Vol.41—No.247
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PAGES
55705-55843

federal register

WEDNESDAY, DECEMBER 22, 1976

highlights

PART I:

FEDERAL ADVISORY COMMITTEES
Executive order continuing certain committees..... 55705

DRUG COMMERCIALS ON TELEVISION
FCC denies petition for rulemaking..... 55740

MAIL
Postal Service Commission announces hearings on postal service costs, rates, classifications, and impact of new electronic communications systems; 1–18 thru 1–21, 1–24 thru 1–28, 1–31 thru 2–3–77..... 55738

MEDICARE
HEW/SSA proposes contract requirements between Secretary and a Health Maintenance Organization; comments by 2–7–77..... 55718
HEW announces monthly premium rate for period 7–77 thru 6–78..... 55751

MEDICAID AND AID TO FAMILIES OF DEPENDENT CHILDREN
HEW/SRS proposes to amend quality control regulations to require States to review negative case actions; comments by 2–7–77..... 55727

COLLEGE LIBRARY RESOURCES PROGRAM
HEW/OE announces closing date of 2–28–77 for receipt of applications..... 55748

GOVERNMENT-OWNED PATENTS
DOD/Navy establishes new Part governing licensing of rights in government inventions..... 55711

FEDERAL PRISONERS
Justice/Federal Prison Industries enlarges hearing and review process afforded claimants of inmate accident compensation; effective 12–22–76..... 55710

COMMERCIALS
FCC issues policy statement concerning licensee's responsibility to indicate bonus or rebate has been given to dealers..... 55739

TRUST FUNDS
Treasury/Comptroller proposes revision of authority to invest in variable amount notes; comments by 2–17–77.. 55717

INCOME TAX
Treasury/IRS clarifies regulations related to demolition of buildings on leased property..... 55710

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled 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.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
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Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

contents

CONTENTS

list of cfr parts affected in this issue

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

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

3 CFR

EXECUTIVE ORDERS:

11948---------- 55705
11126 (Committee continued by EO 11948)---------- 55705
11145 (Committee continued by EO 11948)---------- 55705
11183 (Committee continued by EO 11948)---------- 55705
11287 (Committee continued by EO 11948)---------- 55705
11342 (Committee continued by EO 11948)---------- 55705
11415 (Committee continued by EO 11948)---------- 55705
11472 (Committee continued by EO 11948)---------- 55705
11562 (Committee continued by EO 11948)---------- 55705
11583 (Committee continued by EO 11948)---------- 55705
11625 (Committee continued by EO 11948)---------- 55705
11667 (Revoked by EO 11948)----- 55705
11753 (Committee continued by EO 11948)---------- 55705
11776 (Committee continued by EO 11948)---------- 55705
11807 (Committee continued by EO 11948)---------- 55705
11809 (Revoked by EO 11948)----- 55705
11827 (Superseded by EO 11948)-- 55705
11860 (Revoked by EO 11948)----- 55705
11868 (Revoked by EO 11948)----- 55705

9 CFR

PROPOSED RULES:

201 (2 documents)---- 55828, 55831
203 (2 documents)---- 55828, 55831

12 CFR

PROPOSED RULES:

9---------- 55717
310---------- 55717

15 CFR

PROPOSED RULES:

932---------- 55786

17 CFR

PROPOSED RULES:

230---------- 55718
239---------- 55718
240---------- 55718
249---------- 55718

18 CFR

2---------- 55707

19 CFR

159---------- 55707

20 CFR

PROPOSED RULES:

405---------- 55718

24 CFR

275---------- 55707

26 CFR

1---------- 55710

28 CFR

301---------- 55710

32 CFR

746---------- 55711

PROPOSED RULES:

242a---------- 55724

40 CFR

52---------- 55714

PROPOSED RULES:

60---------- 55792

41 CFR

24–1---------- 55796
24–2---------- 55801
24–3---------- 55805
24–4---------- 55811
24–7---------- 55812
24–11---------- 55813
24–13---------- 55814
24–16---------- 55816
24–30---------- 55817
24–50---------- 55817

45 CFR

PROPOSED RULES:

205---------- 55727
250---------- 55727

46 CFR

310---------- 55715

47 CFR

73 (2 documents)---------- 55715

49 CFR

1307---------- 55716
1310---------- 55716

50 CFR

PROPOSED RULES:

17 (2 documents)---------- 55729

CUMULATIVE LIST OF PARTS AFFECTED DURING DECEMBER

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

1 CFR

PROPOSED RULES:

445 ... 54947
455 ... 54001

3 CFR

EXECUTIVE ORDERS:

11948 ... 55705
11126 (Committee continued by EO 11948) ... 55705
11145 (Committee continued by EO 11948) ... 55705
11183 (Committee continued by EO 11948) ... 55705
11287 (Committee continued by EO 11948) ... 55705
11342 (Committee continued by EO 11948) ... 55705
11415 (Committee continued by EO 11948) ... 55705
11472 (Committee continued by EO 11948) ... 55705
11562 (Committee continued by EO 11948) ... 55705
11583 (Committee continued by EO 11948) ... 55705
11625 (Committee continued by EO 11948) ... 55705
11667 (Revoked by EO 11948) ... 55705
11753 (Committee continued by EO 11948) ... 55705
11776 (Committee continued by EO 11948) ... 55705
11807 (Committee continued by EO 11948) ... 55705
11809 (Revoked by EO 11948) ... 55705
11827 (Superseded by EO 11948) ... 55705
11860 (Revoked by EO 11948) ... 55705
11868 (Revoked by EO 11948) ... 55705

PROCLAMATIONS:

4304 (Terminated in part by Proc. 4480) ... 53967
4478 (Amended by Proc. 4480) ... 53967
4479 ... 52977
4480 ... 53967

MEMORANDUMS:

August 27, 1976 (Supplemented by Memorandum of November 19, 1976) ... 53315
November 19, 1976 ... 53315

4 CFR

56 ... 53769

5 CFR

213 ... 52979, 53969, 55147, 55507
300 ... 52979
305 ... 52979
591 ... 52857, 53461, 53969

PROPOSED RULES:

295 ... 55537

7 CFR

25 ... 53802
29 ... 53649
52 ... 54161
250 ... 55171
272 ... 55171
301 ... 53461, 53462
401 ... 52643, 53463, 53969–53971

7 CFR—Continued

408 ... 53803
722 ... 53006, 53463, 55171
724 ... 55507
729 ... 53006
905 ... 53007, 53649, 53650, 54917
907 ... 52886, 53805, 54162, 54917, 54918
909 ... 52887
910 ... 53008, 53463, 53973, 55172
911 ... 54751
944 ... 54751
945 ... 53008
948 ... 54475
981 ... 53650
982 ... 54163
987 ... 54163
989 ... 52645, 53651
999 ... 52646
1032 ... 54164
1063 ... 53317
1464 ... 52647
1822 ... 53009
1823 ... 53973
1832 ... 53009
1845 ... 55172, 55321
1872 ... 53010
1901 ... 53973

PROPOSED RULES:

16 ... 53672
52 ... 53341, 53346
180 ... 54492
225 ... 55539
245 ... 54493
723 ... 55549
724 ... 55550
725 ... 53035
726 ... 55551
912 ... 53035
917 ... 54948, 55359
928 ... 53035, 53346, 53672
930 ... 54493
959 ... 53807, 54948
981 ... 54949
1002 ... 53346
1205 ... 53350, 54494
1701 ... 54494, 55198
1803 ... 55359
1821 ... 55359
1822 ... 55359
1832 ... 55359
1861 ... 52888

9 CFR

73 ... 55173
78 ... 55173
201 ... 53769
204 ... 55321

PROPOSED RULES:

201 ... 55828
203 ... 55828

10 CFR

2 ... 53328
9 ... 55322
40 ... 53330
50 ... 53333
205 ... 55322
210 ... 55322
212 ... 53333, 54919

PROPOSED RULES:

2 ... 54206
212 ... 54774

12 CFR

1 ... 55324
5 ... 54477
18 ... 53977
22 ... 52979
201 ... 52979
202 ... 55173
221 ... 52980
226 ... 54477, 55329
265 ... 53775, 54480
226 ... 52980
329 ... 52857
339 ... 55507
563c ... 52982

PROPOSED RULES:

7 ... 54600
9 ... 55717
220 ... 55552
226 ... 55198
310 ... 55717
704 ... 55198

13 CFR

107 ... 52647
120 ... 55508
315 ... 52648, 53317

PROPOSED RULES:

106 ... 54002
107 ... 54002
108 ... 54002
115 ... 54002
118 ... 54002
119 ... 54002
120 ... 54002
121 ... 55202
122 ... 54002
123 ... 54002
124 ... 54002
500 ... 55553
520 ... 55553
551 ... 55553
552 ... 55553
553 ... 55553
554 ... 55553
555 ... 55553
560 ... 55553

14 CFR

1 ... 53777
13 ... 54164
21 ... 55463
23 ... 55463
25 ... 55466
27 ... 55468
29 ... 55471
31 ... 55474
33 ... 55474
35 ... 55474
39 ... 53777–53779, 54165, 55331, 55332
71 ... 52857, 52858, 53317, 53318, 53779, 53780, 54165, 54167, 54921, 55332
73 ... 52858, 53318
75 ... 54921
91 ... 55475
95 ... 52858, 52861
97 ... 53318, 54166, 55333
107 ... 53777
121 ... 53319, 53777, 55475
123 ... 53319
127 ... 55475
133 ... 55475
135 ... 53319, 55476
191 ... 53777, 55334

14 CFR—Continued

212 53651
249 52865
253 52658
371 52987, 54776
372 54776
732a 54776
373 54480
378 54776
378a 54776
385 54483
1208 53652
1212 52866

PROPOSED RULES:

36 53807
39 53353, 55365
71 54187, 54950
91 53354
221 53488, 54495
399 52698

15 CFR

235 54167
350 54751

PROPOSED RULES:

920 53418
931 53673
932 55786
1810 53596

16 CFR

0 54483, 54922
2 54485
3 54485
4 52867
5 54483, 54922
13 52659, 52660, 53464–53471, 53653–53659, 53780–53783
702 53472

PROPOSED RULES:

450 53355
801 55488

17 CFR

32 53475
200 53473, 53784, 55334
210 54922
239 52662, 53473
240 52994, 53784, 53785, 54923
249 53473
270 52668

PROPOSED RULES:

1 53355
145 53355
230 52701, 53808, 55203, 55718
239 53356, 53488, 55203, 55366, 55718
240 53036, 53356, 55203, 55366, 55718
249 53488, 55718
270 53356, 55366
275 53356, 53808, 55366

18 CFR

2 55174, 55334, 55707
3 55335
701 54926

PROPOSED RULES:

1 54777
141 55120

19 CFR

1 54926
111 53001
148 54167
159 55707
201 54168

19 CFR—Continued

PROPOSED RULES:

1 53039, 54777
123 53810
133 54188
201 53039
205 55203

20 CFR

345 53475
404 53790, 54752, 54755
405 53320, 54753
410 53790, 53981, 54753
416 54753, 54755

PROPOSED RULES:

401 55556
404 53042
405 55718
416 53042
422 55556
614 53048

21 CFR

5 55509
8 55509
121 53001, 53475, 53600–53621, 53981, 55509
460 53476
510 53002, 55175
520 53477, 55175
522 55175
555 55175
556 53002
558 53002
701 53477
1308 52867, 53477, 55176

PROPOSED RULES:

121 53622
310 53630, 54495
1308 54604
1309 55558

22 CFR

42 54927
602 53982

PROPOSED RULES:

93 54495
505 54003

23 CFR

160 54169
200 53982
520 55176
522 55176
524 55177
530 55177
540 55178
542 55178
544 55179
560 55179
655 53003
740 54756
1215 54170

PROPOSED RULES:

Ch. I 52703
1214 54188
1215 54188

24 CFR

275 55707
280 53626
890 55676

24 CFR—Continued

1914 53004, 53478
1915 53664
1916 52868, 52869
1917 52668, 52669, 52870–52876, 53320, 53984–53990, 54486, 54487, 55084–55095
1920 53991, 54170–54175
3282 54597

PROPOSED RULES:

24 54302
235 55484
812 55080
880 54856
881 54856
888 55204
1917 52703–52705, 53049–53055, 53360, 54496–54499, 55096–55103, 55652–55661

25 CFR

41 54487
231 53320

PROPOSED RULES:

233 55212

26 CFR

1 53321, 53480, 55336, 55710
7 55344
11 53322, 53660, 54176, 55510

PROPOSED RULES:

1 53360, 53681

27 CFR

PROPOSED RULES:

4 53055
270 53055
275 53055
290 53055
295 53055
296 53055

28 CFR

0 53005, 53660, 54176, 55179
22 54846
42 52669, 53478
301 55710

PROPOSED RULES:

2 52889, 53811

29 CFR

94 54066
95 54067
96 54068
98 54068
99 54070
1910 55696
1926 55696
2100 53010
2200 53015
2202 53010
Ch. XXV 55510
2520 55510

PROPOSED RULES:

1601 55366
2201 53067
2300 53067
2550 55206
2608 52890

30 CFR

211 53793
250 53016

49 CFR—Continued
PROPOSED RULES—Continued

180 53824
181 53824
182 53824
183 53824
184 53824
185 53824
186 53824
187 53824
188 53824
189 53824
228 53070
267 54007
523 55368
525 53827
533 53832
571 ..... 52892, 54204–54959, 54961
575 54205
1047 ..... 52893, 54009, 54517
1100 53832
1300 53680

50 CFR

17 53032
26 ..... 52696, 52697, 52881–52884, 53663, 53802, 54490, 54767, 54768, 55357, 55531
32 ..... 52884, 52885
33 ..... 52697, 52885, 52886, 53327, 53486, 53487, 53664, 53977, 54490, 54768, 55358, 55531, 55534
216 ..... 54946, 55536
253 55534

PROPOSED RULES:

17 ..... 53074, 53075, 55729

FEDERAL REGISTER PAGES AND DATES—DECEMBER

Pages	*Date*	*Pages*	*Date*	*Pages*	*Date*
52643–52855	Dec. 1	53649–53767	8	54751–54916	15
52857–52975	2	53769–53966	9	54917–55146	16
52977–53314	3	53967–54159	10	55147–55319	17
53315–53459	6	54161–54473	13	55321–55505	20
53461–53647	7	54475–54749	14	55507–55704	21
				55705–55843	22

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

DOT/FAA—Pilots and flight instructors; certification..... 51391; 11–22–76

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

Butter; standards; comments by 1–1–77..... 49826; 11–11–76

Minimum size standards for navel oranges grown in Ariz. and designated parts of Calif.; comments by 12–27–76..... 52061; 11–26–76

Onions grown In South Texas; comments by 12–28–76..... 53809; 12–9–76

Papayas grown in Hawaii; expenses, rate of assessment, and carryover of unexpended funds; comments by 12–28–76..... 53672; 12–8–76

Revision of grade designations for all grains; comments by 12–30–76. 50268; 11–15–76

Tomato paste; United States Standards for grades; comments by 12–31–76..... 28527; 7–12–76

Farmers Home Administration—

Account servicing policies; moratorium on payments, sections 502 and 504 rural housing loans; comments by 12–31–76..... 52888; 12–2–76

Forest Service—

Grazing fees for 1977; Western States; comments by 12–30–76.... 52485; 11–30–76

Office of the Secretary—

Limitation on imports of meat; meat processed in foreign-trade zones and territories of the United States; comments by 12–27–76.... 53672; 12–8–76

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Commemorative licensing program; disposition of inventory; comments by 12–30–76..... 52486; 11–30–76

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM—

Priority for services; comments by 12–27–76..... 52323; 11–29–76

CIVIL AERONAUTICS BOARD

Board proceedings; rules of conduct; comments by 12–29–76..... 34650; 8–16–76, 48129; 11–2–76

CONSUMER PRODUCT SAFETY COMMISSION

Rulemaking; petitioning procedures; interim rules; comments by 12–28–76. 43126; 9–29–76

ECONOMIC OPPORTUNITY, NATIONAL ADVISORY COUNCIL

Privacy Act of 1974; implementation; comments by 12–31–76..... 49491; 11–9–76

FEDERAL COMMUNICATIONS COMMISSION

Broadcast licensees; maintenance of certain program records; reply comments by 12–27–76..... 49858; 11–11–76

FM Broadcast stations, Park City, Utah; table of assignments; reply comments by 12–28–76..... 47496; 10–29–76

FM Broadcast stations; Marksville, Louisiana; table of assignments; reply comments by 12–28–76..... 47496; 10–29–76

Remote control and security devices; operation; comments by 12–27–76. 52705; 12–1–76

FEDERAL POWER COMMISSION

Gas supply and operations data and corporate and financial reports; new forms; extension of comments to 12–30–76..... 48745; 11–5–76

First published at 41 FR 39948 September 15, 1976.

Regulatory Information Data Base; policy statement on access; extension of comments to 12–30–76..... 48745; 11–5–76

First published at 41 FR 39046, September 14, 1976.

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

Cloroform; ingredient in animal drugs; comments by 12–30–76.... 52482; 11–30–76

Diamthazole Dihydrochloride; revocation of provisions for topical preparations; comments by 12–28–76. 47492; 10–29–76

Low fat and skim milk; standards of identity; use of stabilizers and emulsifiers; comments by 12–27–76..... 46873; 10–26–76

Substitutes for margarine (Oleomargarine) or butter; common or usual name; extension of comment time to 12–28–76..... 47491; 10–29–76

First published at 41 36509, 8–30–76.

Health Resources Administration—

Project grants for public medical facility construction and modernization; comments by 12–27–76. 52080; 11–26–76

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of Assistant Secretary for Community Planning and Development—

Community development block grants; administration; comments by 12–30–76..... 52626; 11–30–76

INTERNATIONAL WOMEN'S YEAR OBSERVANCE, NATIONAL COMMISSION

State meetings, coordinating committee; designation and functions of coordinating committees; comments by 12–30–76..... 53495; 12–7–76

JUSTICE DEPARTMENT

Immigration and Naturalization Service—

Implementation of amendments to the Immigration and Nationality Act contained in the Health Professions Educational Assistance Act of 1976; comments by 12–27–76. 52061; 11–26–76

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Freedom of information; comments by 12–29–76..... 53069; 12–3–76

PENSION BENEFIT GUARANTY CORPORATION

Privacy Act of 1974; implementation; comments by 12–30–76..... 52485; 11–30–76

SECURITIES AND EXCHANGE COMMISSON

Uniform net capital rule; comments by 12–31–76..... 53037; 12–3–76

TRANSPORTATION DEPARTMENT

Coast Guard—

Drawbridge operations; Lake Washington Ship Canal, Washington; comments by 12–28–76..... 52307; 11–29–76

Drawbridge operations; Dutch Kills, New York; comments by 12–31–76. 52307; 11–29–76

Federal Aviation Administration—

Aircraft noise measurement and evaluation specifications; comments by 12–30–76..... 47342; 10–28–76

Federal Airways; designation for Washington, and Oregon; comments by 12–27–76..... 52064; 11–26–76

VOR Airways; revocations; St. Petersburg, Florida; comments by 12–27–76..... 52064; 11–26–76

National Highway Traffic Safety Administration—

Passenger automobile average fuel standards; comments by 12–27–76..... 46878; 10–26–76

TREASURY DEPARTMENT

Internal Revenue Service—

Income Taxes; unpaid taxes shown on amended returns; comments by 12–30–76..... 49178; 11–8–76

Next Week's Meetings

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

Shippers Advisory Committee, Lakeland, Florida (open), 12–28–76. 52330; 11–29–76

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Fellowships Panel Advisory Committee, Washington, D.C. (closed), 12–28–76. 49201; 11–8–76

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

New England Regional Fishery Management Council, Peabody, Mass. (open), 12–28 thru 12–30–76. 54211; 12–13–76

Silver and red hake, herring, mackerel, long and short-finned squid and other finfish; draft environmental impact statements, Peabody, Mass. (open), 12–28–76..... 54210; 12–13–76

DEFENSE DEPARTMENT

Office of the Secretary—

Wage Committee, Washington, D.C. (closed), 12–28–76..... 45034; 10–14–76

FEDERAL ENERGY ADMINISTRATION

LP-Gas Industry Advisory Committee, LP-Gas Transportation and Storage Subcommittee, Transportation and Storage Task Group, Houston, Tex. (open), 12–28–76..... 53844; 12–9–76

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

Advisory Committee, for January, 1977..... 54815; 12–15–76

NATIONAL SCIENCE FOUNDATION

Project Directors, Student-Originated Studies Program, Washington, D.C. (open), 12–28 and 12–29–76.. 52566; 11–30–76

VETERANS ADMINISTRATION

Educational Allowances Station Committee, Des Moines, Iowa (open), 12–28–76..... 52949; 12–2–76

Wage Committee, Washington, D.C. (closed), 12–30–76..... 38557; 9–10–76

Next Week's Public Hearings

NOTE: There were no items eligible for inclusion in the list of hearings for next week.

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

presidential documents

Title 3—The President

Executive Order 11948 • **December 20, 1976**

Continuance of Certain Federal Advisory Committees

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

SECTION 1. Each advisory committee listed below is hereby continued until December 31, 1978:

(a) Citizens' Advisory Council on the Status of Women—Executive Order No. 11126, as amended (Department of Labor).

(b) Committee for the Preservation of the White House—Executive Order No. 11145, as amended (Department of the Interior).

(c) President's Commission on White House Fellowships—Executive Order No. 11183, as amended (United States Civil Service Commission).

(d) President's Committee on the National Medal of Science—Executive Order No. 11287, as amended (National Science Foundation).

(e) Quetico-Superior Committee—Executive Order No. 11342, as amended (Department of Agriculture).

(f) National Health Resources Advisory Committee—Executive Order No. 11415, as amended (General Services Administration).

(g) Citizens' Advisory Committee on Environmental Quality—Executive Order No. 11472, as amended (Council on Environmental Quality).

(h) President's Council on Physical Fitness and Sports—Executive Order No. 11562, as amended (Department of Health, Education, and Welfare).

(i) Consumer Advisory Council—Executive Order No. 11583, as amended (Department of Health, Education, and Welfare).

(j) Advisory Council for Minority Enterprise—Executive Order No. 11625 of October 13, 1971 (Department of Commerce).

(k) President's Export Council—Executive Order No. 11753 of December 20, 1973 (Department of Commerce).

(l) President's Committee on Mental Retardation—Executive Order No. 11776 of March 28, 1974 (Department of Health, Education, and Welfare).

(m) Federal Advisory Council on Occupational Safety and Health—Executive Order No. 11807 of September 28, 1974 (Department of Labor).

SEC. 2. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act which are applicable to the committees listed in Section 1 of this order, except that of reporting annually to Congress, shall be performed by the head of the department or agency designated after each committee in accordance with guidelines and procedures established by the Director of the Office of Management and Budget.

SEC. 3. Executive Order No. 11868, as amended, establishing the President's Commission on Olympic Sports, is revoked effective January 16, 1977.

SEC. 4. (a) The following Executive orders are revoked:

(1) Executive Order No. 11667 of April 19, 1972, establishing the President's Advisory Committee on the Environmental Awards Merit Program.

(2) Executive Order No. 11809 of September 30, 1974, establishing the President's Labor-Management Committee.

(3) Executive Order No. 11860 of May 19, 1975, establishing the President's Advisory Committee on Refugees.

(b) Executive Order No. 11827, as amended, is superseded.

SEC. 5. This order shall be effective December 31, 1976.

Gerald R. Ford

THE WHITE HOUSE,
December 20, 1976.

[FR Doc. 76-37802 Filed 12-21-76; 11:29 am]

rules and regulations

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. RM76-8; Order No. 539-B]

PART 2—GENERAL POLICY AND INTERPRETATIONS

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Enforcement of Deliverability and Rendition of Natural Gas Service Under Certificated Arrangements

Correction in FEDERAL REGISTER Document 76-22744, Filed August 5, 1976; 8:45 a.m.; appearing on pages 32883-32885 in the issue of August 6, 1976.

In ordering paragraph (B) amending Title 18 of the CFR by adding a new § 157.41: Change the first line of new § 157.41 from: "On and after July ____, 1976, * * *." to read: "On and after July 30, 1976, * * *."

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37508 Filed 12-21-76;8:45 am]

Title 19—Customs Duties

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

[T.D. 76-340, 76-341, 76-342, 76-343]

PART 159—LIQUIDATION OF DUTIES

Footwear From Taiwan and Republic of Korea; Countervailing Duties; Amendments of Final Determination and Waiver; Correction

The documents listed below were previously published in the Notices section of the FEDERAL REGISTER. The documents should have been published in the rules section of the FEDERAL REGISTER as Treasury Decisions. On September 27, 1976, the Office of the Federal Register initiated an action to place these documents in the rules section of the FEDERAL REGISTER (41 FR 42184). Treasury Decision (T.D.) numbers are hereby assigned to the documents, as follows:

1. FR Doc. 76-323, appearing at page 1298 of the FEDERAL REGISTER for Wednesday, January 7, 1976, titled "Final Countervailing Duty Determination on Footwear from Taiwan," is hereby designated T.D. 76-340. This T.D. number should also be noted in connection with the amendment made by this document to the table set forth in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)).

2. FR Doc. 76-323 was amended by FR Doc. 76-18386, appearing at page 26035 of the FEDERAL REGISTER for Thursday, June 24, 1976, titled "Amendment to Final Countervailing Duty Determination on Footwear from Taiwan." FR Doc. 76-18386 is hereby designated T.D. 76-343.

3. FR Doc. 76-18384, appearing at page 26035 of the FEDERAL REGISTER on Thursday, June 24, 1976, titled "Amendment to Final Countervailing Duty Determination on Footwear from Korea," is hereby designated T.D. 76-341.

4. FR Doc. 76-18385, appearing at page 26035 of the FEDERAL REGISTER for Thursday, June 24, 1976, titled "Amendment to Waiver of Countervailing Duty Determination on Footwear from Korea," is hereby designated T.D. 76-342.

VERNON D. ACREE,
Commissioner of Customs.

Approved: December 15, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76-37402 Filed 12-21-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-398]

PART 275—LOW RENT PUBLIC HOUSING

Prototype Cost Limits; New Mexico Indian Housing—Region VI

In the FEDERAL REGISTER issued June 9, 1976, (41 FR 23302), prototype per unit cost schedules were published pursuant to section 6(b) of the United States Housing Act of 1937. Consideration of subsequent factual cost data and other information was received from field staff relating to New Mexico prototype costs for Indian Reservations. The cost data and other information submitted indicates that the prototype per unit cost schedule for Jemez, New Mexico be deleted, Zuni, New Mexico prototype cost schedule be added and revised prototype per unit cost schedules for six other Indian Reservations to be revised.

Written data, views or statements may be filed with the Director, Office of Technical Support, HUD Central Office, 451 7th Street, S.W., Room 6152, Washington, D.C. 20410, and a copy should be sent to the HUD Area Office, 1 Embarcadero Center, Suite 1600, San Francisco, California 94111, concerning recommended changes in the schedules.

Section 6(b) of the U.S. Housing Act of 1937, as amended, provides that prototype costs shall be effective on the date of publication. However, comments received will be considered in preparing future revisions.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C.

Accordingly, 24 CFR, Part 275 is amended as follows:

1. At 41 FR 23342, delete the prototype per unit cost schedule for Jemez, since the Jemez prototype cost area has been combined with the Isleta area.

2. At 41 FR 23342, add the prototype per unit cost schedule for Zuni, shown on the table set forth hereinafter entitled "Prototype Per Unit Cost Schedule—Region VI".

3. At 41 FR 23342, substitute the revised prototype per unit cost schedules for Dulce, Isleta, Laguna, Mescalero, Penasco and Pojoaque shown on the table set forth hereinafter, entitled "Prototype Per Unit Cost Schedule—Region VI."

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).

It is hereby certified that the economic and inflationary impacts of the amendment to Part 275 have been carefully evaluated in accordance with OMB Circular A-107.

Effective date: This amendment is effective on December 16, 1976.

JOHN T. HOWLEY,
Acting Assistant Secretary for Housing—Federal Housing Commissioner.

PROTOTYPE PER UNIT COST SCHEDULE

REGION VI

POJOAQUE	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	18,100	21,800	24,300	28,950	34,800	38,900	40,400
Row Dwellings	17,200	20,700	23,000	27,450	32,800	36,500	38,350
Walk-Up	15,000	18,500	21,050	24,900	28,900	31,700	33,200
Elevator-Structure	27,100	31,700	40,050	-	-	-	-

ZUNI	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	17,250	20,750	25,650	30,550	36,800	40,900	42,900
Row Dwellings	16,050	19,400	24,100	28,650	34,300	38,350	39,950
Walk-Up	14,250	17,800	22,500	26,700	30,750	33,900	35,700
Elevator-Structure	23,200	26,850	33,950	-	-	-	-

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.							
Row Dwellings							
Walk-Up							
Elevator-Structure							

REGION VI

DULCE	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	19,400	23,250	25,900	30,900	37,150	41,550	43,300
Row Dwellings	18,450	22,100	24,650	29,350	35,100	39,100	40,900
Walk-Up	16,000	19,700	22,400	26,500	30,800	33,850	35,500
Elevator-Structure	29,000	33,800	42,650	-	-	-	-

ISLETA	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	17,450	20,900	23,350	27,800	33,600	37,500	39,050
Row Dwellings	14,450	17,300	19,250	23,050	27,450	30,700	32,050
Walk-Up	12,600	15,500	17,600	20,800	24,150	26,450	27,900
Elevator-Structure	22,700	26,450	33,450	-	-	-	-

LAGUNA	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	17,450	21,000	23,400	27,900	33,700	37,500	39,100
Row Dwellings	16,700	19,900	22,200	26,550	31,700	35,300	40,350
Walk-Up	14,350	17,800	20,250	24,000	27,800	30,550	32,050
Elevator-Structure	26,100	30,550	38,550	-	-	-	-

MESCALERO	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	18,250	22,000	24,500	29,200	35,200	39,250	40,800
Row Dwellings	17,400	20,950	23,300	27,750	33,150	36,900	38,800
Walk-Up	15,100	18,650	21,200	25,150	29,150	32,000	32,400
Elevator-Structure	27,350	32,000	40,400	-	-	-	

PENASCO	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6 BR
Det. & Semi-Det.	18,800	22,650	25,250	30,100	36,300	40,550	42,150
Row Dwellings	19,950	21,550	24,000	28,600	34,200	38,050	39,900
Walk-Up	15,550	19,300	21,850	25,900	29,900	33,000	34,600
Elevator-Structure	28,300	33,000	41,650	-	-	-	-

[FR Doc.76-37560 Filed 12-21-76;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[Income Tax Regulations (T.D. 74474)]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Tax Treatment Upon Demolition of Buildings On Leased Property

By a notice of proposed rule making appearing in the FEDERAL REGISTER for April 21, 1972 (37 FR 7891), an amendment to the Income Tax Regulations (26 CFR Part 1) under section 165 of the Internal Revenue Code of 1954 (relating to losses) was proposed. The purpose of the proposed amendment was to clarify the present regulations with respect to the proper income tax treatment of the remaining adjusted basis in a building which is demolished pursuant to a lease. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is adopted by this document with slight modification.

The amendment to the regulations provides that where a lease agreement requires the lessee or lessor, or gives the lessee the option, to demolish any building on the leased property the lessor's remaining adjusted basis in the demolished building cannot be deducted by him under section 165 as a demolition loss. Rather, it is to be adjusted to reflect the net cost of or proceeds from demolition and amortized over the remaining term of the lease. The modification to the amendment of the regulations as proposed makes clear that a loss deduction is not precluded by this regulation when the lessor at his sole option demolishes a bulding on leased property.

Adoption of amendments to the regulations. On April 21, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 FR 7891) to amend the Income Tax Regulations (26 CFR Part 1) under section 165 of the Internal Revenue Code of 1954 (relating to losses) to clarify the income tax treatment of the demolition of a building pursuant to a lease. After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, paragraph (b)(2) of § 1.165–3 is amended to read as follows:

§ 1.165–3 Demolition of buildings.

* * * * *

(b) *Intent to demolish formed subsequent to the time of acquisition.* * * *

(2) If a lessor or lessee of real property demolishes the buildings situated thereon pursuant to a lease or an agreement which resulted in a lease, under which either the lessor was required or the lessee was required or permitted to demolish such buildings, no deduction shall be allowed to the lessor under section 165 (a) on account of the demolition of the old buildings. However, the adjusted basis of the demolished buildings, increased by the net cost of demolition or decreased by the net proceeds from demolition, shall be considered as a part of the cost of the lease to be amortized over the remaining term thereof.

* * * * *

(Sec. 7805, Internal Revenue Code of 1954 (68 Stat. 917; 26 U.S.C. 7805))

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 14, 1976.

WILLIAM M. GOLDSTEIN,
Deputy Assistant Secretary of the Treasury.

[FR Doc.76-37491 Filed 12-21-76;8:45 am]

Title 28—Judicial Administration

CHAPTER III—FEDERAL PRISON INDUSTRIES, DEPARTMENT OF JUSTICE

PART 301—INMATE ACCIDENT COMPENSATION

Hearing and Review Process

By virtue of the authority vested in the Attorney General by 18 U.S.C. 4126 and delegated by the Attorney General by 28 CFR 0.99 and by the Board of Directors of Federal Prison Industries, Inc., Part 301 of Chapter III of Title 28, Code of Federal Regulations, is hereby amended by adding nine new sections (§§ 301.12–301.20) and renumbering seven other sections (§§ 301.12–301.18 are renumbered §§ 301.21–301.27 respectively), as set forth below.

In that the material contained herein enlarges rather than restricts the hearing and review process afforded claimants of Inmate Accident Compensation, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

Under the new provisions, claims for inmate accident compensation are determined by a four member Inmate Accident Compensation Committee. Any claimant dissatisfied with the Committee's initial determination shall, upon the filing of a timely request, have the right to either an in-person hearing before the Committee or to a Committee reconsideration of the claim. In addition, if claimant exercises his right to either review procedure, he or she has the right to make a final appeal to the Associate Commissioner, Federal Prison Industries, Inc.

In accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons may submit written comments, suggestions, data or arguments to the Associate Commissioner, Federal Prison Industries, Inc., 320 First Street, N.W., Washington, D.C. 20534. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as further changes are made, however, as set forth 28 CFR 301.12–301.20 shall remain in effect, thus permitting the public business to proceed more expeditiously.

These regulations are effective December 22, 1976.

The Table of Contents for 28 CFR Part 301 is amended to read as follows:

The following new §§ 301.12—301.20 are added to Part 301 of Title 28 of the Code of Federal Regulations:

§ 301.12 Processing of claims.

(a) A claim for inmate accident compensation shall be determined by an Inmate Accident Compensation Committee (hereinafter referred to as the "Committee") appointed by the Director of the Bureau of Prisons under authority delegated to him by the Board of Directors of Federal Prison Industries pursuant to § 0.99 of this title. The Committee shall consist of four members and four alternates, with any combination of three thereof required to form a quorum for decision making purposes.

(b) In determining the claim the Committee will consider all available evidence. Written notice of the decision, including the reasons therefore, together with information as to the right to a hearing before the Committee or Committee reconsideration of the decision and to an appeal to the Associate Commissioner of Federal Prison Industries, shall be mailed to the claimant at his or her last known address.

§ 301.13 Request for hearing or reconsideration, disclosure.

(a) Any claimant not satisfied with the decision of the Committee shall, upon written request made within 30 days after the date of issuance of such decision or thereafter, upon a showing of good cause, be afforded an opportunity for either a hearing before the Committee, or Committee reconsideration of the decision. A claimant may request a hearing or reconsideration by writing to the Inmate Accident Compensation Committee, Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20534.

(b) Upon receipt of claimant's request, a copy of the information upon which the Committee's initial determination was based shall be mailed to the claimant at his or her last known address. Where the Committee determines the release of information to the claimant or to the claimant's beneficiary is not in the best interest of the claimant or his beneficiary, the Committee may release the information to the claimant's or beneficiary's representative or personal physician upon receipt of both a written authorization from the claimant or beneficiary and a written request from the representative or personal physician. If the individual concerned is mentally incompetent, insane or deceased, the next of kin or legal representative must authorize in writing the release of records to the representative or personal physician.

§ 301.14 Committee reconsideration.

If the claimant elects to have the Committee reconsider the initial determination, he or she may submit documentary evidence which the Committee shall consider in addition to the original record. The Committee shall fix the time in which it will receive evidence, and may request additional documented evidence from the claimant or other source. A copy of the Committee's reconsidered decision shall be mailed to the claimant at his or her last known address.

§ 301.15 Notice, time, place of hearing and postponement.

(a) The hearing or reconsideration shall be held within 60 days of the Committee's receipt of claimant's request, except as provided in paragraph (b) of this section. Notice of the date set for Committee action shall be mailed to the claimant at his or her last known address. When practical, the hearing shall be set at a time convenient for claimant, and all hearings shall be conducted at the Central Office of the Bureau of Prisons, 320 First Street, N.W., Washington, D.C.

(b) A hearing or reconsideration may be postponed at the option of the Committee, or, if good cause is shown, upon request of claimant. A claimant shall be considered to have abandoned his or her request for a hearing if he or she fails to appear at the time and place set for hearing and does not, within 10 days after the time set for the hearing, show good cause for his or her failure to appear. A claimant may change his or her request from either hearing to reconsideration or reconsideration to hearing, but must give the Committee notice of such change at least 10 days prior to the previously scheduled action.

§ 301.16 Witnesses.

(a) If a claimant plans to present witnesses at the hearing, he or she must provide the Committee with a list of the witnesses' names and addresses and an outline of their proposed testimony at least 10 days prior to the scheduled hearing date. The Bureau of Prisons has no authority to compel the attendance of witnesses.

(b) Any person incarcerated at the time of the hearing in a Federal, State or local penal or correctional institution may not appear as a witness, but his or her testimony may be received in the form of a written statement.

§ 301.17 Conduct of hearing.

(a) In conducting the hearing, the Committee is not bound by common law or statutory rules of evidence, or by technical or formal rules of procedure, but may conduct the hearing in such manner as to best ascertain the rights of the claimant and the obligations of the government. At such hearing, the claimant shall be afforded an opportunity to present evidence in further support of his or her claim.

(b) The Committee shall receive such relevant evidence as may be adduced by the claimant and shall, in addition, receive such other evidence as the Committee may determine to be necessary and useful in evaluating the claim. Evidence may be presented orally or in the form of written statements and exhibits.

(c) In order to fully evaluate the claim, the Committee may question the claimant and any witnesses appearing before the Committee at the hearing on behalf of the claimant or government.

(d) A claimant, or his or her representative, may question the Committee or any witness appearing before the Committee on behalf of the government, but only on matters which the Committee determines are relevant to its evaluation of the claim.

(e) The hearing shall be recorded, and a copy of the recording, or, in the discretion of the Committee, a transcript thereof, shall be made available to the claimant upon request, provided such request is made not later than 90 days following the date of the hearing.

(f) The Committee shall mail a written notice of its determination to affirm or amend its original decision with the reasons therefore to the claimant at his or her last known address not later than 30 days after the date of the hearing, unless the Committee needs to make a further investigation as a result of information received at the hearing.

§ 301.18 Expenses.

The Bureau of Prisons may not assume any expenses incurred by the claimant, his or her representative, or any witnesses appearing on behalf of the claimant in connection with attendance at the hearing.

§ 301.19 Representation of claimant.

(a) A claimant may appoint any person to represent his or her interest in any proceeding for determination of a claim under this part so long as that person is not incarcerated in any Federal, State or local penal or correctional institution. Claimant's appointment of a representative must be in writing with a copy filed with the Committee or on the record at the hearing.

(b) A claimant shall be responsible for any costs related to the services of his or her representative.

(c) A representative appointed in accordance with paragraph (a) of this section may make or give, on behalf of the claimant he or she represents, any request or notice relative to any proceeding before the Committee or Associate Commissioner. A representative shall be entitled to present or elicit evidence or make allegations as to facts and law in any proceeding affecting the claimant he or she represents and to obtain information with respect to the claim of such claimant to the same extent as such party. Notice to any claimant of any administrative action, determination, or decision, may be sent to the representative of such claimant, and such notice or request shall have the same force and effect as if it has been sent to the claimant.

§ 301.20 Review by the Associate Commissioner of Federal Prison Industries, Inc.

Any claimant not satisfied with the Committee's reconsidered decision or decision after a hearing may appeal such decision to the Associate Commissioner of Federal Prison Industries, 320 First Street, N.W., Washington, D.C. 20534. Written notice of the appeal must be mailed within 90 days from the date of the reconsidered decision or the decision after a hearing. For good cause shown, the Associate Commissioner may waive the failure to appeal within this time limitation. The Associate Commissioner shall review the record and must act to affirm or amend the appealed decision not later than 90 days after receipt of claimant's notice of appeal. Written notice of the Associate Commissioner's decision shall be mailed to the claimant at his or her last known address.

§§ 301.12–301.18 [Redesignated]

Sections 301.12–301.18 of Title 28 CFR Part 301 are renumbered and now appear as §§ 301.21–301.27.

Dated: December 17, 1976.

NORMAN A. CARLSON,
Commissioner,
Federal Prison Industries, Inc.

[FR Doc.76-37586 Filed 12-21-76;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

SUBCHAPTER D—PROCUREMENT, PROPERTY, PATENTS, AND CONTRACTS

PART 746—LICENSING OF GOVERNMENT INVENTIONS IN THE CUSTODY OF THE DEPARTMENT OF THE NAVY

Pursuant to the authority conferred in 5 U.S.C. 301, 10 U.S.C. 5031, and 41 CFR 101–4.1, the Secretary of the Navy, on October 21, 1976, adopted Secretary of the Navy Instruction 5870.2C (SECNAVINST 5870.2C) entitled "Licensing of the government inventions in the custody of the Navy." Accordingly, the Secretary of the Navy establishes a new Part 746, which codifies SECNAVINST 5870.2C. This new part prescribes the policies, administrative requirements, procedures,

terms, and conditions for licensing of rights in government-owned domestic patents and patent applications vested in the United States of America which are in the custody of the Department of the Navy. This part, promulgated in accordance with Department of Defense (DOD) Directive 5535.3 of November 2, 1973, merely implements within the Navy the policies, requirements, procedures, rules, and guidelines, contained in the General Services Administration's regulation on "Licensing of Government Owned Inventions" at 41 CFR 101–4.1.

Since Part 746 does not originate any rules, but merely implements Department of Defense and General Services Administration regulations, it has been determined that invitation of public comment on this part prior to adoption would be impracticable and unnecessary and is therefore not required under the public rule-making provisions in Parts 296 and 701 of 32 CFR.

Accordingly, title 32 CFR is hereby amended by adding a new Part 746, providing as follows:

Sec.

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 5031; 40 U.S.C. 486(c); and 41 CFR 101–4.1.

§ 746.1 Purpose.

This part implements Department of Defense Directive 5535.3 of November 2, 1973 and 41 CFR Subpart 101–4.1, and sets forth the policy, terms, conditions, and procedures for the licensing of rights in domestic patents and patent applications vested in the United States of America and in the custody of the Department of the Navy.

§ 746.2 Policy.

(a) A major premise of the Presidential Statement of Government Patent Policy, August 23, 1971 (36 FR 16887, August 26, 1971), is that government inventions normally will best serve the public interest when they are developed to the point of practical application and made available to the public in the shortest possible time. The granting of express nonexclusive or exclusive licenses for the practice of these inventions may assist in the accomplishment of the national objective to achieve a dynamic and efficient economy.

(b) The granting of nonexclusive licenses generally is preferable, since the invention is thereby laid open to all interested parties and serves to promote competition in industry, if the invention is in fact promoted commercially. However, to obtain commercial utilization of the invention, it may be necessary to grant an exclusive license for a limited period of time as an incentive for the investment of risk capital to achieve practical application of an invention.

