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federal register

FRIDAY, DECEMBER 8, 1978

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

For workshops in Washington, D.C., see notice on inside front cover.

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

List of Public Laws

NOTE: A complete listing of all public laws from the second session of the 95th Congress was published as Part II of the issue of December 4, 1978. (Price: 75¢. Order by stock number 022-003-00960-4 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Telephone 202-275-3030.)

The continuing listing will be resumed upon enactment of the first public law for the first session of the 96th Congress, which will convene on Monday, January 15, 1979.

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[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Temporary Boards and Commissions

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment revokes the Schedule A authority for the National Center for Productivity and Quality of Working Life because the organization no longer exists.

EFFECTIVE DATE: November 21, 1978.

FOR FURTHER INFORMATION CONTACT:

James R. Edman, 202-632-4533.

Accordingly, 5 CFR 213.3199(u) is revoked, as follows:

§ 213.3199 Temporary Boards and Commissions.

* * * * *

(u) [Revoked]

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

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

[FR Doc. 78-34351 Filed 12-7-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule A until September 30, 1980, one position of Special Constituencies Coordinator in the Office of the Deputy Chairman for Policy and Planning, National Endowment for the Arts, because examination is impracticable for this position.

EFFECTIVE DATE: November 21, 1978.

William Bohling—202-632-4533.

Accordingly, 5 CFR 213.3182(a)(9) is added as follows:

§ 213.3182 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.* * * *

(9) Until September 30, 1980, one position of Special Constituencies Coordinator, Office of the Deputy Chairman for Policy and Planning.

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

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

[FR Doc. 78-34352 Filed 12-7-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Executive Office of the President, Federal Home Loan Bank Board

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Executive Office of the President and the Federal Home Loan Bank Board because they are confidential in nature. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATES: Executive Office of the President—September 26, 1978; Federal Home Loan Bank Board—October 16, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3303(k)(4) is amended and 213.3354(r) is added as set out below:

§ 213.3303 Executive Office of the President.

* * * * *

(k) *Office of Science and Technology Policy.* * * *

(4) One Senior Policy Analyst and one Policy Analyst, Office of the Assistant Director for Natural Resources and Commercial Services.

* * * * *

§ 213.3354 Federal Home Loan Bank Board.

* * * * *

(r) One Secretary (Typing) to the Director, Federal Savings and Loan Insurance Corporation.

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

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

[FR Doc. 78-34353 Filed 12-7-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Export-Import Bank of the U.S.

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a position at the Export-Import Bank of the U.S. because it is confidential in nature and (2) changes the title of a position from Secretary to the Senior Vice President—Research and Communications to Secretary (Steno) to the Senior Vice President—Policy Analysis and Communications to more appropriately reflect the duties of the position and also to reflect the current title of the superior. Appointments may be made to these positions without examination by the Civil Service Commission.

EFFECTIVE DATES: Special Assistant—October 11, 1978; Secretary—October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3342(1) and (v) are amended as set out below:

§ 213.3342 Export-Import Bank of the U.S.

* * * * *

(1) One Secretary (Steno) to the Senior Vice President—Policy Analysis and Communications.

* * * * *

(v) Two Special Assistants to the Senior Vice President—Policy Analysis and Communications.

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

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

[FR Doc. 78-34354 Filed 12-7-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Interior, Export-Import Bank of the U.S.

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a position at the Department of Interior because it is confidential in nature and (2) changes the title of a position at the Export-Import Bank of the U.S. from Special Assistant to the Senior Vice President—Research and Communications to Special Assistant to the Senior Vice President—Policy Analysis and Communications to reflect the current title of the superior. Appointments may be made to these without examination by the Civil Service Commission.

EFFECTIVE DATES: Department of Interior—October 24, 1978; Export-Import Bank of the U.S.—October 30, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3312(a)(13) is added and 213.3342(v) 1 is amended as set out below:

§ 213.3312 Department of Interior.

* * * * *

(1) *Office of the Director of Territorial Affairs.* * * *

(13) One Secretary to the Deputy High Commissioner of the Trust Territory.

* * * * *

§ 213.3342 Export-Import Bank of the U.S.

* * * * *

(v) One Special Assistant to the Senior Vice President—Policy Analysis and Communications.

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

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

[FR Doc. 78-34355 Filed 12-7-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of the Interior, Temporary boards and commissions

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment revokes the Schedule A authority for positions at GS-15 and below on the staff of the National Council on Indian Opportunity, when filled by Indians of one-fourth or more Indian blood, because that organization no longer exists. In addition, this amendment includes the position of chairman in the Schedule A authority for members of the Alaska Native Claims Ad Hoc Appeals Board and transfers that authority from the headnote of temporary boards and commissions to Department of the Interior, Office of Hearings and Appeals.

EFFECTIVE DATE: November 24, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3112(i)(1) is added and 5 CFR 213.3199 (g) and (q) are revoked, as follows:

§ 213.3112 Department of the Interior.

* * * * *

(i) *Office of Hearings and Appeals.*

(1) Positions of chairman and members of the Alaska Native Claims Ad Hoc Appeals Board.

* * * * *

§ 213.3199 Temporary boards and commissions.

* * * * *

(g) [Revoked]

* * * * *

(q) [Revoked]

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

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

[FR Doc. 78-34356 Filed 12-7-78; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Consumer Product Safety Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment moves a Schedule C position of Special Assistant from the Office of the Chairman because of an organizational redesignation.

EFFECTIVE DATE: August 22, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3360 (a) and (e) are amended to read as follows:

§ 213.3360 Consumer Product Safety Commission.

(a) Four Special Assistants, one Director of Congressional Relations, one Public Information Officer, and one Staff Assistant to the Chairman.

* * * * *

(e) One Secretary (Steno), one Staff Assistant, and two Special Assistants to a Commissioner.

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

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

[FR Doc. 78-34357 Filed 12-7-78; 8:45 am]

[3410-30-M]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. No. 140]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: Hawaii

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment adds Appendix C to § 273.10 of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977. This appendix provides the basis of coupon issuance for Hawaii. Semiannual adjustments in the coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Acts of 1964 and 1977. Appendix C provides two tables as some households will be certified under the income definition and benefit provisions of the regulations issued pursuant to the Food Stamp Act of 1964 and other households will be certified under the new eligibility and benefit determination rules promulgated under the Food Stamp Act of 1977.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION: On October 17, 1978, the Department published final rulemaking to implement major aspects of the Food Stamp Act of 1977, including the issuance of allotments at no cost and the eligibility criteria. In that October 17, 1978, publication, comments were solicited regarding the computation of the standard deductions and the excess

shelter/dependent care deductions for the outlying areas. No comments were received during the 30-day comment period. The October 17, 1978, publication also included the following implementation schedule for the transition to the new allotment and net income calculations: (1) All States must implement the elimination of the purchase requirement (EPR) effective for all households no later than the January 1, 1979 issuance; (2) States must begin implementing the new eligibility and benefit determination rules no later than March 1, 1979; (3) States may implement EPR earlier than January 1, 1979, provided they begin to convert to the new eligibility and benefit determination rules no later than three months from the date they implement EPR; and (4) effective on the first day that the new eligibility and benefit determination rules are applied, those rules must apply to all new applicants and to each household which is recertified. Households certified prior to the first day of the 120-day maximum conversion period, but after the effective date for EPR, shall receive the bonus amount provided under the Food Stamp Act of 1964 until recertified or until a desk review is conducted. Because there will be two methods for computing food stamp eligibility and benefits in effect during the six-month period beginning January 1, 1979, this appendix appears in two parts. The first part revises the July 1, 1978 maximum allowable income standards and basis of coupon issuance for Hawaii which appear as Appendix C to Part 271 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1964 as amended. Table I indicates the *bonus allotments* households certified under the income definition and benefit provisions of the Food Stamp Act of 1964 will receive at no cost until their eligibility is redetermined under the new program rules. The second part of this appendix contains Table II which indicates the monthly coupon allotments households shall receive in Hawaii as calculated using the new eligibility and benefit determination rules promulgated under the Food Stamp Act of 1977.

The Food Stamp Acts of 1964 and 1977 require semiannual adjustments in the coupon allotments to reflect food price changes published by the Bureau of Labor Statistics. The Consumer Price Index (CPI) which is used in Hawaii to make these adjustments in the coupon allotments is the CPI for Urban Wage Earners and Clerical Workers.

Appendix C ot Part 271 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1964 is revised to read as follows:

APPENDIX C/TABLE I—HAWAII

Section 7(a) of the Food Stamp Act of 1964, as amended, requires that the value of the coupon allotment be adjusted semiannually by the nearest dollar increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in September 1978 has been made in the coupon allotments for all households.

The 1973 amendments to the Food Stamp Act of 1964 specified that the first semiannual adjustment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semiannual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August. Effective with the July 1978 Basis of Coupon Issuance Tables, the cost of the Thrifty Food Plan was based on more current data—the cost of the plan for March. Likewise, the income standards and coupon allotments to become effective on January 1, 1979 are based on the cost of the Thrifty Food Plan in September 1978.

Households in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance, general assistance, or supplemental security income benefit, in Hawaii shall be as follows:

Household Size:	*Maximum Allowable Monthly Income Standards, Hawaii*
1	[1]$308
2	467
3	667
4	847
5	1,007
6	1,207
7	1,333
8	1,527
Each additional member	+193

[1]1978 USDA poverty guideline.

"Income" as the term is used in this table is as defined in § 271.3(c) of the Food Stamp Program Regulations in effect until implementation of the provisions of § 273.9 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977.

Pursuant to sections 7(a) and (b) of the Food Stamp Act of 1964, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program in Hawaii shall be:

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act
Hawaii

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
0 - 19.99	76.00	140.00	200.00	254.00	302.00	362.00	400.00	458.00
20 - 29.99	75.00	139.00	200.00	254.00	302.00	362.00	400.00	458.00
30 - 39.99	72.00	136.00	196.00	250.00	297.00	357.00	395.00	453.00
40 - 49.99	70.00	133.00	193.00	247.00	294.00	354.00	392.00	450.00
50 - 59.99	68.00	130.00	190.00	244.00	291.00	351.00	388.00	446.00
60 - 69.99	66.00	128.00	187.00	241.00	288.00	348.00	385.00	442.00
70 - 79.99	64.00	125.00	184.00	238.00	285.00	345.00	382.00	439.00
80 - 89.99	62.00	122.00	181.00	235.00	282.00	341.00	379.00	436.00
90 - 99.99	60.00	119.00	179.00	232.00	279.00	338.00	375.00	432.00
100 - 109.99	58.00	117.00	176.00	229.00	276.00	335.00	372.00	429.00
110 - 119.99	55.00	114.00	173.00	226.00	273.00	331.00	368.00	425.00
120 - 129.99	52.00	111.00	170.00	223.00	269.00	328.00	365.00	422.00
130 - 139.99	49.00	108.00	167.00	220.00	266.00	325.00	362.00	419.00
140 - 149.99	46.00	105.00	164.00	217.00	263.00	322.00	359.00	416.00
150 - 169.99	43.00	102.00	160.00	213.00	260.00	319.00	356.00	413.00
170 - 189.99	37.00	96.00	154.00	207.00	254.00	313.00	350.00	407.00
190 - 209.99	31.00	90.00	148.00	201.00	248.00	307.00	344.00	401.00
210 - 229.99	25.00	84.00	142.00	195.00	242.00	301.00	338.00	395.00
230 - 249.99	19.00	78.00	136.00	189.00	236.00	295.00	332.00	389.00
250 - 269.99	14.00	72.00	130.00	183.00	230.00	289.00	326.00	383.00
270 - 289.99	14.00	66.00	124.00	177.00	224.00	283.00	320.00	377.00
290 - 309.99	14.00	60.00	118.00	171.00	218.00	277.00	314.00	371.00
310 - 329.99		54.00	112.00	165.00	212.00	271.00	308.00	365.00
330 - 359.99		48.00	106.00	159.00	206.00	265.00	302.00	359.00
360 - 389.99		39.00	97.00	150.00	197.00	256.00	293.00	350.00

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act
Hawaii

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
390 - 419.99		30.00	88.00	141.00	188.00	247.00	284.00	341.00
420 - 449.99		28.00	79.00	132.00	179.00	238.00	275.00	332.00
450 - 479.99		28.00	70.00	123.00	170.00	229.00	266.00	323.00
480 - 509.99			61.00	114.00	161.00	220.00	257.00	314.00
510 - 539.99			52.00	105.00	152.00	211.00	248.00	305.00
540 - 569.99			43.00	96.00	143.00	202.00	239.00	296.00
570 - 599.99			34.00	87.00	134.00	193.00	230.00	287.00
600 - 629.99			25.00	78.00	125.00	184.00	221.00	278.00
630 - 659.99			22.00	69.00	116.00	175.00	212.00	269.00
660 - 689.99			22.00	60.00	107.00	166.00	203.00	260.00
690 - 719.99				51.00	98.00	157.00	194.00	251.00
720 - 749.99				42.00	89.00	148.00	185.00	242.00
750 - 779.99				33.00	80.00	139.00	176.00	233.00
780 - 809.99				28.00	71.00	130.00	167.00	224.00
810 - 839.99				28.00	62.00	121.00	158.00	215.00
840 - 869.99				28.00	53.00	112.00	149.00	206.00
870 - 899.99					44.00	103.00	140.00	197.00
900 - 929.99					35.00	94.00	131.00	188.00
930 - 959.99					32.00	85.00	122.00	179.00
960 - 989.99					32.00	76.00	113.00	170.00
990 - 1,019.99					32.00	67.00	104.00	161.00
1,020 - 1,049.99						58.00	95.00	152.00
1,050 - 1,079.99						49.00	86.00	143.00
1,080 - 1,109.99						40.00	77.00	134.00
1,110 - 1,139.99						36.00	68.00	125.00

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act
Hawaii

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
1,140 - 1,169.99						36.00	59.00	116.00
1,170 - 1,199.99						36.00	50.00	107.00
1,200 - 1,229.99						36.00	41.00	98.00
1,230 - 1,259.99							40.00	89.00
1,260 - 1,289.99							40.00	80.00
1,290 - 1,319.99							40.00	71.00
1,320 - 1,349.99							40.00	62.00
1,350 - 1,379.99								53.00
1,380 - 1,409.99								44.00
1,410 - 1,439.99								44.00
1,440 - 1,469.99								44.00
1,470 - 1,499.99								44.00
1,500 and up								44.00

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

Because the Department recognizes the complexity of the methodology involved in preparing tables for households with more than eight persons, extended tables for households of more than eight persons will soon be provided to the State agencies.

A. *Value of the Total Allotment.* For each person in excess of eight, add $58 to the monthly coupon allotment of $458, which is the maximum bonus for eight-person households.

B. *Monthly Net Income.* For households of more than eight persons, it will be necessary to add on to each of the last monthly net income increments to reflect the maximum allowable income that is applicable to that size household. To do this, add $30 to 1,499.99 and $30 to 1,500 to obtain 1,529.99 and 1,530 and continue this addition process until you reach the income increment which contains the new maximum allowable net income figure applicable to that size household.

C. *Bonus Allotments.* To determine the bonus allotments to be issued to households of more than eight persons, refer to the July 1978 basis of coupon issuance tables. It will be necessary to:

1. Compute the maximum monthly benefit reduction (in the July tables, this is the maximum purchase requirement) for households of more than eight persons. The maximum monthly benefit reduction for a household of nine is $468. Add $54 for each person over nine to obtain the maximum benefit reduction for that size household.

2. Refer to the July 1978 basis of coupon issuance tables for households with more than eight persons. The maximum monthly benefit reduction obtained in the previous step for the appropriate size household should be placed at the bottom of the monthly purchase requirement column on the July tables for that size household. This is the new maximum monthly benefit reduction applicable to households whose net income is the maximum allowable for their particular household size.

3. Find the place near the bottom of each column of the July tables for households in excess of eight where the increase in monthly purchase requirements from one $30 income bracket to the next is less than $9. (Normally, the benefit reduction goes up $9 for every $30 in income.) From that point until the bottom of the column for each household size, replace the purchase requirement in the July tables with the following computation. For each new $30 income bracket, add $9 to the monthly benefit reduction. However, when the benefit reduction reaches the maximum benefit reduction for that household size (as computed in step 1), use the maximum benefit reduction instead.

4. Determine the bonus allotments to be issued to households of more than eight persons, by subtracting the benefit reductions obtained for each household size and income grouping from the total food stamp allotment.

Appendix C to Part 273.10 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977 is added as follows:

APPENDIX C/TABLE II—HAWAII

Section 3(o) of the Food Stamp Act of 1977 requires that the value of the Thrifty Food Plan be adjusted semiannually to the nearest dollar increment to reflect changes in its cost for the six months ending the preceding September 30 and March 31, respectively. Under this provision an adjustment based on the cost of the Thrifty Food Plan in September has been made in the coupon allotments for all households.

The maximum allowable income standards for determining eligibility of all households, *including* those in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit, in Hawaii appear in Appendix A to § 273.9. However, to assure clarity and prevent misunderstandings and errors, these standards are also reflected below:

Household Size:	*Maximum Allowable Monthly Income Standards,*[1] *Hawaii*
1	$321
2	422
3	523
4	624
5	725
6	825
7	926
8	1,027
Each additional member	+101

[1] Office of Management and Budget (OMB) Nonfarm Income Poverty Guideline.

"Income" as the term is used in the notice is as defined in § 273.9(b) of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977.

Pursuant to Section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017, Title XIII of Pub. L. 95-113), the value of the allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Food Stamp Program in Hawaii shall be:

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
0 - 3	77	140	201	255	303	363	402	459
4 - 6	76	139	200	254	302	362	401	458
7 - 9	75	138	199	253	301	361	400	457
10 - 13	74	137	198	252	300	360	399	456
14 - 16	73	136	197	251	299	359	398	455
17 - 19	72	135	196	250	298	358	397	454
20 - 23	71	134	195	249	297	357	396	453
24 - 26	70	133	194	248	296	356	395	452
27 - 29	69	132	193	247	295	355	394	451
30 - 33	68	131	192	246	294	354	393	450
34 - 36	67	130	191	245	293	353	392	449
37 - 39	66	129	190	244	292	352	391	448
40 - 43	65	128	189	243	291	351	390	447
44 - 46	64	127	188	242	290	350	389	446
47 - 49	63	126	187	241	289	349	388	445
50 - 53	62	125	186	240	288	348	387	444
54 - 56	61	124	185	239	287	347	386	443
57 - 59	60	123	184	238	286	346	385	442
60 - 63	59	122	183	237	285	345	384	441
64 - 66	58	121	182	236	284	344	383	440
67 - 69	57	120	181	235	283	343	382	439
70 - 73	56	119	180	234	282	342	381	438
74 - 76	55	118	179	233	281	341	380	437
77 - 79	54	117	178	232	280	340	379	436
80 - 83	53	116	177	231	279	339	378	435

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

TABLE II

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
84 - 86	52	115	176	230	278	338	377	434
87 - 89	51	114	175	229	277	337	376	433
90 - 93	50	113	174	228	276	336	375	432
94 - 96	49	112	173	227	275	335	374	431
97 - 99	48	111	172	226	274	334	373	430
100 - 103	47	110	171	225	273	333	372	429
104 - 106	46	109	170	224	272	332	371	428
107 - 109	45	108	169	223	271	331	370	427
110 - 113	44	107	168	222	270	330	369	426
114 - 116	43	106	167	221	269	329	368	425
117 - 119	42	105	166	220	268	328	367	424
120 - 123	41	104	165	219	267	327	366	423
124 - 126	40	103	164	218	266	326	365	422
127 - 129	39	102	163	217	265	325	364	421
130 - 133	38	101	162	216	264	324	363	420
134 - 136	37	100	161	215	263	323	362	419
137 - 139	36	99	160	214	262	322	361	418
140 - 143	35	98	159	213	261	321	360	417
144 - 146	34	97	158	212	260	320	359	416
147 - 149	33	96	157	211	259	319	358	415
150 - 153	32	95	156	210	258	318	357	414
154 - 156	31	94	155	209	257	317	356	413
157 - 159	30	93	154	208	256	316	355	412
160 - 163	29	92	153	207	255	315	354	411
164 - 166	28	91	152	206	254	314	353	410

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

TABLE II

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
167 - 169	27	90	151	205	253	313	352	409
170 - 173	26	89	150	204	252	312	351	408
174 - 176	25	88	149	203	251	311	350	407
177 - 179	24	87	148	202	250	310	349	406
180 - 183	23	86	147	201	249	309	348	405
184 - 186	22	85	146	200	248	308	347	404
187 - 189	21	84	145	199	247	307	346	403
190 - 193	20	83	144	198	246	306	345	402
194 - 196	19	82	143	197	245	305	344	401
197 - 199	18	81	142	196	244	304	343	400
200 - 203	17	80	141	195	243	303	342	399
204 - 206	16	79	140	194	242	302	341	398
207 - 209	15	78	139	193	241	301	340	397
210 - 213	14	77	138	192	240	300	339	396
214 - 216	13	76	137	191	239	299	338	395
217 - 219	12	75	136	190	238	298	337	394
220 - 223	11	74	135	189	237	297	336	393
224 - 226	10	73	134	188	236	296	335	392
227 - 229	10	72	133	187	235	295	334	391
230 - 233	10	71	132	186	234	294	333	390
234 - 236	10	70	131	185	233	293	332	389
237 - 239	10	69	130	184	232	292	331	388
240 - 243	10	68	129	183	231	291	330	387
244 - 246	10	67	128	182	230	290	329	386
247 - 249	10	66	127	181	229	289	328	385

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

TABLE II

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
250 - 253	10	65	126	180	228	288	327	384
254 - 256	10	64	125	179	227	287	326	383
257 - 259	10	63	124	178	226	286	325	382
260 - 263	10	62	123	177	225	285	324	381
264 - 266	10	61	122	176	224	284	323	380
267 - 269	10	60	121	175	223	283	322	379
270 - 273	10	59	120	174	222	282	321	378
274 - 276	10	58	119	173	221	281	320	377
277 - 279	10	57	118	172	220	280	319	376
280 - 283	10	56	117	171	219	279	318	375
284 - 286	10	55	116	170	218	278	317	374
287 - 289	10	54	115	169	217	277	316	373
290 - 293	10	53	114	168	216	276	315	372
294 - 296	10	52	113	167	215	275	314	371
297 - 299	10	51	112	166	214	274	313	370
300 - 303	10	50	111	165	213	273	312	369
304 - 306	10	49	110	164	212	272	311	368
307 - 309	10	48	109	163	211	271	310	367
310 - 313	10	47	108	162	210	270	309	366
314 - 316	10	46	107	161	209	269	308	365
317 - 319	10	45	106	160	208	268	307	364
320 - 323	10	44	105	159	207	267	306	363
324 - 326		43	104	158	206	266	305	362
327 - 329		42	103	157	205	265	304	361
330 - 333		41	102	156	204	264	303	360

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

TABLE II

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
334 - 336		40	101	155	203	263	[illegible]	359
337 - 339		39	100	154	202	262	301	358
340 - 343		38	99	153	201	261	300	357
344 - 346		37	98	152	200	260	299	356
347 - 349		36	97	151	199	259	298	355
350 - 353		35	96	150	198	258	297	354
354 - 356		34	95	149	197	257	296	353
357 - 359		33	94	148	196	256	295	352
360 - 363		32	93	147	195	255	294	351
364 - 366		31	92	146	194	254	293	350
367 - 369		30	91	145	193	253	292	349
370 - 373		29	90	144	192	252	291	348
374 - 376		28	89	143	191	251	290	347
377 - 379		27	88	142	190	250	289	346
380 - 383		26	87	141	189	249	288	345
384 - 386		25	86	140	188	248	287	344
387 - 389		24	85	139	187	247	286	343
390 - 393		23	84	138	186	246	285	342
394 - 396		22	83	137	185	245	284	341
397 - 399		21	82	136	184	244	283	340
400 - 403		20	81	135	183	243	282	339
404 - 406		19	80	134	182	242	281	338
407 - 409		18	79	133	181	241	280	337
410 - 413		17	78	132	180	240	279	336
414 - 416		16	77	131	179	239	278	335

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

TABLE II

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
417 - 419		15	76	130	178	238	277	334
420 - 423		14	75	129	177	237	276	333
424 - 426			74	128	176	236	275	332
427 - 429			73	127	175	235	274	331
430 - 433			72	126	174	234	273	330
434 - 436			71	125	173	233	272	329
437 - 439			70	124	172	232	271	328
440 - 443			69	123	171	231	270	327
444 - 446			68	122	170	230	269	326
447 - 449			67	121	169	229	268	325
450 - 453			66	120	168	228	267	324
454 - 456			65	119	167	227	266	323
457 - 459			64	118	166	226	265	322
460 - 463			63	117	165	225	264	321
464 - 466			62	116	164	224	263	320
467 - 469			61	115	163	223	262	319
470 - 473			60	114	162	222	261	318
474 - 476			59	113	161	221	260	317
477 - 479			58	112	160	220	259	316
480 - 483			57	111	159	219	258	315
484 - 486			56	110	158	218	257	314
487 - 489			55	109	157	217	256	313
490 - 493			54	108	156	216	255	312
494 - 496			53	107	155	215	254	311
497 - 499			52	106	154	214	253	310

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
500 - 503			51	105	153	213	252	309
504 - 506			50	104	152	212	251	308
507 - 509			49	103	151	211	250	307
510 - 513			48	102	150	210	249	306
514 - 516			47	101	149	209	248	305
517 - 519			46	100	148	208	247	304
520 - 523			45	99	147	207	246	303
524 - 526				98	146	206	245	302
527 - 529				97	145	205	244	301
530 - 533				96	144	204	243	300
534 - 536				95	143	203	242	299
537 - 539				94	142	202	241	298
540 - 543				93	141	201	240	297
544 - 546				92	140	200	239	296
547 - 549				91	139	199	238	295
550 - 553				90	138	198	237	294
554 - 556				89	137	197	236	293
557 - 559				88	136	196	235	292
560 - 563				87	135	195	234	291
564 - 566				86	134	194	233	290
567 - 569				85	133	193	232	289
570 - 573				84	132	192	231	288
574 - 576				83	131	191	230	287
577 - 579				82	130	190	229	286
580 - 583				81	129	189	228	285

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

TABLE II

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
584 - 586				80	128	188	227	284
587 - 589				79	127	187	226	283
590 - 593				78	126	186	225	282
594 - 596				77	125	185	224	281
597 - 599				76	124	184	223	280
600 - 603				75	123	183	222	279
604 - 606				74	122	182	221	278
607 - 609				73	121	181	220	277
610 - 613				72	120	180	219	276
614 - 616				71	119	179	218	275
617 - 619				70	118	178	217	274
620 - 623				69	117	177	216	273
624 - 626				68	116	176	215	272
627 - 629					115	175	214	271
630 - 633					114	174	213	270
634 - 636					113	173	212	269
637 - 639					112	172	211	268
640 - 643					111	171	210	267
644 - 646					110	170	209	266
647 - 649					109	169	208	265
650 - 653					108	168	207	264
654 - 656					107	167	206	263
657 - 659					106	166	205	262
660 - 663					105	165	204	261
664 - 666					104	164	203	260

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

TABLE II

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
667 - 669					103	163	202	259
670 - 673					102	162	201	258
674 - 676					101	161	200	257
677 - 679					100	160	199	256
680 - 683					99	159	198	255
648 - 686					98	158	197	254
687 - 689					97	157	196	253
690 - 693					96	156	195	252
694 - 696					95	155	194	251
697 - 699					94	154	193	250
700 - 703					93	153	192	249
704 - 706					92	152	191	248
707 - 709					91	151	190	247
710 - 713					90	150	189	246
714 - 716					89	149	188	245
717 - 719					88	148	187	244
720 - 723					87	147	186	243
724 - 726					86	146	185	242
727 - 729						145	184	241
730 - 733						144	183	240
734 - 736						143	182	239
737 - 739						142	181	238
740 - 743						141	180	237
744 - 746						140	179	236
747 - 749						139	178	235

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
750 - 753						138	177	234
754 - 756						137	176	233
757 - 759						136	175	232
760 - 763						135	174	231
764 - 766						134	173	230
767 - 769						133	172	229
770 - 773						132	171	228
774 - 776						131	170	227
777 - 779						130	169	226
780 - 783						129	168	225
784 - 786						128	167	224
787 - 789						127	166	223
790 - 793						126	165	222
794 - 796						125	164	221
797 - 799						124	163	220
800 - 803						123	162	219
804 - 806						122	161	218
807 - 809						121	160	217
810 - 813						120	159	216
814 - 816						119	158	215
817 - 819						118	157	214
820 - 823						117	156	213
824 - 826						116	155	212
827 - 829							154	211
830 - 833							153	210

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
834 - 836							152	209
837 - 839							151	208
840 - 843							150	207
844 - 846							149	206
847 - 849							148	205
850 - 853							147	204
854 - 856							146	203
857 - 859							145	202
860 - 863							144	201
864 - 866							143	200
867 - 869							142	199
870 - 873							141	198
874 - 876							140	197
877 - 879							139	196
880 - 883							138	195
884 - 886							137	194
887 - 889							136	193
890 - 893							135	192
894 - 896							134	191
897 - 899							133	190
900 - 903							132	189
904 - 906							131	188
907 - 909							130	187
910 - 913							129	186
914 - 916							128	185

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
917 - 919							127	184
920 - 923							126	183
924 - 926							125	182
927 - 929								181
930 - 933								180
934 - 936								179
937 - 939								178
940 - 943								177
944 - 946								176
947 - 949								175
950 - 953								174
954 - 956								173
957 - 959								172
960 - 963								171
964 - 966								170
967 - 969								169
970 - 973								168
974 - 976								167
977 - 979								166
980 - 983								165
984 - 986								164
987 - 989								163
990 - 993								162
994 - 996								161
997 - 999								160

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Hawaii

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
1000 - 1003								159
1004 - 1006								158
1007 - 1009								157
1010 - 1013								156
1014 - 1016								155
1017 - 1019								154
1020 - 1023								153
1024 - 1026								152
1027 - 1029								151

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. *Value of the Thrifty Food Plan.* For each person in excess of eight, add $58 to the monthly Thrifty Food Plan for an eight-person household.

B. *Benefit Determination Without the Tables.* To determine the benefit households shall receive:

1. Multiply the household's net monthly income by 30 percent and round by dropping all cents.

2. Subtract the result obtained in step 1 from the Thrifty Food Plan for that size household.

C. *Benefit Determination With the Tables.* For households of more than eight persons, it will be necessary to add on to the last monthly net income grouping to reach the maximum allowable income that is applicable to that size household. To do this, note that the monthly net income groupings follow a $3 bracket, $3 bracket, $4 bracket pattern that does not vary. Add below the 1027-1029 income grouping (a $3 bracket), a new grouping for 1030-1033 (a $4 bracket). Then, follow the $3 bracket, $3 bracket, $4 bracket pattern continuously until the maximum monthly net income applicable to that size household is reached.

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

In view of the need for placing this notice into effect January 1, 1979, and the lead-time needed by State agencies for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps.)

Dated: December 1, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-34137 Filed 12-7-78; 8:45 am]

[3410-30-M]

[Amdt. No. 140]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: Puerto Rico

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment adds Appendix D to § 273.10 of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977. This appendix provides the basis of coupon issuance for Puerto Rico. Semiannual adjustments in the coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Acts of 1964 and 1977. Appendix D provides two tables as some households will be certified under the income definition and benefit provisions of the regulations issued pursuant to the Food Stamp Act of 1964 and other households will be certified under the new eligibility and benefit determination rules promulgated under the Food Stamp Act of 1977.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION: On October 17, 1978, the Department published final rulemaking to implement major aspects of the Food Stamp Act of 1977, including the issuance of allotments at no cost and the eligibility criteria. In that October 17, 1978, publication, comments were solicited regarding the computation of the standard deductions and the excess shelter/dependent care deductions for the outlying areas. No comments were received during the 30-day comment period. The October 17, 1978, publication also included the following implementation schedule for the transition to the new allotment and net income calculations: (1) All States must implement the elimination of the purchase requirement (EPR) effective for all households no later than the January 1, 1979 issuance; (2) States must begin implementing the new eligibility and benefit determination rules no later than March 1, 1979; (3) States may implement EPR earlier than January 1, 1979, provided they begin to convert to the new eligibility and benefit determination rules no later than three months from the date they implement EPR; and (4) effective on the first day that the new eligibility and benefit determination rules are applied, those rules must apply to all new applicants and to each household which is recertified. Households certified prior to the first day of the 120-day maximum conversion period, but after the effective date for EPR, shall receive the bonus amount provided under the Food Stamp Act of 1964 until recertified or until a desk review is conducted. Because there will be two methods for computing food stamp eligibility and benefits in effect during the six-month period beginning January 1, 1979, this appendix appears in two parts. The first part revises the July 1, 1978 maximum allowable income standards and basis of coupon issuance for Puerto Rico which appear as Appendix D to Part 271 of the Food Stamp Regulations promulgated under the Food Stamp Act of 1964 as amended. Table I indicates the *bonus allotments* households certified under the income definition and benefit provisions of the Food Stamp Act of 1964 will receive at no cost until their eligibility is redetermined under the new program rules. The second part of this appendix contains Table II which indicates the monthly coupon allotments households shall receive in Puerto Rico as calculated using the new eligibility and benefit determination rules promulgated under the Food Stamp Act of 1977.

The Food Stamp Acts of 1964 and 1977 require semiannual adjustments in the coupon allotments to reflect food price changes published by the Bureau of Labor Statistics. Food prices for Puerto Rico are obtained monthly from the pricing system under the the Government of the Commonwealth of Puerto Rico. As mandated by the Food Stamp Acts of 1964 and 1977, the cost of the Thrifty Food Plan is adjusted to reflect the cost of food in Puerto Rico but cannot exceed the cost of food in the fifty States and the District of Columbia.

Appendix D to Part 271 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1964 is revised to read as follows:

APPENDIX D/TABLE I—PUERTO RICO

Section 7(a) of the Food Stamp Act of 1964, as amended, requires that the value of the coupon allotment be adjusted semiannually by the nearest dollar increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in September 1978 has been made in the coupon allotments for all households.

The 1973 amendments to the Food Stamp Act of 1964 specified that the first semiannual adjustment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semiannual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August. Effective with the July 1978 Basis of Coupon Issuance Tables, the cost of the Thrifty Food Plan was based on more current data—the cost of the plan for March. Likewise, the income standards and coupon allotments to become effective on January 1, 1979 are based on the cost of the Thrifty Food Plan in September 1978.

Households in which all members are included in the federally aided public assistance grant, general assistance grant, or sup-

plemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance, general assistance, or supplemental security income benefit, in Puerto Rico shall be as follows:

Household Size:	*Maximum Allowable Monthly Income Standards, Puerto Rico*
1	[1]$279
2	[1]367
3	487
4	620
5	733
6	887
7	973
8	1,113
Each additional member	+140

[1]1978 USDA poverty guideline.

"Income" as the term is used in this table is as defined in § 271.3(c) of the Food Stamp Program Regulations in effect until implementation of the provisions of § 273.9 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act of 1964, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program in Puerto Rico shall be:

[3410-30-C]

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act
Puerto Rico

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
0 - 19.99	56.00	102.00	146.00	186.00	220.00	266.00	292.00	334.00
20 - 29.99	55.00	101.00	146.00	186.00	220.00	266.00	292.00	334.00
30 - 39.00	52.00	98.00	142.00	182.00	215.00	261.00	287.00	329.00
40 - 49.99	50.00	95.00	139.00	179.00	212.00	258.00	284.00	326.00
50 - 59.99	48.00	92.00	136.00	176.00	209.00	255.00	280.00	322.00
60 - 69.99	46.00	90.00	133.00	173.00	206.00	252.00	277.00	318.00
70 - 79.99	44.00	87.00	130.00	170.00	203.00	249.00	274.00	315.00
80 - 89 99	42.00	84.00	127.00	167.00	200.00	245.00	271.00	312.00
90 - 99.99	40.00	81.00	125.00	164.00	197.00	242.00	267.00	308.00
100 - 109.99	38.00	79.00	122.00	161.00	194.00	239.00	264.00	305.00
110 - 119.99	35.00	76.00	119.00	158.00	191.00	235.00	260.00	301.00
120 - 129.99	32.00	73.00	116.00	155.00	187.00	232.00	257.00	298.00
130 - 139.99	29.00	70.00	113.00	152.00	184.00	229.00	254.00	295.00
140 - 149.99	26.00	67.00	110.00	149.00	181.00	226.00	251.00	292.00
150 - 169.99	23.00	64.00	106.00	145.00	178.00	223.00	248.00	289.00
170 - 189.99	17.00	58.00	100.00	139.00	172.00	217.00	242.00	283.00
190 - 209.99	11.00	52.00	94.00	133.00	166.00	211.00	236.00	277.00
210 - 229.99	10.00	46.00	88.00	127.00	160.00	205.00	230.00	271.00
230 - 249.99	10.00	40.00	82.00	121.00	154.00	199.00	224.00	265.00
250 - 269.99	10.00	34.00	76.00	115.00	148.00	193.00	218.00	259.00
270 - 289.99	10.00	28.00	70.00	109.00	142.00	187.00	212.00	253.00
290 - 309.99		22.00	64.00	103.00	136.00	181.00	206.00	247.00
310 - 329.99		20.00	58.00	97.00	130.00	175.00	200.00	241.00
330 - 359.99		20.00	52.00	91.00	124.00	169.00	194.00	235.00
360 - 389.99		20.00	43.00	82.00	115.00	160.00	185.00	226.00

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act
Puerto Rico

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
390 - 419.99			34.00	73.00	106.00	151.00	176.00	217.00
420 - 449.99			25.00	64.00	97.00	142.00	167.00	208.00
450 - 479.99			18.00	55.00	88.00	133.00	158.00	199.00
480 - 509.99			18.00	46.00	79.00	124.00	149.00	190.00
510 - 539.99				37.00	70.00	115.00	140.00	181.00
540 - 569.99				28.00	61.00	106.00	131.00	172.00
570 - 599.99				24.00	52.00	97.00	122.00	163.00
600 - 629.99				24.00	43.00	88.00	113.00	154.00
630 - 659.99					34.00	79.00	104.00	145.00
660 - 689.99					28.00	70.00	95.00	136.00
690 - 719.99					28.00	61.00	86.00	127.00
720 - 749.99					28.00	52.00	77.00	118.00
750 - 779.99						43.00	68.00	109.00
780 - 809.99						34.00	59.00	100.00
810 - 839.99						32.00	50.00	91.00
840 - 869.99						32.00	41.00	82.00
870 - 899.99						32.00	36.00	73.00
900 - 929.99							36.00	64.00
930 - 959.99							36.00	55.00
960 - 989.99							36.00	46.00
990 -1,019.99								40.00
1,020 -1,049.99								40.00
1,050 -1,079.99								40.00
1,080 -1,109.99								40.00
1,110 and up								40.00

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

Because the Department recognizes the complexity of the methodology involved in preparing tables for households with more than eight persons, extended tables for households of more than eight persons will soon be provided to the State agency.

A. *Value of the Total Allotment.* For each person in excess of eight, add $42 to the monthly coupon allotment of $334, which is the maximum bonus for eight-person households.

B. *Monthly Net Income.* For households of more than eight persons, it will be necessary to add on to each of the last monthly net income increments to reflect the maximum allowable income that is applicable to that size household. To do this, add $30 to 1,109.99 and $30 to 1,110 to obtain 1,139.99 and 1,140 and continue this addition process until you reach the income increment which contains the new maximum allowable net income figure applicable to that size household.

C. *Bonus Allotments.* To determine the bonus allotments to be issued to households of more than eight persons, refer to the July 1978 basis of coupon issuance tables. It will be necessary to:

1. Compute the maximum monthly benefit reduction (in the July tables, this is the maximum purchase requirement) for households of more than eight persons. The maximum monthly benefit reduction for a household of nine is $332. Add $38 for each person over nine to obtain the maximum benefit reduction for that size household.

2. Refer to the July 1978 basis of coupon issuance tables for households with more than eight persons. The maximum monthly benefit reduction obtained in the previous step for the appropriate size household should be placed at the bottom of the monthly purchase requirement column on the July tables for that size household. This is the new maximum monthly benefit reduction applicable to households whose net income is the maximum allowable for their particular household size.

3. Find the place near the bottom of each column of the July tables for households in excess of eight where the increase in monthly purchase requirements from one $30 income bracket to the next is less than $9. (Normally, the benefit reduction goes up $9 for every $30 in income.) From that point until the bottom of the column for each household size, replace the purchase requirement in the July tables with the following computation. For each new $30 income bracket, add $9 to the monthly benefit reduction. However, when the benefit reduction reaches the maximum benefit reduction for that household size (as computed in step 1), use the maximum benefit reduction instead.

4. Determine the bonus allotments to be issued to households of more than eight persons, by subtracting the benefit reductions obtained for each household size and income grouping from the total food stamp allotment.

Appendix D to Part 273.10 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977 is added as follows:

APPENDIX D/TABLE II—PUERTO RICO

Section 3(o) of the Food Stamp Act of 1977 requires that the value of the Thrifty Food Plan be adjusted semiannually to the nearest dollar increment to reflect changes in its cost for the six months ending the preceding September 30 and March 31, respectively. Under this provision an adjustment based on the cost of the Thrifty Food Plan in September has been made in the coupon allotments for all households.

The maximum allowable income standards for determining eligibility of all households, *including* those in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit, in Puerto Rico appear in Appendix A to § 273.9. However, to assure clarity and prevent misunderstandings and errors, these standards are also reflected below:

Household Size:	*Maximum Allowable Monthly Income Standards,*[1] *Puerto Rico*
1	$277
2	365
3	454
4	542
5	630
6	719
7	807
8	895
Each additional member	+89

[1] Office of Management and Budget (OMB) Nonfarm Income Poverty Guideline.

"Income" as the term is used in the notice is as defined in § 273.9(b) of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977.

Pursuant to Section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017, Title XIII of Pub. L. 95-113), the value of the allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Food Stamp Program in Puerto Rico shall be:

[3410-30-C]

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Puerto Rico

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
0 - 3	56	102	146	186	221	265	293	335
4 - 6	55	101	145	185	220	264	292	334
7 - 9	54	100	144	184	219	263	291	333
10 - 13	53	99	143	183	218	262	290	332
14 - 16	52	98	142	182	217	261	289	331
17 - 19	51	97	141	181	216	260	288	330
20 - 23	50	96	140	180	215	259	287	329
24 - 26	49	95	139	179	214	258	286	328
27 - 29	48	94	138	178	213	257	285	327
30 - 33	47	93	137	177	212	256	284	326
34 - 36	46	92	136	176	211	255	283	325
37 - 39	45	91	135	175	210	254	282	324
40 - 43	44	90	134	174	209	253	281	323
44 - 46	43	89	133	173	208	252	280	322
47 - 49	42	88	132	172	207	251	279	321
50 - 53	41	87	131	171	206	250	278	320
54 - 56	40	86	130	170	205	249	277	319
57 - 59	39	85	129	169	204	248	276	318
60 - 63	38	84	128	168	203	247	275	317
64 - 66	37	83	127	167	202	246	274	316
67 - 69	36	82	126	166	201	245	273	315
70 - 73	35	81	125	165	200	244	272	314
74 - 76	34	80	124	164	199	243	271	313
77 - 79	33	79	123	163	198	242	270	312
80 - 83	32	78	122	162	197	241	269	311

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Puerto Rico

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
84 - 86	31	77	121	161	196	240	268	310
87 - 89	30	76	120	160	195	239	267	309
90 - 93	29	75	119	159	194	238	266	308
94 - 96	28	74	118	158	193	237	265	307
97 - 99	27	73	117	157	192	236	264	306
100 - 103	26	72	116	156	191	235	263	305
104 - 106	25	71	115	155	190	234	262	304
107 - 109	24	70	114	154	189	233	261	303
110 - 113	23	69	113	153	188	232	260	302
114 - 116	22	68	112	152	187	231	259	301
117 - 119	21	67	111	151	186	230	258	300
120 - 123	20	66	110	150	185	229	257	299
124 - 126	19	65	109	149	184	228	256	298
127 - 129	18	64	108	148	183	227	255	297
130 - 133	17	63	107	147	182	226	254	296
134 - 136	16	62	106	146	181	225	253	295
137 - 139	15	61	105	145	180	224	252	294
140 - 143	14	60	104	144	179	223	251	293
144 - 146	13	59	103	143	178	222	250	292
147 - 149	12	58	102	142	177	221	249	291
150 - 153	11	57	101	141	176	220	248	290
154 - 156	10	56	100	140	175	219	247	289
157 - 159	10	55	99	139	174	218	246	288
160 - 163	10	54	98	138	173	217	245	287
164 - 166	10	53	97	137	172	216	244	286

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Puerto Rico

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
167 - 169	10	52	96	136	171	215	243	285
170 - 173	10	51	95	135	170	214	242	284
174 - 176	10	50	94	134	169	213	241	283
177 - 179	10	49	93	133	168	212	240	282
180 - 183	10	48	92	132	167	211	239	281
184 - 186	10	47	91	131	166	210	238	280
187 - 189	10	46	90	130	165	209	237	279
190 - 193	10	45	89	129	164	208	236	278
194 - 196	10	44	88	128	163	207	235	277
197 - 199	10	43	87	127	162	206	234	276
200 - 203	10	42	86	126	161	205	233	275
204 - 206	10	41	85	125	160	204	232	274
207 - 209	10	40	84	124	159	203	231	273
210 - 213	10	39	83	123	158	202	230	272
214 - 216	10	38	82	122	157	201	229	271
217 - 219	10	37	81	121	156	200	228	270
220 - 223	10	36	80	120	155	199	227	269
224 - 226	10	35	79	119	154	198	226	268
227 - 229	10	34	78	118	153	197	225	267
230 - 233	10	33	77	117	152	196	224	266
234 - 236	10	32	76	116	151	195	223	265
237 - 239	10	31	75	115	150	194	222	264
240 - 243	10	30	74	114	149	193	221	263
244 - 246	10	29	73	113	148	192	220	262
247 - 249	10	28	72	112	147	191	219	261

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Puerto Rico

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
250 - 253	10	27	71	111	146	190	218	260
254 - 256	10	26	70	110	145	189	217	259
257 - 259	10	25	69	109	144	188	216	258
260 - 263	10	24	68	108	143	187	215	257
264 - 266	10	23	67	107	142	186	214	256
267 - 269	10	22	66	106	141	185	213	255
270 - 273	10	21	65	105	140	184	212	254
274 - 276	10	20	64	104	139	183	211	253
277 - 279	10	19	63	103	138	182	210	252
280 - 283		18	62	102	137	181	209	251
284 - 286		17	61	101	136	180	208	250
287 - 289		16	60	100	135	179	207	249
290 - 293		15	59	99	134	178	206	248
294 - 296		14	58	98	133	177	205	247
297 - 299		13	57	97	132	176	204	246
300 - 303		12	56	96	131	175	203	245
304 - 306		11	55	95	130	174	202	244
307 - 309		10	54	94	129	173	201	243
310 - 313		10	53	93	128	172	200	242
314 - 316		10	52	92	127	171	199	241
317 - 319		10	51	91	126	170	198	240
320 - 323		10	50	90	125	169	197	239
324 - 326		10	49	89	124	168	196	238
327 - 329		10	48	88	123	167	195	237
330 - 333		10	47	87	122	166	194	236

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Puerto Rico

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
334 - 336		10	46	86	121	165	193	235
337 - 339		10	45	85	120	164	192	234
340 - 343		10	44	84	119	163	191	233
344 - 346		10	43	83	118	162	190	232
347 - 349		10	42	82	117	161	189	231
350 - 353		10	41	81	116	160	188	230
354 - 356		10	40	80	115	159	187	229
357 - 359		10	39	79	114	158	186	228
360 - 363		10	38	78	113	157	185	227
364 - 366		10	37	77	112	156	184	226
367 - 369			36	76	111	155	183	225
370 - 373			35	75	110	154	182	224
374 - 376			34	74	109	153	181	223
377 - 379			33	73	108	152	180	222
380 - 383			32	72	107	151	179	221
384 - 386			31	71	106	150	178	220
387 - 389			30	70	105	149	177	219
390 - 393			29	69	104	148	176	218
394 - 396			28	68	103	147	175	217
397 - 399			27	67	102	146	174	216
400 - 403			26	66	101	145	173	215
404 - 406			25	65	100	144	172	214
407 - 409			24	64	99	143	171	213
410 - 413			23	63	98	142	170	212
414 - 416			22	62	97	141	169	211

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Puerto Rico

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
417 - 419			21	61	96	140	168	210
420 - 423			20	60	95	139	167	209
424 - 426			19	59	94	138	166	208
427 - 429			18	58	93	137	165	207
430 - 433			17	57	92	136	164	206
434 - 436			16	56	91	135	163	205
437 - 439			15	55	90	134	162	204
440 - 443			14	54	89	133	161	203
444 - 446			13	53	88	132	160	202
447 - 449			12	52	87	131	159	201
450 - 453			11	51	86	130	158	200
454 - 456			10	50	85	129	157	199
457 - 459				49	84	128	156	198
460 - 463				48	83	127	155	197
464 - 466				47	82	126	154	196
467 - 469				46	81	125	153	195
470 - 473				45	80	124	152	194
474 - 476				44	79	123	151	193
477 - 479				43	78	122	150	192
480 - 483				42	77	121	149	191
484 - 486				41	76	120	148	190
487 - 489				40	75	119	147	189
490 - 493				39	74	118	146	188
494 - 496				38	73	117	145	187
497 - 499				37	72	116	144	186

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Puerto Rico

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
500 - 503				36	71	115	143	185
504 - 506				35	70	114	142	184
507 - 509				34	69	113	141	183
510 - 513				33	68	112	140	182
514 - 516				32	67	111	139	181
517 - 519				31	66	110	138	180
520 - 523				30	65	109	137	179
524 - 526				29	64	108	136	178
527 - 529				28	63	107	135	177
530 - 533				27	62	106	134	176
534 - 536				26	61	105	133	175
537 - 539				25	60	104	132	174
540 - 543				24	59	103	131	173
544 - 546					58	102	130	172
547 - 549					57	101	129	171
550 - 553					56	100	128	170
554 - 556					55	99	127	169
557 - 559					54	98	126	168
560 - 563					53	97	125	167
564 - 566					52	96	124	166
567 - 569					51	95	123	165
570 - 573					50	94	122	164
574 - 576					49	93	121	163
577 - 579					48	92	120	162
580 - 583					47	91	119	161

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Puerto Rico

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
584 - 586					46	90	118	160
587 - 589					45	89	117	159
590 - 593					44	88	116	158
594 - 596					43	87	115	157
597 - 599					42	86	114	156
600 - 603					41	85	113	155
604 - 606					40	84	112	154
607 - 609					39	83	111	153
610 - 613					38	82	110	152
614 - 616					37	81	109	151
617 - 619					36	80	108	150
620 - 623					35	79	107	149
624 - 626					34	78	106	148
627 - 629					33	77	105	147
630 - 633					32	76	104	146
634 - 636						75	103	145
637 - 639						74	102	144
640 - 643						73	101	143
644 - 646						72	100	142
647 - 649						71	99	141
650 - 653						70	98	140
654 - 656						69	97	139
657 - 659						68	96	138
660 - 663						67	95	137
664 - 666						66	94	136

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Puerto Rico

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
667 - 669						65	93	135
670 - 673						64	92	134
674 - 676						63	91	133
677 - 679						62	90	132
680 - 683						61	89	131
684 - 686						60	88	130
687 - 689						59	87	129
690 - 693						58	86	128
694 - 696						57	85	127
697 - 699						56	84	126
700 - 703						55	83	125
704 - 706						54	82	124
707 - 709						53	81	123
710 - 713						52	80	122
714 - 716						51	79	121
717 - 719						50	78	120
720 - 723							77	119
724 - 726							76	118
727 - 729							75	117
730 - 733							74	116
734 - 736							73	115
737 - 739							72	114
740 - 743							71	113
744 - 746							70	112
747 - 749							69	111

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Puerto Rico

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
750 - 753							68	110
754 - 756							67	109
757 - 759							66	108
760 - 763							65	107
764 - 766							64	106
767 - 769							63	105
770 - 773							62	104
774 - 776							61	103
777 - 779							60	102
780 - 783							59	101
784 - 786							58	100
787 - 789							57	99
790 - 793							56	98
794 - 796							55	97
797 - 799							54	96
800 - 803							53	95
804 - 806							52	94
807 - 809							51	93
810 - 813								92
814 - 816								91
817 - 819								90
820 - 823								89
824 - 826								88
827 - 829								87
830 - 833								86

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Puerto Rico

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
834 - 836								85
837 - 839								84
840 - 843								83
844 - 846								82
847 - 849								81
850 - 853								80
854 - 856								79
857 - 859								78
860 - 863								77
864 - 866								76
867 - 869								75
870 - 873								74
874 - 876								73
877 - 879								72
880 - 883								71
884 - 886								70
887 - 889								69
890 - 893								68
894 - 896								67

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. *Value of the Thrifty Food Plan.* For each person in excess of eight, add $42 to the monthly Thrifty Food Plan for an eight-person household.

B. *Benefit Determination Without the Tables.* To determine the benefit households shall receive:

1. Multiply the household's net monthly income by 30 percent and round by dropping all cents.

2. Subtract the result obtained in step 1 from the Thrifty Food Plan for that size household.

C. *Benefit Determination With the Tables.* For households of more than eight persons, it will be necessary to add on to the last monthly net income grouping to reach the maximum allowable income that is applicable to that size household. To do this, note that the monthly net income groupings follow a $3 bracket, $3 bracket, $4 bracket pattern that does not vary. Add below the 894-896 income grouping (a $3 bracket), a new grouping for 897-899 (a $3 bracket) and another new income grouping for 900-903 (a $4 bracket). Then, follow the $3 bracket, $3 bracket, $4 bracket pattern continuously until the maximum monthly net income applicable to that size household is reached.

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

In view of the need for placing this notice into effect January 1, 1979, and the lead-time needed by State agencies for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps)

Dated: December 1, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-34138 Filed 12-7-78; 8:45 am]

[3410-30-M]

[Amdt. No. 140]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: Virgin Islands

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment adds Appendix E to § 273.10 of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977. This appendix provides the basis of coupon issuance for the Virgin Islands. Semiannual adjustments in the coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Acts of 1964 and 1977. Appendix E provides two tables as some households will be certified under the income definition and benefit provisions of the regulations issued pursuant to the Food Stamp Act of 1964 and other households will be certified under the new eligibility and benefit determination rules promulgated under the Food Stamp Act of 1977.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION: On October 17, 1978, the Department published final rulemaking to implement major aspects of the Food Stamp Act of 1977, including the issuance of allotments at no cost and the eligibility criteria. In that October 17, 1978, publication, comments were solicited regarding the computation of the standard deductions and the excess shelter/dependent care deductions for the outlying areas. No comments were received during the 30-day comment period. The October 17, 1978, publication also included the following implementation schedule for the transition to the new allotment and net income calculations: (1) All States must implement the elimination of the purchase requirement (EPR) effective for all households no later than the January 1, 1979 issuance; (2) States must begin implementing the new eligibility and benefit determination rules no later than March 1, 1979; (3) States may implement EPR earlier than January 1, 1979, provided they begin to convert to the new eligibility and benefit determination rules no later than three months from the date they implement EPR; and (4) effective on the first day that the new eligibility and benefit determination rules are applied, those rules must apply to all new applicants and to each household which is recertified. Households certified prior to the first day of the 120-day maximum conversion period, but after the effective date for EPR, shall receive the bonus amount provided under the Food Stamp Act of 1964 until recertified or until a desk review is conducted.

Because there will be two methods for computing food stamp eligibility and benefits in effect during the six-months period beginning January 1, 1979, this appendix appears in two parts. The first part revises the July 1, 1978 maximum allowable income standards and basis of coupon issuance for the Virgin Islands which appear as Appendix E to Part 271 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1964 as amended. Table I indicates the *bonus allotments* households certified under the income definition and benefit provisions of the Food Stamp Act of 1964 will receive at no cost until their eligibility is redetermined under the new program rules. The second part of this appendix contains Table II which indicates the monthly coupon allotments households shall receive in the Virgin Islands as calculated using the new eligibility and benefit determination rules promulgated under the Food Stamp Act of 1977.

The Food Stamp Acts of 1964 and 1977 require semiannual adjustments in the coupon allotments to reflect food price changes published by the Bureau of Labor Statistics (BLS). Food prices for the Virgin Islands are collected under special arrangements between the Department and BLS. As mandated by the Food Stamp Acts of 1964 and 1977, the cost of the Thrifty Food Plan is adjusted to reflect the cost of food in the Virgin Islands but cannot exceed the cost of food in the fifty States and the District of Columbia.

Appendix E to Part 271 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1964 is revised to read as follows:

APPENDIX E/TABLE I—VIRGIN ISLANDS

Section 7(a) of the Food Stamp Act of 1964, as amended, requires that the value of the coupon allotment be adjusted semiannually by the nearest dollar increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in September 1978 has been made in the coupon allotments for all households.

The 1973 amendments to the Food Stamp Act of 1964 specified that the first semiannual adjustment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semiannual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August. Effective with the July 1978 Basis of Coupon Issuance Tables, the cost of the Thrifty Food Plan was based on more current data—the cost of the plan for March. Likewise, the income standards and coupon allotments to become effective on

January 1, 1979 are based on the cost of the Thrifty Food Plan in September 1978.

Households in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance, general assistance, or supplemental security income benefit, in the Virgin Islands shall be as follows:

Household Size:	*Maximum Allowable Monthly Income Standards, Virgin Islands*
1	[1]$279
2	447
3	640
4	813
5	967
6	1,160
7	1,280
8	1,467
Each additional member	+187

[1]1978 USDA poverty guideline.

"Income" as the term is used in this table is as defined in § 271.3(c) of the Food Stamp Program Regulations in effect until implementation of the provisions of § 273.9 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977.