(c) Whenever the grant of an exclusive license is deemed appropriate, it shall be negotiated on terms and conditions most favorable to the public interest. In selecting an exclusive licensee, consideration shall be given to the capabilities of the prospective licensee to further the technical and market development of the invention, his plan to undertake the development, the projected impact on competition, and the benefit to the Government and the public. Consideration shall be given also to assisting small business and minority business enterprises, as well as economically depressed, low income, and labor surplus areas, and whether each or any applicant is a United States citizen or corporation. Where there is more than one applicant for an exclusive license, that applicant shall be selected who is determined to be most capable of satisfying the criteria and achieving the goals set forth in this part.

(d) Subject to the following:

(1) Any existing or future treaty or agreement between the United States and any foreign government or intergovernmental organization, or

(2) Licenses under or other rights to inventions made or conceived in the course of or under Department of the Navy research and development contracts where such licenses or other rights to such inventions are provided for in the contract and retained by the party contracting with the Department of the Navy,

no license shall be granted or implied in a government invention, except as provided for in this part.

(e) No grant of a license under this part shall be construed to confer upon any licensee any immunity from the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to this part shall not be immunized from the operation of state or federal law by reason of the source of the grant.

§ 746.3 Delegation of authority.

The Chief of Naval Research is delegated the authority to administer the patent licensing program, with the authority to redelegate such authority.

§ 746.4 Definitions.

(a) "Government invention" means an invention covered by a domestic patent or patent application that is vested in the United States and in the custody of the Department of the Navy, and is designated by the Chief of Naval Research as appropriate for the grant of an express non-exclusive or exclusive license.

(b) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine, under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

§ 746.5 Government inventions available for licensing.

Government inventions normally will be made available for the granting of express nonexclusive or limited exclusive licenses to responsible applicants according to the factors and conditions set forth in §§ 746.6 and 746.7, subject to the applicable procedures of § 746.11. The Chief of Naval Research may remove a prior designation of availability for licensing of any patent(s) or patent application(s), provided that no outstanding licenses to that invention are in effect.

§ 746.6 Nonexclusive license.

(a) *Availability of licenses.* Each government invention normally shall be made available for the granting of nonexclusive revocable licenses, subject to the provisions of any other licenses, including those under § 746.8.

(b) *Terms of grant.* (1) The duration of the license shall be for a period as specified in the license agreement, provided that the licensee complies with all the terms of the license.

(2) The license shall require the licenses to bring the invention to the point of practical application within a period specified in the license, or such extended period as may be agreed upon, and to continue to make the benefits of the invention reasonably accessible to the public.

(3) The license may be granted for all or less than all fields of use of the invention, and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(4) After termination of a period specified in the license agreement, the Chief of Naval Research may restrict the license to the fields of use and/or geographic areas in which the licensee has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public.

(5) The license may extend to subsidiaries and affiliates of the licensee but shall be nonassignable without approval of the Chief of Naval Research, except to the successor of that part of the licensee's business to which the invention pertains.

(6) The Government shall make no representation or warranty as to the validity of any licensed application(s) or patent(s), or of the scope of any of the claims contained therein, or that the exercise of the license will not result in the infringement of any other patent(s), nor shall the Government assume any liability whatsoever resulting from the exercise of the license.

§ 746.7 Limited exclusive license.

(a) *Availability of licenses.* Each government invention may be made available for the granting of a limited exclusive license, provided that:

(1) The invention has been published as available for licensing pursuant to

paragraph (a) of § 746.11 for a period of at least 6 months;

(2) The Chief of Naval Research has determined that:

(i) The invention may be brought to the point of practical application in certain fields of use and/or in certain geographical locations by exclusive licensing;

(ii) The desired practical application has not been achieved under any nonexclusive license granted on the invention; and

(iii) The desired practical application is not likely to be achieved expeditiously in the public interest under a nonexclusive license or as a result of further government-funded research or development;

(3) The notice of the prospective licensee has been published, pursuant to paragraph (d) of § 746.11 for at least 60 days; and

(4) After termination of the period set forth in paragraph (a) (3) of § 746.7 the Chief of Naval Research has determined that no applicant for a nonexclusive license has brought or will bring, within a reasonable period, the invention to the point of practical application, as specified in the exclusive license, and that to grant the exclusive license would be in the public interest.

(b) *Selection of exclusive licensee.* An exclusive licensee will be selected on bases consistent with the policy set forth in § 746.2 and in accordance with the procedures set forth in § 746.11

(c) *Terms of grant.* (1) The license may be granted for all or less than all fields of use of the government invention, and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(2) Subject to the rights reserved to the Government in paragraphs (c) (6) and (c) (7) of § 746.7, the licensee shall be granted the exclusive right to practice the invention in accordance with the terms and conditions specified in the license.

(3) The duration of the license shall be negotiated but shall be for a period less than the terminal portion of the patent, the period remaining being sufficient to make the invention reasonably available for the grant of a nonexclusive license; and such period of exclusivity shall not exceed 5 years unless the Chief of Naval Research determines, on the basis of a written submission supported by a factual showing, that a longer period is reasonably necessary to permit the licensee to enter the market and recoup his reasonable costs in so doing.

(4) The license shall require the licensee to bring the invention to the point of practical application within a period specified in the license, or within a longer period as approved by the Chief of Naval Research, and to continue to make the benefits of the invention reasonably accessible to the public.

(5) The license shall require the licensee to expend a specified minimum amount of money and/or take other specified actions, within a specified period of time after the effective date of the license, in an effort to bring the invention to the point of practical application.

(6) The license shall be subject to the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention throughout the world, by or on behalf of the Government of the United States, and by or on behalf of any foreign government or intergovernmental organization pursuant to any existing or future treaty or agreement with the United States. If the Chief of Naval Research finds it to be in the public interest, this license may also be expressly subject to this same royalty-free right by or on behalf of state and municipal governments.

(7) The license shall reserve to the Chief of Naval Research the right to require the licensee to grant sublicenses to responsible applicants on terms that are reasonable in the circumstances:

(i) To the extent that the invention is required for public use by government regulations, or

(ii) As may be necessary to fulfill health or safety needs, or

(iii) For other public purposes stipulated in the license.

(8) The license may extend to subsidiaries and affiliates of the licensee but shall be nonassignable without approval of the Chief of Naval Research, except to successors of that part of the licensee's business to which the invention pertains.

(9) An exclusive licensee may grant sublicenses under his license, subject to the approval of the Chief of Naval Research. Each sublicense granted by an exclusive licensee shall make reference to the exclusive license, including the rights retained by the Government under the exclusive license, and a copy of such sublicense shall be furnished to the Chief of Naval Research.

(10) The license may be subject to such other terms as may be in the public interest.

(11) The Government shall make no representation or warranty as to validity of any licensed application(s) or patent(s), or of the scope of any of the claims contained therein, or that the exercise of the license will not result in the infringement of any other patent(s), nor shall the Government assume any liability whatsoever resulting from the exercise of the license.

§ 746.8 Additional licenses.

Subject to any outstanding licenses, nothing in this part shall preclude the Chief of Naval Research from granting additional nonexclusive or limited exclusive licenses for government inventions when he determines that to do so would provide for an equitable exchange of patent rights. The following exemplify circumstances wherein such licenses may be granted:

(a) In consideration of the settlement of an interference;

(b) In consideration of a release of a claim of infringement; or

(c) In exchange for, or as part of, the consideration for a license under adversely held patents.

§ 746.9 Royalties.

(a) *Nonexclusive license.* Normally, royalties shall not be changed under nonexclusive licenses granted to United States citizens and United States corporations on government inventions; however, the Chief of Naval Research may require other consideration.

(b) *Limited exclusive license.* A limited exclusive license on a government invention shall contain a royalty provision and/or other consideration flowing to the Government.

§ 746.10 Reports.

A license shall require the licensee to submit periodic reports on his efforts to achieve practical application of the invention. The reports shall contain information within his knowledge, or which he may acquire under normal business practices, pertaining to the commercial use being made of the invention, and other information which the Chief of Naval Research may determine is pertinent to its licensing activities and is specified in the license.

§ 746.11 Procedures.

(a) *Publication requirements.* The Chief of Naval Research shall cause to be published in the FEDERAL REGISTER, the Official Gazette of the United States Patent and Trademark Office, and at least one other publication that the Chief of Naval Research deems would best serve the public interest, a list of the government inventions available for licensing under the conditions specified in this part. The list shall be revised periodically to include directly, or by reference to a previously published list, all inventions currently available for licensing. Other publications on inventions available for licensing are encouraged, and may include abstracts, when appropriate, as well as information on the design, construction, use, and potential market for the inventions.

(b) *Contents of a nonexclusive license application.* An application for a nonexclusive license under a government invention should be addressed to the Chief of Naval Research (Code 300), Arlington, VA 22217, and shall include:

(1) Identification of the invention for which the license is desired, including the patent application serial number or patent number, title, and date, if known, and any other identification of the invention;

(2) Name and address of the person, company, or organization applying for the license, and whether the applicant is a United States citizen or a United States corporation;

(3) Name and address of the representative of applicant to whom correspondence should be sent;

(4) Nature and type of applicant's business;

(5) Source of information concerning the availability of a license on this invention;

(6) Purpose for which the license is desired and a brief description of applicant's plan to achieve that purpose;

(7) A statement of the fields of use for which applicant intends to practice the invention; and

(8) A statement as to the geographic areas in which the applicant would practice the invention.

(c) *Contents of an exclusive license application.* An application for an exclusive license should be addressed to the Chief of Naval Research (Code 300), Arlington, VA 22217, and, in addition to the information indicated in paragraph (b) of § 746.11, an application for an exclusive license shall include:

(1) Applicant's status, if any, in any one or more of the following categories:

(i) Small business firm;

(ii) Minority business enterprise;

(iii) Location in a surplus labor area;

(iv) Location in a low-income area; and

(v) Location in an economically depressed area;

(2) A statement of applicant's capability to undertake the development and marketing required to achieve the practical application of the invention;

(3) A statement describing the time, expenditure, and other acts which the applicant considers necessary to achieve practical application of the invention and the applicant's offer to invest that sum to perform such acts if the license is granted;

(4) A statement that contains the applicant's best knowledge of the extent to which the government invention is being practiced by private industry and the Government;

(5) Identification of other exclusive licenses granted to applicant under inventions in the custody of other government agencies; and

(6) Any other facts which the applicant believes are evidence that it is in the public interest for the Chief of Naval Research to grant an exclusive license rather than a nonexclusive license, and that such exclusive license should be granted to the applicant.

(d) *Published notices.* (1) A notice that a prospective exclusive licensee has been selected shall be published in the FEDERAL REGISTER, and a copy of the notice shall be sent to the Attorney General. The notice shall include:

(i) Identification of the invention;

(ii) Identification of the selected licensee;

(iii) Duration and scope of the contemplated license; and

(iv) A statement to the effect that the license will be granted unless:

(A) An application for a nonexclusive license, submitted by a responsible applicant pursuant to paragraph (b) of § 746.11, is received by the Chief of Naval Research within 60 days from the publication of the notice in the FEDERAL REGISTER, and the Chief of Naval Research determines in accordance with his prescribed procedures, under which procedures the Chief of Naval Research shall record and make available for public inspection all decisions made pursuant thereto and the basis therefore, that the applicant has established that he has already achieved or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or

(B) The Chief of Naval Research determines that a third party has presented evidence and argument which has established that it would not be in the public interest to grant the exclusive license.

(2) If an exclusive license has been granted pursuant to this part, notice thereof shall be published in the FEDERAL REGISTER. Such notice shall include:

(i) Identification of the invention;

(ii) Identification of the licensee; and

(iii) Duration and scope of the license.

(3) If an exclusive license has been modified or revoked pursuant to paragraph (e) of § 746.11, notice thereof shall be published in the FEDERAL REGISTER. Such notice shall include:

(i) Identification of the invention;

(ii) Identification of the licensee; and

(iii) Effective date of the modification or revocation.

(e) *Modification or revocation.* (1) Any license granted pursuant to this part may be modified or revoked by the Chief of Naval Research if the licensee at any time defaults in making any report required by the license or commits any breach of covenant or agreement therein contained.

(2) A license may also be revoked by the Chief of Naval Research if the licensee willfully makes a false statement of a material fact or willfully omits a material fact in the license application or any report required in the license agreement.

(3) Before modifying or revoking any license granted pursuant to this part for any cause, the Chief of Naval Research shall furnish the licensee and any sublicensee of record a written notice of intention to modify or revoke the license, and the licensee and any sublicensee shall be allowed 30 days after such notice to remedy any breach of any covenant or agreement as referred to in paragraph (e)(1) of § 746.11, or to show cause why the license should not be modified or revoked.

(f) *Appeals.* An applicant for a license, a licensee, or such other third party who has participated under paragraph (d)(1)(iv)(B) of § 746.11 shall have the right to appeal, in accordance with procedures prescribed by the Chief of Naval Research, any decision concerning the granting, denial, interpretation, modification, or revocation of a license.

§ 746.12 Litigation.

The property interest in a patent is the right to exclude. It is not the intent of the Government to transfer the property right in a patent when a license is issued pursuant to this part. Accordingly, the right to sue for infringement shall be retained with respect to all licenses so issued by the Government.

§ 746.13 Transfer of custody of government inventions.

The Chief of Naval Research may enter into an agreement to transfer custody of a government invention to another government agency for purposes of administration, including the granting of licenses pursuant to this part.

Dated: December 15, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.76-37569 Filed 12-21-76;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 658-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to the New Jersey State Implementation Plan

The purpose of this notice is to announce the approval of a revision to the New Jersey State Implementation Plan affecting the sulfur content of fuel oil permitted for use at the Owens Illinois, Inc. facility in Bridgeton City, Cumberland County, New Jersey. Notice of receipt of this revision request and the establishment of a 30-day period for public comment were published in the October 28, 1976 FEDERAL REGISTER (41 FR 47283). This action will permit the use, until January 12, 1977, of fuel oil with a sulfur content of 1.5 percent, by weight, at the Owens Illinois facility. Currently, this facility is permitted to use fuel oil with a sulfur content of 1.0 percent.

On September 15, 1976, the Environmental Protection Agency (EPA) announced (41 FR 39329) its disapproval of an earlier proposal submitted by the State of New Jersey which would have allowed the use of 2.5 percent sulfur in fuel oil at the Owens Illinois facility.

The technical material submitted by the State in support of this earlier proposal consisted of a dispersion modeling analysis which used an uncalibrated modified version of an aerodynamic downwash model proposed in the literature in draft form. EPA determined that this analysis was inadequate to justify the use of 2.5 percent sulfur in fuel oil at the Owens Illinois facility and at the same time assure protection of ambient air quality standards in the vicinity of the facility. In the absence of model calibration there was considerable doubt whether the air quality predictions were based on sufficiently conservative assumptions to provide the necessary margin of safety for the protection of ambient air quality standards.

On September 17, 1976, the Region II Office of EPA received another proposed revision to the New Jersey State Implementation Plan which would allow the temporary use of 1.5 percent sulfur in fuel oil at the Owens Illinois, Bridgeton City facility. This revision request was submitted in accordance with all applicable EPA requirements as contained in 40 CFR Part 51 and consists, in part, of an administrative order signed by the Commissioner of the New Jersey Department of Environmental Protection

(DEP). The administrative order was issued pursuant to N.J.A.C. 7:27-9.5(a), Temporary Variances, and revises the allowable sulfur in fuel content contained in 7:27-9.2 of Subchapter 9, Sulfur in Fuels, of the New Jersey Administrative Code.

In response to the October 28, 1976 FEDERAL REGISTER notice EPA received only one comment. This was from the New Jersey DEP informing EPA that building and stack downwash problems persist in the vicinity of the Owens Illinois facility despite recent increases in stack height. In the technical review performed by EPA no credit was given to any stack height increases. The downwash problems were observed in the field by personnel of the New Jersey DEP and confirmed by a survey of local area residents. The problems might be more chronic and severe than provided for in the assumptions used in the aerodynamic downwash model.

Because of the continued concern about stack and building downwash, the State's administrative order requires that Owens Illinois install and operate, under State supervision, an air quality monitoring network consisting of sulfur dioxide and particulate matter monitors in the vicinity of the facility prior to and during the use of 1.5 percent sulfur in fuel oil. The implementation of this order is a condition of EPA's approval of this revision. The State's administrative order and EPA's approval of the use of 1.5 percent sulfur in fuel oil may be revoked at any time evidence is obtained indicating that ambient air quality standards are threatened. Ambient air quality monitoring for particulate matter is being required because of previously demonstrated adverse synergistic effects of sulfur oxides and particulate matter, and also in response to a June 24, 1976 EPA guidance memorandum which cautions against the increase in sulfur oxide emissions in areas affected by high particulate levels. This collection of data should also prove critical to the consideration of any future proposal of a permanent revision to the New Jersey State Implementation Plan.

After review of all relevant material, the Administrator has determined that the proposed revision is consistent with current EPA policies and goals set forth in the requirements of section 110(a)(2)(A)-(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51 in that the proposed revision will not result in the contravention of any applicable ambient air quality standard. Therefore, the Administrator is approving this proposed New Jersey revision.

This revision will become effective immediately upon publication since it does not result in the imposition of additional substantive burdens on the affected source and can be implemented without delay if the source so desires.

(42 U.S.C. 1857c-5 and 1857g)

Dated: December 15, 1976.

JOHN QUARLES,
Acting Administrator,
Environmental Protection Agency.

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

Subpart FF—New Jersey

1. Section 52.1570 is amended by adding a new paragraph (c)(15) as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

* * * * *

(15) Revision consisting of an administrative order issued on September 14, 1976 to Owens Illinois, Inc., Cumberland County, New Jersey pursuant to the New Jersey Administrative Code (N.J.A.C.) 7:27-9.5(a) and submitted on September 17, 1976 by the New Jersey Department of Environmental Protection.

[FR Doc.76-37600 Filed 12-21-76;8:45 am]

Title 46—Shipping

CHAPTER II—MARITIME ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER H—TRAINING

PART 310—MERCHANT MARINE TRAINING

Subpart C—Admission and Training of Midshipmen at the United States Merchant Marine Academy

Part 310 of Title 46 of the Code of Federal Regulations is hereby amended. This amendment increases the pay that midshipmen of the United States Merchant Marine Academy receive while assigned to merchant vessels for sea year training.

The purpose of this amendment is to implement the Maritime Administration policy that midshipmen shall receive the same rate of pay from their steamship company employers for the sea year training as cadets receive at the Federal academies.

Since the rate of pay received by midshipmen while assigned to subsidized merchant vessels is a matter of public contract with the owners of such vessels, this amendment to the Merchant Marine Training regulations is adopted without notice of proposed rulemaking.

Part 310 of Title 46 of the Code of Federal Regulations is amended by revising the first sentence of paragraph (c) of § 310.58 to read as follows:

§ 310.58 Training on subsidized vessels.

* * * * *

(c) *Pay*—Midshipmen shall receive pay, while attached to merchant vessels, at the rate of $345.00 per month from their steamship company employers.

* * *

Effective date: This amendment shall become effective January 17, 1977.

(Section 204(b), Merchant Marine Act, 1936, as amended (49 Stat. 1987, 46 U.S.C. 1114), Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 842) as amended by Pub. L. 91-469 (84 Stat. 1036), Department of Commerce Order 10-8 (38 F.R. 19707, July 23, 1973)

(Catalog of Federal Domestic Assistance Program No. 11-507 U.S. Merchant Marine Academy (Kings Point).)

Dated: DECEMBER 14, 1976.

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-37557 Filed 12-21-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 76-1042]

PART 73—RADIO BROADCAST SERVICES

Alphabetical Index of Rule Titles

Correction

In FR Doc. 76-35192 appearing on page 52677 in the issue of Wednesday, December 1, 1976, in the middle column of page 52685, in the last line of the codified material designated "§ 73._____" paragraph (a)(4), "(§§ 1.50 to 1.621)" should have read "(§§ 1.501 to 1.621)."

[Docket No. 20894]

PART 73—RADIO BROADCAST SERVICES

Report and Order; Proceeding Terminated

Adopted: December 14, 1976.
Released: December 16, 1976.

In the matter of Amendment of § 73.202(b), *Table of Assignments, FM Broadcast Stations.* (San Manuel, Arizona).

1. The Commission has under consideration its *Notice of Proposed Rule Making*, adopted August 19, 1976, 41 Fed. Reg. 36219, in the above-captioned proceeding which was instituted on the Commission's own motion. The *Notice* proposed the substitution of Channel 288A for Channel 269A at San Manuel, Arizona, in order to correct a short-spacing situation.

2. San Manuel, an unincorporated community of 4,332 persons, is located in Pinal County (pop. 67,916). Channel 269A, the only FM assignment at San Manuel, is unoccupied and unapplied for.

3. Channel 269A is short-spaced 11 kilometers (7) miles to the first adjacent channel (268) on which Class C Station KHEP, Phoenix, Arizona, operates. Assignment of Channel 288A to San Manuel,, Arizona, would conform to the minimum distance separation requirements of the Commission's rules. The Commission believes the substitution of Channel 288A for Channel 269A at that community, thereby ending the existing short-spacing, would be in the public interest.

4. Mexican concurrence has been obtained for the assignment of Channel 288A to San Manuel, Arizona.

5. Authority for the adoption of the amendment contained herein appears in Section 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of

1934, as amended, and in Section 0.281 of the Commission's Rules and Regulations.

6. In view of the foregoing, *it is ordered*, That effective January 27, 1977, § 73.202 (b) of the Commission's Rules, the FM Table of Assignments, is amended to read as follows:

City:	*Channel No.*
San Manuel, Ariz	288A

7. *It is further ordered*, That this proceeding is terminated.

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

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-37572 Filed 12-21-76;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Docket No. 35867][1]

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, ON CLASSIFICATIONS OF MOTOR CARRIERS

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

Revision of Regulations for the Construction, Filing, and Posting of Tariffs of Common Carriers of Property by Motor Vehicle and Tariffs of Certain Common Carriers by Water

Correction

In FR Doc. 76-21147, appearing on page 30590 in the issue for Monday, July 26, 1976 make the following changes:

1. On page 30605, third column, in § 1310.9(a)(5), the notations should read:

"(Except as otherwise provided herein.)
(Except as otherwise provided herein. See * * *)"

2. On page 30623, third column, the footnote,

"*(Richard Roe, doing business as Roe's trucking, series)"

should appear after the fourth line of the form in § 1310.25(g)(1).

3. On page 30632, the first column, in § 1310.28(h)(4), the example should read:

"Amendment to Item 100 (Sup. 50)"	The effective date is hereby postponed from ---------- to ----------

proposed rules

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 9]

FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Authority to Invest Trust Funds In A Variable Amount Notes

The Comptroller of the Currency, pursuant to the authority contained in the Act of September 28, 1962, 12 U.S.C. 92a, is considering a revision of 12 CFR 9.18 (c) (2) (ii) which authorizes the investment of trust funds held by a bank in a variable amount note maintained by the bank. The proposed revision would (a) establish a limitation on the amount of the note in which investment is authorized and (b) authorize investment in the note of trust funds held by a bank affiliated with the bank maintaining the note.

The establishment of a limitation on the amount of the note to an amount not in excess of 10 percent of the capital and surplus of the bank would be in accord with the policy established by Congress with respect to loans made by the bank to a single borrower and with the principles of diversification of risk. Perhaps more important is the need to direct attention to the purpose for the establishment of variable amount notes which is to provide a completely flexible short-term investment for trust funds.

The authorization for the investment of trust funds held by a bank affiliated with the bank maintaining the note corresponds with the recent amendments to 12 CFR 9.1 and 9.18(a) (1) (41 FR 47937, Nov. 1, 1976) which permit affiliated banks to invest trust funds in a common trust fund operated by one or more of their number which in turn resulted from a recent similar amendment (Sec. 1, Pub. L. 94-414, Approved September 17, 1976) to section 584(a) of the Internal Revenue Code of 1954, (26 U.S.C. 584(a)).

12 CFR 9.18(c) (2) (ii) would be revised to read as follows:

§ 9.18 Collective investment.

* * * * *

(c) * * *

(2) * * *

(ii) On a short-term basis in a variable amount note of a borrower of prime credit in an amount not in excess of 10 percent of the capital and surplus of the bank: *Provided,* That such note is being maintained by the bank on its premises and may be utilized by it only for investment of moneys held in its trust department accounts or the trust department accounts of banks which are affiliated with the bank: *Provided further,* That the bank or any bank affiliated with it owns no participation in the loans or obligations authorized under paragraph (c) (2) (i) or (ii) of this section and has no interest in any investment therein except in its capacity as fiduciary.

* * * * *

Persons desiring to comment on the proposed amendment should submit their comments to Dean E. Miller, Deputy Comptroller for Trusts, Office of the Comptroller of the Currency, Washington, D.C. 20219 to be received no later than February 17, 1977.

Such material will be made available for inspection and copying upon request pursuant to the Comptroller's rules regarding availability of information.

Dated: December 17, 1976.

ROBERT BLOOM,
Acting Comptroller of the Currency.

[FR Doc.76-37533 Filed 12-21-76;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 310]

PRIVACY ACT OF 1974

Safeguarding Personal Information

On October 6, 1975, the Federal Deposit Insurance Corporation ("FDIC"), in accordance with the requirements of section 3(f) of the Privacy Act of 1974, 5 U.S.C. 552a(f), 88 Stat. 1896, 1900-01, published, on pages 46274-46276 in the FEDERAL REGISTER, notice of the final adoption of Part 310 to the FDIC's rules and regulations. 12 CFR 310. These regulations provided procedures permitting individuals to gain access to certain FDIC records pertaining to themselves. During the period in which the FDIC has operated under these regulations certain changes have been found to be necessary in order to facilitate public access to such personally identifiable records.

In accordance with these determinations, the Board of Directors of the FDIC is publishing for notice and comment, proposed amendments to Part 310 of its Rules and Regulations. These proposed changes would minimize the identification verification procedures required of individuals for a majority of the requests under the Privacy Act of 1974 and would provide an agency-level appellate process to individuals whose requests for access to individually identifiable records have been initially denied. Further, to more readily identify those systems of records which have been exempted from the disclosure provisions of the Privacy Act, the proposed changes would add a listing of the exempt systems to the regulations.

Interested persons may participate in this proposed rulemaking by submitting written data, views or arguments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Each person submitting a comment should include his name and address, and give reasons for any recommendations. All comments received before January 31, 1977, will be considered before final action is taken on the proposal. The proposal may be changed in the light of the comments received.

These amendments are proposed under the authority of section 3(f) of the Privacy Act of 1974 (5 U.S.C. 552a(f)).

In consideration of the foregoing, it is proposed to amend Part 310 of 12 CFR Chapter III as follows:

1. Section 310.2 is amended by adding paragraph (i), to read as follows:

§ 310.2 Definitions.

* * * * *

(i) The term "system manager" means the agency official responsible for a designated system of records, as denominated in the FEDERAL REGISTER publication of "Systems of Records Maintained by the Federal Deposit Insurance Corporation."

* * * * *

§ 310.3 [Amended]

2. In § 310.3(b) the last sentence reading, "Except as provided in § 310.4, each such request should also include a notarized statement attesting to the identity of the individual making the request." is deleted.

3. Section 310.4 is amended by revising paragraph (c) to read as follows:

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

* * * * *

(c) Except for records that must be publicly disclosed pursuant to the Freedom of Information Act, 5 U.S.C. 552, where the Corporation determines it to be necessary for the individual's protection, a certification of a duly commissioned notary public, of any state or territory, attesting to the requesting individual's identity may be required before a written request seeking access to or amendment of a record will be honored.

4. Section 310.5 is amended by revising paragraph (b) to read as follows:

§ 310.5 Disclosure of requested information to individuals.

* * * * *

(b) The Executive Secretary will notify, in writing, the individual making

a request, whenever practicable within ten business days following receipt of the request, whether any specified designated system of records maintained by the Corporation contains a record pertaining to the individual. Where such a record does exist, the Executive Secretary also will inform the individual of the system manager's decision whether to grant or deny the request for access. In the event existing records are determined not to be disclosable, the notification will inform the individual of the reasons for which disclosure will not be made and will provide a description of the individual's right to appeal the denial, as more fully set forth in § 310.9. Where access is to be granted, the notification will specify the procedures for verifying the individual's identity, as set forth in § 310.4.

* * * * *

§ 310.8 [Amended]

5. In § 310.8 the first sentence of paragraph (a) is amended by inserting the word "system" between the words "the" and "manager" and by deleting the phrase "(or as designated in the Corporation's FEDERAL REGISTER 'Notice of Systems of Records')."

6. Section 310.9 is amended by retitling the heading and by revising paragraphs (a) and (c) as follows:

§ 310.9 Appeal of adverse initial agency determination on access or amendment.

(a) A system manager's denial of an individual's request for access to or amendment of a record pertaining to him/her may be appealed in writing to the Board of Directors of the Corporation within 30 business days following receipt of notification of the denial. Such an appeal should be forwarded to the Office of the Executive Secretary, Records Unit, and contain all the information specified for requests for access in § 310.3 or for initial requests to amend in § 310.7, as well as any other additional information the individual deems relevant for the Board of Directors' consideration of the appeal.

* * * * *

(c) If the Corporation's Board of Directors affirms the initial denial of a request for access or to amend, it will inform the individual affected of the decision, the reason therefor and the right of judicial review of the decision. In addition, as pertains to a request for amendment, the individual may at that point submit to the Corporation a concise statement setting forth his or her reasons for disagreeing with the Corporation's refusal to amend.

7. Section 310.13 is revised to read as follows:

§ 310.13 Exemptions.

(a) Investigatory material compiled for law enforcement purposes in the following systems of records is exempt from §§ 310.3–310.9 and § 310.10(d)(2) of these rules; provided, however, that if any individual is denied any right, privilege or benefit to which he/she would otherwise be entitled under Federal law, or for which he/she would otherwise be eligible, as a result of the maintenance of such material, such material shall be disclosed to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence:

FDIC/2—Bank and proposed bank irregularity record system.

FDIC/11—Legal compliance and enforcement records.

(b) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Corporation employment to the extent that disclosure of such material would reveal the identity of a source who furnished information to the Corporation under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence, in the following system of records, is exempt from §§ 310.3–310.9 and § 310.10(d)(2) of these rules:

FDIC/1—Attorney-legal internal applicant system.

(c) Testing or examination material used solely to determine or assess individual qualifications for appointment or promotion in the Corporations' service, the disclosure of which would compromise the objectivity or fairness of the testing, evaluation, or examination process, in the following system of records, is exempt from §§ 310.3–310.9 and § 310.10(d)(2) of these rules:

FDIC/9—Examiner training and education records.

By order of the Board of Directors, December 16, 1976.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.76-37490 Filed 12-21-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 230, 239, 240 and 249]

[Release Nos. 33-5783; 34-13072; 35-19810; IC-9570; File No. S7-658]

DISCLOSURE OF MANAGEMENT BACKGROUND; UNIFORM REPORTING REQUIREMENTS

Extension of Comment Period

The Securities and Exchange Commission today announced extension of the period of comment on its proposals, published November 9, 1976 (41 CFR 49493), relating to disclosure of management background in various corporate registration and reporting forms and proxy schedules.

The period for submitting comments on these proposals was due to expire December 15, 1976. However, the Commission has received requests for additional time within which to prepare and submit such comments. Accordingly, the comment period has been extended to January 31, 1977.

In the release announcing the proposals, the Commission indicated its intent to have the amended disclosure requirements effective by early 1977. It should be noted however, that extension of the comment period will necessarily lengthen the rulemaking proceeding and, therefore, delay the effective date of any proposals set forth in that release. Therefore, it is not contemplated that the proposals will be adopted in time to be applicable to the coming proxy season.

Comments should be in writing in triplicate, and addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. All such communications will be placed in the public files of the Commission and should refer to File No. S7-658.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 15, 1976.

[FR Doc.76-37544 Filed 12-21-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 405]

[Regs. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Requirements of Contract Between the Secretary and a Health Maintenance Organization (HMO)

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendments to Subpart T of Regulations No. 5 set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposal, which has been in process for many months and does not have major program significance, implements, in part, section 1876 of the Social Security Act (42 U.S.C. 1395mm) by setting forth requirements related to the contract between the Secretary and a health maintenance organization (HMO) under Medicare, which are not specifically described elsewhere in Subpart T of Regulations No. 5. (That Subpart deals with HMO's which qualify under title XVIII of the Social Security Act.) Included in the proposal are requirements on eligibility to contract as a cost- or risk-basis HMO, effective dates and renewals of the contract and contract terminations, and change of ownership of the HMO. The proposed regulations are expected to benefit Medicare beneficiaries who are enrollees of HMO's since these regulations include

procedures providing for the return to such beneficiaries of monies which may have been incorrectly collected from them by the HMO or other amounts which the HMO may owe such enrollees. Additional beneficiary safeguards are contained in provisions assuring the Secretary's right to inspect and evaluate the quality, appropriateness, and timeliness of services rendered under the contract, as provided by the Act. At the same time, the proposed regulations are not expected to result in an increase in expense to HMO's or to their enrollees who are Medicare beneficiaries. Discussions have been held with organizations which are interested in contracting with the Secretary as HMO's and will be affected by the amendments. Two contracts have been negotiated and signed, and are to become effective October 1976. In keeping with the spirit and intent of the Secretary's policies regarding the development of regulations, announced July 25, 1976, the publication of this notice will provide ample and adequate notice to all interested individuals and organizations. Consideration will be given to any data, views, or arguments pertaining thereto which are properly submitted on or before February 7, 1977.

Section 1876 of the Social Security Act, which was added to title XVIII by section 226 of Pub. L. 92–603, provides that a HMO wishing to receive reimbursement on a per capita prepayment basis in return for providing covered items and services to its enrollees who are title XVIII beneficiaries must enter into a contract with the Secretary. These proposed regulations implement certain provisions of sections 1876 (a), (i), and (j) of the Act by describing requirements related to such contracts.

Sections 1876 (a)(3) and (i) of the Social Security Act enumerate provisions which are required to be included in the contract between the Secretary and an HMO wishing to participate in the Medicare program. Among these provisions are requirements on contract terminations; effective dates and renewals of the contracts; and the Secretary's right to audit and inspect the services and financial records of an HMO, and evaluate the quality, appropriateness, and timeliness of services performed under the contract. In addition, sections 1876 (i)(6) and (j) of the Act authorize the Secretary to include in the contract any other terms and conditions not inconsistent with section 1876 which he feels are necessary. Pursuant to this authority, and because they are necessary for the effective and efficient administration of section 1876, the following matters are also dealt with in the proposed regulations: contract application procedures, including the denial by the Secretary of an organization's application to contract; refund of over-collections and other amounts due enrollees; the HMO's Part A intermediary and Part B carrier responsibilities; and changes in HMO ownership with respect to the contract.

The proposed regulations provide that an organization will be eligible to contract with the Secretary as an HMO under title XVIII if the Secretary is satisfied that the organization meets the qualifying conditions for such organizations as described in 20 CFR 405.2002—405.2012 (Regulations No. 5), and other applicable requirements in § 405.2028 of the proposed regulations, and that such a contract would be in the best interest of the health insurance program. It should be noted here that the recently-enacted HMO Amendments of 1976 (Pub. L. 94–460) provide for changes in the care's definition of an HMO and those changes will necessitate changes in the Medicare HMO qualifying conditions. In brief, Pub. L. 94–460 modifies section 1876(b) of the Social Security Act to require that, with certain exceptions, an entity wishing to become an HMO under Medicare must provide covered services to its enrollees who are also Medicare beneficiaries in the manner prescribed by section 1301(b) of the Public Health Service Act, and be organized and operated as provided in section 1301(c) of that act. The existing Medicare qualifying conditions are being revised to reflect the above-mentioned provisions of Pub. L. 94–460, and a revised version of such regulations will be published later under a separate Notice of Proposed Rule Making. Pub. L. 94–460 also provides for the Secretary to delegate to the Assistant Secretary for Health, the responsibility for making determinations as to whether an organization is an HMO within the meaning of section 1876(b) of the Social Security Act, as amended.

Under the regulations the effective period of an initial contract for a cost-basis or risk-basis HMO may be for a period of at least 12 months and no more than 23 months; thereafter, if it is renewed, it must be renewed for 12 months. Flexibility has been allowed in determining the initial contract period so that the succeeding contract periods may be made to coincide with the HMO's fiscal year.

The proposed regulations describe in § 405.2030 procedures providing for the returning to its enrollees who are Medicare beneficiaries any amounts which may be incorrectly collected from them by the HMO or other amounts which the HMO may owe such enrollees. These procedures are patterned closely after the requirements for Medicare providers of services specified in §§ 405.618–405.622 of Subpart F of Regulations No. 5; however, there are certain differences because of special requirements of the law and regulations applicable to HMO's, such as the requirement in section 1876(g)(1) of the Act that the HMO not charge its enrollees who are Medicare beneficiaries an amount in excess of the actuarial value of the deductible and coinsurance amounts which would otherwise be applicable to such enrollees under Medicare if they had not enrolled in a qualified HMO. Also, the period of time permitted an HMO under certain circumstances to make refund of an amount incorrectly collected from enrollees who are Medicare beneficiaries is longer than is allowed providers of services under the program because the proposed regulations permit the HMO, as one alternative, to repay such enrollees through an offset payment against future years' premiums. (The HMO must generally repay the enrollee within 60 days of the date on which the HMO is notified of the "other amount due" or an amount incorrectly collected other than that which was paid by the enrollee in the form of premiums or other charges which are not on the basis of frequency or extent of services furnished to any particular enrollee. This period of time allowed an HMO to make the refund is similar to the requirement applied to Medicare providers of services.) Section 405.2031 of the proposed regulations describes the medical, financial, and other information which the HMO must make available to the Secretary for evalution, audit, and inspection. For example, § 405.2031 (b)(2)(viii) provides that the HMO must maintain and make available to the Secretary records on matters pertaining to the costs of its operation. The purpose of this requirement is to assure that there are sufficient financial records and statistical data on the HMO's cost of operation for proper determination to be made of costs payable by Medicare (see the "Principles of Reimbursement for Cost-Basis and Risk-Basis Health Maintenance Organizations" in §§ 405.2040–405.2054 of 20 CFR) to the HMO for the covered services furnished by the HMO to its enrollees who are title XVIII beneficiaries. Section 405.2044 of 20 CFR, published in the FEDERAL REGISTER of November 9, 1976 (41 FR 49600), should be consulted for more detailed information on reporting requirements pertaining to the costs of HMO operations.

Under the proposed regulations the Secretary may terminate a contract at any time during a contract period or choose not to renew a contract if he finds that the HMO is failing to carry out the terms of the contract or that it is carrying out the contract in a manner inconsistent with the efficient and effective administration of section 1876 of the Social Security Act, or no longer meets the applicable requirements in regulations to qualify as an HMO. The proposed regulations also set forth the HMO's right to terminate a contract, and provide for termination by mutual consent.

The proposed regulations described in § 405.2033 the procedures that must be followed when the HMO anticipates a change of ownership. They discuss what constitutes a change of ownership, the requirements that must be met if the Social Security Administration is to recognize a successor in interest to the contract, and the steps that must be taken if a change of ownership occurs and the new owner wishes to sign a new contract under section 1876. Although these procedures are modeled after the requirements for Medicare providers of services as provided in §§ 405.625–405.626 of Subpart F of Regulations No. 5, they differ in their definition of what constitutes a change of ownership in recognition of certain unique aspects of HMO's. Under the proposed regulations, a transfer of ownership of an HMO which has en-

tered into a contract with the Secretary under section 1876 will invalidate the contract with respect to the new owner unless the Secretary, the transferor (old owner), and the transferee (new owner) enter into a novation agreement whereby the Secretary recognizes the transferee as the successor in interest to the contract. Under such an agreement the transferee assumes all the obligations and liabilities under the contract of the transferor vis-a-vis the Secretary. Further, under such an agreement the transferor waives all rights as of the effective date of the agreement. For example, any underpayments or overpayments determined during the final settlement to have been made by the Social Security Administration during the contract period, which includes the period prior to the transfer of ownership, are charged, under the terms of the novation agreement to the account of the transferee; the transferor cannot claim reimbursement from the Social Security Administration for any underpayments made during such period nor can the transferee disclaim liability for any overpayments made by the Social Security Administration during such period. Such an arrangement provides flexibility where a change of ownership is involved in the HMO setting and permits the Social Security Administration to conduct only one settlement at the end of the complete contract period.

Regulations on the appeal procedures which will be available to organizations which have been denied a contract or have had their contract terminated by the Secretary were published separately in the FEDERAL REGISTER under Notice of Proposed Rulemaking on November 3, 1975, (40 FR 51055).

If there are any questions concerning these regulations, you may contact Mr. Marty Svolos, Branch Chief, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone—(301) 594–9315. Mr. Svolos will respond to questions but will not accept comments on these regulations.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203 on or before February 7, 1977.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146 330 Independence Avenue, SW Washington, D.C. 20201.

(Secs. 1102, 1871, and 1876 of the Social Security Act, 49 Stat. 647, as amended, 79 Stat. 331, and 86 Stat. 1396 (42 U.S.C. 1302, 1395hh and 1395mm))

(Catalogue of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance; No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

It is hereby certified that this proposal has been screened pursuant to Executive Order 11821, and does not require an Inflation Impact Evaluation.

Dated: August 25, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: December 1, 1976.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. The table of sections for Subpart T is amended by adding section numbers 405.2028–405.2034 and section headings reading as follows:

* * * * *

Subpart T—Health Maintenance Organizations

405.2028	Contracts; general.
405.2029	Approval and denial of contract application.
405.2030	Refund of monies incorrectly collected or other amounts due enrollees.
405.2031	Right to inspect, evaluate, and audit.
405.2032	HMO Part A intermediary and Part B carrier responsibilities.
405.2033	Transfer of HMO ownership.
405.2034	Terminations.

* * * * *

2. Subpart T is amended by adding §§ 405.2028–405.2034, reading as follows:

§ 405.2028 Contracts; general.

(a) *General.* The provisions of this section and § 405.2029 through § 405.2034 discuss the requirements of the contract which an organization must enter into with the Secretary to participate as a health maintenance organization (HMO) under the program of health insurance for the aged and disabled ("Medicare"). Under section 1876 of the Social Security Act the Secretary may enter into a contract with an organization which qualifies as either a risk-basis HMO or cost-basis HMO, as described in § 405.2001(b), and which agrees to comply with all other statutory and regulatory requirements of this Subpart T. The Secretary, however, may decline to enter into a contract with such an organization if, in his judgment, entering into such a contract would be inconsistent with the efficient and effective administration of section 1876 of the Act or would otherwise be inconsistent with the furtherance of the purposes of title XVIII. Examples of situations where the Secretary may decline to enter into (or renew) a contract with an otherwise qualified organization as an HMO under section 1876 of the Act include, but are not limited to cases:

(1) Where the Secretary finds that there is already a sufficient number of qualified HMO's under contract with the Secretary pursuant to this subpart in the organization's geographic area; or

(2) Where the organization or its principal officers are involved in civil or criminal litigation which could potentially interfere with the organization's ability to participate in the Medicare program as an HMO; or

(3) Where the Secretary determines (see § 405.2032) that the organization does not have the capability to process its title XVIII provider bills for covered services, and the organization does not agree to have such bills processed through the Medicare intermediary system; or

(4) Where he determines that entering into a contract with the organization under section 1876 of the Act would result in a conflict of interest on the part of such organization as a result of another agreement between the organization and the Secretary, e.g., pursuant to sections 1816 or 1842 of the Social Security Act.

(b) *Eligibility requirements.* An organization which properly files an application for an HMO contract under section 1876 of the Act as described in § 405.2029(a) and submits a duly executed contract in such form and manner as the Secretary may prescribe will be eligible to enter into a contract with the Secretary and to receive reimbursement from the health insurance program pursuant to the requirements of this subpart if:

(1) The Secretary finds that the organization meets the qualifying conditions described in § 405.2002 through § 405.2012 of this Subpart T;

(2) The Secretary finds such organization to be in compliance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; Pub. L. 88–352);

(3) The Secretary finds that entering into such a contract would not be inconsistent with the efficient and effective administration of section 1876 of the Act; and

(4) The organization agrees to comply with all other requirements of this Subpart T.