Pursuant to sections 7 (a) and (b) of the Food Stamp Act of 1964, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program in the Virgin Islands shall be:

[3410-30-C]

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act
Virgin Islands

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
0 - 19.99	74.00	134.00	192.00	244.00	290.00	348.00	384.00	440.00
20 - 29.99	73.00	133.00	192.00	244.00	290.00	348.00	384.00	440.00
30 - 39.99	70.00	130.00	188.00	240.00	285.00	343.00	379.00	435.00
40 - 49.99	68.00	127.00	185.00	237.00	282.00	340.00	376.00	432.00
50 - 59.99	66.00	124.00	182.00	234.00	279.00	337.00	372.00	428.00
60 - 69.99	64.00	122.00	179.00	231.00	276.00	334.00	369.00	424.00
70 - 79.99	62.00	119.00	176.00	228.00	273.00	331.00	366.00	421.00
80 - 89.99	60.00	116.00	173.00	225.00	270.00	327.00	363.00	418.00
90 - 99.99	58.00	113.00	171.00	222.00	267.00	324.00	359.00	414.00
100 - 109.99	56.00	111.00	168.00	219.00	264.00	321.00	356.00	411.00
110 - 119.99	53.00	108.00	165.00	216.00	261.00	317.00	352.00	407.00
120 - 129.99	50.00	105.00	162.00	213.00	257.00	314.00	349.00	404.00
130 - 139.99	47.00	102.00	159.00	210.00	254.00	311.00	346.00	401.00
140 - 149.99	44.00	99.00	156.00	207.00	251.00	308.00	343.00	398.00
150 - 169.99	41.00	96.00	152.00	203.00	248.00	305.00	340.00	395.00
170 - 189.99	35.00	90.00	146.00	197.00	242.00	299.00	334.00	389.00
190 - 209.99	29.00	84.00	140.00	191.00	236.00	293.00	328.00	383.00
210 - 229.99	23.00	78.00	134.00	185.00	230.00	287.00	322.00	377.00
230 - 249.99	17.00	72.00	128.00	179.00	224.00	281.00	316.00	371.00
250 - 269.99	14.00	66.00	122.00	173.00	218.00	275.00	310.00	365.00
270 - 289.99	14.00	60.00	116.00	167.00	212.00	269.00	304.00	359.00
290 - 309.99		54.00	110.00	161.00	206.00	263.00	298.00	353.00
310 - 329.99		48.00	104.00	155.00	200.00	257.00	292.00	347.00
330 - 359.99		42.00	98.00	149.00	194.00	251.00	286.00	341.00
360 - 389.99		33.00	89.00	140.00	185.00	242.00	277.00	332.00

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act
Virgin Islands

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
390 - 419.99		26.00	80.00	131.00	176.00	233.00	268.00	323.00
420 - 449.99		26.00	71.00	122.00	167.00	224.00	259.00	314.00
450 - 479.99			62.00	113.00	158.00	215.00	250.00	305.00
480 - 509.99			53.00	104.00	149.00	206.00	241.00	296.00
510 - 539.99			44.00	95.00	140.00	197.00	232.00	287.00
540 - 569.99			35.00	86.00	131.00	188.00	223.00	278.00
570 - 599.99			26.00	77.00	122.00	179.00	214.00	269.00
600 - 629.99			22.00	68.00	113.00	170.00	205.00	260.00
630 - 659.99			22.00	59.00	104.00	161.00	196.00	251.00
660 - 689.99				50.00	95.00	152.00	187.00	242.00
690 - 719.99				41.00	86.00	143.00	178.00	233.00
720 - 749.99				32.00	77.00	134.00	169.00	224.00
750 - 779.99				28.00	68.00	125.00	160.00	215.00
780 - 809.99				28.00	59.00	116.00	151.00	206.00
810 - 839.99				28.00	50.00	107.00	142.00	197.00
840 - 869.99					41.00	98.00	133.00	188.00
870 - 899.99					32.00	89.00	124.00	179.00
900 - 929.99					32.00	80.00	115.00	170.00
930 - 959.99					32.00	71.00	106.00	161.00
960 - 989.99					32.00	62.00	97.00	152.00
990 - 1,019.99						53.00	88.00	143.00
1,020 - 1,049.99						44.00	79.00	134.00
1,050 - 1,079.99						36.00	70.00	125.00
1,080 - 1,109.99						36.00	61.00	116.00
1,110 - 1,139.99						36.00	52.00	107.00

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act
Virgin Islands

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
1,140 - 1,169.99						36.00	43.00	98.00
1,170 - 1,199.99							40.00	89.00
1,200 - 1,229.99							40.00	80.00
1,230 - 1,259.99							40.00	71.00
1,260 - 1,289.99							40.00	62.00
1,290 - 1,319.99								53.00
1,320 - 1,349.99								44.00
1,350 - 1,379.99								44.00
1,380 - 1,409.99								44.00
1,410 - 1,439.99								44.00
1,440 and up								44.00

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

Because the Department recognizes the complexity of the methodology involved in preparing tables for households with more than eight persons, extended tables for households of more than eight persons will soon be provided to the State agencies.

A. *Value of the Total Allotment.* For each person in excess of eight, add $56 to the monthly coupon allotment of $440, which is the maximum bonus for eight-person households.

B. *Monthly Net Income.* For households of more than eight persons, it will be necessary to add on to each of the last monthly net income increments to reflect the maximum allowable income that is applicable to that size household. To do this, add $30 to 1,439.99 and $30 to 1,440 to obtain 1,469.99 and 1,470 and continue this addition process until you reach the income increment which contains the new maximum allowable net income figure applicable to that size household.

C. *Bonus Allotments.* To determine the bonus allotments to be issued to households of more than eight persons, refer to the July 1978 basis of coupon issuance tables. It will be necessary to:

1. Compute the maximum monthly benefit reduction (in the July tables, this is the maximum purchase requirement) for households of more than eight persons. The maximum monthly benefit reduction for a household of nine is $448. Add $52 for each person over nine to obtain the maximum benefit reduction for that size household.

2. Refer to the July 1978 basis of coupon issuance tables for households with more than eight persons. The maximum monthly benefit reduction obtained in the previous step for the appropriate size household should be placed at the bottom of the monthly purchase requirement column on the July tables for that size household. This is the new maximum monthly benefit reduction applicable to households whose net income is the maximum allowable for their particular household size.

3. Find the place near the bottom of each column of the July tables for households in excess of eight where the increase in monthly purchase requirements from one $30 income bracket to the next is less than $9. (Normally, the benefit reduction goes up $9 for every $30 in income.) From that point until the bottom of the column for each household size, replace the purchase requirement in the July tables with the following computation. For each new $30 income bracket, add $9 to the monthly benefit reduction. However, when the benefit reduction reaches the maximum benefit reduction for that household size (as computed in step 1), use the maximum benefit reduction instead.

4. Determine the bonus allotments to be issued to households of more than eight persons, by subtracting the benefit reductions obtained for each household size and income grouping from the total food stamp allotment.

Appendix E to Part 273.10 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977 is added as follows:

APPENDIX E/TABLE II—VIRGIN ISLANDS

Section 3(o) of the Food Stamp Act of 1977 requires that the value of the Thrifty Food Plan be adjusted semiannually to the nearest dollar increment to reflect changes in its cost for the six months ending the preceding September 30 and March 31, respectively. Under this provision an adjustment based on the cost of the Thrifty Food Plan in September has been made in the coupon allotments for all households.

The maximum allowable income standards for determining eligibility of all households, *including* those in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit, in the Virgin Islands appear in Appendix A to § 273.9. However, to assure clarity and prevent misunderstandings and errors, these standards are also reflected below:

Household Size:	*Maximum Allowable Monthly Income Standards,[1] Virgin Islands*
1	$277
2	365
3	454
4	542
5	630
6	719
7	807
8	895
Each additional member	+89

[1] Office of Management and Budget (OMB) Nonfarm Income Poverty Guideline.

"Income" as the term is used in the notice is as defined in § 273.9(b) of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977.

Pursuant to Section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017, Title XIII of P.L. 95-113), the value of the allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Food Stamp Program in the Virgin Islands shall be:

[3410-30-C]

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Virgin Islands

TABLE II

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
0 - 3	73	134	192	244	290	348	384	439
4 - 6	72	133	191	243	289	347	383	438
7 - 9	71	132	190	242	288	346	382	437
10 - 13	70	131	189	241	287	345	381	436
14 - 16	69	130	188	240	286	344	380	435
17 - 19	68	129	187	239	285	343	379	434
20 - 23	67	128	186	238	284	342	378	433
24 - 26	66	127	185	237	283	341	377	432
27 - 29	65	126	184	236	282	340	376	431
30 - 33	64	125	183	235	281	339	375	430
34 - 36	63	124	182	234	280	338	374	429
37 - 39	62	123	181	233	279	337	373	428
40 - 43	61	122	180	232	278	336	372	427
44 - 46	60	121	179	231	277	335	371	426
47 - 49	59	120	178	230	276	334	370	425
50 - 53	58	119	177	229	275	333	369	424
54 - 56	57	118	176	228	274	332	368	423
57 - 59	56	117	175	227	273	331	367	422
60 - 63	55	116	174	226	272	330	366	421
64 - 66	54	115	173	225	271	329	365	420
67 - 69	53	114	172	224	270	328	364	419
70 - 73	52	113	171	223	269	327	363	418
74 - 76	51	112	170	222	268	326	362	417
77 - 79	50	111	169	221	267	325	361	416
80 - 83	49	110	168	220	266	324	360	415

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Virgin Islands

TABLE II

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
84 - 86	48	109	167	219	265	323	359	414
87 - 89	47	108	166	218	264	322	358	413
90 - 93	46	107	165	217	263	321	357	412
94 - 96	45	106	164	216	262	320	356	411
97 - 99	44	105	163	215	261	319	355	410
100 - 103	43	104	162	214	260	318	354	409
104 - 106	42	103	161	213	259	317	353	408
107 - 109	41	102	160	212	258	316	352	407
110 - 113	40	101	159	211	257	315	351	406
114 - 116	39	100	158	210	256	314	350	405
117 - 119	38	99	157	209	255	313	349	404
120 - 123	37	98	156	208	254	312	348	403
124 - 126	36	97	155	207	253	311	347	402
127 - 129	35	96	154	206	252	310	346	401
130 - 133	34	95	153	205	251	309	345	400
134 - 136	33	94	152	204	250	308	344	399
137 - 139	32	93	151	203	249	307	343	398
140 - 143	31	92	150	202	248	306	342	397
144 - 146	30	91	149	201	247	305	341	396
147 - 149	29	90	148	200	246	304	340	395
150 - 153	28	89	147	199	245	303	339	394
154 - 156	27	88	146	198	244	302	338	393
157 - 159	26	87	145	197	243	301	337	392
160 - 163	25	86	144	196	242	300	336	391
164 - 166	24	85	143	195	241	299	335	390

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Virgin Islands

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
167 - 169	23	84	142	194	240	298	334	389
170 - 173	22	83	141	193	239	297	333	388
174 - 176	21	82	140	192	238	296	332	387
177 - 179	20	81	139	191	237	295	331	386
180 - 183	19	80	138	190	236	294	330	385
184 - 186	18	79	137	189	235	293	329	384
187 - 189	17	78	136	188	234	292	328	383
190 - 193	16	77	135	187	233	291	327	382
194 - 196	15	76	134	186	232	290	326	381
197 - 199	14	75	133	185	231	289	325	380
200 - 203	13	74	132	184	230	288	324	379
204 - 206	12	73	131	183	229	287	323	378
207 - 209	11	72	130	182	228	286	322	377
210 - 213	10	71	129	181	227	285	321	376
214 - 216	10	70	128	180	226	284	320	375
217 - 219	10	69	127	179	225	283	319	374
220 - 223	10	68	126	178	224	282	318	373
224 - 226	10	67	125	177	223	281	317	372
227 - 229	10	66	124	176	222	280	316	371
230 - 233	10	65	123	175	221	279	315	370
234 - 236	10	64	122	174	220	278	314	369
237 - 239	10	63	121	173	219	277	313	368
240 - 243	10	62	120	172	218	276	312	367
244 - 246	10	61	119	171	217	275	311	365
247 - 249	10	60	118	170	216	274	310	364

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Virgin Islands

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
250 - 253	10	59	117	169	215	273	309	363
254 - 256	10	58	116	168	214	272	308	362
257 - 259	10	57	115	167	213	271	307	361
260 - 263	10	56	114	166	212	270	306	360
264 - 266	10	55	113	165	211	269	305	359
267 - 269	10	54	112	164	210	268	304	358
270 - 273	10	53	111	163	209	267	303	357
274 - 276	10	52	110	162	208	266	302	356
277 - 279	10	51	109	161	207	265	301	355
280 - 283		50	108	160	206	264	300	354
284 - 286		49	107	159	205	263	299	353
287 - 289		48	106	158	204	262	298	352
290 - 293		47	105	157	203	261	297	351
294 - 296		46	104	156	202	260	296	350
297 - 299		45	103	155	201	259	295	349
300 - 303		44	102	154	200	258	294	348
304 - 306		43	101	153	199	257	293	347
307 - 309		42	100	152	198	256	292	346
310 - 313		41	99	151	197	255	291	345
314 - 316		40	98	150	196	254	290	344
317 - 319		39	97	149	195	253	289	343
320 - 323		38	96	148	194	252	288	342
324 - 326		37	95	147	193	251	287	341
327 - 329		36	94	146	192	250	286	340
330 - 333		35	93	145	191	249	285	339

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Virgin Islands

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
334 - 336		34	92	144	190	248	284	338
337 - 339		33	91	143	189	247	283	337
340 - 343		32	90	142	188	246	282	336
344 - 346		31	89	141	187	245	281	335
347 - 349		30	88	140	186	244	280	334
350 - 353		29	87	139	185	243	279	333
354 - 356		28	86	138	184	242	278	332
357 - 359		27	85	137	183	241	277	331
360 - 363		26	84	136	182	240	276	330
364 - 366		25	83	135	181	239	275	329
367 - 369			82	134	180	238	274	328
370 - 373			81	133	179	237	273	327
374 - 376			80	132	178	236	272	326
377 - 379			79	131	177	235	271	325
380 - 383			78	130	176	234	270	324
384 - 386			77	129	175	233	269	323
387 - 389			76	128	174	232	268	322
390 - 393			75	127	173	231	267	321
394 - 396			74	126	172	230	266	320
397 - 399			73	125	171	229	265	319
400 - 403			72	124	170	228	264	318
404 - 406			71	123	169	227	263	317
407 - 409			70	122	168	226	262	316
410 - 413			69	121	167	225	261	315
414 - 416			68	120	166	224	260	314

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Virgin Islands

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
417 - 419			67	119	165	223	259	313
420 - 423			66	118	164	222	258	312
424 - 426			65	117	163	221	257	311
427 - 429			64	116	162	220	256	310
430 - 433			63	115	161	219	255	309
434 - 436			62	114	160	218	254	308
437 - 439			61	113	159	217	253	307
440 - 443			60	112	158	216	252	306
444 - 446			59	111	157	215	251	305
447 - 449			58	110	156	214	250	304
450 - 453			57	109	155	213	249	303
454 - 456			56	108	154	212	248	302
457 - 459				107	153	211	247	301
460 - 463				106	152	210	246	300
464 - 466				105	151	209	245	299
467 - 469				104	150	208	244	298
470 - 473				103	149	207	243	297
474 - 476				102	148	206	242	296
477 - 479				101	147	205	241	295
480 - 483				100	146	204	240	294
484 - 486				99	145	203	239	293
487 - 489				98	144	202	238	292
490 - 493				97	143	201	237	291
494 - 496				96	142	200	236	290
497 - 499				95	141	199	235	289

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Virgin Islands

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
500 - 503				94	140	198	234	288
504 - 506				93	139	197	233	287
507 - 509				92	138	196	232	286
510 - 513				91	137	195	231	285
514 - 516				90	136	194	230	284
517 - 519				89	135	193	229	283
520 - 523				88	134	192	228	282
524 - 526				87	133	191	227	281
527 - 529				86	132	190	226	280
530 - 533				85	131	189	225	279
534 - 536				84	130	188	224	278
537 - 539				83	129	187	223	277
540 - 543				82	128	186	222	276
544 - 546					127	185	221	275
547 - 549					126	184	220	274
550 - 553					125	183	219	273
554 - 556					124	182	218	272
557 - 559					123	181	217	271
560 - 563					122	180	216	270
564 - 566					121	179	215	269
567 - 569					120	178	214	268
570 - 573					119	177	213	267
574 - 576					118	176	212	266
577 - 579					117	175	211	265
580 - 583					116	174	210	264

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Virgin Islands

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
584 - 586					115	173	209	263
587 - 589					114	172	208	262
590 - 593					113	171	207	261
594 - 596					112	170	206	260
597 - 599					111	169	205	259
600 - 603					110	168	204	258
604 - 606					109	167	203	257
607 - 609					108	166	202	256
610 - 613					107	165	201	255
614 - 616					106	164	200	254
617 - 619					105	163	199	253
620 - 623					104	162	198	252
624 - 626					103	161	197	251
627 - 629					102	160	196	250
630 - 633					101	159	195	249
634 - 636						158	194	248
637 - 639						157	193	247
640 - 643						156	192	246
644 - 646						155	191	245
647 - 649						154	190	244
650 - 653						153	189	243
654 - 656						152	188	242
657 - 659						151	187	241
660 - 663						150	186	240
664 - 666						149	185	239

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Virgin Islands

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
667 - 669						148	184	238
670 - 673						147	183	237
674 - 676						146	182	236
677 - 679						145	181	235
680 - 683						144	180	234
684 - 686						143	179	233
687 - 689						142	178	232
690 - 693						141	177	231
694 - 696						140	176	230
697 - 699						139	175	229
700 - 703						138	174	228
704 - 706						137	173	227
707 - 709						136	172	226
710 - 713						135	171	225
714 - 716						134	170	224
717 - 719						133	169	223
720 - 723							168	222
724 - 726							167	221
727 - 729							166	220
730 - 733							165	219
734 - 736							164	218
737 - 739							163	217
740 - 743							162	216
744 - 746							161	215
747 - 749							160	214

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Virgin Islands

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
750 - 753							159	213
754 - 756							158	212
757 - 759							157	211
760 - 763							156	210
764 - 766							155	209
767 - 769							154	208
770 - 773							153	207
774 - 776							152	206
777 - 779							151	205
780 - 783							150	204
784 - 786							149	203
787 - 789							148	202
790 - 793							147	201
794 - 796							146	200
797 - 799							145	199
800 - 803							144	198
804 - 806							143	197
807 - 809							142	196
810 - 813								195
814 - 816								194
817 - 819								193
820 - 823								192
824 - 826								191
827 - 829								190
830 - 833								189

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Virgin Islands

TABLE II

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
834 - 836								188
837 - 839								187
840 - 843								186
844 - 846								185
847 - 849								184
850 - 853								183
854 - 856								182
857 - 859								181
860 - 863								180
864 - 866								179
867 - 869								178
870 - 873								177
874 - 876								176
877 - 879								175
880 - 883								174
884 - 886								173
887 - 889								172
890 - 893								171
894 - 896								170

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. *Value of the Thrifty Food Plan.* For each person in excess of eight, add $55 to the monthly Thrifty Food Plan for an eight-person household.

B. *Benefit Determination Without the Tables.* To determine the benefit households shall receive:

1. Multiply the household's net monthly income by 30 percent and round by dropping all cents.

2. Subtract the result obtained in step 1 from the Thrifty Food Plan for that size household.

C. *Benefit Determination With the Tables.* For households of more than eight persons, it will be necessary to add on to the last monthly net income grouping to reach the maximum allowable income that is applicable to that size household. To do this, note that the monthly net income groupings follow a $3 bracket, $3 bracket, $4 bracket pattern that does not vary. Add below the 894-896 income grouping (a $3 bracket), a new grouping for 897-899 (a $3 bracket) and another new income grouping for 900-903 (a $4 bracket). Then follow the $3 bracket, $3 bracket, $4 bracket pattern continuously until the maximum monthly net income applicable to that size household is reached.

NOTE: The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

In view of the need for placing this notice into effect January 1, 1979, and the lead-time needed by State agencies for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps)

Dated: December 1, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-34139 Filed 12-7-78; 8:45 am]

[3410-30-M]

[Amdt. No. 140]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: Alaska; Standard Deductions: Alaska, Hawaii, Puerto Rico, Virgin Islands, and Guam

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment: (1) Adds Appendix B to § 273.10 of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977. This appendix provides the basis of coupon issuance for Alaska. Semiannual adjustments in the coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Acts of 1964 and 1977. Appendix B provides two tables as some households will be certified under the income definition and benefit provisions of the regulations issued pursuant to the Food Stamp Act of 1964 and other households will be certified under the new eligibility and benefit determination rules promulgated under the Food Stamp Act of 1977; and (2) revises the standard deduction for the outlying areas appearing in Appendix B to § 273.9(d)(1) of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION:

On October 17, 1978, the Department published final rulemaking to implement major aspects of the Food Stamp Act of 1977, including the issuance of allotments at no cost and the eligibility criteria. In that October 17, 1978, publication, comments were solicited regarding the computation of the standard deductions and the excess shelter/dependent care deductions for the outlying areas. No comments were received during the 30-day comment period. The October 17, 1978, publication also included the following implementation schedule for the transition to the new allotment and net income calculations: (1) All States must implement the elimination of the purchase requirement (EPR) effective for all households no later than the January 1, 1979 issuance; (2) States must begin implementing the new eligibility and benefit determination rules no later than March 1, 1979; (3) States may implement EPR earlier than January 1, 1979, provided they begin to convert to the new eligibility and benefit determination rules no later than three months from the date they implement EPR; and (4) effective on the first day that the new eligibility and benefit determination rules are applied, those rules must apply to all new applicants and to each household which is recertified. Households certified prior to the first day of the 120-day maximum conversion period, but after the effective date for EPR, shall receive the bonus amount provided under the Food Stamp Act of 1964 until recertified or until a desk review is conducted.

Because there will be two methods for computing food stamp eligibility and benefits in effect during the six-month period beginning January 1, 1979, this appendix appears in two parts. The first part revises the July 1, 1978 maximum allowable income standards and basis of coupon issuance for Alaska which appear as Appendix B to Part 271 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1964 as amended. Table I indicates the *bonus allotments* households certified under the income definition and benefit provisions of the Food Stamp Act of 1964 will receive at no cost until their eligibility is redetermined under the new program rules. The second part of this appendix contains Table II which indicates the monthly coupon allotments households shall receive in Alaska as calculated using the new eligibility and benefit determination rules promulgated under the Food Stamp Act of 1977.

The Food Stamp Acts of 1964 and 1977 require semiannual adjustments in the coupon allotments to reflect food price changes published by the Bureau of Labor Statistics. The Consumer Price Index (CPI) which is used in Alaska to make these adjustments in the coupon allotments is the CPI for Urban Wage Earners and Clerical Workers.

Appendix B to Part 271 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1964 is revised to read as follows:

APPENDIX B/TABLE I—ALASKA

Section 7(a) of the food Stamp Act of 1964, as amended, requires that the value of the coupon allotment be adjusted semiannually by the nearest dollar increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in September 1978 has been made in the coupon allotments for all households.

The 1973 amendments to the Food Stamp Act of 1964 specified that the first semian-

nual adjustment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semiannual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August. Effective with the July 1978 Basis of Coupon Issuance Tables, the cost of the Thrifty Food Plan was based on more current data—the cost of the plan for March. Likewise, the income standards and coupon allotments to become effective on January 1, 1979 are based on the cost of the Thrifty Food Plan in September 1978.

Households in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resouces of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance, general assistance, or supplemental security income benefit, in Alaska shall be as follows:

Household Size:	*Maximum Allowable Monthly Income Standards, Alaska*
1	[1]$343
2	500
3	720
4	913
5	1,087
6	1,300
7	1,440
8	1,647
Each additional member	+207

[1] 1978 USDA poverty guideline.

"Income" as the term is used in this table is as defined in § 271.3(c) of the Food Stamp Program Regulations in effect until implementation of the provisions of § 273.9 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977.

Pursuant to sections 7(a) and (b) of the Food Stamp Act of 1964, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program in Alaska shall be:

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act
Alaska

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
0 - 19.99	82.00	150.00	216.00	274.00	326.00	390.00	432.00	494.00
20 - 29.99	81.00	149.00	216.00	274.00	326.00	390.00	432.00	494.00
30 - 39.99	78.00	146.00	212.00	270.00	321.00	385.00	427.00	489.00
40 - 49.99	76.00	143.00	209.00	267.00	318.00	382.00	424.00	486.00
50 - 59.99	74.00	140.00	206.00	264.00	315.00	379.00	420.00	482.00
60 - 69.99	72.00	138.00	203.00	261.00	312.00	376.00	417.00	478.00
70 - 79.99	70.00	135.00	200.00	258.00	309.00	373.00	414.00	475.00
80 - 89.99	68.00	132.00	197.00	255.00	306.00	369.00	411.00	472.00
90 - 99.99	66.00	129.00	195.00	252.00	303.00	366.00	407.00	468.00
100 - 109.99	64.00	127.00	192.00	249.00	300.00	363.00	404.00	465.00
110 - 119.99	61.00	124.00	189.00	246.00	297.00	359.00	400.00	461.00
120 - 129.99	58.00	121.00	186.00	243.00	293.00	356.00	397.00	458.00
130 - 139.99	55.00	118.00	183.00	240.00	290.00	353.00	394.00	455.00
140 - 149.99	52.00	115.00	180.00	237.00	287.00	350.00	391.00	452.00
150 - 169.99	49.00	112.00	176.00	233.00	284.00	347.00	388.00	449.00
170 - 189.99	43.00	106.00	170.00	227.00	278.00	341.00	382.00	443.00
190 - 209.99	37.00	100.00	164.00	221.00	272.00	335.00	376.00	437.00
210 - 229.99	31.00	94.00	158.00	215.00	266.00	329.00	370.00	431.00
230 - 249.99	25.00	88.00	152.00	209.00	260.00	323.00	364.00	425.00
250 - 269.99	19.00	82.00	146.00	203.00	254.00	317.00	358.00	419.00
270 - 289.99	14.00	76.00	140.00	197.00	248.00	311.00	352.00	413.00
290 - 309.99	14.00	70.00	134.00	191.00	242.00	305.00	346.00	407.00
310 - 329.99	14.00	64.00	128.00	185.00	236.00	299.00	340.00	401.00
330 - 359.99	14.00	58.00	122.00	179.00	230.00	293.00	334.00	395.00
360 - 389.99		49.00	113.00	170.00	221.00	284.00	325.00	386.00

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act
Alaska

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
390 - 419.99		40.00	104.00	161.00	212.00	275.00	316.00	377.00
420 - 449.99		31.00	95.00	152.00	203.00	266.00	307.00	368.00
450 - 479.99		26.00	86.00	143.00	194.00	257.00	298.00	359.00
480 - 509.99		26.00	77.00	134.00	185.00	248.00	289.00	350.00
510 - 539.99			68.00	125.00	176.00	239.00	280.00	341.00
540 - 569.99			59.00	116.00	167.00	230.00	271.00	332.00
570 - 599.99			50.00	107.00	158.00	221.00	262.00	323.00
600 - 629.99			41.00	98.00	149.00	212.00	253.00	314.00
630 - 659.99			32.00	89.00	140.00	203.00	244.00	305.00
660 - 689.99			23.00	80.00	131.00	194.00	235.00	296.00
690 - 719.99			22.00	71.00	122.00	185.00	226.00	287.00
720 - 749.99			22.00	62.00	113.00	176.00	217.00	278.00
750 - 779.99				53.00	104.00	167.00	208.00	269.00
780 - 809.99				44.00	95.00	158.00	199.00	260.00
810 - 839.99				35.00	86.00	149.00	190.00	251.00
840 - 869.99				28.00	77.00	140.00	181.00	242.00
870 - 899.99				28.00	68.00	131.00	172.00	233.00
900 - 929.99				28.00	59.00	122.00	163.00	224.00
930 - 959.99					50.00	113.00	154.00	215.00
960 - 989.99					41.00	104.00	145.00	206.00
990 - 1,019.99					32.00	95.00	136.00	197.00
1,020 - 1,049.99					32.00	86.00	127.00	188.00
1,050 - 1,079.99					32.00	77.00	118.00	179.00
1,080 - 1,109.99					32.00	68.00	109.00	170.00
1,110 - 1,139.99						59.00	100.00	161.00

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act
Alaska

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
1,140 - 1,169.99						50.00	91.00	152.00
1,170 - 1,199.99						41.00	82.00	143.00
1,200 - 1,229.99						36.00	73.00	134.00
1,230 - 1,259.99						36.00	64.00	125.00
1,260 - 1,289.99						36.00	55.00	116.00
1,290 - 1,319.99						36.00	46.00	107.00
1,320 - 1,349.99							40.00	98.00
1,350 - 1,379.99							40.00	89.00
1,380 - 1,409.99							40.00	80.00
1,410 - 1,439.99							40.00	71.00
1,440 - 1,469.99							40.00	62.00
1,470 - 1,499.99								53.00
1,500 - 1,529.99								44.00
1,530 - 1,559.99								44.00
1,560 - 1,589.99								44.00
1,590 - 1,619.99								44.00
1,620 and up								44.00

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

Because the Department recognizes the complexity of the methodology involved in preparing tables for households with more than eight persons, extended tables for households of more than eight persons will soon be provided to the State agencies.

A. *Value of the Total Allotment.* For each person in excess of eight, add $62 to the monthly coupon allotment of $494, which is the maximum bonus for eight-person households.

B. *Monthly Net Income.* For households of more than eight persons, it will be necessary to add on to each of the last monthly net income increments to reflect the maximum allowable income that is applicable to that size household. To do this, add $30 to $1,619.99 and $30 to $1,620 to obtain $1,649.99 and $1,650 and continue this addition process until you reach the income increment which contains the new maximum allowable net income figure applicable to that size household.

C. *Bonus Allotments.* To determine the bonus allotments to be issued to households of more than eight persons, refer to the July 1978 basis of coupon issuance tables. It will be necessary to:

1. Compute the maximum monthly benefit reduction (in the July tables, this is the maximum purchase requirement) for households of more than eight persons. The maximum monthly benefit reduction for a household of nine is $508. Add $58 for each person over nine to obtain the maximum benefit reduction for that size household.

2. Refer to the July 1978 basis of coupon issuance tables for households with more than eight persons. The maximum monthly benefit reduction obtained in the previous step for the appropriate size household should be placed at the bottom of the monthly purchase requirement column on the July tables for that size household. This is the new maximum monthly benefit reduction applicable to households whose net income is the maximum allowable for their particular household size.

3. Find the place near the bottom of each column of the July tables for households in excess of eight where the increase in monthly purchase requirements from one $30 income bracket to the next is less than $9. (Normally, the benefit reduction goes up $9 for every $30 in income.) From that point until the bottom of the column for each household size, replace the purchase requirement in the July tables with the following computation. For each new $30 income bracket, add $9 to the monthly benefit reduction. However, when the benefit reduction reaches the maximum benefit reduction for that household size (as computed in step 1), use the maximum benefit reduction instead.

4. Determine the bonus allotments to be issued to households of more than eight persons, by subtracting the benefit reductions obtained for each household size and income grouping from the total food stamp allotment.

Appendix B to Part 273.10 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977 is added as follows:

APPENDIX B/TABLE II—ALASKA

Section 3(o) of the Food Stamp Act of 1977 requires that the value of the Thrifty Food Plan be adjusted semiannually to the nearest dollar increment to reflect changes in its cost for the six months ending the preceding September 30 and March 31, respectively. Under this provision an adjustment based on the cost of the Thrifty Food Plan in September has been made in the coupon allotments for all households.

The maximum allowable income standards for determining eligibility of all households, *including* those in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit, in Alaska appear in Appendix A to § 273.9. However, to assure clarity and prevent misunderstandings and errors, these standards are also reflected below:

Household Size:	*Maximum Allowable Monthly Income Standards,*[1] *Alaska*
1	$348
2	458
3	568
4	678
5	788
6	898
7	1,008
8	1,118
Each additional member	+110

[1]Office of Management and Budget (OMB) Nonfarm Income Poverty Guideline.

"Income" as the term is used in the notice is as defined in § 273.9(b) of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977.

Pursuant to Section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017, Title XIII of Pub. L. 95-113), the value of the allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Food Stamp Program in Alaska shall be:

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
0 - 3	82	150	215	273	324	389	430	491
4 - 6	81	149	214	272	323	388	429	490
7 - 9	80	148	213	271	322	387	428	489
10 - 13	79	147	212	270	321	386	427	488
14 - 16	78	146	211	269	320	385	426	487
17 - 19	77	145	210	268	319	384	425	486
20 - 23	76	144	209	267	318	383	424	485
24 - 26	75	143	208	266	317	382	423	484
27 - 29	74	142	207	265	316	381	422	483
30 - 33	73	141	206	264	315	380	421	482
34 - 36	72	140	205	263	314	379	420	481
37 - 39	71	139	204	262	313	378	419	480
40 - 43	70	138	203	261	312	377	418	479
44 - 46	69	137	202	260	311	376	417	478
47 - 49	68	136	201	259	310	375	416	477
50 - 53	67	135	200	258	309	374	415	476
54 - 56	66	134	199	257	308	373	414	475
57 - 59	65	133	198	256	307	372	413	474
60 - 63	64	132	197	255	306	371	412	473
64 - 66	63	131	196	254	305	370	411	472
67 - 69	62	130	195	253	304	369	410	471
70 - 73	61	129	194	252	303	368	409	470
74 - 76	60	128	193	251	302	367	408	469
77 - 79	59	127	192	250	301	366	407	468
80 - 83	58	126	191	249	300	365	406	467

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
84 - 86	57	125	190	248	299	364	405	466
87 - 89	56	124	189	247	298	363	404	465
90 - 93	55	123	188	246	297	362	403	464
94 - 96	54	122	187	245	296	361	402	463
97 - 99	53	121	186	244	295	360	401	462
100 - 103	52	120	185	243	294	359	400	461
104 - 106	51	119	184	242	293	358	399	460
107 - 109	50	118	183	241	292	357	398	459
110 - 113	49	117	182	240	291	356	397	458
114 - 116	48	116	181	239	290	355	396	457
117 - 119	47	115	180	238	289	354	395	456
120 - 123	46	114	179	237	288	353	394	455
124 - 126	45	113	178	236	287	352	393	454
127 - 129	44	112	177	235	286	351	392	453
130 - 133	43	111	176	234	285	350	391	452
134 - 136	42	110	175	233	284	349	390	451
137 - 139	41	109	174	232	283	348	389	450
140 - 143	40	108	173	231	282	347	388	449
144 - 146	39	107	172	230	281	346	387	448
147 - 149	38	106	171	229	280	345	386	447
150 - 153	37	105	170	228	279	344	385	446
154 - 156	36	104	169	227	278	343	384	445
157 - 159	35	103	168	226	277	342	383	444
160 - 163	34	102	167	225	276	341	382	443
164 - 166	33	101	166	224	275	340	381	442

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
167 - 169	32	100	165	223	274	339	380	441
170 - 173	31	99	164	222	273	338	379	440
174 - 176	30	98	163	221	272	337	378	439
177 - 179	29	97	162	220	271	336	377	438
180 - 183	28	96	161	219	270	335	376	437
184 - 186	27	95	160	218	269	334	375	436
187 - 189	26	94	159	217	268	333	374	435
190 - 193	25	93	158	216	267	332	373	434
194 - 196	24	92	157	215	266	331	372	433
197 - 199	23	91	156	214	265	330	371	432
200 - 203	22	90	155	213	264	329	370	431
204 - 206	21	89	154	212	263	328	369	430
207 - 209	20	88	153	211	262	327	368	429
210 - 213	19	87	152	210	261	326	367	428
214 - 216	18	86	151	209	260	325	366	427
217 - 219	17	85	150	208	259	324	365	426
220 - 223	16	84	149	207	258	323	364	425
224 - 226	15	83	148	206	257	322	363	424
227 - 229	14	82	147	205	256	321	362	423
230 - 233	13	81	146	204	255	320	361	422
234 - 236	12	80	145	203	254	319	360	421
237 - 239	11	79	144	202	253	318	359	420
240 - 243	10	78	143	201	252	317	358	419
244 - 246	10	77	142	200	251	316	357	418
247 - 249	10	76	141	199	250	315	356	417

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
250 - 253	10	75	140	198	249	314	355	416
254 - 256	10	74	139	197	248	313	354	415
257 - 259	10	73	138	196	247	312	353	414
260 - 263	10	72	137	195	246	311	352	413
264 - 266	10	71	136	194	245	310	351	412
267 - 269	10	70	135	193	244	309	350	411
270 - 273	10	69	134	192	243	308	349	410
274 - 276	10	68	133	191	242	307	348	409
277 - 279	10	67	132	190	241	306	347	408
280 - 283	10	66	131	189	240	305	346	407
284 - 286	10	65	130	188	239	304	345	406
287 - 289	10	64	129	187	238	303	344	405
290 - 293	10	63	128	186	237	302	343	404
294 - 296	10	62	127	185	236	301	342	403
297 - 299	10	61	126	184	235	300	341	402
300 - 303	10	60	125	183	234	299	340	401
304 - 306	10	59	124	182	233	298	339	400
307 - 309	10	58	123	181	232	297	338	399
310 - 313	10	57	122	180	231	296	337	398
314 - 316	10	56	121	179	230	295	336	397
317 - 319	10	55	120	178	229	294	335	396
320 - 323	10	54	119	177	228	293	334	395
324 - 326	10	53	118	176	227	292	333	394
327 - 329	10	52	117	175	226	291	332	393
330 - 333	10	51	116	174	225	290	331	392

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
334 - 336	10	50	115	173	224	289	330	391
337 - 339	10	49	114	172	223	288	329	390
340 - 343	10	48	113	171	222	287	328	389
344 - 346	10	47	112	170	221	286	327	388
347 - 349	10	46	111	169	220	285	326	387
350 - 353		45	110	168	219	284	325	386
354 - 356		44	109	167	218	283	324	385
357 - 359		43	108	166	217	282	323	384
360 - 363		42	107	165	216	281	322	383
364 - 366		41	106	164	215	280	321	382
367 - 369		40	105	163	214	279	320	381
370 - 373		39	104	162	213	278	319	380
374 - 376		38	103	161	212	277	318	379
377 - 379		37	102	160	211	276	317	378
380 - 383		36	101	159	210	275	316	377
384 - 386		35	100	158	209	274	315	376
387 - 389		34	99	157	208	273	314	375
390 - 393		33	98	156	207	272	313	374
394 - 396		32	97	155	206	271	312	373
397 - 399		31	96	154	205	270	311	372
400 - 403		30	95	153	204	269	310	371
404 - 406		29	94	152	203	268	309	370
407 - 409		28	93	151	202	267	308	369
410 - 413		27	92	150	201	266	307	368
414 - 416		26	91	149	200	265	306	367

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
417 - 419		25	90	148	199	264	305	366
420 - 423		24	89	147	198	263	304	365
424 - 426		23	88	146	197	262	303	364
427 - 429		22	87	145	196	261	302	363
430 - 433		21	86	144	195	260	301	362
434 - 436		20	85	143	194	259	300	361
437 - 439		19	84	142	193	258	299	360
440 - 443		18	83	141	192	257	298	359
444 - 446		17	82	140	191	256	297	358
447 - 449		16	81	139	190	255	296	357
450 - 453		15	80	138	189	254	295	356
454 - 456		14	79	137	188	253	294	355
457 - 459		13	78	136	187	252	293	354
460 - 463			77	135	186	251	292	353
464 - 466			76	134	185	250	291	352
467 - 469			75	133	184	249	290	351
470 - 473			74	132	183	248	289	350
474 - 476			73	131	182	247	288	349
477 - 479			72	130	181	246	287	348
480 - 483			71	129	180	245	286	347
484 - 486			70	128	179	244	285	346
487 - 489			69	127	178	243	284	345
490 - 493			68	126	177	242	283	344
494 - 496			67	125	176	241	282	343
497 - 499			66	124	175	240	281	342

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
500 - 503			65	123	174	239	280	341
504 - 506			64	122	173	238	279	340
507 - 509			63	121	172	237	278	339
510 - 513			62	120	171	236	277	338
514 - 516			61	119	170	235	276	337
517 - 519			60	118	169	234	275	336
520 - 523			59	117	168	233	274	335
524 - 526			58	116	167	232	273	334
527 - 529			57	115	166	231	272	333
530 - 533			56	114	165	230	271	332
534 - 536			55	113	164	229	270	331
537 - 539			54	112	163	228	269	330
540 - 543			53	111	162	227	268	329
544 - 546			52	110	161	226	267	328
547 - 549			51	109	160	225	266	327
550 - 553			50	108	159	224	265	326
554 - 556			49	107	158	223	264	325
557 - 559			48	106	157	222	263	324
560 - 563			47	105	156	221	262	323
564 - 566			46	104	155	220	261	322
567 - 569			45	103	154	219	260	321
570 - 573				102	153	218	259	320
574 - 576				101	152	217	258	319
577 - 579				100	151	216	257	318
580 - 583				99	150	215	256	317

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
584 - 586				98	149	214	255	316
587 - 589				97	148	213	254	315
590 - 593				96	147	212	253	314
594 - 596				95	146	211	252	313
597 - 599				94	145	210	251	312
600 - 603				93	144	209	250	311
604 - 606				92	143	208	249	310
607 - 609				91	142	207	248	309
610 - 613				90	141	206	247	308
614 - 616				89	140	205	246	307
617 - 619				88	139	204	245	306
620 - 623				87	138	203	244	305
624 - 626				86	137	202	243	304
627 - 629				85	136	201	242	303
630 - 633				84	135	200	241	302
634 - 636				83	134	199	240	301
637 - 639				82	133	198	239	300
640 - 643				81	132	197	238	299
644 - 646				80	131	196	237	298
647 - 649				79	130	195	236	297
650 - 653				78	129	194	235	296
654 - 656				77	128	193	234	295
657 - 659				76	127	192	233	294
660 - 663				75	126	191	232	293
664 - 666				74	125	190	231	292

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
667 - 669				73	124	189	230	291
670 - 673				72	123	188	229	290
674 - 676				71	122	187	228	289
677 - 679				70	121	186	227	288
680 - 683					120	185	226	287
684 - 686					119	184	225	286
687 - 689					118	183	224	285
690 - 693					117	182	223	284
694 - 696					116	181	222	283
697 - 699					115	180	221	282
700 - 703					114	179	220	281
704 - 706					113	178	219	280
707 - 709					112	177	218	279
710 - 713					111	176	217	278
714 - 716					110	175	216	277
717 - 719					109	174	215	276
720 - 723					108	173	214	275
724 - 726					107	172	213	274
727 - 729					106	171	212	273
730 - 733					105	170	211	272
734 - 736					104	169	210	271
737 - 739					103	168	209	270
740 - 743					102	167	208	269
744 - 746					101	166	207	268
747 - 749					100	165	206	267

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
750 - 753					99	164	205	266
754 - 756					98	163	204	265
757 - 759					97	162	203	264
760 - 763					96	161	202	263
764 - 766					95	160	201	262
767 - 769					94	159	200	261
770 - 773					93	158	199	260
774 - 776					92	157	198	259
777 - 779					91	156	197	258
780 - 783					90	155	196	257
784 - 786					89	154	195	256
787 - 789					88	153	194	255
790 - 793						152	193	254
794 - 796						151	192	253
797 - 799						150	191	252
800 - 803						149	190	251
804 - 806						148	189	250
807 - 809						147	188	249
810 - 813						146	187	248
814 - 816						145	186	247
817 - 819						144	185	246
820 - 823						143	184	245
824 - 826						142	183	244
827 - 829						141	182	243
830 - 833						140	181	242

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
834 - 836						139	180	241
837 - 839						138	179	240
840 - 843						137	178	239
844 - 846						136	177	238
847 - 849						135	176	237
850 - 853						134	175	236
854 - 856						133	174	235
857 - 859						132	173	234
860 - 863						131	172	233
864 - 866						130	171	232
867 - 869						129	170	231
870 - 873						128	169	230
874 - 876						127	168	229
877 - 879						126	167	228
880 - 883						125	166	227
884 - 886						124	165	226
887 - 889						123	164	225
890 - 893						122	163	224
894 - 896						121	162	223
897 - 899						120	161	222
900 - 903							160	221
904 - 906							159	220
907 - 909							158	219
910 - 913							157	218
914 - 916							156	217

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
917 - 919							155	216
920 - 923							154	215
924 - 926							153	214
927 - 929							152	213
930 - 933							151	212
934 - 936							150	211
937 - 939							149	210
940 - 943							148	209
944 - 946							147	208
947 - 949							146	207
950 - 953							145	206
954 - 956							144	205
957 - 959							143	204
960 - 963							142	203
964 - 966							141	202
967 - 969							140	201
970 - 973							139	200
974 - 976							138	199
977 - 979							137	198
980 - 983							136	197
984 - 986							135	196
987 - 989							134	195
990 - 993							133	194
994 - 996							132	193
997 - 999							131	192

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
1000 - 1003							130	191
1004 - 1006							129	190
1007 - 1009							128	189
1010 - 1013								188
1014 - 1016								187
1017 - 1019								186
1020 - 1023								185
1024 - 1026								184
1027 - 1029								183
1030 - 1033								182
1034 - 1036								181
1037 - 1039								180
1040 - 1043								179
1044 - 1046								178
1047 - 1049								177
1050 - 1053								176
1054 - 1056								175
1057 - 1059								174
1060 - 1063								173
1064 - 1066								172
1067 - 1069								171
1070 - 1073								170
1074 - 1076								169
1077 - 1079								168
1080 - 1083								167

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Alaska

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
1084 - 1086								166
1087 - 1089								165
1090 - 1093								164
1094 - 1096								163
1097 - 1099								162
1100 - 1103								161
1104 - 1106								160
1107 - 1109								159
1110 - 1113								158
1114 - 1116								157
1117 - 1119								156

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. *Value of the Thrifty Food Plan.* For each person in excess of eight, add $62 to the monthly Thrifty Food Plan for an eight-person household.

B. *Benefit Determination Without the Tables.* To determine the benefit households shall receive:

1. Multiply the household's net monthly income by 30 percent and round by dropping all cents.

2. Subtract the result obtained in step 1 from the Thrifty Food Plan for that size household.

C. *Benefit Determination With the Tables.* For households of more than eight persons, it will be necessary to add on to the last monthly net income grouping to reach the maximum allowable income that is applicable to that size household. To do this, note that the monthly net income groupings follow a $3 bracket, $3 bracket, $4 bracket pattern that does not vary. Add below the 1117-1119 income grouping (a $3 bracket), a new grouping for 1120-1123 (a $4 bracket). Then, follow the $3 bracket, $3 bracket, $4 bracket pattern continuously until the maximum monthly net income applicable to that size household is reached.

SEMIANNUAL ADJUSTMENT OF STANDARD DEDUCTION

OUTLYING AREAS

Section 5(e) of the Food Stamp Act of 1977 provides that a standard deduction shall be used in computing household income. Such standard deduction shall be adjusted every July 1 and January 1 to the nearest $5 for the six months ending the preceding March 31 and September 30, respectively, to reflect changes in the Consumer Price Index (CPI) for items other than food. In accordance with this law, the Department has determined that effective January 1, 1979, the standard deduction for the outlying areas appearing in Appendix B of § 273.9 of the Food Stamp Regulations shall be as follows:

APPENDIX B—*Standard Deductions for the Outlying Areas*

Outlying Areas	Previous Unrounded Standard Deduction (July-December 1978)	Unrounded Standard Deduction [1] (January-June 1979)	Rounded Standard Deduction
Alaska	$109.08	$114.36	$115
Hawaii	91.21	95.62	95
Guam	126.95	133.09	135
Puerto Rico	38.21	40.06	40
Virgin Islands	54.23	56.85	55

[1] CPI adjustment for the period of March 1978 to September 1978 is 1.0484.

NOTE: The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

In view of the need for placing this notice into effect January 1, 1979, and the lead-time needed by State agencies for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps)

Dated: December 1, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-34142 Filed 12-7-78; 8:45 am]

[3410-30-M]

[Amdt. No. 140]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

Food Stamp Program; Maximum Monthly Allowable Income Standards and Basis of Coupon Issuance: Guam

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment adds Appendix F to § 273.10 of the Food Stamp Program Regulations issued pursuant to the Food Stamp Act of 1977. This appendix provides the basis of coupon issuance for Guam. Semiannual adjustments in the coupon allotments, to reflect food price changes published by the Bureau of Labor Statistics, are required by the Food Stamp Acts of 1964 and 1977. Appendix F provides two tables as some households will be certified under the income definition and benefit provisions of the regulations issued pursuant to the Food Stamp Act of 1964 and other households will be certified under the new eligibility and benefit determination rules promulgated under the Food Stamp Act of 1977.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION: On October 17, 1978, the Department published final rulemaking to implement major aspects of the Food Stamp Act of 1977, including the issuance of allotments at no cost and the eligibility criteria. In that October 17, 1978, publication, comments were solicited regarding the computation of the standard deductions and the excess shelter/dependent care deductions for the outlying areas. No comments were received during the 30-day comment period. The October 17, 1978, publication also included the following implementation schedule for the transition to the new allotment and net income calculations: (1) All States must implement the elimination of the purchase requirement (EPR) effective for all households no later than the January 1, 1979 issuance; (2) States must begin implementing the new eligibility and benefit determination rules no later than March 1, 1979; (3) States may implement EPR earlier than January 1, 1979, provided they begin to convert to the new eligibility and benefit determination rules no later than three months from the date they implement EPR; and (4) effective on the first day that the new eligibility and benefit determination rules are applied, those rules must apply to all new applicants and to each household which is recertified. Households certified prior to the first day of the 120-day maximum conversion period, but after the effective date for EPR, shall receive the bonus amount provided under the Food Stamp Act of 1964 until recertified or until a desk review is conducted. Because there will be two methods for computing food stamp eligibility and benefits in effect during the six-month period beginning January 1, 1979, this appendix appears in two parts. The first part revises the July 1, 1978 maximum allowable income standards and basis of coupon issuance for Guam which appear as Appendix F to Part 271 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1964 as amend-

ed. Table I indicates the *bonus allotments* households certified under the income definition and benefit provisions of the Food Stamp Act of 1964 will receive at no cost until their eligibility is redetermined under the new program rules. The second part of this appendix contains Table II which indicates the monthly coupon allotments households shall receive in Guam as calculated using the new eligibility and benefit determination rules promulgated under the Food Stamp Act of 1977.

The Food Stamp Acts of 1964 and 1977 require semiannual adjustments in the coupon allotments to reflect food price changes published by the Bureau of Labor Statistics (BLS). Food prices for Guam are collected under special arrangements between the Department and BLS during February, May, August and November. As mandated by the Food Stamp Acts of 1964 and 1977, the cost of the Thrifty Food Plan is adjusted to reflect the cost of food in Guam but cannot exceed the cost of food in the fifty States and the District of Columbia.

Appendix F to Part 271 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1964 is revised to read as follows:

APPENDIX F/TABLE I—GUAM

Section 7(a) of the Food Stamp Act of 1964, as amended, requires that the value of the coupon allotment be adjusted semiannually by the nearest dollar increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics. Under this provision, an adjustment based on the cost of the Thrifty Food Plan in August 1978 has been made in the coupon allotments for all households. (Food price data for September is not available for Guam.)

The 1973 amendments to the Food Stamp Act of 1964 specified that the first semiannual adjustment be made in January 1974 to reflect changes in food prices through August 1973. Similar procedures have been used for subsequent semiannual adjustments; i.e., the July adjustment based on the cost of the food plan in the preceding February and the January adjustment based on the cost of the food plan in the preceding August. Based on prices provided for Guam, the Department's Science and Education Administration estimated that the cost of the Thrifty Food Plan adopted for the continental United States, adjusted for the cost of food in Guam would be higher than in the fifty States. Thus, the income standards (except for the one-person household which is the same as Hawaii) and the coupon allotments for Guam are the same as those which will become effective in Alaska on January 1, 1979.

Households in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally aided public assistance, general assistance, or supplemental security income benefit, in Guam shall be as follows:

Household Size:	*Maximum Allowable Monthly Income Standards, Guam*
1	[1]$308
2	500
3	720
4	913
5	1,087
6	1,300
7	1,440
8	1,647
Each additional member	+207

[1] 1978 USDA poverty guideline.

"Income" as the term is used in this table is as defined in § 271.3(c) of the Food Stamp Program Regulations in effect until implementation of the provisions of § 273.9 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977.

Pursuant to sections 7(a) and (b) of the Food Stamp Act of 1964, as amended (7 U.S.C. 2016, Pub. L. 91-671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program in Guam shall be:

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act

Guam

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
0 - 19.99	82.00	150.00	216.00	274.00	326.00	390.00	432.00	494.00
20 - 29.99	81.00	149.00	216.00	274.00	326.00	390.00	432.00	494.00
30 - 39.99	78.00	146.00	212.00	270.00	321.00	385.00	427.00	489.00
40 - 49.99	76.00	143.00	209.00	267.00	318.00	382.00	424.00	486.00
50 - 59.99	74.00	140.00	206.00	264.00	315.00	379.00	420.00	482.00
60 - 69.99	72.00	138.00	203.00	261.00	312.00	376.00	417.00	478.00
70 - 79.99	70.00	135.00	200.00	258.00	309.00	373.00	414.00	475.00
80 - 89.99	68.00	132.00	197.00	255.00	306.00	369.00	411.00	472.00
90 - 99.99	66.00	129.00	195.00	252.00	303.00	366.00	407.00	468.00
100 - 109.99	64.00	127.00	192.00	249.00	300.00	363.00	404.00	465.00
110 - 119.99	61.00	124.00	189.00	246.00	297.00	359.00	400.00	461.00
120 - 129.99	58.00	121.00	186.00	243.00	293.00	356.00	397.00	458.00
130 - 139.99	55.00	118.00	183.00	240.00	290.00	353.00	394.00	455.00
140 - 149.99	52.00	115.00	180.00	237.00	287.00	350.00	391.00	452.00
150 - 169.99	49.00	112.00	176.00	233.00	284.00	347.00	388.00	449.00
170 - 189.99	43.00	106.00	170.00	227.00	278.00	341.00	382.00	443.00
190 - 209.99	37.00	100.00	164.00	221.00	272.00	335.00	376.00	437.00
210 - 229.99	31.00	94.00	158.00	215.00	266.00	329.00	370.00	431.00
230 - 249.99	25.00	88.00	152.00	209.00	260.00	323.00	364.00	425.00
250 - 269.99	19.00	82.00	146.00	203.00	254.00	317.00	358.00	419.00
270 - 289.99	14.00	76.00	140.00	197.00	248.00	311.00	352.00	413.00
290 - 309.99	14.00	70.00	134.00	191.00	242.00	305.00	346.00	407.00
310 - 329.99		64.00	128.00	185.00	236.00	299.00	340.00	401.00
330 - 359.99		58.00	122.00	179.00	230.00	293.00	334.00	395.00
360 - 389.99		49.00	113.00	170.00	221.00	284.00	325.00	386.00

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act

Guam

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
390 - 419.99		40.00	104.00	161.00	212.00	275.00	316.00	377.00
420 - 449.99		31.00	95.00	152.00	203.00	266.00	307.00	368.00
450 - 479.99		26.00	86.00	143.00	194.00	257.00	298.00	359.00
480 - 509.99		26.00	77.00	134.00	185.00	248.00	289.00	350.00
510 - 539.99			68.00	125.00	176.00	239.00	280.00	341.00
540 - 569.99			59.00	116.00	167.00	230.00	271.00	332.00
570 - 599.99			50.00	107.00	158.00	221.00	262.00	323.00
600 - 629.99			41.00	98.00	149.00	212.00	253.00	314.00
630 - 659.99			32.00	89.00	140.00	203.00	244.00	305.00
660 - 689.99			23.00	80.00	131.00	194.00	235.00	296.00
690 - 719.99			22.00	71.00	122.00	185.00	226.00	287.00
720 - 749.99			22.00	62.00	113.00	176.00	217.00	278.00
750 - 779.99				53.00	104.00	167.00	208.00	269.00
780 - 809.99				44.00	95.00	158.00	199.00	260.00
810 - 839.99				35.00	86.00	149.00	190.00	251.00
840 - 869.99				28.00	77.00	140.00	181.00	242.00
870 - 899.99				28.00	68.00	131.00	172.00	233.00
900 - 929.99				28.00	59.00	122.00	163.00	224.00
930 - 959.99					50.00	113.00	154.00	215.00
960 - 989.99					41.00	104.00	145.00	206.00
990 - 1,019.99					32.00	95.00	136.00	197.00
1,020 - 1,049.99					32.00	86.00	127.00	188.00
1,050 - 1,079.99					32.00	77.00	118.00	179.00
1,080 - 1,109.99					32.00	68.00	109.00	170.00
1,110 - 1,139.99						59.00	100.00	161.00

TABLE I

January 1, 1979 - Basis of Coupon Issuance - 1964 Act

Guam

Monthly Net Income	Bonus by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
1,140 - 1,169.99						50.00	91.00	152.00
1,170 - 1,199.99						41.00	82.00	143.00
1,200 - 1,229.99						36.00	73.00	134.00
1,230 - 1,259.99						36.00	64.00	125.00
1,260 - 1,289.99						36.00	55.00	116.00
1,290 - 1,319.99						36.00	46.00	107.00
1,320 - 1,349.99							40.00	98.00
1,350 - 1,379.99							40.00	89.00
1,380 - 1,409.99							40.00	80.00
1,410 - 1,439.99							40.00	71.00
1,440 - 1,469.99							40.00	62.00
1,470 - 1,499.99								53.00
1,500 - 1,529.99								44.00
1,530 - 1,559.99								44.00
1,560 - 1,589.99								44.00
1,590 - 1,619.99								44.00
1,620 and up								44.00

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

Because the Department recognizes the complexity of the methodology involved in preparing tables for households with more than eight persons, extended tables for households of more than eight persons will soon be provided to the State agencies.

A. *Value of the Total Allotment.* For each person in excess of eight, add $62 to the monthly coupon allotment of $494, which is the maximum bonus for eight-person households.

B. *Monthly Net Income.* For households of more than eight persons, it will be necessary to add on to each of the last monthly net income increments to reflect the maximum allowable income that is applicable to that size household. To do this, add $30 to $1,619.99 and $30 to $1,620 to obtain $1,649.99 and $1,650 and continue this addition process until you reach the income increment which contains the new maximum allowable net income figure applicable to that size household.

C. *Bonus Allotments.* To determine the bonus allotments to be issued to households of more than eight persons, refer to the July 1978 basis of coupon issuance tables. It will be necessary to: 1. Compute the maximum monthly benefit reduction (in the July tables, this is the maximum purchase requirement) for households of more than eight persons. The maximum monthly benefit reduction for a household of nine is $508. Add $58 for each person over nine to obtain the maximum benefit reduction for that size household.

2. Refer to the July 1978 basis of coupon issuance tables for households with more than eight persons. The maximum monthly benefit reduction obtained in the previous step for the appropriate size household should be placed at the bottom of the monthly purchase requirement column on the July tables for that size household. This is the new maximum monthly benefit reduction applicable to households whose net income is the maximum allowable for their particular household size.

3. Find the place near the bottom of each column of the July tables for households in excess of eight where the increase in monthly purchase requirements from one $30 income bracket to the next is less than $9. (Normally, the benefit reduction goes up $9 for every $30 in income.) From that point until the bottom of the column for each household size, replace the purchase requirement in the July tables with the following computation. For each new $30 income bracket, add $9 to the monthly benefit reduction. However, when the benefit reduction reaches the maximum benefit reduction for that household size (as computed in step 1), use the maximum benefit reduction instead.

4. Determine the bonus allotments to be issued to households of more than eight persons, by subtracting the benefit reductions obtained for each household size and income grouping from the total food stamp allotment.

Appendix F to Part 273.10 of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977 is added as follows:

APPENDIX F/TABLE II—GUAM

Section 3(o) of the Food Stamp Act of 1977 requires that the value of the Thrifty Food Plan be adjusted semiannually to the nearest dollar increment to reflect changes in its cost for the six months ending the preceding September 30 and March 31, respectively. Under this provision an adjustment has been made in the coupon allotments for all households. The adjustment is based on the cost of the Thrifty Food Plan in August as food price data for September is not available for Guam.

The maximum allowable income standards for determining eligibility of all households, *including* those in which all members are included in the federally aided public assistance grant, general assistance grant, or supplemental security income benefit, in Guam appear in Appendix A to § 273.9. However, to assure clarity and prevent misunderstandings and errors, these standards are also reflected below:

Household Size:	*Maximum Allowable Monthly Income Standards,*[1] *Guam*
1	$277
2	365
3	454
4	542
5	630
6	719
7	807
8	895
Each additional member	+89

[1]Office of Management and Budget (OMB) Nonfarm Income Poverty Guideline.

"Income" as the term is used in the notice is as defined in § 273.9(b) of the Food Stamp Program Regulations promulgated under the Food Stamp Act of 1977.

Pursuant to Section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017, Title XIII of Pub. L. 95-113), the value of the allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Food Stamp Program in Guam shall be:

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Guam

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
0 - 3	82	150	215	273	324	389	430	491
4 - 6	81	149	214	272	323	388	429	490
7 - 9	80	148	213	271	322	387	428	489
10 - 13	79	147	212	270	321	386	427	488
14 - 16	78	146	211	269	320	385	426	487
17 - 19	77	145	210	268	319	384	425	486
20 - 23	76	144	209	267	318	383	424	485
24 - 26	75	143	208	266	317	382	423	484
27 - 29	74	142	207	265	316	381	422	483
30 - 33	73	141	206	264	315	380	421	482
34 - 36	72	140	205	263	314	379	420	481
37 - 39	71	139	204	262	313	378	419	480
40 - 43	70	138	203	261	312	377	418	479
44 - 46	69	137	202	260	311	376	417	478
47 - 49	68	136	201	259	310	375	416	477
50 - 53	67	135	200	258	309	374	415	476
54 - 56	66	134	199	257	308	373	414	475
57 - 59	65	133	198	256	307	372	413	474
60 - 63	64	132	197	255	306	371	412	473
64 - 66	63	131	196	254	305	370	411	472
67 - 69	62	130	195	253	304	369	410	471
70 - 73	61	129	194	252	303	368	409	470
74 - 76	60	128	193	251	302	367	408	469
77 - 79	59	127	192	250	301	366	407	468
80 - 83	58	126	191	249	300	365	406	467

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act

Guam

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
84 - 86	57	125	190	248	299	364	405	466
87 - 89	56	124	189	247	298	363	404	465
90 - 93	55	123	188	246	297	362	403	464
94 - 96	54	122	187	245	296	361	402	463
97 - 99	53	121	186	244	295	360	401	462
100 - 103	52	120	185	243	294	359	400	461
104 - 106	51	119	184	242	293	358	399	460
107 - 109	50	118	183	241	292	357	398	459
110 - 113	49	117	182	240	291	356	397	458
114 - 116	48	116	181	239	290	355	396	457
117 - 119	47	115	180	238	289	354	395	456
120 - 123	46	114	179	237	288	353	394	455
124 - 126	45	113	178	236	287	352	393	454
127 - 129	44	112	177	235	286	351	392	453
130 - 133	43	111	176	234	285	350	391	452
134 - 136	42	110	175	233	284	349	390	451
137 - 139	41	109	174	232	283	348	389	450
140 - 143	40	108	173	231	282	347	388	449
144 - 146	39	107	172	230	281	346	387	448
147 - 149	38	106	171	229	280	345	386	447
150 - 153	37	105	170	228	279	344	385	446
154 - 156	36	104	169	227	278	343	384	445
157 - 159	35	103	168	226	277	342	383	444
160 - 163	34	102	167	225	276	341	382	443
164 - 166	33	101	166	224	275	340	381	442

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Guam

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
167 - 169	32	100	165	223	274	339	380	441
170 - 173	31	99	164	222	273	338	379	440
174 - 176	30	98	163	221	272	337	378	439
177 - 179	29	97	162	220	271	336	377	438
180 - 183	28	96	161	219	270	335	376	437
184 - 186	27	95	160	218	269	334	375	436
187 - 189	26	94	159	217	268	333	374	435
190 - 193	25	93	158	216	267	332	373	434
194 - 196	24	92	157	215	266	331	372	433
197 - 199	23	91	156	214	265	330	371	432
200 - 203	22	90	155	213	264	329	370	431
204 - 206	21	89	154	212	263	328	369	430
207 - 209	20	88	153	211	262	327	368	429
210 - 213	19	87	152	210	261	326	367	428
214 - 216	18	86	151	209	260	325	366	427
217 - 219	17	85	150	208	259	324	365	426
220 - 223	16	84	149	207	258	323	364	425
224 - 226	15	83	148	206	257	322	363	424
227 - 229	14	82	147	205	256	321	362	423
230 - 233	13	81	146	204	255	320	361	422
234 - 236	12	80	145	203	254	319	360	421
237 - 239	11	79	144	202	253	318	359	420
240 - 243	10	78	143	201	252	317	358	419
244 - 246	10	77	142	200	251	316	357	418
247 - 249	10	76	141	199	250	315	356	417

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Guam

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
250 - 253	10	75	140	198	249	314	355	416
254 - 256	10	74	139	197	248	313	354	415
257 - 259	10	73	138	196	247	312	353	414
260 - 263	10	72	137	195	246	311	352	413
264 - 266	10	71	136	194	245	310	351	412
267 - 269	10	70	135	193	244	309	350	411
270 - 273	10	69	134	192	243	308	349	410
274 - 276	10	68	133	191	242	307	348	409
277 - 279	10	67	132	190	241	306	347	408
280 - 283		66	131	189	240	305	346	407
284 - 286		65	130	188	239	304	345	406
287 - 289		64	129	187	238	303	344	405
290 - 293		63	128	186	237	302	343	404
294 - 296		62	127	185	236	301	342	403
297 - 299		61	126	184	235	300	341	402
300 - 303		60	125	183	234	299	340	401
304 - 306		59	124	182	233	298	339	400
307 - 309		58	123	181	232	297	338	399
310 - 313		57	122	180	231	296	337	398
314 - 316		56	121	179	230	295	336	397
317 - 319		55	120	178	229	294	335	396
320 - 323		54	119	177	228	293	334	395
324 - 326		53	118	176	227	292	333	394
327 - 329		52	117	175	226	291	332	393
330 - 333		51	116	174	225	290	331	392

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Guam

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
334 - 336		50	115	173	224	289	330	391
337 - 339		49	114	172	223	288	329	390
340 - 343		48	113	171	222	287	328	389
344 - 346		47	112	170	221	286	327	388
347 - 349		46	111	169	220	285	326	387
350 - 353		45	110	168	219	284	325	386
354 - 356		44	109	167	218	283	324	385
357 - 359		43	108	166	217	282	323	384
360 - 363		42	107	165	216	281	322	383
364 - 366		41	106	164	215	280	321	382
367 - 369			105	163	214	279	320	381
370 - 373			104	162	213	278	319	380
374 - 376			103	161	212	277	318	379
377 - 379			102	160	211	276	317	378
380 - 383			101	159	210	275	316	377
384 - 386			100	158	209	274	315	376
387 - 389			99	157	208	273	314	375
390 - 393			98	156	207	272	313	374
394 - 396			97	155	206	271	312	373
397 - 399			96	154	205	270	311	372
400 - 403			95	153	204	269	310	371
404 - 406			94	152	203	268	309	370
407 - 409			93	151	202	267	308	369
410 - 413			92	150	201	266	307	368
414 - 416			91	149	200	265	306	367

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act

Guam

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
417 - 419			90	148	199	264	305	366
420 - 423			89	147	198	263	304	365
424 - 426			88	146	197	262	303	364
427 - 429			87	145	196	261	302	363
430 - 433			86	144	195	260	301	362
434 - 436			85	143	194	259	300	361
437 - 439			84	142	193	258	299	360
440 - 443			83	141	192	257	298	359
444 - 446			82	140	191	256	297	358
447 - 449			81	139	190	255	296	357
450 - 453			80	138	189	254	295	356
454 - 456			79	137	188	253	294	355
457 - 459				136	187	252	293	354
460 - 463				135	186	251	292	353
464 - 466				134	185	250	291	352
467 - 469				133	184	249	290	351
470 - 473				132	183	248	289	350
474 - 476				131	182	247	288	349
477 - 479				130	181	246	287	348
480 - 483				129	180	245	286	347
484 - 486				128	179	244	285	346
487 - 489				127	178	243	284	345
490 - 493				126	177	242	283	344
494 - 496				125	176	241	282	343
497 - 499				124	175	240	281	342

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Guam

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
500 - 503				123	174	239	280	341
504 - 506				122	173	238	279	340
507 - 509				121	172	237	278	339
510 - 513				120	171	236	277	338
514 - 516				119	170	235	276	337
517 - 519				118	169	234	275	336
520 - 523				117	168	233	274	335
524 - 526				116	167	232	273	334
527 - 529				115	166	231	272	333
530 - 533				114	165	230	271	332
534 - 536				113	164	229	270	331
537 - 539				112	163	228	269	330
540 - 543				111	162	227	268	329
544 - 546					161	226	267	328
547 - 549					160	225	266	327
550 - 553					159	224	265	326
554 - 556					158	223	264	325
557 - 559					157	222	263	324
560 - 563					156	221	262	323
564 - 566					155	220	261	322
567 - 569					154	219	260	321
570 - 573					153	218	259	320
574 - 576					152	217	258	319
577 - 579					151	216	257	318
580 - 583					150	215	256	317

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act
Guam

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
584 - 586					149	214	255	316
587 - 589					148	213	254	315
590 - 593					147	212	253	314
594 - 596					146	211	252	313
597 - 599					145	210	251	312
600 - 603					144	209	250	311
604 - 606					143	208	249	310
607 - 609					142	207	248	309
610 - 613					141	206	247	308
614 - 616					140	205	246	307
617 - 619					139	204	245	306
620 - 623					138	203	244	305
624 - 626					137	202	243	304
627 - 629					136	201	242	303
630 - 633					135	200	241	302
634 - 636						199	240	301
637 - 639						198	239	300
640 - 643						197	238	299
644 - 646						196	237	298
647 - 649						195	236	297
650 - 653						194	235	296
654 - 656						193	234	295
657 - 659						192	233	294
660 - 663						191	232	293
664 - 666						190	231	292

TABLE II

January 1, 1979 - Basis of Issuance - 1977 Act

Guam

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
667 - 669								
670 - 673						189	230	291
674 - 676						188	229	290
677 - 679						187	228	289
680 - 683						186	227	288
						185	226	287
684 - 686								
687 - 689						184	225	286
690 - 693						183	224	285
694 - 696						182	223	284
697 - 699						181	222	283
						180	221	282
700 - 703								
704 - 706						179	220	281
707 - 709						178	219	280
710 - 713						177	218	279
714 - 716						176	217	278
						175	216	277
717 - 719								
720 - 723						174	215	276
724 - 726							214	275
727 - 729							213	274
730 - 733							212	273
							211	272
734 - 736								
737 - 739							210	271
740 - 743							209	270
744 - 746							208	269
747 - 749							207	268
							206	267

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act
Guam

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
750 - 753							205	266
754 - 756							204	265
757 - 759							203	264
760 - 763							202	263
764 - 766							201	262
767 - 769							200	261
770 - 773							199	260
774 - 776							198	259
777 - 779							197	258
780 - 783							196	257
784 - 786							195	256
787 - 789							194	255
790 - 793							193	254
794 - 796							192	253
797 - 799							191	252
800 - 803							190	251
804 - 806							189	250
807 - 809							188	249
810 - 813								248
814 - 816								247
817 - 819								246
820 - 823								245
824 - 826								244
827 - 829								243
830 - 833								242

TABLE II

January 1, 1979 - Basis of Coupon Issuance - 1977 Act

Guam

Monthly Net Income	Coupon Allotments by Household Size							
	One Person	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons	Eight Persons
834 - 836								241
837 - 839								240
840 - 843								239
844 - 846								238
847 - 849								237
850 - 853								236
854 - 856								235
857 - 859								234
860 - 863								233
864 - 866								232
867 - 869								231
870 - 873								230
874 - 876								229
877 - 879								228
880 - 883								227
884 - 886								226
887 - 889								225
890 - 893								224
894 - 896								223
897 - 899								

FOR ISSUANCE TO HOUSEHOLDS OF MORE THAN EIGHT PERSONS USE THE FOLLOWING FORMULA

A. *Value of the Thrifty Food Plan.* For each person in excess of eight, add $62 to the monthly Thrifty Food Plan for an eight-person household.

B. *Benefit Determination Without the Tables.* To determine the benefit households shall receive:

1. Multiply the household's net monthly income by 30 percent and round by dropping all cents.

2. Subtract the result obtained in step 1 from the Thrifty Food Plan for that size household.

C. *Benefit Determination With the Tables.* For households of more than eight persons, it will be necessary to add on to the last monthly net income grouping to reach the maximum allowable income that is applicable to that size household. To do this, note that the monthly net income groupings follow a $3 bracket, $3 bracket, $4 bracket pattern that does not vary. Add below the 894-896 income grouping (a $3 bracket), a new grouping for 897-899 (a $3 bracket) and another new income grouping for 900-903 (a $4 bracket). Then, follow the $3 bracket, $3 bracket, $4 bracket pattern continuously until the maximum monthly net income applicable to that size household is reached.

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

In view of the need for placing this notice into effect January 1, 1979, and the lead-time needed by State agencies for implementation, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

(Catalog of Federal Domestic Assistance, No. 10.551, Food Stamps)

Dated: December 1, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-34143 Filed 12-7-78; 8:45 am]

[3410-05-M]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

PART 729—PEANUTS

Subpart—1979 Crop of Peanuts; Acreage Allotments and Marketing Quotas

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

ACTION: Final rule.

SUMMARY: The purpose of this rule is, for the 1979 crop of peanuts, to (1) establish and proclaim a national poundage quota; (2) determine and proclaim a national acreage allotment; and (3) apportion such allotment to the States.

The need for this rule is to satisfy the statutory requirements as provided for in the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: December 7, 1978.

ADDRESSES: Price Support and Loan Division, ASCS, USDA, 3741-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Thomas A. VonGarlem, (ASCS), (202) 447-7954.

SUPPLEMENTARY INFORMATION: A notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on September 29, 1978 (43 FR 44863), in accordance with 5 U.S.C. 533. The written comment period ended November 13, 1978.

A total of 101 comments were received, of which 84 contained recommendations pertaining to one or more of the determinations to be made. Forty-five commentators recommended a national acreage allotment of 1,614,000 acres, no commentators recommended an allotment above 1,614,000 acres, three recommended reducing allotments in lieu of maintaining quotas, and 1 commentator recommended abolishing both acreage allotments and poundage quotas. Fifty-two commentators recommended a national poundage quota of 1,680,000 tons or more, one recommended 1,848,000 tons, and none recommended reducing the quota to the 1979 crop legal minimum of 1,596,000 tons. Regarding apportionment of the national allotment to States, there were 37 commentators, all of whom recommended that the apportionment be made on the same basis, as in 1978. Most of the commentators did not give reasons for their recommendations. Among those who did, there was almost unanimous agreement that an allotment of 1,614,000 acres was sufficient to meet domestic and export requirements. The most frequent reasons cited for maintaining the national poundage quota at 1,680,000 tons or higher were that such tonnage would be needed (1) to meet domestic edible or export requirements, or both, (2) to maintain farm income, and (3) to provide a reasonable carryover.

After consideration of the comments received, it was determined that the national poundage quota for the 1979 marketing year should be 1,596,000 tons, the minimum quota prescribed under Section 358 (1) of the Act. Section 358 (1) also specifies that "If the Secretary determines that the minimum national poundage quota for any marketing year is insufficient to meet total estimated requirements for domestic edible use and a reasonable carryover, the national poundage quota for the marketing year may be increased by the Secretary to the extent determined by the Secretary to be necessary to meet such requirements". It has been determined that the minimum poundage quota is sufficient to meet requirements. It has also been determined that the national acreage allotment for the 1979 crop of peanuts should be 1,614,000 acres, the minimum prescribed under Section 358 (k) of the Act. The Department determined that the minimum acreage allotment would be sufficient to meet program requirements. The latest available statistics of the Federal Government have been used in making determinations under this rule.

It is essential that these provisions be made effective as soon as possible since the proclamations of the national allotment and national poundage quota are required to be made not later than December 1, 1978. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR §§ 729.100 through 729.103 shall become effective upon filing with the Director, Office of the Federal Register with respect to the 1979 crop of peanuts.

The material previously appearing in §§ 729.100 through 729.104 under centerhead "1978 Crop of Peanuts; Acreage Allotments and Marketing Quotas" remains in full force and effect as to the 1978 crop.

FINAL RULE

Accordingly, 7 CFR § 729.100 to § 729.103 and the title of the subpart are amended to read as follows:

Subpart—1979 Crop of Peanuts; Acreage Allotments and Marketing Quotas

Sec.
729.100 National poundage quota for the 1979 peanut marketing year.
729.101. National acreage allotment for the 1979 crop of peanuts.
729.102 [Reserved]
729.103 Apportionment of national acreage allotment to the States.

AUTHORITY: Secs. 301, 358, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 52 Stat. 66, as amended (7 U.S.C. 1301, 1358, 1375).

§ 729.100 National poundage quota for the 1979 peanut marketing year.

(a) The national poundage quota for the 1979 peanut marketing year is hereby determined and proclaimed to be 1,596,000 tons, the minimum quota prescribed under Section 358(1) of the Agricultural Adjustment Act of 1938, as amended, (referred to in this subpart as "the Act").

(b) The Act specifies that if the Secretary determines that the minimum national poundage quota for any marketing year is insufficient to meet total estimated requirements for domestic edible use and a reasonable carryover, the quota may be increased to the extent necessary to meet such requirements.

(c) It has been determined that the minimum national poundage quota for 1979 will be sufficient to meet such requirements based on the following data:

Quota peanuts—projected supply and domestic edible and related requirements, 1979 MY	1,000 T
Projected Supply:	
Carryin	250
Production	1,595
Total Supply	1,845
Projected Requirements:	
Domestic edible	1,010
Seed	105
Crushing residual	155
Subtotal, domestic edible and related	1,270
Carryover (15 percent of requirements)	190
Total statutory requirements	1,460
Available for other use	385

§ 729.101 National acreage allotment for the 1979 crop of peanuts.

(a) The national acreage allotment for the 1979 crop of peanuts is hereby determined and proclaimed to be 1,614,000 acres, the minimum allotment prescribed under Section 358(k) of the Act.

(b) Subject to the prescribed minimum, the Department is required under the Act to consider projected domestic use, exports, and a reasonable carryover in determining the national acreage allotment. It has been determined that the minimum national allotment will be sufficient to meet such requirements for the 1979 crop of peanuts based on the following data:

(1) *Production potential.* Historically, actual national acreage allotments ranged 1,000 to 4,000 acres above the minimum each year from 1957 through 1977 because of short supply determinations mainly applicable to New Mexico. In 1978 a short supply determination was not made and the actual national acreage allotment remained at the new statutory minimum of 1,614,000 acres. For the 1979 crop each peanut producing State will have substantially the same total allotted acreage as in 1978.

(i) While the allotted acreage has been about the same each year since 1957, planted and harvested acres and average yields from those acres all have trended upward in recent years except under poor weather conditions. From 1974 through 1978, planted acres have ranged from a low of 1,519,600 in 1974 to a high of 1,548,600 in 1976; harvested acres from a low of 1,472,100 in 1974 to a high of 1,521,500 in 1976. Average yields in the same period ranged from 2,457 pounds in 1977 to an estimated 2,626 pounds in 1978. Production ranged from 1,834 thousand tons in 1974 to an estimated 1,990 thousand tons in 1978 and has exceeded the 1979 crop national poundage quota of 1,596 thousand tons each year since 1972.

Crop	Production 1,000 T
1974	1,834
1975	1,929
1976	1,875
1977	1,863
1978 estimate	1,990
Five-year average	1,898

(ii) During the 1973-1978 period, only about 94 to 96 percent of the total acreage allotment was planted. This pattern of underutilization is expected to continue into 1979, with 1,520 thousand planted acres and 1,490 thousand harvested acres seen as the practicable potential for the year. Using the projected yield range of 2,500 to 2,900 pounds, 1979 crop production potential is estimated at 1,862,500 to 2,160,500 tons.

(2) *Projected requirements, 1979 marketing year.* (i) Requirements for quota peanuts for domestic edible and related use and a reasonable carryover total 1,432 thousand tons (see § 729.100) out of total estimated production of 1,595 thousand tons for the 1979 marketing year.

(ii) Requirements for peanuts for export are estimated at 400,000-550,000 tons based on historical variations in demand for U.S. peanuts. However, availability of additional peanuts for export will depend on response of peanut growers to market demand. Quota peanuts which are surplus to domestic requirements (425,000 tons to 115,000 tons) will be available for export if demand exceeds the supply of additional peanuts.

(3) *Projected supply of and demand for peanuts under variable weather conditions, 1979 marketing year.*

[Amounts in 1,000 tons]

Item	Projected Estimate	Probable Variation
Supply:		
Carryin	250	
Production	1,975	+190 to −120
Imports	*negligible*	
Total	2,225	
Requirements:		
Domestic edible, seed and commercial crushing	1,270	
Exports	470	
Surplus—CCC diversion	235	+190 to −120
Total	1,975	
Carryout	250	

§ 729.102 [Reserved]

§ 729.103 Apportionment of national acreage allotment to the States.

The national acreage allotment of 1,614,000 is apportioned to the States in accordance with Section 358(c)(1) of the Act as follows:

State Acreage Allotment

State	*Acres*
Alabama	216,190
Arizona	761
Arkansas	4,238

State Acreage Allotment—Continued

State	Acres
California	930
Florida	55,514
Georgia	530,393
Louisiana	1,945
Mississippi	7,492
Missouri	247
New Mexico	9,787
North Carolina	167,870
Oklahoma	138,290
South Carolina	13,891
Tennessee	3,552
Texas	358,063
Virginia	104,837
Total	1,614,000

The Food and Agriculture Act of 1977 amended Section 358(e)(1) to provide that the peanut acreage allotment for the State of New Mexico shall not be reduced below the 1977 crop acreage allotment as increased pursuant to a short supply determination under Section 358(c)(2). Accordingly, the acreage allotment for each State, including New Mexico, is based on each State's share of the 1978 national acreage allotment.

NOTE.—An impact analysis statement is available from, Thomas A. VonGarlem, (ASCS), (202) 447-7954.

NOTE.—Based on an assessment of the environmental impacts of the proposed action, it has been determined that an Environmental Impact Statement need not be prepared since the rule will have no significant effect on the quality of the human environment.

Signed at Washington, D.C., on December 1, 1978.

BOB BERGLAND,
Secretary,
U.S. Department of Agriculture.

[FR Doc. 78-34136 Filed 12-7-78; 8:45 am]

[3410-02-M]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 909—GRAPEFRUIT GROWN IN ARIZONA; IN IMPERIAL COUNTY, CALIF.; AND IN THAT PART OF RIVERSIDE COUNTY, CALIF., SITUATED SOUTH AND EAST OF WHITE WATER, CALIF.

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and the rate of assessment for the 1978-79 fiscal period, to be collected from handlers to support activities of the Administrative Committee which locally administers the Federal marketing order covering grapefruit grown in Arizona and the designated part of California.

DATES: Effective September 1, 1978, through August 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 909 (7 CFR Part 909), regulating the handling of grapefruit grown in Arizona and a designated area in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Administrative Committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereafter provided, will tend to effectuate the declared policy of the act.

§ 909.217 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Administrative Committee during the fiscal period September 1, 1978, through August 31, 1979, will amount to $37,600.

(b) The rate of assessment for said period payable by each handler in accordance with § 909.41 is fixed at $0.01 per carton.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable grapefruit handled from the beginning of such period which began September 1, 1978. To enable the committees to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate are necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

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

Dated: December 5, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-34359 Filed 12-7-78; 8:45 am]

[3410-02-M]

[Lemon Reg. 176]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period December 10-16, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: December 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on December 5, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as speci-

fied, and handlers have been apprised of such provisions and the effective time.

910.476 Lemon Regulation 176.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period December 10, 1978, through December 16, 1978, is established at 225,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

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

Dated: December 7, 1978.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-34533 Filed 12-7-78; 11:51 am]

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1978 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached are the Interpretation and responses to Petitions for Reconsideration issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period November 1, 1978, through November 30, 1978. Also attached is a modification of Interpretation 1978-35, issued to UPG, Inc., on June 9, 1978. See appendices below.

FOR FURTHER INFORMATION CONTACT:

Diane Stubbs, Office of General Counsel, Department of Energy, 12th & Pennsylvania Avenue, NW., Room 1121, Washington, D.C. 20461 (202) 633-9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The Interpretations published below are not subject to appeal.

The responses to Petitions for Reconsideration published herein have been issued in accordance with the provisions set forth in 10 CFR 205.85(f). It should be emphasized that the reconsideration procedure is not the equivalent of an administrative appeal, but merely provides a mechanism to insure that no inadvertent errors are made which affect the validity of the interpretation.

Also published today is Interpretation 1978-35M which was modified in accordance with 10 CFR 205.85(d) to reflect more accurately the operational environment of UPG, Inc. The modification does not alter the decision reached in the Interpretation 1978-35.

Issued in Washington, D.C., December 4, 1978.

EVERARD A. MARSEGLIA, Jr.,
Acting Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

APPENDIX A—INTERPRETATIONS

No.	*To*	*Date*	*Category*
1978-61	Atlantic Richfield Co	Nov. 7	Price
1978-35M	UPG Inc	Nov. 13	Price

INTERPRETATION 1978-61

To: Atlantic Richfield Company
Date: November 7, 1978.
Rules Interpreted: 10 CFR 212.161, 212.162, 212.163, 212.164, 212.166

Code: PI—GCW—Subparts K and E; Natural Gas Shrinkage

FACTS

The Atlantic Richfield Company (ARCO) is a major, integrated petrolcum company which refines crude oil and processes natural gas. As a result of these business activities, ARCO is a "refiner" as that term is defined in 10 CFR 212.31 and also a "gas plant owner" and a "gas plant operator" as those terms are defined in 10 CFR 212.162. ARCO is therefore subject to the provisions of 10 CFR Part 212, Subparts K and E. 10 CFR 212.161.

In its request for interpretation,[1] ARCO states that it treats transfers of natural gas liquids (NGL's) and natural gas liquid products (NGLP's) between the firm's North American Producing Division and its Products Division as "first sales" under the provisions of §§ 212.162, 212.163(a) and 212.164(a) of the DOE regulations. According to ARCO, the firm has consistently and historically followed this accounting practice.

In addition, ARCO indicates that it has historically sold natural gas to certain purchasers pursuant to contracts which refer to rates established by the Federal Energy Regulatory Commission (FERC), formerly the Federal Power Commission. These rates include the following separately stated components: Reimbursement of certain costs comprising exploration and drilling costs, state production taxes, and Federal income taxes. The prices established by the FERC and included in the terms of the contracts referred to above have been applied by ARCO for the purpose of calculating the gas sales revenues which are contained in the financial statements that ARCO files with the Securities and Exchange Commission. The total gas sales revenues are also used to calculate payments due royalty interest owners under contracts which provide for the distribution of proceeds on a percentage of sales basis. In addition, ARCO has used the prices in sales of natural gas subject to these contracts, including the amount of all separately stated components in these prices, to calculate its increased cost of natural gas shrinkage.

Under some of its natural gas sales contracts, ARCO purchases unprocessed, *i.e.*, "wet," natural gas for processing. Transfer of custody occurs at the point the gas enters the plant gathering system. ARCO is required under such contracts to install and bear the cost of the gathering facilities which transport the "wet" gas to natural gas processing plants where NGL's are extracted.

ARCO calculates its increased cost of natural gas shrinkage on a plant-by-plant basis. At some plants and in some months, the cal-

[1] This Interpretation request and the comments received from interested parties were submitted prior to the adoption of certain amendments to 10 CFR Subpart K. 43 FR 42984 (September 21, 1978). The effective date of some of these amendments was November 1, 1978, but the effective date of the remainder of these amendments has since been suspended. 43 FR 50841 (October 31, 1978). This Interpretation is limited to construing the regulations as they existed prior to the amendments. Subpart K originally appeared at § 212.141 *et seq.*, and was later redesignated § 212.161 *et seq.* 39 FR at 44412-14; 40 FR 6200 (February 10, 1975). All references in this Interpretation are to § 212.161 *et seq.*, which was effective from January 1, 1975, through October 31, 1978.

culation of shrinkage costs pursuant to § 212.166(b)(3) resulted in a decreased cost of natural gas shrinkage.

During the course of this proceeding, the Department of Energy (DOE) solicited comments from interested firms concerning the four issues included in ARCO's request for interpretation. 43 FR 28518 (June 30, 1978). Comments were received from 31 firms. These comments have been considered in this proceeding. Thirty of the 31 comments received were submitted by refiners and producers of natural gas and they have generally supported the views expressed by ARCO. One comment, submitted by a consumer of NGL's and NGLP's, objected to the positions taken by ARCO with respect to inter-affiliate transfers and the appropriate measurement point for shrinkage calculations.

ISSUES

I. Do transfers of NGL's and NGLP's between ARCO's affiliated entities constitute "first sales" as that term is used in 10 CFR Part 212, Subpart K?

II. Is the tax component of the interstate natural gas sales price set by the FERC properly included in the calculation of increased cost of natural gas shrinkage under the provisions of 10 CFR 212.166(b)(3)?

III. For the purpose of computing the increased cost of natural gas shrinkage when the natural gas is purchased at the wellhead by the gas plant operator, should inlet natural gas volumes be measured at the plant inlet master meter or at the wellhead?

IV. Where the cost of natural gas shrinkage in the current month is less than the cost in May 1973, may the decreased cost of natural gas shrinkage be used to reduce the increased product cost available for pass through in the calculation of maximum lawful selling prices?

INTERPRETATION

Before addressing the merits of the issues which ARCO has presented, a procedural question should be discussed. Some commenters have noted that this Interpretation cannot be considered to be of legally binding effect upon persons other than ARCO in accordance with the provisions of § 205.85(a). That view is correct in that, inasmuch as this Interpretation refers only to the propriety of ARCO's pricing practices under the DOE regulations, ARCO is the only firm entitled to rely upon it.

I. INTER-AFFILIATE TRANSFERS

We begin by noting that it is a basic rule of construction that more detailed and explicit regulations govern over general language. Therefore, we conclude that ARCO's inter-affiliate transfers are governed by 10 CFR 212.161(b)(2), and are not governed by 10 CFR 212.163(a) and 212.164(a).

In its submission, ARCO maintains that the transfer of NGL's and NGLP's at a fixed price per unit between its gas processing division and its crude oil refining division is a first sale subject to the provisions of §§ 212.162, 212.163(a), and 212.164 of the DOE regulations. ARCO argues that § 212.161(a) explicitly confers first sale status on the transfer of NGL's and NGLP's between affiliated entities of a refiner that is subject to the provisions of 10 CFR Subparts E and K.

The scope of Subpart K is set forth in § 212.161(a) as follows:

"This subpart applies to *all sales of natural gas liquids and natural gas liquid products, including transfers between affiliated entities, by all firms,* including gas plant operators, producers of natural gas, natural gas royalty owners, and refiners except sales by resellers or retailers, which are subject to Subpart F of this part." (Emphasis added.)

While Arco's assertion is correct that § 212.161(a) explicitly declares that Subpart K "applies to . . . transfers between affiliated entities," it is not true that that Section declares that transfers between affiliated entities constitute first sales. Section 212.161(a) relates only to the operational objectives of Subpart K, and does not prescribe that the first sale pricing rules of Subpart K are applicable to transfers between affiliated entities. In fact, ARCO and several of the commenters have suggested that there are three different ways in which the phrase "transfers between affiliated entities" can be applied. In addition to arguing that transfers of NGL's and NGLP's from a gas plant to a refinery may constitute first sales, several commenters have asserted that § 212.161(a) also recognizes transfers of NGL's and NGLP's from gas processors which do not also refine crude oil to their reseller affiliates as first sales notwithstanding the "5 percent Rule" contained in § 212.91.[2] Other commenters have asserted that § 212.161(a) also authorizes use of the natural gas sales price in transfers between affiliated entities for the purpose of computing increased shrinkage costs, notwithstanding the fact that § 212.161(a) by its own terms refers only to transfers of NGL's and NGLP's.

Section 212.161(a) relates merely to the scope of the provisions of Subpart K and neither sets forth a price rule nor provides any regulatory treatment of transfers between affiliated entities. Other, more specific provisions which establish the manner in which costs are to be calculated and transferred must be examined to determine if ARCO's transfers between affiliated entities constitute first sales. Indeed, § 212.161(b)(2) describes the relationship between Subparts E and K for those refiners such as ARCO that refine crude oil and also operate natural gas plants. Additionally, the first sale price rules in §§ 212.163(a) and 212.164(a) establish methods of pricing which are inconsistent with ARCO's position.

In support of ARCO's position, some commenters have asserted that Subpart K has been construed to contain only two methods of treating transfers, *i.e.*, "first sales" and "net-back sales."[3] The preamble to the adoption of Subpart K states:

"These new definitions are to make clear that FEA regulations apply to *all transactions*—both 'first sales' and 'net-back sales.' 39 FR 44407, 44408 (December 24, 1974)." (Emphasis added.)

In addition, in an Interpretation which the DOE previously issued it construed the definitions of "first sale" and "net-back sale" as follows:

"Sales of NGL's and NGL products under Subpart K are deemed to be either 'first sales' or 'net-back sales.' The FEA adopted these two general regulatory concepts, rather than attempting to identify and prescribe multiple, individual rules for the myriad of methods by which rights are transferred *from firm to firm* in the process of manufacturing natural gas liquid products." *See Notice of Proposed Rulemaking*, 39 FR 32718, 32719-20 (September 10, 1974); 39 FR at 44408. (Emphasis added.)

El Paso Natural Gas Company, Interpretation 1978-32, 43 FR 29534, 29535 (July 10, 1978). The commenters assert that inasmuch as there are only two methods of recognizing transfers and § 212.161(a) declares that "transfers between affiliated entities" are governed by Subpart K, then intra-firm transfers must be either first sales or net-back sales. Furthermore, they assert that because the distinguishing characteristic between first sales and net-back sales is related only to the method of pricing, we must conclude that transfers between affiliated entities may qualify as first sales.

That conclusion is not compelled, however, because those assertions are erroneous. Both the portions of the preamble and the *El Paso* Interpretation quoted above were addressed to transfers between unaffiliated entities. Furthermore, even in the case of unaffiliated entities, not all transfers have been characterized as first sales or net-back sales. *See Sun Gas Company*, Interpretation 1978-37, 43 FR 29543 (July 10, 1978). This analysis, of course, does not resolve the question of the manner in which transfers between affiliated entities should be treated, but it does refute the notion that all transfers of NGL's and NGLP's must be classified either as first sales or net-back sales.

Section 212.161(b)(2) sets forth the method that ARCO should use to compute its increased costs associated with gas plant operations, including the transfer of covered products between its gas plant operations and its other operations. Since ARCO refines crude oil and processes natural gas, it is subject to the provisions of § 212.161(b)(2) which state:

"Refiners that refine liquid hydrocarbons from oil and gas field gases, and also refine crude oil, *shall determine their May 15, 1973 selling prices and increased costs for natural gas liquids and for natural gas liquid products produced in gas plants pursuant to this subpart, but shall determine their maximum lawful selling prices pursuant to Subpart E.*

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[2] 10 CFR 212.91 states:

"This subpart applies to each sale of a covered product, other than crude oil, by resellers, reseller-retailers, and retailers. For purposes of this subpart, "reseller" includes any entity of a refiner (other than an entity that operates in Puerto Rico) that is engaged in the business of purchasing and reselling covered products, *provided that the entity does not purchase more than 5 percent* of such covered products from the refiner including any entities that it directly or indirectly controls and provided further that the entity has consistently and historically exercised the exclusive price authority with respect to sales by the entity." (Emphasis added.)

[3] Section 212.162 states in pertinent part:

"First sale" means, with respect to natural gas liquids or natural gas liquid products, the first transfer for value to a class of purchaser for which a fixed price per unit of volume is determined.

* * * * *

"Net-back sale" means, with respect to natural gas liquids, any transfer for value to a class of purchaser for which a percentage of the revenues from the first sale of natural gas liquids or natural gas liquid products is received.

. . . . .

"Such refiners *shall calculate the increased product costs of all natural gas liquids* (except natural gas liquids which are separated from natural gas at the well head of an oil well, and purchased as crude oil) and *the increased product costs attributable to natural gas liquid products pursuant to §§ 212.166 and 212.167* of this subpart, and *shall add the amount* of increased product costs so determined to the amount of increased product costs incurred in each month of measurement and determined to be allocable *to other than special products under the refiner's cost allocation formulae* of § 212.83(c)(1), provided that the amount of such increased product costs allocable to propane prices is limited pursuant to the provisions of § 212.167(c) and § 212.83(c)(1)(iii).

. . . . .

"Such refiners *shall calculate increased non-product costs attributable to natural gas processing pursuant to § 212.165*, and *shall add the amount* of increased non-product costs so determined *to the amount of increased non-product costs* incurred in each month of measurement and determined to be allocable to prices charged for covered products *pursuant to the formulae in § 212.83(c)*." (Emphasis added.)

The preamble to § 212.161(b)(2) explains that:

"[T]he applicability sections of Subpart E (Refiners) and Subpart K (Natural Gas Liquids) provide that where a refiner that refines crude oil and processes natural gas is involved, the provisions of Subpart K will be applied to the refiner's gas processing activities in order to calculate the increased product and non-product costs attributable to natural gas liquids and natural gas liquid products, which will then be used, together with increased costs determined under Subpart E for products refined [or] derived from crude oil, to determine the lawful selling prices for the refiner's total volumes of propane, butane, and natural gasoline, and for any covered products which are produced from propane, butane or natural gasoline." 39 FR at 44408.

Thus, when ARCO manufactures covered products such as motor gasoline, which are in part produced from NGL's and NGLP's extracted and/or fractionated in its own gas plants, ARCO is required to calculate its May 15, 1973, selling prices of these non-NGL and non-NGLP products pursuant to Subpart E. The increased product costs associated with the manufacture of the NGL's and NGLP's derived from natural gas are computed according to the provisions of §§ 212.166 and 212.167, and then inserted into the refiner cost allocation formulae, *i.e.*, added to the "B_i" factor. The increased non-product costs attributable to natural gas processing are inserted into the refiner cost allocation formulae by adding the amount of those costs to the increased non-product costs which are otherwise available for passthrough pursuant to Subpart E. Then maximum allowable selling prices are computed pursuant to Subpart E using the § 212.164 adjustments in prices charged for natural gas-derived NGL's and NGLP's in sales to third parties. 10 CFR 212.82, 212.161(b)(2)(i).

If as ARCO asserts, all transfers between affiliated entities were to be treated as first sales, then § 212.161(b)(2) would not be necessary. *See* 39 FR at 3720, 3730. Under a system of transfer pricing all increased costs of the transferring affiliate would have been subsumed in the first sale price and none of the increased costs would need to be taken into consideration in any other fashion. *Cf.* 39 FR at 32720, 32730; 10 CFR 212.72, 212.83(b), 212.84. Section 212.161(b)(2), not § 212.163, governs the computation of increased costs associated with transfers of NGL's and NGLP's produced in gas plants from ARCO's gas processing divisions to ARCO's other divisions.

Additionally, it should be noted that the concept of inserting discrete cost components into the refiner cost allocation formulae is inconsistent with the notion of transfer pricing. In this regard, if §§ 212.161(b) and 212.163(a) were both interpreted to authorize increased cost calculations, a double passthrough of allowable increased costs could occur—once in the transfer price and once in the discrete cost components. *See* 39 FR at 3720, 3730. Moreover, a refiner is not permitted to elect to passthrough its increased costs under §§ 212.161(b)(2) or 212.163(a), since § 212.161(b)(2) specifically states that a refiner such as ARCO shall calculate its increased costs pursuant to that Section. Section 212.163 also does not operate in conjunction with § 212.161(b)(2) because § 212.161(b)(2) by its own terms specifies not only the method for computing transferred costs, but also the method for allocating such increased costs. Furthermore, if § 212.161(b) is viewed merely as an allocation provision, then § 212.161(b)(2)(ii) is unnecessary since increased costs would be inserted in the same place in the refiner cost allocation formulae as they would under a transfer pricing scheme, *i.e.*, added to the "B_i" factor, which contains increased purchased product costs. Additionally, there would under such a view be no instructions for passing through the benefit of adjusted prices contained in § 212.164. A transfer price would transform the gas processing affiliate's non-product costs into "bankable" increased purchased product costs. *See* §§ 212.72, 212.83(b), 212.84. However, § 212.161(b)(2)(iii) specifically requires a gas plant's increased non-product costs to retain their status as non-product costs.

The proper view, *i.e.*, that § 212.161(b)(2) establishes the method of treating transfers of costs between Subparts E and K, is further confirmed by the differences between § 212.161(b)(2) and § 212.163(a) with respect to the time in which increased costs should be passed through. As first sales under § 212.163(a), ARCO's increased costs would have been passed through according to the following schedule. The first sale price to the purchasing division would reflect the estimate of costs to be incurred in the current month by the processing division. However, under the Subpart E refiner cost allocation formulae, increased costs attributable to the transfer could not be passed through in the purchasing division's maximum lawful prices until the month after the transfer, *i.e.*, "the month of measurement."

10 CFR 212.83(c)(2)(iii)(A). In contrast, § 212.161(b)(2) (ii) and (iii) specifically establishes that a refiner's maximum lawful selling prices be calculated pursuant to Subpart E including increased gas plant costs in the current month rather than the month of measurement.

Thus, § 212.161(b)(2) establishes a comprehensive and mandatory method for the calculation of maximum lawful prices in sales of NGL's and NGLP's by integrated refiners. Only § 212.161(b)(2) explicitly governed the method of computation and allocation of increased costs associated with natural gas processing in intra-firm transfers of integrated refiners such as ARCO. As a result, the only reasonable construction of these two provisions is that the more detailed and explicit language contained in § 212.161(b)(2) governed ARCO's inter-affiliate transfers.

Nevertheless, ARCO and many of the commenters maintain that inter-affiliate transfers could fulfill the pertinent requirements of a first sale for the purposes of Subpart K. Therefore, they assert it was reasonable and proper for inter-affiliate transfers to be treated as first sales for purposes of computing maximum lawful selling prices.

In a prior Interpretation which was issued to the Continental Oil Company (CONOCO), the DOE discussed the relevant requirements of a first sale in the context of applying the § 212.164 adjustments to May 15, 1973, selling prices in intra-firm transfers. That Interpretation stated:

"The adjustments contained in § 212.164 apply only when a 'first sale' is made as defined in § 212.162. *See* § 212.163(a). Three pertinent requirements must be fulfilled to qualify as a 'first sale.' First, the transfer must be to a 'class of purchaser.' *See* § 212.31. Second, the transfer must be a transfer of NGL's and NGLP's. *See* § 212.162. Third, the transfer must constitute a 'transaction,' an arm's length sale between unrelated persons." *See* § 212.31.

43 FR at 29530. We concluded in the *CONOCO* Interpretation that two of these three requirements were not met in intra-firm transfers. In this regard we stated:

"The DOE and its predecessor agencies have never regarded movement of covered products from one facility to another facility of the same firm as a sale to a 'class of purchaser.' When NGL's and NGLP's are transferred to a refinery, such a transfer is an intrafirm transfer which does not constitute a 'transaction,' is not made to a 'class of purchaser,' and does not, therefore, constitute a 'first sale.'" *Id.*

Some comments supporting ARCO maintain that the "class of purchaser" [4] requirement did not place a limitation on first sales pertinent to ARCO's inter-affiliate transfers. They argue that a sale creates a class of purchaser and that inter-affiliate transfers must be construed as sales.

This argument is without merit. No sale occurs for cost passthrough purposes unless there is an arm's-length transfer from a seller to a purchaser. That is, the existence of a purchaser which is a separate and distinct entity from the seller is a prerequisite to the existence of a sale under the Mandatory Petroleum Price Regulations. The transfers between ARCO's divisions are not sales to a class of purchaser, because these divisions constitute a single firm. Thus, only the prices which the firm as a whole, including any divisions of the firm, charges in sales to other firms may be used in the calculation of maximum lawful selling prices to

[4] Section 212.31 states in pertinent part:

"'Class of purchaser' means purchasers to whom a person has charged a comparable price for comparable property or service pursuant to customary price differentials between those purchasers and other purchasers."

its classes of purchaser and recognized for cost passthrough purposes. *See Enterprise Products Co.*, Interpretation 1975-3, 42 FR 23724, 23726 (May 10, 1977).

ARCO and supporting commenters assert that Subpart K does not contain a definition of the term "firm," but rather relies upon the concept of "entity" as the appropriate framework for measuring pricing responsibilities. Section 212.31 defines "firm" [5] in a general way, suggesting four alternative definitions and permitting the DOE to elect the ones which are appropriate to particular situations. ARCO and supporting commenters assert that § 212.163(a) demonstrates that a narrow definition of "firm," *i.e.*, separate "entity" pricing, has been adopted. According to ARCO, transfers between its affiliated entities were therefore sales to a class of purchaser because the single firm concept was not applicable to Subpart K. Section 212.163 states in pertinent part:

"(a) *First Sale.* A royalty owner, producer, gas plant owner, gas plant operator or *other entity* may not charge to (or receive from) any class of purchaser a price in excess of the weighted average price at which natural gas liquid or natural gas liquid products were lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, except to the extent permitted by this subpart." (Emphasis added.)

In a previous Interpretation which was issued to ARCO, the DOE determined that ARCO's unincorporated operating divisions are affiliated entities within the meaning of § 212.83(b). *Atlantic Richfield Co.*, Interpretation 1976-4, 42 FR 7927 (February 8, 1977).

However, that Interpretation addressed the appropriate costing of crude oil produced by an affiliated entity. Crude oil pricing policies are very different than the general cost-based system applicable to refined petroleum products. Furthermore, in § 212.82 [6] the concept of "firm" is explicitly applied in its widest possible sense to crude oil refiners such as ARCO which are subject to Subpart E. That concept applies to ARCO's calculation of all maximum lawful selling prices, because under § 212.161(b)(2)(i), Subpart K applies to crude oil refiners only with respect to the calculation of discrete cost components of maximum lawful selling prices which are computed under Subpart E, *i.e.*, May 15, 1973, selling prices and increased costs associated with NGL's and NGLP's derived from natural gas. *CONOCO* at 29530. The term "firm" is repeatedly used in Subpart K as originally promulgated. *E.g.*, 10 CFR 212.161(a), 212.162, 212.164, 212.165, and 212.166. The use of the term "entity" in § 212.163(a) represents merely a necessary and proper qualification, because under the "5 percent Rule" (§ 212.91) [7] less than the total "firm" may be the appropriate framework for Subpart K calculations.

ARCO and supporting commenters assert that the DOE has on previous occasions construed inter-affiliate transfers to be sales to a class of purchaser. Ruling 1974-27, 39 FR 44415 (December 24, 1974); *See also Phillips Petroleum Company*, Interpretation 1977-12, 42 FR 31148 (June 20, 1977); *Skelly Oil Co.*, 5 FEA ¶ 80,561 (February 25, 1977); and *Getty Oil Co.*, Interpretation 1978-40, 43 FR 29546 (July 10, 1978). For example, Ruling 1974-27, *supra*, states in pertinent part:

"[T]*ransfers of covered products by Firm A to affiliated entities*, for further processing and ultimate sale as products other than covered products, which are exempt from price regulation, *must be treated as sales by Firm A.*" (Emphasis added.)

This Ruling addresses the question of the proper treatment of increased product costs pursuant to § 212.83(c) only in those instances where covered products are transferred to affiliated entities for further processing and ultimate sale as petrochemicals or other products not subject to the price regulations, or where covered products are consumed by the firm's internal operations. In those instances, refiners are required to allocate increased costs on a volumetric basis and to treat those increased costs as though they were costs recovered from the sale of covered products. Thus, such transfers are considered "sales" solely for the purpose of assuring that increased costs actually incurred by the firm are properly allocated to uncontrolled products and not used in their entirety to justify price increases of controlled products.

Section 212.161(b)(2)(ii) explicitly requires calculation of increased product costs pursuant to § 212.167. Section 212.167(a) and (c) required a refiner such as ARCO to allocate certain increased product costs, *e.g.*, the ethane exlusion, on a volumetric basis. Thus, § 212.161(b)(2)(ii) requires ARCO to allocate increased product costs in the manner set forth in Ruling 1974-27 and related decisions issued by the DOE. *See Phillips, supra; Skelly, supra; Getty, supra.* These pronouncements do not support the view that inter-affiliate transfers are first sales pursuant to Subpart K instead of being governed by § 212.161(b)(2).

In addition to the requirement that a first sale be made to a class of purchaser, such a sale must also constitute a "transaction," *i.e.*, an arm's-length sale between unrelated entities. *See* 10 CFR 212.31. ARCO and supporting commenters argue that the term "transaction" is being improperly imported into the definition of first sale. While the term "transaction" is not contained in § 212.162, the first sale price rule in § 212.163(a) refers to and limits prices in first sale transactions. Section 212.163(a) states:

"A royalty owner, producer, gas plant owner, gas plant operator or other entity may not charge to (or receive from) any class of purchaser a price in excess of the weighted average price at which natural gas liquids or natural gas liquid products were lawfully priced *in transactions* with the class of purchaser concerned on May 15, 1973, except to the extent permitted by this subpart." (Emphasis added.)

Additionally, § 212.164(a) provides that a firm may use certain adjusted May 15, 1973, selling prices in first sale transactions.[8] Because the definitions set forth in § 212.31 apply "for purposes of this part [212]," they are applicable to Subpart K as a component of Part 212, and it was therefore unnecessary to define the term "transaction" in § 212.162 unless it were intended to have some different meaning for purposes of Subpart K. Because the term is properly defined so as to apply to Subpart K and is used as a term of art in the Subpart K pricing rules, we must conclude that a transfer for value of NGL's and NGLP's must satisfy the definition of "transaction" to be governed by §§ 212.163 and 212.164. ARCO's conclusion that the term "transaction" is used in Subpart K in a general business sense, and not as defined in § 212.31, is based upon the premise that because the preamble indicates that Subpart K applies to all transactions as first sales or net-back sales, the term "transaction" is not used in a precise regulatory sense. 39 FR at 44408. To the contrary, nothing in the regulations or preamble supports such a construction and the reference in the preamble, as discussed previously, speaks to transfers from firm to firm. The transfer of increased costs between affiliates is discussed elsewhere in that preamble. *Id.*

Some commenters have noted that § 212.163(a) is limited by its own terms, and they argue that the language of § 212.161(a) provides an explicit exception to any transaction requirement imposed by § 212.163(a). As discussed previously, such a construction of § 212.161(a) is both strained and unreasonable. Some commenters have also suggested that this exception to § 212.163(a) is permitted by § 212.161(b)(2) which requires a refiner to calculate its maximum lawful selling prices under Subpart E. They note that Subpart E contains the following provision for recognizing transfers between affiliated entities.

"For purposes of this section, *transactions between affiliated entities may be used to calculate increased costs.* Whenever a firm uses a landed cost which is computed by use of its customary accounting procedures, the [DOE] may allocate such costs between the affiliated entities if it determines that such allocation is necessary to reflect actual costs of these entities or the [DOE] may disallow any costs which it determines to be in excess of the proper measurement of costs." (Emphasis added.)

10 CFR 212.83(b). Therefore, the commenters conclude that pursuant to § 212.83(b) inter-affiliate transfers of NGL's and NGLP's must be recognized as first sales.

The requirements of § 212.83(b) are satisfied by the passthrough provisions of § 212.161(b)(2), even though it is not clear that § 212.83(b) applies to these transfers in view of the provisions of § 212.161(b)(2) which were adopted more recently and provide a more detailed treatment of inter-affil-

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[5] Section 212.31 states in pertinent part:
"The [DOE] may, in regulatins and forms issued in this part, treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (2) a parent and its consolidated entities, (3) an unconsolidated entity, or (4) any part of a firm."

[6] Section 212.82 states in pertinent part:
"'Firm' means a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls."

[7] See n. 2, *supra*.

[8] Excluding questions of exactly where increased costs are placed and when they are passed through, the sole issue to be considered in the present proceeding is whether inter-affiliate transfers qualify for the adjustments contained in § 212.164. Stated differently, both the transfer pricing concept advanced by ARCO and the provisions of § 212.161(b)(2) would permit the increased costs incurred by the transferring affiliate to be passed through to the refining affiliate, but only the transfer pricing concept would permit the refiner to use the § 212.164 adjustments at the point of the inter-affiliate transfer.

iate transfers.[9] That is, § 212.161(b)(2) recognizes both increased product and non-product costs in transfers between affiliated entities. The adjustments provided in § 212.164, which represent the primary advantage to ARCO of treating inter-affiliate transfers as first sales, are not increased costs, but rather are adjustments designed to boost historical profit margins in sales of NGL's and NGLP's extracted in gas plants. Inasmuch as § 212.83(b) refers only to the passthrough of increased costs, that provision provides no assistance in determining whether inter-affiliate transfers are subject to § 212.163(a) or § 212.161(b)(2).

The view that increased costs associated with transfers between affiliated entities are only to be passed through pursuant to § 212.161(b)(2) and not under § 212.163(a), is also supported by the promulgation history of Subpart K. As we stated in *CONOCO*, 43 FR at 29530:

"The proposed regulations expressly would have established a transfer price for intra-firm transfers from a gas plant to a refinery instead of including increased costs as discrete components inserted in the refiner cost allocation formulae. 39 FR at 32720. The proposed transfer price would have *incorporated* the adjustments which are now contained in § 212.164 (a) and (b). 39 FR at 32730. The Subpart K rules as adopted explicitly provide for inclusion of increased product and nonproduct cost components in the refiner price allocation formulae set forth in Subpart E, But § 212.161 does not provide for the inclusion of any of the § 212.164 adjustments in a crude oil refiner's Subpart E calculations. 39 FR at 44408, 44412. When, as here, some proposed provisions are explicitly adopted and another is not, the failure to adopt the proposed provision is evidence of the rejection of the proposal." *See, e.g.*, 2A *Sutherland on Statutory Construction*. §§ 48.03; 48.18 (Sands ed. 1973).

ARCO and supporting commenters note that the proposed regulations did not include either § 212.161(a) or the reference to transfers between affiliated entities. Thus, they argue that Subpart K expressly authorizes transfer pricing. As discussed previously, § 212.161(a) does not expressly authorize any means of treating transfers between affiliated entities. Furthermore, the preamble to the proposed regulations indicates that at the time Subpart K was adopted the agency recognized that the insertion of discrete cost components into the refiner cost allocation formulae represented a different treatment of inter-affiliate transfers than deeming such transfers to be first sales. The preamble to the proposed Subpart K states in pertinent part that:

"The special regulations proposed in this notice for gas plants will also apply to gas plants owned or controlled by refiners, for purposes of determining the appropriate transfer price to the refiner. *Increased product or non-product costs included in the transfer price may not, of course, also be included as increased product or non-product costs under the general refiner price rules.*" (Emphasis added.)

39 FR at 32720. Furthermore, in the preamble to Subpart K as adopted the new regulations were described as requiring the insertion of discrete cost components into the refiner cost allocation formulae—a result that is consonant with the provisions of § 212.161(b)(2), but not with the transfer pricing concept asserted by ARCO. 39 FR at 44408.

ARCO and supporting commenters argue that recognition of transfers between affiliated entities at other places than Subpart K in the Mandatory Petroleum Price Regulations confirms the notion that Subpart K authorizes transfer pricing. *See* §§ 212.54(c); 212.72, 212.91, 212.83(b); Cost of Living Council (CLC) Phase IV, 6 CFR 150.359. However, none of these regulatory provisions is directly applicable to the proper pricing of NGL's and NGLP's derived from natural gas. Furthermore, these regulations provide only a speculative basis for distinguishing between a system which recognizes certain increased costs in inter-affiliate transfers and a system which recognizes increased costs and the benefit of adjustments in historical price margins.

None of the provisions cited by ARCO and supporting commenters permits transfer pricing of covered products under all circumstances. Rather, where transfer pricing was intended the pertinent regulatory language expressly provides for limits, *e.g.*, restrictions on the amounts passed through or on the accounting practices used by the refiner, to prevent or correct the possibilities of abuse.

Some commenters have also asserted that non-recognition of transfer pricing would conflict with the Robinson-Patman Act. Section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act, 15 U.S.C. § 13(a), provides, in pertinent part, that:

"It shall be unlawful for any person engaged in commerce, in the course of such commerce, either directly or indirectly, to discriminate in price between different purchasers of commodities of like grade and quality, . . . where the effect of such discrimination may be . . . to injure, destroy, or prevent competition with any person who . . . knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided*, that *nothing herein contained shall prevent differentials which make only due allowances for differences in the cost of manufacture*, sale, or delivery *resulting from the differing methods* or quantities *in which such commodities are to such purchasers sold or delivered*. . . . (Emphasis added.)" [10]

With respect to a particular covered product, ARCO is required by the DOE pricing regulations to add its total firm-wide increased costs on an equal basis to the May 15, 1973, selling prices (or adjusted prices) which it charged to all of its purchasers or to suffer the penalty of imputed cost recoveries. Since the equal application rule set forth in § 212.83 requires that the same amount of increased costs be passed through to all of the purchasers within a class, these commenters assert that different prices could be charged for physically identical products depending upon the use of actual or adjusted May 15, 1973, selling prices. That result could potentially subject a firm to treble damages for violation of the Robinson-Patman Act.

Subpart K is not limited by Section 2(a) of the Clayton Act, as amended by the Robinson-Patman Act, because Subpart K specifically requires the determination of maximum lawful selling prices in relation to the cost of manufacture and the source of the raw materials. *See Inter City Oil Co.* v. *Murphy Oil Corp.*, 1 CCH Energy Management ¶9722 (D. Minn. 1976). Indeed, § 212.167(b) explicitly permits natural gas processors to measure and allocate increased shrinkage costs on less than a firm-wide basis, which can result in different prices charged to different purchasers for identical products. Additionally, since the benefit of adjusted prices applies only to NGL's and NGLP's derived from natural gas, different prices can be charged to different purchasers for identical products. *CONOCO*, 43 FR at 29530.

In the present request, ARCO and supporting commenters have also argued that non-recognition of intra-firm transfers creates distortion and inefficiency and they have suggested that refiners would receive an advantage if they were to sell natural gas derived NGL's and NGLP's to unaffiliated entities, rather than transfer them to affiliated entities. Such a change in purchase patterns would permit firms such as ARCO to receive the benefit of adjusted prices in all transfers.

The fact that companies may alter their distribution patterns does not dictate any particular resolution of the issues under consideration here. Moreover, firms are prohibited from changing their distribution patterns to circumvent the pricing regulations (§ 210.62(c)), and it is by no means certain that any distortion will occur in view of the fact that physical exchanges may be expensive, the allocation regulations may preclude certain transfers, and firms may prefer the advantage of assured supplies of NGL and NGLP feedstocks. Finally, the fact that some firms have historically recognized intra-firm transfers as first sales does not affect this Interpretation, since the DOE and its predecessors understood that the Mandatory Petroleum Price Regulations would alter certain historical pricing practices.

Some commenters assert that failure to recognize ARCO's transfers as first sales may interfere with previous netback calculations and payments, made by refiners. Even if those assertions were correct, they do not lead to the conclusion that an individual firm's actual pricing practices which were in effect following the adoption of Subpart K should be considered as the guide to the proper legal interpretation of that Subpart.

Several of the commenters have also referred to various manuals which the DOE has prepared for its auditors. According to the commenters, these manuals contain material which supports ARCO's construction of § 212.161(a). However, firms are not entitled to rely upon these documents for the purpose of determining the legal interpretation of the DOE regulations. Auditors' manuals are intended only to aid DOE officials in applying the regulations to particular firms in the course of investigations and compliance proceedings. They do not purport, nor are they intended, to replace or substitute in any manner for the DOE regu-

[9] This Interpretation does not address the question of the proper purposes and scope of § 212.83(b), because such a discussion is unnecessary to resolve the issue presented here. But see discussion of *ARCO*, Interpretation 1976-4, *supra*.

[10] It is possible that the proviso quoted above would be applicable generally to the DOE's pricing regulations or specifically to Subpart K, because the "differentials . . . make only due allowance for differences in cost of manufacture . . . resulting from the differing methods . . . in which such commodities are to such purchasers sold or delivered."

lations or the formal, legally binding Interpretations of those regulations which are issued by the DOE. Moreover, these manuals do not purport to address the issues which are presented in the present interpretation request, but merely indicate that Subpart K principles apply to tranfers between affiliated entities without setting forth the manner in which those principles should be applied.