(c) *Waivers.* (1) Each waiver of a standard, or part thereof, in this subpart (see §§ 405.2002–405.2012) which has been granted an HMO by the Secretary, shall be specifically enumerated in the contract. Such enumeration shall include the specific terms of the waiver, the expiration date of the waiver, and any other information which the Secretary considers pertinent.

(2) The Secretary, pursuant to section 1876(j) of the Social Security Act may contract with an HMO without regard to such provisions of law or of other regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of title XVIII of the Social Security Act. Pursuant to this authority, the provisions of the Federal Procurement Regulations and HEW Procurement Regulations (see 41 CFR) shall not apply to contracts entered into under this subpart except as the Secretary may otherwise specify in regulations or general instructions.

(d) *Term of contract.* Where the Secretary enters into a contract with an organization under section 1876 of the Social Security Act, the term of such contract (unless the contract is terminated as described in § 405.2034) shall be determined as follows:

(1) The initial term of the contract for an HMO under section 1876 shall be for a period of at least 12 months, but not more than 23 months, beginning with the effective date of the contract, which shall not be earlier than the date of the execution of the contract. Any subsequent term of the contract shall be for a period of 12 months.

(2) A contract between the HMO and the Secretary (see paragraph (b) of this section) shall be automatically renewable from contract period to contract period unless either party notifies the other of its intention to terminate (or not to renew) the contract and follows the procedures specified in § 405.2034.

(e) *Limitation on risk-basis HMO's eligibility to contract.* An organization which has entered into a contract with the Secretary as a risk-basis HMO (as described in § 405.2001(b)) and has voluntarily terminated such contract, may not again enter into a risk-basis contract as an HMO under title XVIII. Such an organization, however, may enter into a contract with the Secretary as a cost-basis HMO if it meets the qualifying conditions for such an organization as described in § 405.2002–§ 405.2012 and if the Secretary approves such contract as described in this section and § 405.2029. In addition, where there is a transfer of ownership from such an organization to a successor HMO as provided in § 405.2033(f), the successor HMO will not be precluded from entering into a risk-basis contract as an HMO under title XVIII if it otherwise qualifies for such a contract as described in this section and § 405.2029, and was not previously precluded from entering into such a contract by this paragraph.

(f) *Disclosure of official records and information.* Under the terms of the contract, the HMO agrees to adopt and abide by policies and procedures which will insure that information contained in its records and obtained from the Social Security Administration or from others in carrying out its functions and duties under the contract shall be used by it and disclosed solely as provided in section 1106 of the Social Security Act (42 U.S.C. 1306) and Regulation No. 1 of the Social Security Administration (Part 401 of this Chapter).

(g) *Advance approval of special title XVIII program costs.* Under the terms of the contract, costs incurred by an HMO which are solely for the benefit of the health insurance program and unique to the health insurance program's HMO provision and which are reimbursable in full as specified in § 405.2042 (i) shall be separated budgeted by the HMO and approved in advance of the contract period by the Secretary as may be specified in regulations and General Instructions. Such costs include, for example, the total reasonable cost of special data required by the health insurance program solely for program evaluation and planning purposes and shall be reimbursed in full by the health insurance program pursuant to § 405.2042(i).

(h) *Data for administration and evaluation.* In addition to all other information and data that the HMO is required to provide the Secretary under this subpart, the HMO shall furnish any other information or data to the Secretary that he determines to be necessary for the administration or evaluation of the health insurance program.

§ 405.2029 Approval and denial of contract application.

(a) *Application procedures.* An organization which wishes to enter into a contract with the Secretary under section 1876 of the Act must submit an application and supporting information and documents in such form and detail as the Secretary may require. When an organization makes such an application, the Secretary shall:

(1) Review the application forms and supporting documents on the qualifications (see §§ 405.2002–405.2012) of the organization;

(2) Make a site inspection of the organization (including a review of appropriate medical, financial, and other records as described in § 405.2031) to assure that it meets the qualification requirements (see §§ 405.2002–405.2012);

(3) Take any other review action which he considers appropriate to determine whether the organization has the capability of entering into a contract under section 1876 of the Act and of carrying out such contract in an efficient and effective manner.

(b) *Approval of application.* If the Secretary determines that an organization, which has submitted an application in accordance with paragraph (a) of this section, meets the qualifying conditions described in §§ 405.2002–405.2012 and the other eligibility requirements specified in § 405.2028 the Secretary shall furnish the organization with a written notice of his determination (see § 405.2067), which shall inform the organization:

(1) That it is eligible to enter into a contract with the Secretary under section 1876 of the Act; and

(2) That, if dissatisfied with such initial determination, the organization may request a review of the initial determination by following the applicable procedures for reconsiderations and hearings of initial determinations pursuant to the requirements of this subpart.

(c) *Denial of application.* If the Secretary determines that an organization, which has submitted an application in accordance with paragraph (a) of this section, does not meet the qualifying conditions described in §§ 405.2002–405.2012 or the other eligibility requirements specified in § 405.2028 the Secretary shall furnish the organization with a written notice of his determination, (see § 405.2067), which shall inform the organization:

(1) That it is not eligible to enter into a contract with the Secretary under section 1876 of the Act;

(2) The reasons why the organization is ineligible to enter into such contract; and

(3) That, if dissatisfied with such initial determination, the organization may request a review of the initial determination by following the applicable procedures for reconsiderations and hearings of initial determinations pursuant to the requirements of this subpart.

§ 405.2030 Refund of monies incorrectly collected or other amounts due enrollees.

(a) *General.* (1) Under the terms of the contract between the HMO and the Secretary (see § 405.2028) the HMO must make adequate provision for the return (or other disposition) of any monies incorrectly collected from or other amounts due its enrollees who are title XVIII beneficiaries, or someone on behalf of such enrollees.

(2) The term "monies incorrectly collected" means, for purposes of this subpart, amounts collected (other than those amounts collected in one contract period to offset under-collections in a previous contract period) by the HMO from enrollees who are title XVIII beneficiaries in excess of the amounts for which they are liable pursuant to § 405.2022. For purposes of this subpart, a payment by an enrollee to an HMO which was proper when made is an "incorrect collection" for which refund or other disposition must be made where the individual is retroactively entitled to title XVIII benefits and such entitlement period begins during the term of an HMO's contract period as described in § 405.2028(d).

(3) The term "other amounts due" means, for purposes of this subpart, amounts due enrollees for items and services covered under title XVIII which they obtain from physicians, suppliers, or providers of services outside the HMO for which they are eligible to receive reasonable payment from the HMO as provided in § 405.2021(a)(2) and which are determined to be due enrollees as described in §§ 405.2058–405.2063.

(b) *Determination of monies incorrectly collected.* (1) Under the terms of the contract (see § 405.2028) the HMO agrees to submit to the Social Security Administration no later than 60 days after the end of the contract period (in such form and detail as may be specified by the Social Security Administration in General Instructions) a summary statement of premiums, membership fees, or other charges made without regard to frequency or extent of services furnished to any particular enrollee and collected by the organization from its enrollees who are title XVIII beneficiaries for the previous contract period. On the basis of this information, data obtained from the HMO's certified financial statement and supporting documents (see §§ 405.2047 and 405.2054), and other documented information recovered from title XVIII beneficiaries, the Social Security

Administration shall determine whether any monies have been incorrectly collected from enrollees who are title XVIII beneficiaries and shall notify the HMO, at the time of final settlement (see §§ 405.2047 and 405.2054) if such monies have been identified.

(2) Under the terms of the contract (see § 405.2028) the HMO agrees to identify situations which may arise in individual cases where other amounts are due enrollees who are Medicare beneficiaries (§ 405.2030(a)(3)) or where monies incorrectly collected are amounts other than those collected from such enrollees, without regard to frequency or extent of services furnished to any particular enrollee, as premiums or other charges and to make appropriate refund as specified in paragraphs (c) and (d) of this section.

(c) *Return or other disposition of monies incorrectly collected or other amounts due.* (1) *General.* An HMO in possession of monies incorrectly collected or other amounts due enrollees who are title XVIII beneficiaries (see paragraphs (a) and (b) of this section) is required to refund or set aside such monies. Until such time as the HMO returns or sets aside the incorrectly collected funds or other amounts due, the Social Security Administration may offset against any amount otherwise due the HMO an amount equal to such incorrect collections or other amounts due.

(2) *Method of refund.* Refund of monies incorrectly collected from or amounts due an enrollee of the HMO who is a title XVIII beneficiary is to be made by the HMO (i) through an offset payment against the enrollee's future years' premiums, membership fees, or other charges levied against such enrollee, (ii) by a lump sum payment to the enrollee, or (iii) through a combination of methods in paragraphs (c)(2)(i) and (c)(2)(ii) of this section. However, where an individual who is due a refund from an HMO is no longer an enrollee of such organization (see § 405.2025) and the amount of the refund is more than a nominal amount, as defined in General Instructions, the HMO must use the lump sum method of refund. If such an individual cannot be located, after a reasonable effort on the part of the HMO to do so, or is determined to have died, the HMO shall dispose of such refund in accordance with the applicable State law.

(3) *Monies set aside.* Where it appears that a refund as specified in paragraph (c)(2) of this section will be delayed indefinitely, the HMO will notify the Social Security Administration and will then set aside, in a separate account identified as to the individual to whom the payment is due, an amount equal to the amount incorrectly collected. This amount incorrectly collected will be carried on the organization's records in this manner until final disposition is made in accordance with the applicable State law.

(d) *Time limits within which refund must be made.* Refunds as specified in paragraph (c)(2) of this section shall be made in accordance with the following time limits:

(1) An amount incorrectly collected (see paragraph (a)(2) of this section) which was paid to the HMO, without regard to frequency or extent of services furnished to any particular enrollee, as premiums, membership fees, or other charges levied against such enrollee, shall be refunded no later than the end of the fiscal year following the fiscal year in which the HMO received notice of such amount due to enrollee as described in paragraph (b) of this section. If refund cannot be made in such manner, an amount of money equal to the amount incorrectly collected must be set aside as described in paragraph (c)(3) of this section.

(2) Other amounts due enrollees (see paragraph (a)(3) of this section) or "monies incorrectly collected" other than amounts paid without regard to frequency or extent of services furnished to any particular enrollee, as premiums, membership fees, or other charges levied against such enrollees, shall be refunded as promptly as possible. If refund cannot be made within 60 days after the date on which the title XVIII beneficiary notified the HMO of an other amount due, an amount of money equal to the other amount due must be set aside as described in paragraph (c)(3) of this section.

(e) *Payment of offset; amounts to enrollee or other person.* (1) In order to carry out the HMO's contractual commitment to refund amounts incorrectly collected or other amounts due (see paragraph (a) of this section) the Social Security Administration may determine that amounts offset in accordance with the provisions of paragraphs (c) and (d) of this section be paid directly by the Social Security Administration to the enrollee or other person from whom the organization received the amount incorrectly collected or to whom the amount is due, if:

(i) The Social Security Administration finds that such HMO has failed to respond to a written request (see paragraph (e)(2) of this section), to refund the amount incorrectly collected or other amount due the enrollee or other person from whom such HMO collected the monies or to whom the other amount is due; and

(ii) The contract between the HMO and the Social Security Administration has been terminated in accordance with the provisions of §§ 405.2034 and 405.2066 (b) or the HMO has undergone as transfer of ownership as described in § 405.2033.

(2) Before making a determination to make payment as described in this paragraph, the Social Security Administration shall give written notice to the HMO:

(i) Explaining that monies have been incorrectly collected or other amounts are due the enrollee and the amounts thereof;

(ii) Requesting that refund of the amounts incorrectly collected or other amounts due be made by the HMO to the appropriate individuals in the manner described in paragraph (c)(2) of this section;

(iii) Advising the HMO that it intends to make a determination under paragraph (e)(1) of this section; and

(iv) Notifying the HMO that an authorized official of the HMO may, within 30 days from receipt of the notice, submit such written statement or evidence as the HMO may wish to make with respect to such amount incorrectly collected or other amount due. The Social Security Administration shall consider any such written statement or evidence in making a determination on the disposition of the amounts incorrectly collected or other amounts due.

(3) Payment to an enrollee, or other person as described in paragraph (e)(1) of this section, shall not exceed the amount incorrectly collected or other amounts due and, when made, shall be considered as having been made on behalf of the HMO.

§ 405.2031 Right to inspect, evaluate, and audit.

Under the terms of the contract (see § 405.2028) such organization agrees to make its premises, books, and medical and financial records which pertain to the HMO's contract with the Secretary available for evaluation, audit, and inspection. Any subcontracts pertaining to the contract with the Secretary which the HMO enters into are also subject to evaluation, inspection, and audit as explained in paragraph (c) of this section. In the case of a novation agreement (see § 405.2033(f)), the right to inspect, evaluate, and audit applies to both the transferee and the transferor.

(a) *Provision of care.* The Secretary shall have the right to inspect, or otherwise evaluate the quality, appropriateness, and timeliness of services (§§ 405.2004—405.2011) provided by an HMO under contract to furnish services to enrollees who are title XVIII beneficiaries. This shall include the right to inspect the medical records specified in § 405.2009(d) and all physical facilities and equipment used in providing covered services to such enrollees, and to require the HMO to furnish such information as may be required to evaluate the quality, appropriateness, and timeliness of such services.

(b) *Financial records.* (1) *Right to audit.* The Secretary and the Comptroller General of the United States (or any person or organization designated by either of them) shall have the right to audit, examine, or inspect any data, including pertinent books, records, papers, or documents (including pertinent medical records) of the HMO, which pertain to the amount of reimbursement and services provided (either directly or through arrangements) under the HMO's contract with the Secretary.

(2) *Maintenance of financial records.* The HMO is required to have an accounting system (see § 405.2012(a)) and maintain books, records, documents, and other evidence of accounting procedures and practices, sufficient to assure an audit trial and to reflect properly all direct and indirect costs claimed to have been incurred under the contract. Such records

and information shall be maintained by the HMO and made available to the Secretary for a period of 3 years or longer as specified in paragraph (d) of this section and shall include, but not be limited to:

(i) Matters of ownership, organization, and operation of the HMO's financial, medical, and other recordkeeping systems;

(ii) Financial statements for current and prior years;

(iii) Federal income tax or information returns for current and prior years;

(iv) Asset acquisition, lease, sale, or other action;

(v) Agreements, contracts, and subcontracts;

(vi) Franchise, marketing, and management arrangements;

(vii) Schedule of charges for the HMO's fee-for-service patients;

(viii) Matters pertaining to costs of operations;

(ix) Amounts of income received by source and purpose;

(x) Cash flow statement; and

(xi) Any financial reports filed with other Federal programs or State authorities.

(c) *Related organizations.* If an HMO is related to another organization by common ownership or control, and such organization furnishes services, facilities, or supplies to the HMO, the HMO shall submit to the Social Security Administration such information about the related organization as may be described in General Instructions. The related organization's records shall be subject to audit, evaluation, and inspection by the Social Security Administration to the extent necessary to permit verification of cost and statistical data submitted by the HMO pursuant to this subpart.

(d) *Limitation of authority.* The authority and rights of the Secretary described in paragraphs (b) and (c) of this section with respect to any contract period, shall cease 3 years from the date of the final settlement with the HMO for such contract period, except:

(1) Where the Secretary determines that a special need exists for a particular record or group of records, he may extend the 3-year retention period by notifying the HMO at least 30 days in advance of the normal disposition date;

(2) In the case of termination or disputes or of fraud (or smilar fault) by the HMO, in which case the retention period may be extended to a period of 3 years from the date of any resulting final settlement; and

(3) Where the Secretary finds that State or Federal law requires a longer retention period, the longer retention period shall be applicable; or

(4) Where the Secretary determines that there is a possibility of fraud, he may reopen a final settlement at any time.

(e) *Subcontracts.* The HMO shall in all of its subcontracts for the purpose of furnishing covered items and services to enrollees who are title XVIII beneficiaries, including leases of real property, purchase orders, and the arrangements specified in § 405.2006 (including oral as well as written agreements between the HMO and individual practice or group practice physicians) require that the subcontractor agree that the Secretary and the Comptroller General of the United States shall have access to, and the right to inspect, evaluate, and audit any pertinent books, documents, papers, and records of such subcontractors involving transactions related to the subcontract. Leases or purchase orders for amounts not exceeding $2,500 are excluded from the provisions of this paragraph. Such right to information for any particular contract period shall exist until 3 years have elapsed after the date of the final cost settlement (see section 1876(a) of the Act) with the HMO for such contract period, or for a longer period as the Secretary may prescribe as specified in paragraph (d) of this section.

§ 405.2032 HMO Part A intermediary and Part B carrier responsibilities.

(a) Under the terms of the contract between the Secretary and the HMO (see § 405.2028) the HMO shall elect to reimburse qualified providers of services for covered Medicare services furnished its enrollees who are title XVIII beneficiaries under one of the two following approaches or a combination of these approaches approved by the Secretary: (1) the HMO may request that the Secretary pay qualified providers of services on behalf of the HMO for reimbursable services furnished such enrollees as specified in § 405.2041(d); or (2) the HMO may elect to pay qualified providers of services directly for reimbursable services furnished such enrollees.

(b) Under the terms of the contract between the Secretary and the HMO (see § 405.2028), an HMO which elects to pay qualified providers of services directly for reimbursable services as specified in paragraph (a)(2) of this section shall be responsible for:

(1) Determining eligiblity of individuals to receive items and services through the HMO as title XVIII beneficiaries and making proper coverage decisions and appropriate payment, in accordance with the requirements of this part, for items and services for which enrollees who are entitled title XVIII beneficiaries are eligible under this subpart;

(2) Assuring that providers of services maintain and furnish appropriate documentation of physician certification (and recertification where appropriate) of services provided its Medicare enrollees to the extent that such certification and recertification are required under Subpart P of this part; and

(3) Performing other procedures that may be specified by the Secretary from time to time as described in Regulations and General Instructions.

(c) Where the HMO has elected under its contract with the Secretary to pay qualified providers of services as provided in paragraph (b) of this section, the Social Security Administration will review the HMO in order to determine whether it has the experience and capability necessary to carry out efficiently and effectively the responsibilities, described in paragraph (b) of this section and to determine in the case of those HMO's which have already undertaken such responsibilities, whether they have, in fact, been carrying out such responsibilities in an efficient and effective manner. If the Social Security Administration determines that the HMO is not carrying out its bill processing operations properly, it may require the HMO to have its provider bills paid in accordance with § 405.2041(d) (i.e., elect to have the Secretary pay qualified providers of services on behalf of the HMO for reimbursable services furnished to title XVIII beneficiaries who are enrolled with such HMO).

(d) Under the terms of the contract between the Secretary and the HMO (see § 405.2028) an HMO which reimburses a physician, qualified suppliers of services, or other qualified individuals or organizations (other than a provider of services) directly for covered Medicare services furnished its enrollees who are title XVIII beneficiaries as specified elsewhere in this part shall be responsible for:

(1) Determining eligibility of individuals to receive such items and services through the HMO and making proper coverage decisions and appropriate payment, in accordance with the requirements of this part, for such items and services for which enrollees who are entitled title XVIII beneficiaries are eligible under this subpart; and

(2) Performing other procedures that may be specified by the Secretary from time to time as described in Regulations and General Instructions.

§ 405.2033 Transfer of HMO ownership.

(a) *General.* (1) A transfer of ownership of an HMO which is under a contract with the Secretary under title XVIII will, under the conditions discussed in paragraphs (b), (c), (d), and (e) of this section, render such contract invalid as between the Secretary and the transferee unless the Social Security Administration recognizes a third party as the successor in interest to the contract. A novation agreement, as described in paragraph (f) of this section, is the legal instrument executed by the previously qualified HMO (transferor), the proposed HMO successor (transferee), and the Social Security Administration by which the Social Security Administration recognizes the transferee as the successor in interest to the existing contract.

(2) An HMO which is contemplating or negotiating a change of ownership, must notify the Social Security Administration at least 60 days in advance of the anticipated date of the change of ownership. In addition, the HMO must notify the Social Security Administration of the names and positions (if appropriate) of the new owners, including all parties of a partnership and, at a minimum (but not by way of limitation) all stockholders of a corporation who own 25 percent or more of the corporate stock.

(3) Where there has been a transfer of ownership of an HMO and the new

ownership has not entered into a novation agreement in accordance with paragraph (f) of this section, the entity under new ownership, if it wishes to participate as an HMO under section 1876 of the Act, must promptly notify the Social Security Administration. In addition, the entity under new ownership will only be eligible to participate as an HMO under the health insurance program if it establishes that it meets the requirements described in § 405.2028 and enters into a contract which has been approved by the Secretary as described in § 405.2029.

(4) Where there has been a transfer of ownership as described in paragraph (a)(1) of this section and the HMO (transferor) has not notified the Social Security Administration as provided in paragraph (a)(2) of this section, the transferor shall be liable to the Social Security Administration for per capita payments made to it by the Social Security Administration on behalf of its title XVIII enrollees beginning with the effective date of the transfer of ownership.

(b) *Partnership.* In the case of a partnership which is a party to a contract with the Secretary, the removal, addition, or substitution of an individual for a partner in the association generally, in the absence of an express statement to the contrary, dissolves the old partnership and creates a new partnership which is not a party to the previously executed contract with the HMO. Thus, for the purposes of section 1876 of the Social Security Act, a change of ownership has occurred and the provisions of this section will apply.

(c) *Sole proprietorship.* Where an HMO is a sole proprietorship not incorporated under applicable State law, a transfer of title and property of the HMO to another party constitutes a change of ownership for the purpose of section 1876 of the Social Security Act.

(d) *Corporation.* If an HMO is a corporate body, a transfer of ship for the purpose of section 1876 of the Social Security Act, corporate stock, does not, in itself, constitute a change of ownership for the purpose of section 1876 of the Social Security Act. Similarly, a merger of one or more corporations, with the HMO corporation surviving, does not generally constitute a change of ownership. However, a merger where the HMO corporation which is a party to the contract with the Secretary is not the surviving corporation or a consolidation of two or more corporations resulting in the creation of a new corporate entity does constitute a change in ownership.

(e) *Leasing.* (1) When an HMO leases its facilities, in whole or in part, to another entity the lessee does not assume HMO status under section 1876 of the Social Security Act. If the participating HMO leases all of its facilities to another organization, the Secretary's contract with the lessor organization terminates unless he has approved the transaction in advance. If, however, the participating HMO leases only part of its facilities to another organization, such participating HMO's contract remains in effect, but a survey must be conducted to determine whether the HMO continues to be in compliance with the qualifying conditions for such organizations, as described in § 405.2002 through § 405.2012.

(2) If the lessee of the facilities requests approval to participate as an HMO under the health insurance program, it may enter into a contract with the Secretary if it meets the requirements described in § 405.2028 and if such contract is approved by the Secretary in accordance with § 405.2029.

(f) *Novation agreement.* (1) In order for a proposed transferee to be recognized by the Social Security Administration as a successor in interest to the contract, (see paragraph (a)(1) of this section) the HMO (transferor) which is under a contract with the Secretary under title XVIII must notify the Social Security Administration at least 60 days in advance of the proposed change of ownership and submit at least 30 days in advance of the anticipated date of the change of ownership (see paragraph (a)(1) of this section) three signed copies of a proposed novation agreement to the Secretary together with one copy of such documents as may be specified by the Social Security Administration in General Instructions.

(2) The Social Security Administration may execute a novation agreement with the transferor and the transferee (see paragraph (a)(1) of this section) where it is determined that:

(i) The proposed transferee is, in fact, a successor in interest to the contract;

(ii) Recognition of the new party as a successor in interest to the contract with the HMO is in the best interest of the health insurance program; and

(iii) The successor organization will meet the requirements of this subpart in order to qualify as an HMO.

(3) The novation agreement executed in accordance with paragraph (f)(2) of this section shall provide, at a minimum, that:

(i) The transferee assumes all obligations under the contract;

(ii) The transferor waives its rights under the contract to obtain from the Secretary reimbursement for covered serices furnished during the current contract period; and

(iii) The transferor guarantees performance of the contract by the transferee or the transferor posts a satisfactory performance bond in lieu of such guarantee which is approved by the Social Security Administration.

§ 405.2034 Terminations.

Under the terms of the contract (see § 405.2028) the HMO and the Secretary have certain specified rights and responsibilities regarding the termination of such contract.

(a) *Health maintenance organization.* An HMO may terminate its contract to provide services to its enrollees who are title XVIII beneficiaries by filing with the Social Security Administration at least 90 days before the end of the contract period, a written notice of its intention not to renew such contract. The Secretary may, at his discretion, accept a delinquent Notice of Intention Not to Renew filed by an HMO (i.e., when such notice is filed less than 90 days before the end of the contract period) where such acceptance would not jeopardize the effective and efficient administration of the program. In addition to giving notice to the Social Security Administration, the HMO shall notify its enrollees who are title XVIII beneficiaries and the public of the proposed termination of such contract. Whether or not the Secretary has approved a delinquent notice, such enrollees shall be notified by mail at least 60 days prior to the end of the contract period and the public shall be notified by publishing at least 30 days before the date of termination a statement of the effective date for termination of the contract with the Secretary. Publication shall be in one or more newspapers of general circulation which serve each community (or county) located in the HMO's enrollment area.

(b) *Secretary.* The Secretary may terminate or choose to not renew the contract with an HMO in accordance with the procedures prescribed in §§ 405.2065–405.2086, provided it notifies the HMO's enrollees who are title XVIII beneficiaries and the public at least 30 days prior to the effective date of such action.

(c) *Mutual consent.* The contract between the Secretary and the HMO may be modified or terminated at any time by written mutual consent of the two parties. The HMO will notify its enrollees who are title XVIII beneficiaries of any modification of the contract between the HMO and the Secretary where the Secretary determines such notification to be appropriate. In the case of termination of the contract, the public and the HMO's enrollees who are title XVIII beneficiaries are notified in the following manner:

(1) The HMO shall notify its enrollees who are title XVIII beneficiaries and the public prior to the effective date of such action in the manner specified in paragraph (a) of this section; and

(2) The Social Security Administration shall notify the public at least 30 days prior to the effective date of such action.

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DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 242a]

BOARD OF REGENTS OF UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Public Meeting Procedures

The Board of Regents of the Uniformed Services University of the Health Sciences proposes to adopt procedures for its public meetings. The procedures are designed to implement section 3 (a) of the Government in the Sunshine Act, Public Law 94-409.

Interested persons are invited to submit written views on the proposed procedures to the Board of Regents, Uniformed Services University of the Health Sciences, 6917 Arlington Road, Bethesda, Md. 20014 on or before January 21, 1976. Copies of comments received will be available for public inspection at the Office of the President, Room 300 during regular business hours. The Board will consider all such written submittals before acting on the matters proposed herein. An original and 9 conformed copies should be filed with the Board.

The proposed procedures of Part 242a are as follows:

PART 242a—PUBLIC MEETING PROCEDURES OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Sec.

AUTHORITY: 5 U.S.C. 552b(g); Pub. L. 94-409.

§ 242a.1 Applicability.

These procedures apply to meetings of the Board of Regents, Uniformed Services University of Health Sciences (USUHS), including committees of the Board of Regents.

§ 242a.2 Definitions.

(a) "Board" or "Board of Regents" means the collegial body that conducts the business of the Uniformed Services University of the Health Sciences as specified in Title 10, United States Code, Section 2113, consisting of:

(1) Nine persons outstanding in the fields of health and health education appointed from civilian life by the President, by and with the advice and consent of the Senate;

(2) The Secretary of Defense, or his designee, an ex officio member;

(3) The surgeons general of the uniformed services, ex officio members; and

(4) The Dean (President) of the University, an ex officio nonvoting member.

(b) "Board Representative" means the individual named as Executive Secretary by the Board, or any person officially designated by the Board.

(c) "Chairman" means the presiding officer of the Board, designated by the President, as specified in Title 10, United States Code, Section 2113.

(d) "Committee" means any formally designated subdivision of the Board, consisting of at least two Board members, authorized to act on behalf of the Board, including, the Board's standing committees (the Executive, Administrative Affairs, Educational Affairs, Fine Arts and Gifts, and Nominating Committees) and any ad hoc committees appointed by the Board for special purposes.

(e) "Meeting" means the deliberations of eight voting members of the Board, or for committees, the deliberations of at least the number of individual voting members of the Board required to take action on behalf of the Board, where such deliberations determine or result in the joint conduct or disposition of official business of the Board, but does not include:

(1) Deliberations to open or close a meeting, or to release or withhold information, required or permitted by §§ 242a.5 or 242a.6;

(2) Notation voting or similar consideration of matters whether by circulation of material to members individually in writing, or polling of members individually by telephone or telegram; and

(3) Instances where individual members, authorized to conduct business on behalf of the Board or to take action on behalf of the Board, meet with members of the public or staff. Conference telephone calls that involve the requisite number of members, and otherwise come within the definition, are included.

(f) "Member" means a member of the Board of Regents.

(g) "Public Announcement" means posting notices on the Board's public notice bulletin board, and mailing announcements to persons on a mailing list maintained for those who desire to receive notices of Board meetings, and who pay such fee as may be determined by the Executive Secretary, not to exceed $10.00 per year, to cover the costs involved in such distribution.

(h) "Staff" includes the employees of the USUHS, other than the members of the Board.

§ 242a.3 Open meetings.

(a) Members shall not jointly conduct or dispose of business of the Board of Regents other than in accordance with these procedures. Every portion of every meeting of the Board of Regents or any committee of the Board shall be open to public observation subject to the exceptions provided in § 242a.4.

(b) Open meetings will be attended by members of the Board, certain staff, and any other individual or group desiring to observe the meeting. The public will be invited to observe and listen to the meeting but not to participate or to record any of the discussions by means of electronic or other devices or cameras.

(c) The Executive Secretary shall be responsible for making physical arrangements that provide ample space, sufficient visibility, and adequate acoustics for public observation of meetings.

§ 242a.4 Grounds on which meetings may be closed, or information may be withheld.

Except in a case where the Board or a committee finds that the public interest requires otherwise, the open meeting requirement set forth in the second sentence of § 242a.3(a) shall not apply to any portion of a Board or committee meeting, and the informational disclosure requirements of §§ 242a.5 and 242a.6 shall not apply to any information pertaining to such meeting otherwise required by this part to be disclosed to the public, where the Board or committee, as applicable, properly determines that such portion or portions of its meetings or the disclosure of such information is likely to:

(a) Disclose matters that are:

(1) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy; and

(2) Properly classified pursuant to such executive order;

(b) Relate solely to the internal personnel rules and practices of the USUHS;

(c) Disclose matters specifically exempted from disclosure by statute (other than Title 5, United States Code, Section 552), provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

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

(e) Involve accusing any person of a crime or formally censuring any person;

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

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

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

(1) In the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to:

(i) Lead to significant financial speculation in currencies, securities, or commodities, or

(ii) Significantly endanger the stability of any financial institution; or

(2) In the case of any agency, be likely to significantly frustrate implementation of a proposed agency action, except that this subsection shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the issuance of a subpoena, or USUHS 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 by the USUHS of a particular case of formal adjudication pursuant to the procedures in Title 5, United States Code, Section 554, or otherwise involving a determination on the record after opportunity for a hearing.

§ 242a.5 Procedure for announcing meetings.

(a) Except to the extent that such information is exempt from disclosure under the provisions of § 242a.4, in the case of each Board or committee meeting, the Board representative, shall make public announcement, at least 7 days before the meeting, of the following:

(1) Time of the meeting;

(2) Place of the meeting;

(3) Subject matter of the meeting;

(4) Whether the meeting or parts thereof are to be open or closed to the public; and

(5) The name and telephone number of the person designated by the Board or committee to respond to requests for information about the meeting.

(b) The 7 day period for the public announcement required by paragraph (a) of this section may be reduced if a majority of the members of the Board or committee, as applicable, determine by a recorded vote that Board or committee, as applicable, determine by a recorded vote that Board or committee business requires that such expedited meeting be called at an earlier date. The Board or committee shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(c) The time or place of a meeting may be changed following the public announcement required by paragraph (a) of this section only if the Board representative publicly announces such change at the earliest practicable time. Such change need not be voted on by the members.

(d) The subject matter of a meeting or the determination of the Board or committee, as applicable, to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by paragraph (a) only if:

(1) A majority of the entire voting membership of the Board or a majority of the entire voting membership of a committee, determines by a recorded vote that Board or committee business so requires and that no earlier announcement of the change was possible; and

(2) The Board or committee publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(e) Items that have been announced for Board consideration may be deleted without notice.

(f) The "earliest practicable time" as used in this section, means as soon as possible, which should in few, if any, instances be no later than commencement of the meeting or portion in question.

(g) Immediately following each public announcement required by this section, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and telephone number of the person designated by the Board or committee to respond to requests for information about the meeting, shall also be submitted for publication in the FEDERAL REGISTER.

§ 242a.6 Procedure for closing meetings.

(a) Action to close a meeting or portion thereof, pursuant to the exemptions set forth in § 242a.4 shall be taken only when a majority of the entire voting membership of the Board or a majority of the entire voting membership of a committee, as applicable, vote to take such action.

(b) A separate vote of the Board or committee members shall be taken with respect to each Board or committee meeting a portion or portions of which are proposed to be closed to the public pursuant to § 242a.4 or with respect to any information which is proposed to be withheld under § 242a.4.

(c) A single vote of the Board or committee may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than 30 days after the initial meeting in such series.

(d) The vote of each member shall be recorded, and may be by notation voting, telephone polling or similar consideration.

(e) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Board or a committee close such portion to the public under any of the exemptions relating to personal privacy, criminal accusation, or law enforcement information referred to in § 242a.4(e), (f), and (g), the Board or committee, as applicable, upon request of any one of its members, shall vote by recorded vote whether to close such meeting. Where the Board receives such a request prior to a meeting, the Board's representative may ascertain by notation voting, or similar consideration, the vote of each member of the Board, or committee, as applicable, as to the following:

(1) Whether the business of the Board or committee permits consideration of the request at the next meeting, and delay of the matter in issue until the meeting, or

(2) Whether the members wish to close such meeting.

(f) Within 1 day any vote taken pursuant to paragraphs (a), (b), (c), or (e), of this section, the Board or committee shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the Board or committee shall, within 1 day of the vote taken pursuant to paragraphs (a), (b), (c), or (e) of this section, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation. The information required by this paragraph shall be disclosed except to the extent it is exempt from disclosure under the provisions of § 242a.4.

(g) For every meeting closed pursuant to paragraphs (a) through (j) of § 242a.4, the General Counsel or chief legal officer of the USUHS shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. 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 present, shall be retained by the Board as part of the transcript, recording or minutes required by § 242a.7.

§ 242a.7 Transcripts, recordings, & minutes of closed meetings.

(a) The Board of Regents shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, closed to the public pursuant to § 242a.4(j), the Board shall maintain either such a transcript or recording, or a set of minutes.

(b) Where minutes are maintained they shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any action taken, and the reasons for such actions, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(c) The Board shall maintain a complete, verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting or portion of a meeting, closed to the public, for a period of at least 2 years after such meeting, or until 1 year after the conclusion of any Board proceeding with respect to which the meeting or portion was held, whichever occurs later.

(d) Public availability of records shall be as follows:

(1) Within 10 days of receipt of a request for information (excluding Saturdays, Sundays, and legal public holidays), the Board shall make available to the public, in the offices of the Board of Regents, USUHS, Bethesda, Maryland, the 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, except for such item or items of such discussion or testimony as the Executive Secretary determines to contain information which may be withheld under § 242a.4.

(2) Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be available at the actual cost of duplication or transcription.

(3) The determination of the Executive Secretary to withhold information pursuant to subsection (1) of this paragraph, may be appealed to the Board. The appeal shall be circulated to individual Board members. The Board shall make a determination to withhold or release the requested information within 20 days from the date of receipt of a written request for review (excluding Saturdays, Sundays, and legal public holidays).

(4) A written request for review shall be deemed received by the Board when it has arrived at the offices of the Board in a form that describes in reasonable detail the material sought.

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Legal Counsel, Uniformed Services University of the Health Sciences.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

DECEMBER 16, 1976.

[FR Doc.76-37531 Filed 12-21-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Parts 205 and 250]

QUALITY CONTROL—FINANCIAL AND MEDICAL ASSISTANCE PROGAMS

Review of Negative Case Actions

Notice is hereby given that the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of the Department of Health, Education, and Welfare, proposes to amend Quality Control (QC) regulations applicable to the administration of the Aid to Families with Dependent Children (AFDC) and Medicaid programs. The purpose of the proposed amendments set forth below is to require States to review the correctness of negative case actions, that is, actions taken to deny applications for financial or medical assistance, to otherwise dispose of such applications without a determination of eligibility, or to terminate financial or medical assistance.

Negative case action review would supplement currently required QC reviews of active AFDC cases and paid claims for medical assistance.

The basis of this proposed change, to be discussed in greater detail below, is the Service's belief that negative case action review under QC would promote proper administration by the States of their AFDC and Medicaid programs by helping to assure that each individual who meets the conditions of eligibility for AFDC or Medicaid benefits is provided with such assistance.

The AFDC and Medicaid programs are cooperative Federal-State programs. Under AFDC, the Federal and State governments share the costs of providing financial assistance to needy families with dependent children. Similarly, under Medicaid, the Federal government participates in the cost of providing medical care and services to eligible individuals.

In order to qualify for the Federal share of its AFDC or Medicaid expenditures, a State must operate each program in accordance with a State plan approved by the Secretary of HEW as meeting all applicable requirements set forth by Congress in the Act as well as those contained in implementing Federal regulations and policies. Among the State plan requirements imposed by the Act is the requirement to "provide such methods of administration . . . as are found by the Secretary to be necessary for the proper and efficient operation of the plan;". This requirement is the basis for the QC system.

Prior to April 6, 1973, the Department used the QC system to monitor negative case actions as well as active AFDC cases and active Medicaid cases. As of that date, in order to facilitate a concerted effort by States to assure the completeness and validity of the AFDC active case review samples, States were relieved of responsibility for:

1. AFDC negative case action reviews; and

2. All Medicaid QC reviews.

Following the 1973 decision, the Department developed a new Medicaid QC system for review of paid claims, which went into effect on July 1, 1975.

In 1973 the Department chose to review AFDC negative case actions outside the QC system through a federally-conducted system of management reviews. Regional SRS staff, responsible for the monitoring and enforcement of a wide range of AFDC State plan requirements, were assigned to review negative case actions. The Department believed that the Federal reviews would accurately evaluate State performance in denying and terminating benefits and would be useful in identifying specific areas where corrective action might be needed.

However, SRS has recently studied the results of the management review system and found them unsatisfactory. There also has been litigation in connection with the review of State negative case actions and negotiations concerning the scope of an acceptable quality control system with representatives of both State and local government and of public interest organizations who make up the New Coalition. The Department has concluded that federally-conducted management studies have not provided accurate and complete information on the number of improper State denials or terminations of AFDC and Medicaid benefits. In proposing the reinclusion of negative case action review in the QC system, the Department is seeking a more reliable, cost-effective mechanism for assessing the States' performance in the denial or termination of AFDC or Medicaid benefits.

The issuance of these proposed regulations at this time does not in any way alter the Department's commitment to continue good faith negotiations with the New Coalition. The Department, of course, would welcome comments on this specific proposal from the New Coalition, or from any other source, and will consider and respond to all such comments and suggestions before the issuance of final regulations.

Before making this proposal the Department considered (and ultimately rejected) alternatives to the present management review system which would not have required the direct use of State personnel. Under one such alternative Federal staff would have relied on an analysis of the results of the fair hearings States are required to provide to AFDC and Medicaid applicants or recipients who wish to contest a denial or termination of assistance. An examination of hearing decisions either sustaining or overturning negative case actions would, it was believed, give some indication of the agency's performance in denying or terminating assistance. However the number of individuals who appeal adverse agency eligibility determinations in any State, at any given time, may consitute only a small percentage of the total number of those whose benefits were denied or terminated by the agency. Furthermore, those cases may not represent a true cross-section of negative case actions. The conclusion was that hearing results would have only limited usefulness in monitoring State negative case actions.

A method involving federally conducted surveys (which would necessarily be done on a smaller scale than those conducted by the States) was considered and rejected because it would have imposed considerable burden on States (e.g., for collecting and making available to Federal reviewers the records of denials and terminations), and would still have been less effective than inclusion in the State QC system.

In view of the substantial advantages of State QC negative case action review over all the alternatives considered, the Department believes that the additional Federal and State costs are fully justified.

The current QC system, into which the proposed negative case action review component would be incorporated, requires:

A. For AFDC:

1. Selection of a statistically valid sample of the active caseload for each month.

2. Review of the sample cases to determine the eligibility of the recipient and the correctness of the amount of the assistance payment.

3. Projection of review results to the entire caseload to determine error rates for ineligibility, overpayment, and underpayment for each 6-month reporting period.

4. Submission of corrective action plans for reducing case error rates.

Current regulations also provide for denial of the Federal share of erroneous AFDC payments which are in excess of 3% for payments to ineligibles; and 5% for overpayments. However, on May 14, 1976, in the case of *State of Maryland et. al.* v. *Weinberger*, the United States District Court for the District of Columbia issued an order which now bars the Department from denying Federal funds, on the basis of the 3% and 5% tolerance levels, to the 14 plaintiff States in that action.

B. For Medicaid:

1. Selection of a sample of claims paid to providers of medical care or services.

2. Review of sample claims to determine whether the recipient was eligible for the medical care and services received.

3. Submission of the results of review, for each 6-month sampling period, along with a plan for analysis of, and corrective action on, the review findings.

The proposed requirements for negative case action reviews are very similar to those currently in effect for active cases with three exceptions:

1. Samples will be selected from the records of applicants for whom assistance was never initiated and former recipients whose assistance has been terminated;

2. Full field investigations will be conducted only when the reason given for the negative action has been determined to be incorrect; and

3. The Department has not chosen at this time to establish tolerance levels for negative case action errors in AFDC or Medicaid.

The Department intends to make the requirement for negative case action review effective on July 1, 1977 for AFDC–QC and on April 1, 1977 for MEQC.

The Department realizes that States may experience some difficulty in making necessary adjustment in their QC programs by the effective dates specified above and would welcome comments on this aspect. It is also interested in comments regarding the need for a tolerance level for errors in negative case actions.

Prior to the adoption of the proposed amendments, consideration will be given to those and any other written comments, suggestions, or objections received by the Administrator, Social and Rehabilitation Service, P.O. Box 2366, Washington, D.C. 20013, on or before February 7, 1977. Comments received will be available for public inspection in Room 5225 of the Department's office at 330 C Street, S.W., Washington, D.C., beginning approximately two weeks after publication of this Notice in the FEDERAL REGISTER, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (area code 202–245–0950). It is hereby certified that the economic and inflationary effects of this regulation have been carefully evaluated in accordance with Executive Order No. 11821.

Date: September 16, 1976.

M. KEITH WEIKEL,
Acting Administrator, Social and Rehabilitation Service.

Approved: December 10, 1976.

MARJORIE LYNCH,
Acting Secretary.

Chapter II, Title 45 of the Code of Federal Regulations is amended by revising §§ 205.40 and 250.25 to read as follows:

§ 205.40 Quality control system.

(a) *Definitions.* For purposes of this section and § 205.41, notwithstanding any other regulations in this chapter:

(1) *"Assistance unit"* means all individuals whose needs, income, and resources are to be considered in determining eligibility for the amount of an assistance payment for which Federal financial participation is claimed under this chapter.

(2) *"Case error"* means an overpayment, underpayment or payment for ineligibility, as defined in this section. However, where an overpayment, under payment or payment for ineligibility is occasioned solely by the failure of the assistance payment to reflect changes in an assistance unit's circumstances which occurred in the review month or the month (calendar or fiscal) immediately preceding the review month, no case error will exist (unless the assistance payment was, in fact, adjusted inaccurately as a result of such a change). For purposes of this definition, a hearing decision which required adjustment or termination of the assistance payment is considered a change in circumstances. The determination as to whether an assistance payment constitutes a case error will be made in accordance with procedures specified in the Quality Control Manual. There is no case error where payment is required to be continued unadjusted because a hearing has been requested.