Attached to ARCO's request for interpretation was a copy of a letter dated January 23, 1975, under the signature of an ARCO employee to an employee of the FEA. This letter relates to ARCO's understanding of a meeting on January 8, 1975, between employees of ARCO and the FEA. The letter states that in the meeting it was confirmed that § 212.141(a), now § 212.161(a), establishes the first sale to include transfers between affiliated entities. The DOE and its predecessors have never officially published, reviewed, or responded to this letter. In this situation, we do not regard this letter as having any bearing in our consideration of the legal issues presented for interpretation.

For the reasons set forth above, we have determined that the Mandatory Petroleum Price Regulations provide for the pass through of increased costs according to the provisions of § 212.161(b)(2) in inter-affiliate transfers and that intra-firm transfers are not first sales governed by § 212.163(a).

II. INCLUSION OF TAX COMPONENT IN SHRINKAGE CALCULATIONS

The increased product costs which ARCO incurs in the extraction of NGL's are one component of the firm's maximum lawful selling prices. In many instances the relevant increased product cost with resect to the production of NGL's and NGLP's from natural gas is the increased cost of natural gas shrinkage. Section 212.166(b)(3) states that this increased product cost is:

"[T]he difference between the weighted average cost of natural gas shrinkage per thousand cubic feet (MCF) of natural gas processed in the month of May 1973, and the weighted average cost of natural gas shrinkage per thousand cubic feet (MCF) of natural gas processed in the current month, multiplied by the number of thousand cubic feet (MCF's) of natural gas processed in the current month."

Section 212.162 defines "cost of natural gas shrinkage" as follows:

"'Cost of natural gas shrinkage' means the reduction in selling price per thousand cubic feet (MCF) of natural gas processed, which is attributable to the reduction in volume or BTU value of the natural gas resulting from the extraction of natural gas liquids, *as determined pursuant to the contract in effect at the time for which cost of natural gas shrinkage is being measured, and under which the processed natural gas is sold.*" (Emphasis added.)

When ARCO sells processed gas pursuant to contracts which incorporate tariffs set by the FERC, ARCO uses the tariffs to calculate its increased shrinkage costs pursuant to §§ 212.162 and 212.166(b)(3). The relevant FERC tariffs sometimes separately refer to particular components of the total tariff as reimbursement for certain state taxes.

The argument against ARCO's inclusion of these tariffs in its shrinkage calculations is that the tax components of the FERC tariff represent reimbursement to ARCO for the costs of doing business as a natural gas company, but that when the liquid content of the gas is extracted prior to the sale of natural gas subject to these tariffs, ARCO either does not incur, or it receives a credit for, the taxes that were to be reimbursed in the tariffs. It may be argued that inclusion of the tax component in shrinkage calculations is not appropriate since not only is the calculation of increased product costs designed to compensate for lost gas sales revenues (not to compensate for costs of doing business as a natural gas company) but also the act of extracting the liquids eliminates or changes the taxable event. Thus, inclusion of the tax component in shrinkage calculations could represent a recovery of costs that are not in fact incurred.

However, it should be noted that the tax component of the FERC rates does not bear any necessary or direct relationship to any tax the producer will actually incur. It is a general rate provision, entitling the producer to charge a total price regardless of whether a state tax is imposed. Thus, under these circumstances, it is not possible to consider this aspect of the FERC rate as anything other than potential revenues to the seller. Moreover, tax and other cost considerations are always part of regulated gas sales rates, whether or not separately stated. The regulations governing shrinkage calculations do not isolate or establish those residue gas sales price components that are or are not appropriate.

Furthermore, with regard to shrinkage calculations the DOE has consistently interpreted §§ 212.162 and 212.166(b)(3) pursuant to their plain meaning, a result which permits refiners to include the tax component of the FERC tariff in their natural gas shrinkage calculations. *Kansas-Nebraska Natural Gas Co.*, Interpretation 1978-41, 43 FR 29529 (July 10, 1978), *Pet. reconsid. pending; Martin Exploration Co.*, Interpretation 1978-27, 43 FR 25085 (June 9, 1978).

It should be noted, however, that ARCO may include the tax component in its shrinkage calculations only if that component is part of the price which ARCO charges for the residue gas. § 212.162. Section 212.31 states in pertinent part:

"'Price' means any consideration for the sale of any property or services and includes commissions, dues, fees, margins, rates, charges, tariffs, fares, or premiums, regardless of form."

Of course, natural gas is not a covered product subject to the Mandatory Petroleum Price Regulations. Despite this fact, it is appropriate to interpret the term "price" as defined in § 212.31 and used in § 212.162 in a manner which is consistent with the use of that term in the Mandatory Petroleum Price Regulations.

It should be emphasized that this Interpretation does not consider whether state taxes imposed with respect to natural gas sales are to be reflected in shrinkage calculations. Rather this Interpretation declares that ARCO may include the separately stated component of the FERC's tariffs designed generally to permit recoupment of state taxes in the residue gas sales price for purposes of shrinkage calculations under §§ 212.162 and 212.166(b)(3).

III. INLET MEASUREMENT POINT

The increased cost of natural gas shrinkage is an important component of ARCO's maximum lawful selling prices of NGL's, NGLP's, and products manufactured from NGL's and NGLP's. Increased cost of natural gas shrinkage represents the difference between weighted average shrinkage cost per Mcf of processed gas in May 1973 and the current month multiplied by the inlet volume measured in Mcf's of natural gas in the current month. 10 CFR 212.166(b)(3). To determine the weighted average cost of shrinkage in a particular month, the total extraction loss, measured in either Btu's or Mcf's as determined by the relevant price terms, is multiplied by the residue gas sales price per unit and then is divided by the inlet volume of natural gas which will be processed in that month. The extraction loss may be measured in either Btu's or Mcf's by the difference between plant inlet and outlet volumes, *i.e.*, the "inlet-outlet" method. Ruling 1975-18, 40 FR 55860 (December 2, 1975). If measurements are not available for plant inlet and outlet volumes, the quantities extracted are converted by standard reference tables into either Btu's or Mcf's of natural gas for the purpose of these shrinkage calculations, *i.e.*, the "conversion" method. *Id.* Thus, plant inlet volumes are an integral part of shrinkage calculations in at least the following three instances: measuring the increased cost of natural gas shrinkage in the current month; measuring the weighted average cost of natural gas shrinkage in the relevant month; and measuring the extraction loss in the relevant month pursuant to the inlet-outlet method.

In its submission, ARCO asserts that the wellhead is the appropriate measurement point for the inlet volume used in shrinkage calculations when the gas is purchased at the wellhead with title passing to the processor at that point. Some commenters have supported ARCO's position. Others have suggested that this issue is primarily a factual one to be resolved on a case-by-case basis with reference to consistent historical practices. One commenter asserts that the shrinkage measurements should be made at the plant inlet master meters.

ARCO bases its position upon the following rationale. First, the wellhead is the logical measurement point since this is the point where the gas enters ARCO's gas plant system for processing. In addition, the wellhead meters are more accurate than plant inlet meters, because the wellhead meters are used for assessing royalty payments to producers. Moreover, ARCO has the sole financial responsibility for gathering the gas for processing and operating the gathering system. Furthermore, any line loss or fuel consumption associated with the gathering system is paid for by the plant. Finally, ARCO asserts that the natural gas would in many cases be sold without processing if the gas plant did not provide the gathering lines.

These reasons are insubstantial. The costs of constructing and operating natural gas gathering lines are costs of doing business rather than costs of acquiring the raw materials necessary to the manufacture of NGL's and NGLP's. Consequently, they are non-product costs, not product costs. Section 212.165 [11] provides for the recognition and passthrough of non-product costs attributable to gas plant operations up to a stipulated figure.

Under the facts presented in its request for interpretation, ARCO purchases the entire "wet" stream at the wellhead, and thus, has a financial interest in the sale of the residue gas. ARCO may recover the costs of gathering natural gas in the prices

[11] See n. 1, *supra*.

it charges purchasers for the residue gas. In fact, natural gas gathering costs have been included in the rates which the FERC has established for sales of natural gas. Because these gathering costs are costs of doing business (in certain cases these are non-product costs) which may be recouped in the prices that may lawfully be charged for processed gas, NGL's and NGLP's, gathering costs should not also be reimbursed as product costs through shrinkage calculations.

Furthermore, the cost of "natural gas shrinkage," as that term is defined in § 212.162, refers to the reduction in gas sales revenues resulting from the extraction of liquids. *Preamble to Subpart K*, 39 FR at 44409; *Ruling 1975-18, supra. Accord, Notice of Proposed Rulemaking*, 39 FR at 32719. The line losses and fuel consumed in operating the gathering system are not losses resulting from the extraction of the liquids.

Certainly, those reductions in the quantity of natural gas affect gas sales revenues, but the "shrinkage" concept is designed solely to compensate for the reduction in gas sales resulting from the extraction of NGL's. The DOE has consistently refused to broaden the "shrinkage" concept to include all opportunity costs foregone by gas plant operators, *Compare Martin Exploration*, 43 FR at 25086 *with Sun Gas*, 43 FR at 29543. In accordance with the rationale of these Interpretations, ARCO's line losses from wellhead meter to inlet plant meter should not be reflected in shrinkage calculations. In fact, the line losses may be collected and sold as crude oil. *See UPG, Inc.*, Interpretation 1978-35, 43 FR 29539 (July 10, 1978), *pet. reconsid. pending*. The acquisition of this pipeline and plant condensate does not constitute NGL extraction; to the contrary, Ruling 1975-18, *supra*, specifically distinguishes between condensate to be treated as crude oil and NGL's which are subject to the cost-based regulations of Subpart K.

ARCO also asserts that it should be permitted to measure inlet volumes at the wellhead for shrinkage calculations because the wellhead meters are more accurate than the plant inlet meters. An Interpretation is not the appropriate vehicle for resolving this type of claim. However, it is ARCO's responsibility to assure the accuracy and reliability of the pertinent meters, *i.e.*, the plant inlet meter. Moreover, the fact that ARCO's plant inlet meters are unreliable does not mean that ARCO must calculate its shrinkage costs by reference to wellhead meters. The DOE and its predecessors have authorized the use of the "conversion" method in instances where plant meter measurements are not available. Ruling 1975-18, *supra*. Under this method, a firm should possess accurate data as to the quantity of NGL's extracted and the quantity of processed gas leaving the plant. Using those data in conjunction with standard reference tables for conversion of NGL's into Btu's or MCF's of natural gas, ARCO can obtain reliable estimates of plant inlet volumes.

IV. NEGATIVE SHRINKAGE

Increased cost of natural gas shrinkage is one type of increased product cost which is recognized under Subpart K for passthrough in maximum lawful selling prices. 10 CFR 212.166. Section 212.166(b)(3) states that increased product costs are:

"the *difference between the* weighted average cost of natural gas *shrinkage* per thousand cubic feet (MCF) of natural gas processed *in the month of May 1973*, and *the* weighted average cost of natural gas *shrinkage* per thousand cubic feet (MCF) of natural gas processed *in the current month*, multiplied by the number of thousand cubic feet (MCF's) of natural gas processed in the current month." (Emphasis added.)

In most cases those costs would actually have increased in the period between the base month (May 1973) and the current month. However, in certain cases, *e.g.*, for one or more gas plants, the calculations performed pursuant to § 212.166(b)(3) may yield lower costs of natural gas shrinkage in the current month than in May 1973. That result, known as "negative shrinkage," can occur when using the formula for calculating increased product costs under § 212.166(b)(3), because the formula automatically adjusts for decreased product costs by permitting the passthrough of only net increases in product costs, *i.e.*, the difference between current and May 15, 1973, costs equals increased product cost.

ARCO's assertion that negative shrinkage is an anomaly which should not be included in cost passthrough calculations is not persuasive, because where a particular product cost is recognized, both decreases and increases in that cost should be passed through in maximum lawful price calculations. Provisions for the passthrough of decreased product costs were clearly intended by Congress in Section 401(a) of the Energy Policy and Conservation Act (Pub. L. 94-163, EPCA). Section 401(a) amended the EPAA effective February 1, 1976, by adding a new section 9 as follows:

"Not later than the first day of the second full calendar month following the date of enactment of this section, the regulation under section 4(a) shall provide for a dollar-for-dollar passthrough in prices at all levels of distribution from the producer through the retail level of decreases in the costs of crude oil, residual fuel oil, and refined petroleum products (including decreases in costs which result from a reduction in the price of crude oil produced in the United States because of the amendment to such regulation required under section 8(a))."

In the preamble to the regulations which implemented this statutory provision, the FEA explained that its regulations, providing for a passthrough of net increases in costs, effectively require the recognition of cost decreases. 41 FR 5111 (February 4, 1976). The Temporary Emergency Court of Appeals has upheld DOE's statutory authority to regulate natural gas liquids and natural gas liquid products. In this regard, the court stated:

"We are convinced that Congress contemplated substantially greater coverage for the EPAA than would result from strict adherence to the technical meanings of the terms 'crude oil, residual fuel oil, and refined petroleum products.' "

Mobil v. *FEA*, 566 F.2d 87 (TECA 1977) (citation omitted). *Accord, National Helium* v. *FEA*, 569 F.2d 1137 (TECA 1977).

Therefore, if as some firms have asserted, increased costs of natural gas shrinkage are actual product costs to which the dollar-for-dollar passthrough provisions of Section 4(b)(2)(A) of the EPAA apply, then Section 9 of the EPAA would require that decreased costs of natural gas shrinkage reduce the amount of any increases in other product costs. DOE and its predecessor agencies have maintained that increased costs of natural gas shrinkage represent an opportunity cost not required to be passed through under Section 4(b)(2)(A) of the EPAA. *Kansas-Nebraska Natural Gas Co.*, 43 FR at 29549-50. Nevertheless, since the DOE treats shrinkage costs as analogous and equivalent to other increased product costs for passthrough purposes, passing through only net increased shrinkage costs is consistent with the treatment of other types of increased product costs. *See* 39 FR at 44409.

Many comments were directed to certain inherent defects in the shrinkage formula rather than to the phenomenon of negative shrinkage. These comments indicate that the shrinkage formula does not provide exact compensation for gas sales revenues that are lost as a result of NGL extraction. [12]

We have previously considered these objections and have construed §§ 212.162 and 212.166(b)(3) according to their plain meaning. *Kansas-Nebraska Natural Gas Co.*, 43 FR at 29550. *See also* Part II of this Interpretation, *supra;* and *Martin Exploration*, 43 FR at 25086. In *Kansas-Nebraska*, we noted that the shrinkage formula generally and reasonably values the raw materials. Furthermore, we noted that the literal operation of the regulations permits refiners to obtain certain benefits which tend to compensate for any negative effects of the shrinkage formula. Finally, the Interpretation indicated that rulemaking procedures and the exceptions process were more appropriate forums for evaluating the proper relief than the issuance of the requested Interpretation.

For the reasons set forth above, we have determined that the proper application of the DOE Regulations to the factual situation presented by ARCO in the present request for interpretation is as follows:

(1) ARCO's inter-affiliate transfers are not governed by the first sale price rule of § 212.163(a); and

(2) The tax component of the FERC tariff is included in the residue gas sales price for the purposes of shrinkage calculations; and

(3) The plant inlet master meter is the appropriate place for measurement of ARCO's increased cost of natural gas shrinkage; and

(4) The decreased cost of natural gas shrinkage should be used to reduce increased product cost.

INTERPRETATION 1978-35M

To: UPG, Inc.
Date: November 13, 1978
Rules Interpreted: 10 CFR 212.31, 212.162
Code: GCW—PI—Def. Condensate, Natural Gas Liquids, and Natural Gasoline

FACTS

UPG, Inc. (UPG) markets condensate and petroleum products, including propane, butane, and natural gasoline. UPG presently purchases liquid hydrocarbons recovered from approximately 3,300 pipeline drips and ball run tanks in eight western states.[1]

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[12] For discussions of the operation of the shrinkage formula in this context, see *Kansas-Nebraska Natural Gas Co., Inc.*, 43 FR at 29549-50 and; *Proposed Amendments to Subpart K, Part 212*, § *F*(2), 42 FR 29490 (June 9, 1977).

[1] As a result of temperature differentials between the natural gas and pipeline facilities, and/or pressure changes, the heavier hydrocarbons in the natural gas condense to form a liquid residue in the pipeline system. The greater the temperature and/or pressure differential, the more residue will form

Footnotes continued on next page

These hydrocarbons are collected at various points along gas gathering and transmission pipeline systems which are located beyond the wellhead and conventional field separators and before the gas processing plants. Similarly, other liquids (hydrocarbons which condense to form a residue product in the pipeline) are removed from the sump drains and crankcases of pipeline compressor engines. Many of the collection points for pipeline residue are located as much as 20 miles downstream of the gas wells and field separators.

The liquid hydrocarbons which are recovered in this manner contain substantial, fluctuating impurities. Approximately two-thirds of a gallon of "associated" water is collected for each gallon of liquid hydrocarbons, and is separated from the hydrocarbons by gravity in storage tanks. The foreign materials in analyzed samples also have included iron, hydrogen sulphide, rust, oil from compressor engines, ethanol amines, caustic solutions from sulphur removal processes, acid from carbon dioxide, salt water, and glycols from dehydration facilities. Since these foreign materials do not have any economic value to UPG's purchasers, they are separated from the liquid hydrocarbons by a process of blending, heating, and chemical treating of the product.

The API gravities of the liquid hydrocarbons range from 53.2° to 68.4°. This variation is due primarily to the presence of differing amounts of lubricating oils and the degree of vaporization each sample undergoes prior to analysis. The purchasers of these liquid hydrocarbons generally use them as refinery feedstock.

ISSUE

Are these liquid hydrocarbons classified as "crude oil," "natural gas liquids," or "natural gasoline" for purposes of the Mandatory Petroleum Price Regulations?

INTERPRETATION

For the reasons set forth below, sales of the described liquid hydrocarbons are sales of "crude oil" as defined in 10 CFR 212.31.

Section 212.31 defines "crude oil," "natural gas liquids," and "natural gasoline" for the purposes of the Mandatory Petroleum Price Regulations as:

" 'Crude oil' means a mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. 'Crude oil' includes *condensate recovered* in associated or non-associated production *by mechanical separators, whether located on the lease, at central field facilities, or at the inlet side of a gas processing plant.*"

'Natural gas liquids' means a mixed hydrocarbon stream containing, in whole or in substantial part, mixtures of ethane, butane (isobutane and normal butane), propane or natural gasoline.[2]

" 'Natural gasoline' means all liquid hydrocarbon mixtures, containing substantial quantities of pentanes and heavier hydrocarbons, that have been extracted from natural gas." (Emphasis and footnote added.)

For the purpose of establishing maximum lawful prices, the liquid hydrocarbons at issue here must be categorized as one and only one of the three terms defined above. *McCulloch Gas Processing Corp.*, Interpretation 1977-3, 42 FR 10963 (February 25, 1977); *G. E. Kadane & Sons*, Interpretation 1975-29, 42 FR 23741 (May 10, 1977). Otherwise, sales of these products would be subject to duplicative, inconsistent price regulations.

First, the definition of "crude oil" should be considered. Since the liquids at issue here were generally not in liquid phase in underground reservoirs, to be deemed "crude oil" for the purposes of the pricing regulations these liquids must be "condensate recovered . . . by mechanical separators." While the term "condensate" is not defined in the price regulations and does not have a uniform definition in commercial practice, the Department of Energy (DOE) and its predecessor agencies have interpreted and applied the term in rulings and interpretations.

Of particular interest to this case is the regulatory criteria for classification of liquid hydrocarbons as condensate. The DOE has stated, in pertinent part, that:

"Generally, condensate refers to the heavier liquid hydrocarbon portion of natural gas in the underground reservoir *which is mechanically separated* from natural gas as a liquid *through a process of retrograde condensation, involving pressure reduction,* and *sometimes accompanied by a reduction in temperature* as well. . . .

The liquids recovered from the Arun field are lease condensate because they are recovered by mechanical separation after retrograde condensation in a process comparable to recovery at the lease or at field facilities." *Mobil Oil Corporation*, Interpretation 1977-31, 42 FR 46270 (September 15, 1977) (emphasis added).[3]

While the pipeline recovers different hydrocarbons in different proportions than a mechanical separator at the lease, the liquids at issue here condense in the pipeline, because of the combined effects of temperature reduction towards ambient levels in the pipeline and accompanying pressure changes. The pipeline itself creates the conditions which condense these liquids. These same factors are present in the recovery of hydrocarbons by mechanical separators at the lease. Thus, mechanical separators recover "condensate" by a similar recovery process which produces the liquid hydrocarbons purchased by UPG.

The DOE has stated that the prime distinction for regulatory purposes between condensate and natural gas liquids or natural gasoline is the method of producing the liquids:

"Condensate occurs in nature as the heavy hydrocarbon portion of natural gas in the underground reservoir, and is mechanically separated from natural gas as a liquid through a process of retrograde condensation, involving pressure reduction, sometimes accompanied by a reduction in temperature as well. . . . *Condensate is to be distinguished from the lighter natural gas liquids and natural gas liquid products, whether fractionated or in a mixed stream of natural gas liquids, which are incapable of being separated from natural gas by mechanical means only and are generally recovered from natural gas at a gas processing plant by absorption, adsorption, or extraneous refrigeration processes.* In light of these distinctions, the FEA has determined that condensate should, as a general matter, be treated as crude oil under Subpart D of the price regulations, rather than as natural gas liquids or natural gas liquid products which are treated under Subpart K of the price regulation." Ruling 1975-18, 40 FR 55860 (December 2, 1975) (emphasis added).

Because the liquids collected by UPG in the pipeline drips and ball run tanks condense as a result of pressure and temperature reduction, they are properly classified as "crude oil" for the purposes of the price regulations.

UPG asserts that the liquids recovered are not condensate, because they are not recovered by, and could not be recovered exclusively by, mechanical separators or any other mechanical device, but occur as a result of a cooling process and/or pressure changes in the pipeline. Furthermore, UPG argues that the pipeline itself cannot be considered a mechanical separator, because it was not designed and it is not intended to recover these liquids. In fact, the existence of the liquids in the pipeline is a nuisance impairing operating efficiency.

The use of the term "mechanical separators" in the definition of "crude oil" was designed to distinguish production of liquids by condensation as the result of temperature reduction to ambient levels and accompanying pressure changes (condensate) from production by absorption, adsorption, or extraneous refrigeration processes (natural gas liquids or natural gasoline). The fact that no mechanical device is employed to induce condensation does not mean that the liquids at issue here should not be classified as condensate. Indeed, the pipeline itself operates to condense the liquids by an equivalent process to that employed by mechanical separators at the lease. The DOE has consistently distinguished condensate from natural gas liquids and natural gasoline by the recovery process employed, rather than the operational objectives of the firm or the design objectives of the equipment. Since the liquids condense naturally (*i.e.*, not by adsorption, not by absorption, and not by extraneous refrigeration processes) they must be categorized as condensate, and cannot be classified as natural gas liquids or natural gasoline.

This conclusion is confirmed by the fact that liquids recovered at the inlet side of a gas processing plant by mechanical separators are condensate for purposes of the pricing regulations. Similarly, liquids recovered by mechanical separators at central field facilities are condensate for pricing purposes. § 212.31. As discussed previously, the

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in the natural gas pipeline. This residue may be removed from a pipeline system in either of two ways: (1) by utilizing the gas pressure in the pipeline to force the residue, which has accumulated at various low points, or drips, into a pressurized receiving tank truck, or (2) by running a device (known as a "pig" or "ball") through the pipeline in order to force the accumulated residue into a stationary receiving tank.

[2] An identical definition of "natural gas liquids" is also included in § 212.162.

[3] *Mobil* interpreted, for the purposes of the Mandatory Petroleum Allocation Regulations, the definition of "crude oil" contained in § 211.51. Section 211.51 does not include, as § 212.31 does, condensate recovered at the inlet of a gas processing plant. Here UPG recovers the liquids at issue prior to that point. UPG asserts that the DOE in *Mobil* and in Ruling 1975-18, *infra*, has used the term "retrograde condensation" without regard to its precise technical meaning. Nevertheless, in those pronouncements the DOE has correctly characterized the recovery process of mechanical separation as involving temperature reduction, pressure reduction, or both.

liquids which UPG purchases condense as the result of the same processes employed by the mechanical separators in the field and at the inlet to gas plants. Therefore, it would be anomalous to define the liquids at issue here, which condense after passing through the field separators and before the inlet scrubbers, as natural gas liquids or natural gasoline. Logically, the liquids recovered in pipeline drips and ball tanks should be treated consistently, i.e., as condensate.

UPG also maintains that the physical properties of the liquids it recovers more closely approximate natural gas liquids or natural gasoline, rather than condensate. UPG further argues that the pipeline drips contain "substantial" quantities of the components included in the definition of "natural gas liquids" and "natural gasoline" and should, therefore, be classified as "natural gas liquids" or "natural gasoline." However, the applicability of these definitions is not merely a question of chemical analysis. This is particularly true, where, as here, there is a substantial overlap among the components of condensate, natural gas liquids, and natural gasoline. Arguably, the liquids at issue here are chemically comprised of substantially the same components as set forth in the definitions of natural gas liquids *and* natural gasoline. Nevertheless, these liquids must be categorized for pricing purposes as one and only one regulated substance. Therefore, some other criteria than "substantial" presence of specified components is necessary to distinguish between condensate, natural gas liquids, and natural gasoline.[4]

API gravities are not a sufficient distinguishing factor, because API gravities of the liquids recovered by UPG are within the normal ranges of condensate, natural gas liquids, and natural gasoline. *See* Ruling 1977-2, 42 FR 4409 (January 25, 1977). Similarly, the fact that these liquids are used as refinery feedstock does not clarify which category is appropriate because each of the three categories may be and are used as refinery feedstock. The differing methods of obtaining the liquids, however, provide a more easily administered means of distinguishing among these categories, and are, as discussed above, the seminal distinctions applied in previous actions by the DOE and its predecessor agencies.

The fact that UPG recovers the liquids at issue here as much as 20 miles from the gas wells and field separators is not relevant to the determination of whether these liquids are "crude oil" as defined in § 212.31. In *Mobil*, the Office of General Counsel considered recovery of liquids at points distant from gas wells, stating that:

"The fact that the condensate facilities span an area of twenty miles does not alter the conclusion that the basic method of recovery in this case is comparable to the domestic recovery of lease condensate. After the first separation, the liquids are transported twenty miles so that further recovery can take place near the marine loading terminal. . . . The completion of the condensate recovery at the loading port does not change the basic method of recovery of the liquids. Furthermore, the condensate recovery during the interim operation is not associated with a gas processing plant. Therefore, the distance involved in the Arun interim operation is not a distinguishing factor."

Similarly, the fact that the liquids contain substantial foreign materials, especially water, does not mean the liquids are not "crude oil" as the UPG suggests. The Office of General Counsel has considered this argument before and concluded that:

"The petroleum slops, at the time of their acquisition by Sea Horse, have large quantities of water and other materials included therein, and are thus classified as waste pursuant to item 793.000 of the Tariff Schedules of the United States (19 U.S.C. Ch. 4, Subtitle 1). However, the presence of these additional quantities of water and other materials would not prevent the petroleum slops from being considered as crude oil . . . since in many instances crude oil produced at a lease also contains large quantities of these materials."

Sea Horse Marine, Inc., Interpretation 1977-22, 42 FR 41095 (August 13, 1977).[5]

Accordingly, for the purposes of the Mandatory Petroleum Price Regulations, the liquid hydrocarbons purchased by UPG from the various pipeline systems are "crude oil" as defined in § 212.31.

APPENDIX *B*—RESPONSES TO PETITIONS FOR RECONSIDERATION

Petitioner	*Interpretation*	*Date of Response*
Continental Oil Co., Inc. (CONOCO)	CONOCO, 1978-29, 43 FR 29529 (July 10, 1978).	November 1
The Gulf Companies (Gulf)	Gulf, 1978-48, 43 FR 40200 (September 11, 1978).	November 17

PETITION FOR RECONSIDERATION OF CONTINENTAL OIL CO., INC. 1978-29

Petitioner: Continental Oil Co., Inc.

Date: July 10, 1978

This is in response to your request for reconsideration of Interpretation 1978-29, which was issued to the Continental Oil Company, Inc. (CONOCO) on July 10, 1978. 43 FR 29529 (July 10, 1978). The request, which you submitted on behalf of CONOCO, was received on August 15, 1978.

Under the procedural regulations of the Department of Energy, Interpretations issued by the Office of General Counsel may be reconsidered under certain limited circumstances. 10 CFR 205.85(f). In these cases, the burden is upon the petitioner to demonstrate that the Interpretation is erroneous in fact or in law, or that the result reached in the Interpretation is arbitrary or capricious. 10 CFR 205.85(f)(3). For the reasons discussed below, I have concluded that the request for reconsideration should be denied.

According to the facts as set forth in the Interpretation, CONOCO owns and operates natural gas processing plants and crude oil refineries, and it transfers for value natural gas liquids (NGL's) and natural gas liquid products (NGLP's) to affiliated and unaffiliated entities. CONOCO is therefore a "refiner," as that term is defined in 10 CFR 212.31, and is required to determine its maximum lawful selling prices in accordance with the provisions of 10 CFR Part 212, Subparts E and K.

In the petition for reconsideration, CONOCO argues that the Interpretation is defective because the Department failed to notify interested parties of the CONOCO request for Interpretation and provide them with an opportunity to comment prior to the issuance of the Interpretation. However, the procedures used by the Department in considering a request for Interpretation do not require that the Department provide notice and an opportunity for comment to parties other than the one which requests the Interpretation. Rather, it is within the discretion of the Department to consider comments from interested parties in these proceedings, because an Interpretation does not result in the adoption of a rule or regulation of general applicability.

CONOCO also argues that the Interpretation incorrectly determined that the adjustments set forth in 10 CFR 212.164 do not apply to intra-firm sales. However, CONOCO's reliance on the reference in 10 CFR 212.161(a) to transfers between affiliated entities as explicit authority for taking the adjustment in those types of sales is misplaced. Section 212.161(a) merely sets forth the regulatory scope of Subpart K. Transfers between affiliated entities are not "first sales" under Subpart K, but are regulated instead under the provisions of 10 CFR 212.161(b)(2). Furthermore, CONOCO's contention that intra-firm transfers need not be "transactions," as that term is defined in 10 CFR 212.31, in order to qualify as "first sales" is also without merit. While the definition of "first sale," which is set forth in 10 CFR 212.162, does not contain the term "transactions," nevertheless, other applicable sections, §§ 212.163(a) (First sale price) and 212.164(a) (Adjusted May 15, 1973, first sale price for natural gas liquid products), explicitly require a "transaction."

Based upon its analysis of § 212.162, CONOCO further argues that the Interpretation incorrectly concluded that the adjustments contained in § 212.164 were inapplicable to NGL's and NGLP's derived from crude oil. Inasmuch as crude oil refineries have fractionation facilities, CONOCO asserts that the adjustments also apply to NGL's and NGLP's derived from crude oil. However, Subpart K was designed to represent a departure from the ill-suited crude oil refiner price rules and was intended to fashion a comprehensive pricing scheme for NGL's and NGLP's derived from natural gas. 39 FR 44407, (December 24, 1974); 39 FR 32718, 32719 (September 10, 1974). To conclude that Subpart K is also applicable to the pricing of products derived from

[4] As discussed above, the manufacture of natural gas liquids and natural gasoline is associated with the processing of natural gas at a gas plant. Furthermore, natural gas liquids are produced as the result of extraction processes, and natural gasoline is produced as a result of extraction and fractionation processes. Here, the liquids are not produced at a gas plant and are produced without employing either extraction or fractionation processes.

[5] *Sea Horse* interpreted the definition of "crude oil" contained in § 211.51. *See* n. 1, *supra*.

crude oil would necessitate an unnecessary and unwarranted extension of the scope of that subpart. Furthermore, § 212.161(b)(2)(ii) sets forth the method for calculating increased product costs of NGL's and NGLP's produced in gas plants, but does not provide for the passthrough of any increased costs of crude oil. Rather, the passthrough of increased crude oil costs is treated in Subpart E, which provides an explicit, comprehensive method for the passthrough of appropriate increased costs of crude oil refining. Thus, the Interpretation correctly concludes that the adjustments contained in § 212.164 do not apply to NGL's and NGLP's derived from crude oil. It should be noted, however, that the adjustments are available in sales of NGL's and NGLP's derived from natural gas, even if fractionation occurs on the premises of a crude oil refinery.

CONOCO also asserts that § 212.164 was designed to adjust all May 15, 1973, selling prices of NGL's and NGLP's. This assertion is clearly erroneous. The Interpretation correctly concluded that the adjustments in May 15, 1973, selling prices were intended to apply only to natural gas derived NGL's and NGLP's. 39 FR at 44409; 39 FR at 32719.

CONOCO further contends that any limitation on the application of the adjustments to natural gas derived products will result in price discrimination which may violate the Robinson-Patman Act. However, Part 212, Subpart K preempts the Robinson-Patman Act. Indeed, § 212.167(b) explicitly authorizes the type of price discrimination which would otherwise be considered to be a violation of the Robinson-Patman Act.

CONOCO asserts that the Interpretation does not explain why § 212.164 adjustments are applicable to prices charged in sales of NGL's and NGLP's without regard to the location of the sales. That assertion is not correct. The Interpretation refers to two Rulemaking Notices which explain that the Federal Energy Administration was aware of no compelling reason to grant a transportation differential and was convinced that administrative difficulties made such an approach undesirable. 40 FR 49105, 49107-08 (October 21, 1975); 41 FR 24110, 24112-13 (June 15, 1976).

Finally, CONOCO erroneously asserts that the attribution formula discussed in the Interpretation is unclear and unworkable. However, the Interpretation correctly concluded that the "plain meaning" of § 212.164 does not authorize any adjustment in the prices charged for NGL's and NGLP's unless the refiner can show that the NGL's and NGLP's were derived from natural gas. In addition, the Interpretation correctly concluded that an attribution formula was within the intent of Subpart K and was implicitly required to effectuate the adjustments contained in § 212.164(c), (d), and (e). Because the elective use of an attribution formula reflects an appropriate construction of § 212.164 and is necessary to achieve the limited and well-defined purposes of that provision, rulemaking requirements were not applicable to the issuance of the Interpretation. If CONOCO decides that an attribution formula is too difficult to apply, then it may elect to price its products without the benefits offered by § 212.164. An attribution formula within the guidelines set forth in the Interpretation should be workable, because CONOCO can supply reasonable estimates of production and sales for the future and it possesses exact data regarding past transactions. For example, CONOCO asserts that is will not possess accurate data concerning its production until 45 days following the end of a month. However, CONOCO should already be estimating its costs and production, since it is permitted by § 212.161(b)(2)(ii) to passthrough costs in the current month.

Some third party submissions in the nature of *amicus* filings have suggested that the adjustments in § 212.164 should be applied to resales of purchased product. The Interpretation correctly concluded that adjustments in May 15, 1973, selling prices in resales of purchased product were neither intended to be, nor were within the definition of "first sale." *See* 10 CFR 212.162; 39 FR at 44408.

Since Continental Oil Company has failed to demonstrate that the Interpretation is erroneous in fact or in law; or that the Interpretation is arbitrary or capricious, the request for reconsideration is hereby denied. This denial of CONOCO's request for reconsideration is a final order of the Department of Energy from which the petitioner may seek judicial review.

PETITION FOR RECONSIDERATION OF THE GULF COMPANIES 1978-48

Petitioner: The Gulf Companies

Date: September 11, 1978

This is in response to the petition for reconsideration which you submitted on behalf of The Gulf Companies (Gulf) on September 18, 1978. In that petition, you requested that the DOE reconsider an Interpretation which it issued to Gulf on August 3, 1978. *The Gulf Companies*, Interpretation 1978-48 43 FR 40200 (September 11, 1978). For the reasons discussed below, I have determined that the petition for reconsideration must be denied.

Interpretations issued by the Office of General Counsel of the Department of Energy (DOE) may be reconsidered only in certain limited circumstances. In these cases, the burden is upon the petitioner to demonstrate that the interpretation was erroneous in fact or in law, or that the result reached in the interpretation was arbitrary or capricious. 10 CFR 205.85(f)(3).

In the Interpretation which was issued to Gulf, the DOE determined that the crude oil produced by Gulf from the Dos Cuadras Field in the Santa Barbara Channel from January 1, 1978, through May 31, 1978, did not qualify as "California lower tier crude oil" as that term was then defined in 10 CFR 211.62. Gulf contended that although the Dos Cuadras Field is located on the Outer Continental Shelf more than 3 miles from the coast of California, the crude oil which it produced from that Field should be considered production from within the State of California for purposes of the DOE domestic crude oil allocation ("entitlements") program.

Gulf's petition for reconsideration reiterates the arguments that the firm presented in the initial interpretation request and raises no new arguments of fact or of law. As the Interpretation indicated, the boundary of California for purposes of the Mandatory Petroleum Allocation and Price Regulations is determined by the Submerged Lands Act, 43 U.S.C. 1301 *et seq.*, which established the seaward boundaries for each coastal state as a line 3 geographical miles distant from its coast line. Further support for this conclusion is found in the preamble to the revised definition of California lower tier crude oil. 43 FR 26539 (June 20, 1978). In that preamble, the DOE stated that the definition of California lower tier crude oil which had been in effect during the period involved in the present matter did not include crude oil produced from offshore California leases. *Id.* at 26545.

Accordingly, since Gulf has failed to demonstrate that the Interpretation is erroneous in fact or in law, or that the Interpretation is arbitrary or capricious, the petition for reconsideration is hereby denied. The denial of Gulf's petition for reconsideration is a final order of the Department of Energy from which the petitioner may seek judicial review.

[FR Doc. 78-34240 Filed 12-7-78; 8:45 am]

[6720-02-M]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 78-694]

PART 526—LIMITATIONS ON RATE OF RETURN

Amendment Concerning Maximum Rate of Return Payable on Accounts Subject to Automatic Transfer

DECEMBER 5, 1978.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: In partial implementation of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, the Federal Home Loan Bank Board amends 12 CFR Part 526 by adding a new paragraph concerning the maximum rate of return payable on accounts subject to automatic transfer.

EFFECTIVE DATE: December 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552, (202) 377-6440.

SUPPLEMENTARY INFORMATION: Title XVI of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 provides that there shall be no differential in the maximum interest rate payable between (1) banks (other than savings banks) whose deposits are insured by the Federal Deposit Insurance Corporation and (2) thrift institutions whose deposits are insured by the Federal Savings and

Loan Insurance Corporation or mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 USC 1813(f)) on savings accounts subject to automatic transfer. This includes transfers to the institution itelf or to a demand or deposit account of the same depositor, made as a normal practice, according to a prearranged agreement with the accountholder to make such transfers, to cover checks, drafts, or similar instruments drawn by the accountholder on the institution. The maximum rate payable is that which may be paid by FDIC-insured banks (excluding mutual savings banks).

The Bank Board therefore hereby amends Part 526 of the Rules and Regulations of the Federal Home Loan Bank System to implement this new statutory provision.

This amendment in no way authorizes automatic transfer accounts. It merely sets the maximum interest rate payable on these accounts in any State where any provision of State or Federal law permits them to be offered by member institutions.

The Bank Board finds that (1) notice and public procedure are unnecessary under 5 U.S.C. § 553(b) and 12 CFR 508.11 because immediate implementation of the Act is in the public interest and (2) publication of the amendment for the full 30-day period prescribed in 5 U.S.C. § 553(d) and 12 CFR 508.14 is unnecessary for the same reason.

Accordingly, the Federal Home Loan Bank Board hereby amends 12 CFR 526.3 by adding a new paragraph to read as set forth below:

§ 526.3 Maximum rates of return payable by members on savings accounts.

(a) * * * (9) 5%—savings accounts or deposits which are subject to automatic transfers to the member itself or to a demand or deposit account of the same accountholder, made as a normal practice, according to a prearranged agreement with the accountholder, to cover checks, drafts, or similar instruments drawn by the accountholder on the member.

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Sec. 5B, 47 Stat. 727, as added by Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); Title I, Pub. L. 91-391, 84 Stat. 450. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-44 Comp., 1071).

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 78-34360 Filed 12-7-78; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES AND RULES OF PRACTICE

PART 4—MISCELLANEOUS RULES

AVAILABILITY OF PUBLIC INFORMATION

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Commission amends its rules concerning fees assessed members of the public for reproduction and search costs incurred in processing requests for Commission records.

DATES: Effective: December 8, 1978. Comments by: January 8, 1979.

ADDRESSES: Comments should be addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

Comments will be entered on the public records of the Commission and will be available for public inspection in room 130 at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

James A Tobin, Deputy Secretary, Federal Trade Commission, Washington, D.C. 20580, 202-523-3535.

SUPPLEMENTARY INFORMATION: The Commission amends Rule 4.8(c), 16 CFR 4.8(c), to state that fees will not be charged for the first $10.00 of search and reproduction costs; the existing rule provides that fees will not be charged where the aggregate amount is less than $10.00. In accordance with this change, the fee schedule for search fees is also being amended to eliminate the provision that the first hour of search time is free. Finally, the rule is being amended to reflect that the General Counsel, as well as the Commission, may waive fees on appeal (see Rule 4.11(a)(2), 16 CFR 4.11(a)(2)).

While this rule is effective December 8, 1978, the Commission invites comments on it on or before January 8, 1979. Comments should be addressed to the Secretary. The Commission will review all comments received and take whatever action, if any, it deems appropriate.

Accordingly, the Commission amends § 4.8(c) of 16 CFR to read as follows:

§ 4.8 Availability of public information.

* * * * *

(c)(1) User fees pursuant to 31 U.S.C. 483(a) and 5 U.S.C. 552(a), as amended by Sec. (b)(1) of Pub. L. 93-502, shall be charged according to the schedule contained in paragraph (2) of this section for services rendered in responding to requests for Commission records under this subpart unless the Secretary initially or the General Counsel or the Commission on appeal determines in conformity with the provisions of 5 U.S.C. 552(a), amended by Pub. L. 93-502, and 31 U.S.C. 483(a) that such charges or a portion thereof are not in the public interest. Such a determination will ordinarily not be made unless the service to be performed will benefit primarily to the public as opposed to the requester, or unless the requester is a government agency or indigent. The first $10.00 of search and/or duplication fees are free to any requester. Ordinarily, fees will not be charged if the requested records are not found, or if all the records found are withheld as exempt. However, if the time expended in processing such a request is substantial, or if the requester has been notified of the estimated cost, purusant to § 4.11 of the Rules, or has been advised that it cannot be determined in advance whether any records will be made available, fees may be charged. The Secretary, with the approval of the Commission, shall establish such fees.

(2) The following uniform schedule of fees applies to all constituent units of the Commission:

REPRODUCTION

Paper copy	12 cents per page.

MICROFILM SERVICES—PRODUCTION OF MICROFILM

16 MM	6 cents per frame.
Microfiche 4" x 6"	6 cents per frame.

DUPLICATION OF MICROFILM

16 MM	$4.30 per 100 ft. roll.
16 MM Developing	$1.70 per 100 ft. roll.
Microfiche 4" x 6"	15 cents each.
3 M Cartridge	$1.28 each.
Load Cartridge	50 cents each.

COMPUTER SERVICES—INFORMATION RETRIEVAL

Programmer	$8.75 per hour.
Hard copy (paper) of each request	30 cents.

SEARCH FEES

Clerical	$5.50 per hour.
Para-professional	$6.15 per hour.
Professional	$13.25 per hour.
Certification	$3.00 each.

(3) Payment should be made by check or money order payable to the Treasury of the United States.

AUTHORITY: 5 U.S.C. 552; 15 U.S.C. 46(g).

By direction of the Commission dated November 21, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-34438 Filed 12-7-78; 8:45 am]

[6355-01-M]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER B—CONSUMER PRODUCT SAFETY ACT REGULATIONS

PART 1201—SAFETY STANDARD FOR ARCHITECTURAL GLAZING MATERIALS

Test Procedures; Correction

AGENCY: Cosumer Product Safety Commission.

ACTION: Correction.

SUMMARY: The Commission revises one section of the Safety Standard for Architectural Glazing Materials, describing the test frame for the standard's impact test by adding language which was inadvertently omitted, and issues a revised figure illustrating the test frame, which was inadvertently omitted when the amendment was published in the FEDERAL REGISTER.

DATES: The amendments issued on September 27, 1978, to which the correction applies, became effective on October 27, 1978.

SUPPLEMENTARY INFORMATION: The amendment to 16 CFR 1201.4(b)(1)(iii) of the Safety standard for Architectural Glazing Materials issued on September 27, 1978 (43 FR 43708), describing the test frame and subframe to be used in conducting the impact test required by the standard, did not fully describe the inner subframe, in that the amendment did not indicate that the hardness requirements for the neoprene used in subframe were changed. As discussed in the preamble to the September 27, 1978 amendment (43 FR 43706), the hardness provision was changed to require a shore A durometer hardness of 30 to 50. In addition, a revised figure 3 of the standard, illustrating the test frame and showing properly and improperly clamped test specimens, with the revised neoprene hardness requirements included, was omitted from the September 27, 1978 amendment. Accordingly, section 1201.4(b)(1)(iii) of title 16, Code of Federal Regulations, as amended at 43 FR 43708, is revised to read as follows:

§ 1201.4 Test procedures.

* * * * *

(b) *Test equipment*—(1) *Impact test frame and subframe.* * * *

(iii) The inner subframe (see figures 2, 3, and 4) for securing the test specimen on all four edges shall be reinforced at each corner. The material is shown as wood in figure 3, but other materials may be used: *Provided,* The test specimen will contact only the neoprene strips, which shall have a shore A durometer hardness of 30 to 50.

Further, figure 3 of the standard, as published in title 16 of the Code of Federal Regulations following § 1201.7 at p. 160 is revised to conform to the following illustration:

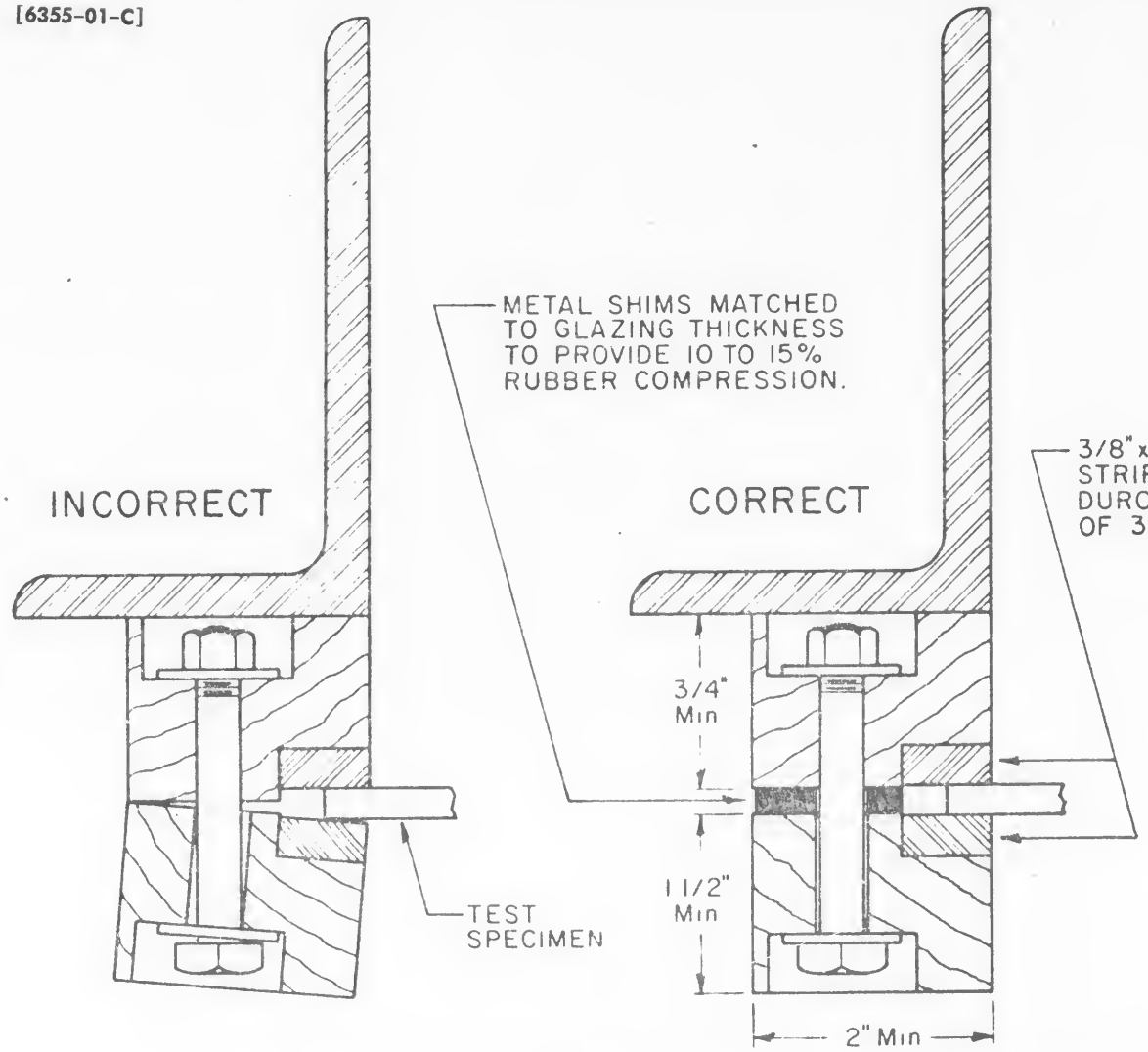

FIG 3—PROPERLY & IMPROPERLY CLAMPED TEST SPECIMEN (>1/8" THICK)

Dated: December 4, 1978.

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

[FR Doc. 78-34238 Filed 12-7-78; 8:45 am]

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-15249A]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Delegation of Authority to the Director of the Division of Market Regulation; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction.

SUMMARY: This document corrects FR Doc. 78-30564 appearing at page 50422 in the FEDERAL REGISTER of October 30, 1978. The paragraph added to 17 CFR 200.30-3 should have been numbered (a)(27).

EFFECTIVE DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen L. Parker, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-8949.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 29, 1978.

[FR Doc. 78-34241 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Release Nos. 33-6001; 34-15371; 35-20798]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 251—INTERPRETATIVE RELEASES RELATING TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND GENERAL RULES AND REGULATIONS THEREUNDER

Disclosure of the Impact of the Wage and Price Standards for 1979 on the Operation of Issuers Subject to the Registration and Reporting Provisions of the Federal Securities Laws

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Securities and Exchange Commission today issued a release notifying issuers subject to the registration and reporting provisions of the Federal securities laws of their obligations to disclose any material impact of the Wage and Price Standards for 1979 on their operations.

DATE: November 29, 1978.

FOR FURTHER INFORMATION CONTACT:

William H. Carter (202/376-8090), Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On October 24, 1978 President Carter presented his anti-inflation program which included standards for noninflationary wage and price behavior, i.e., the Wage and Price Standards for 1979. These standards will be implemented by: (1) Instituting an explicit numerical standard for wage and fringe-benefit increases; (2) specifying a price deceleration standard for individual firms in a manner that is consistent with the limitation on wage increases; (3) expanding the government's efforts to monitor inflation trends and to indentify sectors of the economy where the standards are being exceeded; and (4) announcing certain measures to encourage compliance with the standards.

The wage standard states basically that annual increases in wages and private fringe benefit payments should not exceed seven percent. The price standard requires, with certain exceptions, that individual firms limit their cumulative price increases over the next year to one half of a percentage point below the firm's average annual rate of price increase during 1976-1977. Among the specific government measures to be used to encourage compliance with the standards, which are voluntary, will be the channeling of government purchases to those firms whose price and wage decisions meet the standards and the possible relaxation of protective trade barriers in industries in which wage or price increases exceed the standards.

In view of the actual or potential impact that the Wage and Price Standards for 1979 may have on the operations of issuers subject to the registration and reporting provisions of the Federal securities laws, the Securities and Exchange Commission today reiterated the importance of publicly held companies making prompt and accurate disclosure of material information, both favorable and unfavorable, to security holders and the investing public. The Commission emphasizes that, under the securities laws, the responsibility for making full and fair disclosure in filings with the Commission rests with the issuers required to make those filings. Accordingly, issuers should carefully consider whether disclosure of the impact on their operations of the wage and price standards is required now and upon the occasion of further developments in this situation. Consideration should be given to such matters, inter alia, as possible loss of government sales if the issuer does not comply with the standards or a possible decrease in income or revenue if compliance with the standards would prevent increased costs from being "passed on" through equivalent price increases.

In addition, notwithstanding the fact that an issuer complies with the registration and reporting requirements under the securities laws, it should make full and prompt announcements of material facts concerning its operations. The responsibility for making such an announcement rests, and properly so, with the management of the issuer. They are intimately aware of the factors affecting the operations of the business. Moreover, not only must material facts affecting an issuer's operations be reported; they must be reported promptly. As indicated in Securities Act of 1933 Release No. 5092 (*Timely Disclosure of material Corporate Development;* October 5, 1970; 35 FR 16733) the policy of prompt corporate disclosure of material business events is embodied in the rules and directives of the major exchanges and the National Association of Securities Dealers, Inc.

Accordingly, 17 CFR Parts 231, 241, and 251 are amended by adding "Commission's statement regarding disclo-

sure of impact of Wage and Price Standards for 1979 on the operations of issuers."

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 29, 1978.

[FR Doc. 78-34242 Filed 12-7-78; 8:45 am]

[6740-02-M]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

SUBCHAPTER H—REGULATION OF NATURAL GAS SALES UNDER THE NATURAL GAS POLICY ACT OF 1978

[Docket No. RM79-8]

PART 277—OTHER PROVISIONS

Interim Regulation Prescribing 15-Year Minimum Duration for New Contracts for Some Sales of Certain OCS Gas

AGENCY: Federal Energy Regulatory Commission.

ACTION: Interim Rule; request for comments.

SUMMARY: The regulation implements that part of Section 315 of the Natural Gas Policy Act (NGPA) which requires that the Commission prescribe a minimum contract duration for certain outer continental shelf (OCS) gas. The regulation applies to new contracts for the sale of gas which qualifies under the NGPA as new or high cost gas. It imposes a minimum contract duration of 15-years or, if less, the commercially producible life of the well.

DATES: Effective date: December 1, 1978. Comments should be submitted on or before January 31, 1979.

ADDRESS: Send comments to Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

Mary Jane Reynolds, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-4233.

BACKGROUND

On November 9, 1978, the Natural Gas Policy Act of 1978 (NGPA) was signed into law. By passage of the NGPA, Congress has significantly modified certain aspects of the previously controlling federal regulatory statute, the Natural Gas Act (NGA). Generally, under the Natural Gas Act, natural gas sold for resale in interstate commerce was dedicated to interstate commerce. Once natural gas was dedicated, sales to an interstate pipeline could not be terminated absent Commission [1] authorization.

Therefore, notwithstanding the duration of the contract for the first sale of natural gas by the producer, the pipeline was assured a continued source of supply until depletion or until the public convenience and necessity no longer required the continued sale of the gas to the pipeline. This supply provision protected the pipeline's investment and furthered the ability of the pipeline to meet the requirements of its direct and indirect customers.

Section 601 of the NGPA specifically exempted, new gas (as defined in section 102(c)), gas from new onshore production wells (as defined in section 103(c)) and high cost gas (as defined in section 107(c)(1)-(4)) from the Natural Gas Act, even if that gas was committed or dedicated to interstate commerce on November 8, 1978. Gas dedicated to interstate commerce and not exempted by the NGPA remains subject to all existing requirements under the Natural Gas Act. If a producer sale of gas is not subject to the Commission's jurisdiction under the NGA, the producer may terminate service without obtaining abandonment authorizations from the Commission under Section 7(b) of the NGA. Assurance of the continuity of supply now lies in the ability of the pipeline to negotiate with the producer contracts of sufficient duration.

With respect to new or high cost gas produced from an Outer Continental Shelf (OCS) reservoir, and exempt from the Natural Gas Act, Congress directed the Commission to prescribe a rule specifying a minimum duration of new contracts for the first sale of natural gas. NGPA section 315(a)(3).[2] According to the statute the minimum duration the Commission may establish for these OCS sales is 15 years, or, if less, the commercially producible life of the reservoir. By the interim regulation adopted today the Commission has prescribed the minimum duration permitted by the statute. A person who suffers special hardship, inequity, or unfair distribution of burden because of the 15-year minimum term may seek an adjustment pursuant to section 502(c) of the NGPA.

SUMMARY OF THE REGULATION

The regulation prescribes the minimum duration for a contract for the first sale of new or high cost natural gas produced from an OCS reservoir. A new contract is one entered into on or after December 1, 1978. The regulation defines new and high cost gas as, *inter alia*, that gas which USGS determines to be new and high priced gas as defined in sections 102(b) [3] and 107(c)(1)-(4) of the NGPA respectively. The procedure for USGS determinations and Commission review thereof is set forth in Parts 274 and 275 of the Interim Regulations issued on November 29, 1978.

The producer of natural gas will not be able to ascertain whether the minimum contract provisions of this part apply to a particular first sale contract until a final determination of the gas as new or high cost is made. However, the Commission recognizes that producers are currently negotiating contracts for first sales of gas for which they intend to apply to USGS for a new or higher price determination. These producers need guidance as to the minimum duration of the contracts during the course of negotiations. Hence the Commission has determined that it is important to reach a determination on this question immediately in order to provide certainty in negotiations. Furthermore, the Commission believes based on information available at this time, that in light of the current natural gas supply situation, the 15-year minimum duration for new OCS contracts will adequately protect the public including the producers, pipelines distribution companies, and ultimate consumers. Similarly, it does not believe that current market conditions require any minimum duration for onshore contracts. Therefore, it is not prescribing a minimum contract duration for new onshore contracts. Should the Commission subsequently determine that a minimum onshore sales of natural gas is necessary, it will issue such a regulation for prospective application.

COMMENT PROCEDURE

The Commission invites comment on all aspects of the regulation promul-

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[1] Commission refers to the Federal Power Commission with respect to actions taken before October 1, 1977; and to the Federal Energy Regulatory Commission with respect to actions taken thereafter.

[2] The Commission also has discretion to prescribe the minimum duration of new contracts for the sale of onshore gas. Section 315(a)(1) of the NGPA. At this time the Commission is not exercising this discretionary authority.

[3] Section 315(a)(3) imposes the minimum contract requirement *inter alia* on "* * * new natural gas (as defined in section 102(b) * * *" This appears to be a clerical error since new natural gas is defined in section 102(c) gas and is exempted from the Natural Gas Act under section 601(a)(1)(B) of the NGPA.

gated today. In particular, it seeks information on the proper minimum duration of new OCS contracts. The Commission also seeks comments on its tentative decision not to impose a minimum contract duration on new contracts for the sale of onshore gas.

Written comments on this regulation should be sent to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The comments may be incorporated into the comments on the Interim Regulations under the Natural Gas Policy Act in Docket No. RM79-3 (issued November 29, 1978). Comments not filed as part of Docket No. RM79-3 should reference Docket No. RM79-8 on the envelope and on the document itself. To assist the Commission, it is requested that comments state whether the matters addressed are, technical, legal, or policy matters, and if alternative approaches are suggested, that comments include proposed implementing language to the extent practicable.

Fifteen copies should be submitted. All comments and related information received by the Commission by January 31, 1979, will be considered prior to promulgation of revisions or amendments to this regulation.

PUBLIC HEARINGS

The Commission intends to hold a series of public hearings on the interim regulations Docket No. RM79-3 as required by section 502(b) of the NGPA. Comments on this regulation may be included in the oral presentations at these hearings. The dates and locations of the public hearings will be announced as soon as practicable.