(3) *"Ineligibility"* refers to a financial assistance payment received by or for an assistance unit, for the review month, when no amount of such payment should have been paid to such assistance unit under permissible State practice (as defined herein) in effect on the first day of the review month, notwithstanding the State agency's failure to make a finding under § 206.10(a)(5) of this chapter.

(4) *"Overpayment"* means a financial assistance payment received by or for an assistance unit, for the review month, which is in excess by at least $5.00 of the amount that should have been paid, to such assistance unit under permissible State practice (as defined herein) in effect on the first day of the review month.

(5) *"Underpayment"* means a financial assistance payment received by or for an assistance unit for the review month which is at least $5.00 less than the amount that should have been paid, to such assistance unit under permissible State practice (as defined herein) in effect on the first day of the review month.

(6) *"Review month"* means the specific period of time for which a particular financial assistance payment (or two successive payments where the State pays on a semi-monthly basis) under view is received, regardless of whether that period is a calendar month or a fiscal month.

(7) *"Permissible State practice"* means all written policy instructions issued by the State for administering the AFDC program so long as those written instructions are consistent with either the State plan or proposed amendments thereto which have been submitted to, but have not been acted upon by the Social and Rehabilitation Service. In all instances where such written instructions are not consistent with the State plan or such amendments thereto, permissible State practice means the provisions of the State plan.

(8) *"Negative case action"* means an action to deny an application for assistance, or to otherwise dispose of an application for assistance without a determination of eligibility, or to terminate assistance.

(b) *State plan requirements.*—A State plan under title IV–A or I, X, XIV or XVI of the Social Security Act must provide for a continuing system of quality control for assuring that assistance is furnished in accordance with permissible State practice (as defined herein). Under this requirement:

(1) The State agency's system of quality control shall:

(i) Apply the sampling methods and schedules in accordance with instructions prescribed by the Social and Rehabilitation Service;

(ii) Conduct field investigations, including a personal interview in all cases which fall within the sample of active cases; and, as necessary, for cases in the negative case action sample of active cases, and, as necessary, for cases in the negative case action sample;

(iii) Provide for the necessary resources, organizational structure and systems for the analysis of the findings of the system;

(iv) Take appropriate corrective action on improperly authorized assistance, improper negative case actions and system weakness; and

(v) Assure access by DHEW staff to State and local records relating to public assistance, to recipients, and to third parties.

(2) Notwithstanding the provisions of § 206.10(a)(9) of this Chapter, the State agency shall count as a case error in its Quality Control sample, any case in

which a change in circumstances which affects eligibility or the amount of the assistance payment is not correctly reflected in a terminated or adjusted payment by the second month following the month in which the change of circumstances occurred, unless assistance is continued unadjusted because a hearing has been requested; except that where the change in circumstances is improperly reflected in an assistance payment prior to the second month following the month in which the change of circumstances occurred, the State agency shall consider that a case error exists. Under this requirement, a hearing decision which affects eligibility or the amount of the assistance payment is a change in circumstances.

(3) The State agency shall submit to the Social and Rehabilitation Service, in such form and at such times as it prescribes:

(i) A description of the State's sampling plan;

(ii) On a monthly basis during the 6-month sampling period, for each active sample case in the State Quality Control review, the original finding on the amount of the assistance payment and, where a case error has been determined to exist in such payment, the amount by which the payment was in error, and the type of error, i.e. whether the error was an overpayment, underpayment, or payment to an ineligible;

(iii) Data required by Forms SRS QC 341.1, 341.1A and 343.1, within 60 days of the close of the 6-month sampling period to which such data apply;

(iv) A corrective action plan for reducing the case error rates of ineligibility, overpayments, and underpayments, and negative case actions, within 90 days of the close of the 6-month sampling period to which they apply;

(v) Data required by Forms SRS–QC 341.2, 341.3, 341.4, 343.2, and 343.3 are to be submitted at the same time the corrective action plan is submitted.

§ 250.25 Medicaid eligibility quality control.

State plan requirements. A State plan for medical assistance under title XIX of the Social Security Act must provide for a system of eligibility quality control, which meets Federal specifications, for assuring that medical assistance is furnished in accordance with State plan provisions. Under this requirement:

(a) The State agency, or at the option of the State, the agency responsible for determining eligibility for medical assistance, shall:

(1) Apply the sampling methods, schedules, and instructions prescribed by the Social and Rehabilitation Service (SRS);

(2) Conduct field investigations, including a personal interview with all recipients who fall within the sample of active cases and, as necessary, with individuals in the negative case action sample. "Negative case action" means an action to deny an application for medical assistance or to otherwise dispose of such application without a determination of eligibility, or to terminate medical assistance;

(3) Take appropriate corrective action on improperly authorized medical assistance, improper negative case actions,

(4) Report to the Federal Government as prescribed; and

(5) Assure access by Federal staff to State and local records, recipients, and third parties.

(b) The State agency (or agency responsible for eligibility) shall submit to SRS in accordance with Federal instructions:

(1) A description of the State's sampling plan for active cases and negative case actions;

(2) Data concerning all individuals who fall within the active case sample or the negative case action sample;

(3) Data concerning payments for medical assistance on behalf of recipients in the active case sample; and

(4) A comprehensive plan for analysis of and corrective action on the findings of each sampling period provided for in paragraph (c) of this section, no later than 135 days after the end of each sampling period.

(c) There shall be a sampling period from July 1, 1975 to September 30, 1975, and sampling periods of 6 months each thereafter commencing October 1, 1975, to collect the data referred to in paragraph (b)(2) and (3) of this section. Such data shall be submitted to SRS no later than 120 days after the end of each sampling period.

[FR Doc.76–37532 Filed 12–21–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE

Denial of Request for Public Hearing; Proposed Critical Habitat for Peregrine Falcon

Section 4(f)(2)(A)(ii) of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) states that if any person, who feels that he may be adversely affected by a regulation proposed pursuant to the Act, requests a public hearing thereon, the Secretary may grant such request, but shall, if he denies such request, publish his reasons therefor in the FEDERAL REGISTER.

On October 8, 1976, Mr. Kermit R. Kubitz, attorney for the Pacific Gas and Electric Company, requested that a public hearing be held on the Proposed Determination of Critical Habitat for the American Peregrine Falcon, published by the Fish and Wildlife Service in the FEDERAL REGISTER of August 30, 1976 (41 FR 36516–36517). As the reason for this request, Mr. Kubitz stated that the proposal could potentially adversely affect several hundred megawatts of geothermal generating capacity, equivalent to over 5,000,000 barrels of oil per year. No further explanation was provided.

A Critical Habitat designation does not in itself restrict any particular kinds of activity. Such designations merely notify Federal agencies that they are required to insure that any of their actions impacting a particular area do not adversely affect an Endangered or Threatened species. Questions of whether these conditions would apply to a certain action, and whether the action would be detrimental to a species, would best be considered after, rather than before designation of Critical Habitat. Such questions are not factors in actually delineating the Critical Habitat. Moreover, the allotted public comment period on this proposal provided sufficient time for interested parties to submit pertinent statements, especially considering the relatively limited areas involved. The Fish and Wildlife Service sees no meaningful purpose that would be served by holding a public hearing, and therefore, denies this request.

Dated: December 17, 1976.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

[FR Doc.76–37559 Filed 12–21–76;8:45 am]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the Palila

The Director, United States Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) hereby issues a Proposed Rulemaking which would determine Critical Habitat for the Palila (*Psittirostra bailleui*), an Endangered Hawaiian bird. This Proposal is issued pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act).

BACKGROUND

The Palila, a small bird of the Hawaiian Honeycreeper Family, is now restricted to a relatively small area on the Island of Hawaii, and has been officially listed as Endangered since 1967. Hope for the survival and recovery of this species centers on maintenance of its forest habitat on the slopes of Mauna Kea.

A notice of intent to determine Critical Habitat for the Palila was published by the Service in the FEDERAL REGISTER of May 16, 1975 (40 FR 21499–21500). Subsequently, the Director received several comments indicating that Critical Habitat for the Palila consisted of the Mamane-Naio Forests around Mauna Kea. On June 18, 1976, the Service's Region 1 in Portland submitted a precise delineation of a recommended Critical Habitat zone in this area. After evaluating this recommendation and supporting data, the Director determined to proceed with this Proposed Rulemaking.

The area delineated below consists primarily of Mamane (*Sophora chrysophylla*)-Naio (*Myoporum sandwicense*) forest, and extends from about

7,000 to 10,000 feet in elevation. The Palila depends on the Mamane and Naio trees for food, shelter, and nesting sites; it cannot survive without these tree species. Moreover, the delineated area apparently contains the world's entire known population of Palila, and supports most of the large and intermediate-sized Mamane and Naio trees on Mauna Kea. This area is large enough to allow space for the population to expend, and includes a full range of altitudinal and geographical sites needed by the Palila for normal life cycle movement. Such movement is the response of the species to shifting seasonal and annual patterns of flowering, seed set, and ensuing pod development of the Mamane vegetation.

EFFECTS OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

"The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical."

An interpretation of the term "Critical Habitat" was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) Actions by a Federal agency affecting Critical Habitat of a species would not conform with section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) There may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This last point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under Section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat.

REORGANIZATION OF REGULATIONS

It is also proposed in this rulemaking to reorganize the location of the present list of Critical Habitat designations. Presently, each Critical Habitat final rulemaking is assigned a separate section number in Subpart F of Part 17. Starting with the Critical Habitat designation for the snail darter at § 17.61, sequential numbers have been assigned for the Critical Habitats of the American crocodile (§ 17.62), the California condor (§ 17.64), the Indiana bat (§ 17.65) and the Florida manatee (§ 17.66). This procedural method is inefficient because of the rapid consumption of available section numbers in Subpart F. It is therefore proposed that the present Subpart F, "Critical Habitat" be deleted, and a new Subpart I, "Interagency Cooperation," be added. Within the new Subpart I, it is proposed that all Critical Habitat designations for fish or wildlife be listed under § 17.95. It is anticipated that §§ 17.90 through 17.94 will eventually be used to set forth the procedural regulations implementing Section 7 of the Endangered Species Act of 1973. The following sequence would be utilized in § 17.95: § 17.95(a)—mammals; § 17.95(b)—birds; § 17.95(c)—reptiles; § 17.95(d)—amphibians (Reserved); § 17.95(e)—fishes; § 17.95(f)—claims (reserved); § 17.95(g)—snails (reserved); § 17.95(h) crustacea (reserved); § 17.95(i)—insecta (reserved); § 17.95(j)—other (reserved). Critical Habitat designations for plants would be located at § 17.96.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted be as accurate as possible in delineating the Critical Habitat of the Palila. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these Proposed Rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this Proposal.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this Rulemaking by submitting written comments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. All relevant comments received no later than April 18, 1977, will be considered. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Comments received will be available for public inspection during normal business hours at the Service's Office in Suite 600, 1612 K Street, NW., Washington, D.C.

Dated: December 12, 1976.

GEORGE W. MILIAS,
Acting Director, Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend 50 CFR Part 17:

1. By deleting Subpart F of Part 17; by adding a new Table of Sections for Subpart I and by adding a new Subpart I of Part 17 to read as follows:

Subpart I—Interagency Cooperation

Sec.
17.90—17.94 [Reserved]
17.95 Critical habitat—fish and wildlife.
17.96 Critical habitat—plants. [Reserved]

AUTHORITY: Sec. 7, Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

Subpart I—Interagency Cooperation

§ 17.90 [Reserved]

§ 17.91 [Reserved]

§ 17.92 [Reserved]

§ 17.93 [Reserved]

§ 17.94 [Reserved]

§ 17.95 Critical Habitat—Fish and Wildlife.

(a) *Mammals*—(1) *Florida Manatee.* (i) The following areas (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species) in Florida are critical habitat for the Florida manatee (*Trichechus manatus*): Crystal River and its headwaters known as King's Bay, Citrus County; the Little Manatee River downstream from the U.S. Highway 301 bridge, Hillsborough County; the Manatee River downstream from the Lake Manatee Dam, Manatee County; the Myakka River downstream from Myakka River State Park, Sarasota and Charlotte Counties; the Peace River downstream from the Florida State Highway 760 bridge, De Soto and Charlotte Counties; Charlotte Harbor north of the Charlotte-Lee county line, Charlotte County; Caloosahatchee River downstream from the Florida State Highway 31 bridge,

Lee County; all U.S. territorial waters adjoining the coast and islands of Lee County; all U.S. territorial waters adjoining the coast and islands and all connected bays, estuaries, and rivers from Gordon's Pass, near Naples, Collier County, southward to and including Whitewater Bay, Monroe County; all waters of Card, Barnes, Blackwater, Little Blackwater, Manatee, and Buttonwood sounds between Key Largo, Monroe County, and the mainland of Dade County; Biscayne Bay, and all adjoining and connected lakes, rivers, canals, and waterways from the southern tip of Key Biscayne northward to and including Maule Lake, Dade County; all of Lake Worth, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway A1A southward to its southernmost point immeditately north of the town of Boynton Beach, Palm Beach County; the Loxahatchee River and its headwaters, Martin and West Palm Beach Counties; that section of the intracoastal waterway from the town of Sewalls Point, Martin County to Jupiter Inlet, Palm Beach County; the entire inland section of water known as the Indian River, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway 3, Volusia County, southward to its southernmost point near the town of Sewalls Point, Martin County, and the entire inland section of water known as the Banana River and all waterways between the Indian and Banana rivers, Brevard County; the St. Johns River, including Lake George, and including Blue Springs and Silver Glen Springs from their points of origin to their confluences with the St. Johns River; that section of the Intracoastal Waterway from its confluence with the St. Marys River on the Georgia-Florida border to the Florida State Highway A1A bridge south of Coastal City, Nassau and Duval Counties.

(ii) Pursuant to section 7 of the act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the critical habitat area.

(2) *Indiana Bat.* (i) The following areas (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species) are critical habitat for the Indiana bat (*Myotis sodalis*):

(A) *Illinois.* The Blackball Mine, La Salle County.

(B) *Indiana.* Big Wyandotte Cave, Crawford County; Ray's Cabe, Greene County.

(C) *Kentucky.* Bat Cave, Carter County; Coach Cave, Edmonson County.

(D) *Missouri.* Cave 021, Crawford County; Cave 009, Franklin County; Cave 017, Franklin County; Pilot Knob Mine, Iron County; Bat Cave, Shannon County; Cave 029, Washington County [numbers assigned by Division of Ecological Services, U.S. Fish and Wildlife Service, Region 6].

(E) *Tennessee.* White Oak Blowhole Cave, Blount County.

(F) *West Virginia.* Hellrole Cave, Pendleton County.

(ii) Pursuant to section 7 of the act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of these critical habitat areas.

(b) *Birds*—(1) *California Condor.* (i) The following areas (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species) in California are critical habitat for the California condor (*Gymnogyps californianus*).

(A) *Sespe-Piru Condor Area:* an area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Los Angeles Counties, with the following components (San Bernardino Meridian): Sespe Condor Sanctuary, as delineated by Public Land Order 695 (January 1951); T4N R20W Sec. 2, 5–10, N½ Sec. 11; T4N R21W Sec. 1–3, 10–12, N¼ Sec. 13, N¼ Sec. 14, N¼ Sec. 15; 75N R18W Sec. 4–9, 18, 19, 30, 31, N½ Sec. 3, N½ Sec. 17; T5N R21W Sec. 1–4, 9–16, 21–28, 33–36; T6N R18W Sec. 7–11, 14–23, 26–35; T6N R19W Sec. 7–36; T6N R20W Sec. 8–36; T6N R21W Sec. 13–36; T6N R22W Sec. 3–26, 35, 36; T6N R23W Sec. 1–3, 10–14, 24, N½ Sec. 23; T7N R22W Sec. 31; T7N R23W Sec. 34–36.

(B) *Matilija Condor Area:* an area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Santa Barbara Counties, with the following components (San Bernardino Meridian): T5N, R24W W½ Sec. 3, Sec. 4–11, 14, 15, N½ Sec. 16, N¼ Sec. 17; T5N R25W E½ Sec. 1, NE¼ Sec. 12; T5½N R24W Sec. 31–34; T6N R24W S½ Sec. 32, S½ Sec. 3, S½ Sec. 34.

(C) *Sisquoc-San Rafael Condor Area:* an area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, Santa Barbara County, with the following components (San Bernardino Meridian): T6N R26W Sec. 5, 6; T6N R27W Sec. 1, 2; T7N R26W Sec. 5–8, 17–20, 29–32; T7N R26W Sec. 1–14, 23–26, 35, 36; T7N R28W Sec. 1, 2, 11, 12; T8N R26W Sec. 19–22, 27–34; T8N R27W Sec. 19–36.

(D) *Hi Mountain-Beartrap Condor Areas:* areas of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R16E Sec. 13, 14, 23–26, SE¼ Sec. 11, S½ Sec. 12; T30S R17E Sec. 17–20, 29, 30; T31S R14E Sec. 1, 2, 11, 12, E½ Sec. 3, E½ Sec. 10, N½ Sec. 14, N½ Sec. 13; T31S R15E W½ Sec. 6, W½ Sec. 7, NW¼ Sec. 18.

(E) *Mt. Pinos Condor Area:* An area of land, water, and airspace in Ventura and Kern Counties, with the following components (San Bernardino Meridian): T8N R21W½ Sec. 5, Sec. 6 N½ Sec. 7, NW¼ Sec. 8; T8N R22W Sec. 1, 2, E½ Sec. 3, NE¼ Sec. 10, N½ Sec. 11, N½ Sec. 12; T9N R21W Sec. 31, 32, W½ Sec. 33; T9N R22 W E½ Sec. 35, Sec. 36.

(F) *Blue Ridge Condor Area:* An area of land, water, and airspace in Tulare County, with the following components (Mt. Diablo Meridian): T19S R29E Sec. 5–9, 15–22, 27–30.

(G) *Tejon Ranch:* an area of land, water, and airspace in Kern County, with the following components (San Bernardino Meridian): R16W T10N, R17W T10N, R17W, T11N, R18W, T9N, R18W T10N, R19W, T10N.

(H) *Kern County rangelands:* an area of land, water, and airspace in Kern County between California State Highway 65 and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R29E T25S, R29E T26S, R30E T25S, R30E T26S.

(I) *Tulare County rangelands:* an area of land, water, and airspace in Tulare County between California State Highway 65, State Highway 198, and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R28E T18S (all sections); R28E T19S (all sections); R28E T20S (all sections); R28E T21S Sec. 1–18; R29E T20S (all sections); R29E T21S Sec. 1–18.

(ii) Pursuant to section 7 of the act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of these critical habitat areas.

(2) *Palila.* The following areas (exclusive of those existing man-made structures or settlements which are not necessary to the survival or recovery of the species are Critical Habitat for the Pilila (*Psittirostra bailleui*).

Hawaii. An area of land, water, and airspace on the Island of Hawaii, Hawaii County, with the following components: (1) the State of Hawaii Mauna Kea Forest Reserve, except (a) that portion south of the Saddle Road (State Highway 20), (b) lands owned by the United States in the Pohakuloa Training Area north of the Saddle Road (State Highway 20) established by Executive Order 1719 (Parcel 6, State of Hawaii Tax Map Key 4–4–16, Third Division), (c) that portion (Parcel 10, Kaohe IV, State of Hawaii Tax Map Key 4–4–16, Third Division) lying north of the Saddle Road (State Highway 20) and south of the Power Line Road; (2) that portion of the State of Hawaii Kaohe Game Management Area (Parcel 4, State of Hawaii Tax Map Key 4–4–15, Third Division) to the north and east of the Saddle Road (State Highway 20); (3) that portion of the Upper Waikii Paddock (Parcel 2, State of Hawaii Tax Map Key 4–4–15, Third Division) northeast of the Saddle Road (State Highway 20); (4) that portion of the lands of Humuula between Puu Kahinahina and Kole lying southeast of the Mauna Kea Forest Reserve fence (portions of Parcels 2, 3, and 7, State of Hawaii Tax Map 3–8–1, Third Division) which are included in the State conservation district; (b) Pursuant to section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions author-

ized, funded, or carried out by them do not result in the destruction or modification of this Critical Habitat area.

(c) *Reptiles* (1) *American Crocodile.* (i) The following area (exclusive of those existing man-made structures or settlements which are not necessary to the normal needs or survival of the species) is critical habitat for the American crocodile (*Crocodylus acutus*): All land and water within the following boundary in Florida; beginning at the easternmost tip of Turkey Point, Dade County, on the coast of Biscayne Bay; thence southeastward along a straight line to Christmas Point at the southernmost tip of Elliott Key; thence southwestward along a line following the shores of the Atlantic Ocean side of Old Rhodes Key, Palo Alto Key, Anglefish Key, Key Largo, Plantation Key, Windley Key, Upper Matecumbe Key, Lower Matecumbe Key, and Long Key, to the westernmost tip of Long Key; thence northwestward along a straight line to the westernmost tip of Middle Cape; thence northward along the shore of the Gulf of Mexico to the north side of the mouth of Little Sable Creek; thence eastward along a straight line to the northernmost point of Nine-Mile Pond; thence northeastward along a straight line to the point of beginning.

(ii) Pursuant to section 7 of the act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of this critical habitat area.

(d) [Reserved]

(e) *Fishes*—(1) *Snail Darter.* (i) The following area is critical habitat for the snail darter (*Percina* (*Imostoma*) sp.): From river mile 0.5 to river mile 17 of the Little Tennessee River, Loudon County, Tennessee, as shown on a map entitled "Tellico Project," prepared by Tennessee Valley Authority, Bureau of Water Control Planning, August 1965 (map 65–MS–453 K 501). (ii) Pursuant to section 7 of the Act, all Federal agencies must take such action as is necessary to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of this critical habitat area.

[FR Doc.76–37558 Filed 12–21–76;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation Number A411]

IDAHO

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected Owyhee County, Idaho, as a result of hailstorms July 20, 1976, and August 1, 1976, and heavy rains August 15 to September 15, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Cecil D. Andrus that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 8, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–37549 Filed 12–21–76;8:45 am]

[Designation Number A416]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Louisiana Parishes as a result of drought from June 1, 1976 through October 31, 1976, for Franklin Parish; and drought from July 4 through September 4, 1976, for Morehouse Parish.

FRANKLIN MOREHOUSE

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Edwin W. Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 9, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 15th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–37550 Filed 12–21–76;8:45 am]

[Designation Number A413]

NORTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Nelson County, North Dakota, as a result of drought during the 1976 crop year beginning May 1 and ending December 31, 1976, and hail June 12 and August 9, 1976.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Arthur A. Link that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 8, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–37551 Filed 12–21–76;8:45 am]

[Designation Number A417]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of drought October 1, 1975 through August 31, 1976, hail August 27 and September 27, 1976, and early freeze October 8, 1976, in Cochran County; high winds and severe hail September 27, 1976, in Coleman County; and high winds and severe hail September 25, 1976, in Sherman County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 9, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76–37553 Filed 12–21–76;8:45 am]

[Designation Number A414]

WEST VIRGINIA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain West Virginia Counties as a result of various adverse weather conditions shown in the following chart:

WEST VIRGINIA

County	Disaster(s)	Incidence dates
Berkeley	Killing frosts	Apr. 1 through May 15, 1976.
	Drought	Jan. 1, 1976 through Nov. 19, 1976.
Grant	Killing frost	Apr. 15, 1976.
	Drought	Jan. 1, 1976 through Nov. 19, 1976.
Hampshire	Killing frosts	Apr. 3, 1976 through May 5, 1976.
	Drought	Jan. 31, 1976 through Nov. 5, 1976.
Hardy	Freeze and frost	Apr. 12, 1976 through May 5, 1976.
	Drought	Jan. 31, 1976 through Nov. 19, 1976.
Jefferson	Hot weather	Feb. 17, 1976 through Feb. 29, 1976.
	Drought	Mar. 1, 1976 through Nov. 19, 1976.
Mineral	Freeze and frost	Apr. 12, 1976.
	Drought	Jan. 3, 1976 through Nov. 19, 1976.
Pendleton	Killing frosts	May 5, 1976 through May 13, 1976.
	Drought	Jan. 1, 1976 through Nov. 19, 1976.
Morgan	Killing frost	Apr. 12, 1976.
	Drought	Jan. 31, 1976 through Nov. 19, 1976.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Arch A. Moore, Jr. that such designation be made.

Applications for emergency loans must be received by this Department no later than February 7, 1977, for physical losses and September 8, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 15th day of December, 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-37552 Filed 12-21-76;8:45 am]

Soil Conservation Service

RICHLAND CREEK WATERSHED PROJECT, TEX.

Availability of Negative Declaration of Environmental Impacts

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Richland Creek Watershed project, Navarro, Ellis, Hill, Limestone, and Freestone Counties, Texas.

The environmental assessment of this Federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. George C. Marks, State Conservationist, Soil Conservation Service, USDA, First National Bank Building, Temple, Texas 76501, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include the installation of two single purpose floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

USDA, Soil Conservation Service, W. R. Poage, Federal Building, 101 South Main Street, Temple, Texas 76501.

Requests for the negative declaration should be sent to:

P.O. Box 648, Temple, Texas 76501.

No administrative action on implementation of the proposal will be taken until January 5, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Flood Control Act—Public Law 78–534, 58 Stat. 905.)

Dated: December 10, 1976.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc.76-37510 Filed 12-21-76;8:45 am]

ARMS CONTROL AND DISARMAMENT AGENCY

PRIVACY ACT OF 1974

Proposed Additional Routine Uses

This notice describes five proposed additional routine uses for some or all of the systems of records maintained by the U.S. Arms Control and Disarmament Agency as published on August 28, 1975 (40 FR 39665–39669) and amended on May 26, 1976 (41 FR 21624–21626). These additional routine uses relate to disclosure of records in connection with (1) a grievance, complaint, or appeal filed by an employee; (2) exercise by the Civil Service Commission of its responsibility for evaluation and oversight of Federal personnel management; (3) audit by another Federal agency; [4] administrative services provided by the General Services Administration; and (5) release of information to state and local taxing jurisdictions. More detailed descriptions of these routine uses and identification of the systems of records to which they apply are set forth below.

Pursuant to 5 U.S.C. 552a(c)(11) the proposed additional routine uses of this notice are hereby set out for public comment. Interested persons are invited to submit written data, views, or arguments with respect to such routine uses, in duplicate, to the General Counsel, United States Arms Control and Disarmament Agency, 320 21st St., N.W., Washington, D.C. 20451, on or before January 21, 1977.

Dated: December 1, 1976.

JOHN LEHMAN,
Acting Director.

1. In the descriptions of each of the systems of records designated ACDA–1 (Official Personnel Records—ACDA), ACDA–3 (Security Records—ACDA), ACDA–5 (Top Secret Document Control File—ACDA), ACDA–6 (Document Classifier Data Index—ACDA), ACDA–8 (External Contracts (Other Than Small Purchases)—ACDA), ACDA–13 (Travel Authorization File—ACDA), and ACDA–14 (Confidential Statement of Employment and Financial Interests Records—ACDA), add the following paragraph at the end of the section on routine uses as previously amended:

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

2. In the descriptions of each of the systems of records designated ACDA–1 (Official Personnel Records—ACDA), ACDA–2 (Pending Personnel Files—ACDA), ACDA–3 (Security Records—ACDA), ACDA–8 (External Contracts (Other Than Small Purchases)—ACDA), ACDA–13 (Travel Authorization File—ACDA), and ACDA–14 (Confidential Statement of Employment and Financial Interests Records—ACDA), add the following paragraph at the end of the section on routine uses as previously amended:

A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with that agency's responsibility for evaluation and oversight of Federal personnel management.

3. In the descriptions of each of the systems of records designated ACDA–1 through ACDA–14 inclusive, add the following paragraph at the end of the section on routine uses as previously amended:

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

4. In the descriptions of each of the systems of records designated ACDA–1 through ACDA–14 inclusive, add the following paragraph at the end of the section on routine uses as previously amended:

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

5. In the description of the systems of records designated ACDA–1 (Official Personnel Records—ACDA),

and ACDA–13 (Travel Authorization—ACDA), add the following paragraph at the end of the section on routine uses as previously amended:

Routine uses of records maintained in this system shall include providing a copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Officer, U.S. Arms Control and Disarmament Agency, 320 21st St., N.W., Washington, D.C. 20451. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both. Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Executive Officer of the Agency. In the absence of a withholding agreement, the social security number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the social security number, in accordance with Section 7 of the Privacy Act, Public Law 93–579.

[FR Doc.76–35798 Filed 12–21–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 30151; Order 76–12–102]

AMERICAN AIRLINES, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3rd day of December, 1976.

By tariff revisions filed September 13, 1976, for effectiveness October 13, 1976, American Airlines, Inc. (American) proposes new "assembly" group inclusive tour (GIT) fares from numerous U.S. points to Mexico City and Acapulco. A complaint requesting suspension pending investigation has been submitted by Eastern Air Lines, Inc. (Eastern).

The fares include a 3/30-day minimum/maximum stay requirement, a minimum ground-arrangement purchase of $45 ($15 per night), 15-day advance reservations, and would be available all year except during the periods December 17–January 9 (southbound) and December 25–January 9 (northbound). While the fares are limited to groups of at least 40 passengers, each passenger may travel individually from his origin city to the "assembly point" of Chicago or Dallas, whereafter all travel would be with the group.

In its justification submitted in support of the proposed fares, American alleges that while group fares to Mexico from nongateway cities have been available since February 1976, they have been utilized infrequently since travel agents have been unable to assemble groups of at least 40 passengers from "feeder" cities; and that by allowing individual travel from nongateway cities to the assembly points of Chicago or Dallas, significant new traffic will be generated even though the proposed assembly group fares are somewhat higher than the existing, regular GIT fares which require group travel for the entire itinerary. American has submitted a profit impact analysis which shows a net annual profit of $420,000 on these fares based on a 40/60 percent generation/diversion ratio. Finally, the carrier states that in order to control the proliferation of group fares, it intends to replace its current GIT fares, except where competition otherwise requires that they be retained, with the new assembly group fares.

In its complaint, Eastern alleges that the proposed "group assembly" fares are in reality individual inclusive tour (IIT) fares, since the group requirement applies only to the Chicago and Dallas gateways; that an assembly fare of this nature would be difficult if not impossible to control since each group would have passengers originating at many different points, and there is no assurance that the group requirement has been fulfilled at either Chicago or Dallas; that the proposed fares represent reductions of 5 to 10 percent from existing IIT fares as well as a liberalization of the ticket validity from 5/21 days to 3/31 days; and that American's generation estimate of 40 percent, based on in-flight surveys of group passengers, is faulty due to the unreliable nature of the survey as well as the use of a discount factor of 21.25 percent, which represents the discount from normal economy and excursion fares rather than the discount from the next higher fare, the IIT.

American, in an answer to Eastern's complaint, alleges that the proposed fares are, in fact, group not individual fares, and that similar fares have been in effect in the mainland-Hawaii market since 1968; that the new fares will not be impossible to control since the carrier will receive, at least 15 days before departure, advance payment for all 40 passengers as well as certain control information;[1] that American's generation/diversion estimate is valid inasmuch as the question used in the survey has remained virtually unchanged for 10 years, and was recently found to give valid results in the initial decision in Docket 27671, *"No Frills" Fares Investigation;* and that a generation factor of 40 percent is entirely reasonable since individual and group travel appeal to different segments of the public and the sale of group travel is enhanced by the promotional efforts of travel agents.

Upon consideration of the tariff filing, the complaint and answer thereto, and all other relevant matters, the Board has concluded that the proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the fares should be suspended pending investigation.

The Board does not doubt that there may be some difficulty in developing regular GIT travel to Mexico from relatively small, nongateway points, despite American's own citation of the developmental benefits for group sales by travel agents' promotional activities. On the other hand, we note that among the 28 so-called "feeder" cities which are allegedly incapable of generating much group travel are the large metropolitan areas of Baltimore, Boston, Cincinnati, Cleveland, Detroit, Indianapolis, New York, Philadelphia, Pittsburgh, St. Louis, and Washington, D.C. Further, as Eastern notes in its complaint, there are already available in the U.S.-Mexico market IIT fares from numerous U.S. points.[2] Except for the group travel requirement, the conditions on the IIT fare are quite similar to those on the GIT fare, and we see no reason why the existing IIT fares should not adequately accommodate individual travel requirements from those cities to Mexico.[3] Indeed, American has not even addressed this question, and in light of the fact that the proposed group assembly fares represent significant reductions from the existing IIT fares, and appear to incur equal or greater ticketing and reservations costs, American has failed to demonstrate that the proposed fares are economically justified.

American's generation/diversion estimate, which is based on a recent system-wide in-flight survey of domestic as well as international passengers traveling on a wide variety of group fares is particularly unimpressive.[4] American has failed to make a *prima facie* showing of a positive profit impact, and it appears likely

[1] Briefly, the agent must submit the group control number assigned by the carrier, the name and ticket number of each passenger as well as his origin city, the fare applicable to each ticket and full payment, and the name of the agency issuing each ticket.

[2] Of the 30 U.S. points where American has proposed introduction of assembly group fares, IIT fares are currently unavailable only at Buffalo.

[3] This conclusion is supported by recent U.S.-Mexico traffic distribution data submitted to the Board, which showed 38.7 and 17.3 percent, respectively, of American's passengers traveling under the individual excursion and IIT fares, versus only 6.1 percent under the GIT fare.

[4] The survey question, "If a 'special discount' fare were not available for your trip today, would you personally still have taken this trip by air" implies a choice between the regular coach fare and the particular group fare, and ignores the existence of other discount fares such as the U.S.-Mexico excursion and IIT fares.

that the proposed fares would seriously dilute revenue from traffic already moving on existing, higher fares without offering a serious potential for generating new traffic.[5] In addition, it is not unlikely that efficient administration and control of the Chicago and Dallas assembly groups consisting of passengers from several different origin cities would involve additional costs to the carrier.

The Board has long encouraged the carriers to reduce reliance on group travel as opposed to individually ticketed service. By Order 75–3–97, March 26, 1975, the Board approved portions of a U.S.-Mexico fare agreement among the members of the International Air Transport Association (IATA) which, in line with the Board's policies, essentially replaced then-existing GIT fares with IIT fares at levels approximately 10 percent higher. However, due to the Board's disapproval in concurrent Order 75–3–96 of general increases in other U.S.-Mexico fares, the agreement never became effective and U.S.-Mexico fares have been in an open-rate situation since that time. Thus, although IIT fares were introduced in most U.S.-Mexico markets, GIT fares remained in effect, and in many markets the contemplated increases in inclusive tour fare levels did not materialize. The "assembly group" inclusive tour fares now proposed by American represent, in effect, a reduction in the IIT fare levels approved by the Board over 18 months ago. American has submitted no data to show that the existing IIT fares have been incapable of accommodating the demand for inclusive tour travel in the relevant markets. Thus, there is no showing that the proposed assembly-group fares would generate enough new traffic to offset the diversion from the higher-rated IIT fare.[6]

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 801 and 1002(j) thereof,

It is ordered That: 1. An investigation be instituted to determine whether the fares and provisions set forth in the Appendix hereof, and rules, regulations or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to take appropriate action to prevent the use of such fares and provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, the fares and provisions specified in the Appendix hereof are suspended and their use deferred from December 17, 1976, to and including December 17, 1977, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President[7] and shall become effective on December 17, 1976;

4. The investigation ordered herein be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated;

5. Except to the extent granted herein, the complaint of Eastern Air Lines, Inc., in Docket 29803 be and hereby is dismissed; and

6. American Airlines, Inc., Eastern Air Lines, Inc., and Braniff Airways, Inc., be and hereby are exempted from section 403 of the Federal Aviation Act of 1958 and from Part 221 of the Board's Economic Regulations to the extent necessary to permit them to transport passengers holding confirmed reservations as of the effective date of this order, at the fares specified in ordering paragraph 1 above, at no additional collection;[8] and

7. Copies of this order be filed in the aforesaid tariffs and be served upon American Airlines, Inc., Braniff Airways, Inc., and Eastern Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

JAMES R. DERSTINE,
Acting Secretary.

[5] The assembly group fares would not only divert passengers from the IIT fares; due to the liberalization of the ticket validity, a serious possibility also exists for diversion of excursion fare traffic. Most of the proposed fares would produce per-mile yields well below American's experienced cost of 7.50 cents per revenue passenger mile (RPM) in U.S.-Mexico passenger service during the year ended March 31, 1976, and range as low as 4.3 cents/RPM in the case of Chicago-Mexico.

[6] The fact that "assembly" fares exist in the U.S. mainland-Hawaii market does not support American's proposal. Historically, mainland-Hawaii assembly group inclusive tour fares were introduced when virtually all service from interior U.S. points to Hawaii required a west coast connection, consistent with operational patterns and aircraft capabilities of the time. Even at the present time, there is an overwhelming concentration of mainland-Hawaii service at the west coast gateways. However, these particular circumstances do not obtain in the U.S.-Mexico markets where direct services are widely available and do not depend upon connections at Chicago or Dallas. Further, as set forth in the Board's recent Opinion and Order in the *Hawaii Fares Investigation* (Order 76–10–37, October 8, 1976), carriers have been granted relatively wide latitude in offering discount fares; however, the Board indicated that normal fares would be established as if discount fares were not part of the fare structure in order to protect the normal fare passenger from the dilutionary impact of discount fares. There is no corresponding discount fare adjustment in international markets where the Board has no power to prescribe fares. In any event, regardless of the existence of assembly group fares in the Hawaii market, American has failed to make a showing that such fares would be economic in the U.S.-Mexico market.

[7] This order was submitted to the President on December 6, 1976.

[8] The Board is concerned about possible hardships and disruptions to the travel plans of passengers who have already purchased tickets under these fares, particularly at this season. In these circumstances, it is found that the enforcement of section 403 of the Act, and Part 221 of the Economic Regulations, would be an undue burden upon the carriers in this instance by reason of the limited extent of and unusual circumstances affecting operations and is not in the public interest.

APPENDIX

PASSENGER FARES TARIFF NO. P–NS–3, C.A.B. NO. 54 ISSUED BY AIR TARIFFS CORPORATION, AGENT

Rule 102 on 2nd Revised Pages 34–A and 34–B;

Table 22 on 2nd Revised Pages 102–A and 102–B.

INTERNATIONAL PASSENGER FARES TARIFF C.A.B. NO. 415 ISSUED BY EASTERN AIR LINES, INC.

Rule 130 on Original Pages 40–K and 40–L;

The Fare Class "YWAGV40" and Application thereof on 20th Revised Page 51;

The Fare Class "YXAGV40" and Application thereof on 18th Revised Page 53;

All "YWAGV40" and "YXAGV40" Round-Trip Fares and provisions and reference marks applicable thereto on the following pages:

21st Revised Pages 55 and 56, 19th Revised Pages 57 and 58, 3rd Revised Page 58–A, 25th Revised Pages 93 and 94, 23rd Revised Pages 95 and 96, 3rd Revised Page 96–A, 19th Revised Page 135, 18th Revised Page 138.

The suspension herein does not stay the cancellation of:

(a) Original and 1st Revised Pages 34–A, 34–B, 102–A and 102–B to Passenger Fares Tariff No. P–NS–3, C.A.B. No. 54 issued by Air Tariffs Corporation, Agent *and*

(b) 19th Revised Page 51, 17th Revised Page 53, 20th Revised Pages 55 and 56, 18th Revised Pages 57 and 58, 2nd Revised Page 58–A, 24th Revised Pages 93 and 94, 22nd Revised Pages 95 and 96, 2nd Revised Page 96–A and 18th Revised Page 135 to International Passenger Fares Tariff C.A.B. No. 415 issued by Eastern Air Lines, Inc.

[FR Doc.76–37598 Filed 12–20–76;8:45 am]

[Docket 28738]

EUGENE HORBACH AND GAC CORP./ MODERN AIR TRANSPORT PURCHASE AGREEMENT

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on January 5, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., December 15, 1976.

ROSS I. NEWMANN,
Chief Administrative Law Judge.

[FR Doc.76–37596 Filed 12–21–76;8:45 am]

[Docket 24847]

TRANSAVIA HOLLAND N. V.

Postponement of Prehearing Conference and Hearing

Upon consideration of the request of Transavia Holland, N.V., by letter dated December 10, 1976, which includes a statement that Bureau Counsel has no objection, the prehearing conference and hearing in this proceeding, heretofore set for January 13, 1977 (41 FR 50849, dated November 18, 1976), are postponed until further notice.

Dated at Washington, D.C., December 15, 1976.

RALPH L. WISER,
Administrative Law Judge.

[FR Doc.76–37597 Filed 12–21–76;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-529]

PRUDENTIAL LINES, INC.

Application

Notice is hereby given that Prudential Lines, Inc. has applied to amend its present Operating-Differential Subsidy Agreement, Contract No. FMB-49 to modify its Line A (Trade Route No. 2) Freight Service to include the carriage of outbound cargo from U.S. Atlantic ports (Maine to but not including Key West, Florida) to Puerto Cabello and La Guaira, Venezuela, on a privilege basis en route to other ports of call on the West Coast of South America.

Any person, firm, or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1175), should, by the close of business on December 30, 1976 notify the Secretary, Maritime Subsidy Board in writing, in triplicate, and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated in an essential service served by citizens of the United States, which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of United States registry and such essential service is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petitions for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistant Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Maritime Subsidy Board.

Date: December 16, 1976.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc.76-37556 Filed 12-21-76;8:45 am]

National Oceanic and Atmospheric Administration

NANTUCKET CANDLE SHOP, INC.

Notice of Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due form for a Certificate of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant: Nantucket Candle Shop, Inc., Old South Road, Nantucket, Massachusetts 02554.

Period of Exemption: The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted: The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted: Approximately 66,000 candles to be made from approximately 8,500 pounds of spermaceti wax.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before January 21, 1976.

Dated: December 15, 1976.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.76-37513 Filed 12-21-76;8:45 am]

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN TEXTILE PRODUCTS FROM INDIA

Reduction of Import Level

DECEMBER 16, 1976.

On September 30, 1976, there was published in the FEDERAL REGISTER (41 FR 43235) a letter dated September 29, 1976 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, implementing those provisions of the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India, which establish specific export limitations on certain categories for the agreement year which began on October 1, 1976. As set forth in that letter, the levels of restraint are subject to adjustment.

Paragraph 7(b) of the bilateral agreement provides that carryforward up to 5 percent may be applied to current-year levels of categories subject to specific ceiling and charged against the applicable level of the category in the succeeding agreement year. Such an increase, amounting to 500,000 square yards equivalent, was applied to cotton textile products in Categories 28-38 and 64, as a group, during the agreement year which began on October 1, 1975 (see 41 FR 18705). The purpose of this notice is to advise that 500,000 square yards equivalent are being deducted from the level of restraint of 10,700,000 square yards equivalent established for Categories 28-38 and 64, as a group, for the agreement year which began on October 1, 1976.

Accordingly, there is published below a letter of December 16, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements, directing that entry into the United States for consumption in Categories 28-38 and 64, as a group, be limited to 10,200,000 square yards equivalent during the twelve-month preiod which began on October 1, 1976 and extends through September 30, 1977.