EFFECTIVE DATE

As stated above, the Commission has determined that a delay of the effective date of the regulations beyond the effective date of the Natural Gas Policy Act is impractical and contrary to the public interest. The Commission finds that good cause exists for making the regulations effective on December 1, 1978, without prior notice and comment and without publication 30 days prior to the effective date.

(Natural Gas Policy Act of 1978. Pub. L. 95-621, 92 Stat. 3350.)

In consideration of the foregoing, Chapter I of Title 18, Code of Federal Regulations, is amended to set forth below.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

1. Subchapter H of Chapter I of Title 18 is amended by adding a new Part 277 to read as follows:

PART 277—OTHER PROVISIONS

§ 277.101 Duration of new contracts for first sale of certain OCS gas.

(a) *Applicability.* This section implements section 315(a)(3) of the NGPA and applies to any new contract for the first sale of high cost natural gas or new natural gas produced from any reservoir on the OCS.

(b) *General rule.* Any contract to which this section applies shall be for a duration of not less than 15 years, or, if less, the commercially producible life of the reservoir.

(c) *Definitions.* For purposes of the section:

(1) "High cost natural gas" means natural gas which a jurisdictional agency has determined, in accordance with Parts 274 and 275 to be high cost natural gas (as defined in section 107(c) (1), (2), (3), or (4) of the NGPA);

(2) "New natural gas" means natural gas which a jurisdictional agency has determined in accordance with Parts 274 and 275 to be new natural gas (as defined in section 102(c) of the NGPA); and

(3) "New contract" means any contract executed after December 1, 1978.

[FR Doc. 78-34284 Filed 12-7-78; 8:45 am]

[6740-02-M]

SUBCHAPTER I—OTHER REGULATIONS UNDER THE NATURAL GAS POLICY ACT OF 1978

[Docket No. RM79-9]

PART 286—ADMINISTRATIVE PROCEDURES

Administrative Procedure—Final Regulation Providing for Stays of Interim Rules Issued Under the NGPA

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule.

SUMMARY: 5 U.S.C. 705, (Administrative Procedure Act) allows the Court to grant stays pending judicial review of a challenged agency action. The Natural Gas Policy Act of 1978 (NGPA) specifically prohibits the court from issuing such stays pending review of rules under the NGPA. By this regulation, the Commission has provided a mechanism where by a person, who believes that an interim regulation is unlawful as applied to such person, may seek an administrative stay.

EFFECTIVE DATE: December 1, 1978.

FOR FURTHER INFORMATION:

Mary Jane Reynolds, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-4283.

BACKGROUND

The Natural Gas Policy Act of 1978 (NGPA), enacted November 9, 1978, mandates a new legislative framework for the regulation of the natural gas industry. The statute affects sales, transmission, and distribution of natural gas, and includes many transactions previously exempt from federal regulation.

One major change in the NGPA is the substitution of a series of specific statutory maximum price levels applicable to discrete types of first sales of natural gas. The Federal Energy Regulatory Commission (Commission) was mandated to implement this portion of the statute by promulgating regulations to be effective no later than December 1, 1978. To this end, interim regulations, Docket No. RM 79-3, were issued on November 29, 1978.

Additional interim regulations, Docket No. RM 79-8, were approved by the Commission on December 1, 1978. Section 506(b) of the NGPA makes the provision of the Administrative Procedure Act (5 U.S.C. 705), authorizing judicial stays of agency action, inapplicable to regulations under the NGPA, including the interim regulations. Therefore, in order to provide persons who believe that any particular provision of the interim regulation is unlawful with a procedure for immediate relief, the Commission is providing a mechanism for seeking an administrative stay.

DISCUSSION

A. SUMMARY OF THE REGULATION

A person who believes any particular provision of the interim regulation issued under the NGPA is unlawful, may apply to the Commission for a stay of that provision as it applies to that person.

The content and filing requirements for applications for stays are detailed in the regulation. Applicant must set out with particularity the provision of the rule for which a stay is sought, a statement of the irreparable injury that will inure to the applicant if a stay is not granted, and the facts and legal arguments in support of its position that the regulation is unlawful.

The Commission may grant a stay in whole or in part by issuing an order which specifies the scope of the stay and the effective dates.

Unless a stay is issued, the applicant must remain in compliance with the rule.

FINDINGS AND CONCLUSION

For the foregoing reasons, the Commission has determined that the regu-

lation should be effective immediately. In as much as the regulation is procedural, the requirement for notice, comment and publication 30-days prior to effective date does not apply. This final regulation is effective December 1, 1978, without prior notice and comment and without publication 30-days prior to the effective date.

(Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, Department of Energy Organization Act, Pub. L. 95-91, E. O. 12009, 42 F.R. 46267)

In consideration of the foregoing, Subchapter I of Chapter I of Title 18, Code of Federal Regulations, is amended as set forth below.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

Subchapter I of Chapter I of Title 18, is amended by adding a new Part 286 to read as follows:

PART 286—ADMINISTRATIVE PROCEDURES

§ 286.101 Application for stay.

(a) *General rule.* Any person who believes that any provision of an interim regulation issued under the Natural Gas Policy Act of 1978 is unlawful as applied to such person may file an application for stay.

(b) *Content of application.* The application shall state, clearly and concisely:

(1) The provision of the regulation, by section, paragraph, subparagraph and clause, as appropriate, which applicant seeks to have stayed;

(2) The conditions which the applicant believes require the stay, including the irreparable injury which the applicant believes will result if the stay is not granted; and

(3) The factual and legal basis for applicant's contention that the interim regulation is unlawful.

(c) *Filing requirements.* The application shall be under oath. An original and three conformed copies shall be filed with the Secretary of the Commission.

(d) *Commission action.* The Commission may grant the application, in whole or in part, by issuing an order specifylng the scope of the stay granted and the effective dates of the stay.

[FR Doc. 78-34283 Filed 12-7-78; 8:45 am]

[4810-22-M]

[T.D. 78-487]

Title 19—Customs, Duties

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

PART 153—ANTIDUMPING

Steel Wire Strand for Prestressed Concrete From Japan

AGENCY: U.S. Treasury Department.

ACTION: Finding of Dumping.

SUMMARY: This notice is to inform the public that separate investigations conducted under the Antidumping Act, 1921, as amended, by the U.S. Treasury Department and the U.S. International Trade Commission, respectively, have resulted in determinations that steel wire strand for prestressed concrete from Japan is being sold at less than fair value and that these sales are injuring an industry in the United States. On this basis, a finding of dumping is being issued and, generally, all unappraised entries of this merchandise, with the exception of that produced and sold by one producer, will be liable for the possible assessment of special dumping duties.

EFFECTIVE DATE: December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, (202-566-5492).

SUPPLEMENTARY INFORMATION: Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act"), gives the Secretary of the Treasury responsibility for the determination of sales at less than fair value. Pursuant to this authority the Secretary has determined that steel wire strand from Japan, except that produced by Kawatetsu Wire Products Co., Ltd., is being sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)). (43 FR 38495, published in the FEDERAL REGISTER of August 28, 1978).

Section 201(a) of the Act (U.S.C. 160(a)) gives the U.S. International Trade Commission responsibility for the determination of injury. The Commission has determined, and on November 24, 1978, it notified the Secretary of the Treasury, that an industry in the United States is being injured by reason of the importation of steel wire strand from Japan that is being sold at less than fair value within the meaning of the Act. (43 FR 55826, published in the FEDERAL REGISTER of November 29, 1978).

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to steel wire strand from Japan, except that produced by Kawatetsu Wire Products Co., Ltd.

For purposes of this notice, the term "steel wire strand" means steel wire strand, other than alloy steel, stress-relieved and suitable for use in prestressed concrete, provided for in item number 642.1120 of the Tariff Schedules of the United States Annotated (TSUSA).

Accordingly, section 153.46 of the Customs Regulations (19 CFR 153.46) is amended by adding the following to the list of findings of dumping in effect.

Merchandise	Country	Treasury Decision
Steel Wire Strand, other than that produced by Kawatetsu Wire Products Co., Ltd	Japan	78-487

(Secs. 201, 407, 42 Stat. 11, as amended, 18 (19 U.S.C. 160, 173).)

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

NOVEMBER 30, 1978.

[FR Doc. 78-34176 Filed 12-7-78; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Dexamethasone Sterile Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Beecham Laboratories providing for safe and effective use of dexamethasone sterile solution as an anti-inflammatory agent in treating dogs, cats, and horses. This product is similar to several reviewed

by the National Academy of Sciences—National Research Council, Drug Efficacy Study Implementation Group (NAS/NRC) and found to be effective as anti-inflammatory agents. Approval of these products may require submission of bioequivalency or similar data in lieu of other effectiveness data.

EFFECTIVE DATE: December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Beecham Laboratories, Division of Beecham, Inc., Fifth St., Bristol, TN 37620, filed an NADA (111-369V) providing for intravenous or intramuscular use of a 2-milligram-per-milliliter dexamethasone sterile solution as an anti-inflammatory agent in treating dogs, cats, and horses.

This product is similar to Schering's dexamethasone aqueous suspension (NADA 11-901V, originally approved December 7, 1959) and sterile solution (NADA 12-559V, originally approved March 29, 1961). These products were among several that were the subject of an NAS/NRC report published in the FEDERAL REGISTER of April 12, 1969 (34 FR 6447). The NAS/NRC report concluded, and the agency concurred, that these drugs are effective as anti-inflammatory agents for dogs, cats, horses, and cattle, and for primary bovine ketosis. In addition, the report stated that the products may be used as supportive therapy for certain other conditions. Supplemental NADA's were invited to provide revised labeling, limiting the conditions of use as stated in the report. Schering submitted supplemental applications to revise the labeling of these products as required by the NAS/NRC report. The supplements were approved April 6, 1971. The regulation reflecting these approvals (21 CFR 522.540(a)) did not specify those conditions of use that were NAS/NRC approved. These are drug uses for which approval of an NADA does not require efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(vi) of the animal drug regulations, but may require bioequivalency or similar data as suggested in the guidelines for submitting NADA's for NAS/NRC-reviewed generic drugs, available at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

This document amends the regulations to reflect this approval and to indicate those portions that comply with the conclusions of the NAS/NRC report.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 522.540 is amended by adding the footnote reference "[1]" at the end of paragraphs (a)(3)(i) and the introductory text of (ii), (b)(3)(i) and (ii), and (c)(3)(i) and (ii); by revising paragraph (d)(2); by adding the footnote reference "[1]" at the end of paragraphs (d)(3)(i) and (ii); and by adding footnote [1] at the end of the section to read as follows:

§ 522.540 Dexamethasone injection.

(a) * * *
(3) *Conditions of use.* (i) * * * [1]
(ii) * * * [1]

* * * * *

(b) * * *
(3) *Conditions of use.* (i) * * * [1]
(ii) * * * [1]

* * * * *

(c) * * *
(3) *Conditions of use.* (i) * * * [1]
(ii) * * * [1]

* * * * *

(d) * * *
(2) *Sponsors.* See Nos. 010271 and 000029 in § 510.600(c) of this chapter.
(3) *Conditions of use.* (i) * * * [1]
(ii) * * * [1]

* * * * *

Effective date. This regulation is effective December 8, 1978.

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

Dated: November 29, 1978.

LESTER M. CRAWFORD,
Director,
Bureau of Veterinary Medicine.

[FR Doc. 78-33957 Filed 12-7-78; 8:45 am]

[1] These conditions are NAS/NRC-reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

[4110-03-M]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Nicarbazin

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Merck Sharp & Dohme Research Labs., providing for a waiver of certain requirements for manufacture of a complete chicken feed.

EFFECTIVE DATE: December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Labs., Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, filed a supplemental NADA (9-476V) providing for a waiver of the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(m)) for manufacture of a complete broiler feed containing 0.0125 percent nicarbazin. The complete feed is used as an aid in preventing outbreaks of certain forms of coccidiosis.

Nicarbazin as the sole drug premix meets the uniform criteria set forth in 1971 Bureau of Veterinary Medicine memoranda for administrative waiver of the requirements of section 512(m) of the act. The pertinent provisions of the memoranda indicate that the waiver is appropriate if:

1. The feeding of 1.5X to 2X the level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on an existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classed with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional generation of data in that this documentation is by definition a part of the NADA.

4. The margin of safety to the animal and safety to the consumer is such that the product label does not have to contain a statement such as "Use as the sole source of * * *."

5. Data are on file to demonstrate that the product is efficacious over

the approved range. These data should generally satisfy current standards for the demonstration of efficacy.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available Drug Experience Reports.

The memoranda make explicit that because waiver of the ministerial requirements of section 512(m) of the act is permitted only for specific efficacy claims or at specific levels of the drugs, distinct products with corresponding labeling for those claims or levels should exist. This is necessary to cover those premixes that can be made into finished feeds with various concentrations of drugs.

The foregoing criteria established in the 1971 memoranda constitute an interim agency policy that is under review. The Bureau of Veterinary Medicine is preparing a proposed regulation, for publication in the FEDERAL REGISTER, based on the criteria listed above, governing waiver of the 512(m) requirements for the finished feed. In waiving the ministerial requirements of section 512(m), the agency has not waived the current good manufacturing practice regulations under Part 225 (21 CFR Part 225) for feed mills mixing such feeds.

Approval of this waiver does not constitute reaffirmation of the underlying human safety data for use of nicarbazin in chicken feed.

In accordance with the freedom of information regulations and § 514.11 (e)(2)(ii) of the animal drug regulations, a summary of the human safety data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, Monday through Friday, from 9 a.m. to 4 p.m.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.366 by adding paragraph (d), to read as follows:

§ 558.366 Nicarbazin.

* * * * *

(d) *Special considerations.* Complete broiler feeds containing nicarbazin only and conforming to requirements of this section are not required to comply with the provisions of section 512(m) of the act.

* * * * *

Effective date. December 8, 1978.

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

Dated: December 1, 1978.

LESTER M. CRAWFORD,
Director,
Bureau of Veterinary Medicine.

[FR Doc. 78-34244 Filed 12-7-78; 8:45 am]

[4510-26-M]

Title 29—Labor

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

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Air Contaminants Tables; Corrections

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final rule; corrections.

SUMMARY: This document contains corrections to the tables of exposure limits for air contaminants in 29 CFR 1910.1000. These corrections are being published to avoid any confusion as to the content of the section.

EFFECTIVE DATE: December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Louis Polito, Office of Compliance Programing, Division of Occupational Health Programing, 3rd Street and Constitution Avenue, NW., Room N-3608, Washington, D.C. 20210 (Tel. (202) 523-8043).

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Administration (OSHA) standards for occupational exposure to air contaminants (gases, vapors, fumes, dust, and mists) were first published as 29 CFR 1910.93, Tables G-1, G-2 and G-3 (36 FR 10503, May 29, 1971, as revised by 36 FR 15101, August 13, 1971). These standards were subsequently moved to a new subpart, Subpart Z-Toxic and Hazardous Substances, and recodified at 29 CFR 1910.1000, Tables Z-1, Z-2, and Z-3 (40 FR 23072, May 28, 1975).

These standards were promulgated under section 6(a) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593; 29 U.S.C. 655(a)), which required the Secretary of Labor to adopt, within two years of the Act's effective date (April 28, 1971), any national consensus standard, and any established Federal standard, unless he determined that the promulgation of such a standard would not result in improved safety or health for specifically designated employees.

In promulgating these standards, which are described more fully below, OSHA adopted regulations originally issued under the Walsh Healey Public Contracts Act (41 U.S.C. 35 et seq.) as established Federal standards, and certain standards issued by the American National Standards Institute (ANSI) as national consensus standards.

There are a number of extraneous entries, inadvertent omissions and typographical errors in these standards, as they currently appear. Many of the typographical errors and inadvertent omissions which occurred in the transcription of these standards have been recognized by employers and industrial hygienists. OSHA has received many inquiries concerning these errors and many requests that the standards be clarified and that the errors be corrected. Therefore, for the guidance and convenience of the public, OSHA is correcting the tables to remove ambiguities and correct possible confusion. As discussed more fully below, these corrections are of a technical or clarifying nature, and conform 29 CFR 1910.1000 to the established Federal standards and national consensus standards which OSHA adopted under section 6(a) of the Act. These corrections do not establish, modify or revoke substantive rights and obligations.

OSHA has determined that notice of these corrections and public procedure thereon is not necessary under section 4 of the Administrative Procedure Act (5 U.S.C. 553), or under section 6 of the Occupational Safety and Health Act. In making these corrections, the only questions considered were whether OSHA had accurately transcribed the source documents for these standards and whether errors have occurred in subsequent republications or recodifications of these tables. Since these determinations are essentially mechanical, notice and public procedure thereon are unnecessary and impracticable within the meaning of 5 U.S.C. 553(b)(3)(B).

Nor does section 6 of the Occupational Safety and Health Act require notice and public comment on these corrections. They do not establish, modify or revoke substantive rights and obligations. No useful purpose would thus be served by notice and public procedure. Therefore, under 29 CFR 1911.5, good cause is found to publish these corrections without prior notice or public procedure thereon. For the same reasons, good cause is found to make these changes effective immediately upon publication in the FEDERAL REGISTER.

Some of the more important errors being corrected, and their origins, are discussed briefly below.

Table Z-1. The exposure limits listed for substances in Table Z-1 of 29 CFR 1910.1000 were originally adopted under the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.). These Walsh-Healey safety and health standards incorporated by reference the Threshold Limit Values of Airborne Contaminants for 1968 of the American Conference of Governmental Industrial Hygienists (ACGIH), published at 34 FR 7946, 7953, May 20, 1969, and codified in 41 CFR 50-204.50. The Secretary of Labor determined that these Walsh-Healey standards were "established Federal standards" within the meaning of section 3(10) of the Act and therefore adopted them as OSHA standards under section 6(a) of the Act (36 FR 10466, 10504, May 29, 1971).

As stated above, the 1968 ACGIH threshold limit values were merely incorporated by reference in the Walsh-Healey standards. In adopting these established Federal standards, OSHA decided to transcribe the material incorporated by reference, specifically listing the substances and their exposure limits, in order to make it easier for employers and employees to have quick access to this information. The May 29, 1971 printing, however, inadvertently and incorrectly listed the 1970 ACGIH threshold limit values rather than the 1968 ACGIH threshold limit values which were incorporated in the Walsh-Healey standards. This error was partially corrected by a subsequent FEDERAL REGISTER document which printed the 1968 values (36 FR 15101, August 13, 1971). However, two substances from the 1970 edition of the Threshold Limit Values of Airborne Contaminants were inadvertently retained: Propargyl alcohol and RDX. Also, the footnote for Oil mist was inadvertently retained. The notation "C", designating a ceiling exposure limit, was inadvertently omitted for three substances: Chlorine, Nitrogen dioxide, and Nitroglycerin.

In addition, in transcribing the 1968 ACGIH threshold limit values, OSHA inadvertently omitted dibutyl phosphate and its exposure limit of 1 ppm and 5 mg/M ^{3}. In accord with the Act's requirement that the Secretary promulgate any national consensus standard and any established Federal standard, unless the Secretary determined that the promulgation of such a standard would not contribute to the safety and health of employees (section 6(a)), OSHA intended to adopt permissible exposure limits for all the substances regulated under Walsh-Healey except for those substances for which OSHA expressly decided to adopt national consensus standards. There was no national consensus standard on dibutyl phosphate at the time. Accordingly, the list is corrected by adding dibutyl phosphate to the air contaminant tables. This conforms Table Z-1 to the established Federal standards which OSHA adopted.

In several instances, specific substances were covered by the national consensus standard and an established Federal standard. The Secretary chose to promulgate the ANSI standard in lieu of the established Federal standard for a variety of substances. In some cases, however, the references to the established Federal standards were not properly deleted. These deletions are accomplished in this correction document.

The exposure limit for Parathion, which originally had been printed correctly as 0.1 mg/M ^{3} (36 FR 10505, May 29, 1971), was later misprinted as 0.11 mg/M ^{3} (36 FR 15103, August 13, 1971). The exposure limit for Ronnel inadvertently was not corrected to its 1968 ACGIH value of 15 mg/M ^{3}. These errors are hereby corrected.

While the August 13, 1971, document showed the correct permissible exposure limit for Stoddard solvent as expressed in parts per million (ppm), the permissible exposure limit as expressed in milligrams per cubic meter (mg/M ^{3}) was erroneously printed as 2950 rather than 2900. In a subsequent republication of OSHA regulations (37 FR 22102, October 18, 1972), the exposure limit for Tetramethyl lead, which had been properly corrected to 0.075 mg/M ^{3} (36 FR 15101, 15103, August 13, 1971) was printed erroneously as 0.07 mg/M ^{3} (37 FR 22141, October 18, 1972). These and several other typographical errors are corrected in this document.

Table Z-2. The exposure limits for substances listed in 29 CFR 1910.1000, Table Z-2, were originally based upon several standards adopted by the American National Standards Institute (ANSI Z-37 series). The Secretary of Labor determined that these standards were "national consensus standards" within the meaning of section 3(9) of the Act and therefore adopted them as OSHA standards under section 6(a) of the Act (36 FR 10466, May 29, 1971).

The May 29, 1971, printing in the FEDERAL REGISTER erroneously omitted some of the acceptable ceiling concentrations and all of the peaks or excursions from the exposure limits for the covered substances. The error was partially corrected in the August 13, 1971 FEDERAL REGISTER (36 FR 15101). However, the acceptable ceiling concentration for Cadmium fume misprinted as 3 mg/M ^{3}; the correct value is 0.3 mg/M ^{3}. This error has been generally recognized by employers and industrial hygienists. (See, e.g. CCH, Employment Safety and Health Guide, Volume 2, ¶ 7600.6). In addition, the corrected ceiling concentration was subsequently printed in the NIOSH criteria document, Occupational Exposure to Cadmium, and in OSHA's review and evaluation of that criteria document (42 FR 5434, 5436, January 28, 1977). While the May 29, 1971 printing correctly listed the source document for Methylene chloride as ANSI Z37.23-1969, a typographical error in the August 1971 correction document listed the source document as ANSI Z37.3-1969. This document also corrects this error.

Table Z-3. The exposure limits listed for substances in Table Z-3 of 29 CFR 1910.1000 were originally adopted under the Walsh-Healey Public Contracts Act, and codified at 41 CFR 50-204.50 et seq. The Secretary of Labor determined that these Walsh-Healey standards were "established Federal standards" within the meaning of section 3(10) of the Act and therefore adopted them as OSHA standards under section 6(a) of the Act (36 FR 10466, 10506, May 26, 1971). In 1972, the Secretary of Labor adopted a comprehensive asbestos standard and deleted asbestos and its exposure limits from Table Z-3 (29 CFR 1910.1001; 37 FR 11320, June 7, 1972). Footnote "j" to Table Z-3, dealing with asbestos, was inadvertently retained. This document corrects this error.

Standards Organizations (§ 1910.1500). The National Fire Protection Association was erroneously included as a source for standards in Subpart Z, when the tables were recodified (40 FR 23073, May 28, 1975). This document corrects that error.

Accordingly, pursuant to sections 6 and 8 of the Act (84 Stat. 1593, 1600; 29 U.S.C. 655, 657) section 4 of the Administrative Procedure Act (5 U.S.C. 553), Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR 1911.5, Title 29 Code of Federal Regulations, § 1910.1000 and § 1910.1500 are corrected as set forth below.

These amendments are effective December 8, 1978.

Signed at Washington, D.C. this 30th day of November, 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

§ 1910.1000 [Amended]

I. Title 29 CFR, § 1910.1000 is corrected as follows:

A. Table Z-1:

1. The asterisks (single or double) in front of the entries "C Allylglycidyl ether (AGE)"; "Ammonia"; "Butyl mercaptan"; "Camphor"; "Chlorine"; "Octane"; "Oil mist, mineral"; "Pentane"; and "Stoddard solvent" are deleted.

2. The entry "Bisphenol A, see Diglycidyl ether" is deleted.

3. In the entry for "Camphor," the number "2" is deleted under the heading "ppm" and the number "2" is added under the heading "mg/M³".

4. In the entry for "Chlorine," the notation "C" is added before the word, "Chlorine."

5. In the entry for "DDVP," the words "See Dichlorvos" are deleted, and the notation "Skin" is added; the number "1" is added under the heading "mg/M³".

6. The entry "Dichlorvos (DDVP)—Skin" is deleted.

7. The entry "Dibutyl phosphate" is added in the substance column after "Diborane"; the number "1" is entered in the "p.p.m." column, and "5" is entered in the "mg/M³" column.

8. The entry "Ethylene dibromide, see 1,2-Dibromoethane" is deleted.

9. The entry "Ethylene dichloride, see 1,2-Dichloroethane" is deleted.

10. In the entry for "Nitrogen dioxide," the notation "C" is added before the word, "Nitrogen."

11. In the entry for "Nitroglycerin," the notation "C" is added before the word, "Nitroglycerin."

12. In the entry for "Oil mist," the footnote is deleted from the column "mg/M³".

13. In the entry for "Parathion," the number under the heading "mg/M³" is corrected to "0.1".

14. The entry "Propargyl alcohol—Skin—1" is deleted.

15. The entry "RDX-Skin—1.5" is deleted.

16. In the entry for "Ronnel," the number under the heading "mg/M³" is corrected to "15".

17. In the entry for "Stoddard solvent," the number under the heading "mg/M³" is corrected to "2,900."

18. The entry "Tetrachloroethylene, see Perchloroethylene" is deleted.

19. In the entry for "Tetramethyl lead," the number under the heading "mg/M³" is corrected to "0.075".

20. The footnote to Table Z-1, "*1970 Addition" is deleted.

21. The footnote to Table Z-1, "eAs sampled by method that does not collect vapor" is deleted.

22. The footnote to Table Z-1, "For control at general room air, biologic monitoring is essential for personnel control," is deleted.

B. Table Z-2:

1. In the entry for "Cadmium fume," the entry under the heading "acceptable ceiling concentration" is corrected to read "0.3 mg/M³".

2. In the entry for "Formaldehyde," the words "10 ppm" which appear directly after "5 ppm" in the "Acceptable ceiling concentration" column are moved to the column headed "Concentration."

3. In the entry for "Methylene chloride," the source document is corrected to "Z37.23-1969."

4. Table Z-2 is rearranged so that the substances appear in alphabetical order. The term "do," standing for "ditto," is deleted wherever it appears in Table Z-2 and the appropriate numerical value is substituted.

C. Table Z-3:

The footnote to Table Z-3, "j As determined by the membrane filter method at 430X phase contrast magnification," is deleted.

§ 1910.1500 [Amended]

II. Title 29 CFR, § 1910.1500 is corrected as follows:

In 29 CFR 1910.1500, the reference "National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts, 02210" is deleted."

(Sec. 6, 8(g), 84 Stat. 1593, 1600; 29 U.S.C. 655, 657, Secretary of Labor's Order No. 8-76 (41 FR 25059), 29 CFR Part 1911, 5 U.S.C. 553).

[FR Doc. 78-34365 Filed 12-7-78; 8:45 am]

[3510-20-M]

Title 41—Public Contracts and Property Management

CHAPTER 13—DEPARTMENT OF COMMERCE

PART 13-1—GENERAL

Procurement Regulations; Organizational Change

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: This amendment provides for redesignation of procurement authorities and responsibilities due to recent organizational changes in the Office of the Secretary of the Department of Commerce.

EFFECTIVE DATE: November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles Carter, Procurement Analyst, U.S. Department of Commerce, Washington, D.C. 20230; Room 6414; (202) 377-3891.

SUPPLEMENTARY INFORMATION: This amendment of the Department of Commerce Procurement Regulations (DOCPR) provides necessary changes to specific DOCPR Sections to reflect a recent reorganization in the Office of the Secretary. As a result of the reorganization, the Department's centralized procuring activity and procurement policy staff, formerly within the Office of Administrative Services and Procurement, were combined with the Department's Office of Automatic Data Processing Management to form the Office Of Procurement and Automatic Data Processing Management. Since this amendment pertains solely to matters of agency management, it has been determined that the provisions of the Administrative Procedures Act requiring public comment and delay in effective date are inapplicable.

Accordingly, pursuant to the authority of the Assistant Secretary for Administration under the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary in Department Organization Order 10-5, 41 CFR Chapter 13 is amended as follows:

PART 13-1 [Amended]

Wherever the titles "Director, Office of Administrative Services and Procurement (OAS&P)" or "Deputy Director for Program Development, OAS&P" appear in the chapter they are changed to read "Director, Office of Procurement and Automatic Data Processing Management." Wherever the organizational title "Office of Administrative Services and Procurement" appears in the Chapter it is changed to read "Office of Procurement and Automatic Data Processing Management." Wherever the organizational title "Office of Automatic Data Processing Management" (OADPM) appears, it is changed to read "Office of Procurement and Automatic Data Processing Management" (OP&ADPM).

§ 13-1.009-3 [Deleted]

§ 13-1.009-3 "Limitation on deviation." is deleted as no longer necessary.

Dated: November 30, 1978.

Approved for Issuance by:

ELSA A. PORTER,
Assistant Secretary for Administration, Department of Commerce.

[FR Doc. 78-34281 Filed 12-7-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC-Docket No. 78-270; RM-3022]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Centerville, High Point, Lansing, Mount Ayr and Spirit Lake, Iowa, and Saint James, Minnesota; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: Action taken herein assigns noncommercial educational television channels to Centerville, High Point, Lansing, Mount Ayr and Spirit Lake (all in Iowa), and substitutes one non-reserved channel for another in Saint James, Minnesota. These assignments would enable noncommercial educational television service to be extended to residents of the Iowa communities listed above. This action is taken pursuant to the petition filed by State Educational Radio and Television Facility Board of the State of Iowa.

EFFECTIVE DATE: January 15, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, (202-632-7792).

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER

(Proceeding Terminated)

Adopted: November 30, 1978.

Released: December 4, 1978.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Centerville, High Point, Lansing, Mount Ayr and Spirit Lake, Iowa, and Saint James, Minnesota.), BC Docket No. 78-270, RM-3022.

1. The Commission herein considers the *Notice of Proposed Rule Making*, adopted August 18, 1978, 43 FR 40887, in the above-captioned proceeding, instituted in response to a petition filed by the State Educational Radio and Television Facility Board of the State of Iowa ("Board"). The petition proposed the amendment of § 73.606(b) of the Commission's Rules, the Television Table of Assignments, by assigning Channel *31 at Centerville, Iowa; Channel *14 at High Point, Iowa; Channel *25 at Mount Ayr, Iowa; Channel *41 at Lansing, Iowa, and Channel *38 at Spirit Lake, Iowa. Further, it proposed to substitute Channel 32 for Channel 38 [1] at Saint James, Minnesota, so that the proposed assignment at Spirit Lake, Iowa, can be accomplished. No oppositions to the proposals were received.

2. The Board is presently the licensee of eight noncommercial educational television stations in Iowa [2], all of which form the Iowa Educational Broadcasting Network. The proposed assignments were requested in order to enable the Board to extend noncommercial educational television service, by means of high power translators, to those areas of the state which do not now receive satisfactory off-the-air service. Petitioner reiterates its intention to submit applications for authority to construct television translator stations on these channels, and when such authority is granted, to construct these stations.

3. The *Notice* indicated that the proposed assignments meet the Commission's separation requirements and other technical criteria. In view of the above, and the fact that the proposed reserved assignments would enable noncommercial educational service to be extended to residents of these Iowa communities, the Commission believes that the public interest would be served by adopting the amendments proposed.

4. *Accordingly, it is ordered*, That effective January 15, 1979, the Television Table of Assignments (§ 73.606(b) of the Commission's rules) is amended with regard to the following communities:

City	*Channel No.*
Centerville, Iowa	*31–
High Point, Iowa	*14–
Lansing, Iowa	*41+
Mount Ayr, Iowa	*25–
Spirit Lake, Iowa	*38
Saint James, Minnesota	32+

5. Authority for the action taken herein is found in Sections 4(i), 5(d), (1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

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

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

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

[FR Doc. 78-34291 Filed 12-7-78; 8:45 am]

[1] Hubbard Broadcasting, Inc., licensee of Station KSTP-TV, St. Paul, Minnesota, filed comments in which it stated that it had pending an application for a television translator on Channel 38 in St. James, Minnesota. It states, however, that it has no objection to the proposed substitution of Channel 32 for Channel 38 at Saint James and if the substitution is made it will amend its application to specify Channel 32.

[2] KDIN-TV, Des Moines; KIIN-TV, Iowa City; KRIN, Waterloo; KHIN, Red Oak; KBIN, Council Bluffs; KSIN, Sioux City; KTIN, Fort Dodge; and KYIN, Mason City.

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1349]

PART 1033—CAR SERVICE

Emergency Transportation of Coal

DECEMBER 1, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Service Order No. 1349

SUMMARY: The coal supplies of the Philadelphia Electric Company have been seriously depleted. The Baltimore and Ohio Railroad Company and the West Virginia Northern Railroad Company are authorized to furnish cars to nine coal mines which are listed for the transportation of shipments of coal consigned to Philadelphia Electric Company, without regard to the provisions of Section 11126 of the Interstate Commerce Act which require the distribution of cars for coal loading in accordance with mine ratings.

DATES: Effective 11:59 p.m., December 1, 1978. Expires 11:59 p.m., January 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

As a result of a prolonged work stoppage the coal supplies of the Eddystone and Cromby electric generating stations of the Philadelphia Electric Company (PE) have been seriously depleted. Although normal coal production was resumed during April, 1978, coal stockpiles at these two generating stations have continued to decline, because of the inability of the railroad to furnish all of the cars ordered by coal mines having contracts to furnish coal to PE.

PE has identified seven coal mines located on The Baltimore and Ohio Railroad Company (BO) as having contracts for the shipment of coal to PE. PE states that the reason these

mines have failed to ship all of the coal due it under these contracts has been the inability of the mines to secure an adequate supply of cars from the BO.

In a petition filed November 2, 1978, PE states that its stockpiles of coal at these two stations were 122,000 tons; that these plants burn approximately 150,000 tons of coal per month; that its long-term contracts call for 1,635,000 tons of coal to be supplied annually; that during the first six months of its contract year it received only 274,000 tons of contract coal or 34 percent of the 817,500 tons of coal it should have received during that period. PE desires delivery of approximately 270,000 tons of contract coal within the next two months plus 228,000 tons from other sources in order to rebuild its stockpiles to safe levels.

PE states that if its coal supplies continue to diminish it will be forced to increase its use of oil as fuel for the generation of electricity or to purchase power from sources outside its system. It asserts that reliance on these two sources of energy would substantially increase its costs and would be reflected in its charges to its customers.

In response to our inquiry of November 15, 1978, the United States Department of Energy (DOE) generally confirms the data reported by PE as to monthly consumption of coal and as to the amount of coal available in PE's stockpiles. DOE states that increased use of oil by PE would be counter to the national policy which seeks to reduce the consumption of oil by electric utilities through increased use of coal. DOE reports that the Eddystone coal fired generator will be shut down on January 28, 1979, for a period of approximately six weeks to allow for scheduled maintenance. This unit burns approximately 85 percent of the coal used by these two plants. It is the opinion of DOE that there is a critical need for increased coal deliveries to PE until January 28, 1979, when maintenance begins on the Eddystone generator.

We have determined from the railroads the car supply status of the various mines named by PE as having long-term contracts to supply it with coal.

The Glacial mine is served by the Lake Erie, Franklin and Clarion Railroad (LEFC). During November this mine was scheduled to ship four trainloads of 7,000 tons of coal, or 28,000 tons to PE. As of November 28, 1978, it had shipped three trains of 10,000 tons each, or 30,000 tons. The fourth November train is expected to be loaded November 30 or December 1 and will transport approximately 10,000 tons. Four trains of 7,000 tons each are scheduled for December, 1978. The LEFC expects to furnish sufficient cars to Glacial to enable it to meet or exceed this requirement. Because the requests of Glacial for cars to ship coal to PE are being fulfilled by LEFC, no order affecting the distribution of cars to coal mines served by the LEFC will be issued at this time.

The remaining contract mines listed by PE in its petition are served by the BO, except the Brookside mine which is located on the West Virginia Northern Railroad Company. The Maidsville Coal Company was active in August and September, but has been idle since that time. The seven active B&O mines named by PE have a combined daily rating of 226 cars of fifty-tons capacity. Based on these ratings their rated shipping capacity in tons, working five days per week, exclusive of holidays is:

August, 1978, 259,900 tons (23 days).
September, 1978, 226,000 tons (20 days).
October, 1978, 248,600 tons (22 days).
November, 1978, 237,300 tons (21 days).
December, 1978, 226,000 tons (20 days).
January, 1979, 248,600 tons (22 days).

These mines shipped the following amounts of coal during the most recent months for which loading data is available:

August, 1978, 175,720 tons.
September, 1978, 107,670 tons.
October, 1978, 158,175 tons.

September shipments were reduced because of sporadic work stoppages by employees of the BO.

Shortages of hopper cars at the mines served by the BO and West Virginia Northern have prevented these mines from fulfilling all of their commitments for coal shipments and has caused them to fall behind on shipments to PE. In order to increase the car supplies to these mines, the railroads will be authorized to furnish sufficient hopper cars for loading of coal to PE without consideration of the mine ratings in the manner required by Section 11126 of the Interstate Commerce Act (Public Law 95-473, October 17, 1978). The provisions of Section 11126 will continue to apply to cars used for coal shipments consigned to other receivers.

It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people, that notice and public procedure are impracticable, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1349 Emergency transportation of coal.

(a) The Baltimore and Ohio Railroad Company (BO) and the West Virginia Northern Railroad Company (WVN) are authorized to furnish cars to the coal mines named below, for the transportation of shipments of coal consigned to the Philadelphia Electric Company's Eddystone or Cromby generating stations, located at Eddystone, Pennsylvania, and Royersford, Pennsylvania, respectively, without regard to the provisions of Section 11126 of the Interstate Commerce Act which require the distribution of cars for coal loading in accordance with mine ratings. Any cars used by these mines for shipments to other consignees shall be counted against the coal mines' distributive share of the available cars.

Mine	*Serving Railroad*
Maidsville	BO
Weston No. 1	BO
Wendell No. 2	BO
Dawson No. 1	BO
Gregory No. 3	BO
Deep Hollow	BO
Majesty	BO
Valley Camp	BO
Brookside or Howesville	WVN

(b) Operation of all rules, regulations and practices with respect to the distribution of cars for transporting coal is suspended insofar as they conflict with the provisions of this order.

(c) *Effective date.* This order shall become effective at 11:59 p.m., December 1, 1978.

(d) *Expiration date.* This order shall expire at 11:59 p.m., January 28, 1979.

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

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

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-34363 Filed 12-7-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

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

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE AND PLANTS

PART 21—MIGRATORY BIRD PERMITS

States Meeting Federal Falconary Standards; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction to final rule.

SUMMARY: This correction places an asterisk before "Colorado" in the list

of States which meet Federal falconry standards. The correction is necessary due to an oversight; the asterisk was inadvertently omitted before "Colorado." An asterisk placed before a State in the list indicates that that State is a participant in a joint Federal-State permit system.

EFFECTIVE DATE: December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Marshall L. Stinnett, Special Agent in Charge, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, telephone 202-343-9237.

SUPPLEMENTARY INFORMATION: On March 14, 1978 (43 FR 10565), Colorado was added to the list of States where falconry laws have been determined by the Director to meet or exceed the minimum Federal standards. Falconry may be practiced in the States listed in 50 CFR 21.29. This document corrects the omission of an asterisk before "Colorado" in that list. The Document was drafted by Margaret Cash, Regulations Coordinator, Division of Law Enforcement, Fish and Wildlife Service.

Accordingly, § 21.29(k) of Title 50 of the Code of Federal Regulations is corrected by placing an asterisk before "Colorado."

Dated: December 1, 1978.

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

[FR Doc 78-34362 Filed 12-7-78; 8:45 am]

proposed rules

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 781]

DISCLOSURE OF FOREIGN INVESTMENT IN AGRICULTURAL LAND

Proposed Rulemaking and Public Hearing

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, December 6, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See OFR notice 41 FR 32914, August 6, 1976).

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: Section of the Agricultural Foreign Investment Disclosure Act of 1978 (effective October 14, 1978) prescribes that the Secretary of Agriculture shall promulgate regulations implementing the provisions of the Act within 90 days after its effective date. This Act requires foreign persons who acquire, transfer, or hold any interest, other than a security interest, in agricultural land located in the United States to report within specified time periods such transactions or holdings to the Secretary of Agriculture.

In order to facilitate the development of such regulations, the Secretary desires to obtain the views of interested persons. Such views may be submitted in writing or presented orally at a scheduled public hearing.

DATES: Written comments must be received on or before January 5, 1979.

Hearing on December 14, 1978; 9 a.m. to 4 p.m.

ADDRESSES: Mail comments and requests to speak at the hearing to DASCO Staff, USDA, Room 3757, South Building, Washington, D.C. 20250, where written comments will be available for inspection during business hours 8:15 a.m. to 4:45 p.m.

Hearing will be held in the Jefferson Auditorium, South Building, USDA, 14th and Independence NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Paul H. Sindt, DASCO Staff, USDA, Room 3757, South Building, Washington, D.C. 20250, telephone 202-447-4351.

SUPPLEMENTAL INFORMATION:

BACKGROUND

After obtaining the reports required to be submitted pursuant to the Agricultural Foreign Investment Disclosure Act, the Secretary must, within specified time periods, (1) determine the effect of such acquisitions, transfers, and holdings, particularly the effect on family farms and rural communities, and transmit a report of his findings and conclusions to the President and each House of Congress, and (2) transmit to each State Department of Agriculture a copy of each report received from the reporting entities. If the Secretary determines that any foreign person required to submit a report has failed to do so or has knowingly submitted an incomplete, false, or misleading report, the Secretary shall impose a civil penalty on such person not to exceed 25 percent of the fair market value, on the date of the assessment of such penalty, of the interest held in such land by the foreign person.

MAJOR ISSUES

The views of interested persons are sought in particular on the following issues:

1. *Nature of the interest in United States agricultural land which a foreign entity holds, acquires or transfers.* Section 2 of the Act requires all foreign entities holding, acquiring or transferring "any interest, other than a security interest", the United States agricultural land to report such to the Secretary of Agriculture within various specified time periods. Should the words "any interest" be taken to include such things as future interests not yet realized or usufructory interests such as easements across agricultural land? How should "any interest" in agricultural land be defined?

2. *Nature of a security interest.* Pursuant to section 2 of the Act, the holding, acquisition, or transfer of any interest other than a "security interest", in agricultural land must be reported to the Secretary. Since holdings or transactions involving "security interests" need not be reported, how should a "security interest" be defined? Should it be defined to include only mortgages and other debt securing devices? What peculiarities might permit the use of a "security interest" as a subterfuge? How may the use of a "security interest" as a subterfuge be mitigated or eliminated?

3. *Tracing of actual ownership.* Section 2(e) provides that whenever the initial reporting foreign entity is neither an individual nor a foreign government, the Secretary "may" require the reporting entity to submit a report containing, among other things, the legal name and address of each person who holds any interest in the foreign entity. Section 2(f) then provides that on the basis of the information received pursuant to 2(e), the Secretary "may" require those named foreign persons to submit to him a report containing, among other things, the legal name and address of any person who holds any interest in the person submitting the report under 2(f).

Since the Secretary's authority is descretionary, should he refrain from actually exercising such authority beyond either the first, or second, or third level of ownership?

Moreover, in view of the fact that both section 2(e) and 2(f) permit the Secretary to request reports concerning each person holding "any interest" in the previous reporting entity, if the Secretary decides to exercise such statutory discretion, how should "any interest" be defined both quantitatively and qualitatively? For example, should "any interest" mean 5 percent, 10 percent, 25 percent, or 50 percent interest? Should the nature of the interest include leaseholds, security interests, easements, or any other such interest?

4. *The nature of Agricultural land.* Section 9(1) defines agricultural land to mean land used for "agricultural, forestry, or timber production purposes." In light of the fact that foreign entities need only file reports concerning such land, how should these terms be defined? For instance, should a residential lot owned by a foreign person be considered agricultural land simply because it may be utilized for personal horticulture? Similarly, should land held by a foreign person and used for growing seasonal or decorative trees be considered to be land used for forestry production purposes?

5. *The size of the agricultural land.* In addition to the foregoing, section 9(1) propures to define agricultural

land as "any land" used for agricultural, forestry, or timber production purposes as determined by the Secretary under the regulations to be prescribed. Apparently, the language is inclusive enough to allow the Secretary to issue rules requiring that reports be filed by relevant entities holding small tracts of agricultural land. Would it be preferable for the Secretary to promulgate a minimum acreage regulation providing that foreign entities holding less than a specific figure need not file the required report? If so, what should be the minimum acreage figure?

6. *Significant or substantial control.* Section 9(3) defines the term "foreign person". Pursuant to subsection (3)(c)(ii), foreign person includes any entity created or organized under the laws of any State, in which a "significant interest or substantial control" is directly or indirectly held be any other foreign entity or foreign person. What should be the extent of ownership constituting significant interest or substantial control? Can any foreign entity holding 10 percent or less of a domestically incorporated corporation be considered to have substantial control of such a corporation?

Since section 8 of the Agriculture Foreign Investment Disclosure Act of 1978 requires that the Secretary of Agriculture issue regulations implementing the provisions contained therein by January 12, 1979, I have determined that it is not possible to comply with the requirement for 60-day comment period as provided for by Executive Order 12044 of March 23, 1978 (43 FR 12661). Accordingly, a 30-day comment period is provided.

In accordance with Executive Order 12044 a regulatory impact analysis has been prepared. Descriptions of alternatives and their impact are included in the analysis. Copies of the regulatory impact analysis are available by contacting the Office of the Director of Economics, Policy Analysis and Budget. Room 102, Administration Building. USDA, Washington, D.C. 20250.

Signed at Washington, D.C., on December 4, 1978.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc. 78-34201 Filed 12-5-78; 9:41 am]

[3410-37-M]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[7 CFR Part 2852]

PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

United States Standards for Grades of Fruit Preserves or Jams [1]

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the grade standards for fruit preserves of jams. The action is taken at the request of the International Jelly and Preserve Association and a member of the preserving industry. It would serve to improve the quality of fruit preserves used for remanufacturing and to permit more truthful and accurate labeling of the small individual serving packages used in restaurants.

DATE: Comments must be received on or before February 8, 1979.

ADDRESS: Send comments to: Executive Secretariat, Food Safety and Quality Service, U.S. Department of Agriculture, Room 3167 South Building, Washington, D.C. 20250, Attention: Ann Langlois. Comments will be available for public inspection at the same address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Sterling P. Ingram, Jr., Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-4693).

SUPPLEMENTARY INFORMATION: When U.S. Grade A fruit preserves are used as an ingredient in another product, such as pastries, ice creams, etc., they lose the texture and consistency consumers associate with a top quality product. A product, made firm enough to stand the rigors of use as a "raw ingredient" in another product would be too firm and stiff to meet Grade A standards. To provide a product that can withstand remanufacturing, one of the country's large preservers has requested that a manufacturing grade be incorporated into the U.S. Standards. As proposed herein, such a product could be made. Suitable safeguards are also proposed to prevent such product from entering normal consumer channels.

It is also proposed to waive the wholeness of fruit requirements for preserves packaged in individual service packages 1½ ounce or smaller. The small packages do not have the capacity to hold any amount of whole or nearly whole fruits.

The current standards for fruit preserves require that preserves made from apricots, cherries, gooseberries, peaches, pineapples or strawberries have substantial portions of whole or nearly whole fruit in the finished product. To meet this requirement it is necessary to use fruits before they become fully ripened. Fully ripened fruit, in most instances, will partially disintegrate during the cooking and concentrating operation. It is proposed that the requirements for wholeness of fruit in the finished product be relaxed to permit the use of riper, more flavorful fruit. Macerated or pureed fruit would not be permitted as a "raw product" ingredient.

Descriptive terms in the grade designations, such as "U.S. Fancy," would be eliminated in the final rule to conform to consumer preference for a single letter grade designation.

As proposed the following sections would be changed to read:

§ 2852.1111 Identity.

"Fruit preserves or jams" means preserves or jams as defined in the Definitions and Standards of Identity for Preserves, Jams (21 CFR 150.160) issued pursuant to the Federal Food, Drug, and Cosmetic Act. The solids content of the finished fruit preserves or jams shall be not less than 65 degrees Brix. No correction is made for water-insoluble solids.

* * * * *

§ 2852.1114 Grades of fruit preserves or jams.

(a) "U.S. Grade A" or "U.S. Grade A for Manufacturing" is the quality of fruit preserves or jams that have a good consistency; that have a good color; that are practically free from defects; that have a good flavor; and that score not less than 85 points when scored in accordance with the scoring system outlined in this subpart; *Provided:* That no fruit preserve or jam shall be graded, inspected and/or certified as a manufacturing grade product unless it is suitably designated and/or labeled. Manufacturing grade product shall not be packaged in containers smaller than the equivalent of a number ten (No. 10) metal can (603 x 700).

* * * * *

§ 28252.1118 Consistency.

(a) *General.* The factor of consistency refers to the extent of the disper-

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federa. Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

sion and size of the fruit or fruit particles throughout, and the gel-like properties of the product; *Provided:* That any requirements for wholeness of fruit are waived for products packaged in one and one-half (1½) ounce and smaller containers; *And further provided:* That, fruit puree as a single fruit ingredient may not be used.

(b) *A classification.* (1) Fruit preserves or jams that have a good consistency may be given a score of 17 to 20 points. "Good consistency" means that the fruit or fruit particles are dispersed uniformly throughout the product; that the product has a tender gel or may have no more than a very slight tendency to flow, except that a slightly less viscous consistency may be present when the fruit is chiefly in the form of whole or almost whole units; and that in the following kinds the product does not have a macerated or pureed appearance, and is made from whole or almost whole fruit as indicated:

(i) *Apricot.* Halves or pieces or combinations thereof.

(ii) *Cherry.* Whole or almost whole or pieces of pitted cherries or combinations thereof.

(iii) *Gooseberry.* Whole or almost whole berries or combinations thereof.

(iv) *Peach (clingstone and freestone).* Slices or pieces or combinations thereof.

(v) *Pineapple.* Crushed pieces or small pieces or combinations thereof.

(vi) *Strawberry.* Whole or almost whole berries or combinations thereof.

(2) Fruit preserves or jams for manufacturing that have a good consistency may be given a score of 17 to 20 points. "Good consistency" means that the product meets all of the requirements of (b)(1) of this section; *Provided,* That the product may have a moderate to very firm gel but may not be rubbery.

(c) *B classification.* * * *

(d) *Substandard classification.* Fruit preserves or jams that fail to meet the requirements of paragraph (c) of this section may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

* * * * *

Done at Washington, D.C. on December 5, 1978.

NOTE: The Department of Agriculture has determined that these regulations do not have major economic consequences requiring preparation of a Regulatory Analysis in accordance with § 3 of Executive Order 12044 (March 24, 1978).

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

[FR Doc. 78-34358 Filed 12-6-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 212]

[Docket No. ERA-R-77-3]

AMENDMENT TO ALLOW REFINERS TO ALLOCATE INCREASED COSTS TO GASOLINE ON A GREATER THAN PRO RATA VOLUMETRIC BASIS

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Continuation of Rulemaking.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it will continue beyond January 1, 1979 its pending rulemaking proceeding proposing to permit refiners to allocate additional increased costs to the price of gasoline. Prior to adoption of a final rule in this proceeding, ERA will complete the pending environmental review of this matter and consider any potential environmental impacts. In addition, ERA will consider additional written comments on the proposed regulation.

DATES: Written comments by January 12, 1979, 4:30 p.m.

ADDRESSES: All comments to Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-77-3, 2000 M Street, NW., Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, NW., Room B110, Washington, D.C. 20461, 202-634-2170.

Chuck Boehl (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street, NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Ben McRae (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue, NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

On October 22, 1978, we issued a final rule (43 FR 50386, October 27, 1978), effective December 1, 1978, which would have permitted refiners to allocate increased costs to gasoline on a greater than pro rata volumetric basis. The operation of this rule is explained in detail in the preamble to the final rule.

This final rule, along with another rule issued the same day regarding the passthrough of rental and vapor recovery system costs by retail dealers (Docket No. ERA-R-77-15, 43 FR 50662, October 30, 1978), were issued notwithstanding that the Federal Energy Regulatory Commission (FERC) had not yet determined for either proposed rule whether it may significantly affect a function within its jurisdiction. Section 404(a) of the Department of Energy Organization Act (Pub. L. 95-91, "DOE Act") requires that the FERC be given the opportunity to make such a determination on proposed rules before they are issued in final. These procedural omissions were subsequently brought to our attention, and accordingly, on November 24, 1978, we issued a notice to suspend the December 1 effective date of both final rules in order to permit the FERC until December 20, 1978 to make any determinations under section 404(a) (43 FR 55744, November 29, 1978).

Concurrently with the issuance of the November 24 notice, we notified the FERC that it would have until December 20, 1978 to determine whether the proposed rules might significantly affect a function within its jurisdiction under sections 402 (a)(1), (b) and (c)(1) of the DOE Act. The November 24 notice specified that if the FERC determined by that date that either of the proposed rules would not significantly affect such a function, or if if failed to make a determination by that date, it was our intention to make that rule effective on January 1, 1979. On the other hand, the notice specified that if the FERC determined that either rule might significantly affect a function within its jurisdiction, we would immediately refer that proposed rule to the FERC as prescribed by section 404(a).

II. CONTINUATION OF RULEMAKINGS

The purpose of this notice is to inform the public that we no longer intend to make the rule allowing refiners to allocate additional increased costs to gasoline effective on January 1, 1979. Rather, we intend to continue this rulemaking at least until the completion of a final environmental impact statement. A draft environmental impact statement on the deregulation of motor gasoline that also considers in detail, as an alternative to deregulation, the regulation at issue here has already been issued by ERA and is available for public comment through January 5, 1979. (A notice setting forth the procedures for obtaining copies of and commenting on this draft environmental impact statement

as it applies to the rule at issue here has also been issued today.) No final decision with regard to this regulation will be made until the final environmental impact statement has been published and considered.

In addition, prior to making a final decision on this regulation, we will consider any written comments submitted to ERA. The October 22 notice requested written comments by February 15, 1979 on the final rule issued then. In order to assure the receipt and consideration of comments sufficiently in advance of the earliest possible date ERA might make a final decision on this regulation, the comment period previously announced in the October 22 notice is hereby shortened so as to end at 4:30 p.m. on Friday, January 12, 1979.

We will try to decide whether to adopt a final rule and complete this proceeding no later than February 1979. Before making that decision, we will consider the final environmental impact statement.

If we decide to adopt a final rule, we will consider making such rule effective retroactive to December 1, 1978, the original scheduled effective date of the regulation. This would be accomplished through an appropriate adjustment to refiners' banked costs to reflect the additional amount of costs they would have been allowed to pass through on gasoline if the rule that is finally adopted had been effective on that date. We specifically invite comments to address the retroactive effectiveness of any rule adopted.

III. Comment Procedures

Comments on the rulemaking will be received through January 12, 1979. You should submit fifteen copies of your comments to the addresses set forth in the "Addresses" section of this notice. The docket number for this rulemaking proceeding, ERA-R-77-3, should appear on both the envelope and each copy of the comments submitted. All comments received by DOE will be available for public inspection at the Office of Public Information, Room B-110, 2000 M Street NW., Washington, D.C., between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by you to be confidential must be so identified and submitted in writing, one copy only, in accordance with the procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

Issued in Washington, D.C., December 5, 1978.

David J. Bardin,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-34410 Filed 12-6-78; 1:31 pm]

[6450-01-M]

[10 CFR Part 212]

[Docket No. ERA-R-77-3]

AMENDMENT TO THE MANDATORY PETROLEUM PRICE REGULATIONS ALLOWING REFINERS TO ALLOCATE ADDITIONAL INCREASED COSTS TO MOTOR GASOLINE

Draft Environmental Impact Statement

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Availability of Draft Environmental Impact Statement and Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces the availability of a draft environmental impact statement (DEIS) on the pending proposal to amend the Mandatory Petroleum Price Regulations to allow refiners to allocate increased costs to gasoline on a greater than pro rata volumetric basis. The DEIS on this amendment is the same DEIS currently under review with respect to the deregulation of motor gasoline. Written comments are invited and a public hearing will be held with respect to the DEIS.

DATES: Comments by January 5, 1979, 4:30 p.m. Requests to speak by December 12, 1978, 4:30 p.m. Hearing date: December 19, 1978, 9:30 a.m.

ADDRESS: Send comments and requests to speak to: Department of Energy, Public Hearing Management, Room 2313, Docket Nos. ERA-R-77-3 and ERA-R-77-7, 2000 M Street NW., Washington, D.C. 20461.

HEARING LOCATION: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

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

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

Carol M. Borgstrom (Division of NEPA Affairs), Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 266-9760.

J. Thomas Wolfe (Office of General Counsel), Department of Energy, 20 Massachusetts Avenue NW., Room 8217, Washington, D.C. 20461, (202) 376-4266.

SUPPLEMENTARY INFORMATION:

I. Discussion

On November 17, 1978, DOE announced the availability of a DEIS that addresses the environmental and other consequences that may result from the proposed action of deregulation of motor gasoline. (43 FR 54125, November 20, 1978). Also fully considered in the DEIS, as an alternative to deregulation of motor gasoline, were regulations the principal effect of which was to permit refiners to allocate additional increased costs to the price of gasoline. (See 43 FR 50386, October 27, 1978.) This alternative is referred to in the DEIS as the "gasoline tilt" alternative. The DEIS analyzes the effects of the implementation of the gasoline tilt alternative separately from the case in which it is not implemented (described in the DEIS as the "no action" alternative).

In the DEIS (page II-5), we stated that the final gasoline tilt rules had been adopted and were scheduled to go into effect on December 1, 1978. However, in a notice issued November 24, 1978, the December 1, 1978 effective date of these rules was in effect postponed until January 1, 1979 to allow the Federal Energy Regulatory Commission time to determine, pursuant to section 404(a) of the DOE Organization Act, Pub. L. 95-91, whether the proposals may significantly affect a function within its jurisdiction (see 43 FR 55744, November 29, 1978). In a separate notice issued today, ERA further continued that aspect of the gasoline tilt alternatively permitting refiners to allocate additional increase costs to gasoline at least until an appropriate review, pursuant to the procedures set forth in the National Environmental Policy Act and 10 C.F.R. Part 208, of the potential environmental impacts of the proposed rule is completed. This environmental review will be accomplished in the same environmental impact statement process that has already been instituted for motor gasoline deregulation and which also fully considers the potential impacts of the gasoline tilt regulation as an alternative.

Comments on the DEIS as it relates to both gasoline deregulation and the gasoline tilt regulation will be accepted through January 5, 1979, which is the date that has already been duly

established as the close of the comment period as it relates to gasoline deregulation. This abbreviated comment period on the DEIS as it relates to the gasoline tilt rule should not prejudice public review of the DEIS as it relates to this rule, since the DEIS has been available since November 20, 1978, and is not being revised in any respect. The Environmental Protection Agency has been consulted and agrees that a January 5, 1979 close to the public comment period for all purposes is appropriate.

II. AVAILABILITY OF DEIS

You may obtain copies of the DEIS from ERA's Office of Public Information, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. In addition, copies are available for public review in the DOE Freedom of Information Reading Room, GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

III. HEARING AND COMMENT PROCEDURES

DOE will hold a hearing on the DEIS at 9:30 a.m. on December 19, 1978 in Room 2105, 2000 M Street, NW., Washington, D.C. 20461. Any person who has an interest in this proceeding, or who is a representative of a group or class of persons that has an interest in this proceeding, may make a written request for an opportunity to make an oral presentation. Your request should be directed to Public Hearing Management, Docket Nos. ERA-R-77-3 and ERA-R-77-7, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, and must be received before 4:30 p.m. on December 12, 1978. You may hand-deliver your request between the hours of 8:00 a.m. and 4:30 p.m.. Monday through Friday. Label your request both on the document and on the envelope "Draft EIS on Deregulation of Motor Gasoline."

In your request, you should give a concise summary of the proposed oral presentation and a phone number where we may contact you through December 18, 1978. If you are selected to be heard, we will notify you before 4:30 p.m., local time, December 15, 1978. You must submit 100 copies of your statement to Public Hearing Management, at the address indicated above, before 4:30 p.m. on December 18, 1978.

We reserve the right to select the persons to be heard at the public hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. We may limit the length of each presentation, based on the number of persons requesting to be heard.

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

In advance of the hearing you may submit to Public Hearing Management, at the address indicated above, questions to be asked by the presiding officer of any person making a statement at the hearing. If you decide at the hearing that you wish to ask a question, you may submit it in writing to the presiding officer. He or she will determine whether the question is relevant and whether the time limitations permit it to be presented for answer.

The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing.

We will have a transcript of the hearing made, and we will retain the entire record of the hearing, including the transcript, and make it available for inspection at the Office of Public Information, Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript from the reporter.

We also invite you to submit written comments on the DEIS. You should submit your comments to Public Hearing Management, Docket Nos. ERA-R-77-3 and ERA-R-77-7, Room 2313, 2000 M Street, NW., Washington, D.C. 20461. You should identify your comments on the outside envelope and on each document with the docket numbers and the designation "DEIS on the Gasoline Deregulation and Tilt Proposals." You should submit thirty copies. We will consider all comments received by January 5, 1979, and all relevant information before taking further action on this DEIS.

Any information or data you submit pursuant to the above procedures and which you consider to be confidential must be so identified and submitted in one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

Issued in Washington, D.C., December 5, 1978.

DOUGLAS G. ROBINSON,
Assistant Administrator, Regulations & Emergency Planning. Economic Regulatory Administration.

[FR Doc. 78-34411 Filed 12-6-78; 1:31 pm]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Advanced Notice of Proposed Rulemaking to Establish a Size Standard for a Small Coal Mining Firm for Purposes of Small Business Set-Aside Leases on Federal Coal Land

AGENCY: Small Business Administration.

ACTION: Advanced Notice of Proposed Rulemaking.

SUMMARY: This rule will define the maximum allowable firm size for bidders to be eligible as small businesses in a program which will set aside certain tracts of Government-owned coal land for exclusive bidding by small business. To determine this maximum allowable size or size standard, the SBA is first offering a range of consideration of from 50 to 250 employees per firm, for public comment. After comments are reviewed, a size standard (number of employees per firm) from within this range will be selected and later used by the Department of the Interior to determine which firms qualify as small to bid on set-aside leases of Government coal land.

DATE: Written comments must be submitted by January 8, 1979.

ADDRESS ALL COMMENTS TO: Kaleel C. Skeirik, Director, Size Standards Division, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Harvey D. Bronstein, 202-653-6373.

SUPPLEMENTARY INFORMATION: The Federal Coal Leasing Amendment Act of 1975 (Pub. L. 94-377) authorizes the Secretary of the Interior to divide lands subject to the Mineral Leasing Act of 1920 into tracts to be leased for coal mining. The Interior Department has indicated to SBA that they will make allowances for set-asides for small business in their planning to implement this Act. Most of the land to be leased is in the West, specifically, in Montana, North Dakota, Wyoming, Colorado, New Mexico, Utah, and Oklahoma. Such a set-aside program would speak to concerns in Congress and the public of what many see as

the increased concentration of ownership of energy production, and would also further the goal of the SBA to foster the competitive viability of small business.

The SBA has been engaged for several years in a program of small business set-asides for sales of Government timber with the U.S. Department of Agriculture's Forestry Service. A program of set-asides for coal leasing on Federal land and mineral rights might be patterned after the timber sales program (see 13 CFR 121.3-9). For these reasons, the SBA is interested in setting a size standard for a small coal mining company. A size standard is the basic criterion to decide whether a firm is a small business. Such a standard would establish a firm's eligibility for participation in any Federal coal leasing set-asides for small business.

There are several factors involved in addressing the question "at what size is a coal mining firm small?" First, a firm is small only within the context of the industry in which it operates. According to the most recent Census Bureau data in 1972, most coal mining firms had fewer than 10 employees and $200,000 annual revenues. Average firm size was 65 employees and $3.5 million in annual revenues.

Since the size standard is to be used mainly within the context of western coal mining, it should take into account the characteristics of coal mining in this part of the county. The Census Bureau data are for the country as a whole and are more representative of the eastern (largely underground) mines. While it is difficult to make generalizations about an industry as large and varied as coal mining, western mines tend to be larger in area and output than eastern mines and are more likely to use surface mining techniques. Western coal is bituminous and typically of a lower grade and value than eastern coal. It is often used to supply electric generating plants and is transported to the plants on special unit coal trains. Long-term contracts for 20 years or more between producers and electric generating companies are not uncommon.

The size of the mining operation and the economies of scale are determined by many factors, including the geology of the area, configuration of the coal deposit, mining technique, method of transport, distance to market, and type of coal. The size of mining operation that can be carried out in turn, can depend on the size of the firm which is able to exploit a given deposit. For these reasons, there are not very many small firms engaged in coal mining in the West. We examined the *1975 Coal Mine Directory* by Keystone for Montana, Wyoming, North Dakota, and Colorado and found only a few firms engaged in coal mining that were not obviously large. In a way, since there are very few small firms now, the set-aside of coal leases could help start a new segment of the industry composed of small western coal operators. Of course, the ability of small firms to carry out coal mining will depend upon their securing coal leases and their ability to compete with other coal mining firms in selling the coal.

Normally, small business size standards are based on the distribution by size of firms in a particular industry. Because this industry, which is basically located in two geographic areas (the older established mines in the East and the new and developing mines in the West), and with only a few small coal mining firms currently located in the West, a different procedure will be used in determining the size standard for coal mining.

Instead of the conventional method, we propose to offer, for public consideration, a range within which a size standard will be selected. This range is from 50 to 250 employees for the owning firm (not the mine) including its affiliates. Further, the firm must be independently owned and operated and not dominant in its field of operation.

The lower end of this range was chosen to represent the minimum size firm that might be capable of exploiting a sizeable coal deposit. Based on 1975 productivity data for western coal mining, 50 production employees at a single mine could produce about several hundred-thousand tons and several million dollars in annual sales on the average. This amount is comparable to the average coal-mining firm size in 1972 (see above).

The upper level could be representative of a firm, if totally engaged in western mining, producing perhaps 5 million tons annually and about $50 million in sales. At this size the firm would still be producing much less than 1 percent of annual U.S. coal output. This size standard would place this hypothetical firm well below the ranks of the largest coal producers and, thus, even at this level, might still be considered small.

The size standard will be selected on the basis of the public comment received and further analysis or information provided. SBA will then publish a specific size standard in the FEDERAL REGISTER as a proposed rule. After a second comment period, the actual size standard will be published as a final rule in the FEDERAL REGISTER after the SBA reviews the response to this proposed rule. It will then be incorporated in 13 CFR 121.3-9, SBA Rules and Regulations, and actually be applied by the Interior Department in their coal leasing program.

Dated: November 29, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. .3-34371 Filed 12-7-78; 8:45 am]

[1505-01-C]

FEDERAL TRADE COMMISSION

[16 CFR Part 440]

HEARING AID INDUSTRY

Publication of Staff Report on Proposed Trade Regulation Rule

Correction

In FR Doc. 78-32597, appearing on page 54103 in the issue for Monday, November 20, 1978, make the following corrections:

(1) In the "SUMMARY" paragraph, in the fourth line, the word "summarized" should be "summarizes".

(2) In the "SUMMARY" paragraph, in the 11th line, "No. 215.44" should be "No. 215-44".

(3) In the middle column, in the first complete paragraph, in the 8th line, "commned" should be "commended".

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 210, 211]

[Release Nos. 33-6000, 34-15358, 35-20791, IC-10495; File No. S7-764]

PRESENTATION IN FINANCIAL STATEMENTS OF PREFERRED STOCKS SUBJECT TO MANDATORY REDEMPTION REQUIREMENTS OR WHOSE REDEMPTION IS OUTSIDE CONTROL OF ISSUER, PREFERRED STOCKS WHICH ARE NOT REDEEMABLE OR ARE REDEEMABLE SOLELY AT THE OPTION OF ISSUER, AND COMMON STOCKS

Proposed Rules

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission proposes to amend Regulation S-X to require that the amounts applicable to the following three general classes of securities be presented separately in balance sheets filed with the Commission (with no combined total being shown for these three classes and not under the general heading of stockholders' equity): (i) Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer; (ii) preferred stocks which are not redeemable or are redeemable solely at the option of the issuer; and (iii)

common stocks. The proposed amendments would also require that certain disclosures concerning preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer be included in financial statements. The Commission believes that there is a significant difference in the nature of these three types of securities and, further, that it is necessary to highlight the future cash obligations attached to preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer in a manner which indicates that they are not part of the permanent capitalization of a company. It is expected that the proposed rules will result in the presentation to financial statement users of more useful information concerning a company's capital structure.

DATE: Comments should be submitted on or before February 28, 1979.

ADDRESSES: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C. (File No. S7-764).

FOR FURTHER INFORMATION CONTACT:

Steven J. Golub or Edmund Coulson, Office of the Chief Accountant, Securites and Exchange Commission, 500 North Captiol Street, Washington, D.C. 20549 (202-472-3782).

SUPPLEMENTARY INFORMATION: Companies have evolved into complex entities and the methods used to finance their activities have evolved similarly. Companies today finance their activities using a variety of debt and equity securities. The Commission has noted the increasing use of complex securities—some, such as preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer (hereinafter referred to as "redeemable preferred stock"), having overlaping debt and equity characteristics. The Commission believes that the complexities of corporate financing activities increase the need for financial reporting to reflect fairly the status of the various classes of investors and creditors and their present and potential claims on future cash flows. Developments in financial reporting for the various classes of securities appear to have not kept pace with the increasing complexities of corporate financing activities. Traditional financial statements may not provide the most meaningful information to financial statement users who wish to understand and appraise readily the rights and potential claims upon future cash flows of holders of the various classes of securities that are issued by registrants, including redeemable preferred stocks and preferred stocks which are not redeemable or are redeemable solely at the option of the issuer (hereinafter referred to as "non-redeemable preferred stock).

Although the use of redeemable preferred stock as a corporate financing vehicle is not new, there appears to have been a significant increase in financing activity involving this type of security in recent years. In addition, there appears currently to be a substantial increase in merger activity involving the use of redeemable preferred stock.

Although the Commission expects that these financial reporting matters will ultimately be addressed by the Financial Accounting Standards Board ("FASB") in connection with its conceptual framework project, it believes that there is an immediate need for certain interim refinements concerning presentation in financial statements of amounts applicable to preferred and common stocks. The proposed amendments being published for comment deal with the presentation of redeemable and non-redeemable preferred stocks and common stocks in financial statements as an interim measure and are designed to provide sufficient disclosure concerning these securities consistent with the Commission's responsibilities.

In particular, the proposed amendments to Regulation S-X (17 CFR Part 210) would require that amounts attributable to redeemable preferred stocks, non-redeemable preferred stocks and common stocks be reported separately. The Commission is not attempting in this release to conceptualize the differences between redeemable and non-redeemable preferred stocks and common stocks. These distinctions are ones which the Commission expects the FASB to address. The proposed rules would revise the present reporting practice of presenting a total stockholders' equity amount, consisting of amounts attributable to various separate classes of capital stock, through the substitution of an approach designed to focus the attention of the financial statement user on each of the major classes of capital stock, thus allowing users to evaluate a company's captial structure in a more meaningful way. The proposal for a revised balance sheet presentation is intended to emphasize common stockholders' equity and the extent to which a company uses redeemable and non-redeemable preferred stocks to finance its operations.

The proposed rules are intended to highlight the future cash obligations attached to redeemable preferred stock through appropriate balance sheet presentation and relevant disclosures. They do not attempt to deal with the conceptual question of whether such a security is a liability. Further, the proposed rules do not attempt to deal with the income statement treatment of payments to holders of such a security or with any related income statement matters, including accounting for its extinguishment. The Commission is cognizant of these conceptual problems in determining the appropriate accounting for and reporting of redeemable preferred stock and believes that these matters can best be addressed by the FASB. For the present, the proposed amendments would require that amounts applicable to redeemable preferred stock be presented in financial statements as a separate item—and not be combined with amounts representing permanent equity investments. The Commission believes that this would highlight that the required redemption of a redeemable preferred stock will necessitate future cash payments and, accordingly, that amounts attributable to such stock are not part of the permanent capital of a company.

The Commission in its "Report to Congress on the Accounting Profession and the Commission's Oversight Role" [1] stated its belief that the initiative for establishing and improving accounting standards belongs in the private sector, subject to Commission oversight. Further, the Commission in that Report supported the efforts of the FASB to establish a conceptual framework for financial accounting and reporting. The Commission reaffirms its support for the FASB's conceptual framework project. This project should help to improve the financial accounting and reporting system in general and, in particular, by defining the elements of financial statements, it should help to address issues such as the most appropriate balance sheet classification of redeemable preferred stocks.

Definitions. The following definitions apply to the terms listed below as they are used in this release (these definitions are incorporated in the proposed amendments to Regulation S-X (17 CFR Part 210) and the Commission specifically requests comments on the proposed definitions):

Preferred Stocks Subject to Mandatory Redemption Requirements or Whose Redemp-

[1] Securities and Exchange Commission Report to Congress on the Accounting Profession and the Commission's Oversight Role, prepared for the Subcommittee on Governmental Efficiency and the District of Columbia of the Committee on Governmental Affairs of the United States Senate, July 1978.

tion Is Outside the Control of the Issuer (or "Redeemable Preferred Stock" as referred to in the textual portion of this release). The term "preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer" means any preferred stock or similar security which (i) the issuer undertakes to redeem at a fixed or determinable price on a fixed or determinable date or dates, whether by operation of a sinking fund or otherwise; (ii) is redeemable at the option of the holder; or (iii) has conditions for redemption which are not solely within the control of the issuer, such as stocks which must be redeemed out of future earnings. Preferred stock which is redeemable solely at the option of the issuer is not to be included in "preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer" unless it meets one or more of the above criteria.[2]

Preferred Stocks Which Are Not Redeemable or Are Redeemable Solely at the Option of the Issuer (or "non-redeemable preferred stock" as referred to in the textual portion of this release). The term "preferred stocks which are not redeemable or are redeemable solely at the option of the issuer" means any preferred stock or similar security which does not meet the criteria for classification as a "preferred stock subject to mandatory redemption requirements or whose redemption is outside the control of the issuer."

BACKGROUND

GENERAL

Preferred stock is generally referred to in current financial literature as a class of capital stock that has certain preferences or privileges over those of common stock. Preferred stock has been in use for approximately 150 years and, since its early days, has become a major source of financing for corporations, with varying periods of popularity. Preferred stock has developed into a security with a wide range of attributes. Preferred stock may be accorded preference in dividends, in liquidation, or in other matters. Preferred stock may also be convertible into common stock and be redeemable, and in certain cases, may entitle the holder to participate in dividends and voting rights with common shareholders.

Common stock is generally referred to as the residual ownership in a corporation whose right to share in the distribution of earnings ranks behind all prior claims of creditors and preferred shareholders.

REDEEMABLE PREFERRED STOCK

The use of redeemable preferred stock as a corporate financing vehicle is not new. However, there appears to have been a significant increase in financing activity involving this type of security in recent years. For some companies, amounts applicable to redeemable preferred stock represent a substantial portion of their total capitalization. Redeemable preferred stocks are being issued by a wide variety of companies in merger transactions, exchange offers of redeemable preferred stock for debentures, and in sales to the public or in private placements. Some redeemable preferred stocks have relatively short redemption periods and some issues have terms which call for redemption prior to maturity of major portions of a company's long-term debt. Many companies issuing redeemable preferred stock are highly leveraged.

Generally accepted accounting principles currently do not distinguish between redeemable preferred stock and any other class of capital stock for balance sheet reporting purposes. Many companies have reported each class of capital stock at its par or stated value with amounts paid in excess of par or stated value carries in a separate caption without distinguishing between amounts contributed by any particular class of stock.

In many cases the amount at which redeemable preferred stock is required to be redeemed is substantially greater than its par or stated value, and, in some cases, is greater than the total amount paid in by investors for the stock (i.e., a redemption premium). The redemption features of redeemable preferred stock have been disclosed in a variety of ways, usually in the footnotes to financial statements.

The disclosure requirements applicable to redeemable preferred stock under generally accepted accounting principles are set forth in Accounting Principles Board Opinion No. 10, "Omnibus Opinion," (December 1966) (paragraph 11) which states that financial statements should disclose, either on the face of the balance sheet, or in notes pertaining thereto, the aggregate or per share amounts at which preferred shares may be called or *are subject to redemption through sinking fund operations or otherwise*, and Accounting Principles Board Opinion No. 15 "Earnings per Share" (May 1969) (paragraph 19) which indicates that "financial statements should include a description * * * to explain the pertinent rights and privileges of the various securities outstanding. Examples of information which should be disclosed are dividend and liquidation preferences, participating rights, call prices and dates, conversion or exercise prices or rates and pertinent dates, *sinking fund requirements*, unusual voting rights, etc." (emphasis added)

The FASB in recent statements of financial accounting standards has alluded to a distinction between redeemable preferred stocks and non-redeemable preferred stocks. Statement of Financial Accounting Standards No. 12, "Accounting for Certain Marketable Securities," (December 1975) specifically excludes "preferred stock that by its terms either must be redeemed by the issuing enterprise or is redeemable at the option of the investor" from the definition of "equity security" (paragraph 7a). Statement of Financial Accounting Standards No. 8, "Accounting for the Translation of Foreign Currency Transactions and Foreign Currency Financial Statements," (October 1975) also alludes to a distinction between redeemable preferred stocks and non-redeemable preferred stocks when discussing the rates used to translate certain balance sheet accounts in foreign currency financial statements incorporated in the financial statements of a reporting enterprise by consolidation, combination, or the equity method of accounting. Paragraph 44 states: "preferred stock that is essentially a permanent stockholder investment shall be translated in the same manner as common stock, that is, at historical rates. however, if preferred stock * * * is carried * * * at its liquidation or redemption price, and liquidation or redemption is either required or imminent, that prefered stock shall be translated at the current rate."

Accounting Principles Board Opinion No. 16, "Accounting for Business Combinations," (August 1970) also alludes to the difference between redeemable and non-redeemable preferred stock when discussing how to determine the cost of an acquired company. Paragraph 73 states: "The distinctive attributes of preferred stocks make some issues similar to a debt security while others possess common stock characteristics, with many gradations between the extremes. Determining cost of an acquired company may be affected by those characteristics. For example, the fair value of a nonvoting, nonconvertible preferred stock which lacks characteristics of common stock may be determined by comparing the specified dividend and redemption terms with comparable securities and by assessing market factors. Thus although the principle of recording the fair value of consideration received for stock issued applies to all equity securities, senior as well as common stock, the cost of a company acquired by issuing senior equity securities may be determined in practice on the same basis as for debt securities."

The above references to redeemable preferred stock demonstrate that such stock is considered to be substantively different from other classes of capital

[2] Under the proposed definition, preferred stocks which meet one or more of the above criteria would be classified as "preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer" regardless of their other attributes such as voting rights, dividend rights or conversion features.

stock. Redeemable preferred stock is, from an economic viewpoint, substantially different than capital stock that is not redeemable. A corporation that issues a redeemable preferred stock enters into a commitment to use future corporate resources to redeem the issue. While a non-redeemable preferred stock may also be retired, the decision to retire it is solely within the control of the issuer.

Present reporting of redeemable preferred stock may not appropriately reflect the effect of such a security on prospective cash flows. Unlike a holder of common stock or non-redeemable preferred stock, the holder of redeemable preferred stock has a claim against prospective cash flows. To the extent that a corporation is required to use cash resources to redeem an issue of redeemable preferred stock, such resources will not be available for other discretionary purposes such as capital improvements or increasing cash dividends on common stock which would be favorable to common stockholders. The Commission believes that financial statements will present more useful and meaningful information if they clearly reflect the unique status of redeemable preferred stock apart from equity securities representing permanent capital investments.

Specific Proposals

A. Amendment of Rules

The Commission proposes to amend the financial statement requirements in Regulation S-X (17 CFR Part 210) to require that amounts applicable to redeemable preferred stock, non-redeemable preferred stock, and common stock be presented separately in balance sheets filed with the Commission. These three amounts would not be presented under a stockholders' equity caption and would not be totaled. These revisions would be accomplished by amending the following rules pertaining to the balance sheet:

—Article 5, "Commercial and Industrial Companies," Rule 5-02 (17 CFR 210.5-02.38, .39, .40 and .41)

—Article 7, "insurance Companies Other Than Life Insurance Companies," Rule 7-03 (17 CFR 210.7-03.19, .20, .21 and .22)

—Article 7a, "Life Insurance Companies," Rule 7a-03 (17 CFR 210.7a-03.21, .22, .23 and .24)

—Article 9, "Bank Holding Companies and Banks," Rule 9-02 (as amended by Release No. 33-5973) (17 CFR 210.9-02.19, .20, .21 and .22)

Also, Rules 5-04, 7-06, 7a-06 and 9—05 (17 CFR 210.5-04, .7-06, .7a-06 and .9-05) "What Schedules are To Be Filed" would be amended to the extent that they relate to the schedule called for by Rule 12-14 of Regulation S-X, "Capital Shares" (17 CFR 210.12-14). The effect of these amendments would be to refer to the revised captions in the balance sheet.

The current rules in Regulation S-X include disclosure requirements for "capital shares" and "other stockholders' equity" and, except for Article 9 (17 CFR 210.9-02.21), do not call for the presentation of an amount for total stockholders' equity.

Under the revised rules each of the three classes of securities would be presented in the balance sheet as separate amounts with no combined total for these three classes and not under the general heading of stockholders' equity.

Redeemable Preferred Stock—Registrants would be required to include in a referenced footnote a general description of each issue of redeemable preferred stock, including its redemption terms and other significant features. Disclosure would be required as to the combined aggregate amounts of expected redemption requirements for all issues each year for the five years following the date of the latest balance sheet, with separate identification of those covered by sinking funds, straight redemption, redeemable out of future earnings and those that are redeemable at the option of the holder. This disclosure requirement would be similar to that called for in Rule 5-02.29(a)(6) (17 CFR 210.5-02.29(a)(6)) of Regulation S-X relating to long-term debt.

Non-Redeemable Preferred Stock—The disclosure requirements would be generally unchanged from present practice. The Commission is aware that the distinctive attributes of some preferred stock issues make those issues similar to common stock, and further, there may be some common stock issues (e.g. two-class common) which have some characteristics of preferred stock. The Commission would expect registrants to use judgment in determining the appropriate classification of these types of stock and to disclose the reasons for their determinations.

Common Stock—The presentation and disclosure requirements would be generally unchanged from present practice.

* * * * *

In addition to the above balance sheet revisions, certain other accounting rules in Regulation S-X would be amended as follows:

—Article 11, "Content of Statements of Other Stockholders' Equity," (17 CFR 210.11-01) would be revised to provide that these statements apply only to changes in common stockholders' equity. Changes in amounts applicable to redeemable and non-redeemable preferred stock would be disclosed in the financial statements, footnotes, or in a separate statement.

—Article 3, "Rules of General Application"—Rule 3-16(f) "General Notes to Financial Statements"—Preferred Shares" (17 CFR 210.3-16(f)) would apply to all preferred shares, whether redeemable or not. Additional disclosure requirements for redeemable preferred stock are proposed under § 210.5-02.38.

B. Effective Date

The Commission proposes that these amendments be effective for financial statements included in filings with the Commission for fiscal periods ending on or after June 29, 1979. Financial statements for fiscal periods ending prior to June 29, 1979 which are included for comparative purposes would be reclassified to conform to the current period's presentation.

The Commission believes that registrants should have available sufficient data with which to make the proposed reclassification. However, the Commission specifically requests comments on any implementation problems which should be considered.

Further, the Commission strongly encourages early use of the proposed rules by companies with material amounts of redeemable preferred stock.

C. Other Matters

The Commission docs not believe the proposed rules should cause problems with existing loan indentures or other agreements. The Commission believes that creditors should already be aware of and have taken into consideration the components of a company's capital structure. The Commission specifically invites comments in this regard.

As previously noted, these proposals do not attempt to deal with the question of whether redeemable preferred stock should be presented as a liability or as part of equity capital. Thus, the Commission does not propose to publish for comment amendments to require that where certain ratios or other data involving amounts attributable to stockholders' equity are required (such as Item VI of Guides 3 and 61 of the Guides for Preparation and Filing of Reports and Registration Statements under the Securities Act of 1933 and the Securities Exchange Act of 1934, "Statistical Disclosure by Bank Holding Companies—Return on Equity and Assets"), or are optionally presented in filings with the Commission, they be calculated using only amounts applicable to capital stock other than redeemable preferred stocks. However, where such ratios or other data are presented, the Commission believes that the basis of calculation should be clearly disclosed and if material amounts of redeemable preferred stock are combined with amounts applicable to non-redeemable preferred stocks and common stocks

for purposes of computing a ratio there should also be presented similar ratios excluding amounts applicable to redeemable preferred stock. This would also apply to any financial information such as tables, charts, graphic illustrations and ratios presented in annual reports to shareholders if such reports are to meet the requirements of Rule 14a-3 (17 CFR 240.14a-3) of the General Rules and Regulations under the Securities Exchange Act of 1934.

In addition, the Commission does not presently propose to amend its rules, regulations and releases to the extent that they provide for various materiality tests for disclosure purposes (such as Article 9, "Banks and Bank Holding Companies" (17 CFR 210.9-02.5(e) and 210.9-02.9)) using a percentage of total stockholders' equity. In making these tests, registrants may use amounts applicable to all classes of capital stock.

TEXT OF PROPOSED AMENDMENTS

The Commission hereby proposes to amend 17 CFR Part 210 (Regulation S-X) as follows:

1. RULES OF GENERAL APPLICATION

§ 210.3-16 General notes to financial statements. (See Release No. AS-4.)

* * * * *

(f) *Preferred shares.* (1) The dividend rate and whether participating, cumulative or noncumulative shall be stated. If callable, the date or dates and the amount per share at which such shares are callable shall be stated. If convertible, the terms of conversion shall be stated briefly. If voting, a general description of the voting rights shall be stated.

* * * * *

2. COMMERCIAL AND INDUSTRIAL COMPANIES

§ 210.5-02 Balance sheets.

* * * * *

General heading of LIABILITIES, RESERVES AND STOCKHOLDERS' EQUITY revised to read LIABILITIES, PREFERRED STOCKS, AND COMMON STOCKHOLDERS' EQUITY.

* * * * *

General heading of STOCKHOLDERS' EQUITY (see § 210.3-01(a)) deleted.

38. *Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer.* (a) Include under this caption amounts applicable to any class of preferred stock or similar security which has any of the following characteristics: (1) It is redeemable at a fixed or determinable price on a fixed or determinable date or dates, whether by operation of a sinking fund or otherwise; (2) it is redeemable at the option of the holder; or (3) it has conditions for redemption which are not solely within the control of the issuer, such as stocks which must be redeemed out of future earnings. Amounts attributable to preferred stock which is not redeemable or is redeemable solely at the option of the issuer shall be included under § 210.5-02.39 unless it meets one or more of the above criteria.

(b) State for each issue the title of the issue, the number of shares authorized, the number of shares issued or outstanding, as appropriate (see § 210.3-14 and § 210.3-15), the dollar amount thereof and the total redemption amount. If the carrying value is different than the redemption amount, describe the accounting treatment for such difference in a note referred to herein.

(c) State in a note referred to herein, for each issue (1) a general discription of each issue, including its sinking fund or other redemption features and the rights, if any, of holders in the event of default, including the effect, if any, on junior securities in the event a required dividend, sinking fund, or other redemption payment(s) is not made; (2) the combined aggregate amount of redemption requirements for all issues each year for the five years following the date of the latest balance sheet, with separate identification of those covered by sinking funds, straight redemption, redeemable out of future earnings and those that are redeemable at the option of the holder; and (3) the changes in each issue for each period for which an income statement is required to be filed. (See also § 210.3-16(f).)

39. *Preferred stocks which are not redeemable or are redeemable solely at the option of the issuer.* State for each class of shares the title of the issue, the number of shares authorized, the number issued or outstanding, and appropriate (see § 210.3-14 and § 210.3-15), and the dollar amount thereof. Show in a note or statement referred to herein the changes in each class of preferred shares for each period for which an income statement is required to be filed. (See also § 210.3-16(f).)

40. *Common stockholders' equity.* (a) Separate captions shall be shown for (1) common shares, (2) additional paid-in capital, (3) other additional capital and (4) retained earnings (i) appropriated and (ii) unappropriated. (See § 210.3-16(h).)

(b) For each class of common shares state the title of the issue, the number of shares authorized, the number of shares issued or outstanding, as appropriate (see § 210.3-14 and § 210.3-15), and the dollar amount thereof, and, if convertible, the basis of conversion (see also § 210.3-16(f)(3). Show also the dollar amount, if any, of common shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. Show in a note or statement referred to herein the changes in each class of common shares for each period for which an income statement is required to be filed.

(c) (Same as present § 210.5-02.39(b)).

(d) (Same as present § 210.5-02.39(c)).

(e) A summary of each account of common stockholders' equity ((a)(2) to (a)(4) above) setting forth the information prescribed in § 210.11-02 shall be given in a note or statement referred to herein, for each period for which an income statement is required to be filed.

41. *Total liabilities, preferred stocks, and common stockholders' equity.*

* * * * *

§ 210.5-04 What schedules are to be filed.

* * * * *

Schedule XIII. Capital Shares. The schedule prescribed by § 210.12-14 shall be filed in support of captions 38, 39 and 40 of the balance sheet.

* * * * *

3. INSURANCE COMPANIES OTHER THAN LIFE INSURANCE COMPANIES

§ 210.7-03 Balance sheets.

* * * * *

General heading of STOCKHOLDERS' EQUITY deleted.

19. *Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer.* The classification and disclosure required by § 210.5-02.38 shall be given.

20. *Preferred stocks which are not redeemable or are redeemable solely at the option of the issuer.* The classification and disclosure required by § 210.5-02.39 shall be given.

21. *Common stockholders' equity.* (a) Separate captions shall be shown for:

(1) Common shares.

(2) Additional paid-in capital.

(3) Other additional capital.

(4) Unrealized appreciation or depreciation of investments, less applicable deferred income taxes.

(5) Retained earnings.

(i) Appropriated.

(ii) Unappropriated.

(b) For each class of common shares state the title of the issue, the number of shares authorized, the number of shares issued or outstanding, as appropriate (see § 210.3-14 and § 210.3-15), and the dollar amount thereof, and, if convertible, the basis of conversion (see also § 210.3-16(f)(3)). Show also the dollar amount, if any, of common shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. Show in a note or statement referred to herein the changes in each class of common shares for each period for which an income statement is required to be filed.

(c) (Same as present § 210.7-03.20(b)).

(d) Include in subcaption (a)(5)(i) above or in a note the purpose for which retained earnings have been appropriated.

(e) (Same as present § 210.7-03.20(d)).

(f) (Same as present § 210.7-03.20(e)).

(g) A summary of each account of common stockholders' equity ((a)(2) to (a)(5) above) setting forth the information prescribed in § 210.11-02 shall be given in a note or statement referred to herein, for each period for which an income statement is required to be filed.

22. *Total liabilities, other credits, preferred stocks, and common stockholders' equity.*

* * * * *

§ 210.7-06. What schedules are to be filed.

* * * * *

Schedule VIII. Capital Shares. The schedule prescribed by § 210.12-14 shall be filed in support of captions 19, 20 and 21 of the balance sheet.

* * * * *

4. LIFE INSURANCE COMPANIES

§ 210.7a-03 Balance sheets.

* * * * *

General heading of STOCKHOLDERS' EQUITY deleted.

21. *Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer.* The classification and disclosure required by § 210.5-02.38 shall be given.

22. *Preferred stocks which are not redeemable or are redeemable solely at the option of the issuer.* The classification and disclosure required by § 210.5-02.39 shall be given.

23. *Common stockholders' equity.* (a) Separate captions shall be shown for:

(1) Common shares.

(2) Additional paid-in capital.

(3) Other additional capital.

(4) Unrealized appreciation or depreciation of investments.

(5) Retained earnings.

(i) Appropriated.

(ii) Unappropriated.

(b) For each class of common shares state the title of the issue, the number of shares authorized, the number of shares issued or outstanding, as appropriate (see § 210.3-14 and § 210.3-15), and the dollar amount thereof, and, if convertible, the basis of conversion (see also § 210.3-16(f)(3)). Show also the dollar amount, if any, of common shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. Show in a note or statement referred to herein the changes in each class of common shares for each period for which an income statement is required to be filed.

(c) (Same as present § 210.7a-3.22(b)).

(d) Include in subcaption (a)(5)(i) above or in a note the purpose for which retained earnings have been appropriated.

(e) (Same as present § 210.7a-3.22(d)).

(f) (Same as present § 210.7a-3.22(e)).

(g) (Same as present § 210.7a-3.22(f)).

(h) A summary of each account of common stockholders' equity (a)(2) to (a)(5) setting forth the information prescribed by § 210.11-02 shall be given in a note or statement referred to herein for each period for which an income statement is required to be filed.

24. *Total future policy benefits, liabilities, other credits, preferred stocks, and common stockholders' equity.*

* * * * *

§ 210.7a-06. What schedules are to be filed.

* * * * *

Schedule IX. Capital Shares. The schedule prescribed by § 210.12-14 shall be filed in support of captions 21, 22 and 23 of the balance sheet.

* * * * *

5. BANK HOLDING COMPANIES AND BANKS

§ 210.9-02 Balance sheets.

* * * * *

General heading of LIABILITIES AND STOCKHOLDERS' EQUITY revised to read LIABILITIES, PREFERRED STOCKS, AND COMMON STOCKHOLDERS' EQUITY.

* * * * *

General heading of STOCKHOLDERS' EQUITY deleted.

19. *Preferred stocks subject to mandatory redemption requirements or whose redemption is outside the control of the issuer.* The classification and disclosure required by § 210.5-02.38 shall be given.

20. *Preferred stocks which are not redeemable or are redeemable solely at the option of the issuer.* The classification and disclosure required by § 210.5-02.39 shall be given.

21. *Common stockholders' equity.* The classification and disclosure required by § 210.5-02.40 shall be given.

22. *Total liabilities, preferred stocks, and common stockholders' equity.*

* * * * *

§ 210.9-05. What schedules are to be filed.

* * * * *

Schedule V. Capital Shares. The schedule prescribed by § 210.12-14 shall be filed in support of captions 19, 20 and 21 of the balance sheet.

* * * * *

6. CONTENT OF STATEMENTS OF OTHER STOCKHOLDERS' EQUITY.

§ 210.11-01. Application of Article 11.

This article prescribes the content of the statements of other stockholders' equity specified in § 210.5-02.40, § 210.6-22.26, § 210.7-03.21, § 210.7a-03.23 and § 210.9-02.21.

* * * * *

STATUTORY AUTHORITY FOR PROPOSED AMENDMENTS

These amendments are proposed to be adopted pursuant to authority in sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, 77j, 77s) of the Securities Act of 1933; sections 12, 13, 15(d), and 23(a) (15 U.S.C. 78*l*, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934; sections 5(b), 14 and 20(a) (15 U.S.C. 79e, 79n, 79t) of the Public Utility Holding Company Act of 1935; and sections 8, 30, 31(c) and 38(a) (15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a)) of the Investment Company Act of 1940.

Pursuant to section 23(a)(2) of the Securities Exchange Act, the Commission has considered the impact of these proposals on competition and is not aware, at this time, of any burden that such rule amendments, if adopted, would impose on competition. However, The Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

In addition, the Commission is mindful of the cost to registrants and others of its proposals and recognizes its responsibilities to weigh with care the costs and benefits which result from its rules. Accordingly, the Commission specifically invites comments on the costs to registrants and others of the adoption of the proposals published herein.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 28, 1978.

[FR Doc. 78-34243 Filed 12-7-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 2]

[Docket No. 76N-0460]

CHLOROFLUOROCARBON PROPELLANTS IN SELF-PRESSURIZED CONTAINERS

Proposed Essential Use

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to add to the list of products containing a chlorofluorocarbon for an essential use an intrarectal steroid foam drug product for human use. The action is based upon a citizen petition requesting that this product be added to the list of uses considered essential and establishing that the product provides a unique health benefit unavailable without the use of the chlorofluorocarbon.

DATE: Comments by January 8, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Ed Farha, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of March 17, 1978 (43 FR 11301), the Commissioner of Food and Drugs issued a final rule, § 2.125 (21 CFR 2.125), prohibiting nonessential uses of chlorofluorocarbons as propellants in self-pressurized containers in certain products subject to the Federal Food, Drug, and Cosmetic Act. This action and an earlier action to require a warning statement on the labels of products containing chlorofluorocarbon propellants, published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22018), were taken in response to recent scientific research indicating that the release of chlorofluorocarbons may result in the depletion of stratospheric ozone. A reduction of stratospheric ozone would increase the amount of biologically damaging ultraviolet radiation reaching the earth and, as a result, might increase the incidence of skin cancer and produce other adverse effects. These two previous rulemaking actions contain a detailed discussion of the scientific issues pertaining to chlorofluorocarbon use.

Section 2.125 provides that any food, drug, device, or cosmetic in a self-pressurized container that contains a chlorofluorocarbon propellant is adulterated and/or misbranded in violation of the act and that any drug product for human or animal use is a new drug or new animal drug. The regulation exempts certain products containing chlorofluorocarbon in a self-pressurized container from the adulteration and misbranding provisions if the Food and Drug Administration (FDA) determines that the product provides a unique health benefit that would not be available without the use of a chlorofluorocarbon. These products are referred to in the regulation as essential uses of chlorofluorocarbon.

Under § 2.125(f), a person may petition the agency to request additions to the list of uses considered essential. To demonstrate that the use of chlorofluorocarbon is essential, the petition must be supported by an adequate showing that (1) there are no technically feasible alternatives to the use of a chlorofluorocarbon in the product, (2) the product provides a substantial health, environmental, or other public benefit unobtainable without use of the chlorofluorocarbon, and (3) the use does not involve a significant release of chlorofluorocarbons into the atmosphere or, if it does, the release is warranted by the benefit conveyed.

On June 7, 1978, Reed and Carnrick Pharmaceuticals submitted a petition under § 2.125(f) and Part 10 (21 CFR Part 10), requesting that § 2.125(e) be amended to include an intrarectal steriod foam product for human use intended for the treatment of ulcerative proctitis, as an essential use of chlorofluorocarbon. This petition is on file and may be seen in the office of the Hearing Clerk, FDA, at the address noted above. The petition contains a detailed discussion supporting the position that there is a lack of any technically feasible alternative to the use of chlorofluorocarbons in intrarectal steroid foams. It includes data showing that, due to their high specific gravity, only the chlorofluorocarbons can help retard sedimentation of the ingredient hydrocortisone acetate. Also, the petition states that the product provides a substantial health benefit that could not be obtainable without the use of chlorofluorocarbons. In this regard, the petition contains data showing that the product is effective as adjunctive therapy in the topical treatment of ulcerative proctitis of the distal portion of the rectum, and that this form of treatment is better tolerated by the patient because it does not provoke the tenesmus or urgency that often accompanies a fluid enema. The petition also asserts that the use of this product would not involve a significant release of chlorofluorocarbons into the atmosphere, because daily release of chlorofluorocarbons would approximate only 0.7 kilogram over the entire country.

The Commissioner tentatively agrees that the use of this product provides a special benefit for patients who cannot retain hydrocortisone or other corticosteroid enemas in the treatment of ulcerative proctitis and that this benefit would be unavailable without the use of chlorofluorccarbons. Therefore, the Commissioner proposes to amend § 2.125(e) to add intrarectal hydrocortisone acetate steroid foams for human use as an essential use.

December 15, 1978 is the date by which products manufactured or packaged must be in compliance with the March 17, 1978 final rule prohibiting the nonessential uses of chlorofluorocarbons as propellants in self-pressurized containers. The Commissioner recognizes that this rulemaking proceeding will not be completed by December. In this case, therefore, the Commissioner will permit the continued manufacture and packaging of hydrocortisone acetate steriod foams at least until the rulemaking action is completed. This is being done because the finding that intrarectal steroid foams for human use is an essential use of chlorofluorocarbons is likely, and to require cessation of manufacture in the interim would prematurely interrupt the availability of the product.

The potential environmental effects of this action have been carefully considered, and FDA has concluded that the action will not significantly affect the quality of the human environment. This action is one of a type for which the agency had determined that the preparation of an environmental impact statement is not required, except in rare and unusual circumstances (see 21 CFR 25.1(f)(1)(i)). Accordingly, the preparation of an environmental impact analysis report for this action is not required pursuant to 21 CFR 25.1(g).

Accordingly, under the Federal Food, Drug, and Cosmetic Act (secs. 301, 501, 502, 505, 701(a), 52 Stat. 1042-1043 as amended, 1049-1053 as amended, 1055 (21 U.S.C. 331, 351, 352, 355, 371(a))) and the National Environmental Policy Act of 1969 (sec. 102(2), 83 Stat. 853 (42 U.S.C. 4332)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 2 be amended in § 2.125 by adding new paragraph (e)(6), to read as follows:

§ 2.125 Use of chlorofluorocarbon propellants in self-pressurized containers.

* * * * *

(e) * * *

(6) Intrarectal hydrocortisone acetate steroid foams for human use.

* * * * *

Interested persons may, on or before January 8, 1979 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 22, 1978.

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

[FR Doc. 78-33958 Filed 12-7-78; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-78-902]

[24 CFR Parts 51, 200, 201, 221, 235, 250, 390, 445, 570, 590, 804, 805, 869, 870, 882, 886, 888, 1909, 1914, 1915, 1916, 1917, 1920]

CONGRESSIONAL WAIVER REQUEST ON PROPOSED, INTERIM AND FINAL RULES

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional waiver request under Section 7(o)(4) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes the Congress to review proposed and final HUD rules. The legislation, however, permits the Secretary to request waiver of these requirements in appropriate instances. This Notice lists and briefly summarizes for public information rules and types of rules for which the Secretary is presently requesting waivers.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Department of Housing and Urban Development, 451 7th Street, SW. Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the proposed, interim and final rules and examples of types of rules listed below. The purpose of the transmittal is to request waiver of the Congressional review requirements under Subsections 2 and 3 of Section 7(o) of the Department of HUD Act to permit the proposed rules listed below to be published forthwith, and to permit the interim and final rules listed below to take effect upon the effective date specified for [or applicable to] each. Unless waiver is granted, publication of the proposed rules and effectiveness of the final and interim rules will be delayed until passage of the requisite number of days of continuous session of Congress required by the respective Subsections. Without these waivers, HUD will not be able to act on these proposed, interim and final rules for several months.

Summaries of the proposed, interim and final rules for which waiver has been requested are set forth below:

24 CFR Part 51—Proposed Rule—Noise Abatement and Control

SUMMARY

This proposed regulation converts the existing noise policy to regulation format and makes revisions and improvements intended to make the policy more flexible and consistent with other Federal agencies' noise programs. Revisions from the current policy (1) bring into conformity, through the use of the day-night average sound level, separate standards and measurements for aircraft and non-aircraft noise; (2) afford Field Offices more flexibility in implementing the policy, thus reducing the number of cases having to come into the Region and Central Offices; (3) remove the dual exterior and interior standards, hence, if exterior noise levels are found to be acceptable, the interior noise will be considered acceptable using normal building techniques; and (4) allow easy use of already existing data, particularly from FHWA and DOD.

24 CFR Part 200—Final Rule—Revision No. 6a to Thermal Insulation Requirements of HUD Minimum Property Standards

SUMMARY

This final rule would increase the thermal insulation requirements for one-and two-family dwellings, with respect to both electric resistance and fossil fueled heating systems. The new requirements would be similar to the FmHA standards presently in effect, thus bringing HUD into conformity with the requirements of other agencies concerned with residential construction.

24 CFR Part 200—Final Rule—Minimum Property Standards Governing Use of Cellulosic Insulation

SUMMARY

This rule permits the conditional use of dry loose fill insulation in vertical wall cavities. The subject condition specifies a settling density of 3.5 lb./cu. ft. for installation of pneumatically installed (dry) loose fill insulation in wall cavities. According to our current standards, cellulosic insulation may be installed dry in horizontal locations such as attics, but it is not acceptable for walls because no standard for settling density has heretofore been established to assure that voids do not occur. It is now generally accepted that an installation density of 3.5 lb./cu. ft. is adequate to eliminate the problem of voids which would reduce the effectiveness of an installation's energy conservation qualities.

24 CFR Part 201—Final Rule—Maximum Maturity for Loans on Single-Wide Mobile Homes

SUMMARY

This regulation amendment would implement a statutory change from a prior year, increasing the maximum maturity period for loans on single-wide mobile homes.

24 CFR Part 201—Proposed Rule—Increase in Maturity Period for Loans on Double-Wide Mobile Homes

SUMMARY

This proposed regulation would implement the extended maturity periods for loans on double-wide mobile homes provided by the Congress in previous years' legislation.

24 CFR Part 221—Final Rule—Waiver of 1 Percent Assignment Fee on Bond Financed Projects

SUMMARY

This final rule amends 24 CFR Part 221 to provide for 100 percent insurance benefit payments upon assignment of a mortgage in situations where the permanent loan funds are provided by bond obligations of public agencies. The major effect of the amendment is to improve the credit rating of such obligations and to reduce the interest rates needed to market the obligations.

24 CFR Part 235—Final Rule—Mortgage Insurance and Assistance Payments for Home Ownership and Project Rehabilitation

SUMMARY

This final rule amends 24 CFR Part 235 to establish new loan servicing procedures needed to correct the situation where ineligible assistance payments have been made by mortgagees to mortgagors. The amendments serve to impose specific responsibilities upon mortgagees, since overpayments result from failure to mortgagees to obtain and apply current mortgagor income data.

24 CFR Part 250—Proposed Rule—Revised Procedures for State Agencies Coinsurance Program

SUMMARY

This proposed rule would change present regulations as follows:

1. Increasing the maximum percentage share that HUD will insure to the statutory maximum of 90 percent;

2. Allowing insurance to be written on a loan-by-loan basis in lieu of a portfolio of loans;

3. Removal of the deductible provisions;

4. Creation of a sliding scale for the mortgage insurance premiums; and

5. Removal of the requirement that at least 20 percent of the units in any project to be insured under the program have Section 8 Housing Assistance Payments. There appears to be no reason for distinguishing between this coinsurance program, and other HUD unsubsidized insurance or coinsurance programs which have no such requirements.

24 CFR PART 390—FINAL RULE INCREASE IN NET WORTH REQUIREMENTS FOR ISSUERS OF GNMA-GUARANTEED MORTGAGE-BACKED SECURITIES

SUMMARY

This final amendment would provide for increases in the minimum amount of net worth required for mortgage lenders that issue GNMA-Guaranteed Mortgage-Backed Securities. In addition, several sections of the regulations would be revised for purposes of clarification and simplicity, and certain technical changes of a minor nature would be made in the Mortgage-backed Securities Program.

24 CFR PART 390—PROPOSED RULE MODIFIED PASS-THROUGH SECURITIES PROGRAM FOR GRADUATED PAYMENT MORTGAGES

SUMMARY

This proposal would establish a new mortgage-backed securities program for the guaranty by GNMA of securities based on and backed by pools of Graduated Payment Mortgages (GPM's). GPM loans are single family mortgages whose monthly payments increase annually for a fixed number of years. Only GPM's that are insured by the Federal Housing Administration under Section 245 of the National Housing Act and that are scheduled to have increasing payments for a maximum of five years would be eligible for inclusion in GNMA pools.

24 CFR PART 445—PROPOSED RULE—APPLICATION OF PAYMENTS FOR 312 PROGRAM

SUMMARY

This proposed rule would change the method by which payments are credited under the 312 program. Currently payments from defaulted borrowers are applied first to principal and then to interest. This effectively reduces the interest rate from 3 percent to about 2⅛ percent. This rule would adopt the so-called "U.S. Rule" by which payments from defaulted borrowers are credited first to interest and then to principal.

24 CFR PART 570—INTERIM RULE—GRANTS FROM THE SECRETARY'S 3 PERCENT DISCRETIONARY FUND IN BEHALF OF NEW COMMUNITIES

SUMMARY

This interim rule would revise existing § 570.403 of the Community Development Block Grant (CDBG) Regulations governing grants in behalf of new communities from the Secretary's 3 Percent Discretionary Fund. It clarifies and makes technical changes to the existing regulations and incorporates new provisions reflecting changes in Departmental policy. It also integrates the CDBG and New Communities Programs more closely.

24 CFR PART 570—PROPOSED RULE—DEBARRED CONTRACTORS—CDBG

SUMMARY

These proposed regulations would preclude the use of block grant funds to employ, award contracts to, or otherwise engage the services of, any contractor who is debarred, suspended, or included in lists which make their participation in federally-assisted programs illegal.

24 CFR PART 590—FINAL RULE—URBAN HOMESTEADING

SUMMARY

The policies and procedures in this final rule are applicable to the approval of urban homesteading programs authorized by Title VIII, Section 810 of the Housing and Community Development Act of 1974, as amended. Under this rule, urban homesteading will be available as a community development tool to any State or unit of general local government that meets the statutory and regulatory program requirements. This regulation encourages Community Development Block Grant recipients to designate Neighborhood Strategy Areas as urban homesteading neighborhoods. It requires that HUD give priority to the use of its single family properties in approved urban homesteading neighborhoods. It requires that HUD give priority to the use of its single family properties in approved urban homesteading neighborhoods. Exceptions in this priority use of HUD's single family inventory may be made by the Assistant Secretary for Housing to meet an existing legal obligation of the Department, such as settlement of a sales warranty claim.

24 CFR PART 804—PROPOSED RULE—LOW INCOME HOUSING HOMEOWNERSHIP OPPORTUNITIES (TURNKEY III)

SUMMARY

This proposed rule would make several amendments to the program, chief of which are provision for operating subsidy for certain HUD approved expenses, and provision for purchase money financing.

24 CFR PART 805—PROPOSED RULE—INDIAN HOUSING PROGRAM (MISCELLANEOUS AMENDMENTS)

SUMMARY

This proposal would make 72 substantive changes in the Indian Housing Regulations, including the procedures for development of housing, provision of Indian enterprise preference in Indian Housing contracts, computation of required homebuyer payments, and payment of operating subsidy. These changes are mostly revisions of existing regulations to facilitate housing production and management.

24 CFR PART 869—PROPOSED RULE—EXTENSION OF THE ANNUAL CONTRIBUTIONS CONTRACT, PUBLIC HOUSING

SUMMARY

This proposed rule would permit extension of an ACC for a project whose ACC is nearing completion. This part, which provides for extensions up to 10 years, supplement the ACC extension feature involved in the recent HUD rule on 20 year modernization financing.

24 CFR PART 870—PROPOSED RULE—DEMOLITION OR DISPOSITION OF PUBLIC HOUSING

SUMMARY

This proposed rule sets forth policy, procedures and criteria for HUD review of requests by PHA's for authority to demolish structures or dispose of real property of a PHA-owned low income public housing project.

24 CFR PART 882—FINAL RULE—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM/EXISTING HOUSING, INDEPENDENT GROUP RESIDENCES AND MISCELLANEOUS AMENDMENTS

SUMMARY

This final rule would allow elderly, handicapped or disabled individuals to receive assistance while living in independent group residences where some supportive services are provided. This amendment is consistent with federal government policy to promote deinstitutionalization of the handicapped.

24 CFR PART 886—INTERIM RULE ADDITIONAL ASSISTANCE PROGRAM—FOR PROJECTS WITH HUD-INSURED OR HUD-HELD MORTGAGES

SUMMARY

This Interim Rule will remove the requirement that HUD inspect at least annually 100 percent of the units

under the Additional Assistance Program for Projects for HUD-Insured or HUD-Held Mortgages. The new requirement calls for inspections based on a reasonable sample, thereby bringing Section in line with the other programs, which permit inspection on a sample basis.

24 CFR PART 888—FINAL RULE—SECTION 8 CONTRACT RENT ANNUAL ADJUSTMENT FACTORS

SUMMARY

This rule adjusts contract rents for Section 8 Housing by updating the inflation factor.

24 CFR PART 888—INTERIM RULE—SECTION 8 CONTRACT RENT ANNUAL ADJUSTMENT FACTORS

SUMMARY

This rule adjusts contract rents for Section 8 Housing by providing certain cost saving procedures. Specifically, it provides that the annual adjustment factors in Schedule C shall be applied only to the operating portion of the rent which escalates in accordance with the market and shall not be applied to that portion of the rent representing nonescalating items such as depreciation, interest or amortization.

24 CFR PART 888—PROPOSED RULES—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS—NEW CONSTRUCTION AND VARIOUS LOCALITIES—SUBSTANTIAL REHABILITATION

SUMMARY

These proposed amendments would amend 24 CFR Part 888 to revise the Fair Market Rents (FMR) for the Section 8 New Construction and Substantial Rehabilitation Program in 17 market areas to reflect changes in economic and marketing conditions. The areas include 10 located in Oklahoma, 2 in California, 4 in Texas and New York City.

FEDERAL INSURANCE ADMINISTRATION WAIVER OF LEGISLATIVE REVIEW PROCEDURE

FLOOD INSURANCE PROGRAM

24 CFR	No. and Kind of Rules
1914.6 Community Eligibility.	Approx. 56 Communities (Final Rules)

Currently, between five to eight communities per week apply for eligibility to particpate in the Flood Insurance Program. Thus, from 35 to 56 communities are projected to participate in the next seven months. Typically, FIA gets very little or no advance notice from a community that it wishes to join the Program. In fact, the motivation to join is usually engendered by the happening of a flood disaster in a sanctioned community. As to such communities, which have been identified as flood-prone a year or more before the disaster, §§ 201(d) and 202 of P.L. 93-234 provide that no Federal disaster assistance may be made available by a Federal agency to the community and its citizens located in HUD-identified special flood hazard areas unless the community joins the Program and its citizens needing assistance purchase flood insurance. Thus, the review procedures of Section 7(o) of the Department of HUD Act put these communities and citizens in jeopardy. Disaster assistance cannot be provided unless the community joins the program. Yet that action could be precluded for many months by operation of Section 7(o).

1916 Map Rescissions	Approx 196 Communities (Final Rule)

An effective FIA Flood Insurance Rate Map or Flood Hazard Boundary Map must sometimes be withdrawn because the community is no longer flood prone, for example, because of newly completed flood protection structures. Unless FIA is able to withdraw the effective map, the community remains designated as flood prone, and property owners in the special flood hazard areas as shown on the map must purchase flood insurance as a condition of federally related assistance and will continue to be denied assistance in sanctioned communities. Presently, 196 communities' flood maps are awaiting withdrawal. Such withdrawal should be permitted to be made effective expeditiously. However, withdrawals could be seriously delayed by operation of Section 7(o) of the Department of HUD Act.

24 CFR	No. and Kind of Rules
1915.3 Mapping of Special Hazard Areas.	Approx. 905 Communities (Final Rule)

FIA is required by § 201 of P.L. 93-234 to publish Flood Hazard Boundary Maps which identify those areas of a community subject to special flood hazard. The maps are used by community officials to reduce future flood losses and by Federal agencies and Federally-regulated lending institutions to determine if flood insurance should be purchased as a condition of Federal or federally related assistance. FIA had expected to provide this information to 905 communities in the next six months but will be delayed in doing so if Sec. 7(o) must be complied with.

1916 Map Revisions.....	Approx. 77 Communities (Final Rule)

Effective FIA Flood Insurance Rate Maps and Flood Hazard Boundary Maps are revised to reflect changed flooding conditions, changed community boundaries, printing errors, availability of more detailed flooding information, etc. If map revision actions are stopped, inaccurate maps must be used to rate flood insurance policies, guide land-use planning and decisions, and determine if flood insurance is required as a condition of federally related assistance including mortgage loans from federally regulated lending institutions and Federal disaster relief. Delays resulting from compliance with Sec. 7(o) will necessitate protracted use of inaccurate maps.

1920 Letters of Map Amendment.	Approx. 528 Requests (Final Rule)

An individual whose property has been inadvertently included in the special flood hazard areas shown on FIA's Flood Insurance Rate Map may have the flood prone designation removed by a Letter of Map Amendment. When this action is not taken, the property would continue to be labeled flood prone and the property owner will have to purchase flood insurance as a condition of federally related assistance, including mortgage loans from federally-regulated lending institutions. We had expected to issue 528 letters of map amendment for individual property owners during the next six months but would be unable to do so under operation of Sec. 7(o).

1917 Proposed Flood Elevation Determinations.	Approx. 321 Communities (Proposed Rule)

The results of detailed flood insurance studies which are used to rate flood insurance policies and for flood plain management are published first in proposed form as required by section 1363 of Pub. L. 90-448. Without this statutory procedure additional flood insurance coverage cannot become available in the community at actuarial rates. Flood elevations were to be proposed for 321 communities but substantial delay in moving forward with these proposals would be caused by the need to comply with Sec. 7(o).

1917 Final Flood Elevation Determinations.	Approx. 700 Communities (Final Rule)

After the § 1363 statutory appeals period, the results of detailed flood insurance studies, modified if necessary, are made for use by community officials to reduce future flood losses and by insurance agents to rate policies at actuarial rates. This flood elevation data would not be available if this action were not taken. Final elevation determinations should be made for 700 communities during the next six months if the Congressional mandate, at section 1360(a)(2) of Pub. L. 90-448, is to be complied with in a timely manner (the Secretary is required to map and rate all of the Nation's flood prone areas by August 1, 1983). These determinations could be substantially delayed by the need to comply with Sec. 7(o).

1914.3 Conversion to Regular Program.	Approx. 345 Communities (Final Rule)

After a community has received a notice of final elevation determination pursuant to 24 CFR 1917.11, it has six months to enact flood plain management regulations to convert the community to the Regular Program. At the end of the six month period, the Flood Insurance Rate Map becomes effective, with actuarial rates and additional section layer flood insurance coverage being made available to the residents. It is projected that 345 communities will want to convert over the next six month period but could be presented from doing so by delays resulting from compliance with Sec. 7(o).

1917 Special Conversions.	Approx. 401 Communities (Final Rule)

A community participating in the National Flood Insurance Program which is found to have minimal or no flood hazards may be converted immediately to the Regular Program, thus making additional flood insurance coverage available to property owners. This benefit cannot be provided to communities and their citizens without this Part 1917 rulemaking. Presently, 401 communities are being considered for special conversions. However, issuance of determinations to make these conversions possible could be substantially delayed by the need to comply with Sec. 7(o).

1909.24 Suspension of Community Eligibility.	Approx. 56 Communities (Final Rule)

Of the more than 16,000 communities already in the Program, FIA estimates that six to eight communities per month are suspended for failure to adopt the applicable flood plain management requirements within the prescribed six month period. It is projected that 42 to 56 communities may be suspended within the next seven months. Timely issuance of suspensions is essential to program effectiveness. However, this activity could be substantially impeded by the need to comply with Sec. 7(o).

1914.6 Reinstatement of Suspended.	Approx. 40 Communities (Final Rule)

Approximately 75 percent of the suspended communities seek and are granted reinstatement into the Program. FIA projects some 40 communities will be substantially delayed by the need to comply with Sec. 7(o).

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535.0))

Issued at Washington, D.C., December 1, 1978.

PATRICIA ROBERTS HARRIS,
Secretary, Department of
Housing and Urban Development.