Effective date: December 20, 1976.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

UNITED STATES DEPARTMENT OF COMMERCE, THE ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS,

Washington, D.C., December 16, 1976.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on September 29, 1976 which directed you to prohibit entry during the twelve-month period beginning on October 1, 1976 and extending through September 30, 1977, of cotton textiles and cotton textile products in certain specified categories, produced or manufactured in India, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraph 7(b) of the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India, and in accordance with the provisions of Executive Order 119651 of March 3, 1972, you are directed to reduce, effective on December 20, 1976, the group level of restraint established for Categories 28-38 and 64 in the directive of September 29, 1976, to 10,200,000 square yards equivalent.[2]

The actions taken with respect to the Government of India and with respect to imports of cotton textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the direc-

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India, which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) exports may be increased for carryover and carryforward up to 10 percent of the current-year's applicable limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2] The level of restraint has not been adjusted to reflect any entries made after September 30, 1976.

tions to the Commissioner of Customs, being necessary to 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,

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.76-37564 Filed 12-21-76;8:45 am]

COMMISSION ON POSTAL SERVICE

PUBLIC SERVICE COSTS OF POSTAL SERVICE

Hearings To Be Conducted in Washington, D.C., and in Cities Throughout the United States

Under section 7(c)(1) of the Postal Reorganization Act Amendments of 1976, Pub. L. 94-421, 90 Stat. 1309, the Commission on Postal Service gives notice of its intention to hold hearings in Washington, D.C., and several cities throughout the United States. Members of the public are invited to appear before the Commission to address the five issues of postal policy enumerated in the FEDERAL REGISTER notice of November 22, 1976 (41 FR 51435-51436). Generally, these issues concern the definition and quantification of the public service costs of postal service to the American public, postal rates and classifications, and the impact of new and developing electronic communication systems upon the Postal Service.

Persons wishing to testify should notify the Commission as soon as possible at the following address:

Commission on Postal Service, 1750 K Street, N.W.—Suite 801, Washington, D.C. 20006.

Individuals testifying for themselves are to bring three copies of their testimony with them to the hearing. Organizations and businesses will be required to file 15 advance copies of their testimony at least 10 days before the hearing. Those copies should be mailed to the above address.

Following is the schedule for the hearings:

January 18, 1977: Atlanta, Ga.; Portland, Maine; and New York, N.Y.
January 19, 1977: Charleston, S.C.; Boston, Mass.; and New York, N.Y.
January 20, 1977: Chicago, Ill.; and Cleveland, Ohio.
January 21, 1977: Philadelphia, Pa.
January 24-28, 1977: Washington, D.C.
January 31, 1977: Charleston, W. Va.
February 1, 1977: Nashville, Tenn.; and Los Angeles, Calif.
February 2, 1977: Little Rock, Ark.; San Francisco, Calif.; and Oklahoma City, Okla.
February 3, 1977: Seattle, Wash.; Albuquerque, N. Mex.; and Dallas, Tex.

Each person notifying the Commission of his intent to testify will be informed by the Commission of the time and place of the hearing at which the person intends to testify.

The Commission was established by Congress this fall to study postal problems and report to Congress and the President with recommendations by March 15, 1977. The Commission has nine members, seven voting members appointed by the President and Congressional officials and two ex-officio.

The seven appointed members are: Gaylord Freeman, Chicago banker, the chairman; James H. Rademacher, president of the National Association of Letter Carriers; Kent Rhodes, Chairman of the Board of Reader's Digest; Hobart Taylor, Jr., Washington, D.C. attorney; Paul J. Krebs, former New Jersey Congressman; Rose Blakely, Washington businesswoman; and David Johnson, general executive vice-president of the American Postal Workers Union. Ex-officio members are Postmaster General Benjamin Bailar and Clyde S. DuPont, Chairman of the Postal Rate Commission.

By the Commission.

Dated: December 17, 1976.

DAVID MINTON,
Executive Director.

[FR Doc.76-37611 Filed 12-21-76;8:45 am]

DEPARTMENT OF THE ARMY

COMMAND AND GENERAL STAFF COLLEGE ADVISORY COMMITTEE

Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name: Command and General Staff College (CGSC) Advisory Committee.
Date: 12-14 January 1977.
Place: Command Conference Room, Bell Hall, Fort Leavenworth, Kansas 66027.
Time: 2000-2200, 12 January 1977; 0900-1630, 13 January 1977; 0900-1130, 14 January 1977.

PROPOSED AGENDA

2000-2200, 12 January 1977: Review of CGSC Educational Program, especially the Master of Military Art and Science (MMAS) Degree Program.

0900-1630, 13 January 1977: Continuation of review.

0900-1000 14 January 1977: Continuation of review.

1000-1130, 14 January 1977: Executive Session.

The purpose of the meeting is for the Advisory Committee to examine the entire range of college operations and, where appropriate, to provide advice and recommendations to the College Commandant and faculty.

The meeting 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 Committee's Executive Secretary.

Dated: December 2, 1976.

By authority of the Secretary of the Army:

R. S. SEEBERG,
LTC, U.S. Army, Acting Director, Administrative Management Director, TAGCEN.

[FR Doc.76-36140 Filed 12-21-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21026, File No. 4607-CM-P-72; Docket No. 21027, File No. 6966-CM-P-72]

EASTERN MICROWAVE, INC. AND WHP, INC.

Notice of Applications; Correction

In Re Applications of Eastern Microwave, Inc., Docket No. 21026, File No. 4607-CM-P-72; and WHP, Inc., Docket No. 21027, File No. 6966-CM-P-72; for construction permits in the multipoint distribution service for a new station at Harrisburg, Pennsylvania.

Released: December 3, 1976. In FR Doc. 76-36065 (41 FR 53696, Dec. 8, 1976) the Docket Number for "WHP, INC., 21026" is corrected to read "WHP, INC., 21027".

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37577 Filed 12-21-76;8:45 am]

[Docket No. 20996, etc.]

FLORIDA GOSPEL NETWORK, ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: December 2, 1976; Released: December 10, 1976.

In re Applications of Robert A. Jones, Raymond A. Kassis & Paul J. Lewis, db/a Florida Gospel Network, Jensen Beach, Florida, Docket No. 20996, File No. BPH-9077, Req: 107.1 MHz, Ch. No. 296; 3kw (H&V); 300 feet (H&V);

Jensen Beach Broadcasting Company, Inc., Jensen Beach, Florida, Docket No. 20997, File No. BPH-9258, Req: 107.1 MHz, Ch. No. 296; 3kw (H&V); 268 feet (H&V);

Robert L. Lord & Marshall W. Rowland, db/a Lord & Rowland Radio, Jensen Beach, Florida, Docket No. 20998, File No. BPH-9350, Req: 107.1 MHz, Ch. No. 296; 3 kw (H&V); 293 feet (H&V); and

HLG, Inc., Jensen Beach, Florida, Docket No. 20999, File No. BPH-9561, Req: 107.1 MHz, Ch. No. 296; 3kw (H&V); 300 feet (H&V), For Construction Permit.

1. The Commission, by the Chief, Broadcast Bureau, has before it the above-captioned applications of Robert A. Jones, Raymond A. Kassis and Paul J. Lewis, db/a Florida Gospel Network (hereinafter "Gospel"); Jensen Beach Broadcasting Company ("Beach"); Robert L. Lord and Marshall W. Rowland, db/a Lord and Rowland Radio ("Lord"); and HLG, Inc. ("HLG"), all seeking a construction permit for a new FM broadcast station to serve Jensen Beach, Florida. Requesting the same channel, these applications are mutually exclusive.

2. Although the Commission has sent two letters to Gospel indicating defects in its random survey of the general public, there is still a question as to whether Gospel has complied with the Commission's *Primer on the Ascertainment of*

Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971), in this respect. As amended in July, Gospel's application gives no indication who conducted the general public survey, stating only that telephone calls were placed "by the applicant", which is a Florida partnership. Consequently, the Commission cannot tell whether Gospel's survey was conducted in accordance with answer 11(b) of the *Primer*, which specifies who should interview members of the general public. An appropriate issue will therefore be specified.

3. According to its application, Beach would require $111,592 to construct its station and operate it without revenues for one year. To meet this requirement, Beach proposes to rely upon cash on hand or in banks totaling $1,500 and five loans aggregating $105,250. The total of the funds available to Beach is therefore $106,750, an amount $4,842 less than that required. A financial issue will therefore be specified.

4. Lord's description of the composition of Jensen Beach contained several indications that labor constitutes a significant community group. According to Lord, Jensen Beach has "some small construction companies and one operating industrial park consisting of a steel fabricating plant, warehouses and lumber yard". Lord also asserts that another industrial park is proposed, that many residents work at Grumman Aerospace Corp. and Ebasco, Inc., "now involved in constructing a nuclear power plant . . ."; that "most union memberships are held in West Palm Beach locals"; and, that "Jensen Beach is considered to operate on an open shop basis . . .". In letters dated July 10, 1975 and May 25, 1976, the Commission advised Lord, *inter alia*, of the necessity of interviewing labor leaders in connection with the community leader survey. In its amendment of August 9, 1976, Lord contended that Jensen Beach "does not have union officials", but its supplemental community leader survey included one person identified as "steel worker AFL–CIO", and another described as "pipe fitter, AFL–CIO". As identified, neither may be considered a labor leader, because neither appears to be a union official. The net result is that Lord apparently does regard labor as a significant group in the community of Jensen Beach, but has failed to consult any leaders of that group. Lord's ascertainment is therefore defective in accordance with question and answer 16 of the *Primer*. The same conclusion is impelled by Lord's failure to consult leaders of students, another significant community group. Included in the supplemental survey are two persons identified as students at Florida Institute of Technology. Neither is a community leader by virtue of his student status alone, and neither is described as holding any official position with a student organization.

5. By Commission letter, HLG was asked to furnish the dates when all its community ascertainment consultations were conducted. HLG replied in its amendment of July 19, 1976, by stating that "the interviews took place in September of 1975 as well as June of 1976." HLG filed its application in June of 1975, three months before it alleges it conducted its original surveys. Because the original surveys were reported in the application filed in June, they could not have been conducted in September, and the Commission still does not know when HLG held its consultations. As a consequence, compliance with question and answer 15 of the *Primer* cannot be determined, and an appropriate ascertainment issue will be included.

6. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services (1 mV/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

7. Moreover, it appears from the application that the boundaries of Jensen Beach are in dispute, and that Gospel, Beach and HLG would not provide city-grade coverage (3.16 mV/m) to the whole community. An issue will therefore be included to determine the boundaries of the proposed community of license, and to discern which of the applicants would serve that community with a city-grade signal.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Because they are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

9. Accordingly, IT IS ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine the efforts made by Gospel, Lord and HLG to ascertain the community needs and problems of the proposed service area, in the following respects:

(a) Whether Gospel's random survey of the general public was conducted in compliance with question and answer 11(b) of the *Primer*.

(b) Whether Lord's showing omits consultations with leaders of labor and students, two significant groups in the community.

(c) Whether HLG conducted its surveys in compliance with question and answer 15 of the *Primer*.

2. To determine with respect to Beach:

(a) The source and availability of funds in excess of $105,250;

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified to construct and operate as proposed.

3. To determine:

(a) The boundaries of Jensen Beach; and

(b) Whether Gospel, Beach and HLG would provide city-grade coverage (3.16 mV/m) to the entire community as required by Section 73.315(a) of the Commission's Rules, and, if not, whether circumstances exist which warrant a waiver of said Section.

4. To determine which of the proposals would best serve the public interest.

5. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

10. IT IS FURTHER ORDERED, That, to avail themselves of the opportunity to be heard, the applicants and parties respondent herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall, within twenty days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

11. IT IS FURTHER ORDERED, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, give notice of the hearing, (either individually or, if feasible and consistent with the Rules, jointly), within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 1.594(g) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-37578 Filed 12-21-76;8:45 am]

FRAUDULENT BILLING

Licensee's Responsibility to Indicate On Cooperative Ad Invoices That "Bonus" or Rebate Has Been Given to Dealers

DECEMBER 17, 1976.

The Commission's fraudulent billing rule (Section 73.1205) has been in existence since 1965 (*Applicability of the Fraudulent Billing Rule*, 1 FCC 2d 1068), and since that time we have issued several Public Notices which offered interpretations of that rule based upon billing practices currently utilized by the industry. See 1 FCC 2d 1075 (1965); 23 FCC 2d 70 (1970); 56 FCC 2d 371 (1975); 59 FCC 2d 1268 (1976).

It has recently come to the Commission's attention that yet another commercial practice already somewhat established in the industry could, in certain circumstances, violate our fraudulent billing rule. The particular commercial practice involved concerns the sale of "packages" of a fixed number of commercial announcements to be broadcast over an established period of time for a set price which includes a bonus of an all-expense paid vacation. Such a sales "package" can apparently be an effective sales incentive since the entire

"package" is often offered at approximately rate card prices for the type and quantity of commercial announcements purchased. However, licensees utilizing such sales incentives violate the Commission's fraudulent billing rule if they issue invoices to local advertisers that involve cooperatively advertised products and which omit any reference to the bonus received by the local advertiser. In essence, the value of the bonus vacation trip is a form of rebate provided to local advertisers, and the existence of the bonus is often not reflected on invoices the licensee issues for coopeative advertising purposes. Such an invoice violates the fraudulent billing rule since the invoice, by not reflecting the fact that a bonus was provided to the local advertiser, contains false information concerning the amount actually charged by the licensee for the broadcast advertising involved, fails to represent the true nature of the local advertiser's contract with the licensee, and thus deceives or defrauds cooperative manufacturers, jobbers, distributors, or advertising agencies involved.

Since the Commission considers violation of the fraudulent billing rule to be particularly serious, future situations concerning such cooperative advertising contracts or "packages" in which the invoices fail to indicate the existence of the bonus or the nature of the contract between the local advertiser and the licensee, may raise questions as to the licensee's qualifications.

Action by the Commission December 15, 1976. Commissioners Wiley (Chairman), Hooks, Quello, Washburn, Fogarty and White.

Sent to all broadcast licensees.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37574 Filed 12-21-76;8:45 am]

RADIO ASTRONOMY SERVICE WORKING GROUP FOR 1979 ITU-WORLD ADMINISTRATIVE RADIO CONFERENCE

Notice of Meeting

DECEMBER 16, 1976.

A meeting of the Radio Astronomy Service Working Group for the 1979 General World Administrative Radio Conference is scheduled to be held on Monday, January 24, 1977, at 9:30 A.M. in Room 8210 of the Commission's offices located at 2025 M Street, N.W., Washington, D.C.

This meeting will be held to examine and discuss the Third Notice of Inquiry, Docket No. 20271 and formulate a final draft of comments of the Radio Astronomy Service Working Group.

The advisory committee meeting is open to the general public and any written comments will be accepted before or after the meeting.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37575 Filed 12-21-76;8:45 am]

WARC ADVISORY COMMITTEE FOR DOMESTIC LAND MOBILE

Notice of Meeting

The next meeting of the Common Carrier World Administrative Radio Conference Advisory Committee for Domestic Land Mobile will be held on Tuesday, January 11, 1977 at 9:30 a.m. in room 847, 1919 M Street, N.W., Washington, D.C.

The purpose of the meeting will be to discuss and prepare a response to the Commission's Third Notice of Inquiry regarding preparation for the 1979 World Administrative Radio Conference.

The meeting will be open to the public and any member of the public is invited to participate and present oral or written statements of relevance upon recognition by the Chairman.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-37576 Filed 12-21-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[RM-2570; FCC 76-1135]

OVER-THE-COUNTER DRUGS

Television Advertising; Memorandum Opinion and Order Denying Petition for Rulemaking

Adopted: December 8, 1976. Released: December 10, 1976.

By the Commission: Commissioners Hooks and Washburn concurring and issuing statements.

In the matters of petition to promulgate a rule restricting the advertising of over-the-counter drugs on television.

1. The Commission has before it a petition for rulemaking[1] filed on behalf of Francis X. Bellotti, Attorney General of the Commonwealth of Massachusetts (hereinafter "Bellotti"), and thirteen other state Attorneys General. This petition requests that the Commission promulgate the following rule:

> There shall be no drug advertising broadcast on television between the hours of 6:00 A.M. and 9:00 P.M. The term "drug" as used in the rule means all substances so defined under the Food, Drug and Cosmetic Act, as amend.

The petition also requests that the Commission hold a hearing on the proposed rule.

2. Petitioners and respondents filing in support of the petition argue that repeated exposure to over-the-counter drug advertisements can be harmful to children. Specifically, they suggest that such exposure to commercials causes (1) the poisoning of children through accidental drug ingestion and (2) the development of a "pop-a-pill" society which often involves the misuse of licit drugs or the illicit use of restricted drugs. Opponents of the petition reject these allegations and argue that there is no empirical evidence to support the claim of a causal connection between advertising and the misuse or abuse of drugs. These parties further argue that removal of over-the-counter drug advertising from television would be adverse to the public interest since this advertising serves a legitimate and valuable purpose by informing viewers of both the nature of various symptoms and the availability of products to treat those symptoms.

3. In an effort to gather information relevant to the issues raised in this petition, the Federal Communications Commission and the Federal Trade Commission jointly sponsored a series of panel discussions involving leading representatives of the research community as well as other interested parties. Representatives from a variety of disciplines and vocations participated and discussed research findings. The panel participants included specialists in early childhood education and developmental psychology as well as professors of education, social psychology, psychology, psychiatry, pediatric psychiatry, communications, marketing, advertising, and business administration. Also present were research personnel from two of the major networks, a representative from a large proprietary drug manufacturer, directors of two industry self-regulatory organizations, a representative from a research firm involved in a review of scientific literature on the causes of drug abuse, the director of a national consumers' organization, a research director associated with an educational children's television program, the principal officers of two citizens' groups seeking changes in the area of children's television and the petitioner, Francis X. Bellotti. Representatives from the Federal Trade Commission, the Food and Drug Administration, the National Institute of Mental Health, the Consumer Product Safety Commission, the National Science Foundation, and this agency also participated in the discussion.[2]

4. The information and views provided through these panels have been of great value in acquainting the Commission with scientific research pertinent to this petition. Clearly, in the absence of such information, we would be in a poor position to assess the validity of Mr. Bellotti's allegations. We simply do not know, as a matter of intuition or "in-dwelling administrative expertise," whether the hypothesis of a causal connection between advertising and drug abuse or misuse should be accorded any degree of credence or credibility. It would be irresponsible in the extreme for an administrative agency to ban otherwise lawful advertising on the basis of sheer speculation.

5. From the information provided by our panelists and other interested parties, it appears that there is little scientific research which specifically addresses the question of a cause and effect relationship between over-the-counter drug advertising and the accidental ingestion or other misuse of drugs by young

[1] Public Notice of the filing of thet petition was issued on July 26, 1975 (Rept. No. 948).

[2] A list of the participating panelists is found in Appendix A.

children. The National Center for Vital Statistics indicates that, with regard to children under the age of five, deaths resulting from the ingestion of drugs declined from 142 in 1972 to 81 in 1974.[3] This decline followed the adoption of safety packaging regulations by the Consumer Product Safety Commission. Figures for 1975 and 1976 are not yet available, and we are, therefore, not in a position to determine the minimum level to which these deaths may fall as a result of packaging regulations. In any event, there is no empirical evidence that television advertising has contributed to accidental ingestions, or that reduction in this advertising would result in a reduction in the number of cases involving the poisoning of young children.

6. In contrast to this almost total lack of research concerning advertising and poisonings, there are a number of serious studies which have examined the question of a possible relationship between television advertising and the illicit use of restricted drugs. The first of these studies, conducted by Dr. Richard Jessor of the Institute of Behavioral Science of the University of Colorado, concluded the available evidence indicates that, among adolescents, "involvement with the television is negatively related to involvement with marijuana."[4] A year later, in 1974, Dr. James M. Hulbert of Columbia University released a survey of 990 college students which concluded that "* * * television and television advertising of proprietary drugs do not appear to be important influences on drug abuse."[5] Similar results were reported this year in a study of illicit drug use among teenage boys.[6] In discussing this report, Dr. J. Ronald Milavsky stated:

> "* * * we found that there was no evidence to support the proposition that drug advertising led to illicit drug use; * * * no evidence of a direct link between exposure to proprietary drug advertising and use of illicit drugs. In fact, the relationship between the two was inverse: the greater the cumulative exposure to drug ads over the three year data collection period, the less the use of illicit drugs."[7]

Dr. Milavsky's conclusions are generally supported by a study of high school seniors conducted by Dr. Lloyd Johnston of the Institute for Social Research at the University of Michigan. Dr. Johnston found that:

> "* * * the average number of hours of TV watched per day correlates negatively with the usage rates of each of ten illicit drugs or drug classes. * * * [In addition,] TV viewing and presumably advertising exposure correlates negatively with these young people's use of each of the four classes of over-the-counter drugs."[8]

7. The general thrust of these findings is reinforced by studies filed in connection with our panel discussions. Professor Charles K. Atkin of Michigan State University reported on a survey of fifth, sixth and seventh grade students which found "* * * no evidence that proprietary drug commercials contribute to positive attitudes toward illicit drugs. * * *"[9] A second paper, submitted by Dr. Ronald E. Ostman of Southern Illinois University concluded that "* * * there was no correlation between exposure to television drug ads and use of O-T-C drugs" and in, addition, that "exposure to television and drug commercial announcements has a negligible effect on drug use. * * *"[10]

8. It appears that there is no relevant research supporting Mr. Bellotti's hypothesis that drug advertising is an identifiable and measurable cause of drugs abuse or misuse, or that repeated exposure of children to televised OTC advertisements creates a favorable attitude toward the inappropriate use of drugs by young people. Existing studies suggest that the correlation between exposure to advertising and drug abuse is neutral—or even negative. Some in the research community may choose to pursue this matter further and employ methods of data collection and analysis which differ from those found in the studies we now have. At present, however, there does not appear to be any basis for this agency to conclude that the result of such efforts would differ in any material respect from the results we already have.[11]

9. In the absence of a truly compelling showing to the contrary, we must conclude that the public interest would be served by a free flow of information regarding proprietary drugs. This conclusion is strongly reinforced by the fact that any action we might take with regard to this petition would have to be measured against the standards of the First Amendment and against the prohibition on censorship which is contained in Section 326 of our Act. It is no longer possible to conclude that advertising is outside of the protection of the First Amendment simply because it is "commercial" speech. See *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Counsel*, 44 U.S.L.W. 4686 (U.S. May 24, 1976); *Bigelow* v. *Virginia*, 421 U.S. 809 (1975). As the Supreme Court has recently stated:

> Advertising, however tasteless and excessive it sometimes may seem, is nonetheless dissemination of information as to who is producing and selling what product, for what reason, and at what price. So long as we preserve a predominantly free enterprise economy, the allocation of our resources in large measure will be made through numerous private decisions. It is a matter of public interest that those decisions, in the aggregate, be intelligent and well informed. To this end, the free flow of commercial information is indispensable. *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council, Inc., supra*, p. 4691.

10. We do not reach the question of whether we would be empowered to adopt the proposed regulations if current research findings supported the hypothesis of a causal connection between advertising and drug abuse. It may well be that such restrictive regulations are beyond the power of this agency regardless of the evidence. The Supreme Court stated that "[i]t is precisely this kind of choice, between the dangers of suppressing information, and dangers of its misuse if it is freely available, that the First Amendment makes for us." Id. at 4692. While the Court has yet to apply this standard to special problems which may exist in the field of broadcasting, we need not resolve such matters in order to observe that, on the basis of the present record, we cannot find that the proposed regulation would serve the public interest.

11. We wish to make it clear, however, that we fully agree with petitioners' position that, in the United States today, drug abuse and misuse are very serious problems warranting a high degree of governmental attention. In this regard, we would like to express our appreciation to Attorney General Bellotti and others who supported his efforts for taking the time to bring about a complete public airing of the issues relating to advertising and the inappropriate use of

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[3] From a statistical point of view, it does not appear that drug ingestion is a major cause of death among children under five. In 1974, 5,335 of the children in this age group (i.e., 0.03% of all children under 5) suffered accidental death. Of these, the vast majority of the deaths were caused by automobile accidents, drowning, fire, suffocation or other factors unrelated to the ingestion of drugs. Only two percent of all accidental deaths among children under five were caused by drug ingestion. National Center for Health Statistics, Vital Statistics of the U.S., Vol. II, Washington, D.C.: U.S. Government Printing Office, 1974.

[4] Richard Jessor, "Panel on Televised Over-the-Counter Advertising," May 20–21, 1976, Vol. 1 (Arlington, Va.: National Reporting Co., Inc.) p. 124. [Hereinafter referred to as "Transcript."]

[5] James Hulbert, "Applying Buyer Behavior Analysis to Social Problems: The Case of Drug Use," Proceeding of the American Marketing Association, 1974, p. 289.

[6] J. Ronald Milvasky, et al., "TV Drug Advertising and Proprietary and Illicit Drug Use Among Teenage Boys," Public Opinion Quarterly, Vol. XXXIX, No. 4 (Winter 1975–1976), 457–481.

[7] J. Ronald Milvasky, Transcript, pp. 137 and 138.

[8] Lloyd Johnston, Transcript, p. 129.

[9] Letter dated April 15, 1976, from Dr. Charles K. Atkin to Dr. Karen S. Hartenberger, Director, Children's Television Task Force. For entire study see: Charles K. Atkin, "Effects of Television Advertising on Children," Vol. I–VIII, Department of Communication, Michigan State University (East Lansing, 1975), 195 pages plus Figures and Tables.

[10] Ronald E. Ostman, et al, "Influences Upon Over-the-Counter Drug Use and Public Perception of Non-Prescription Drug Advertising Regulation," School of Journalism, Southern Illinois University (Carbondale: By the author, 1976), pp. 31 and 38.

[11] For this reason, and because our agency has no particular claim to expertise in the field of behavioral research, we cannot agree with suggestions that we should sponsor further research. In addition, we believe that research focusing on emotionally and politically charged issues relating to the supposed effects of television on social attitudes and human behavior should best be left to independent organizations which are expert in such matters and which have no direct responsibility for the regulation of the broadcast industry.

drugs. While we do not believe that a cause and effect relationship has been demonstrated, we are nevertheless convinced that a thorough debate and discussion of this matter has been informative and helpful. We are hopeful that state and local governmental officials will continue to bring to our attention matters which are of concern and which appear to them to warrant some regulatory action. We also wish to express our gratitude to the panelists, governmental participants, and other experts who took the time to share their views, studies, and information with us.

12. In the present case, of course, we believe that the problems of drug misuse and abuse should more properly be addressed through remedies which are demonstrably relevant to their solution, more likely to be effective, and less likely to infringe upon important values relating to the free flow of information and ideas. In this regard, it should be noted that the Food and Drug Administration is currently examining the safety and efficacy of all OTC drug products, 37 F.R. 85, January 5, 1972, and that the Federal Trade Commission is considering the incorporation of the FDA labeling standards in advertising claims for all OTC products, 40 F.R. 52631, November 11, 1975. At present, the problem of poisonings is being addressed through educational efforts and through regulations of the Consumer Product Safety Commission.[12] The serious problems relating to the use of illicit drugs are, of course, being addressed through comprehensive government programs involving education, rehabilitation, and the enforcement of the criminal laws. It is true that the problems of drug abuse and misuse persist in spite of the existence of these programs, but there is no evidence that the proposed restrictions on drug advertising would bring about any improvement in this situation and such regulations would clearly have negative impact on the availability of information concerning over-the-counter drugs.

13. Accordingly, It is ordered, That the petition is denied and that this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION,[13]

VINCENT J. MULLINS,
Secretary.

APPENDIX A—TELEVISED OVER-THE-COUNTER DRUG ADVERTISING PANELS

MODERATORS

Dr. Eli A. Rubinstein, Medical School Health Sciences Center, State University of New York at Stony Brook.

PANELISTS

Dr. F. Earle Barcus,* Professor of Communications, School of Public Communications, Boston University.
Dr. Barbara R. Fowles, Acting Director of Research, The Electric Company, Children's Television Workshop.
Dr. Beatrix Hamburg, National Institute of Mental Health.
Mr. Philip A. Harding, CBS Inc., Office of Social Research.
Dr. Gerald S. Lesser, Director, Center for Research in Children's Television, Harvard University.
Ms. Mary Ann Lewis, University of California—Los Angeles.
Dr. Chester M. Pierce, Harvard University, College of Education.
Dr. Helen Rodriguez,* Lincoln Medical Center, Department of Pediatrics.
Mr. Henry L. Verhulst, Consultant, Poison Control Program.
Dr. Scott Ward, Graduate School of Business Administration, Harvard University.
Dr. Mariann Pezzella Winick, Associate Professor of Education, Lehman College, CUNY, New York.
Dr. Ira Cisin, George Washington University, Department of Sociology.
Dr. Gerhard J. Hanneman, Director, Center for Communications Policy Research, Annenberg School of Communications, University of Southern California.
Dr. James Hulbert, Columbia University, Graduate School of Business.
Dr. Richard Jessor, Professor, Institute of Behavioral Science, University of Colorado.
Dr. Lloyd Johnston, Survey Research Center, Institute for Social Research, The University of Michigan.
Anthony Kales, M.D.,* Department of Psychiatry, Hershey Medical Center.
Dr. William McGuire, Department of Psychology, Yale University.
Dr. Glen Mellinger, Associate Director, Institute for Research in Social Behavior.
Dr. Ronald Milavsky, Director of Social Research, National Broadcasting Company, Inc., New York.
Dr. Jaime Salazar,* President, Health Research Services and Analysis, Inc., Los Angeles, California.
Dr. Robert H. Sharpley, The Solomon Fuller Institute, Cambridge, Massachusetts.
Honorable Francis X. Bellotti, Attorney General, Commonwealth of Massachusetts.
Mr. Warren Braren, Associate Director, Consumers Union.
Ms. Peggy Charren, President, Action for Children's Television.
Mr. Robert B. Choate, Council on Children, Media and Merchandising.
Mr. George E. Davy, President, Consumer Product Division, Miles Laboratories, Inc.
Ms. Emilie Griffin, Director of Children's Advertising Review, National Advertising Division, Council of Better Business Bureaus, Inc.
Mr. Stockton Helffrich, Director, The Code Authority, National Association of Broadcasters.
Dr. Donald L. Kanter, Professor and Chairman, School of Business Administration, University of Southern California.
Dr. Donald E. Payne, Vice President and Director of Research, Oxtoby-Smith, Inc.
Dr. Ithiel de Sola Pool, Center for International Studies, Massachusetts Institute of Technology.

PARTICIPATING GOVERNMENT AGENCIES

Consumer Product Safety Commission
Federal Communications Commission
Federal Trade Commission
Food and Drug Administration
National Institute of Mental Health
National Science Foundation

[FR Doc.76-37573 Filed 12-21-76;8:45 am]

[12] The Consumer Product Safety Commission has required the use of child-resistant packaging on specified medicines and other household products, 16 CFR § 1700 et seq. (1975). In addition to the "safety closures," the aspirin manufacturers voluntarily agreed to limit the quantity of baby aspirin per container to reduce ingestion dangers, 21 CFR § 201.314.

[13] Joint concurring statement of Commissioners Hooks and Washburn filed as part of the original document.

*Unable to attend.

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on December 16, 1976. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FPC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before January 10, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5216, 425 I Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-376-5425.

FEDERAL POWER COMMISSION

FPC requests an extension no change clearance of Form 15. Total Gas Supply of Natural Gas Pipeline Companies—Annual Report, beyond its current OMB/GAO clearance expiration date of January 31, 1977. Form No. 15 is filed annually by 93 interstate natural gas pipeline companies. The data allows the Commission to determine reserves and deliverability estimates. There are approximately 93 respondents and it is estimated that an average of 1,219 hours will be required per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 76-37525 Filed 12-21-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of December 3 through December 10, 1976

Notice is hereby given that during the week of December 3 through December 10, 1976, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

MICHAEL F. BUTLER,
General Counsel.

DECEMBER 15, 1976.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals,* Dec. 3 to Dec. 10, 1976

Date	Name and location of applicant	Case No.	Type of submission
Dec. 3, 1976	TOSCO Corp. and Lion Oil Co. (If granted: TOSCO Corp. would be granted an exception which would permit it to recalculate the passthrough of increased nonproduct costs by its subsidiary, Lion Oil Co., on a proportional basis for 1975.)	FEE-3467	Exception to nonproduct cost passthrough.
Dec. 6, 1976	Consumers Power Co., Washington, D.C. (If granted: Consumers Power Co. would earn entitlements with respect to its runs of lease condensate at its SNG plant at Marysville.)	FEA-1063	Appeal of FEA's failure to act.
Do	Continental Oil Co., Houston, Tex. (If granted: Continental Oil Co. would receive an extension of the relief granted in FEA's Sept. 28, 1976, decision and order which would permit the firm to increase prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products at its Elk City, Medford, and South Hampton processing plants.)	FXE-3472 through FXE-3474	Extension of exception relief in *Continental Oil Co.*, 4 FEA par. 83,120 (Sept. 28, 1976).
Do	Dasher-Harris Gas Co., Jesup, Ga. (If granted: Dasher-Harris Gas Co. would receive an extension of the exception relief which resulted in the assignment of a lower priced supplier of propane to replace the firm's base period supplier, Wanda Petroleum Co.)	FXE-3475	Extension of exception relief in *Dasher-Harris Gas Co.*, 4 FEA par. — (Oct. 15, 1976).
Do	Delta Refining Co., Memphis, Tenn. (If granted: The FEA's Nov. 5, 1976, decision and order would be rescinded and Delta Refining Co. would not be required to purchase entitlements during the period November 1976 through October 1977 to offset the excessive exception relief which it received in 1975.)	FXA-1062	Appeal of decision and order in *Beacon Oil Co., et al.*, 4 FEA par. — (Nov. 5, 1976).
Do	Eagle Oil Co., Columbus, Ohio (If granted: Eagle Oil Co. would receive an extension of the exception relief which resulted in the assignment of a lower priced supplier to replace the firm's base period supplier, Tresler Oil Co.)	FXE-3469	Extension of exception relief in *Eagle Oil Co.*, 1 FEA par. 20,687 (Oct. 25, 1974).
Do	Haynes Oil Co., Russell, Kans. (If granted: Haynes Oil Co. would be permitted, retroactively, to sell crude oil produced from its Mai and Freolich leases at upper tier ceiling prices.)	FEE-3468	Price exception (sec. 212.74).
Do	Northwest Propane, Inc., Farmington, Mich. (If granted: Northwest Propane would receive an extension of the exception relief which resulted in the assignment of a lower priced supplier of propane to replace the firm's base period supplier, Petrolane Gas Co.)	FXE-3470	Extension of exception relief in *Northwest Propane, Inc.*, 4 FEA par. — (Oct. 15, 1976).
Do	Sabre Refining, Inc., Bakersfield, Calif., (If granted: Sabre Refining, Inc., would receive an extension of the exception relief from the purchase requirements of 10 CFR 211.67 (old oil entitlements program) granted in FEA's July 16, 1976, decision and order).	FXE-3471	Extension of exception relief in *Sabre Refining, Inc.*, 4 FEA par. 83,010 (July) 16, 1976).
Do	Texaco, Inc., Atlanta, Ga. (If granted: FEA's Nov. 9, 1976, remedial order would be revoked and Texaco, Inc., would not be required to make available to David Morgan d.b.a. Spring Hope Grocery, Spring Hope, N.C. a 4th quarter allocation of 63,188 gallons of propane.)	FRA-1064	Appeal of FEA's Nov. 9 1976 remedial order.
Do	Varibus Corp. and Gulf States Utilities Co., Beaumont, Tex. (If granted: FEA's Nov. 8, 1976, decision and order would be rescinded and Varibus would be retroactively relieved of the requirement that the prices which it charged Gulf States for fuel oil sold during the period October 1973 through November 1974 be established in accordance with the Mandatory Petroleum Price Regulations.)	FEX-0102	Supplemental order to *Varibus Corp.; Gulf States Utilities Co.*, 4 FEA par.—(Nov. 8, 1976).
Do	Fuller, James B., Liberty, Tex. (If granted: The FEA's Oct. 15, 1976, decision and order would be rescinded and James B. Fuller would be permitted to sell at upper tier ceiling prices the crude oil produced from the C.V. Collins Lease No. 2 well located in Hardin County, Tex., for the benefit of both the working interest owners and the royalty interest owners.)	FXA-1065	Appeal of decision and order in *James B. Fuller*, 4 FEA par.—(Oct. 15, 1976).

Date	Name and location of applicant	Case No.	Type of submission
Dec. 7, 1976	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The Standard Oil Co. (Indiana) would be granted an exception from 10 CFR 212.83 which would permit it to reduce the price of Amoco Super Premium motor gasoline to account for a proposed octane reduction.)	FEE-3476	Price exception (sec. 212 83).
Do	Standard Oil Co. (Indiana) (Prestice and South Jennings). (If granted: The Standard Oil Co. (Indiana) would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at its Prentice Gasoline Plant and South Jennings Recylcing Plant.)	FXE-3477 and FXE-3478	Extension of relief granted in *Standard Oil Co. (Indiana)*, 4 FEA par. — (Nov. 12, 1976).
Do	USA Petroleum Corp., Washington, D.C. (If granted: the FEA's Nov. 4, 1976, interpretation would be rescinded and the crude oil processing and product exchange agreement previously in effect between Trans World Oil Corp. and Macmillan Ring-Free Oil Co., Inc., would be reinstated.)	FIA-1064	Appeal of FEA interpretation dated Nov. 4, 1976 (secs. 211.63 and 212.82).
Dec. 8, 1976	Moncrief, W.A., et al., Houston, Tex. (If granted: Crude oil produced from the McElmo Creek Unit, San Juan County, Utah, would be sold at upper tier ceiling prices.)	FEE-5304	Price exception (sec. 212.74).
Do	National Marine Engineer's Beneficial Association, Washington, D.C. (If granted: FEA's information request denial would be rescinded and the National Marine Engineer's Beneficial Association would receive access to certain documents containing cost and environmental information concerning the early storage reserve program.)	FFA-1069	Appeal of FEA's information request denial.
Do	Pasco, Inc., Englewood, Colo. (If granted: FEA's Nov. 5, 1976, decision and order would be rescinded and Pasco, Inc., would not be required to purchase entitlements during the period November 1976 through October 1977 to offset the excessive exception relief which it received in 1975.)	FXA-1068	Appeal of FEA's decision and order in *Beacon Oil Co., et al.*, 4 FEA par. — (Nov. 5, 1976).
Do	Phillips Petroleum Co., Bartlesville, Okla. (If granted: Phillips Petroleum Co. would be permitted to increase prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquid products produced at the following plants: Andrews, Benedum, Bradley, Canadian, Cimarron, Crane, Douglas, Dumas, Edmond, Gray, Hansford, Henderson, Hobbs, Lee, Lovington, McDamie, North, Okla, Pantex, Puckett, Sooner No. 1, Spraberry, Tunstill, Vermillion, and Winkler.)	FEE-3479 through FEE-3503	Price exception (sec. 212.-165).
Do	Southland Oil Co./VGS Corp., Jackson, Miss. (If granted: FEA's Nov. 5, 1976, decision and order would be rescinded and Southland Oil Co. would not be required to purchase entitlements during the period November 1976 through October 1977 ito offset the excessive exception relief which it received in 1975.)	FXA-1066	Appeal of FEA's decision and order in *Beacon Oil Co., et al.*, 4 FEA par. — (Nov. 5, 1976).
Do	Warrior Asphalt Co. of Alabama, Inc., Tuscaloosa, Ala. (If granted: FEA's Nov. 5, 1976, decision and order would be rescinded and Warrior Asphalt Co. of Alabama would not be required to purchase entitlements during the period November 1976 through October 1977 to offset the excessive exception relief which it received in 1975.)	FXA-1067	Appeal o f's deconFEAisi and order in *Beaconr—l Co., et al.*, 4 FEA pa.Oi (Nov. 5, 1976).
Dec. 9, 1976	BTA Oil Producers, Midland, Tex. (If granted: Crude oil produced from the JV-D Teeters No. 1 well located at Hockley County, Tex., would be sold at upper tier ceiling prices.)	FEE-3508	Price exception (sec. 212.74).
Do	Continental Oil Co., Houston, Tex. (If granted: Continental Oil Co. would be permitted to increase prices to reflect nonproduct cost increases in excess of $0.005 per gallon for natural gas liquids produced at the firm's Chittum and Edmond processing plants.)	FEE-3505 and FEE-3506	Price exception (sec. 212.165).
Do	Dorchester Gas Producing Co., Midland, Tex. (If granted: The FEA's Nov. 10, 1976, determination would be rescinded and Dorchester Gas Producing Co. would not be considered a crude oil refiner under the Mandatory Petroleum Price Regulations.)	FEA-1070	Appeal of FEA's Nov. 10, 1976 determination.
Do	Fletcher Oil & Refining Co., Wilmington, Calif. (If granted: The FEA would review the entitlement exception relief granted to Fletcher Oil & Refining Co. during its 1976 fiscal year in order to determine whether the level of exception relief was appropriate.)	FEX-0104	Supplemental order in *Fletcher Oil & Refining Co.*, 4 FEA par. — (Nov. 12, 1976).
Do	H. S. "Gus" Edwards, Abilene, Texas. (If granted: Condensate produced from the Providence Atoka Field would be sold at $1.00 per barrel above the maximum allowable price established pursuant to the Mandatory Petroleum Price Regulations.)	FEE-3507	Price exception (sec. 212.74).
Do	Linden's Propane, Inc., Elyria, Ohio. (If granted: Linden's Propane would receive a stay of the requirements of FEA's July 7, 1976 remedial order pending a final determination of its appeal.)	FES-0046	Stay request.
Do	Maralo, Inc., Round Mountain, Tex. (If granted: The Edgar E. Jones "A" well and the Hays-Albritton Estate "A" wells would be classified as stripper well properties.)	FEE-3509	Price exception (sec. 212.72)
Do	Minnesota Gas Co., Minneapolis, Minn. (If granted: The FEA's Nov. 24, 1976, remedial order issued to Minnesota Gas Co. would be rescinded.)	FRA-1071 FES-1071	Appeal of FEA's remedial order. Stay request.
Do	Weir Oil Co., Huntington Beach, Calif. (If granted: Weir Oil Co.'s Fee No. 2 well would be classified as a stripper well property.)	FEE-3510	Price exception (sec. 212.72)

[FR Doc.76-37342 Filed 12-20-76;8:45 am]

STRATEGIC PETROLEUM RESERVE PROGRAM

Availability of Final Programmatic Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C) et seq., the Federal Energy Administration (FEA) has prepared a final programmatic environmental impact statement (EIS) concerning the creation of a system of Strategic Petroleum Reserve. The Reserve is mandated by Part B of Title I, Energy Policy and Conservation Act, 42 U.S.C., Sections 6231–6246. The Reserve will be created for the storage of approximately 500 million barrels of crude oil and/or petroleum products for use in the event of a Presidential finding of severe energy supply interruption or a finding that implementation is required by obligations of the United States under the international energy program.

The final programmatic EIS addresses program-wide environmetnal impacts; individual site-specific EIS's will be prepared for candidate sites prior to their selection as a part of the Reserve.

The final EIS includes comments received by FEA on the draft EIS for the Strategic Petroleum Reserve Program (DES–76–2) and FEA analyses and responses to these comments.

Single copies of the final EIS for the Strategic Petroleum Reserve Program including the comments received by FEA on the draft EIS may be obtained from the FEA Office of Communications and Public Affairs, Room 3138, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Copies of the final EIS and comments received will also be available for public review in the FEA Information Access Reading Room, Room 2107, 12th Street and Pennsylvania Aveune, N.W., Washington, D.C. 20461.

Issued in Washington, D.C., December 16, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.76-37497 Filed 12-17-76;10:03 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01058---	States Steamship Co.: *Nevada.*
01150---	Chevron Transport Corp.: *Chevron South America.*
01267---	Agdesidens Rederi A/S Morlands Rederi A/S, Morland Shipping Co. A/S, Morlands Tankrederi A/S: *Tromaas.*
01306---	Shaw Savill & Albion Co., Ltd.: *Lindfield.*
01343---	Hamburg-Sudamerikanische Dampfschiffahrts-Gesellschaft Eggert & Amsinck: *Columbus Victoria.*
01351---	The Hadley Shipping Co., Ltd.: *Cotinga.*
01423---	Charente Steamship Co., Ltd.: *Astronomer.*
01466---	Common Bros. (Management) Ltd: *City of Pretoria.*
01857---	OHG. I. Fa Bernhard Schulte: *Johanna Schulte, Helen Schulte.*
01935---	Partnership Between Steamship Co. Svendborg Ltd., and Steamship Co. of 1912, Ltd.: *Maersk Blazer, Maersk Beater, Maersk Battler.*
02041---	Dalmor Przedsiebiorstwo Polowow Dalekomorskich I Uslug Rybackich: *Regulus.*
02090---	Drummond Shipping Co.: *World Kindness.*
02092---	Leander Tanker Corp.: *Maria Isabella.*
02110---	Priam Shipping Co.; *Northern Joy.*
02153---	Vale Do Rio Doce Navegacao S.A.: *Docecoral.*
02198---	Peninsular & Oriental Steam Navigation Co.: *Strathduns, Strathdyce.*
02603---	Empresa Hondurena de Vapores, S.A.: *Orica.*
02676---	Lauter Elbe Reederei GMBH: *Seevetal.*
02836---	The Scindia Steam Navigation Co., Ltd.: *Jalavihar.*
02864---	Empresa Nacional Del Petroleo S.A.: *Calatrava.*
02956---	Ashland Oil, Inc.: *City of Memphis, City of Pittsburgh, City of Louisville,* E-2121, LRL-111, RV-53, *Tenneco 160, Tenneco 161.*
03055---	Upper Lakes Shipping Ltd.: *Canadian Olympic.*
03216---	Salenrederierna AB: *Celtic Wasa.*
03321---	Marunouchi Kisen Kabushiki Kaisha: *Florida Maru.*
03436---	Iino Kaiun K.K.: *Showa Maru No. 2.*
03458---	Matsuoka Kisen Kabushiki Kaisha: *Takagisan Maru.*
03492---	Sawayama Kisen K.K.: *Fuohsan Maru.*
03727---	Continental Oil Co.: UM-901.
04037---	C. F. Bean Corp.: *Barge No. 617.*
04081---	Jugoslavenska Oceanska Plovidba Kotor: *Sutjeska.*
04114---	Italcarbo Societa di Navigazione S.P.A.: *Oscar Sinigaglia.*
04170---	Dillingham Corp.: *Cee Bee 24.*
04356---	Pacific Far East Line, Inc.: *Gulf Bear.*
04623---	Seaspan International, Ltd.: *Seaspan 250.*
04793---	Snam S.P.A.: *Agip Marche.*
04834---	Tidewater Barge Lines, Inc.; 2.
05180---	Navagazione Arenella: *Punta Verde.*
05549---	Polska Zegluga Morska: *Belchatow, Huta Katowice, Huta Lenina, Pieniny 2, Zaglebie Starkowe.*
05579---	Black Sea Shipping Co.: *Gruziya, Belorussiya, Azerbaydzan.*
05607---	Hannah Inland Waterways Corp.: *Mary Page Hannah.*
05894---	Yutana Barge Lines, Inc.: OB 11.
06877---	Societe Francaise de Transports Maritimes: *Limousin.*
07580---	Chinese Maritime Transport, Ltd.: *Oriental Amiga.*
07607---	Takebayashi Kisen Co., Ltd.: *Kurushima Maru.*
08175---	Gunther Schulz Schulauer Schiffahrtskontor: *Seeland.*
08230---	Ed Broussard Marine Service, Inc.: *REB 2502, Bridget B.*
08889---	Companhia Portuguesa De Transportes Maritimos E.P.: *Rio Cuanza, Rio Zaire, Rio Zambeze.*
09004---	Berman Enterprises Inc.: *Peter Frank, Pat Kip.*
09074---	Zuito Shipping Co. Ltd.: *Ranko Maru.*
09137---	Arne Teigens Rederi A/S: *Hai Hing.*
09206---	Societe Navale Chargeurs Delmas-Vieljeux: *Emmanuel Delmas.*
09440---	Barge Leasing Corp.: *Deepwater.*
09478---	Compagnia Siciliana Transporti Mare Co. Si. Mar. S.P.A.: *Betacrux.*
09902---	Tacamar Panamena S.A.: *Tacamar III.*
10577---	Tokai Shipping Co., Ltd.: *Fresh Ocean.*
10684---	Northern Star Shipping Co. Ltd.: *Carnelian I.*
10931---	Hansung Shipping Co., Ltd.: *Blue Kobe, Blue Shimonoseki.*
11005---	Reederei E. Jacob K.G.: *Vigrafjord.*
11065---	D & M Shipping Co. S.A.: *Glory Pioneer, Glory Reliance.*
11094---	Compangie de Navigation Mixte: *Pagnol, Raimu.*
11095---	Dong-A General Industrial Co., Ltd.: *No. 501 Haeng Bok, No. 506 Haeng Bok.*
11272---	Corriente Navegacion Panama, S.A.: *Pacific Reefer.*
11277---	Caribe Tugboat Corp.: *St. Kitts.*
11614---	Chung Gai Ship Management Co., Ltd.: *Vesta, Valeria.*
11663---	United Transporter, Inc.: *Eagle Transporter.*
11667---	Ingram Transportation Co.: *IB 2007 L, IB 2008 T, IB 2304 B, IB 1104 B, IB 2009 L, IB 2010 T, IB 2305 B, IB 1105 B.*
11697---	Continental Capital Corp., Ltd.: *Wild Catter.*
11714---	Global Transport Organisation: *420, Barge Cordova, Barge PS 204.*
11716---	Nueva Sevilla Compania Naviera, S.A.: *Lamyra.*
11751---	Tanjong Shipping Inc.: *Belem.*
11772---	Atlas Marine Co.: *American Heritage.*
11787---	Inlet Marine, Inc.: *S.T. 21.*
11792---	Prometheus Maritime Corp.: *Rea, Antaios, Dias, Hydrohos, Leon, Krios, Tauros, Toxotis, Triton, Venthisikimi, Didymi, Zygos, Scorpios, Ihthis.*
11804---	Beker Industries Corp.: *Beker 101, Beker 102, Beker 103, Beker 104.*
11805---	Atlantic-Rhederei F. & W. Joch: *Dakota, Mandan.*
11825---	Lineas Maritimas De Guatemala, S.A.: *Lago Izabal.*
11859---	Aegean Sunbean Inc.: *Rio De Janeiro.*
11868---	Olympia Maritime Enterprises S.A.: *Adelfotis.*
11885---	I/S Foldstar: *Foldstar.*
11890---	Levant Clippers Navigation, Inc.: *Levant Clipper.*
11913---	Telfair Pioneer Ltd.: *Telfair Pioneer.*
11930---	Leitch Transport (A Division of Port Weller Dry Docks Ltd.): *Canadian Transport, Cape Breton Highlader, St. Lawrence Navigator, St. Lawrence Prospector.*
11951---	I/S Rederiet Erik B. Kromann: *Aage Andreasen.*
11953---	Viking Asia Inc.: *Tropigas Far East.*
11954---	Deepsea Ventures, Inc.: *Deepsea Miner II.*
11980---	Partrederiet for T/T Sea Saga: *Sea Saga.*
11984---	Vienna Woods Shipping, Inc.: *Vienna Woods.*
11985---	Mobil Overseas Shipping Co.: *Mobil Brilliant, Mobil Osprey, Mobil Radiant.*
11986---	Keydril Co.: *Aleutian Key.*
11987---	Carigulf, Ltd.: *Carigulf Venture.*
11991---	Bark Transport Corp.: *Svend Maersk.*
11993---	Illisos Shipping Corp.: *Iris.*
11994---	Artemis Carriers, Ltd.: *Agnes Venture.*
11995---	Athenic Shipping Corp. Ltd.: *Aegis Athenic.*
11996---	Kaikata Fisheries Productive Association: *Nijuhachi Kaikata Maru.*
11997---	Neobulk Carriers Ltd.: *Hemlock, Holly.*
11998---	Pearl Maritime Ltd.: *North Sea.*
11999---	Companhia Maritima Nacional: *Rosa Maria, Rica, Heysa, Edith, Regina Celi, Semiramis.*
12001---	Compania Sydenam S.A.: *Dapo Wave.*
12002---	Irina Shipping Corp.: *Tulip B.*
12003---	Anangel Honour Com. Nav. S.A.: *Anangel Honour.*
12005---	Cleveland Compania Maritima S.A. Panama: *Sao Paulo.*
12008---	Noronha Shipping S.A. Panama: *Star Supreme.*
	mial: Jyuhachi Kaikata Maru,
12012---	Ooyashima Enyo Gyogyo Kyodo Kumai: *Jyuhachi Kaikata Maru, Hachi Kaikata Maru, Hachijyu Kaikata Maru.*
12013---	Cyuichi Kanazawa: *Shoun Maru No. 11.*
12014---	K/S A/S Scorpio & Co.; *Morgedal.*
12015---	Wistaria Shipping Co. Pte., Ltd.: *Wistaria Coral.*
12016---	Titan Shipping Co., Ltd.: *Titan.*
12017---	Silver Navigation S.A.: *Silver Peak.*
12019---	Partrederiet Atlantic Coast: *Atlantic Coast.*
12020---	Ever Mercy Line, S.A.: *Ever Mercy.*
12022---	Fidelity Ocean Navigation, Ltd.: *Ocean Victory.*
12023---	Kokusai Shipping K.K.: *Sanko Maru.*
12024---	Venezolana De Buques-Venebuques, C.A.: *Thais, Chiqui.*
12031---	Navisud S.P.A.: *Ninfea.*
12032---	Golden City Maritime Corp., S.A.: *Nantao.*
12033---	Brilliance Steamship Corp., S.A.: *Nankuo.*
12034---	Interessentskapet Bantry: *Bantry.*
12035---	Valcos Shipping and Investment Co., S.A., Panama: *Kriti.*
12037---	Nantucket Shipping Co. Ltd., Liberia: *Venus.*
12038---	Pancaribe, Inc.: *Pancaribe.*
12042---	Incandesce Carriers, Inc.: *First Venture.*
12043---	Elegance Carriers, Inc.: *Ocean Venture.*

Certificate No.	Owner/operator and vessels
12045---	Guardian Tankers Corp.: *Andros Georgios.*
12046---	Efmar Compania Naviera S.A.: *Marigoula.*
12049---	Meteor Reederei & Schiffahrts GMBH KG: *Meteor I.*
12050---	Rederij Spray M.S. Frisian: *Frisian.*
12051---	Asahi Gyogyo Kabushiki Kaisha: *Asahi Maru No. 11.*
12052---	Divine Valley Tankers Inc.: *Divine Valley.*
12053---	Zenuemon Watanabe: *Kyowa Maru No. 23.*
12054---	Grandview Bulk Carriers, Corp., S.A.: *Menina Alice.*
12057---	Sea Pearl Navigation Enterprises Corp.: *Pelopidas.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37594 Filed 12-21-76;8:45 am]

FINANCIAL RESPONSIBILITY TO MEET LIABILITY INCURRED FOR DEATH OR INJURY TO PASSENGERS OR OTHER PERSONS ON VOYAGES

Issuance of Casualty Certificate

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Monarch Cruise Lines, Inc., 1428 Brickell Avenue, Miami, Florida 33131.

Date: December 17, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-37595 Filed 12-21-76;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 2565]

AMERICAN THREAD CO.

Notice of Application for Withdrawal of Application for Minor License

DECEMBER 15, 1976.

Public notice is hereby given that an application was filed on April 13, 1972, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by the American Thread Company (Correspondence to: Mr. Harold E. Williams, Vice President, The American Thread Company, 90 Park Avenue, New York, New York 10016) for Commission approval to withdraw its application for minor license for the American Thread Project FPC No. 2565. The constructed project is located on the Willimantic River in the City of Willimantic, Windham County, Connecticut.

Project No. 2565 consists of four developments: Projects No. 1, 2, and 3, and Dam No. 1;

Project No. 1 development consists of:

(1) a quarry stone dam (Spool Shop) about 13 feet high and 275 feet long with a spillway about 188.5 feet long and a section 86.5 feet long containing flood and control gates;

(2) a reservoir at elevation 207.4 feet having a surface area of about 2.6 acres;

(3) a canal whose entry section converges from 48 feet wide to 24 feet wide in a length of 92 feet, thence continues 24 feet wide for 440 feet;

(4) a steel penstock about 299 feet long whose diameter varies from 14 to 12.5 feet; and

(5) a corner of No. 1 mill basement which houses a double 48-inch runner turbine connected to a 630 kw generator.

No. 1 dam development consists of:

(1) a quarry stone dam 11 feet high and about 125 feet long with a spillway 114.5 feet long and flood gate section 10.5 feet long; and

(2) a reservoir at elevation 194.1 feet having a surface area of about 2.22 acres;

Project No. 2 development consists of:

(1) a quarry stone dam about 22 feet high and 318 feet long with a spillway 250.25 feet long and a control gate section 68 feet long;

(2) a reservoir at elevation 182.5 feet having a surface area of about 3.4 acres; and

(3) No. 2 mill which houses two horizontal turbines driving a 500 kw generator.

Project No. 3 consists of:

(1) a stone, oak-timbered and concrete-faced overflow dam 5.67 feet high and about 236.7 feet long;

(2) a reservoir at elevation 158.2 feet having a surface area of about 3.87 acres;

(3) a canal 25 feet wide and 525 feet long leading to trash racks, thence into a circular steel flume 12 feet in diameter and about 43.8 feet long;

(4) a concrete and brick powerhouse one story high and 33.5 x 22.75 feet housing a vertical turbine direct-connected to a 400 kw generator; and

(5) a transmission line about 1,154 feet long to No. 4 Mill.

Approval of the application would allow American Thread (Applicant) to withdraw its application for minor license. Applicant states that the dams were built between 1820 and 1850 and two water wheels were installed in 1870. The third waterwheel was installed in 1925. In 1969 the Applicant ceased operation of the project waterwheels, concluding that it could more economically obtain power through purchase from a public utility in addition to power derived from its own steam turbine generator. If the application is granted, Applicant states that the project generators may be sold but the water wheels will remain in place. The dams will be maintained by the Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 29, 1977, file with the Federal Power Commission, 825 North Capitol St. NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1975). 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 in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37524 Filed 12-21-76;8:45 am]

[Power No. 2452]

CONSUMERS POWER CO.

Notice of Filing of Application for Approval of Easement Over Project Lands

DECEMBER 15, 1976.

Public notice is hereby given that Consumers Power Company (Licensee) on September 7, 1976, filed an application for approval of an easement over lands included in Project No. 2452, Hardy Plant. Licensee states that the purpose of the easement is to enable the Board of County Road Commissioners of Mecosta County, Michigan, to reconstruct the Davis Bridge over the Muskegon River and to widen the highway approaches at either end of the bridge. (Correspondence to: Mr. A. H. Aymond, Chairman of the Board, Consumers Power Company, 212 West Michigan Ave., Jackson, Michigan 49201). The project is located in Mecosta and Newaygo Counties, Michigan and on the Muskegon River.

Licensee states that the increased traffic has rendered the existing single-lane two-ton limitation, Davis Bridge obsolete. Licensee seeks to grant a 38-foot easement to the Mecosta County Road Commission, so that it may widen the bridge to two lanes and upgrade it for present traffic conditions. The Road Commission would widen the approaches to both ends of the bridge, and would grade the slopes on either side of the road. The proposed reconstruction would allow all lawful vehicle loads to use the Davis Bridge.

Licensee has requested the shortened procedure provided for under Section 1.32 (b) of the Commission's Rules of Practice and Procedure, 18 CFR § 1.32(b) (1976).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power 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 and 1.10). All such petitions or protests should be filed on or before January 22, 1977. 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.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b) (18 CFR § 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein. If an issue of substance is so raised, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it

will not be necessary for Applicant to appear or be represented at the hearing before the Commission.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37523 Filed 12-21-76;8:45 am]

[Docket No. CS77-131, et al.]

"SMALL PRODUCER" CERTIFICATES[1]

Notice of Applications

DECEMBER 15, 1976.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 10, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS77-131..	Dec. 1, 1976	Roger C. Chapman, 2406 Niels Esperson Bldg., Houston, Tex. 77002.
CS77-132.....	do.....	Eugene R. Maple, 107 North Stout St., Harrisville, W. Va. 26362.
CS77-133..	Nov. 30, 1976	Terra Aux Boeuf program, Box 1341, Corpus Christi, Tex. 78403.
CS77-134..	Dec. 1, 1976	Yost & Yost, Inc., Route 2, Fairview, W. Va. 26570.
CS77-135..	Dec. 2, 1976	John C. Loper, 1710 Ordway Bldg., 2150 Valdez St., Oakland, Calif. 94612.
CS77-136.....	do.....	Charles B. Sullivan, One Main St., Wilton, N.H. 03086.
CS77-137.....	do.....	Marcia Lee Schneider, 301 Cameron Bldg., Oklahoma City, Okla. 73106.
CS77-138.....	do.....	George Hix, Route No. 5, Box 21, Cameron, W. Va. 26033.
CS77-139.....	do.....	Cedar Creek Oil & Gas Co., 7A Third St. NE., Faribault, Minn. 55021.
CS77-140..	Dec. 3, 1976	Western Avenue Properties, 8100 Electric Ave., Stanton, Calif. 90680.
CS77-141.....	do.....	Harry Haddox, Route 1, Box 55, Harrisville, W. Va. 26362.
CS77-142.....	do.....	Sierra Exploration Co., 900 Northeast Loop 410, San Antonio, Tex. 78209.
CS77-143..	Dec. 6, 1976	Robert C. Becherer, 750 Sheridan Rd., Winnetka, Ill. 60093.
CS77-144.....	do.....	J. Marcus Hardin, 2150 Valdez St., suite 1710, Oakland, Calif. 94612.
CS77-145.....	do.....	Ward L. Quael, suite 370 O'Hara Plaza, 5725 East River Rd., Chicago, Ill. 60631.
CS77-146.....	do.....	E. M. Buttner, Scott-Buttner Corp., 896 Isabella St., Oakland, Calif. 94607.
CS77-147.....	do.....	Reeves Lewenthal, et al., 2100 South Ocean Lane, Fort Lauderdale, Fla. 33316.
CS77-148.....	do.....	Coffman and Morris Oil & Gas Co., P.O. Box 4, Glenville, W. Va. 26351.
CS77-149.....	do.....	Thomas E. Collins, Box 116, West Union, W. Va. 26456.
CS77-150.....	do.....	Reeves Lewenthal, et al., 2100 South Ocean Lane, Fort Lauderdale, Fla. 33316.
CS77-151.....	do.....	Stonestreet Lands Co., P.O. Box 350, Spencer, W. Va. 25276.
CS77-152.....	do.....	Frank M. Brooks, 125 North Market St., suite 1735, Wichita, Kans. 67202.
CS77-153.....	do.....	Morris and Perrill, P.O. Box 4, Glenville, W. Va. 26351.
CS77-154.....	do.....	I. L. Morris, P.O. Box 4, Glenville, W. Va. 26351.
CS77-155.....	do.....	Waco Oil & Gas Co., Inc., P.O. Box 4, Glenville, W. Va. 26351.
CS77-156.....	do.....	Edward J. Duncan, P.O. Box 2840, Midland, Tex. 79701.
CS77-157.....	do.....	W. Mason Isiminger, Rural Delivery No. 1, Orchard Dr., Moundsville, W. Va. 26041.
CS77-158.....	do.....	Sparco Producing, Inc., 507 North Marienfeld, suite 208, Midland, Tex. 79701.
CS77-159.....	do.....	Knapp Oil & Gas, 147 Fairview Dr., New Martinsville, W. Va. 26155.
CS77-160.....	do.....	R. & S. Gas Co., Route 4, Box 36-13, Weston, W. Va. 26452.
CS77-161..	Dec. 2, 1976	George Davis, 717 Union Trust Bldg., Parkersburg, W. Va. 26101.
CS77-162..	Dec. 7, 1976	Zinn Petroleum Co. (Operator), et al.,[1] 1100 Milam Bldg., suite 2690, Houston, Tex. 77002.
CS77-163..	Dec. 8, 1976	D. L. Dorland, Inc., P.O. Box 2127, Andrews, Tex. 79714.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[1] Zinn Petroleum Co. is the operating name for Robert L. Zinn, acting as trustee for the beneficiaries.

[FR Doc.76-37522 Filed 12-21-76;8:45 am]

[Docket No. CI64-26]

GULF OIL CORP.

Filing of Computation of Refunds

DECEMBER 17, 1976.

Take notice that on December 15, 1976, Gulf Oil Corporation (Gulf), P.O. Box 3725, Houston, Texas filed a computation of refunds required by Ordering Paragraph (B) of Opinion No. 780 in the above-captioned docket.

Schedule (A) of their computation reflects calculations of refunds and interest pursuant to the Commission's formula stated in Opinion No. 780, mimeo at 10 for the period August 1, 1971 through October 31, 1976. Although Ordering Paragraph (B) of Opinion No. 780 requested the data from November 1, 1964 to December 1, 1976, the applicable area rate did not exceed the contract rate until August 1, 1971 and the data necessary to calculate refunds for November, 1976, is not yet available.

Gulf submitted two additional schedules (B and C) computing refunds based upon adjusted deliveries that they claim would have been made had the Department of Interior held regular offshore Louisiana lease sales from 1962 to 1972. which Gulf maintains is force majeure under the terms of its 1964 contract. Gulf claims that had the lease sales been resumed prior to 1972 and if Gulf had been able to purchase the same tracts that it acquired between 1972 and 1976, there would be no contract deficiency. Schedules (B) and (C) respectively reflect adjusted volumes that Gulf submits would have been delivered to Texas Eastern if Federal Offshore Louisiana sales had resumed one year and four years earlier. Deliveries to Texas Eastern Transmission Corporation (TETCO) and the resultant computation of refunds, Gulf avers, would be as shown on those schedules. Both schedule (B) and schedule (C) are also predicated upon the 13 month moratorium upon offshore lease sales imposed by the United States Geological Survey due to the oil spill in the Santa Barbara, California Channel. This moratorium, Gulf believes, delayed the offshore Louisiana November 19, 1968 lease sale until December 16, 1969 thereby delaying for one year the commencement of general offshore lease sales. Gulf holds that the absence of such sales is a major factor affecting Gulf's efforts to maintain deliverability to Texas Eastern.

Any interested party who wishes to comment on Gulf's report should file with the Federal Power Commission, Washington, D.C. 20426, written comments on on before December 29, 1976 pursuant to § 1.14 of the Commission Rules of Practice and Procedure (18 CFR 1.14) in order that the Commission may consider this matter as expeditiously as possible.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37625 Filed 12-20-76;10:41 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

MINORITY ADVISORY COMMITTEE, ADAMHA

Notice of 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 January 1977:

MINORITY ADVISORY COMMITTEE, ADAMHA

January 12–14—Open Meeting.

January 12, 1:00 p.m., Conference Room 14–105, Parklawn Building; January 13, 9:00 a.m., Conference Room 17–09B, Parklawn Building; January 14, 9:00 a.m., Conference Room 14–105, 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, Department 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 makes 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: This meeting will be open to the public. Agenda items include reports by committee members on followup to prior regional meetings and agency visits, reports by members on liaison activities with ADAMHA Institutes and with national organizations, a discussion of accreditation/certification issues, and a planning session. Agenda items are subject to change as priorities dictate.

Substantive program information may be obtained from the contact person listed above.

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 16–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301–443–3783.

Dated: December 16, 1976.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76–37498 Filed 12–21–76;8:45 am]

Office of Education

COLLEGE LIBRARY RESOURCES PROGRAM

Notice of Closing Date for Receipt of Applications for Fiscal Year 1977

Notice is hereby given that according to the authority contained in Part A of Title II of the Higher Education Act of 1965 (20 U.S.C. 1021–1028) to assist institutions of higher education in the acquisition of library materials, applications for Basic grants are being accepted from institutions of higher education, combinations of such institutions, and other public and private nonprofit library agencies whose primary function is to provide library and information services to institutions of higher education on a formal cooperative basis. Processing of these applications will be subject to the availability of funds. Applications must be received by the U.S. Office of Education Application Control Center on or before February 28, 1976.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows U.S. Office of Education, Application Control Center, Grants and Procurement Management Division, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.406. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than February 23, 1976 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Application instructions and forms.* Instructions and application forms will be sent to all institutions which have participated in the program in the last fiscal year. Other institutions desiring to participate may obtain instructions and application forms from the Division of Library Programs, Office of Libraries and Learning Resources, Bureau of Elementary and Secondary Education, U.S. Office of Education, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. 20202, Attention: 13.406.

D. *Program information.* Basic grants, equal to the amount expended by each applicant during the fiscal year the grant is awarded, not to exceed $5,000, are made to eligible applicants under the College Library Resources Program. There are no funding criteria as such. It is anticipated that the total amount of the awards for the Basic grant category specified in 45 CFR 131 will be $9,975,000. It is also expected that approximately 2,500 awards will be made in this category and that the average amount per award will be approximately $3,900. All of these will be new awards; no funds are reserved for continuation awards. Grant funds must be expended within the fiscal year (October 1, 1977–September 30, 1978) following the fiscal year of the grant award (October 1, 1976–September 30, 1977). In light of the number of Basic grant applications expected, it is anticipated that grant funds will not be available in Fiscal Year 1977 for supplemental and Special Purpose grants which are also specified in 45 CFR 131.

E. *Applicable regulations.* The regulations applicable to the College Library Resources Program are:

(1) The Office of Education's General Provisions Regulations which were published in the FEDERAL REGISTER on November 6, 1973, as amended (45 CFR Parts 100, 100a, and appendices).

(2) The regulation for the College Library Resources Program which was published in the FEDERAL REGISTER on November 18, 1974 (45 CFR 131).

(20 U.S.C. 1021–1028.)

(Catalog of Federal Domestic Assistance Number 13.406; College Library Resources Program.)

Dated: December 16, 1976.

EDWARD AGUIRRE,
U.S. Commissioner of Education.

[FR Doc.76–37581 Filed 12–21–76;8:45 am]

NATIONAL ADVISORY COMMITTEE ON THE HANDICAPPED

Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the next meeting of the National Advisory Committee on the Handicapped will be held on January 17–19, 1977, 8:15 a.m.–4:30 p.m. at the Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, Virginia.

The National Advisory Committee on the Handicapped is established under (20 U.S.C. 1233g) Section 448(b) of the General Education Provisions Act. The Committee is established to review the administration and operation of programs for the handicapped in the Office of Education, and make recommendations for their improvement.

The meeting of the Committee will be open to the public. The proposed agenda includes a tour of the Model Secondary School for the Deaf on the morning of January 17, discussions of the Committee's 1977 annual report, discussions of the Committee's functions and

purposes, and a report by the Director of the Bureau of Education for the Handicapped on the status of the Committee's recommendations for 1976. Records will be kept of all Committee proceedings and will be available for public inspection at the Office of the Deputy Commissioner, Bureau of Education for the Handicapped located in Room 2100, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on December 17, 1976.

LEROY V. GOODMAN,
Executive Secretary, National Advisory Committee on the Handicapped.

[FR Doc.76-37555 Filed 12-21-76;8:45 am]

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Notice of Meeting

Notice is hereby given, pursuant to P.L. 92-463, that the National Advisory Council on Vocational Education will hold a meeting open to the public on January 13, 1976, from 9:00 a.m. to 12:00 noon, local time, on January 14, 19, from 9:00 a.m. to 12:00 noon, local time, at the Hyatt Regency Hotel, Washington, D.C.

On January 13, 1976 from 1:30 p.m. to 5:00 p.m., local time, the National Advisory Council on Vocational Education meeting will be closed to the public. This portion of the meeting will be closed to the public in accordance with the provisions of Section 10(d), Federal Advisory Committee Act, P.L. 463 and Title V, U.S. Code, Section 552(d)(2). The purpose of the closed meeting is to discuss internal personnel, rules and procedures, and documents may be presented which, if open to the public would constitute a clearly unwarranted invasion of personal privacy.

The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of, preparation of general regulations for, and operation of vocational education programs, supported with assistance under the act; review the administration and operation of vocational education programs under the act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress, and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The agenda shall include:

JANUARY 13, 1976

AM: Report of the Chairperson and Executive Director; Report from the U.S. Office of Education; Task Force Reports.

PM: Closed Session.

JANUARY 14, 1976

Budget Report; Discussion of Council Procedures.

Records of the meeting proceedings shall be kept and made available for public inspection at the Office of the Council's Executive Director, located in Suite 412, 425-13th Street, NW., Washington, D.C. 20004.

Signed at Washington, D.C., on December 14, 1976.

REGINALD PETTY,
Executive Director.

[FR Doc.76-37495 Filed 12-21-76;8:45 am]

POSTSECONDARY EDUCATION AMENDMENTS OF 1976

Intent to Issue Regulations: Corrections

The Notice of Intent to Issue Regulations for Postsecondary Education programs was published in the FEDERAL REGISTER, Vol. 41, No. 230 on page 52410, Monday, November 29, 1976. The following corrections are being made in the Notice of Intent.

1. On page 52410 in the chart, "Provisions in the Education Amendments of 1976 covered by this notice include," the following should be inserted after "Section 162(1)—Reconstruction and Renovation—Division of Training and Facilities":

171 (a) and (b) Graduate Programs—Division of Training and Facilities

2. On page 52410, in the Instructions for Comments, the following should be added to the list of programs and program contact persons:

Special Services for Disadvantaged Students: Mr. David D. Johnson, Room 4662, Regional, Office Building 3, Telephone 202-245-9423.
Graduate Programs: Mr. Richard J. Rowe, Room 3053, Regional, Office Building 3, Telephone 202-245-2715.

3. On page 52412 under "A. Administrative Procedures and Technical Changes for the Basic Grants Program," paragraphs (6), (7), and (8) are corrected to read as follows:

(6) How may procedures governing the calculation and payment of awards for students enrolled in programs of study by correspondence be improved?

(7) How may procedures designed to verify institutional certification of student enrollment, enrollment status, etc., be strengthened for institutions which do not act as disbursement agents for Basic Grant funds?

(8) How can funding and reporting procedures for institutions who lose eligibility for program participation or who change ownership be strengthened to protect Federal and student interests? In this context, what liabilities and responsibilities should be assumed by the institution and current or prevous owners for Federal funds advanced to the institution?

4. On page 52413 under "C. Family Contribution Schedules," the first sentence of the fourth paragraph is corrected to read as follows:

In addition, the Commissioner proposed a provision to exclude any funds or property received by Indians or Native American students as a result of judgment claims in the determination of the Family Contribution for those students.

5. On page 52415, the heading "D. Personal Training Authority (Section 124(c)" is revised to read as follows:

D. Personnel Training Authority (Section 124(c)).

6. On page 52417 under "Criteria for Recognition of National Accrediting Agencies and State Approval Agencies (Section 133(a))" paragraph (B) in the second column should be revised to read as follows:

(B) Criteria for Recognition of State Agencies for the Approval of Public Postsecondary Vocational Education:

7. On page 52417 under the heading "Eligibility and Agency Evaluation," the first sentence in the second paragraph should be revised to read as follows:

A. Fiscal Audit of Eligible Institutions; Standards of Financial Responsibility and Institutional Capability. * * *

8. On page 52418, immediately before the heading, "Community Colleges (Section 176-178)," the following section should be inserted:

GRADUATE PROGRAMS

(Section 171 (a) and (b))

Title IX, Part A, of the Higher Education Act of 1965, as amended, provides for grants to institutions of higher education to strengthen, improve and expand graduate and professional programs. Part B provides for graduate fellowships for careers in postsecondary education. Fellowships are awarded to qualified students nominated by institutions which have approved programs. The fellowships provide a stipend for the student and an educational allowance for the institution.

The Education Amendments of 1976 make several changes in these programs. Applications for grants under Part A must provide assurances that the appropriate State Commission has been given the opportunity to make recommendations on the application. The scope of the authorized activities is expanded to include grants for the development of proposed graduate and professional programs and for needed innovation in existing programs.

Under Part B, the program is expanded to provide fellowships for graduate and professional study in career fields of importance to the national interest, as determined by the Commissioner. The Commissioner may award fellowships only for studies leading to a doctor of philosophy, doctor of arts, or equivalent degree. In making awards the Commissioner must take into account several factors, including the need for highly trained individuals in career fields of high national priority and the need to prepare a larger number of individuals from minority groups.

Before developing regulations to implement these changes the Commissioner seeks public comment on the issues listed below and on any other issues that may be raised by the amendments relative to implementation of these programs. (Written comments on these issues

should be submitted by January 1977 in order to receive full consideration.)

(1) How shall the Commissioner implement Sec. 902(b)(2) of the Higher Education Act of 1965, as amended, which requires assurances that the State Commission will have an opportunity to comment on an application for a grant?

(2) How shall the Commissioner assure that an application gives consideration to the degree to which a program will be consistent with State, regional, or national priorities, as required by Sec. 902(c)?

(3) How shall the Commissioner implement Sec. 903(b)(6) and (7), which authorize grants for development of proposed graduate and professional programs and for innovation in existing programs?

(4) Sec. 923 requires that fellowships be awarded to individuals who are enrolled in a course of study leading to a degree of doctor of philosophy, doctor of arts, or equivalent degree. How should the Commissioner define such "equivalent degree" programs in professional fields of study?

(5) Sec. 923(a) authorizes the Commissioner to award fellowships "on such basis as he may determine," provided the recipients are enrolled in degree programs approved by him. In awarding such fellowships, should the Commissioner:

(a) Allocate fellowships to institutions with approved programs, which will nominate qualified candidates to the Commissioner;

(b) Conduct a national competition for students who may use their fellowships to study at an institution having approved programs; or

(c) Use some other approach?

(6) Sec. 923(b)(1) requires the Commissioner to take into account present and projected needs for highly trained individuals in all areas of education beyond the high school. How may the Commissioner best determine these present and projected personnel needs?

(7) Sec. 923(b)(2) requires the Commissioner to take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority. How may the Commissioner best determine these present and projected needs?

(8) Sec. 923(b)(3) requires the Commissioner to consider the need to prepare a larger number of individuals from minority groups, especially from among groups who have been traditionally underrepresented in colleges and universities, with the provision that no institution shall be required to grant them preference or disparate treatment in the award of fellowships. This raises several issues:

(a) How are these minority groups to be defined?

(b) How may the Commissioner best administer this requirement?

(9) Sec. 924(a) requires the Commissioner to pay to fellowship recipients stipends (including such allowances for subsistence and other expenses for such persons and their dependents) that he determines to be consistent with prevailing practices under comparable Federally-supported programs. Which other Federal programs should be examined to determine comparable rates?

(10) Sec. 924(b) requires the Commissioner to pay to the institution of higher education at which a fellowship recipient is studying an educational allowance consistent with prevailing practices under comparable Federally-supported programs. The Federal payment is to be reduced by any tuition or other required fees charged to the fellowship recipient. What other Federal programs should be examined to determine comparable rates?

9. On page 52425 (Appendix A) immediately before the heading, "Part—I Community Colleges and State Postsecondary Planning," the following should be inserted:

PART H. GRADUATE PROGRAMS

EXTENSION AND REVISION OF GRADUATE FELLOWSHIPS AND ASSISTANCE

Sec. 171. (a)(1) Section 901(a)(3) is amended by striking out "clauses (2), (3), and (4)" and inserting in lieu thereof "clauses (1) and (2)".

(2) Section 901(c) of the Act is amended to read as follows:

"(c) There are authorized to be appropriated $50,000,000 for each of the fiscal years ending prior to October 1, 1979, for the purpose of this part.".

(3)(A) Section 902(b) of the Act is amended by inserting "(1)" before "sets forth", and by inserting before the period a comma and the following: "and (2) provides assurances that the institution has notified the appropriate State commission (established or designated under section 1202 of this Act) and that the State commission has been given the opportunity to offer recommendations on the application to the institution and to the Commissioner".

(B) Section 902 of the Act is amended by adding at the end thereof the following new subsection:

"(c) In considering an application under this part for a program of activities from an institution of higher education within a State, the Commissioner shall assure that consideration is given to the degree to which such program will be consistent with State, regional, or national priorities.".

(4) Section 903(b) of the Act is amended by striking out the word "and" at the end of clause (4), by striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon and the word "and" and by adding at the end thereof the following new clauses:

"(6) the development of proposed graduate and professional programs; and

"(7) needed innovation in graduate and professional programs.".

(b) Part B of title IX of the Act is amended to read as follows:

"PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

"APPROPRIATIONS AUTHORIZED

"SEC. 921. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

"NUMBER OF FELLOWSHIPS

"SEC. 922. (a) During the fiscal year ending June 30, 1973, and each of the succeeding fiscal years ending prior to October 1, 1979, the Commissioner is authorized to award not to exceed seven thousand five hundred fellowships to be used for study in graduate programs at institutions of higher education. Such fellowships may be awarded for such period of study as the Commissioner may determine but not in excess of thirty-six months except that the Commissioner may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period in addition to the thirty-six month period set forth in this section under special circumstances which the Commissioner determines would most effectively serve the purposes of this part. The Commissioner shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"(b) In addition to the number of fellowships authorized to be awarded by subsection (a) of this section, the Commissioner is authorized to award fellowships equal to the number previously awarded during any fiscal year under this section but vacated prior to the end of the period for which they were awarded; except that each fellowship awarded under this subsection shall be for such period of study, not in excess of the remainder of the period for which the fellowship which it replaces was awarded, as the Commissioner may determine.

"(c) The Commissioner may allow a fellowship recipient to interrupt his studies for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that the Commissioner shall make no payments to the fellowship recipient for such period for stipends, travel expenses, or allowances for dependents or payments to institutions pursuant to the recipient's fellowship award.

"AWARDS OF FELLOWSHIPS AND APPROVAL OF GRADUATE PROGRAMS

"SEC. 923. (a) The total number of fellowships authorized by section 922(a) to be awarded during a fiscal year shall be awarded by the Commissioner on such bases as he may determine, except that recipients of such fellowships shall be individuals who have been admitted or who are enrolled in graduate or professional programs approved by the Commissioner and who are pursuing, a course of study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree. The Commissioner shall approve a graduate program of an institution of higher education only upon his finding that the application contains satisfactory assurance that the institution will provide special orientations and practical experiences designed to prepare its fellowship recipients (1) for academic careers at some level of education beyond the high school, or (2) for other than academic careers in professional career fields of importance to the national interest, as determined by the Commissioner.

"(b) In determining priorities and procedures for the award of fellowships under this section the Commissioner shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond highschool,

"(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority,

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups who have been traditionally underrepresented in colleges and universities, but nothing contained in this clause shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of that group participating in or receiving the benefits of this program, in comparison with the total number of percentage of individuals of that group in any community, State, section, or other area,

"(4) assure that consideration in awarding fellowships under this part is given (A) to individuals who have demonstrated their competence outside of a higher education setting for at least two years subsequent to the completion of their undergraduate studies, or (B) to individuals with varied backgrounds and experiences who have acquired such backgrounds and experiences in other than academic settings,

"(5) seek to achieve a reasonable geographical distribution of graduate programs approved under this section, based upon such factors as student enrollments in institutions of higher education and population.

"(c) No fellowship shall be awarded under this part for study at a school or departure of divinity.

"FELLOWSHIP STIPENDS

"Sec. 924. (a) The Commissioner shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

"(b) The Commissioner shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amounts as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"Sec. 925.(a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 924 only during such periods as the Commissioner finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Commissioner.

"(b) The Commissioner is authorized to require reports containing such information in such form and to file at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that such person is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.".

Dated: December 16, 1976.

EDWARD AGUIRRE,
U.S. Commissioner of Education.

[FR Doc.76-37592 Filed 12-21-76;8:45 am]

TASK FORCE ON NATIVE AMERICAN VOCATIONAL EDUCATION OF THE NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Notice of Public Hearing

Notice is hereby given, pursuant to P.L. 92-463, that the Task Force on Native American Vocational Education of the National Advisory Council on Vocational Education will hold a hearing open to the public on January 12, 1976, from 9:00 a.m. to 5:00 p.m., local time, in Room 2010, New Executive Office Bldg., 17th & Penna. Ave., N.W., Wash., D.C. The purpose of the hearing is to receive the testimony of invited witnesses regarding the effectiveness and status of Indian vocational education in the Eastern half of the United States. This hearing is being held in preparation for developing recommendations regarding the administration of the Education Amendments of 1976, P.L. 94-482.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the administration of preparation of general regulations for, and operation of vocational education programs, supported with assistance under the act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations to the Secretary of HEW for transmittal to the Congress, and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The meeting of the Task Force shall be open to the public. Records shall be kept of all Task Force proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 412, 425-13th Street, N.W., Washington, D.C. 20004.

Signed at Washington, D.C. on December 14, 1976.

REGINALD E. PETTY,
Executive Director.

[FR Doc.76-37496 Filed 12-21-76;8:45 am]

TITLE I AUDIT APPEAL

Notice of Acceptance of Application for Appeal

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972, as amended by 41 FR 28568, July 12, 1976), an application for an appeal before the Board has been received from the State of Idaho and it has met the jurisdictional requirements of Section 5 of the Notice establishing the Board.

The appeal involves the allowability of specified expenditures of funds for programs under Title I of the ESEA during the period July 1, 1973, through June 30, 1974. The U.S. Office of Education seeks recovery of $159,431 based on audit exceptions taken to expenditures in the Boise, Pocatello and Blackfoot local education agencies. A basic issue is whether certain Title I funds were expended on properly targeted school populations. The Audit Control Number is 50000-10, Docket 2-(17)-76.

The prehearing conference will be held at 10:30 a.m. on February 17, 1977, in Room 4173, 400 Maryland Avenue, S.W., Washington, D.C.

Section 7 (c) of the Notice setting up the board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before February 2, 1977.

(20 U.S.C. 241a, 1232c)

(Catalog of Federal Domestic Assistance Number 13.428, Educationally Deprived Children—Local Educational Agencies).

Dated: December 16, 1976.

EDWARD AGUIRRE,
U.S. Commissioner of Education.

[FR Doc.76-37582 Filed 12-21-76;8:45 am]

Office of the Secretary

SUPPLEMENTARY MEDICAL INSURANCE FOR THE AGED AND DISABLED

Monthly Actuarial Rates and Monthly Premium Rate

Pursuant to authority contained in sections 1839(c)(1) and (4) of the Social Security Act (42 U.S.C. 1395r(c)(1) and (4)), the Secretary of Health, Education, and Welfare is required to promulgate two monthly adequate actuarial rates for the Medicare Supplementary Medical Insurance (SMI) program for the period July 1977 through June 1978. One rate is

equivalent to one-half of the estimated incurred cost of the program per aged enrollee, and the other is equivalent to one-half of the estimated incurred cost for each disabled enrollee. Pursuant to authority contained in section 1839(c)(3) of the Social Security Act (42 U.S.C. 1395r(c)(3)), the Secretary is also required to promulgate a single monthly premium rate for both aged and disabled enrollees which is derived from the monthly adequate actuarial rate for the aged enrollees. The difference between the premium paid by enrollees and total incurred per capita costs is met from the general revenues of the Federal government. The notices of these promulgations for the period July 1977 through June 1978 are as follows:

NOTICE OF MONTHLY ADEQUATE ACTUARIAL RATES

On the basis of the accompanying statement of actuarial assumptions and bases pursuant to section 1839(c)(1) and (4) of the Social Security Act (42 U.S.C. 1395r(c)(1) and (4)), I hereby determine that the monthly adequate actuarial rates which shall be applicable for the 12-month period commencing July 1, 1977, are $12.30 for enrollees age 65 and over and $25.00 for disabled enrollees under age 65.

NOTICE OF MONTHLY PREMIUM RATE

Pursuant to authority contained in section 1839(c)(3) of the Social Security Act (42 U.S.C. 1395r(c)(3)), I hereby determine and announce that the dollar amount which shall be applicable for premiums for purposes of section 1839(c)(3) of the Act shall be $7.70 monthly in the 12-month period beginning July 1977 and ending June 1978.