[FR Doc. 78-34116 Filed 12-7-78; 8:45 am]

[4210-01-M]

[24 CFR Parts 201, 203, 204, 207, 220, 232, 234, 250, 340, 803, 865, 882, 888]

[Docket No. N-78-903]

CONGRESSIONAL WAIVER REQUEST ON PROPOSED, INTERIM AND FINAL RULES

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional waiver request under Section 7(o)(4) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes the Congress to review proposed and final HUD rules. The legislation, however, permits the Secretary to request waiver of these requirements in appropriate instances. This Notice lists and briefly summarizes for public information rules for which the Secretary is presently requesting waivers.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Rm. 5218, Dept. of HUD, 451 7th St. Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION:

Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of the Senate Banking, Housing and Urban Affairs Committee and Minority Members of the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the proposed, interim and final rules listed below. The purpose of the transmittal is to request waiver of the Congressional review requirements under Subsections 2 and 3 of Section 7(o) of the Department of HUD Act to permit the proposed rules listed below to be published forthwith, and to permit the interim and final rules listed below to take effect upon the effective date specified for (or applicable to) each. Unless waiver is granted publication of the proposed rules and effectiveness of the final and interim rules will be delayed until passage of the requisite number of days of continuous session of Congress required by the respective Subsections. Without these waivers, HUD will not be able to act on these proposed, interim and final rules for several months.

Summaries of the proposed, interim and final rules for which waiver has been requested are set forth below:

24 CFR PART 340.15—FINAL RULE—INCREASE IN GNMA MORTGAGE PURCHASE LIMITS

SUMMARY

This final rule would implement the increased GNMA mortgage purchase limits contained in the Housing and Community Development Amendments of 1978. Prior to the change, the mortgage amount limit was $33,000 per unit "or such higher amount not in excess of $38,000 as the Secretary may by regulation specify in any geographical area where he finds that cost levels so require * * *."

As amended by the 1978 act, the law now provides for the following limits: Single-family residence—$55,000; two- and three-family residences—$60,000; four-family residence—$68,750; and for more than four family structures, the limit is $38,000 per unit "or such higher amount not in excess of $45,000 as the Secretary may be regulation specify in any geographical area where the Secretary finds that cost levels so require".

PROPOSED RULE—24 CFR 882, SECTION 8 EXISTING HOUSING—SPECIAL PROCEDURES FOR THE MODERATE REHABILITATION PROGRAM

SUMMARY

This proposed rule would amend 24 CFR Part 882 by establishing policies and procedures for a moderate rehabilitation program in the Section 8 Existing Housing program. The amendments would provide for (1) upgrading of existing housing units to meet Housing Quality Standards; or (2) for the repair of existing units to prevent the imminent failure of major building systems or components, e.g. heating, plumbing. Upon completion of the rehabilitation in accordance with specified requirements in the Agreement, the PHA will enter into a Housing Assistance Payment Contract with the owner.

24 CFR PARTS 803 AND 888—PROPOSED RULES—SECTION 23 AND 8, HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS—EXISTING HOUSING

SUMMARY

These proposed amendments would amend 24 CFR Parts 803 and 888 to revise the Fair Market Rents (FMR) for the Sections 23 and 8 Housing Assistance Payments Program for Existing Housing in a number of market areas to reflect changes in economic and marketing conditions. Areas are in New York, West Virginia, Pennsylvania, Ohio, Illinois, Iowa, Kansas, North Dakota, Utah and South Dakota.

24 CFR PART 865—PROPOSED RULE—TENANT ALLOWANCE FOR UTILITIES IN LOW-INCOME HOUSING

SUMMARY

This proposed rule, amending 24 CFR Part 865, establishes the level at which utility allowances are to be set for residents of public housing. As such, a standard as to the "reasonable quantities of utilities" will be included in the gross rents which are subject to the statutory limitation on rents set forth in the United States Housing Act of 1937, as amended, and in 24 CFR 860.405. This regulation also serves to support national energy conservation goals, by requiring that utilities consumed directly by public housing tenants be individually metered to the extent benefit/cost analyses indicated such action to be practicable.

24 CFR PART 865, SUBPARTS C AND D—PROPOSED RULE—INDIVIDUAL UTILITY METERING

SUMMARY

These proposed rules amending 24 CFR Part 865, establish a requirement that public housing agencies conduct energy audits to determine which, of all possible energy conservation measures applicable to individual public housing projects, are most cost-effective and that, subject to availability of funding, such measures be undertaken in the order established by the estimated pay-back period. They also modify 24 CFR Part 865, Subpart D, which requires individual metering of utilities where practicable, to the extent necessary to give cognizance to the new energy audit requirement.

24 CFR PART 203—INTERIM RULE—HOME MORTGAGE ASSIGNMENT PROGRAM

SUMMARY

This interim rule would amend 24 CFR Part 203 by revising the criteria for determining whether or not a mortgage is eligible for assignment to the Secretary. Additionally, the amendments revise conditions under which the Secretary may waive certain eligibility criteria.

24 CFR PARTS 201, 203, 204, 207, 220, 232, 234 AND 250—FINAL RULE—LATE CHARGES ON PAYMENTS DUE FROM INSURED LENDING INSTITUTIONS AND MORTGAGEES

SUMMARY

These final rules would amend 24 CFR Parts 201, 203, 204, 207, 220, 232, 234 and 250 by imposing a late charge penalty on (1) insured lenders who fail to meet deadlines for insurance charges to be paid to the Commissioner for property improvement, mobile home loans and other programs under Title I; (2) mortgagees failing to render within prescribed deadlines application fees, commitment extension fees and mortgage insurance premiums in connection with mortgages insured by the FHA; and (3) mortgagees failing to render mortgage insurance premiums within specified deadlines for a multifamily housing project, nursing homes, hospital, group practice facility or Title X land development project.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535.0).)

Issued at Washington, D.C., December 1, 1978.

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

[FR Doc. 78-34117 Filed 12-7-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 1022-5; PP7E1996/P89]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Aldicarb

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This notice proposes that a tolerance be established for residues of the insecticide aldicarb on pecans. The proposal was submitted by the Interregional Research Project No. 4. This amendment to the regulations would establish a maximum permissible level for residues of aldicarb on pecans.

DATE: Comments must be received on or before January 8, 1979.

ADDRESS COMMENTS TO: Federal Register Section, Program Support Division (TS-757) Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA (202/755-2516).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Alabama, Georgia, Mississippi, and South Carolina, has submitted a pesticide petition (PP 7E1996) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.269 be amended by the establishment of a tolerance for combined residues of the insecticide aldicarb (2-methyl-2-(methylthio)propionaldehyde-*O*-(methylcarbamoyl)oxime) and its cholinesterase-inhibiting metabolites 2-methyl-1-(methylsulfinyl)propionaldehyde *O*-(methylcarbamoyl)oxime and 2-methyl-2-(methylsulfonyl)-propionaldehyde *O*-(methylcarbamoyl)oxime in or on the raw agricultural commodity pecans at 0.5 part per million (ppm). The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rat acute oral toxicity study with a lethal dose (LD_{50}) of 0.6 milligram (mg)/kilogram (kg) of body weight (bw); a two-year rat feeding study with a no-observable-effect-level (NOEL) of 0.3 mg/kg bw; an 18-month mouse feeding study with an NOEL of 0.7 mg/kg bw (both the rat and mouse feeding studies showed no carcinogenic effects); a two-year dog feeding study with an NOEL of 3.3 ppm; a three-generation rat reproduction study with an NOEL of 0.7 mg/kg bw; a rat dominant lethal test negative at 0.7 mg/kg bw; a rat teratology study, negative at 1 mg/kg bw/day; and a hen neurotoxicity study, negative at 4.5 mg/kg bw/day. An acceptable daily intake (ADI) of 0.180 mg/day has been calculated using the rat NOEL of 0.3 mg/kg bw/day and a 100-fold safety factor. Based on previously established tolerances for residues of aldicarb established on a variety of raw agricultural commodities at levels ranging from 1 ppm to 0.002 ppm, the theoretical maximal residue contribution (TMRC) to the human diet is 0.1 mg/day. The proposed tolerance on pecans would add less than 0.2 percent to the TMRC.

There is no reasonable expectation of residues in eggs, meat, milk, or poultry since the commodity pecans is not considered a feed item. The nature of the residue is adequately understood, and an adequate analytical method (flame photometric gas chromatography) is available for enforcement purposes. The data submitted in accordance with the FEDERAL REGISTER notice of September 29, 1977 (42 FR 51640) *Requirement for Certain Pesticide Registrants and Applicants for Registration to Submit Analyses of Pesticides for N-nitoroso contaminants* indicate that there is little likelihood of nitrosamine contamination in aldicarb formulations. No desirable

data in support of the proposed tolerance are lacking, nor are any other considerations involved in establishing the tolerance, nor are there any actions currently pending against continued registration of aldicarb.

The pesticide is considered useful for the purpose for which a tolerance is being sought, and it is concluded that the tolerance of 0.5 ppm established by amending 40 CFR 180.269 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before January 8, 1979, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP7E1996/P89". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: December 1, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Sect. 408(e), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(e)).)

It is proposed that Part 180, Subpart C, § 180.269 be amended by alphabetically inserting pecans at 0.5 ppm in the table to read to follows:

§ 180.269 **Aldicarb: tolerances for residues.**

* * * * *

Commodity:	*Parts per million*
* * * * * *	
Pecans	0.5
* * * * * *	

[FR Doc. 78-34227 Filed 12-7-78; 8:45 am]

[3510-03-M]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 251]

SUBSIDIZED VESSELS AND OPERATORS; CONSTRUCTION-DIFFERENTIAL SUBSIDY

Standard Contract Forms

AGENCY: Maritime Administration, Commerce.

ACTION: Notice of availability and request for comment on proposed regulation.

SUMMARY: The Maritime Subsidy Board (the Board) proposes to adopt standard forms for the contracts which are subject to its approval in awarding construction-differential subsidy (CDS). The CDS program is authorized by Title V of the Merchant Marine Act, 1936, as amended (the Act), 46 U.S.C. 1151-1161. Each of the proposed standard contract forms contains general provisions. These provisions include requirements that are consistent with and implement Title V of the Act. Copies of these forms are being made available for review and comment. The standard contract forms, as finally adopted, will be used in the administration of the CDS program.

COMMENT DATE: Written comments by interested persons must be received by close of business February 6, 1979.

ADDRESS: Copies of the proposed standard contract forms may be obtained from, and comments should be addressed to, the Secretary, Maritime Administration, Washington, D.C. 20230. Copies of the standard contract forms and all comments will be made available for inspection during normal business hours in room 3099-B, Department of Commerce Building.

FOR FURTHER INFORMATION CONTACT:

Melvin S. Eck, Maritime Adminstration, Office of the General Counsel, Washington, D.C. 20230, Tel. (202) 377-2771.

SUPPLEMENTARY INFORMATION: The adoption of standard contract forms will assure a basic uniformity in CDS contractual arrangements. The practice of routinely considering proposals to modify standard contract provisions will be terminated. By achieving this basic uniformity in contractual arrangements, the Board intends and expects to reduce shipbuilding and related costs, and thereby effect monetary savings in carrying out the CDS program. A determination has been made that the standard contract forms do not meet any of the criteria requiring the preparation of a regulatory analysis that have been established by the Maritime Administration pursuant to EO 12044 (43 FR 12661, March 24, 1978).

Accordingly, it is proposed that 46 CFR Part 251 be amended to include three standard contract forms.

(Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Reorganization Plans No. 21 of 1950 (64 Stat. 1273), and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1036); and Department of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).)

Dated: December 4, 1978.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-34361 Filed 12-7-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-335; RM-2709]

PROGRAM DEFINITIONS FOR COMMERCIAL BROADCAST STATIONS BY ADDING A NEW PROGRAM TYPE, "COMMUNITY SERVICE" PROGRAM AND EXPANDING THE "PUBLIC AFFAIRS" PROGRAM CATEGORY AND OTHER RELATED MATTERS

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding concerning the possible creation of a new, sustaining, program category, "Community Service" programs, and the enlargement of the definition of public affairs programming to include dramatizations produced on a sustaining basis. Petitioner, National Organization for Women, states that the additional time is needed so that it can prepare well researched comments.

DATES: Comments must be filed on or before January 27, 1979, and reply comments must be filed on or before February 28, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: December 1, 1978.

Released: December 5, 1978.

In the matter of amendment of Commission rules concerning program definitions for Commercial Broadcast Stations by adding a New Program Type, "Community Service" Program and Expanding the "Public Affairs" Program Category and other related matters, BC Docket No. 78-335, RM-2709.

1. On October 5, 1978, the Commission adopted a *Memorandum Opinion and Order and Notice of Inquiry*, 43 F.R. 50002, concerning the above-entitled proceeding. The present dates for filing comments and reply comments are December 26, 1978, and January 25, 1979, respectively.

2. A Motion for Extension of Time was filed by the counsel for the National Organization for Women requesting an extension of time for filing comments and reply comments to and including February 24, and March 26, 1979, respectively. Counsel states that because the comment due dates fall during the middle of the Hannukah-Christmas-New Year holiday season, public interest groups, including the National Organization for Women, are placed at a significant disadvantage because most such groups depend on volunteers for research assistance. He states further that public interest and other non-industry groups have been called upon to respond to a wide variety of other Commission proposals which are vitally important and which will take a considerable amount of time to make an adequate response. For these reasons counsel asserts that additional time is necessary in order to prepare equally well-researched comments in this inquiry.

3. On the basis of the reasons contained in the above-mentioned request for extension of time, we are persuaded that some additional time is warranted in order to assure development of a sound and comprehensive record on which to base a final decision in this proceeding. We believe that 30 days is sufficient for the filing of comments. Since other interested parties may wish additional time to respond to these comments, we shall extend the reply comment date the same amount of time.

4. *Accordingly, it is ordered*, That the request for extension of time filed by the National Organization for Women, is granted to the extent that the dates for filing comments and reply comments are extended to and including January 27, and February 28, 1979, and is denied in all other respects.

5. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

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

[FR Doc. 78-34290 Filed 12-7-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1001]

[Ex Parte No. 360]

GENERAL RULES AND REGULATIONS

Inspection of Records

DECEMBER 5, 1978.

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This notice requests public comment on whether the Interstate Commerce Commission should adopt regulations to govern the processing of Freedom of Information Act requests for documents which contain commercial information furnished to the Commission by private business firms.

DATES: Written comments should be submitted on or before January 22, 1979.

ADDRESSES: An original of any comments and 15 copies, if possible, should be sent to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Wayne M. Senville, Tel: (202) 275-1684.

SUPPLEMENTARY INFORMATION: The Commission does not now have regulations specifically dealing with the processing of Freedom of Information Act (FOIA) requests for documents which contain commercial information furnished to the agency by private business firms. The Commission's current practice when we receive an FOIA request for such documents is to inform the firm of the request and give it an opportunity to explain how disclosure might be harmful.

If the firm does not object to disclosure, the documents are promptly released. However, where the affected firm protests and the Commission is persuaded that disclosure would likely result in substantial competitive harm to the business involved, the documents may be withheld under 5 U.S.C. 552(b)(4). On the other hand, if the Commission finds the showing of potential harm to be insufficient, we may release the documents after giving the firm several days advance notice.

Although the Commission is not aware of any problems that have arisen under its present practice, the Committee on Government Operations of the United States House of Representatives has suggested that all government agencies reevaluate their current handling of FOIA requests for business information.

The Committee's analysis and recommendations are contained in H. Rep. No. 95-1382, 95th Cong. 2d Sess., "Freedom of Information Act Requests for Business Data and Reverse-FOIA Lawsuits." (Copies of the report, dated July 20, 1978, may be requested from the House Committee on Government Operations.) The Committee's basic recommendation is that agencies promulgate regulations to govern the handling of FOIA requests for business information. Such regulations are considered necessary because of judicial acceptance of "reverse-FOIA" lawsuits. Reverse-FOIA cases arise when a firm that has provided sensitive business information to an agency seeks injunctive relief to prevent release of the information to an FOIA requester. Naturally, if the agency has already released the information to the requester it is too late for a firm to seek an injunction. Because the FOIA itself makes no provision for notifying a submitter of business information that the agency is about to release that information, some uncertainty as to an agency's obligations has resulted. Many agencies, including the Commission, currently follow an informal practice of giving advance notice of disclosure to the submitter, to permit an application to a court for injunctive relief. Other agencies, especially those handling a high volume of FOIA requests for business data, have already adopted formal rules providing for advance notice.

Because the Committee recognizes that each agency may face different considerations in processing FOIA requests for business information, and because we would like to learn what problems, if any, both submitters of information to the Commission and FOIA requesters face, we are seeking comments before proposing any rules.

While the Commission invites public comment on any relevant matter, we are especially interested in response to the following questions raised by the Government Operations Committee's report:

1. Should the Commission adopt regulations to provide submitters of business information with formal notice whenever the Commission receives an FOIA request involving documents they have submitted?

2. When an FOIA request is received, should the Commission: (a) require a written statement from the

submitter explaining why any documents should be withheld; or (b) rely exclusively on informal communications with the submitter?

3. With respect to the preceding question, should the Commission also consider the views of the FOIA requestor on why the documents should be disclosed?

4. If the Commission determines that documents should be disclosed, should there be a provision for administrative appeal?

5. Should submitters of business information be required to identify what information they consider confidential at the time the information is first provided to the Commission? If so, should the submitter also be required to justify the claim of confidentiality at that time; and should information not marked confidential be automatically made available to the public upon request?

6. Should the Commission, if requested by the submitter, make advance determinations of confidentiality either prior to or just after submission of the business information? If so, what effect should an initial finding of confidentiality have on subsequently received FOIA requests?

7. Are there any categories of business data for which the drafting of substantive disclosure rules might be helpful?

Dated November 29, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.
Secretary.

[FR Doc. 78-34364 Filed 12-7-78; 8:45 am]

[7035-01-M]

[49 CFR Part 1249]

[No. 37002]

REVISION OF QUARTERLY REPORT FORM QFR, AND ELIMINATION OF REQUIREMENT TO FILE BY CLASS I CONTRACT CARRIERS AND ALL NON-INSTRUCTION 27 CLASS II MOTOR CARRIERS OF PROPERTY

Proposed Rule

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission proposes to revise the Quarterly Report of Results of Operations (Form QFR) prescribed for Class I and II motor carriers of property subject to the Interstate Commerce Act. The proposed revisions would simplify the reporting form and relieve many carriers from the requirement that they file quarterly reports. These carriers would, however, be required to retain these accounting records in order to file their annual reports with the Commission.

Certain Class II carriers would still have to file Form QFR. Those deriving an average of 75 percent or more of their operating revenues from the intercity transportation of general commodities ("Instruction 27" carriers) would still have to file quarterly reports. We are also inclined to favor the retention, for the time being at least, of the quarterly reporting requirement for Class II household goods carriers. The revised order would be effective with the quarterly report period beginning January 1, 1979.

This notice is being published in summary form in order to conserve paper and to reduce printing costs. Persons wishing a complete copy of the notice of proposed rulemaking, which includes copies of the proposed revision of Form QFR, may obtain them from the Commission by calling the Office of the Secretary using the special toll-free telephone number listed below.

DATES: Comments are due in the Commission on or before January 22, 1979.

ADDRESSES: Send comments to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

For Copies of This Notice Including Proposed Changes To Form QFR: 800-424-5403.

For Other Information About The Proposal Call:

James H. Bayne, Tel. 202-275-733.

SUPPLEMENTARY INFORMATION: The present quarterly report of results of operation (QFR) contains three different parts. One part is submitted by household goods carriers, another by carriers conducting general freight operations, and the third by those carriers with a combination of operations. We would like to eliminate the need to send different sets of forms to different carriers, and instead to sent the same form to all carriers, regardless of class or other criteria. The new report form will consist of 11 pages. All carriers required to file the quarterly report will receive pages 1-7, while pages 8-11 of this revised form will be sent to only household goods carriers. Certain information required on pages 1-7 will not have to be submitted by all carriers subject to quarterly reporting requirements. For example, page 7 would apply only to Class I motor carriers of property, and pages 5 and 6 would have to be completed only by the "Instruction 27" carriers, as defined in 49 CFR 1207, Definitions.

As part of our review of the need and usefulness of our reporting requirements, we plan to eliminate the filing requirement of Form QFR by Class I contract carriers and by those Class II carriers that are not subject to instruction 27 (that is, those that do not derive an average of 75 percent or more of their operating revenues from the intercity transportation of general commodities). Our desire to eliminate the filing of these reports by certain carriers is based on the fact that these reports are used only to a limited extent. By eliminating these reports, we would reduce the expense of collecting and processing, as well as help small businesses by relaxing reporting requirements. We find that 642 Class I contract carriers and 2,390 Class II common carriers would be relieved from filing the quarterly reports. We estimate annual savings of 49,500 hours to the carriers and 688 hours to the Commission.

The Commission has directed its staff to review its needs for cost and other information pertinent to the disposition of requests for general rate increases filed by motor carriers of household goods. It is anticipated that a proceeding will be instituted soon looking toward the development of procedures and establishing data requirements that would have to be met by the household goods carriers in requesting general rate increases. Until this issue can be resolved, we do not anticipate relieving Class II household goods carriers from the requirement that they file Form QFR. However, we have not reached a definite conclusion on this question, and will welcome any comments on this subject from interested persons.

It is ordered:

A proceeding is instituted to consider adoption of a revised quarterly report Form QFR and for the purpose of making any other changes which the facts and circumstances may justify and require.

All Class I and Class II motor carriers of property subject to Part II of the Interstate Commerce Act are made respondents in this proceeding.

No oral hearing will be scheduled for the receiving of testimony in this proceeding unless a need should later appear, but respondents or any other interested party may participate in this proceeding by submitting for consideration written statements of fact, views and arguments on the subjects mentioned, or any other subjects appropriate to this proceeding.

Interested persons wishing to submit written statements of fact, views and arguments should file an original (and, if possible, 11 copies) of such represen-

tations with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before January 22, 1978. All statements will be considered as evidence and as part of the record in the proceeding.

Materials and suggestions submitted shall be made available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. during regular business hours.

Statutory notice of this proceeding shall be given to all respondents and to the general public by mailing a copy of this order to the Governor of every State having jurisdiction over transportation, by posting a copy of this order in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by delivering a copy to the Director, Division of the Federal Register as notice to all interested persons.

This notice is issued under the authority of 204 and 220 of the Interstate Commerce Act, 49 U.S.C. 304 and 320.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioner Brown, Commissioner Stafford, Commissioner Gresham and Commissioner Clapp.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-34194 Filed 12-7-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

[10 CFR Part 211]

REQUEST FOR INTERPRETATION

AGENCY: Office of General Counsel, Department of Energy.

ACTION: Notice of Public Hearing.

SUMMARY: Notice is hereby given that, pursuant to 10 CFR Part 205, Subparts F and M, the Office of General Counsel of the Department of Energy (DOE) will hold a hearing in connection with its consideration of a request for interpretation submitted by Richard L. Robinson. The request for interpretation concerns the applicability of the provisions of 10 CFR 210.62 (the "normal business practices rule") to the commissions paid by suppliers of propane to consignee agents who qualify as wholesale purchaser-resellers under 10 CFR 211.51. In view of the impact that an interpretation in this matter would have on both suppliers and certain wholesale purchaser-resellers, the DOE will hold a public hearing and solicit written comments from any party who believes it may be affected by a decision on this request for interpretation.

DATES: Comments by January 10, 1979; Requests to speak by December 13, 1978, 4:30 p.m.; Hearing date: December 20, 1978, 9:30 a.m.

ADDRESSES: Send comments and requests to speak to: Office of Public Hearing Management, Box WJ, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

HEARING LOCATION: Room 3000A, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearings Procedures), Economic Regulatory Administration, Room 2214B, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-5201.

Alexander P. Haig (Office of General Counsel), Department of Energy, Room 7134, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 633-8814.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to 10 CFR 211.51, a firm which obtains an allocated product by consignment and transfers it to a purchaser without substantially changing its form may qualify as a wholesale purchaser-reseller. This position is clarified by Ruling 1975-8, 40 FR 30037 (July 17, 1975), whch discusses the manner in which firms receiving allocated products pursuant to consignment agreements may qualify as wholesale purchaser-resellers as that term is defined in § 211.51. These consignees frequently receive payment from their suppliers through commission schedules based on volumes of product delivered to purchasers. The significance of the wholesale purchaser-reseller status for these consignees is that it entitles them to a continued supply of allocated product from their base period suppliers.

Mr. Robinson in his request for interpretation states that he is a propane distributor who receives his product on consignment from his supplier. Based on the particular facts of his case, Mr. Robinson asserts that he qualifies as a wholesale purchaser-reseller under § 211.51 and Ruling 1975-8. However, since 1974, Mr. Robinson has been operating under an amended commission schedule which he maintains provides insufficient income for conducting his business. He therefore seeks an interpretation that the method by which his commission is computed under the amended commission schedule constitutes a deviation from normal business practices in effect during the base period and consequently violates the normal business practices rule in § 210.62.

In addition to Mr. Robinson's request, we have received 11 other requests for interpretation from distributors who raise similar issues. In these cases, for each gallon of product delivered by the consignee there is a fixed commission that the consignees assert fails to account for any increased nonproduct costs or inflation.

In light of this situation and the effects it has on both the wholesale purchaser-resellers who receive their allocated products on a consignment basis and their suppliers, we are soliciting comments and convening a hearing for the purpose of determining the extent to which this situation exists within the industry. For example, we would be interested in obtaining information on the various methods by which commissions are computed by other suppliers, and data regarding the extent to which operating costs of consignees have risen with respect to adjustment to commission schedules. In addition, further details are sought with respect to the operational aspects of the relationships between the suppliers, the wholesale purchaser-resellers (who receive product on consignment), and the end-users who purchase the allocated product.

II. Hearing and Comment Procedures

A public hearing on the matters discussed in this Notice will begin at 9:30 a.m. on December 20, 1978, in Room 3000A, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461. Any person who has an interest in this proceeding, or who is a representative of a group or class of persons that has an interest in this proceeding, may make a written request for an opportunity to make an oral presentation. Requests to speak should be directed to the Office of Public Hearing Management, Box WJ, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, and must be received before 4:30 p.m. on December 13, 1978. They may be hand-delivered between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Label the request, both on the document and on the envelope, "Comments on Robinson Request for Interpretation."

A request to speak should include a brief description of the interest to be represented, and it should include a summary of the proposed oral presentation. In addition, the request to speak should contain a phone number where a representative may be contacted through December 15, 1978. Each person who is selected to be heard will be notified before 4:30 p.m., local time, December 15, 1978. Fifty (50) copies of the statement to be presented must be submitted to Public Hearing Management, Box WJ, Room

2313, 2000 M Street, NW., Washington, D.C. 20461, before 4:30 p.m. on December 19, 1978.

We reserve the right to select the persons to be heard at the public hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. We may limit the length of each presentation, based on the number of persons requesting to be heard.

An official of the DOE will be designated to preside at the hearing. However, it will not be an adjudicatory of evidentiary hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. Rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. The presiding officer will determine whether the question is relevant and whether it should be presented in view of the time limitations. The presiding officer will announce any further procedural rules needed for the proper conduct of the hearing. A transcript of the hearing will be made, and be available for inspection at the Freedom of Information Office, Forrestal Building, Room GA 152, 1000 Independence Ave., SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A copy of the transcript may also be purchased from the reporter.

Interested persons are also invited to submit written comments with respect to this matter to the above address for Public Hearing Management. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Comments on Robinson Request for Interpretation." Fifteen (15) copies should be submitted. All comments and related information should be received by DOE by January 10, 1979, in order to ensure consideration.

Any information or data considered by the person to be confidential must be so identified and submitted in one written copy. Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. The DOE reserves the right to determine the confidential status of the information or data and to treat that material accordingly.

Issued in Washington, D.C. December 5, 1978.

EVERARD A. MARSEGLIA, Jr.,
Acting Assistant General Counsel for Interpretations and Rulings.

[FR Doc. 78-34529 Filed 12-7-78; 11:15 am]

notices

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

[3410-02-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FRESH NECTARINES GROWN IN CALIFORNIA; FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Order Directing That a Referendum Be Conducted; Determination of Representative Period for Voter Eligibility; and Designation of Referendum Agents To Conduct the Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a referendum be conducted among growers of nectarines, fresh pears, plums, and peaches grown in California to determine whether they favor continuance of the marketing agreement and order programs.

DATES: Referendum period January 27 through February 11, 1979.

ADDRESSES: See information contained in supplementary information.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader; 202-447-6393.

SUPPLEMENTARY INFORMATION: Pursuant to §§ 916.64(e) and 917.61(e), respectively, of the marketing agreements, as amended, and Order Nos. 916 and 917, as amended (7 CFR Parts 916 and 917), and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby directed that a referendum be conducted within the period January 27, 1979, through February 11, 1979, among the growers who, during the period March 1, 1978, through December 31, 1978 (which period is hereby determined to be a representative period for the purposes of such referendum), were engaged, in the State of California, in the production of any fruit covered by the said amended marketing agreements and orders for market in fresh form to ascertain whether continuance of the said amended marketing orders as to such fruit is favored by the growers. Said §§ 916.64(e) and 917.61(e), respectively, specify that such a referendum shall be held within the period December 1, 1974, through February 15, 1975, and within the same period of every fourth fiscal period thereafter, to ascertain whether continuance is favored by the growers.

W. B. Blackburn and G. P. Muck, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, 2424 Arden Way, Suite 65, P.O. Box 255507, Sacramento, California 95825, are hereby designated as referendum agents of the Secretary of Agriculture to conduct said referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended" (7 CFR 900.400 *et seq.*).

Copies of the texts of the aforesaid amended marketing orders may be examined in the office of the referendum agents or of the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Ballots to be cast in the referendum may be obtained from the referendum agents and from their appointees.

Dated: December 4, 1978.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc. 78-34276 Filed 12-7-78; 8:45 am]

[3410-02-M]

Federal Grain Inspection Service

OFFICIAL AGENCY DESIGNATION

Cancellation of the O. S. Smith Grain Inspection—Official Designation of the D. L. Boltenhouse Grain Inspection—Proposal of Geographic Areas

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the canncellation of designation of the O. S. Smith Grain Inspection, Bellevue, Ohio and also announces the designation of the D. L. Boltenhouse Grain Inspection, Bellevue, Ohio, owned by Mr. Dennis L. Boltenhouse, as an official agency to perform grain inspection services under the U.S. Grain Standards Act, as amended, effective September 25, 1978. This notice also proposes a geographic area within which the agency will operate.

DATE: Comments by January 8, 1979.

FOR ADDTIONAL INFORMATION CONTACT:

Edith A. Christensen, Federal Grain Inspection Service, Compliance Division, Delegation and Designation Branch, 201 14th Street, SW., Room 2405, Auditors Building, Washington, D.C. 20250, (202) 447-8525.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (hereinafter the "Act"), has been amended to extensively modify the official grain inspection system. Pursuant to Section 7 and 7A of the Act (7 U.S.C. 79 and 79a), the Administrator of the Federal Grain Inspection Service (FGIS) has the authority to designate any State or local governmental agency, or any person, as an official agency for the conduct of all or specified functions involved in official inspection (other than appeal inspection), weighing, and supervision of weighing of grain at locations where the Administrator determines there is a need for such services. Such designation shall terminate triennially (7 U.S.C. 79(g)(1) and 79a(c)).

On August 7, 1978, a notice was published in the FEDERAL REGISTER (43 FR 34827-34828) announcing that (1) the O. S. Smith Grain Inspection, Bellevue, Ohio, requested that its designation as an official inspection agency be transferred effective June 1, 1978, to Mr. Dennis L. Boltenhouse, a licensed inspector from the Columbus Grain Inspection, Columbus, Ohio. (2) Mr. Boltenhouse applied for designation in accordance with Section 7(f)(1) of the Act (7 U.S.C. 79(f)(1)) to operate as an official agency at Bellevue, Ohio, to be known as the D. L. Boltenhouse Grain Inspection. (3) The D. L. Boltenhouse Grain Inspection was given an interim designation as the official agency at Bellevue, Ohio, effective June 1, 1978.

Interested persons were given until September 6, 1978, to submit written views and comments with respect to the requested transfer of designation and/or to apply for designation to operate as an official agency at Bellevue, Ohio. No comments were received regarding the August 7, 1978, notice. No additional applications were received,

other than the application from Mr. Boltenhouse.

The FGIS has conducted the required investigation of the D. L. Boltenhouse Grain Inspection, which included an onsite review of the inspection point at Bellevue.

NOTE.—Section 7(f)(2) of the Act (7 U.S.C. 79(f)(2)) generally provides that not more that one official agency shall be operative at one time for any geographic area as determined by the Administrator.

As a result of this investigation and after due consideration of the request for transfer, the D. L. Boltenhouse Grain Inspection owned by Mr. Dennis L. Boltenhouse was selected for designation under the Act to perform official inspection functions (other than appeal inspection), not including official weighing. The designation of the O. S. Smith Grain Inspection was cancelled effective June 1, 1978.

In order to continue orderly inspection services at Bellevue, Ohio, the D. L. Boltenhouse Grain Inspection was given an interim designation effective June 1, 1978. A document designating the D. L. Boltenhouse Grain Inspection as an official agency was signed on September 25, 1978. Said designation also included an interim assignment of geographic area within which the official agency shall officially inspect grain. The geographic area assigned on in interim basis to the D. L. Boltenhouse Grain Inspection pending final determination in this matter is:

Bound on the North by: The Ottawa-Sandusky line from State Route 590 east of Lake Erie: the Lake Erie shoreline east to the Ohio-Pennsylvania State line;

Bound on the East by: The Ohio-Pennsylvania State line south to State Route 154;

Bound on the South by: State Route 154 west to Lisbon, Ohio; U.S. Route 30 west to Bucyrus, Ohio;

Bound on the West by: State Route 19 north to Seneca County; west on the Seneca-Crawford County and Seneca-Wyandot County lines to State Route 53; State Route 53 north to Sandusky County; the southern Sandusky County line west to State Route 590; State Route 590 north to Ottawa County.

Interested persons may obtain a map of the proposed geographic area from the Compliance Division, Delegation and Designation Branch.

The specified service point of the D. L. Boltenhouse Grain Inspection is Central Soya, Goodrich Road, Bellevue, Ohio 44811, which is located within the agency's proposed geographic area. A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of all or specified official inspection functions and where the agency or one or more of its licensed inspectors is located. A service location for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspection functions other than official grading where no licensed inspector is located. The designation document provides for the inclusion of additional specified service points and service locations which may be established in the future, within the agency's assigned geographic area.

Publication of this notice does not preclude future amendment of this designation, consistent with the provisions and objectives of the Act.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to the D. L. Boltenhouse Grain Inspection. All views or comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, 201 14th Street, SW., Room 2405, Auditors Building, Washington, D.C. 20250. All materials submitted should be mailed to the Director not later than January 8, 1979. All materials submitted will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geogrpahic area is made.

(Sec. 4, Pub. L. 94-582, 90 Stat. 2868 (7 U.S.C. 75a); sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note))

Done in Washington, D.C. on December 1, 1978.

L. E. BARTELT,
Administrator.

[FR Doc. 78-34301 Filed 12-7-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 32872]

BRANIFF AIRWAYS, INC. V. TEXAS INTERNATIONAL AIRLINES, INC.

Postponement of Enforcement Proceeding Hearing

The hearing in this proceeding previously scheduled to be held on December 20, 1978 (43 FR 55270, dated November 27, 1978) is postponed until further notice or action by the judge otherwise disposing of the matter.

Dated at Washington, D.C., December 1, 1978.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc. 78-34289 Filed 12-7-78; 8:45 am]

[6320-01-M]

[Agreement CAB 2698, R-41, etc.; Docket No. 25280, etc.; Order 78-11-146]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Conditions of Carriage—Cargo

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of November 1978.

In Order 78-8-10, August 3, 1978. We approved (some conditionally) and disapproved provisions in two IATA [1] resolutions (Resolutions 600(b) and 600(j)) restating the conditions of carriage of cargo to appear on the back and face of cargo air waybills. On October 4, 1978, IATA filed a motion for clarification and/or stay of some provisions of Order 78-8-10. Inasmuch as the air waybills now in use bear the conditions of carriage approved by Order E-3230, 10 CAB 783 (1949), IATA requests a stay of the disapproval of Order E-3230 to allow the carriers lead time to prepare, print and circulate new air waybills.[2] IATA requests a period of fifteen months on the grounds: (1) That IATA Traffic Conferences must review and declare effective the conditions of carriage as approved, conditioned and disapproved by Order 78-8-10; (2) that there is a printing lead time because of the limited number of specialized printers; and (3) that time is required to effect distribution of the new air waybills. Additionally, IATA requests clarification of changes designated to meet the objections to those provisions which were approved conditionally or disapproved.

We think a period of six months should be sufficient for the carriers to use up the existing stock of air waybills, and to order and distribute the new air waybills. The conditions of carriage now in use are based on the Board's approval in 1949, and the effectiveness of the new conditions of carriage approved by Order 78-8-10 should not be unduly delayed. Moreover, more than two months have already passed since we adopted Order 78-8-10. We shall, therefore, stay for a period of six months our disapproval of Resolutions 600(b) (Version I) and Resolution 600(j) (Version I).

Order 78-8-10 attached conditions to the approval of Articles (1)2(b), (1)6 and (1) 14 of Resolution 600(j). IATA accepts the condition to Article (1)2(b) to the effect that approval is not to be construed as Board approval, either express or implied, of the provisions of any of the carriers' filed tariffs. IATA

[1] International Air Transport Association.

[2] The disapproval of Order E-3230 means that there is no support for the conditions of carriage on the waybills now in use.

also accepts deletion of the phrase "or any other person" in Article (1) 14. Article (1)6 provides that in determining a carrier's monetary liability for loss, damage or delay of part of a shipment, the weight to be taken into account shall be only the weight of the package or packages concerned. We conditioned our approval of this provision to provide that the chargeable weight of the part or parts shall be taken into account.[3] IATA states that this condition may create disparate treatment between shippers, as well as provide opportunities for claim disputes. As we stated in Order 78-8-10, chargeable weight is the weight used to assess transportation charges as distinguished from the actual weight of the shipment. Thus, in the case of light but bulky commodities, the carriers base their charges on an assumed higher weight to compensate for the space occupied. We do not doubt that disparities will result when an assumed, rather than actual, weight is used to assess charges; but the shipper who pays the transportation charges based on an assumed higher weight should be covered by such higher weight, rather than the lesser actual weight, so long as the carrier bases its monetary liability on the weight of the package or packages. As a matter of fact, domestic cargo carriers base their liability on the chargeable weight, and we are not aware of any problems in this regard. We believe that the equities lie in favor of the shipper, and therefore we affirm our holding in Order 78-8-10.

Order 78-8-10 disapprove Articles (1)8, (1)9, (1)11 and (1)13(c). IATA accepts disapproval of Article (1)3, dealing with the agency relationship where the carrier cuts its own air waybill. Turning to Article (1)9 which would permit substitute service, IATA now proposes to add the phrase "subject to carrier's applicable tariffs." In disapproving this article, we stated that the substitute service as proposed was unduly broad because it would permit trucking between U.S. points not authorized in currently effective air services agreements. The addition of the phrase "subject to carrier's applicable tariffs" is meaningless, inasmuch as all the conditions of carriage are subject to applicable tariffs. IATA itself recognizes that our approval of Article (1)2(b), *supra*, was expressly subject to the condition that approval is not to be construed as approval of any of the filed tariffs. The phrase "subject to carrier's applicable tariffs" does not reach the fundamental fault of Article (1)9.

[3] We also provided that the weight of the package as a whole, and not the individual piece or article within the package, should be taken into account.

We diapprove Article (1)11 [4] on the grounds that: (1) The carriers have interpreted this provision to require the shipper to pay transportation charges even when the carrier has failed to carry out its contract to deliver the shipment; and (2) it would make the shipper liable even when the carrier extends credit to the consignee without the express consent of the shipper. To meet the first objection, IATA now proposes to add the phrase "subject to the rights of shipper arising from Carrier's failure to perform the transportation." This additional phrase adds nothing of substance. The point is that the carriers require the shipper to first pay the transportation charges before they will even entertain a claim for failure to deliver the entire shipment; i.e. even before they will consider any rights of the shipper arising from the carrier's failure to perform. Shippers rightly complain that they should not be required to pay transportation charges before the carrier will consider any claim for loss of the entire shipment. In the *Liability Rules* case, Order 76-3-139, page 42, we found a similar domestic rule unlawful. We stated that the rule should affirmatively provide:

> When the consignee receives no part of the shipment, a claim with respect to such shipment will be entertained even though transportation charges thereon are unpaid.

To meet the second objection to Article (1)11, IATA proposes to add the phrase "Provided that the shipper or the consignee shall not be held liable for such charges *where the carrier has agreed* to hold the consignee or shipper solely liable respectively." We believe the words "where the carrier has agreed" is ambiguous and would create controversy. There may be circumstances when a shipper or consignee could reasonably assume, in the absence of any writing, that the carrier has impliedly agreed to hold one of the parties solely liable. For instance, when the carrier extends credit to the consignee without the express consent of the shipper, is this to be interpreted as an agreement on the part of the carrier to hold the consignee solely responsible? The proposed revisions to Article (1)11 fail to overcome the objections.

IATA agrees to adopt the Warsaw provision respecting the two-year statute of limitations embraced in Article (1)13(c). This accords with the view we expressed in Order 78-8-10.

IATA's filing of October 4, 1978, requires us to act only on its request for a stay to allow the carriers lead time to use up its existing stock of air waybills and to prepare, print and circulate the new air waybills containing the conditions of carriage of cargo as approved by Order 78-8-10. We shall grant a stay of six months duration, and except for unusual circumstances, we are not disposed to grant any further extensions.

Accordingly,

We grant a stay ordering paragraphs (1) and (6) of Order 78-8-10 for a period of six months from the date of service of this order, until June 5, 1979.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLISS T. KAYLOR, [5]
Secretary.

(FR Doc. 78-34288 Filed 12-7-78; 8:45 am)

[4] Article (1)11 in pertinent part provides that "shipper guarantees payment of all charges for carriage."

[5] All Members concurred.

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

BROOKHAVEN NATIONAL LABORATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00345. Applicant: Brookhaven National Laboratory, Upton, N.Y. 11793. Article: 2 (ea.) Monochromator crystals. Manufacturer: Cristal Tec, France. Intended use of article: The article is intended to be used in a research program involving the study of the properties of solids using neutrons from the Brookhaven High Flux Beam Reactor. The neutrons emerge from the pile with a smooth distribution of energies and by employing suitably oriented single crystals, called monochromators, neutrons of a single energy may be selected from the pile spectrum. These monoenergetic neutrons are then used in the study of the properties of solids. The CU_2MnAl crystal also can be used to polarize the neutron beam so that the spins of the neutrons selected are aligned as well as being monoenergetic.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equiva-

lent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for producing single energy neutrons. The National Bureau of Standards advises in its memorandum dated October 26, 1978 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34261 Filed 12-7-78; 8:45 am]

[3510-25-M]

CORNELL UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

DOCKET NUMBER: 78-00289. APPLICANT: Cornell University, 161 Day Hall, Ithaca, N.Y. 14853. ARTICLE: Scanning Transmission Electron Microscope, Model HB5 and accessories. MANUFACTURER: Vacuum Generators, United Kingdom. INTENDED USE OF ARTICLE: The article is intended to be used for the study of polymeric resists, silicon based and compound semiconductor structures, superconductors (niobium, lead), insulators (oxides) and structures at the submicrometer scale. The phenomena to be investigated will include chemical and electronic structure at spatial structures at patterns down to 5Å and interaction of electrons with materials as preparatory to electron beam lithography.

COMMENTS: No comments have been received with respect to this application.

DECISION: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. REASONS: The foreign article provides for operation in the scanning transmission electron microscope mode up to an accelerating voltage of 100 kilovolts with a guaranteed line resolution of 2.04 Angstroms. The National Bureau of Standards advises in its memorandum dated October 20, 1978 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34262 Filed 12-7-78; 8:45 am]

[3510-25-M]

NATIONAL BUREAU OF STANDARDS

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00267. Applicant: National Bureau of Standards, Washington, D.C. 20234. Article: Scanning Auger Electron Microscope, Model HB50A and Accessories. Manufacturer: Vacuum Generators, United Kingdom. Intended use of article: The article is intended to be used to study the surface topography of a variety of microscopic objects, i.e., fibers and particulates, such as asbestos fibers, carbon fibers, glass fibers, nylon fibers, and similar objects; and fly ash particulates, other air polluting particulates, industrially significant particulates such as cement powders, soot, fertilizers magnesium smoke, etc. Experiments to be conducted are: measurement of surface topography and size parameters of the micro-objects listed above, characterizing these parameters statistically, and relating the values of the measured properties to the function or effect of the micro-objects. Material which is known to produce certain effects will be measured and characterized in an attempt to provide a detailed understanding of the relationship between parameter and function.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is a scanning auger electron microscope which provides a guaranteed resolution of 45.5 Angstroms. The Department of Health, Education, and Welfare advises in its memorandum dated September 26, 1978 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34263 Filed 12-7-78; 8:45 am]

[3510-25-M]

NATIONAL CANCER INSTITUTE, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 78-00392. Applicant: National Cancer Institute, NIH, Building 10, Room 2A29, 9000 Rockville Pike, Bethesda, Md. 20902. Article: Electron Microscope, Model EM 400 HMG, High Magnification Goniometer and accessories. Manufacturer: Philips Electronics Instruments NVB, The Netherlands. Intended use of article: The article is intended to be used for the examination of plastic sections of tissue, and tissue culture pellets, negative stained specimens of virus preparations and of monolayers of biological molecules. Membrane receptor molecules, virus DNA molecules, chromatin structure will be investigated to: (1) Compare malignant cells, virus-infected cells, and their normal counterparts with regard to antibody and lectin binding; (2) study chromatin changes due to hyperacetylating by chemicals; and (3) study DNA molecules of various viruses for further characterization of viruses and their mutants.

Application received by Commissioner of Customs: August 28, 1978.

Docket No. 78-00403. Applicant: Stanford University, 851 Welch Road, Palo Alto, Calif. 94304. Article: Electron Microscope, Model EM 400 with HMG and Accessories. Manufacturer: Philips Electronics Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used for the studies of the following materials:

(i) Niobium-tin, niobium-germanium and related compounds for superconducting properties;

(ii) Piezoelectric polymers for various electronic applications;

(iii) Extruded and highly worked metals to understand mechanisms of deformation;

(iv) Examination of the structure of amorphous materials;

(v) Tungsten-titanium carbide, extremely hard ceramics for tool cutting;

(vi) Silicon, gallium-arsenide and other epitaxial deposits for semiconductor devices.

The objective of the research is to correlate the properties of materials such as the above with their structure (arrangement of atoms) and microstructure (arrangement of defects). By finding the manner in which structure and microstructure influence materials properties, one can understand the fundamentals of particular behavior and proceed to modify the material and to obtain the optimum combination of properties. Application received by Commissioner of Customs: August 31, 1978.

Docket No. 78-00422. Applicant: University of California, Davis, School of Veterinary Medicine, Davis, Calif. 95616. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. The article is intended to be used for ultrastructural studies of animal tissues and morphological investigations of animal virus structures. The most important projects for which the article is to be used as an essential investigative tool are:

I. Pulmonary effects of environmental oxidant pollutants.

II. Ultrasturctural characterization of animal viruses.

III. Ultrastructural pathology of the musculoskeletal system.

IV. Trypanosomiasis.

V. Abortion in cattle and sheep.

VI. Procedures for rapid viral diagnosis.

VII. Special post mortem diagnostic procedures.

VIII. Effects of beta/lysins and cationic proteins on morphology of bacteria. Undergraduate, graduate and professional (veterinary) students in the following courses will use the article during laboratory exercises and for examining specimens.

1. Anatomy 205—Ultramicroscopic Anatomy.

2. Pathology 282—Tumor Pathology.

3. Pathology 299—Research in Veterinary Pathology.

4. Veterinary Microbiology 128—Biology of Animal Viruses.

5. Veterinary Microbiology 130—Animal Virology Laboratory.

6. Veterinary Microbiology 299—Research.

7. Veterinary Medicine 150B—Agents of Disease and Host Responses.

Article ordered: August 18, 1978.

Docket No.: 78-00429. Applicant: Purdue University ADMS Building, West Lafayette, Ind. 47907. Article: Electron Microscope, Model JEM 100CX and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to do diagnostic virology. The research is directed toward three main areas: Nervous system, skeletal system, and the heart. The main direction of the research involving the nervous system consists of the prenatal development of neuroblasts and their processes and a study of gangliosidosis in the dog. The second main area of research involving the nervous system is directed to the characterization of a gangliosidosis of dogs as a model for better understanding of a similar disease of man. A continuing study of the skeletal system of animals, particularly the portion directed toward the understanding of the development of secondary centers of ossification will be conducted. The article will also be used for the study of the response of heart muscle to deficiency disease. Article ordered: June 13, 1978.

Docket No.: 78-00430. Applicant: University of Florida, Institute of Food and Agricultural Sciences, McCarty Hall, Department of Microbiology, Gainesville, Fla. 32611. Article: Electron Microscope, Model JEM-100CX, standard side entry type and accessories. Manufacturer: JEOL Ltd., Japan. The article is intended to be used to examine and analyze biological materials ranging from naked DNA to viruses to bacteria to single-celled eucaryotes to whole organisms. Ultrastructure of the development and subcellular organelles in the above-listed biological materials will be done. In addition, the article will be used in the courses MCS 653, Election Microscope Techniques and MCS 655 EM Cytochemistry to give students thorough training in EM techniques so that they may use the article in their dissertation research. Article ordered: June 28, 1978.

Docket No.: 78-00431. Applicant: New York University Medical School, 550 First Avenue, New York, N.Y. 10016. Article: Electron Microscope, Model JEM-100S and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of cultured cells of the animal nervous system including clonal lines with neuronal properties. Various types of cells from animal tumors will be studied as well as biopsy specimens from the human and animal nervous system. The experiments to be conducted will involve studying the organization of subcellular fibrous organelles and their alterations during the development and aging process as well as the changes which they might undergo in neoplastic transformation. Attempts will be made to experimentally alter the distributions and connections of these organelles. Other studies will be done to monitor the subcellular fractionation and purification of both fibrous organelles and membranes from tissues as a correlate to biochemical studies. In addition, the article will be used to instruct graduate students, students in the M.D.-Ph.D. program and postdoctoral fellows in the basic techniques of electron microscopy and their application to the study of drug mechanisms of actons and drug effects on living systems. Article ordered: April 18, 1978.

Docket No. 78-00440. Applicant: The Regents of the University of California, Irvine, Calif., California College of Medicine, Irvine, Calif. 92717. Article: Electron Microscope, Model EM-400 and accessories.

Manufacturer: Philips Electronic Instruments, NVD, The Netherlands. In-

tended use of article: The article is intended to be used to examine tissues at low, intermediate, and high magnification, to examine freeze-etch replicas of biological membranes and tissue sections at various magnifications, for various applications of histochemical procedures from low to high magnification, to examine thick specimens, to examine stereo pairs of membranes and various tissues with both freeze-etch and thin section preparations, and to apply analytical electron microscopy to various tissue systems. Examples of the research projects include:

(1) Diabetic angiopathy and neovascularization.

(2) Identity of nascent capillaries.

(3) Investigation of localization of ^{125}I-insulin on purified plasma membrane preparations.

(4) Investigation of stereo pairs of biological materials.

(5) Studies of the endocrine pancreas in streptozotocin-induced diabetic mice.

The article will also be used in an electron microscope course being designed for graduate students and research fellows. In this course, the techniques and applications of EM will be heavily emphasized, and an independent EM project will be expected. Article ordered: July 31, 1978.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the time the articles were ordered. Reasons: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument of apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34264 Filed 12-7-78; 8:45 am]

[3510-25-M]

NATIONAL INSTITUTES OF HEALTH, ET AL.

Applications for Duty Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the articles is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before December 28, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comment.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 79-00037. Applicant: National Institutes of Health NIAMDD/LEP, 9000 Rockville Pike, Building 4, Room 312, Bethesda, Maryland 20014. Article: Electron Microscope, Model EM 400 HMG with high magnification goniometer and accessories. Manufacturer: Philips Electronics Instrument NVD, The Netherlands. Intended use of article: The article is intended to be used in the electron microscope study of intracellular junctions, which provide a barrier to the passage of antigenetically active molecules between cells, and in their chemical characterization, both on intact isolated cells, and in isolated plasma membranes; both in freeze fracture and in negatively stained preparation to learn more about the generation of several immune diseases in man. Application received by Commissioner of Customs: November 3, 1978.

Docket No. 79-00045. Applicant: University of Oklahoma, Purchasing Office, 660 Parrington Oval, Room 321, Norman, Oklahoma 73019. Article: Electron Microscope, Model EM 10A and accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for research programs involving viruses, bacteria, plant and animal tissue and algae. Essentially, all these studies are morphological in nature, i.e. to elucidate ultrastructural morphology. The morphological information being observed will concern the natural state of the specimen. Consequently, any "experiments" will be an attempt to retain the natural state of the specimen. The article will be used primarily in conjunction with the course "Cytology Ultrastructure" with emphasis given to the ultrastructural morphology of cellular organelles and their functional significance. It is a descriptive survey of bacterial, plant, and animal cells. Students will be familiarized with the design and function of both the scanning and transmission electron microscope and the attendant specimen preparation techniques. Application received by Commissioner of Customs: November 3, 1978.

Docket No. 79-00051. Applicant: National Cancer Institutes—National Institutes of Health, Building 10, Rm. 2A10, Ultrastructural Pathology Section, Laboratory of Pathology, Bethseda, Maryland 20014. Article: LKB 2128-010/Ultrotome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare biological materials, including human tumor tissues and tissue cultures derived therefrom for electron microscopic examination. Investigations will include diagnosis of human tumors from biopsy specimens, as well as ultrastructural studies on normal and pathologic human tissues, developmental studies on human tumors in vitro, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at tissue-substrate interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in the course entitled Ultrastructural Pathology which involves a study of general principles and techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: November 9, 1978.

Docket No. 79-00052. Applicant: Columbia University Health Sciences, College of Physicians and Surgeons, at Presbyterian Hospital in the City of New York, 622 West 168th Street, New York, N.Y. 10032. Article: Ultrasonic

Imaging System. Manufacturer: Ausonics Pty. Limited, Australia. Intended use of article: The article is intended to be used in research to evaluate the unique characteristics of this article, compound water delay scanning, as a means for ultrasonic imaging various parts of the body. Comparisons with alternative techniques will be carried out. Specific experiments to be conducted will be an evaluation of compound water delay ultrasonic imaging of neonatal brain in comparison to computed x-ray tomography imaging. Also, an evaluation of the effectiveness of this instrument for diagnosis of congenital anomalies of the fetus in utero will be carried out. A third objective is evaluation of the efficacy of ultrasonic water delay imaging of the breast in comparison to x-ray mammography for purposes of diagnosis of breast cancer. In addition, educational activities will include education of physicians at the undergraduate as well as the graduate level. Application received by Commissioner of Customs: November 13, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34269 Filed 12-7-78; 8:45 am]

[3510-25-M]

NATIONAL RADIO ASTRONOMY OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 78-00347. Applicant: National Radio Astronomy Observatory, P.O. Box 0, 1000 Bullock Boulevard NW., Socorro, N. Mex. 87801. Article: (3,000 each) TE01 model circular waveguide and (3,000 each) coupling sleeves. Manufacturer: Sumitomo Electric Industries, Japan. Intended use of article: The articles are intended to be used as part of the Very Large Array radio telescope to transmit radio wavelength radiation received from extraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study the sources of energy, origin, and evolution of the universe.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. REASONS: The foreign articles which are custommade provide (1) No loss of signal strength over long transmission paths (21 kilometers), (2) transmission of wide signal bandwidths (40 GHz), and (3) very low signal distortion (VSWR). The National Bureau of Standards (NBS) advises in its memorandum dated November 7, 1978 that the capabilities of the articles described above are pertinent to the applicant's intended use. NBS also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as the articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34265 Filed 12-7-78; 8:45 am]

[3510-25-M]

SANDIA LABORATORIES

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-fee entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 78-00371. Applicant: Sandia Laboratories, 1515 Eubank Boulevard SE., Albuquerque, N. Mex. 87123. Article: Imacon 675/51 Ultra Fast Camera System and Accessories. Manufacturer: John Hadland Photonics, Ltd., United Kingdom. Intended use of article: The article is intended to be used for conducting experiments which include continuing laser oscillator development studies, the iodine laser development program and laser produced plastarget interaction studies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket Numbers 77-00291 and 78-00190 which were denied without prejudice to resubmission on December 9, 1977 and June 26, 1978 respectively for informational deficiencies. the foreign article provides framing capability at rates from 7.5×10^7 to 6×10^8 frames/sec. The most closely comparable domestic instrument, the General Engineering and Applied Research Model Pico V streak camera does not provide framing capability. the National Bureau of Standards (NBS) advises in its memorandum dated November 13, 1978 that the capability of the article described above is pertinent to the applicant's intended uses. NBS also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended uses.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34266 Filed 12-7-78; 8:45 am]

[3510-25-M]

SUNY—STONY BROOK

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Con-

stitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 78-00332. Applicant: State University of New York, Department of Materials Science and Engineering, Stony Brook, N.Y. 11794. Article: ESCA 3 MK II high resolution electron spectrometer. Manufacturer: Vacuum Generators, United Kingdom. Intended use of article: The article is intended to be used in the UPS mode to carry out valence band studies of metallic systems, and in the XPS mode to study the core states of surface oxides and metals. The article will be the principle research tool in our current program of surface alloying by ion implantation (a program to be extended to laser treatment). In the study of metastable alloys the concern is with d-band filling during alloying, and the subsequent effect this has upon water vapor and gas adsorption phenomena as a first stage in corrosion and oxidation.

Subsequent studies upon the developed oxide layers will be carried out using SPS and argon ion etching in order to determine oxidation state data (chemical shift) and the nature of the emitter environment, through well resolved F.W.H.M. values of the main spectral lines. The article will be used in the courses ESM 599 and 699 by graduate students pursuing original experimental research for the M.S. and Ph.D. in material science.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article combines an x-ray monochromator, an ultraviolet monochromator, a scanning auger spectrometer, and a secondary ion mass spectrometer. The National Bureau of Standards advises in its memorandum dated October 19, 1978 that (1) the combination of capabilities of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerece knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34267 Filed 12-7-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF NORTH CAROLINA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00350. Applicant: University of North Carolina, Department of Pathology, 411 Preclinical Educational Building, 228H, Chapel Hill, N.C. 27514. Article: LKB 14800-3 Cryokit and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studying the subcellular localization of heavy metals and the subcellular binding sites of various kinase antigens which may be affected by these metals in the brain, muscles, peripheral nerves, kidneys and livers of experimental animals. The article will also be used to instruct a limited number of postdoctoral and graduate students in ultracryomicrotomy when their research requires this technique.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The application relates to an accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated October 19, 1978 that it knows of no domestic instrument of equivalent scientific value to the article for its intended uses.

The Department of Commerce knows of no other similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34268 Filed 12-7-78; 8:45]

[3510-25-M]

UNIVERSITY OF OREGON AND UNIVERSITY OF CALIFORNIA

Consolidated Decision on Applications for Duty-Free Entry of Rotating Anode X-Ray Generators

The following is a consolidated decision on applications for duty-free entry of rotating anode X-ray generators pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W. Washington, D.C. 20230.