STATEMENT OF ACTUARIAL ASSUMPTIONS AND BASES EMPLOYED IN DETERMINING THE MONTHLY ADEQUATE ACTUARIAL RATES AND THE STANDARD MONTHLY PREMIUM RATE FOR THE SUPPLEMENTARY MEDICAL INSURANCE PROGRAM BEGINNING JULY 1977

This is a statement of actuarial assumptions and bases employed in determining the adequate actuarial rates and the standard monthly permium rate for the Supplementary Medical Insurance Program (SMI) for the period July 1977 through June 1978. The monthly adequate actuarial rate for enrollees age 65 and over is $12.30. The monthly adequate actuarial rate for disabled enrollees is $25.00. The standard monthly premium rate for both types of enrollees is $7.70.

I. *Actuarial status of the supplementary medical insurance trust fund.* The law requires that the SMI program be financed on an incurred basis. That is, the income to the program during the 12-month period for which adequate rates are effective must be sufficent to pay for services (including associated administrative costs) rendered during that period even though payment for some of these services will not be made until after the close of the period. The portion of income required to cover those benefits not paid until after the close of the year is added to the trust fund until needed. Thus, the trust fund at any time should be equal to the cost of the benefits and administration incurred but not yet paid. Because the adequate rates are established prospectively, they are subject to projection error. As a result, the income to the program may not be equal to incurred costs and therefore the trust fund may not be equal to the value of incurred but unpaid expenses. Modest deficiences in the trust fund balance do not interfere with the operation of the program if the fund is large relative to outlays and if future financing is established to correct the deficiencies. Table I summarizes the estimated actuarial status of the trust fund as of June 30, 1975, 1976, and 1977.

TABLE I

Year ending June 30	Assets at end of period (in millions)	Liability for incurred but unpaid services (in millions)	Assets and liabilities (in millions)
1975	$1,484	$1,399	$85
1976	1,308	1,732	−424
1977	1,945	2,055	−110

The sizeable deficit shown at the end of fiscal year 1976 results from program cost increases substantially in excess of those anticipated in setting the adequate rates for 1976. The adequate rates for the year ending June 30, 1977 contain a margin which is expected to decrease the program deficit by about $300 million at the end of that year. This remaining deficiency must be considered in establishing the financing for subsequent years.

II. *Monthly adequate actuarial rates for enrollees age 65 and older.* The monthly adequate actuarial rate is one-half the monthly projected per capita cost for benefits and administrative expenses adjusted to allow for interest earnings on the fund, to allow for a contingency margin, and to allow for amortization of the program surplus or deficit.

The monthly adequate actuarial rate for enrollees age 65 and older for the year ending June 30, 1978, was determined by projecting the fiscal year 1976 per capita cost by type of service. The projected costs for the years ending June 30, 1975, 1976, 1977, and 1978 are shown in Table II. The 1975 values were established from program data. Subsequent years were projected using a combination of program data and data from external sources. The projection factors used are shown in Table III.

TABLE II.—*Derivation of SMI aged monthly rate required for years ending June 30, 1976–78*

	1975	1976	1977	1978
Covered services (at level recognized):				
Physicians' reasonable charges	$8.20	$9.34	$10.41	$12.25
Radiology and pathology	.36	.43	.49	.57
Group practice plan	.17	.21	.25	.28
Independent lab	.07	.07	.08	.09
Home health agencies	.14	.18	.24	.31
Outpatient hospital and other institutions	.98	1.28	1.66	2.16
Total services	9.92	11.51	13.13	15.66
Cost sharing:				
Deductible	−1.67	−1.70	−1.72	−1.73
Coinsurance	−1.55	−1.85	−2.14	−2.62
Total benefits	6.70	7.96	9.27	11.31
Administrative expenses	.72	.90	.90	.97
Incurred expenditures	7.42	8.86	10.17	12.28
Value of interest on fund	−.19	−.18	−.16	−.27
Margin for contingencies and to amortize unfunded liabilities	−.53	−1.18	.69	.29
Promulgated rate	6.70	7.50	10.70	12.30

TABLE III

	Year ending June 30		
	1976	1977	1978
Physicians' services:	*Percent*	*Percent*	*Percent*
Fees [1]	8.5	[3] 10.8	9.5
Number and mix [2]	5.0	4.0	4.0
Outpatient hospital and home health agencies	30.0	30.0	30.0
Group practice plans	25.0	15.0	15.0
Other	20.0	15.0	15.0

[1] As paid by the program.
[2] Increase in the number of services received per capita and greater relative use of more expensive services.
[3] Reasonable charges were updated later than July 1, 1976, in most areas so the average cost increase shown in table II is less than 10.8 pct.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for the year ending June 30, 1978, net of interest is $12.01. The monthly actuarially adequate rate of $12.30 will eliminate the remaining deficit if the assumptions used in this projection are realized.

III. *Adequate actuarial rate for the disabled.* The monthly adequate actuarial rate for disabled enrollees applies to persons eligible because they have been entitled to disability insurance benefits for not less than 24 consecutive months or because they are suffering from end stage renal disease. Projections for disabled beneficiaries (other than those suffering from end stage renal disease) are prepared in an exactly parallel fashion as projections for the aged using the same actuarial assumptions. Costs for the end stage renal disease program are projected using a computer model because of the complex demographic problems involved. The combined results for all disabled beneficiaries are shown in table IV. The monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled beneficiaries for the year ending June 30, 1978, net of interest earnings is projected to be $24.41. The monthly actuarially adequate rate of $25.00 provides a small margin for contingencies.

TABLE IV.—*Derivation of SMI disabled monthly rate required for year ending June 30, 1976–78*

	1975	1976	1977	1978
Total benefits	$12.15	$15.53	$18.88	$22.97
Administrative expenses	1.30	1.76	1.83	1.98
Incurred expenditures	13.45	17.29	20.71	24.95
Value of interest on fund	−.34	−.35	−.32	−.54
Margin for contingencies and to amortize unfunded liabilities	4.89	1.56	−1.39	.59
Promulgated monthly rate	18.00	18.50	19.00	25.00

IV. *Sensitivity testing.* Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy under alternate assumptions of the rates promulgated here. The most unpredictable factors which contribute significantly to future costs are outpatient hospital costs, physician utilization, and the increase in physician fees as constrained by the reasonable charge screens and the newly implemented economic index. (Utilization here, is measured indirectly and refers to increased costs per capita due to added visits, the use of more expensive services, and other factors not explained by simple price per service increases). Two alternative sets of assumptions and the results of those assumptions are shown in Table V. All assumptions not shown in Table V are the same as in Table III.

Table V indicates that under fairly optimistic assumptions the monthly rates promulgated will result in a surplus of $523 million by the end of June 1978. Under fairly pessimistic assumptions the deficit increases to $994 million but the trust fund remains positive allowing the program to continue paying claims as presented.

TABLE V.—*Actuarial status of the SMI trust fund under 3 sets of assumptions*

	This projection		Low assumption		High assumption	
	1977	1978	1977	1978	1977	1978
Per enrollee increases in:	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
Physician fees	10.8	9.5	10.0	9.0	12.0	10.5
Physician utilization [1]	4.0	4.0	3.0	3.0	6.0	6.0
Outpatient hospital and home health agencies	30.0	30.0	25.0	25.0	50.0	50.0
Assets as of June 30 (in millions)	$1,945	$2,645	$2,029	$2,970	$1,741	$1,773
Liabilities as of June 30 (in millions)	2,055	2,533	2,021	2,447	2,140	2,767
Trust fund—liabilities	−110	112	8	523	−399	−994

[1] Increase in the number of services received per capita and greater relative use of more expensive services.

V. *Standard premium rate.* The law provides that the standard monthly premium rate, promulgated in December to apply for both aged and disabled enrollees under the supplementary medical insurance program, shall be the lesser of:

(i) The actuarial rate for enrollees age 65 and older; or

(ii) The standard monthly premium currently being charged, increased by the same percentage that old-age, survivors, and disability insurance benefits were increased since the May preceding the promulgation (and rounded to the nearer dime).

The standard monthly premium currently being charged is $7.20. The OASDI benefit table was increased 6.4 percent in June 1976. The $7.20 rate increased by 6.4 percent is $7.70 rounded to the nearer ten cent multiple. Since this is less than the $12.30 actuarial rate, the standard premium rate is $7.70 for the twelve months ending with June 1978.

Dated: December 13, 1976.

MARJORIE LYNCH,
Acting Secretary.

[FR Doc.76-37106 Filed 12-21-76;8:45 am]

FAMILY MEDIAN INCOME BY STATE

Eligibility for Social Services Under Title XX of the Social Security Act, as Amended

Promulgation is made of the median income of a family of four for each State and for the States as a whole, applicable to the period October 1, 1977 through September 30, 1978, for the purpose of determining the extent of Federal financial participation (FFP) in State expenditures under Title XX of the Social Security Act, under the provision of sections 2002(a)(5)(B), 2002(a)(6)(A) and (B), and 2002(a)(14)(A) of that Act. These sections impose certain limitations with respect to the availability of FFP based upon the relationship of the income of the family of a service recipient to the median income of a family of four in the State, adjusted in accordance with regulations prescribed by the Secretary to take into account the size of the family.

Estimates of the median incomes of families of four persons for each State and the District of Columbia were developed by the Bureau of the Census. In developing the median income scale, the Bureau of the Census used three sources of data: (1) The 1976 Current Population Survey, (2) the 1970 Census of Population, and (3) per capita personal income estimates from the Bureau of Economic Analysis.

The methodology for adjusting median income for families of different size is specified in 45 CFR 228.60.

The median income for a family of four, by State, for fiscal year 1978—with calculations at the 80 percent, 90 percent, and 115 percent levels—are set forth below for use by States in establishing income ceilings and fee schedules under Title XX of the Social Security Act:

Median income for families of 4

State	Median income	80 pct of median income	90 pct of median income	115 pct of median income
Alabama	$14,018	$11,214	$12,616	$16,121
Alaska	25,638	20,510	23,074	29,484
Arizona	15,829	12,663	14,246	18,203
Arkansas	12,969	10,375	11,672	14,914
California	17,393	13,914	15,654	20,002
Colorado	16,928	13,542	15,235	19,467
Connecticut	17,781	14,225	16,003	20,448
Delaware	16,243	12,994	14,619	18,679
District of Columbia	16,554	13,243	14,899	19,037
Florida	15,303	12,242	13,773	17,598
Georgia	14,538	11,630	13,084	16,719
Hawaii	18,825	15,060	16,943	21,649
Idaho	14,664	11,731	13,198	16,864
Illinois	17,793	14,234	16,014	20,462
Indiana	15,731	12,585	14,158	18,091
Iowa	16,536	13,229	14,882	19,016
Kansas	15,709	12,567	14,138	18,065
Kentucky	13,625	10,900	12,263	15,669
Louisiana	13,992	11,194	12,593	16,091
Maine	12,948	10,358	11,653	14,890
Maryland	18,132	14,506	16,319	20,852
Massachusetts	16,546	13,237	14,891	19,028
Michigan	16,919	13,535	15,227	19,457
Minnesota	16,871	13,497	15,184	19,402
Mississippi	12,174	9,739	10,957	14,000
Missouri	14,996	11,997	13,496	17,245
Montana	14,900	11,920	13,410	17,135
Nebraska	15,381	12,305	13,843	17,688
Nevada	16,945	13,556	15,251	19,487
New Hampshire	14,954	11,963	13,459	17,197
New Jersey	17,984	14,387	16,186	20,682
New Mexico	13,954	11,163	12,559	16,047
New York	16,105	12,884	14,495	18,521
North Carolina	13,883	11,106	12,495	15,965
North Dakota	15,321	12,257	13,789	17,619
Ohio	15,848	12,678	14,263	18,225
Oklahoma	14,436	11,549	12,992	16,601
Oregon	16,349	13,079	14,714	18,801
Pennsylvania	15,753	12,602	14,178	18,116
Rhode Island	15,691	12,553	14,122	18,045
South Carolina	13,879	11,102	12,491	15,961
South Dakota	13,351	10,681	12,016	15,354
Tennessee	13,646	10,917	12,281	15,693
Texas	15,802	12,642	14,222	18,172
Utah	15,352	12,282	13,817	17,655
Vermont	14,294	11,435	12,865	16,438
Virginia	16,348	13,078	14,713	18,800
Washington	16,818	13,454	15,136	19,341
West Virginia	14,064	11,251	12,658	16,174
Wisconsin	16,593	13,274	14,934	19,082
Wyoming	16,818	13,454	15,136	19,341

NOTE: The median income for a family of 4 in the 50 States and the District of Columbia, applicable to the period Oct. 1, 1977, through Sept. 30, 1978, is $15,848.

Dated: December 16, 1976.

ROBERT FULTON,
Administrator,
Social and Rehabilitation Service.

[FR Doc.76-37464 Filed 12-21-76;8:45 am]

WORK INCENTIVE PROGRAM; SOCIAL AND SUPPORTIVE SERVICES

Distribution of Funds

On September 30, 1976, the Social and Rehabilitation Service published in the FEDERAL REGISTER (41 FR 43221) and transmitted by SRS-AT-76-150, dated September 30, 1976, a proposed formula for distribution of funds under Section 403(d) of the Social Security Act for States' social and supportive service program costs in the Work Incentive (WIN) program under Section 402(a)(19)(G) of the Act during Fiscal Year 1977. This action was necessary to assure that States operate their programs within the amount available under this Department's appropriation.

Two comments, both from State agencies, pertaining to the proposed Fiscal Year 1977 allocation formula were received during the prescribed comment period. One State agency objected to the proposed formula because no consideration was given to constantly increasing AFDC and AFDC-UF caseloads. The number of WIN registrants is a direct factor in the computation of the WIN manpower agency allocations and therefore a factor in the computation of the WIN limits of entitlement. As the AFDC and AFDC-UF caseloads affect the number of WIN registrants the change is reflected in the State's limit of entitlement through the formula. However, it is entirely possible for the AFDC and AFDC-UF caseloads to change without a corresponding change in the number of WIN registrants. Another State agency expressed the belief that the assumed consistent ratio between Separate Administrative Unit (SAU) expenditures and Labor Department allocations could not be supported by facts. While a statistical validation of the linkage of SAU expenditures to manpower agencies allocation cannot be made, it is believed that there is a valid direct relationship between the activity of the manpower agencies in job placement and training and the necessity for child care and other support services. It should be noted that the ratio of available resources for employment and training activities and for child care and supportive services was established by the Congress in the annual appropriation.

The Service feels the proposed formula is the most equitable that can be developed under the circumstances. Therefore, after consideration of the comments received, no changes are being made in the proposed formula. Annual limits of entitlement for Fiscal Year 1977 of State expenditures for social and support services under the Work Incentive (WIN) program under Sections 402(a)(19)(G) and 403(d) of the Social Security Act will be calculated on the basis of the following formula:

1. Twenty-five percent of the total funds available for all the States will be distributed on the basis of the ratio of each State's total program costs claimed and allowed for Federal financial participation under Sections 402(a)(19)(G) and 403(d) of the Social Security Act, 42 U.S.C. 602(a)(19)(G) and 603(d), for Fiscal Year 1976 to the total of such program costs for all States during Fiscal Year 1976.

2. Seventy-five percent of the total funds available for all the States will be distributed on the basis of the ratio of the amount of funds allocated by the Secretary of Labor in support of the WIN sponsor for employment and training for each State in Fiscal Year 1977 to the total amount of funds allocated by the Secretary of Labor in support of the WIN sponsor for employment and training for all States for Fiscal Year 1977. The limits of entitlement shall be based upon the most recent information available at the time of promulgation.

Requests for Federal financial participation in expenditures incurred pursuant to section 402(a)(19)(G) during Fiscal Year 1977 will not be honored to the extent they exceed limits promulgated on this basis.

On September 1, 1977, the Service will reallocate any funds which a survey of all States indicates will not be expended during Fiscal Year 1977. This reallocation will be computed using the same methodology as that described in the notice which established the revised limits of entitlement for Fiscal Year 1975 for Social and Supportive Service under the Work Incentives (WIN) Program which was published on October 16, 1975 (45 FR 48544).

Dated: December 14, 1976.

M. KEITH WEIKEL,
Acting Administrator, Social and Rehabilitation Service.

[FR Doc.76-37545 Filed 12-21-76;8:45 am]

WORK INCENTIVE PROGRAM—SOCIAL AND SUPPORTIVE SERVICES

Limits of Entitlement

Notice is hereby given of annual limits of entitlement for States for Federal financial participation in expenditures for child care and supportive services under the Work Incentive (WIN) Program pursuant to sections 402(a)(19)(G) and 403(d) of the Social Security Act, 42 U.S.C. 602(a)(19)(G) and 603(d), for Fiscal Year 1977, October 1, 1976 through September 30, 1977. Pub. L. 94-439, the joint resolution making continuing appropriations for the Fiscal Year 1977, and for other purposes, makes available such amounts as are necessary to continue activities under Title IV, part C of the Social Security Act, including child care and supportive services pursuant to § 402(a)(19)(G), at a rate of $127,000,000 per year.

Accordingly, limits of entitlement have been calculated on the basis of the allocation formula published as FR Doc. 76-37545 in this issue of the FEDERAL REGISTER, and the amount made available under Pub. L. 94-439, except that the limit of entitlement for Guam is $90,000 and the limit of entitlement for the Virgin Islands is $65,000, in compliance with the limitation imposed by Section 1108 of the Social Security Act. The limits of entitlement for States for child care, other supportive services and administration under section 402(a)(19)(G) for the period from October 1, 1976 through September 30, 1977, are as follows:

Alabama	$1,365,566
Alaska	452,820
Arizona	1,406,294
Arkansas	955,900
California	16,412,649
Colorado	2,153,383
Connecticut	1,385,848
Delaware	381,575
District of Columbia	1,716,865
Florida	2,160,946
Georgia	2,933,786
Hawaii	688,185
Idaho	606,715
Illinois	6,435,222
Indiana	1,556,056
Iowa	1,325,134
Kansas	1,116,417
Kentucky	1,258,384
Louisiana	1,110,819
Maine	624,992
Maryland	2,663,915
Massachusetts	3,711,049
Michigan	8,249,142
Minnesota	2,744,392
Mississippi	1,212,736
Missouri	2,707,803
Montana	637,610
Nebraska	521,658
Nevada	322,250
New Hampshire	288,854
New Jersey	4,524,796
New Mexico	647,345
New York	12,726,430
North Carolina	1,500,500
North Dakota	377,117
Ohio	5,759,228
Oklahoma	917,662
Oregon	3,029,806
Pennsylvania	5,338,359
Rhode Island	873,014
South Carolina	987,418
South Dakota	633,252
Tennessee	1,336,013
Texas	3,215,666
Utah	1,867,840
Vermont	840,107
Virginia	1,624,010
Washington	3,571,768
West Virginia	2,394,995
Wisconsin	4,149,330
Wyoming	227,223
Guam	90,000
Puerto Rico	1,196,156
Virgin Islands	65,000
Total	$127,000,000

Dated: December 2, 1976.

ROBERT FULTON,
Administrator, Social and Rehabilitation Service.

[FR Doc.76-37546 Filed 12-21-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAMS

Notice of Approval

DECEMBER 7, 1976.

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams approved on the date indicated, are available, for information only, in the Pacific Outer Continental Shelf Office, Bureau of Land Management, Los Angeles, CA. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic areas they represent.

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAMS

Description:		*Approval date*
NK 9-9	Escanaba Ridge	Nov. 2, 1976.
NK 10-1	Coos Bay	Do.
NK 10-10	Cape Mendocino	Do.
NL 10-1	Copalis Beach	Do.
NL 10-4	Cape Disappointment	Do.
NL 10-7	Tillamook Bay	Do.
NK 10-7	Crescent City	Nov. 5, 1976.
NL 10-10	Cape Foulweather	Do.

2. Copies of these diagrams are for sale at two dollars ($2.00) per sheet by the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, 300 N. Los Angeles St., Rm. 7127, Los Angeles, CA. 90012. Checks or Money Orders should be made payable to the Bureau of Land Management.

HAROLD R. MARTIN,
Acting Manager, Pacific Outer Continental Shelf Office.

[FR Doc.76-37570 Filed 12-21-76;8:45 am]

[NM 29135]

NEW MEXICO

Notice of Application

DECEMBER 13, 1976.

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), Tuco, Inc. has applied for a compressor plant site right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 13 S., R. 30 E.,
Sec. 34, NW¼SW¼.

The compressor plant site will be used in connection with natural gas operations and will occupy .44 acres of national resource land in Chaves 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 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-37516 Filed 12-21-76;8:45 am]

[NM 29134]

NEW MEXICO

Notice of Application

DECEMBER 13, 1976.

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), Tuco, Inc. has applied for a two 6&8-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 13 S., R. 30 E.,
Sec. 24, W½SW¼.
T. 14 S., R. 30 E.,
Sec. 3, lot 4;
Sec. 4, lot 1, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 9, W½NE¼, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 16, W½W½;
Sec. 21, W½W½;
Sec. 28, W½W½;
Sec. 33, W½W½.
T. 15 W., R. 30 E.,
Sec. 4, lot 4, SW¼NW¼, W½SW¼.
T. 12 S., R. 31 E.,
Sec. 17, SW¼NE¼, SE¼NW¼, E½SW¼, SW¼SW¼;
Sec. 20, W½NW¼, NE¼NW¼, NW¼SW¼;
Sec. 30, W½NE¼, NE¼SW¼, NW¼SE¼;
Sec. 31, lots 1, 2, NE¼NW¼.

These pipelines will convey natural gas across 10.114 miles of national resource lands in Chaves County, New Mexico.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-37517 Filed 12-21-76;8:45 am]

[NM 29305]

NEW MEXICO

Notice of Application

DECEMBER 14, 1976.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for six 4, 6&8-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 24 E.,
Sec. 1, lots 2, 3, S½NE¼;
Sec. 12, S½SE¼;
Sec. 14, NE¼NE¼.
T. 17 S., R. 25 E.,
Sec. 21, SE¼SW¼;
Sec. 32, NW¼SE¼, S½SE¼.
T. 18 S., R. 25 E.,
Sec. 2, NW¼SW¼;
Sec. 3, S½S½;
Sec. 5, lot 4, SW¼NW¼;
Sec. 7, lot 3, N½NE¼, SW¼NE¼, NE¼SW¼;
Sec. 8, N½NE¼, E½NW¼, SW¼NW¼.

These pipelines will convey natural gas across 5.474 miles of national resource lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.76-37518 Filed 12-21-76;8:45 am]

[Oregon 016990 (Wash.)]

WASHINGTON

Termination of Proposed Withdrawal and Reservation of Lands

DECEMBER 15, 1976.

Notice of an application filed by the Corps of Engineers, U.S. Department of the Army, Oregon 016990, for withdrawal and reservation of lands for use in connection with project planning and the construction of the Asotin Dam and Reservoir Project was published in the FEDERAL REGISTER Document No. 65-13160 on page 15238 of the issue of December 9, 1965. The Asotin Dam and Reservoir Project was deauthorized by Public Law 94-199 of December 31, 1975 (89 Stat. 1117) and the applicant agency has canceled its application involving the lands described in the FEDERAL REGISTER publication referred to above. Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1) such lands will be at 10:00 a.m. on January 20, 1977, relieved of the segregative effect of the above-mentioned application.

LELAND D. MORRISON,
Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc.76-37515 Filed 12-21-76;8:45 am]

[Wyoming 55677]

WYOMING

Notice of Application

DECEMBER 14, 1976.

Notice is hereby given that pursuant to the Act of May 24, 1928, 49 U.S.C. 211-214, Trans Mountain Air, Ltd., has applied for an airport lease for the following national resource land:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 27 N., R. 78 W.,
A tract of land 60 feet wide, the centerline of which is described as follows:
Beginning at the northwest corner of sec. 29, T. 27 N., R. 78 W.; thence on a southerly direction along the west boundary of said sec. 29 for a distance of 558.0 feet to a point; thence on a bearing of N. 61°E. for a distance of 16.8 feet to the true point of beginning of the above said survey center line; thence on a bearing of N. 61°E. more or less for a distance of 3,060 feet more or less to the end of said center line at the east boundary of the SE¼SW¼ sec. 20, T. 27 N., R. 78 W.

The tract described contains 4.2 acres.

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws.

Interested persons desiring to express their views should promptly send their comments together with their name and address to the District Manager, Bureau of Land Management, 1300—Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

DELMAR D. VAIL,
Acting State Director.

[FR Doc.76-37519 Filed 12-21-76;8:45 am]

Office of the Secretary

ADVISORY COMMITTEES

Renewal

This notice is published in accordance with the provisions of Section 7(a) of the Office of Management and Budget Circular A-63 (Revised). Pursuant to the authority contained in Section 14(a) of the Federal Advisory Committee Act (Public Law 92-463), I have determined that renewal of the advisory committees listed below is necessary and in the public interest.

Advisory Committee on Water Data for Public Use
Committee on Minority Participation in Earth Science and Mineral Engineering
Earthquake Studies Advisory Panel

The Office of Management and Budget has concurred in the renewal of these committees.

Further information regarding these renewals may be obtained from the Department Committee Management Officer, Office of the Secretary, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-8401.

Dated: December 14, 1976.

THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.76-37520 Filed 12-21-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

SUBPANEL ON OPTICAL AND INFRARED ASTRONOMY

Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subpanel on Optical and Infrared Astronomy of the Advisory Panel for Astronomy.
Date: January 10–11, 1977.
Time: 9 a.m.
Place: Steward Observatory, Room 108, University of Arizona, Tucson, Arizona 85721.
Type of meeting: Open—January 10 (9 a.m. to 5 p.m.) January 11 (9 a.m. to 3 p.m.)
Contact: Dr. Peter A. Strittmatter, Steward Observatory, University of Arizona, Tucson, Arizona 85721, 602/884–1784 or, Dr. Peter B. Boyce, National Science Foundation, Division of Astronomical Sciences, Washington, D.C. 20550, 202/632–4187.
Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose: To review NSF programs in optical and infrared astronomy.
Agenda: Will include the following discussion and presentations:

JANUARY 10, 1977

9 a.m. Discussion of scientific opportunities.
11 a.m. Discussion of instrumental or technique problems.
12 m. Lunch.
1 p.m. Continuation of discussion on instrumental or technique problems.
3:30 p.m. Discussion of draft report.
5:00 p.m. Adjourn.

JANUARY 11, 1977

9 a.m. Discussion of priorities within O/IR program and assignment of writing tasks for final report.
11 a.m. Review of further questions for Working Group discussion.
3 p.m. Adjourn.

M. R. WINKLER,
Acting Committee Management Officer.

DECEMBER 17, 1976.

[FR Doc.76-37526 Filed 12-21-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of request for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 9, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within UMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

ENVIRONMENT PROTECTION AGENCY

Questionnaire to Farmers, ASCS Personnel, single-time, 6–8 farmers from 2 counties in 17 regions of corn belt, Ellett, C. A., 395–5867.

U.S. CIVIL SERVICE COMMISSION

Application for Federal Employment, 1200, 1201, 1202, 1203, 1281, on occasion, applicant for Federal employment, Caywood, D. P., 395–3443.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Questionnaire for National Endowment for the Humanities, journalism fellows, annually, fellows, Tracey Cole, 395–5870.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education, A Study of the Use of Education and Training Funds in the Private Sector, NIE–171, single-time, universe of company/union contracts having tuition air provision, Strasser, A., 395–5867.
Office of Human Development, Day Care Stability and Rural Supply Study, single-time, family day care providers, Sunderhauf, M. B., 395–6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Administration (Office of Assistant Secretary), Depository Bank Acceptance and Confirmation Statement, HUD–4304, on occasion, borrower, Housing, Veterans and Labor Division, 395–3532.

DEPARTMENT OF LABOR

Bureau of International Labor Affairs, Recordkeeping Requirements for Employers With Less Than Eleven Employees, other (see SF–83), employers with less than eleven employees, Strasser, A., 395–5867.

REVISIONS

FEDERAL RESERVE SYSTEM

Receipt and Shipment of United States and Mexican Currency Between U.S. Banks and Foreigners, FR465, monthly, banks in Federal Reserve Districts 11 and 12 dealing in Mexican currency, Hulett, D. T., 395–4730.

VETERANS ADMINISTRATION

State Approving Agency Check Sheet (Correspondence Courses), 22–8670, on occasion, State approving agencies, Caywood, D. P., 395–3443.

DEPARTMENT OF COMMERCE

Bureau of Census:
Privacy and Confidentiality Opinion Survey, Privacy and Confidentiality Objective Survey, PCS–100, PCS–200, single-time, households previously contacted in census and University of Michigan, Maria Gonzalez, 395–6132.
Iron and Steel Foundries, M33A, monthly, manufacturers of iron and steel castings, Cynthia Wiggins, 395–5631.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Military Service Questionnaire, SSA 2512, on occasion, veterans, Caywood, D. P., 395–3443.

EXTENSIONS

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Request for Guest Speaker, NASA/201, weekly, civic, professional, and educational organizations, Tracey Cole, 395–5870.

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis, Plant and Equipment Expenditures Survey Annual Supplement, BE 456A, annually, nonmanufacturing, Laverne V. Collins, 395–5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development, Longitudinal Evaluation of the Nutrition Program, annually, elderly persons not participating in nutrition program, Marsha Traynham, 395–4529.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit Survey Instructions and Certificate (Land Survey), FHA–2457, on occasion, registered surveyor, Housing, Veterans and Labor Division, 395–3532.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc. 76-37642 Filed 12-21-76;8:45 am]

POSTAL RATE COMMISSION

MAIL CLASSIFICATION SCHEDULE, 1976

[Docket Nos. MC76–1—4]

Resumption of Hearings and Revised Procedural Schedule

DECEMBER 16, 1976.

Notice is hereby given that the Administrative Law Judge has established January 18, 1977, as the date to resume hearings in Docket No. MC76–2, at 9:30 a.m., in the Commission's Hearing Room, Suite 500, 2000 L Street, N.W., Washington, D.C.

Pursuant to Commission Order No. 146, a revised procedural schedule has been adopted in Docket Nos. MC76–1, 2, 3, and 4, and is available to all interested parties in the Commission's Docket Room at the above-listed address or by calling the Docket Room, at Area Code 202–254–3804.

JAMES R. LINDSAY,
Secretary of the Commission.

[FR Doc.76-37571 Filed 12-21-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13063; File No. SR-CBOE-1976-23]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

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 December 6, 1976 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

(Brackets indicate deletions; *italics*, new material.)

CBOE's STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

MATTERS SUBJECT TO ARBITRATION

Rule 18.1. (a) Any controversy between parties who are members,[1] or [Approved Persons] *persons associated with a member* which arises out of the Exchange business of such parties shall, at the request of any such party, be submitted for arbitration in accordance with these rules.

(b) Any controversy between a non-member and a member or [an Approved Person] *persons associated with a member* which arises out of the Exchange business of such member, or [Approved Person] a person associated with a member shall, at the request of such non-member, be submitted for arbitration in accordance with these rules.

(c) *Any controversy between a member and an employee of such member which is related to such employment shall, at the request of any such party, be submitted for arbitration in accordance with these rules.*

[(c)](*d*) The arbitration provisions of this Chapter shall not constitute a prospective waiver of any right of action that may arise under the federal securities laws.

* * * *Interpretations and Policies:*

.01 For purposes of this Chapter, the terms member, a person associated with a member and an employee of a member shall be deemed to encompass those persons who were former Exchange members, persons associated with a member or employees of members.

.02 It may be deemed conduct inconsistent with just and equitable principles of trade for a member, a person associated with a member or employee of a member to fail to submit a dispute for arbitration under the provisions of this Chapter, or to fail to appear or to provide any document in his possession or control as directed pursuant to the provisions of this Chapter or to fail to honor an award of arbitrators properly rendered pursuant to the provisions of this Chapter where a timely motion has not been made to vacate or modify such award pursuant to applicable law.

INITIATION OF ARBITRATION PROCEEDINGS

Rule 18.2 A member, [Approved Person], *a person associated with a member* [or] *a* non-member, *or employee of a member* who wishes to initiate arbitration proceedings in accordance with Rule 18.1 shall, within a reasonable time after the event giving rise to the controversy, file with the Secretary of the Exchange a written statement requesting arbitration. Such statement shall include (a) a concise description of the controversy; (b) the matters to be arbitrated, and if possible, the amount in dispute; (c) the names of the parties involved; (d) the names and addresses of counsel, if any, for the person requesting arbitration. The Secretary shall promptly furnish a copy of this statement to the responding party for reply.

* * * Interpretations and Policies:

.01 For purposes of this Chapter an arbitration proceeding will be deemed to be initiated within a "reasonable time," if it is filed no later than one year from the date of the event giving rise to the controversy; provided however, that the Committee may in the exercise of its discretion hear cases filed after the one-year period.

REPLY

Rule 18.3 [No Change]

SUBMISSION FOR ARBITRATION

Rule 18.4. Copies of the statement requesting arbitration, the reply, and any counterclaim and reply to the counterclaim shall be attached to a form of Submission prescribed by the Exchange, which shall be sent to the parties who shall execute their respective copies of the Submission. The copies of said Submission shall be returned within [ten] *10 business* days of their receipt to the Secretary who shall, forthwith upon their receipt, submit the copies to the Arbitration Committee. The Arbitration Committee may decline in any case to accept a Submission for arbitration. If jurisdiction is not so declined, upon receipt of the executed Submission(s) for arbitration, the Arbitration Committee shall assign the matter to [an arbitrator or] a panel of arbitrators selected in accordance with Rule 18.5.

SELECTION OF ARBITRATORS

Rule 18.5 (a) Member Controversies. Any controversy between parties who are members, *persons associated with a member, or employees of members* shall be submitted for arbitration to a panel consisting of three members of the Arbitration Committee chosen by lot. [The parties] *Any party* to the controversy may petition the Arbitration Committee for permission to arbitrate the controversy [in] *at* an alternate [agreed upon forum] *situs* for arbitration. Upon *agreement of the other parties and* Committee approval the parties may proceed with arbitration [in] *at* such alternative [forum] *situs*.

(b) Non-Member Controversies. If one of the parties to a controversy is a non-member, unless the parties elect to have the panel of arbitrators selected in accordance with paragraph (a) of this Rule, [the panel shall be selected in the following manner: (i) where the amount involved in a controversy (exclusive of interest and costs) is more than $500 or where the non-member does not make the election provided for by section (ii) of this subparagraph,] the controversy shall be submitted for arbitration to a panel consisting of three arbitrators, one member of the Arbitration Committee and two non-members selected by lot from the non-member panel provided for by Rule 2.8. [(ii) where the amount involved in the controversy (exclusive of interest and costs) is more than $500, the non-member may elect to submit the dispute to a single arbitrator selected by lot from the non-member panel provided for by Rule 2.8.] *Any party to the controversy may petition the Arbitration Committee for permission to arbitrate the controversy at an alternate situs for arbitration. Upon agreement by the other parties and Committee approval the parties may proceed with arbitration at such alternate situs.*

(c) *Optional Procedure. An initiating non-member party may at the discretion of the Arbitration Committee have any dispute of $1,000 or less determined solely upon documentary evidence submitted by the parties; provided however, that any explanations or arguments accompanying the documents submitted by any party under this procedure must be notarized.*

* * * *Interpretations and Policies:*

.01 The Arbitration Committee may either establish Exchange arbitration facilities outside the Chicago area or refer arbitration cases to other securities industry arbitration organizations where the parties have requested an alternate situs. In the event a panel chosen in accordance with the provisions of this Chapter conducts the arbitration, such panel shall follow the procedures contained in this Chapter.

AMENDMENTS

Rule 18.6. [No Change]

TIME AND PLACE OF HEARING

Rule 18.7. (a) The [arbitrator] *Chairman of the panel* assigned to a particular matter shall appoint a time and place for the hearing and shall cause notice thereof to be given to each of the parties as provided in Rule 18.12. Notice of the initial hearing shall be given at least 10 business days prior to the date fixed for the hearing, and notice shall be given of each subsequent hearing as determined by the arbitrator[s]. Attendance at a hearing waives notice thereof.

(b) The arbitration panel may require the parties to post in advance with the *Secretary of the* Exchange a bond or other security in such amount as it deems necessary to defray expenses of the arbitration proceeding. Such bond or security shall promptly be returned to the parties upon the payment of fees or other costs assessed in compliance with Rule 18.11.

REPRESENTATION BY COUNSEL

Rule 18.8. Any party may elect to be represented by counsel at any stage of the arbitration proceedings. A party who is represented by counsel shall provide the Arbitration Committee with the name and address of his counsel, and thereafter, papers in the proceeding to be served upon such [parties] *party* shall be served upon his counsel.

ATTENDANCE AT HEARINGS

Rule 18.9. [No Change]

CONDUCT OF HEARINGS

Rule 18.10. [No Change]

AWARD OF ARBITRATORS

Rule 18.11 (*a*) Within 30 business days from the date that an arbitration hearing shall have been declared closed (unless the hearings are re-opened by the arbitrators upon a showing of good cause as permitted by law), the arbitrators shall file with the Secretary of the Exchange a written award signed by a majority of the arbitrators, and such award shall be served upon the parties by the Secretary of the Exchange in accordance with Rule 18.12. The arbitrators shall be empowered to assess any costs or fees in connection with the arbitration upon the parties in such manner as they deem to be appropriate. Except as otherwise directed by law, all awards rendered under this Chapter shall

[1] The term "member" as defined in the Constitution and used in the Rules includes a nominee of a member organization unless the context otherwise requires.

be deemed final and not subject to review or appeal.

(b) *The arbitrators may fix in the award the amount of costs chargeable to the parties to cover the expense of the hearing(s) and shall determine the manner in which and by whom such costs shall be borne.*

NOTICE

Rule 18.12. [No Change]

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

RULE 18.1

A new provision has been added which allows controversies between members and their employees relating to employment matters to be submitted to arbitration pursuant to the rules of the Exchange. It is felt that this is a necessary adjunct to the types of matters which are properly subject to Exchange arbitration.

Interpretation and Policy .01 has been added to Rule 18.1 to provide that the jurisdiction under this Chapter extend to resolve controversies involving former Exchange members, persons associated with a member, or employees of members provided that such controversies arose while the parties were members of the Exchange. The Exchange desires to preclude former Exchange members from ignoring petitions to arbitrate thereby enabling the existing Exchange member to utilize the Exchange arbitration procedures and forego resorting to the costly and time consuming process of litigating his claim in the courts. This revision reflects the holding in *MUH v. Newberger, Loeb & Co., Inc.* 540 F.2d 970 (9th Cir. 1976) wherein the circuit stated that it "would seem strange indeed that with such a significant integrated method of dispute settlement one party could frustrate the purpose of the Exchange rules and the federal policy favoring arbitration by the mere expediency of resignation from the Exchange." (at 973.)

Interpretation .02 to Rule 18.1 proposes that failure to abide by the provisions of this Chapter can be deemed conduct inconsistent with just and equitable principles of trade. This is in accordance with other securities industry arbitration codes and consistent with the Securities and Exchange Commission's opinion *In the Matter of the Application of Stix & Co.*, Exchange Act Release No. 34–12760 (September 2, 1976). The Exchange believes that this provision will dissuade Exchange members from defaulting in the payment of arbitration awards.

RULE 18.2

Interpretation .01 has been added to Rule 18.2 which interprets the term "reasonable time" in the rule. Under this interpretation, an arbitration proceeding will be deemed to be initiated within a reasonable time if it is filed no later than one year from the date of the event giving rise to the controversy. This provision is a "statute of limitations" and is necessary to assure that the Arbitration Committee will not be required to hear aged claims where witnesses will be difficult to locate and the recollection of events hazy. Also, it is believed that in fairness to the responding party he should not be subject to arbitration on a matter for time immemorial.

RULE 18.5

A new provision is proposed to be added to Rule 18.5 (a) and (b) which recognizes a party's right to petition the Arbitration Committee for permission to arbitrate the controversy at an alternate situs. This provision recognizes the establishment of arbitration facilities in Los Angeles, California and New York, New York by the Exchange. We believe that in order for the Exchange to be responsive to the public investor and to the Exchange member community, such alternate locations for arbitrating controversies are necessary.

A proposed short form arbitration procedure has also been added wherein, in subparagraph (c) of the rule, any dispute under $1,000 may, at the request of the initiating non-member party, and upon approval of the Arbitration Committee be determined solely upon documentary evidence. This is believed to be a necessary procedure since the Exchange's experience reflects that many prior non-member claims are for comparatively small amounts of money and the cost involved in obtaining counsel, preparing for a hearing, etc. may in some instances exceed the amount of the claim.

New Interpretation .01 to Rule 18.5 proposes to give the Arbitration Committee the authority to establish arbitration facilities outside of Chicago and to refer cases to other securities industry arbitration organizations. This interpretation will enable the Committee to continue to cooperate with the National Association of Securities Dealers ("NASD") in establishing additional locations for arbitration facilities to resolve options related disputes.

RULE 18.11

Subparagraph (b) is proposed to be added to Rule 18.11 to make it clear that arbitrators may allocate the cost and expenses involved in a particular hearing among the parties thereto. This is a common provision in federal and state arbitration law and it is believed that an explicit statement on this point will eliminate additional questions.

Section 6(b)(5) of the Securities Exchange Act of 1934, as amended provides the basis for the above described proposed rule changes insofar as arbitration procedures and facilities promote the efficient resolution of disputes among members and among public customers of members in furtherance of the public interest and the protection of investors.

Comments were not received or solicited from Exchange members.

The Exchange does not believe that the proposed rules changes will impose any burden upon competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER (1–26–77), 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, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission 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 January 12, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 13, 1976.

[FR Doc.76–37542 Filed 12–21–76;8:45 am]

[Release No. 34–13071; File No. SR–PHLX 76–18]

PHILADELPHIA STOCK EXCHANGE, INC.

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 29, 1976, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Pursuant to Rule 19b–4A, the Philadelphia Stock Exchange (PHLX) proposes to expand its Option Program by increasing the number of listed option classes traded on underlying stocks from forty (40) option classes to seventy (70) option classes.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to increase competition with other options exchanges and to accommodate the business needs of firms who have committed or desire to commit capital in the options specialist area.

On May 15, 1975, the SEC declared effective the Exchange's Plan and Rules for regulating transactions in options. The addition of options trading in 30

underlying securities will not materially alter the original Plan as approved by the SEC or significantly increase the PHLX's capacity to carry out the purposes of the Act and to enforce compliance by our members and persons associated with our members.

Comments were not solicited nor were comments received.

The Exchange does not believe that the proposed rule will impose any burden on competition.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission 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, 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 January 21, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 14, 1976.

[FR Doc.76-37543 Filed 12-21-76;8:45 am]

[811-2293; Release No. 9573]

ADVANCE INVESTORS CORP.

Filing of Application

DECEMBER 15, 1976.

In the matter of Advance Investors Corporation, 626 Lexington Avenue, New York, New York 10022.

Notice is hereby given that an application has been filed on October 20, 1976 on behalf of Advance Investors Corporation ("Applicant"), a Delaware corporation registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified management company, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that, pursuant to Articles of Merger ("Articles") approved by shareholders on July 26, 1976, between Applicant and Advance Investors Corporation ("Advance Maryland"), a Maryland corporation registered under the Act as an open-end, diversified management company, Applicant was merged with and into Advance Maryland. Applicant represents that the merger occurred in accordance with the laws of the states of Delaware and Maryland; that the merger became effective on August 30, 1976; that on such date the former shareholders of Applicant became shareholders of Advance Maryland by operation of law, each share of common stock of Applicant having been converted into one share of common stock of Advance Maryland; that Advance Maryland succeeded to all of the assets and liabilities of Applicant; that the corporate existence of Applicant ceased by operation of law; and that Applicant now has no assets and no shareholders.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 10, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37535 Filed 12-21-76;8:45 am]

[SR-Amex-76-25; Release No. 13075]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

DECEMBER 15, 1976.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006.

On October 21, 1976, the American Stock Exchange, Inc. filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The rule change requires specialists to disclose in certain situations the names of buying and selling member organizations in completed Exchange transactions in their specialist securities.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 12936, (October 29, 1976)) and by publication in the FEDERAL REGISTER (41 Fed. Reg. 48822 (November 5, 1976)).

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.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on October 21, 1976, 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.76-37475 Filed 12-21-76;8:45 am]

[Release No. 13070]

BANK OF NORTH DAKOTA

Notice of Application

DECEMBER 14, 1976.

In the matter of State of North Dakota, doing business as the Bank of North Dakota, 700 East Main, Bismark, North Dakota 58505.

Notice is hereby given that the State of North Dakota, doing business as the Bank of North Dakota (the "Bank") has applied, pursuant to Section 15B(a)(4) of the Securities Exchange Act of 1934 (the "Act"), for an exemption from Section 15B and the rules and regulations thereunder.

Section 15B(a)(4) of the Act provides that the Commission may exempt conditionally or unconditionally any broker, dealer, or municipal securities dealer from any provision of Section 15B or the rules or regulations thereunder if it finds that such exemption is consistent with the public interest, the protection of investors and the purposes of the section.

The Bank engages in the business of buying and selling municipal securities for its own account, other than in a fiduciary capacity, and is, therefore, a municipal securities dealer within the meaning of Section 3(a)(30) of the Act. The Bank is, however, entirely state-owned and purchases small issues of North Dakota municipal securities, which it then resells substantially without profit.

Notice is further given that any interested person may submit to the Commission not later than January 30, 1977 in writing any views or substantial facts bearing on this application. Any such communication should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street,

N.W., Washington, D.C. 20549 and should refer to File No. S7-664. Copies of the application and of all written submissions will be available for inspection and copying in the Public Reference Room of the Securities and Exchange Commission, 1100 L Street N.W., Washington, D.C. An order granting the application may be issued any time after January 30, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37541 Filed 12-21-76;8:45 am]

[70-5948; Release No. 19811]

CENTRAL AND SOUTH WEST CORP.

Proposed Issue and Sale of Common Stock and Request for Exception From Competitive Bidding

DECEMBER 15, 1976.

In the matter of Central and South West Corporation, P.O. Box 1631, Wilmington, Delaware 19899.

Notice is hereby given that Central and South West Corporation ("CSW"), a registered holding company, has filed an application-declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a) and 7 of the Act and Rules 50 and 100(a) as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

CSW proposes to issue and sell not to exceed 282,108 shares of its authorized and unissued common stock, par value $3.50 per share (the "additional shares") pursuant to an automatic dividend reinvestment and stock purchase plan ("plan"). CSW intends to establish the plan to be effective on or before February 28, 1977. CSW requests authority to sell the additional shares pursuant to the plan through April 30, 1978.

The plan provides that holders of CSW's common stock may automatically reinvest their cash dividends on their stock in the additional shares and, at their option, may make cash payments of not less than $10 nor more than $3,000 per quarter for the same purpose. The additional shares will be purchased from CSW each quarter by the First National Bank of Chicago (the "plan administrator"), which will administer the plan and act as agent for the participants in the plan. The price per share of the additional shares will be equal to the average of the high and low prices of CSW's common stock reported as New York Stock Exchange Composite Transactions on the cash dividend payment date or on the next preceding trading day if the dividend payment date is not a trading day or no trades in CSW's common stock occurred on the dividend payment date.

Any holder of CSW's common stock may join the plan at any time. Participation in the plan will be effective as of the first dividend payment date following receipt by the plan administrator of an authorization from the stockholder, subject to the requirement that such authorization must be received by the plan administrator on or before the 15th day of the month in which a cash dividend is paid. Participants may make optional cash payments in any quarter. Participants will be permitted to withdraw from the plan at any time, but if the plan administrator receives the request to withdraw on or after the cash dividend payment date, the amount of the cash dividend and any optional cash payments scheduled to be invested on such date will be so invested, but all subsequent dividends will be paid to the shareholder unless he re-enrolls in the plan. Upon withdrawing from the plan, a participant may have the whole shares credited to his account under the plan delivered to him, along with cash payments for fractional shares, or he may elect to have all his shares sold by the plan administrator.

It is stated that the additional shares constitute all of the remaining authorized but unissued shares of CSW's common stock excluding 6,250,000 shares scheduled for public offering on December 23, 1976 and 304,790 shares reserved for issuance order CSW's employee stock ownership plan (previously authorized by this Commission). Proceeds derived by CSW from the sale of the additional shares will be applied toward construction programs of CSW's subsidiary companies through loans or equity contributions. Such loans or equity contributions are now or will be the subject of further filings with this Commission.

CSW requests an exception from the competitive bidding requirements of Rule 50 under the Act for the sale of the additional shares pursuant to paragraph (a)(5) of that Rule.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given that any interested person may, not later than January 11, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, 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 applicant-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 application-declaration, as amended, or as it may be further amended, may be granted and 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 and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37536 Filed 12-21-76;8:45 am]

[812-4039; Release No. 9572]

CONNECTICUT MUTUAL LIFE INSURANCE CO.

Application for Exemption

DECEMBER 15, 1976.

In the matter of Connecticut Mutual Life Insurance Company, CML Variable Annuity Account A, and CML Accumulation Annuity Account E, 140 Garden Street, Hartford, Connecticut 06115.

Notice is hereby given that Connecticut Mutual Life Insurance Company ("CML"), a Connecticut mutual life insurance company, CML Variable Annuity A ("Account A") and CML Accumulation Annuity Account E ("Account E"), separate accounts of CML registered under the Investment Company Act of 1940 ("Act") as diversified open-end management investment companies (hereinafter collectively referred to as "Applicants"), filed an application on October 4, 1976 and an amendment thereto on November 19, 1976, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

CML established Account A on July 30, 1968 and Account E on July 20, 1975 pursuant to authorization by the Board of Directors of CML. Both separate accounts are facilities through which CML sets aside and invests assets attributable to certain variable annuity contracts issued in conjunction with plans qualified under Sections 401(a) or 403(a) of the Internal Revenue Code of 1954, as amended, ("Code") including plans establishd by persons entitled to the benefits of the Self-Employed Individuals Tax Retirement Act of 1962, as amended, and for annuity purchase plans adopted pursuant to Sections 403(b) or 408 of the Code.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available

to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits or such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Sections 27(c)(1), 22(e) and 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit redemption values under variable annuity contracts issued after the effective date of the order of exemption requested herein to participants in the Texas Program to be made available in accordance with the abovementioned Texas Attorney General's opinion only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant.

Applicants assert that if such exemptions are not granted, persons participating in the Texas Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Participants will be unable to obtain the state's matching contributions for the purchase of an equity-based retirement vehicle. The purpose of the State of Texas is to provide such retirement benefits with its matching contributions, and unresricted withdrawals prior to retirement apparently were deemed detrimental to such purpose. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each Prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, CML will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market to specifically bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 10, 1976, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following January 10, 1976, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37537 Filed 12-21-76;8:45 am]

[76-5937; Release No. 19804]

NEW ENGLAND POWER CO.

Proposed Execution and Delivery of General and Refunding Mortgage Indenture, Proposed Issue and Sale of General and Refunding Bonds at Competitive Bidding and Pledge of First Mortgage Bonds to General and Refunding Mortgage Trustee

DECEMBER 10, 1976.

In the matter of New England Power Company, 20 Turnpike Road, Westborough, Massachusetts 01581.

Notice is hereby given that New England Power Company ("NEPCO"), an electric utility subsidiary company of New England Electric System, a registered holding company, has filed an application-declaration, and an amendment thereto, with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(b), 9(a), 10 and 12 of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

NEPCO proposes to execute and deliver to New England Merchants National Bank, as Trustee ("Trustee"), a General and Refunding Mortgage Indenture and Deed of Trust to be dated as of January 1,

1977 ("G&R Indenture") and to issue and sell $50,000,000 principal amount of general and refunding bonds, Series A ("Series A bonds") under the G&R Indenture. The Series A bonds will bear interest at such rate and will be sold at such price as will be determined by competitive bidding. Bids will specify the interest rate (which shall be a multiple of ⅛ of 1%) and the price (which shall be not less than 100% nor more than 102¾% of the principal amount of the Series A bonds). It is stated that if the winning bid's interest rate specified exceeds 10¼% per annum, further orders of state commissions having jurisdiction will be necessary for NEPCO to accept the bid. NEPCO will notify prospective bidders not later than two business days prior to the time designated for submission of bids (i) the date the Series A bonds shall mature and (ii) whether or not the Series A bonds will be redeemable during the first five years of their term, or some lesser portion thereof, in connection with a refunding at a lesser effective interest cost to NEPCO.

The Series A Bonds will be secured, together with all other G&R bonds hereafter issued, by a lien on the assets of NEPCO. This lien will be subordinate to the lien of the Indenture of Trust and First Mortgage dated as of November 15, 1936 ("first mortgage indenture"), (ii) liens permitted by the G&R Indenture and (iii) property excepted by the G&R Indenture. G&R bonds will be further secured by first mortgage bonds which NEPCO is obligated to issue and pledge with the G&R Trustee. First mortgage bonds will no longer be issued and sold to the public.

G&R Indenture provisions relating to issuance of additional G&R bonds provide, among other things, that when issuing G&R bonds against property additions or deposit of money, NEPCO must demonstrate that its net earnings for any 12 consecutive calendar months within the preceding 15 calendar months are at least twice the annual interest charges on all G&R bonds outstanding and applied for and on all equal or prior lien indebtedness. Except in certain instances, no earnings test is required in connection with the refunding of a like amount of bonds.

In connection with issue and sale of the Series A Bonds, NEPCO proposes to issue up to $50,000,000 principal amount of additional first mortgage bonds, Series V. The Series V bonds will be issued under the first mortgage indenture, will be pledged to the G&R Indenture Trustee and will have the same interest rate and maturity as the Series A Bonds. The exact principal amount of the Series V bonds to be issued and pledged cannot be determined until the time the Series A Bonds are issued. This is because the G&R Indenture requires that Series V Bonds be issued and pledged to the maximum amount permissible under the first mortgage indenture which has more restrictive requirements on the issuance of bonds than the G&R indenture.

NEPCO states that it proposes to execute the G&R Indenture because it wishes to eliminate certain outmoded provisions in its present first mortgage indenture. One such provision restricts bondable property to property which has obtained all licenses and permits necessary for the operation of the property, thereby preventing the bonding of most new facilities during construction. NEPCO states that this restriction restricts the construction of new facilities and increases the cost of their financing. To change this provision would require the approval of 80% of the present holders of NEPCO's first mortgage bonds, and NEPCO states that it does not believe there is sufficient chance of success to incur the cost and time involved in seeking such approval. NEPCO further states that it wished to make other revisions to its old first mortgage indenture, such as modernizing the definition of additional property, net earnings and other provisions and making changes to reduce paperwork.

In computing net earnings for purpose of interest coverage, the G&R Indenture (i) permits inclusion of equity in earnings of subsidiaries, (ii) excludes interest on other than bonded indebtedness and (iii) permits inclusion of non-operating income up to 10% of operating income. It is estimated that pro forma interest coverage computed under the first mortgage indenture for the 12 months ended December 31, 1976, would have been 3.55 and under the G&R Indenture calculation the coverage would have been 4.03.

Based on property additions through September 30, 1976, the approximate net amount of additional property against which first mortgage bonds could be issued would be $9,300,000. As of the same date, the approximate amount of available net additional property against which G&R Bonds might be issued was $117,000,000.

Proceeds from the sale of the Series A Bonds will be used to reduce outstanding short-term notes to NEPCO issued to pay for capitalizable expenditures and the refunding of NEPCO Series Q first mortgage bonds maturing on December 1, 1976, or to reimburse its treasury therefore. It is expected that NEPCO will have approximately $86,000,000 in short-term notes outstanding at the time of the sale of the Series A Bonds.

It is stated that the Massachusetts Department of Public Utilities, the New Hampshire Public Utilities Commission, the Vermont Public Service Board and the Connecticut Public Utilities Control Authority have jurisdiction over various aspects of the proposed transactions and that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions are estimated at $165,000, including services provided at cost by New England Power Service Company of $45,000, printing costs of $48,000 and accountants' fees of $10,000.

Notice is further given that any interested person may, not later than January 5, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said application-declaration 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 applicant-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 application-declaration, as it may be amended, may be granted and 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 and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-37538 Filed 12-21-76;8:45 am]

[812-4041; Release No. 9576]

PARAMOUNT MUTUAL FUND, INC. AND UNIFUND, INC.

Application for Exemption

DECEMBER 16, 1976.

In the matter of Paramount Mutual Fund, Inc., and Unifund, Inc., 2441 Honolulu Avenue, Montrose, California 91020.

Notice is hereby given that Paramount Mutual Fund, Inc. ("Paramount"), a Delaware corporation, and Unifund, Inc. ("Unifund"), a California corporation, (hereinafter referred to collectively as "Applicants"), both registered as diversified, open-end mangement investment companies under the Investment Company Act of 1940 ("Act"), filed an application on October 14, 1976, and amendments thereto on December 6, 1976, and December 13, 1976, for an order pursant to Section 17(b) of the Act exempting from the provisions of Section 17(a) of the Act a proposed merger of Unifund into Paramount. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Unifund was incorporated on October 13, 1964, and, as of September 30, 1976, had 220,974 shares outstanding and net assets of $1,931,250; Paramount was incorporated on September 8, 1958, and, as of September 30, 1976, had 838,523 shares outstanding and net

assets of $6,845,857. Applicants further state that TCA Management Corporation ("TCA Management") currently acts as investment adviser to both of the Funds and that the Applicants currently have common officers and a common Board of Directors, with the exception that Joseph Lowitz, a Director of Paramount, is not a Director of Unifund, and Grant Brimhall, a Director of Unifund, is not a Director of Paramount.

Applicants represent that they propose to enter into an Agreement and Plan of Merger ("Agreement"), pursuant to which Unifund will be merged into Paramount and the separate existence of Unifund will cease. Applicants further state that Paramount shall be the surviving corporation and shall possess all the rights, privileges, and powers, and be subject to all of the restrictions, disabilities and duties of Paramount and Unifund; that all assets of Unifund shall be vested in Paramount; and that all debts, liabilities and duties of Unifund shall attach to Paramount as the surviving corporation. Applicants also submit that, in order for the merger to become effective, the Agreement requires (1) the affirmative vote of at least a majority of the outstanding shares of each of the Applicants; (2) an opinion of Applicants' legal counsel to the effect that the merger will constitute a tax free reorganization; and (3) the issuance of the order requested herein and of any other orders of federal and state regulatory authorities as may be necessary. According to the application, the Agreement also contains customary representations and warranties by each of the Funds, the truth and correctness of which are to be conditions precedent to the consummation of the merger.

Applicants state that the Agreement was submitted to the Boards of Directors of each of the Funds and approved by a majority of the Directors of each such Board on November 24, 1976. According to the application, the proposed merger plan will be submitted to the shareholders of each of the Funds at their annual meetings to be held January 12, 1977.

Applicants state that the proposed effective date of the merger shall be January 31, 1977, and that, shortly before the effective date of the merger, each of the Applicants shall distribute to its shareholders substantially all of its net taxable income for the fiscal year through the effective date of the merger.

If the merger is consummated, it is proposed that the outstanding shares of Unifund held of record by each shareholder of Unifund will be converted into and become that number of full and/or fractional shares of Paramount which, when multiplied by the net asset value per share of such shares of Paramount, shall have an aggregate net asset value equal to the aggregate net asset value of such shareholder's interest in Unifund. The net asset value of the shares of common stock of Unifund and Paramount at the effective date of the merger shall be the net asset values of each of the Applicants determined in the manner described in their current prospectuses as of the close of the New York Exchange on the day of the effective time of the merger.

Applicants represent that their respective tax positions, as of September 30, 1976, are as follows: Paramount had a capital loss carryover of $352,344, of which $80,802 and $271,542 may be used to offset capital gains realized during the five year periods ending September 30, 1982 and 1983, respectively; Unifund had a capital loss carryover of $202, which expires on September 30, 1982. On September 30, 1976, Paramount had net unrealized gains of $711,135 and Unifund has no net unrealized gains.

The Applicants have agreed that no adjustment need be made in the computation of the Applicants' respective net asset values to reflect any potential income tax impact on their shareholders which might result from differences in amounts of the realized and unrealized capital gains or losses. Applicants are of the opinion that the actual impact of capital loss carryovers and current net unrealized gains or losses is not readily determinable and would be largely a matter of speculation, and that any such impact would depend on many different factors, including each individual shareholder's personal tax status.

Applicants represent that the primary investment objective of each of them is growth of capital; that each of the Applicants normally invest in equity securities with a major portion of their investments in common stocks; and that their investment restrictions are substantially similar in content. Applicants state, however, that Unifund may not borrow except for temporary or emergency purposes from banks, in an amount up to 5% of the value of its assets, but that it may not borrow money to purchase investment securities. Applicants further state that Paramount, whose investment restrictions will be those of the surviving company, has no such restriction on borrowing, but that Paramount is not presently in debt for any sums borrowed for the purchase of securities.

Applicants state that the portfolio of Unifund will continually be reviewed to ascertain that all securities held by Unifund are compatible with Paramount's investment objective, and that, should any security held by Unifund be deemed to be incompatible with that objective, it will be sold prior to the merger.

The application also states that in addition to voting on the merger agreement at the annual meeting of January 12, 1977, the shareholders of each of the Applicants will be asked to approve proposed investment advisory agreements with Paramount Mutual Fund Management Corporation ("Paramount Management"), to replace the existing advisory agreements between each of the Applicants and TCA Management, said proposed agreements to become effective as of February 1, 1977. As described in the application, the nature of the services provided by the adviser and the terms of the advisory fee schedule are identical in both the existing and proposed advisory agreements.

Section 17(a) of the Act provides, in part, that it shall be unlawful for any affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, knowingly to sell or purchase from such registered investment company any security or other property. Section 17(b) of the Act provides that the Commission, upon application, shall exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Section 2(a)(3) of the Act, in part, defines "affiliated person" of another person to include any person directly or indirectly under common control with such other person. Applicants recognize that, on the basis of the foregoing facts, they might be deemed to be "affiliated persons" of each other and state that they have filed this application to avoid any question being raised under Section 17(a) of the Act with respect to the transaction described herein.

Applicants represent that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, in that shares of Paramount are proposed to be issued for shares of Unifund on the basis of their respective net asset values. Applicants represent further that the transaction is consistent with the policies of each of them. Applicants are of the opinion that their shareholders will benefit from the spreading over their combined assets of certain relatively fixed expenses, which currently constitute a potential duplication of expense in (1) auditing, accounting, and legal areas; (2) the qualification of shares for sale in the various jurisdictions where shares are sold; (3) preparation and printing of shareholder reports, prospectuses and proxy material; and (4) possible further savings in custodial fees and other expenses. It is estimated by Applicants that their combined expenses in the twelve months ended September 30, 1976, assuming that the Applicants' current investment advisory agreements had been in effect throughout the period, would have been reduced by more than $17,400 had the Funds been combined during that period. Applicants further assert that the increased size of the combined fund also would provide it with certain other strengths and flexibilities including somewhat greater investment flexibility with respect to portfolio transactions.

According to the Application, each of the Applicants will bear its own expenses in connection with the merger. Such expenses are estimated by Applicants to be $15,000 in the aggregate, of which Uni-

fund will bear $5,000 and the remainder of approximately $10,000 will be borne by Paramount.

Notice is further given that any interested person may, not later than January 10, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–37539 Filed 12–21–76;8:45 am]

[812–4029; Release No. 9568]

PUTNAM TAX EXEMPT INCOME FUND

Application for Exemption

DECEMBER 13, 1976.

In the matter of Putnam Tax Exempt Income Fund (formerly Putnam Municipal Bond Fund), 265 Franklin Street, Boston, Massachusetts 02110.

On November 10, 1976, a notice was issued (Investment Company Act Release No. 9519) ("Notice") of an application filed on September 17, 1976, by Putnam Municipal Bond Fund ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end investment company, for an order, pursuant to Section 6(c) of the Act, declaring that Mr. Avery Rockefeller, Jr. ("Rockefeller"), Mr. Donald J. Hurley ("Hurley"), and Mr. Hans H. Estin ("Estin"), proposed trustees of Applicant, each shall not be deemed to be an "interested person" of the Applicant, or The Putnam Management Company, Inc. ("Adviser"), the investment adviser to the Applicant, or Putnam Fund Distributors, Inc. ("PFD"), principal underwriter of the Applicant, within the meaning of Section 2(a)(19) of the Act, by reason of their being directors of, with respect to Rockefeller, The Home Insurance Company and, with respect to Hurley and Estin, The Boston Company, Inc. and/or Boston Safe Deposit and Trust Company. On December 6, 1976, Applicant filed an amendment to the application. All interested persons are referred to amendment No. 1 to the application on file with the Commission for a statement of the additional representations contained therein, which are summarized below.

Notice is hereby given that the following changes should be made in the Notice:

1. Applicant's name has been changed from Putnam Municipal Bond Fund to Putnam Tax Exempt Income Fund, effective October 29, 1976.

2. It is stated that Applicant's initial public offering of its shares will be underwritten by Merrill Lynch, Pierce, Fenner & Smith, Incorporated, Bache Halsey Stuart, Inc., and Reynolds Securities, Inc. ("Underwriters") instead of by PFD, which will act as principal underwriter in the continuous offering of Applicant's shares to commence not less than 30 days following the closing of the initial public offering (expected to be December 22, 1976). Applicant states that the Underwriters are not expected to act as principal underwriters of shares of Applicant following the initial offering.

3. It is represented that, if Rockefeller, Hurley, and Estin are each deemed not to be an "interested person" of Applicant, the Adviser, and PFD within the meaning of Section 2(a)(19) of the Act, they may be proposed for election to Applicant's Board of Trustees at a meeting of Applicant's shareholders in 1977. Applicant anticipates that they will not be proposed for election until after the commencement of the continuous offering of Applicant's shares. The Notice stated that Applicant anticipated adding Rockefeller, Hurley, and Estin to the Board of Trustees prior to the initial public offering.

4. Applicant states that the reference to Estin serving as Chairman of the Board of Trustees of Boston University should be deleted; Estin is, however, a member of the Board of Trustees of the Boston University Medical Center.

The Notice erroneously stated that the file number of the original application was 812–4026. The correct file number is 812–4029.

Notice is further given that the notice period during which any interested person may submit to the Commission a request for a hearing on this matter, in accordance with the procedures set forth in Investment Company Act Release No. 9519, is hereby extended until January 7, 1977 at 5:30 p.m.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–37540 Filed 12–21–76;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM–7/4]

ADVISORY PANEL ON ACADEMIC MUSIC

Notice of Meeting

Pursuant to Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Panel on Academic Music has scheduled a meeting to be held on Monday, January 17, in Room 507 at State Annex 2, Department of State, 515 22nd Street, N.W., Washington, D.C. The meeting hours will be from 9:45 a.m. to 12:30 p.m. and from 2:00 p.m. to 5:30 p.m.

The sessions will be open to the public. The agenda is:

(1) Review of program policies and guidelines;

(2) Review of recent overseas tours in the music field sponsored by the Department of State;

(3) Evaluation of tapes and records of College/University performing arts groups planning tours abroad, and academic groups which wish to be considered as candidates for grants, sponsorship or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda items may do so, subject to restrictions of time and direction of the Chair.

For the purpose of fulfilling building security requirements, it is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before January 13; the telephone number is (area code 202) 632–2346.

The meeting room has a seating capacity of 30, so the public will be admitted on a first-come, first-served basis.

Dated: December 14, 1976.

PAUL E. WHEELER,
Director, Office of International Arts Affairs.

[FR Doc.76–37521 Filed 12–21–76;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 77–1; Customs Delegation Order No. 1 (Revision 1) amended]

DIRECTOR, CLASSIFICATION AND VALUES DIVISION, ET AL.

Delegation of Authority

DECEMBER 16, 1976.

1. By virtue of the authority vested in me by Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, Customs Delegation Order No. 1 (Revision 1) (T.D. 69–126, 34 FR 8208) is hereby amended as follows:

Paragraph A. is amended to read as follows:

A. Assistant Commissioner of Customs, Office of Regulations and Rulings:

Decisions with respect to any claim (including claim for liquidated damages), fine, or penalty (including forfeiture) now delegated to the Commissioner of Customs by paragraph (h) of Treasury Department Or-

der No. 165, Revised, as amended, (supra), decisions denying or approving requests for information under 5 U.S.C. 552, decisions denying or approving requests for extension of the time for the submission of comments on proposed amendments to the Customs Regulations, and decisions and functions relating to all matters in which authority also is delegated by this Order to the Director, Classification and Value Division, the Director, Entry Procedures and Penalties Division, and the Director, Carriers, Drawback and Bonds Division.

2. This order shall take effect on December 22, 1976.

VERNON D. ACREE,
Commissioner of Customs.

[FR Doc.76-37563 Filed 12-21-76;8:45 am]

Fiscal Service

[Dept. Circ. 570, 1976 Rev., Supp. No. 7]

HALLMARK INSURANCE CO., INC.

Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the Certificate of Authority issued by the Treasury to Hallmark Insurance Company, Inc., Madison, Wisconsin, under Sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated effective this date.

The company was last listed as an acceptable surety on Federal bonds at 41 FR 28243 July 8, 1976.

Bond-approving officers of the Government should, in instances where such action is necessary, secure new bonds in lieu of bonds executed by Hallmark Insurance Company, Inc.

Dated: December 17, 1976.

D. A. PAGLIAI,
Commissioner, Bureau of Government Financial Operations.

[FR Doc.76-37583 Filed 12-21-76;8:45 am]

[Administrative Ruling 76-5]

Office of Revenue Sharing

ANTIRECESSION FISCAL ASSISTANCE

Modification of Waiver Procedures

Section 52.26(a) of the interim regulations (31 CFR 52.26(a); 41 F.R. 44842) promulgated pursuant to Title II of the Public Works Employment Act of 1976 (Pub. L. 94-369), provides that any recipient government may waive antirecession fiscal assistance payments provided the chief executive officer of that government notifies the Director of the Office of Revenue Sharing in writing of its intention to waive such payment and returns the waived payment to the Director. Section 52.26(a) of the regulations also provides, in pertinent part, that the waiver shall be accompanied by a resolution of the governing body of the government requesting the waiver.

The Director of the Office of Revenue Sharing has determined that the resolution requirement of Section 52.26(a) has resulted in unnecessary confusion among recipient governments because it is unlike the Revenue Sharing regulation (31 CFR 51.25(a)) which does not require a resolution in order to waive general revenue sharing funds. Accordingly, the Office of Revenue Sharing will hereafter give effect to requests for a waiver of antirecession fiscal assistance payments made by the chief executive officer of a recipient government, with the consent of the governing body of that government, whenever such request is accompanied by the return to the Director of the Office of Revenue Sharing of any waived payments. Requests for waivers which comply with these requirements need not be accompanied by a resolution of the governing body of the recipient government waiving the antirecession fiscal assistance payments.

Dated: December 17, 1976.

JEANNA D. TULLY,
Director,
Office of Revenue Sharing.

[FR Doc.76-37529 Filed 12-17-76;10:03 am]

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Notice of Meetings and Determination Under Public Law 92-463

Notice is hereby given, pursuant to Section 10 of Public Law 92-463, that meetings will be held in Washington on January 25 and 26, 1977, of the following debt management advisory committees:

American Bankers Association, Government Borrowing Committee
Securities Industry Association, Government Securities and Federal Agencies Committee

The agenda for the meetings provides for working sessions by two committees on January 25, a report to the Secretary of the Treasury and Treasury staff by the American Bankers Association Government Borrowing Committee on January 25 and a report to the Secretary of the Treasury and Treasury staff by the Securities Industry Association Government Securities and Federal Agencies Committee on January 26.

Pursuant to the authority placed in Heads of Departments by Section 10(d) of Public Law 92-463, and vested in me by Treasury Department Order 190, revised, I hereby determine that these meetings are concerned with information exempt from disclosure under Section 552(b)(4) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meetings called by representatives of this office. When so utilized they are recognized to be advisory committees under Public Law 92-463. The advice provided consists of commercial and financial information given and received in confidence in order to avoid adverse effects of premature disclosure on the financial markets and the economy. As such these debt management advisory committee activities concern matters which fall within the exemption covered by Section 552(b)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential".

The Assistant Secretary (Capital Markets and Debt Management) shall be responsible for maintaining records of the meetings of these committees and for providing annual reports setting forth a summary of their activities and such other matters as may be informative to the public consistent with the provisions of 5 U.S.C. 552(b)(4).

Dated: December 17, 1976.

EDWIN H. YEO, III,
Under Secretary for Monetary Affairs.

[FR Doc.76-37509 Filed 12-21-76;8:45 am]

UNWROUGHT ZINC FROM SPAIN

Preliminary Countervailing Duty Determination

On August 2, 1976, a "Notice of Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (41 FR 32249). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Spain upon the manufacture, production, or exportation of unwrought zinc constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has been determined preliminarily that benefits have been paid or bestowed, directly or indirectly, under the Spanish Government tax remission system known as the desgravacion fiscal.

Benefits derived from the desgravacion fiscal, in some instances, constitute bounties or grants within the meaning of the Act. Accordingly, it has been determined preliminarily that imports of unwrought zinc from Spain benefit from payments of bounties or grants, directly or indirectly, within the meaning of the Act by reason of this program.

Before a final determination is made, consideration will be given to any relevant data, views or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, in time to be re-

ceived by his office not later than on or before January 21, 1977.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

DECEMBER 17, 1976.

VERNON D. ACREE,
Commissioner of Customs.

Approved.

PETER O. SUCHMAN,
Acting Assistant Secretary of the Treasury.

[FR Doc.76-37591 Filed 12-21-76;8:45 am]

URBAN REINVESTMENT TASK FORCE

NEIGHBORHOOD PRESERVATION PROJECTS

Application Procedures

The Urban Reinvestment Task Force is a joint effort of the heads of the Federal financial regulatory agencies and the Secretary of the U.S. Department of Housing and Urban Development to stimulate the development of local partnerships committed to a coordinated neighborhood reinvestment strategy. The members of the Urban Reinvestment Task Force are:

The Secretary, U.S. Department of Housing and Urban Development; the Chairman, Federal Home Loan Bank Board; a member, Board of Governors, Federal Reserve System; the Chairman, Federal Deposit Insurance Corporation; and the Comptroller of the Currency.

The Task Force is involved in two separate programs, Neighborhood Housing Services (NHS) and Neighborhood Preservation Projects (NPP). Both programs involve the creation of a local partnership bringing together neighborhood residents, the private sector and local goverment. Task Force staff plays an active role in seeking out resources for neighborhoods from a broad range of public and private entities.

NEIGHBORHOOD PRESERVATION PROJECTS

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

Projects may be supportive of the Neighborhood Housing Services programs or they may offer other innovative approaches to stabilizing and improving the neighborhood environment. Those preservation programs that are successful will be offered to other cities as models which they can use to treat specific problems in their neighborhoods.

PROGRAM AREAS FOR NEIGHBORHOOD PRESERVATION PROJECTS

In addition to programs which affect the physical environment, the Task Force is seeking innovative preservation strategies that deal with broader issues related to the social and economic fabric of urban neighborhoods. The Task Force will consider for selection as a Neighborhood Preservation Project applications which include (but are not limited to) one or more of the following areas:

1. Innovative financing or economic incentives to rehabilitate and stabilize apartment buildings;
2. Innovative education strategies;
3. Innovative crime prevention strategies; and
4. Mechanisms which provide for equitable treatment for current residents of neighborhoods experiencing rapidly increasing housing costs.

SELECTION CRITERIA FOR NEIGHBORHOOD PRESERVATION PROJECTS

1. The project should involve a partnership of neighborhood residents, the private sector, and local government.
2. Preference will be given to projects that are operational or at the point of starting operations.
3. The project should be specific to a neighborhood or neighborhoods, and should either have demonstrated success or show a strong probability of success in upgrading that/those neighborhood(s).
4. Local government should be willing to allocate financial resources and technical assistance to the project.
5. Those responsible for the implementation of the project should have a demonstrated capability to perform successfully in the area of neighborhood preservation.
6. The project sponsors should be willing to provide information which can be analyzed by the Task Force or its participating agencies to judge the effectiveness of the project. Sponsors should also be willing to cooperate with the Task Force in assisting others who may wish to replicate their project.

APPLICATION PROCEDURE

Application forms are available upon request. Cities or other governmental jurisdictions or non-public entities wishing to be considered for selection as a Neighborhood Preservation Project should submit a formal application to the Urban Reinvestment Task Force by March 1, 1977.

The Task Force 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 Task Force resources.

Inquiries should be addressed to:

Associate Director for Neighborhood Preservation Programs, 1120 19th Street, N.W., Suite 600, Washington, D.C. 20036.

WM. A. WHITESIDE,
Staff Director.

[FR Doc.76-37530 Filed 12-21-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 218]

ASSIGNMENT OF HEARINGS

DECEMBER 17, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135732 Sub 25, Aubrey Freight Lines, Inc., MC 123048 Sub 343, Diamond Transportation System, Inc., MC 118989 Sub 141, Container Transit, Inc., MC 116763 Sub 348, Carl Subler Trucking, Inc., MC 115331 Sub 413, Truck Transport, Inc., and MC 113678 Sub 631, Curtis, Inc. now being assigned March 28, 1977 (2 weeks), at Milwaukee, Wisconsin in a hearing room to be later designated.

MC 67866 (Sub-No. 31), Film Transit, Inc., now assigned January 18, 1977, at Memphis, Tenn. will be held in Room 396, Federal Building, 167 North Main Street.

MC 13250 (Sub-133), J. H. Rose Truck Line, Inc.; MC 100666 (Sub-335), Melton Truck Lines, Inc.; MC 107678 (Sub-60), Hill & Hill Truck Line, Inc.; MC 107743 (Sub-40), System Transport, Inc. and MC 114211 (Sub-283), Warren Transport, Inc., now being assigned February 22, 1977 (9 days), at Houston, Texas, in White Hall Hotel, 1700 Smith and continued to March 7, 1977 (1 week), at Portland, Oregon, in the Benson Hotel, 309 S. W. Broadway.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37610 Filed 12-21-76;8:45 am]

[Rule 19; Ex Parte No. 241; Second Revised Exemption No. 129]

ATCHISON, TOPEKA AND SANTA FE RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote

from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 401 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6 in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

The Atchison, Topeka and Santa Fe Railway Company.
Reporting marks: ATSF.[1]
The Baltimore and Ohio Railroad Company.
Reporting marks: BO.
Burlington Northern Inc.
Reporting marks: BN–CBQ–GN–NP–SPS.
The Chesapeake and Ohio Railway Company.
Reporting marks: CO–PM.
Chicago Rock Island and Pacific Railroad Company.
Reporting marks: RI–ROCK.
Chicago, West Pullman & Southern Railroad Company.
Reporting marks: CWP.
The Denver and Rio Grande Western Railroad Company.
Reporting marks: DRGW.
Detroit and Mackinac Railway Company.
Reporting marks: D&M–DM.
Elgin, Joliet and Eastern Railway Company.
Reporting marks: EJE.
Illinois Terminal Railroad Company.
Reporting marks: ITC.
Louisville and Nashville Railroad Company.
Reporting marks: CIL–L&N–MON–NC.
Louisville, New Albany & Corydon Railroad Company.
Reporting marks: LNAC.
Missouri-Kansas-Texas Railroad Company.
Reporting marks: MKT.
Missouri Pacific Railroad Company.
Reporting marks: CEI–MI–MP–TP.
Southern Railway Company.
Reporting marks: CG–NS–SA–SOU.
St. Louis-San Francisco Railway Company.
Reporting marks: SLSF.
Soo Line Railroad Company.[2]
Reporting marks: SOO.
Reporting marks: UP.
Western Maryland Railway Company.
Reporting marks: WM.

Effective 12:01 a.m., December 15, 1976, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 8, 1976.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.76–37605 Filed 12–21–76;8:45 am]

[1] Delete: Atlanta & Saint Andrews Bay Railway Company.
[2] Addition: Soo Line Railroad Company. Union Pacific Railroad Company.

[Rule 19; Ex Parte No. 241; Twenty-First Revised Exemption No. 90]

BALTIMORE AND OHIO RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

To all railroads: It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 401, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1, 2(a), and 2(b).

The Baltimore and Ohio Railroad Company.[1]
Reporting marks: BO.
The Chesapeake and Ohio Railway Company.
Reporting marks: CO–PM.
Elgin, Joliet and Eastern Railway Company.
Reporting marks: EJE.
Green Mountain Railroad Corporation.
Reporting marks: GMRC.
Greenville and Northern Railway Company.
Reporting marks: GRN.
Louisville and Wadley Railway Company.
Reporting marks: LW.
Louisville, New Albany & Corydon Railroad Company.
Reporting marks: LNAC.
Missouri-Kansas-Texas Railroad Company.
Reporting marks: BKTY–MKT.
New Jersey, Indiana & Illinois Railroad Company.
Reporting marks: NJII.
Norfolk and Western Railway Company.
Reporting marks: N&W-ACY-NKP-P&WV-WAB.
Ogdensburg Bridge and Port Authority.
Reporting marks: NSL.
Pearl River Valley Railroad Company.
Reporting marks: PRV.
The Pittsburgh and Lake Erie Railroad Company.
Reporting marks: P&LE.
Raritan River Rail Road Company.
Reporting marks: RR.
Sacramento Northern Railway.
Reporting marks: SN.
St. Johnsbury & Lamoille County Railroad.
Reporting marks: SJL.
Sierra Railroad Company.
Reporting marks: SERA.
Tidewater Southern Railway Company.
Reporting marks: TS.
Toledo, Peoria & Western Railroad Company.
Reporting marks: TPW.
Vermont Railway, Inc.
Reporting marks: VTR.
WCTU Railway Company.
Reporting marks: WCTR.
Western Maryland Railway Company.
Reporting marks; WM.
Yreka Western Railroad Company.
Reporting marks: YW.

Effective December 15, 1976, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., December 8, 1976.

INTERSTATE COMMERCE COMMISSION
JOEL E. BURNS,
Agent.

[1] Deleted: Atlanta & Saint Andrews Bay Railway Company.

[FR Doc.76–37060 Filed 12–21–76;8:45 am]

[Notice No. AB 7 (Sub-No. 27); Finance Docket No. 28218]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

Trackage Rights—Over Chicago and North Western Transportation Co. in Fond du Lac, County of Fond du Lac, Wisconsin

DECEMBER 10, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company of a 2.5 mile segment of its line and related track in Fond du Lac, County of Fond du Lac, Wisc., and the proposed trackage rights acquisition by the applicant over a 2.7 mile segment of Chicago and North Western Transportation Company line in Fond du Lac, if approved by the Commission, 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 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that service would continue to the only shipper on the subject line via acquisition of trackage rights over the nearby C&NW line. The rerouting of traffic over the new route is not anticipated to cause any additional significant impacts due to the low volume of traffic and short distances involved. An environmental benefit would be accrued by the elimination of 19 grade crossings on the subject line. The city of Fond du Lac has also expressed interest in acquiring the right-of-way for public use should the abandonment be approved.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202–275–7011.

Interested persons may comment on this matter by filing their statements

in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 14, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37609 Filed 12-21-76;8:45 am]

[Rule 19; Ex Parte No. 241; Exemption No. 111]

DETROIT, TOLEDO AND IRONTON RAILROAD CO. AND NORFOLK AND WESTERN RAILWAY CO.

Exemption Under Mandatory Car Service Rules

It appearing, That The Detroit, Toledo and Ironton Railroad Company (DTI) and the Norfolk and Western Railway Company (N&W) have each agreed to the unrestricted use by the other of its plain gondola cars less than 61 ft. in length; and that such mutual use of gondola cars will increase car utilization by reductions in switching and movements of empty gondola cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 401, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "GA", "GB", "GD", "GH", "GS", and "GW", which are less than 61 ft. 0 in. long, and which bear the reporting marks listed herein, may be used by the DTI and the N&W without regard to the requirements of Car Service Rules 1 and 2.

REPORTING MARKS

DTI	N&W
DTI	[1] ACY
DT&I	NKP
	N&W
	P&WV
	VGN
	WAB

[1] Addition.

Effective December 15, 1976.

Expires March 15, 1977.

Issued at Washington, D.C., December 9, 1976.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.76-37606 Filed 12-21-76;8:45 am]

[Notice No. 93]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 22, 1976.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212a(b) in connection with transfer application under section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 76863. By application filed December 9, 1976, Zellmer Truck Lines, P.O. Box 996, Granville, IL 61326, seeks temporary authority to transfer the operating rights of Henry Zellmer, an individual, doing business as Zellmer Truck Lines, P.O. Box 996, Granville, IL 61326, under Section 210a(b). The transfer to Zellman Truck Lines, of the operating rights of Henry Zellmer, an individual, doing business as Zellmer Truck Lines, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37604 Filed 12-21-76;8:45 am]

[Notice No. 94]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 22, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under section 212a(b) in connection with transfer application under section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 76875. By application filed December 14, 1976, Mustang Transportation Incorporated, 3804 Jensen Drive, P.O. Box 21201, Houston, TX 77026, seeks temporary authority to transfer the operating rights of Ramsey Truck Lines, Inc., P.O. Box 1031, Houston, TX 77001, under Section 210a(b). The transfer to Mustang Transportation Incorporated, of the operating rights of Ramsey Truck Lines, Inc., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37603 Filed 12-21-76;8:45 am]

[Notice No. AB 12 (Sub-No. 42)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment of Portion of Railroad Services

DECEMBER 9, 1976.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Southern Pacific Transportation Company of a portion of its Clovis Branch Line between Copper Ave. and Rockfield, a distance of 2.62 miles, all in Fresno County, Ca., if approved by the Commission, 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 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the absence of commercial rail traffic over the line would result in no increase in motor carrier use over the highways of the affected area if the abandonment were approved. Accordingly, there should be no changes in ambient environmental conditions, safety, or traffic patterns. Approval of the abandonment would not affect any endangered or threatened species, historic structures, or archeological sites. Due to the lack of definitive industrial plans for the area, authorization of the abandonment would not seriously affect rural and community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before January 13, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-37607 Filed 12-21-76;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 17, 1976.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before January 6, 1977.

FSA No. 43286—*Rice and Rice Products from Arkansas, Louisiana and Texas.* Filed by Southwestern Freight Bureau, Agent, (No. B–648), for interested rail carriers. Rates on rice, clean, whole or broken, in carloads, as described in the application, from Bayport, Baytown, and Houston, Texas, to Boston, Mass., Carlstadt and Elizabeth, N.J., and Hanover, Pa.

Grounds for relief—Water competition.

Tariff—Supplement 63 to Southwestern Freight Bureau, Agent, tariff 326–C, ICC 5155. Rates are published to become effective on January 12, 1977.

FSA No. 43287—*Annual Volume Rates-Chemicals-Between Points in the United States.* Filed by Southwestern Freight Bureau, Agent, (No. B–649), for interested rail carriers. Rates on chlorine, liquid caustic soda, and specified solvents, in tank-car loads, as described in the application, from Plaquemine, Louisiana, and Freeport, Texas, to Doctortown, Rosser, and Savannah, Georgia.

Grounds for relief—Market competition.

Tariff—Supplement 6 to Southwestern Freight Bureau, Agent, tariff 11–H, ICC 5242. Rates are published to become effective on January 15, 1977.

FSA No. 43288—*Beet or Cane Sugar from Montana and Washington.* Filed by Trans-Continental Freight Bureau, Agent, (No. 512), for interested rail carriers. Rates on sugar, beet or cane, in carloads, as described in the application, from points in Montana and Washington to points in Illinois, Indiana, Iowa, Kentucky, Missouri, and Wisconsin.

Grounds for relief—Returned shipments and rate relationship.

Tariffs—Supplements 423 and 29 to Trans-Continental Freight Bureau, Agent, tariffs 14–P and 2–N, ICC 1785 and 1935, respectively. Rates are published to become effective on January 15, 1977.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–37602 Filed 12–21–76;8:45 am]