Docket No. 78-00365. Applicant: University of Oregon, Inst. of Molecular Biology, Eugene, Oreg. 97403. Article: Rotating Anode X-ray Diffraction Generator, Model GX-21 and accessories. Manufacturer: Marconi-Elliott Avionics Ltd., United Kingdom. Intended use of article: The article is intended to be used to determine the three-dimensional structure of large biological molecules (proteins). The article will also be used in the training of five postdoctoral fellows in the group conducting this research. Application received by Commissioner of Customs: August 1, 1978. Advice submitted by the Department of Health, Education, and Welfare on: November 7, 1978.

Docket No. 78-00367. Applicant: University of California, Department of Chemistry, 405 Hilgard Avenue, Los Angeles, Calif. 90024. Article: Elliott GX-21, Rotating Anode X-ray generator and accessories. Manufacturer: Marconi-Elliott Avionics, Ltd., United Kingdom. Intended use of article: The article is intended to be used as a source of X-rays for investigations of the source of matter using diffraction techniques. The majority of the specimens will be crystalline and noncrys-

talline specimens of biological origin, with the emphasis being on single crystal X-ray diffraction. Some work will be done on single crystals of small molecules and on gases adsorbed onto solid supports. A significant portion of the research to be performed on this instrument will be performed by graduate and postdoctoral trainees who are learning to perform X-ray diffraction experiments while participating in fundamental research. For a very small fraction of the time, the instrument may be used for a laboratory course in diffraction methods. Application received by Commissioner of Customs: August 1, 1978. Advice submitted by the Department of Health, Education, and Welfare on: November 7, 1978.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each foreign article provides a focused spot of minimal size equal to or better than 0.2 mm x .2 mm and a rotating target for maximum X-ray power. The Department of Health, Education, and Welfare (HEW) advised in its respectively cited memoranda that the capabilities cited above are pertinent to the purposes for which each of the foreign articles is intended to be used. HEW also advised that it knows of no domestic instrument of equivalent scientific value to any of the articles to which the foregoing applications relate for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34270 Filed 12-7-78; 8:45 am]

[3510-25-M]

UNIVERSITY OF UTAH

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 78-00326. Applicant: University of Utah, Purchasing Department, Salt Lake City, Utah, 84112. Article: Model DD-250 Laser with 3 Flow Meter Gas Mixer and Grating. Manufacturer: Gen Tec Inc., Canada. Intended use of article: The article is intended to be used to conduct research in the field of chemical applications of infrared lasers with the intent of understanding the mechanisms of the fundamental processes that occur. Several systems of simple molecules will be studied (such as: ethylene, C_2H_4; acetonitrile, CH_3CN; methanol, CH_3OH; sulfur hexafluoride, SF_6) as to their interaction with a very intense infrared laser field. The dissociation process will be investigated by studying the fragments with regard to the kinetics of their formation as well as their energy content. The article will also be used for educational purposes in the course Physical Chemistry Lab, CH 574, in which students will be introduced to the equipment and techniques associated with physical chemistry.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket Number 78-00143 which was denied without prejudice to resubmission on June 16, 1978 for informational deficiencies. The foreign article provides a very high repetition rate on the order of at least 200 pulses per second. The National Bureau of Standards advises in its memorandum dated October 20, 1978 that (1) the specification of the article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34271 Filed 12-7-78; 8:45 am]

[3510-18-M]

Office of the Secretary

LABOR ADVISORY SUBCOMMITTEE AND ACADEMIC ADVISORY SUBCOMMITTEE

Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the Labor Advisory Subcommittee, and the Academic Advisory Subcommittee will each hold a series of public meetings between December 15, 1978 and March 1, 1979.

The first public meeting of the Labor Advisory Subcommittee will take place on December 15, 1978, Room 4832, Main Commerce Building, Washington, D.C., from 10:00 a.m. until 5:00 p.m.

The first public meeting of the Academic Advisory Subcommittee will take place on January 26, 1979, Room 6302, Main Commerce Building, Washington, D.C., from 10:00 a.m. until 5:00 p.m.

Both the Labor and Academic subcommittees were established to review the work of the five industrial advisory subcommittees that are associates with the five policy areas:

1. Economic and Trade Policy.
2. Environment, Health, and Safety Regulations.
3. Federal Procurement and Direct Support of R&D.
4. Patent and Information Policy.
5. Regulation of Industry Structure and Competition.

In addition to this review, these two subcommittees can generate their own recommendations for policy options in all five policy areas.

The work plan for the Domestic Policy Review on Industrial Innovation contains deadlines that require the subcommittees to begin their work as quickly as possible. Emergency circumstances have prevented us from giving at least 15 days advanced notice of the meeting of the Labor subcommittee, scheduled for December 15, 1978. This meeting date could not be set until the subcommittee was organized, which occurred on December 1, 1978. In addition to this notice we expect to publish in the FEDERAL REGISTER notices supplementary to this one specifying the time and place of future meetings of these two subcommittees.

The agenda for each of these meetings is:

1. Refine the scope of work.
2. Discuss the views and orientation of the subcommittee members.
3. Allocate review responsibilities among members.
4. Develop the format of the final report.

The meetings will be open to public observation. A limited number of seats will be available to the public and press on a first-come, first-serve basis.

Copies of minutes and materials distributed will be made available for reproduction, following certification by the Subcommittee chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Department of Commerce Central Reference and Records Inspection Facility, Washington, D.C. 20230.

Further information may be obtained from Mr. John R. Heizer, Room 3868A, U.S. Department of Commerce, Washington, D.C. telephone 202-377-5905.

Dated: December 6, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-34422 Filed 12-7-78; 8:45 am]

[3510-25—M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

REPUBLIC OF CHINA

Further Increasing Import Restraint Levels for Certain Cotton Textile Products

DECEMBER 6, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the level of restraint applicable to certain cotton textile products in Category 340 (men's and boys' shirts, not knit), produced or manufactured in the Republic of China and exported to the United States during the agreement year which began on January 1, 1978. (A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 342), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773) and September 5, 1978 (43 FR 39408).)

SUMMARY: Paragraph 8(a)(iii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, between the Governments of the United States and the Republic of China, provides for carryforward, i.e., the borrowing of a prescribed percentage of yardage from the succeeding agreement year's level, with such amount to be deducted from the affected level in the succeeding year. The Government of the Republic of China has requested the application of carryforward to the current-year level for Category 340.

EFFECTIVE DATE: December 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On June 16, 1978, a letter dated June 15, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (43 FR 26102), which established the levels of restraint applicable to certain specific categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of China, and exported to the United States during the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level of restraint established for Category 340 to the designated amount.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 6, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury, Washington, D.C. 20229.

DEAR MR. COMMISSIONER: On June 15, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in certain specific categories, produced or manufactured in the Republic of China and exported to the United States during the agreement year which began on January 1, 1978, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, between the Government of the United States and the Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on December 6, 1978, the level of restraint previously established for Category 340 to the following:

Category	*Amended Twelve-Month Level of Restraint*[2]
340	660,794 dozen

[2]The level of restraint has not been adjusted to reflect any imports after December 31, 1977.

The action taken with respect to the Government of the Republic of China and with respect to imports of cotton textile products from the Republic of China has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such action, 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,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-34285 Filed 12-7-78; 8:45 am]

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[1]The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, between the Governments of the United States and the Republic of China which provide, in part, that: (1) Within the aggregate and group limits, specific ceilings may be exceeded by designated percentages; (2) these same levels may be increased for carryforward up to 7.15 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Proposed Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletions from Procurement List.

SUMMARY: The Committee has received proposals to delete from Procurement List 1979 commodities produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 10, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703) 557-1145

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following commodities from Procurement List 1979, November 15, 1978 (43 FR 53151):

Class 7520

Arch Board File, 7520-00-191-1074, 7520-00-281-4845, 7520-00-281-4848.
Clipboard File, 7520-00-274-5496, 7520-00-281-5892.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-34278 Filed 12-7-78; 8:45 am]

[6820-33-M]

PROCUREMENT LIST 1979

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1979 a commodity to be produced by and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: December 8, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 28, 1978 and July 14, 1978, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (43 FR 32851 and 43 FR 30330) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the commodity and the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodity and services are hereby added to Procurement List 1979:

Class 7210

Pillow, Bed (Feather), 7210-01-015-5190, 96,000 each will be furnished annually, by the National Industries for the Blind.

SIC 7349

Janitorial/Custodial, Naval Air Station, Buildings 22 and 220, Whidbey Island, Oak Harbor, Washington.

OSI Building 5025 and the Social Actions Building 3509, Fairchild Air Force Base, Spokane, Washington.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-34279 Filed 12-7-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 78-5]

FRANZUS CO., INC., ET AL.

Consumer Product Safety Act; Publication of Complaint

Under provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR 1025), the Commission must publish in the FEDERAL REGISTER Complaints which it issues under the Consumer Product Safety Act.

Printed below is a Complaint in the matter of Franzus Company, Inc. and Stuart Leventhal and Gabe Leventhal as individuals and as officers and owners of Franzus Company, Inc.

[CPSC Docket No. 78-5]

COMPLAINT

JURISDICTION

In the matter of Franzus Company, Inc., a corporation and Stuart Leventhal and Gabe Leventhal, individually and as officers and owners of Franzus Company, Inc.

1. This proceeding is instituted pursuant to the authority contained in sections 15 (c), (d), (e), and (f) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2064 (c), (d), (e), and (f)).

THE RESPONDENTS

2. Respondent Franzus Company, Inc., is a Pennsylvania corporation with principal corporate offices at 352 Park Avenue South, New York, New York 10010. Franzus Company, Inc., was incorporated in April 1971.

3. Respondent Stuart Leventhal is president and secretary of the respondent corporation and a co-owner of the firm with respondent Gabe Leventhal, who is his father. As such, he jointly controls the acts, practices, and policies of respondent corporation.

4. Respondent Gabe Leventhal is vice-president and treasurer of the respondent corporation and a co-owner of the firm with respondent Stuart Leventhal. As such he jointly controls the acts, practices, and policies of respondent corporation.

5. Whenever this complaint refers to any act of the respondents, the reference shall be deemed to mean that the directors, officers, employees or agents of the respondents authorized such act while actively engaged in the management, direction, or control of the affairs of the respondents and while acting within the scope of their employment or official duties. Whenever this complaint refers to any act of respondents, the reference shall be deemed to mean the act of each respondent, jointly and severally.

THE CONSUMER PRODUCT

6. The respondents engaged in May and July of 1977 and at other times not now known to plaintiff in the "importation" and in the "distribution in commerce," as those terms are defined in sections 3(a) (11), (12), and (13) of the CPSA (15 U.S.C. 2062(a) (11), (12), and (13)) of approximately fifteen thousand (15,000) transformerless calculator adaptors variously known as models 1A-60, 1A-100MP, 1A-110, and 1A-110MP manufactured by Ohden Electronics, Ltd., Tokyo, Japan, and imported through Santek, Inc., Tokyo, Japan, a trading company.

7. An unknown quantity of the calculator adaptors were sold to one of respondents' customers some time prior to October 19, 1977.

8. The adaptors are designed for use with electronic calculators and are intended to convert 120 volts alternating current (AC) to 3-9 volts direct current (DC). A picture of the product and the instructions which accompany it are attached as Exhibits A and B respectively.

9. The calculator adaptors labeled 1A-60 yield the same test results as the adaptors bearing the label 1A-110. (See Exhibit C; subsamples 1, 2, 13, 14, 15, 16.)

10. The calculator adaptors labeled 1A-60 present the same hazard to users as the adaptors bearing the 1A-110 label.

11. Each adaptor has four changeable exposed metal output prongs to fit different calculator jacks.

12. The adaptors do not have a transformer in the circuit to isolate the user from the current as it comes from the wall outlet.

13. The product contains no certification by a private or public testing agency.

14. The calculator adaptors described in paragraphs 6 through 13 above were imported by respondents for sale to or use by consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise and are therefore "consumer products" as that term is defined in section 3(a)(1) of the CPSA (15 U.S.C. 2052(a)(1)).

COUNT I

The Substantial Product Hazard

15. Paragraphs 1 through 14 are hereby realleged.

16. The circuitry of each adaptor is designed so that if the unit is plugged into a current source or outlet one way, the leakage current at the exposed output prong is of the magnitude of 5.0 mA. If the plug connecting the unit to the current source is turned over, however, the leakage current at the exposed output prong is of the magnitude of 75.0 mA.

17. Users can easily come in contact with the exposed adaptor prong during reasonably foreseeable use or misuse of the adaptor. Moreover, the instructions which accompany the product specifically encourage the consumer to handle the prong while the adaptor is connected to a wall outlet, thus increasing the already large risk of injury from the exposed prong. (See Exhibit B, Operating Instruction #2.)

18. The exposed output prong of the transformerless adaptors constitutes a design defect.

19. If a user touches the prong and is electrically "grounded," a current of the magnitude of either 5.0 mA or 75.0 mA can flow through his body to the electrical "ground." (See Exhibit C.)

20. Exposure to current levels over 0.5 mA is generally regarded as harmful. Current levels over 70.0 mA can cause asphyxia and ventricular fibrillation (erratic movement of the heart muscle) leading to severe internal injuries and death and also injuries from "secondary" reactions to shock.

21. Each of the 15,000 calculator adaptors presents the same risk of severe injury and death to users during the course of reasonably foreseeable use or misuse.

22. The defect in the calculator adaptors creates a substantial risk of injury to users due to the large number of products, the high risk of injury associated with each product, and the severity of the injuries that can be incurred.

23. The exposed output prong of the adaptor which carries levels of current as high as 77.4 mA is a substantial product hazard as described in section 15(a)(2) of the CPSA (15 U.S.C. 2064(a)2)).

24. The staff of the Consumer Product Safety Commission (staff) has been in continuous contact with respondents since it became aware on September 12, 1977, that the firm had imported the transformerless model 1A-100MP (1A-110, 1A-110MP) calculator adaptors. Attempts by the staff to ensure that these products would be repaired or disposed of in a manner that would protect the public from the risk of injury associated with their use have been fruitless.

COUNT II

Failure to Report

25. Paragraphs 1-24 are hereby realleged.

26. On June 3, 1977, a Commission investigator visited respondents' offices following a trade complaint concerning a model 1A-60 transformerless calculator adaptor respondents were importing which could present a shock hazard to users. Respondents were informed that the adaptors could cause severe or fatal shock. Respondents stated that they had imported only a few model 1A-60 adaptors, that these had been given to Underwriters Laboratories, Inc. (UL) for testing, and that other adaptors would not be imported until UL approval was obtained.

27. Respondents received a shipment of calculator adaptors on May 26, 1977.

28. Respondents received a second shipment of calculator adaptors on July 23, 1977.

29. The two shipments contained a total of 15,000 model 1A-60 and 1A-110 (also known as 1A-100MP and 1A110MP) calculator adaptors.

30. The circuitry of the 1A-110 (also known as 1A-100MP and 1A-110MP) model is the same as that of the model 1A-60 model in that it does not contain a transformer to isolate the user from the current coming from the wall outlet.

31. Respondents were informed by Underwriters Laboratories, Inc., in a letter dated August 12, 1977 that the model 1A-100MP (1A-110, 1A-110MP) was unacceptable for listing, in effect because it neither had a transformer to isolate the user from the alternating current coming from the wall outlet nor recessed the prong in a nonconductive material.

32. On September 12, 1977, the staff conducted a follow-up inspection of the firm and determined that it had imported the calculator adaptors which are the subject of this action.

33. Respondents did not inform the staff that they had received a shipment of calculator adaptors on May 26, 1977 at the initial inspection of the firm on June 8, 1977 or at any time prior to the subsequent inspection on September 12, 1977, even though they knew as of June 8, 1977, and certainly prior to September 12, 1977, that the adaptors in the May 26, 1977 shipment contained a design defect which could create a substantial risk of injury to the public.

34. Respondents did not inform the staff that they had received a shipment of calculator adaptors on July 23, 1977 at any time prior to September 12, 1977 even though they knew as of June 8, 1977 and certainly prior to September 12, 1977 that the adaptors in the July 23, 1977 shipment contained a design defect which could create a substantial risk of injury to the public.

35. Respondents therefore failed to report to the Commission as required under section 15(b) of the CPSA (15 U.S.C. 2064(b)).

36. By failing to report when they obtained information which reasonably supported the conclusion that the transformerless calculator adaptors contained a defect which could create a substantial product hazard, respondents committed a prohibited act under section 19(a)(4) of the CPSA (15 U.S.C. 2068(a)(4)).

RELIEF SOUGHT

Wherefore, in the public interest, the staff of the Consumer Product Safety Commission requests that the Commission, after affording interested persons an opportunity for a hearing:

1. Determine that respondents' calculator adaptors, described in paragraphs 6 through 14 above, present a "substantial product hazard" within the meaning of section 15(a)(2) of the CPSA (15 U.S.C. 2064(a)(2)).

2. Determine that notification under section 15(c) of the CPSA (15 U.S.C. 2064(c)) is required to adequately protect the public from the substantial product hazard presented by the calculator adaptors which have been distributed and order that respondents:

(a) Give public notice of the defect in the calculator adaptors including the purchase, if necessary, of newspaper space and/or broadcast time; and

(b) Mail notice of the defect to each person who is a manufacturer, distributor, or retailer of the calculator adaptors; and

(c) Mail notice to every person to whom respondents know the calculator adaptors were delivered or sold; and

(d) Include in the notice required by (a), (b), and (c) above a complete description of the hazard presented, a warning to stop use of the adaptors immediately, and adequate instructions for retruning the adaptors to respondents.

3. Determine that action under section 15(d) of the CPSA (15 U.S.C. 2064(d)) is in the public interest, and

(a) Order respondents to cease distributing in commerce, offering for sale, and importing into the customs territory of the United States (as defined in general headnote 2 to the Tariff Schedules of the United States) calculator adaptors which present the substantial product hazard described herein.

(b) Order respondents to elect one of the following actions to ensure that distribution and sale of the calculator adaptors in their possession will cease in fact:

(i) Repair or modify the adaptors to eliminate the defect presented; or

(ii) Destroy or dismantle the adaptors in a manner which renders them unusable and unfit for sale to or use by consumers; or

(iii) Return the adaptors to the manufacturer for modification or destruction.

4. Determine that action under section 15(d) of the CPSA (15 U.S.C. 2064(d)) is in the public interest and order respondents to elect one of the following actions with respect to calculator adaptors which have been distributed or sold:

(a) Repair or modify the calculator adaptors to eliminate the defect presented; or

(b) Replace each calculator adaptor with a like or equivalent product which does not contain the defect presented; or

(c) Refund the purchase price of the calculator adaptors.

5. Specify respondent Stuart Leventhal as the person who has the power to make the elections required and order that within ten (10) days of service of an Order, respondent Stuart Leventhal submit a plan, satisfactory to the Commission, for taking whichever of the actions outlined in paragraphs 3(b) and 4 that he elects.

6. Determine that reimbursement of expenses incurred in connection with carrying out the Commission Order issued in this case under sections 15 (c) and (d) (15 U.S.C. 2064 (c) and (d)) is in the public interest and require the respondents to reimburse any distributors or retailers of the calculator adaptors for their expenses in connection with carrying out the Commission Order.

7. Assess a civil penalty not to exceed $500,000 pursuant to section 20(a) of the CPSA (15 U.S.C. 2069(a)) for failure to report the defect in the calculator adaptors as required by sections 15(b) and 19(a)(4) of the CPSA (15 U.S.C. 2064(b) and 2068(a)(4)).

8. Grant such other and further relief as the Commission deems necessary to protect the public health and safety and to implement the CPSA.

Issued by order of the Commission.

Dated: November 9, 1978.

SADYE DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-34278 Filed 12-7-78; 8:45 am]

[6355-01-M]

[CPSC Docket No. 78-3]

SALEM CARPET MILLS, INC., ET AL.

Flammable Fabrics Act; Publication of Complaint

Under provisions of its Rules of Practice for Adjudicative Proceedings (16 CFR 1025), the Commission must publish in the FEDERAL REGISTER COMPLAINTS WHICH IT ISSUES UNDER THE FLAMMABLE FABRICS ACT.

Printed below is a Complaint in the matter of Salem Carpet Mills, Inc., and W. Douglas Foster and Jack J. Ware, as individuals and as officers of the corporation.

[CPSC Docket No. 78-3]

In the Matter of Salem Carpet Mills, Inc., a corporation, and W. Douglas Foster, individually and as an officer of the corporation and Jack J. Ware, individually and as an officer of the corporation; complaint.

NATURE OF PROCEEDINGS

The Consumer Product Safety Commission (hereinafter, the "Commission") has reason to believe that SALEM CARPET MILLS, INC., a corporation; W. DOUGLAS FOSTER, individually and as an officer of the corporation; and JACK J. WARE, individually and as an officer of the corporation (hereinafter, collectively, "Respondents"), are subject to, and have violated, provisions of the Flammable Fabrics Act, as amended (hereinafter, the "FFA"); the Federal Trade Commission Act, as amended (hereinafter, the "FTCA"); the Standard for the Surface Flammability of Carpets and Rugs (FF1-70) (hereinafter the "Standard"), 16 CFR 1630.1 *et seq.* 1630, Subpart A.

It appears to the Commission, from the factual information available to staff, that it is in the public interest to issue this Complaint to commence Adjudicatory Proceedings in accordance with the Commission's Interim Rules of Practice for Adjudicative Proceedings, 16 CFR Part 1025 (42 Fed. Reg. 31431; June 21, 1977, as corrected, 42 Fed. Reg. 36818, July 18, 1977). Therefore, by virtue of the authority vested in the Commission by Section 30 of the Consumer Product Safety Act, as amended, 15 U.S.C. 2051, 2079, the Commission, pursuant to Section 5 of the FFA, 15 U.S.C. 1194, and Section 5 of the FTCA, 15 U.S.C. 45, and in accordance with the Commission's Interim Rules of Practice for Adjudicative Proceedings, hereby issues this Complaint, and states its charges as follows:

CHARGES

1. Respondent Salem Carpet Mills Inc., (hereinafter, "Salem") is a corporation organized and doing business under the laws of the State of North Carolina; and is engaged in the manufacture and sale of carpets and rugs, with its principal place of business at Interstate 40 East at Linville Road, P.O. Box 12419, Winston Salem, North Carolina 27107;

2. Respondent W. Douglas Foster is the president of Salem. He formulates, directs, and controls the acts, practices and policies of the corporation.

3. Respondent Jack J. Ware is the vice-president for manufacturing of Salem. He directs and controls the manufacture of the carpet made by the corporation.

4. At the times the infractions and violations charged herein occurred, Respondents were engaged in the manufacture and sale of "carpet" "in commerce" as these terms are defined in the Standard, 16 CFR 1630.1(c), and in Section 2(b) of the FFA, 15 U.S.C. § 1191(b), respectively.

5. Carpet is a "product" and an "interior furnishing" consisting of "fabric" and "related materials" as those terms are defined in Sections 2(h), (e), (f), and (g) of the FFA, 15 U.S.C. 1191(h), (e), (f), and (g), respectively. Carpet is therefore, subject to the FFA and to the Standard and Rules and Regulations promulgated pursuant to that Act.

6. Respondents have engaged in the manufacture for sale, sale or offering for sale in commerce, and the introduction, delivery for introduction, transportation and causing to be transported in commerce, and the sale or delivery after sale or shipment in commerce of carpets—styles "Whimsy" (foam and jute back) and "Spree" (foam and jute back), and other carpet of similar design, construction, and specifications—which fail to meet the acceptance criterion of the Standard, as defined and set forth in 16 CFR 1630.1(a), 1630.3(c) and 1630.4(f), respectively, in violation of Section 3(a) of the FFA, 15 U.S.C. 1192(a).

7. Pursuant to Section 3(a) of the FFA, 15 U.S.C. 1192(a), the aforesaid violative acts and practices of Respondents constitute unfair methods of competition and unfair and deceptive acts and practices in commerce under the FTCA.

Relief Requested in the Public Interest by Staff

The Commission staff believes that the public interest requires (1) a finding that Respondents have engaged in the violative acts and practices enumerated in paragraph 6 of the charges in this Complaint, and (2) the issuance of the cease and desist order set forth below. If, however, the Commission concludes from the record in this Adjudicatory Proceeding that this order

would not be appropriate or adequate to fully protect the consuming public, the Commission may order such other relief as it deems necessary and appropriate.

ORDER

I

It is ordered, that Salem Carpet Mills, Inc. (hereinafter, the "Corporation"); W. Douglas Foster (hereinafter, "Foster"), individually and as an officer of the corporation; Jack J. Ware (hereinafter, "Ware"), individually and as an officer of the corporation; and their agents, representatives, employees, and successors and assigns, directly or through any corporation, subsidiary, division or other instrumentality, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivery for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or recieved in commerce, as "commerce," "product," "fabric" and "related material" are defined in the Flammable Fabrics Act as amended (hereinafter, the "FFA"), 15 U.S.C. 1191 *et seq.*, which product, fabric, or related material fails to conform to the requirements of any applicable standard, rule, or regulation issued under the FFA.

II

It is further ordered, that the Corporation, Foster and Ware, their agents, representatives, employees, and successors and assigns, directly or through any corporation, subsidiary, division or other instrumentality do forthwith cease and desist from furnishing any guaranty that any product, fabric, or related material conforms to any standard, rule, or regulation, issued under the FFA, unless the Corporation, Foster and Ware:

(A) have received in good faith a guaranty from the supplier of such product, fabric, or related material that reasonable and representative tests required by the applicable standards, rules, and regulations issued thereunder, establish that product, fabric or related material conforms with all applicable flammability standards issued under the FFA; or

(B) have conducted reasonable and representative tests required by the FFA and the applicable standards, rules, and regulations issued thereunder, and that these tests establish that such product, fabric, or related material conforms with all applicable flammability standards issued under the FFA.

III

It is further ordered, that the Corporation, Foster and Ware, shall (1) notify all distributors and retailers that carpet styles "Whimsy" (foam and jute back) and "Spree" (foam and jute back), and other carpet of same or similar design, construction, and specifications, fail to meet the acceptance criterion of the Standard for the Surface Flammability of Carpets and Rugs (FF 1-70), 16 CFR 1630.1 et seq.; and that the manufacture, sale, and distribution of these carpet styles is a violation of section 3(a) of the FFA, 15 U.S.C. 1192(a), which is punishable by law; and (2) recall carpet styles "Whimsy" (foam and jute back) and "Spree" (foam and jute back), and other carpet of similar design, construction, and specification from all channels of distribution to and including all retailers of these carpets. The notification to and recall from the distributors and retailers shall be done under the Commission staff's direction, supervision, and monitoring.

IV

It is further ordered, that the Corporation, Foster and Ware, shall, within fifteen (15) days after service upon them of this Order, file with the Commission a special report in writing setting forth their intention as to compliance with this Order. They shall submit with their report a complete description of each style of carpet or rug currently in inventory or production.

V

It is further ordered, that the Corporation, Foster and Ware, their agents, representatives, employees and successors and assigns, directly or through any corporation, subsidiary, division or other instrumentality, shall conform to all provisions of the FFA, and the standards, rules, and regulations issued thereunder, in the manufacture for sale, sale or offering for sale, in commerce, or importation into the United States, or introduction, delivery for introduction, transportation, or causing to be transported in commerce, or the sale or delivery after sale or shipment in commerce, of any product, fabric or related material subject to the FFA.

VI

It is further ordered that for a period of 10 years from the date of this Order the Corporation, Foster and Ware, shall notify the Commission at least 30 days prior to any proposed change in the Corporation such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolation of subsidiaries or any other change in the Corporation which may affect compliance obligations arising out of this Order.

VII

It is further ordered that for a period of 10 years from the date of this Order that Foster and Ware promptly shall notify the Commission of their discontinuance of their present business or employment and of their affiliation with a new business and shall submit to the Commission a statement as to the nature of the business or employment in which they are newly engaged as well as a description of their duties and responsibilities in the new business.

VIII

It is further ordered that the Corporation shall distribute a copy of this Order to each and all of its operating divisions.

IX

It is further ordered, that the Corporation, Foster and Ware, (1) shall permit the Commission to conduct inspections of the Corporation, to examine the Corporation's books, records, and accounts relating to the manufacture, sale, and distribution of carpet, and to collect samples of manufactured and distributed by the Corporation; and (2) shall, upon the request of the Commission, submit written reports, verified copies and the Corporation's books, records and accounts, and samples of carpet manufactured and distributed by the Corporation, to enable the Commission to determine their compliance with this Order, with the FFA, and with applicable standards, rules, and regulations issued thereunder.

Wherefore, the premises considered, the Commission, hereby issues this Complaint on the day of October 3, 1978.

By the Commission.

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

[FR Doc. 78-34272 Filed 12-7-78; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

NOVEMBER 28, 1978.

The USAF Scientific Advisory Board Ad Hoc Committee on Space Defense

will meet on January 16 and 17, 1979, at the SAMSO facility, Los Angeles, California. The purpose of the meeting will be to review the space defense technology options. The Committee will meet from 9:00 a.m. to 4:30 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 78-34239 Filed 12-7-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

STRATEGIC PETROLEUM RESERVE, TEXOMA GROUP SALT DOMES, CAMERON AND CALCASIEU PARISHES, LA., AND JEFFERSON COUNTY, TEX. (DOE/EIS-0029)

Availability of Final Environmental Impact Statement

Notice is hereby given that a final Environmental Impact Statement (EIS), DOE/EIS-0029, Strategic Petroleum Reserve, Texoma Group Salt Domes, Cameron and Calcasieu Parishes, Louisiana and Jefferson County, Texas (November, 1978) was issued and filed with the Environmental Protection Agency on December 1, 1978, pursuant to the Department of Energy's (DOE) implementation of the National Environmental Policy Act of 1969. The statement was prepared to support administrative action related to the DOE's proposed expansion of the Strategic Petroleum Reserve (SPR) facilities served by the Texoma crude oil pipeline to an ultimate capacity of 235 million barrels of crude oil and to reflect the consideration being given to the shared use of a water intake facility on the Gulf Intracoastal Waterway by the Sulphur Mines and West Hackberry SPR sites. The ultimate storage capacity of 235 million barrels includes 24 million barrels of storage at the Sulphur Mines SPR facility and expansion of the existing facilities at the West Hackberry salt dome in Cameron Parish, Louisiana or creation of new storage facilities at the alternative locations including Black Bayou salt dome in Cameron Parish, Louisiana, Vinton salt dome in Calcasieu Parish, Louisiana and Big Hill salt dome in Jefferson County, Texas. The draft of the Texoma Group EIS was issued by the Federal Energy Administration (FEA) as FEA-DES 77-8 in September, 1977. The responsibilities and functions of the FEA were assumed by DOE as of October 1, 1977.

This statement assesses the potential environmental impact of the (1) construction and operation of additional facilities at the West Hackberry salt dome; (2) construction and operation of a raw water supply pipeline from West Hackberry to the Intracoastal Waterway; (3) construction and operation of a 24 mile brine pipeline terminating in a diffuser in the Gulf of Mexico; (4) construction and operation of storage facilities at the three alternative sites including oil, water and brine pipelines; and (5) construction and operation of a 20 mile water supply pipeline from the Sulphur Mines SPR site to the proposed West Hackberry water intake structure on the Intracoastal Waterway. A Final EIS for the Sulphur Mines Salt Dome in Calcasieu Parish, Louisiana (DOE/EIS-0010) was issued by DOE in March, 1978.

Copies of the final Environmental Impact Statement are available for public inspection at the DOE Reading Room located at: Room GA-152, Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Copies of the final statement have been furnished to those who commented on the draft statement as well as to other agencies and individuals who have requested copies. Copies are also available for public inspection at Federal Depository Libraries. A limited number of single copies is available for distribution by contacting the Chief, Environmental and Permits Compliance Branch, Strategic Petroleum Reserve Office, 1726 'M' Street N.W., Washington, D.C., 20461, or the Technical Information Center, P.O. Box 62, Oak Ridge, Tennessee, 37830. 615-483-8611, extension 34672. The statement is also available from the National Technical Information Service, Springfield, Virginia, 22161.

Dated at Washington, D.C., this 5th day of December 1978.

For the Department of Energy.

RUTH C. CLUSEN,
Assistant Secretary for Environment.

[FR Doc. 78-34204 Filed 12-7-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. RI79-9]

ATLANTIC RICHFIELD

Petition for Special Relief

NOVEMBER 30, 1978.

Take notice that on October 25, 1978, Atlantic Richfield Company (Atlantic Richfield), filed a petition for special relief in Docket No. RI79-9 pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Atlantic Richfield requests authorization to charge 50.2075¢ per Mcf for sales from the U.S. Government No. 27-1 Well, Section 27-5N-16E, Pittsburg County, Oklahoma. The sale is made under Atlantic Richfield's FERC Gas Rate Schedule No. 481. Sales are currently being made to Arkansas Louisiana Gas Company (Arkansas Louisiana) at a rate of 36.0541 cents per Mcf under a contract dated March 15, 1962.

In order to prevent premature abandonment and increase the productivity of the above-mentioned well, Atlantic Richfield proposes to install compression facilities. Under a Letter Agreement with Arkansas Louisiana, entered into pursuant to the contract of March 15, 1962, Atlantic Richfield is entitled to a 15 cent per Mcf compression fee for gas produced from said Well.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 21, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34247 Filed 12-7-78; 8:45 am]

[6740-02-M]

[Docket No. RI79-8]

C. F. LAWRENCE & ASSOC., INC.

Petition for Special Relief

NOVEMBER 30, 1978.

Take notice that on October 24, 1978, C. F. Lawrence & Assoc., Inc. (Lawrence), P. O. Box 2418, Midland, Texas 79702 filed a petition for special relief in Docket No. RI79-8 pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 C.F.R. 2.76).

Lawrence requests authorization to charge an increased rate of 91.38¢ per Mcf for the sale of gas produced from its Chambers County School Lands Well No. 20, Midway Lane (Strawn) Field, Crockett County, Texas to El Paso Natural Gas Company. According to Lawrence, it is uneconomical to operate the well at the present rate of 29¢ per Mcf. Lawrence proposes to perform additional work on the well in order to eliminate excessive water production and tap new sections of the existing gas reservoir. The work is expected to result in the production of an additional 386,400 Mcf of gas.

Any person desiring to be heard or to make any protest with reference to said petition should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All such petitions or protests should be filed on or before December 21, 1978. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34248 Filed 12-7-78; 8:45 am]

[6740-02-M]

[Project No. 2879]

GREEN MOUNTAIN POWER CORP.

Application for Preliminary Permit

NOVEMBER 30, 1978.

Take notice that on October 23, 1978, Green Mountain Power Corporation filed an application for a 36-month preliminary permit with the Federal Energy Regulatory Commission for the proposed Bolton Falls Hydroelectric Project, FERC No. 2879, to be located on the Winooski River in the counties of Chittenden and Washington, Vermont. Correspondence with the applicant should be directed to Mr. Raymond C. DeForge, Vice President, Operations & Engineering, Green Mountain Power Corporation, P.O. Box 486, Montpelier, Vermont 05602 and to Richard M. Merriman, Reid & Priest, 1701 K Street NW., Washington, D.C. 20006.

The proposed project would utilize the abandoned Bolton Falls Dam and reservoir. The project would have an installed capacity of 6,500 kW, and would be located in the Vermont Towns of Waterbury, Duxbury, and Bolton. The Bolton Falls dam is a 60 foot high timber crib facility, the height of which would be increased 4 feet by the installation of a concrete cap. Five foot flashboards would also be installed. The reservoir impounded by the dam with flashboards in place would have a negligible storage capacity, and would operate at a normal water surface elevation of 391 feet msl. The project would include the existing 100 foot long double barreled penstock, a new powerhouse and turbine-generator unit, and a 500 to 700 foot long trailrace channel.

The applicant proposes to feed the project into its distribution system.

A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while it undertakes the necessary studies and examinations to determine the engineering and economic feasibility for the project, market for the power, and all other necessary information for inclusion in an application for license.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before January 29, 1979. The Commission's address is: 825 North Capitol Street NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34249 Filed 12-7-78; 8:49 am]

[6740-02-M]

[Docket No. ER79-60]

IOWA POWER & LIGHT CO.

Proposed Rate Change

NOVEMBER 29, 1978.

Take notice that Iowa Power and Light Company, Des Moines Iowa (Iowa Power) on November 15, 1978 tendered for filing an Amendment to a "Transmission Service Agreement with Eastern Iowa Light and Power Cooperative, Wilton, Iowa (Cooperative), Iowa Power and Light Company Rate Schedule FERC No. 48, dated October 25, 1978.

Iowa Power states that relating to the proposed utilization by Cooperative of 24 MW of capacity in Iowa Power's existing 345 kV transmission system from the Booneville Substation near Des Moines, Iowa, to Hills Substation near Hills, Johnson County, Iowa, the Agreement facilitates transmission of Cooperative's share of Council Bluff's Generating Unit No. 3 capacity. Iowa Power further states that the Agreement is to become effective on the first of the month next following synchronization of the Unit which is presently not anticipated to occur prior to November, 1978. Consequently, Iowa Power requests waiver of the Commission's notice requirements and proposes an effective date of December 1, 1978, subject to confirmation of the synchronization date.

Iowa Power indicates that the purpose of the proposed rates and charges of the Amendment is to recover reflected costs of the facilities to be provided as the scheduling path, for associated operation and maintenance, and for transmission losses for which compensation in kind is provided.

Copies of the filing have been mailed to Cooperative and to the Iowa State Commerce Commission, according to Iowa Power.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file

with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34250 Filed 12-7-78; 8:45 am]

[6740-02-M]

[Docket No. RP77-142]

JUAREZ GAS CO., S.A. V. DEL NORTE NATURAL GAS CO.

Informal Conference

NOVEMBER 29, 1978.

Take notice that on December 20, 1978, at 10:00 a.m. an informal conference of all interested parties will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, Room 8402.

On November 13 and 14, 1978, representatives of Juarez Gas Company, S.A., (Juarez) and Del Norte Natural Gas Company (Del Norte) met informally at the offices of Del Norte in El Paso, Texas, in order to resolve questions raised by Juarez in its complaint in the above-captioned docket. Counsel for Juarez and Del Norte have agreed to file by December 5, 1978, a joint report or, if necessary, separate reports concerning the meeting of November 13 and 14, 1978, and any proposed settlement agreement that has arisen from the meeting. Such report or reports and any proposed settlement shall be filed with the Commission by December 5, 1978.

Customers and other interested persons will be permitted to attend the informal conference, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.

All parties will be expected to appear fully prepared to discuss any procedural matters and explore or make commitments with respect to any or all of the issues and any offers of settlement or stipulations discussed at the conference.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34251 Filed 12-7-78; 8:45 am]

[6740-02-M]

[Docket No. CP75-71]

NATURAL GAS PIPELINE CO. AND TRANSWESTERN PIPELINE CO.

Petition To Amend

NOVEMBER 29, 1978.

Take notice that on November 7, 1978, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, and Transwestern Pipeline Company (Transwestern), Southern National Bank Building, Houston, Texas 77002, (Petitioners) filed in Docket No. CP75-71 [1] a petition to amend the order issued June 20, 1977, as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional exchange point required to implement the exchange of natural gas in accordance with an amendment to the exchange agreement dated August 12, 1974, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Petitioners state that on June 20, 1977, the Commission issued an order authorizing the exchange of natural gas between the Petitioners pursuant to an Exchange Agreement dated August 12, 1974, as amended, whereby gas for Natural's account is delivered to Transwestern from the Big Eddy No. 40 and No. 44 wells, Eddy County, New Mexico, and certain residual gas is delivered at the outlet of Continental Oil Company's Maljamar Gas Processing Plant, Lea County, New Mexico. Petitioners further state that any gas delivered for exchange would be redelivered by Transwestern to Natural at the outlet of Cities Service Oil Company's Bluitt, Plant, a common gas purchase point of Petitioners in Roosevelt County, New Mexico.

Petitioners assert that on September 16, 1977, the Commission issued an order amending the order issued herein on June 20, 1977, so as to authorize an additional point of exchange of gas from the Ross Federal "EG" No. 1 well, Eddy County, New Mexico, where gas for Natural's account is delivered to Transwestern.

Natural has preferential rights under existing gas purchase contracts to purchase additional reserves now available from a well located in Section 95, Block F., G. and MMB, A Survey, Ward County, Texas, and which Transwestern would be willing to accept for exchange and Transwestern also has an interest in the well and has connected said well to its existing pipeline system to effectuate its purchase, it is further asserted.

Petitioners state that they propose to add a new delivery point (Rodgers No. 1 Delivery Point) at the location cited above where gas delivered for Natural's account would be in a commingled stream with gas volumes purchased by Transwestern from said well as set forth in the Amendatory Agreement dated September 15, 1978, to the gas exchange agreement dated August 12, 1974, as amended.

Petitioners assert that the exchange arrangement as modified herein is beneficial to Natural in that it provides a means for Natural to receive deliveries of small quantities of gas into its system without the necessity of constructing any additional facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 22, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34252 Filed 12-7-78; 8:45 am]

[1] This proceeding was commenced before the FPC. By joint regulation of October, 1977 (10 CFR 1000.1), it was transferred to the FERC.

[6740-02-M]

[Docket No. CP79-71]

NATURAL GAS PIPELINE CO.

Application

NOVEMBER 29, 1978.

Take notice that on November 13, 1978, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP79-71 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation ashore of up to 1,000 Mcf per day of natural gas for Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Michigan Wisconsin has been purchasing gas from West Cameron Block 171, offshore Louisiana, and reports that a part of the gas attributable to West Cameron Block 171 would be produced from a new well in West Cameron Block 145 under its contracts with certain producers covering their interests in West Cameron Block 171.

Applicant further states that Stingray Pipeline Company (Stingray) owns and operates a natural gas trans-

mission pipeline system extending from offshore Louisiana to onshore Louisiana and Applicant has entered into a transportation contract dated October 2, 1973, thereby Stingray would provide transportation ashore for certain quantities of gas delivered to Stingray by or for the account of Applicant. Michigan Wisconsin has requested that Applicant accept for transport ashore such gas as the producers deliver for the account of Michigan Wisconsin to Applicant's existing point of connection between measuring facilities of Applicant and facilities of Stingray in West Cameron Block 181 and that Applicant make redelivery of gas at an interconnection between the facilities of Applicant and Michigan Wisconsin near Lake Arthur, Cameron Parish, Louisiana, it is said.

Applicant states that under terms of the transportation agreement Applicant would receive and transport through Stingray, up to 1,000 Mcf per day of natural gas for the first three years and 700 Mcf per day thereafter on a firm basis. The term of the transportation agreement is five years from date of first receipt of gas hereunder and successive one year periods thereafter until either party terminates said agreement at the end of the primary term or any succeeding annual period thereafter by giving the other party at least 90 days prior notice, it is indicated. Applicant would redeliver to Michigan Wisconsin at the point of redelivery near Lake Arthur thermally equivalent volumes to that received, less processing plant fuel in the event such gas is processed, shrinkage and/or fuel and a proportionate share of losses and unaccounted for gas used in the transportation of such gas, it is said.

Applicant asserts it proposes to charge Michigan Wisconsin a monthly contract transportation demand charge for gas being transported through Stingray equal to the then current effective transportation rate being paid by Applicant to Stingray for each Mcf of contract transportation quantity then in effect.

Applicant asserts that it also proposes to charge Michigan Wisconsin a monthly fee of 60.0 cents per Mcf of contract transportation quantity for the additional transportation service by Applicant to accomplish the final redelivery of this gas to Michigan Wisconsin at an existing point of interconnection of Applicant's facilities and those of Michigan Wisconsin near Lake Arthur, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR '157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34253 Filed 12-7-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-72]

NATURAL GAS PIPELINE CO.

Application

NOVEMBER 29, 1978.

Take notice that on November 13, 1978, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP79-72 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 500 Mcf per day of natural gas for Columbia Gas Transmission Corporation (Columbia) and the operation of existing connecting, measuring and exchange facilities to effectuate such transportation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant asserts that it has been advised by Columbia that Columbia has available for purchase from its affiliate, Columbia Development Corporation, in the proximity of Applicant's existing Box Draw lateral, supplies of natural gas in the Cemetary Field, Eddy County, New Mexico. Applicant presently has some available pipeline capacity in the southern portion of its Permian pipeline system and would be willing to transport such gas for Columbia from Eddy County, New Mexico, to an existing interconnection between the pipeline systems of Applicant and El Paso Natural Gas Company (El Paso) in Ward County, Texas, for further transport and redelivery to Columbia, it is said.

It is stated that Applicant and Columbia have entered into a gas transportation agreement dated September 25, 1978, under the terms of which, Applicant proposes to receive, on a best efforts basis, up to 500 Mcf per day of natural gas made available by Columbia at the inlet to existing measurement facilities of Applicant located on Applicant's six-inch Box Draw lateral in Eddy County, New Mexico (Eddy Delivery Point). Applicant further states it proposes to redeliver, or cause to be redelivered to El Paso for Columbia's account in Ward County, Texas, thermally equivalent volumes less the volume of fuel consumed on Applicant's pipeline system. Redelivery would be made to El Paso at the existing authorized points of exchange between Applicant and El Paso located in the Lockridge Field, Ward County, Texas (Ward Redelivery Point), it is said.

Applicant states that as part of its Cemetary Field Gathering System it has constructed at a cost of $17,082 connecting and measurement facilities required to receive gas at the Eddy Delivery Point from the Texas Oil and Gas-Indian Hills State Com No. 1-6 well for its own account as well as to receive gas for Columbia's account. Columbia has agreed to reimburse Applicant for one-half of all costs and expenses incurred in the installation of such facilities, it is said.

Applicant asserts that pursuant to the Agreement, Applicant proposes to bill Columbia monthly a transportation charge equal to the greater of 3.9 cents for each Mcf of gas received by Applicant at the Eddy Delivery Point less fuel used in the transportation or $125.00 and initially Applicant would reduce volumes delivered to it by Columbia by one percent for fuel.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure

(18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34254 Filed 12-7-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-63]

NEW BEDFORD GAS & EDISON LIGHT CO.

Termination of Rate Schedule

NOVEMBER 29, 1978.

Take notice that on November 16, 1978 New Bedford Gas and Edison Light Company (New Bedford) tendered for filing a Notice of Termination for its currently effective Federal Energy Regulatory Commission Rate Schedule No. 26. New Bedford states that said Rate Schedule consists of a unit power sales agreement dated March 1, 1978 as amended between New Bedford and the Electric Light Department of the Town of Braintree, Massachusetts (Braintree) for the sale by New Bedford of a portion of its entitlement to the capacity and related energy produced by Canal Electric Company's Unit No. 2.

New Bedford further states that FERC Rate Schedule No. 26 was originally accepted for filing by FERC letter order dated May 3, 1978 in Docket No. ER78-286. New Bedford indicates that in Docket No. ER78-481 as tendered for filing under cover of a letter dated July 7, 1978, New Bedford proposed amendments to its then-effective Rate Schedule No. 26 extending the term thereof and establishing the quantity of capacity and related energy to be made available to Braintree during such extended term. New Bedford further indicates that Docket No. ER78-481 was noted for filing by the Commission's Secretary by notice dated July 18, 1978.

New Bedford requests an effective date of March 2, 1978, and therefore requests waiver of the Commission's notice requirements.

According to New Bedford a copy of this filing has been mailed to Braintree.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34255 Filed 12-7-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-61]

NIAGARA MOHAWK POWER CORP.

Filing

NOVEMBER 29, 1978.

Take notice that Niagara Mohawk Power Corporation (Niagara) on November 16, 1978, tendered for filing as rate schedules, agreements between Niagara and the Power Authority of the State of New York (PASNY) dated October 17, 1978 and April 28, 1978 (with acceptance dated October 18, 1978).

Niagara states that there is presently on file on agreement with PASNY dated January 15, 1963, that is designated as Niagara Mohawk Power Corporation Rate Schedule FPC No. 22. Niagara Mohawk further states that the new agreements are being submitted as supplements to the existing agreement.

Niagara requests waiver of the Commission's notice requirements to allow for effective dates of December 1, 1977 and September 1, 1978 for the two proposed revisions comprising the filing.

Copies of this filing were served upon PASNY, according to Niagara.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 18, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34256 Filed 12-7-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-69]

OHIO POWER CO.

Proposed Changes in Rates and Charges

NOVEMBER 29, 1978.

Take notice that American Electric Power Service Corporation (AEP) on November 17, 1978, tendered for filing on behalf of its affiliate Ohio Power Company (Ohio Power), Modification No. 2 dated October 1, 1978 to the Operating Agreement dated December 1, 1965, between Ohio Power Company and Toledo Edison Company designated Ohio Power Rate Schedule FERC No. 35.

Ohio Power indicates that Section 1 of Modification No. 2 provides for an increase in the demand charge for Short Term Power from $0.60 to $0.70 per kilowatt per week and Section 3 provides for an increase in the demand charge for Limited Term Power from $3.25 to $3.75 per kilowatt per month; Section 2 of Modification No. 2 provides for an increase in the transmission charge for third party Short Term Power transactions from $0.15 per kilowatt per week to $0.175 per kilowatt per week and Section 4 provides for an increase in the tranmission charge for third party Limited Term transactions from $0.65 per kilowatt per month to $0.75 per kilowatt per month, both changes proposed to become effective October 9, 1978.

Applicant states that since the use of Short Term Power and Limited Term Power Service cannot be accurately estimated, it is impossible to es-

timate the increase in revenues resulting from the Modification. Applicant alleges that Exhibit I which was included with the filing of this Modification, demonstrates that the increase in revenues, which would have resulted had the modification been in effect during the twelve month period ending July 1978, would have been $530,892.86 (i.e. from $16,834,919.44 to $17,365,812.30).

Copies of the filing were served upon Toledo Edison Company and Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such petitions or protest should be filed on or before December 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34257 Filed 12-7-78; 8:45 am]

[6740-02-M]

[Docket No. CI68-815]

PHILLIPS PETROLEUM CO.

Certification of Stipulation and Settlement Proposal

NOVEMBER 29, 1978.

Take notice that on November 9, 1978, the Presiding Administrative Law Judge certified to the Commission a stipulation and settlement proposal in the above referenced proceeding.

The stipulation and settlement proposal is intended to resolve a controversy concerning rights to an escrow fund established by United Gas Pipe Line Company (United) relating to sales by Phillips Petroleum Company (Phillips) to United pursuant to the certificate order issued in Docket No. CI68-815 on March 13, 1968. Under the proposed settlement, Phillips' claim of entitlement to approximately $202,000 of principal of the escrow fund is reduced to $175,000, and United agrees to pay interest to Phillips. Phillips agrees to spend amounts equivalent to the amount received from United and an additional amount in the ratio of 3 to 2 to the amount received by Phillips in exploration and development on behalf of United. Certain past expenditures by Phillips may be counted towards satisfaction of its expenditure obligation. United further agrees to credit its purchased gas adjustment with a portion of the refunds due United from Phillips under Opinion No. 598 with interest, totaling approximately $81,000 as of June 1, 1978. The total payments to be made by United exceed the amount in the escrow fund.

The stipulation and settlement proposal has been executed by Phillips, United and the Commission staff.

Any person desiring to comment on the stipulation and settlement proposal should file such comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before December 14, 1978. Any reply comments should be filed on or before December 21, 1978.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34258 Filed 12-7-78; 8:45 am]

[6740-02-M]

[Docket No. RI79-11]

SUN OIL CO.

Petition for Special Relief

NOVEMBER 30, 1978.

Take notice that on October 30, 1978, Sun Oil Company (Sun), Two North Park West, Box 20, Dallas, Texas 75221, filed a petition for special relief in Docket No. RI79-11, pursuant to Section 2.76 of the Commission's Rule of Practice and Procedure.

Sun requests authorization to charge a total rate of $1.414 per Mcf at 14.65 psia, subject to BTU adjustment for the sale of gas to Northern Natural Gas Company from the E. M. Long, Well No. 2, North Hansford Field, Hansford County, Texas. Sun is currently collecting a total rate of 25.0938¢ per Mcf at 14.65 psia for the sale of the subject gas.

In order to ensure continued production from the E.M. Long, Well No. 2, Sun must install a new flowline. It will cost Sun $18,000 to replace the current flowline which has developed leaks.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 21, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34259 Filed 12-7-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-66]

UNITED GAS PIPE LINE CO.

Application

NOVEMBER 29, 1978.

Take notice that on November 8, 1978, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP79-66, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the natural gas transportation service presently authorized to be rendered to Trunkline Gas Company (Trunkline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to order of the Commission issued April 17, 1972, and January 19, 1973, in Docket No. CP72-192 transportation service was rendered under the terms and conditions of a gas transportation agreement between Trunkline and Applicant.

Applicant further asserts that the transportation agreement provides for the receipt of up to 5,000 Mcf of gas per day by Applicant for the account of Trunkline, at a point in the East Donner Field, Terrebonne Parish, Louisiana, for transport and redelivery to Trunkline at the tailgate of Exxon's Garden City Plant in St. Mary Parish, Louisiana.

Applicant asserts the certificate was amended by order of the Commission issued January 19, 1973, which provided for an additional existing delivery point to Trunkline at the tailgate of Continental Oil Company's Egan Plant located in Acadia Parish, Louisiana.

Applicant further asserts that pursuant to the terms of the Agreement it notified Trunkline on August 13, 1976, of an increase in rate. Trunkline informed Applicant that the proposed rate was unacceptable and requested Applicant to prepare a termination agreement which would reflect both parties' desire to terminate the Agreement, it is indicated. Applicant and Trunkline have executed such agreement, it is said. Accordingly, Applicant requests authorization to abandon said transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34260 Filed 12-7-78; 8:45 am]

[3128-01-M]

[Docket No. RM78-12]

INCENTIVE RATE OF RETURN FOR THE ALASKAN NATURAL GAS TRANSPORTATION SYSTEM

Order Attaching Incentive Rate of Return Conditions to Certificates of Public Convenience and Necessity

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Order and Notice of Comment and Hearing.

SUMMARY: The Federal Energy Regulatory Commission (the Commission) hereby gives notice of an order attaching certain terms and conditions to the conditional certificates of public convenience and necessity issued for the Alaska Natural Gas Transportation System proceedings (Docket Nos. CP78-123, *et al.*). The terms and conditions would establish an incentive rate of return on equity to reward the applicants for final certificates for project completion under budgeted cost and penalize them for project completion over budgeted cost. The Commission also gives notice that it requests specific, written comments on the single matter of the inclusion of AFUDC (allowance for funds used during construction) in cost performance ratios used to determine the incentive rate of return, and that this single matter has been set for hearing.

DATES:

(1) Order setting terms and conditions to be effective 30 days after issuance.

(2) Written comments on AFUDC inclusion to be filed by December 19, 1978.

(3) Notice of intent to participate in oral presentation to be filed by December 13, 1978.

(4) Oral presentation to be December 21, 1978.

ADDRESSES: All filings should reference Docket No. RM78-12 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT:

John Adger, Director, Alaska Natural Gas Project Office, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 275-3827.

I. BACKGROUND

On May 8, 1978, the Federal Energy Regulatory Commission (Commission) issued a notice of proposed rulemaking (43 FR 20245-20246, May 11, 1978) to adopt terms and conditions concerning an Incentive Rate of Return (IROR) on equity for certificates of public convenience and necessity for the Alaska Natural Gas Transportation System (ANGTS).[1] In this notice, the Commission invited interested parties to submit written comments on the proposed rule by May 31, 1978. By notice issued May 26, this comment period was extended to June 14, 1978. Parties were also allowed to file reply comments by June 23, 1978. The Commission received 24 comments on the proposed rulemaking from interested parties.[2]

On September 15, 1978, the Commission issued a revised notice of proposed rulemaking (43 FR 45595, October 3, 1978) in this matter and invited interested parties to submit written comments on the revised terms and conditions by October 6, 1978. By notice on October 6, 1978, this comment period was extended to October 13, 1978. The Commission received six comments from eight parties on the revised terms and conditions. Comments were received from the Office of Regulatory Analysis of the staff of the Commission, the State of Alaska, Alaskan Northwest Natural Gas Transportation Company, Northern Border Pipeline Company, Pacific Gas Transmission Company and Pacific Interstate Transmission Company, and Tennessee Gas Pipeline Company and Midwestern Gas Transmission Company. This order discusses these comments, issues appropriate terms and conditions, solicits additional comment and schedules oral argument on one matter, and sets forth schedules and procedures for the rest of the proceedings required to implement the IROR mechanism.

II. INTRODUCTION

The terms and conditions in this order incorporate improvements suggested by valid criticisms to both the initial and revised notices of proposed terms and conditions. Comments which repeated criticisms presented earlier in the comments on the initial notice have not been discussed again herein.

Some of the comments argued that the illustrative examples of rates of return and risk premiums used in the revised notice were too high, while other comments argued that they were too low. The Commission encourages the presentation of views on this subject at the appropriate point in the future, which is in the evidentiary proceeding in which the actual values of the rates of return and risk premiums that will apply to the ANGTS will be determined.

The significant changes in the IROR terms and conditions from those proposed in the revised notice are:

1. Certain concepts have been restated and redefined in order to make them more readily understood. In particular, the Cost Performance Ratio is now defined as the ratio of the Deflated Actual Capital Cost to the Projected Capital Cost, instead of the previously used concept of rate base. The cost estimate to be used as the basis

[1] Conditional certificates were issued by the Commission on December 16, 1977 (Alcan Pipeline Company, *et al.*, Docket Nos. CP78-123, CP78-124, and CP78-125).

[2] For a complete listing of the parties who filed comments, see the Revised Notice of Proposed Rulemaking issued September 15, 1978.

for determining the Projected Capital Cost is now called the Certification Cost and Schedule Estimate instead of the Final Estimate. A glossary of terms is provided at the end of this order.

2. The rate of return used to calculate the AFUDC component of the Capital Cost will be set at a level approximately equal to the real rate of interest or cost of capital in the economy, instead of at the actual rates of interest incurred during construction and the allowed equity rate for calculating AFUDC. The real rate is less than actual or current rates by an amount equal to the expected rate of inflation.

3. The procedure for calculating the one-time adjustment to rate base has been simplified. The one-time adjustment will be derived on the assumption that the equity investment in the project will be reduced to zero over a 25-year period on a basis of straight-line depreciation. A procedure for Commission review of the one-time adjustment has also been established.

III. Obstacles to Private Financing

The two most serious criticisms of the revised terms and conditions were presented by the partnership proposing to build the Alaskan segment of ANGTS, the Alaskan Northwest Natural Gas Transportation Company. Alaskan Northwest states that there are two "aspects of the proposed rule which, if adopted, will force abandonment of the Partnership's plan for private financing." [3]

A. Cost Basis for the IROR

Alaskan Northwest objects to the implication in the revised notice that the basis for setting the IROR will be the March 1977 cost estimates. This concern is in fact the result of an ambiguity in the Commission's revised notice and can quickly be dispelled. The terms and conditions attached to this order provide that the Certification Cost and Schedule Estimates to be submitted by the applicant prior to the Commission issuing a certificate of public convenience and necessity will be the basis for the IROR mechanism. The Certification Estimates will be compared with the March 1977 estimates to determine whether the new estimates "* * * materially and unreasonably exceed the comparable capital cost estimates filed by Alcan with the Federal Power Commission. * * *" [4]

The Certification Cost Estimate will also have to be examined carefully to determine the likelihood of cost overruns or underruns from this new estimate. The *Decision* anticipated a 31 percent overrun for the entire system, based on the March 1977 estimate.[5] This figure was used in the revised notice as the basis for a Center Point of 1.3 for the example IROR schedule. If overruns from the Certification Cost Estimate are likely to be less than the overruns estimated using the March 1977 figure as base, a Center Point closer to 1.0 will be more appropriate.

B. Inclusion of AFUDC in the Cost Performance Ratio

Alaskan Northwest objects to the feature of the terms and conditions in both the initial and revised notices which requires AFUDC (also known as interest during construction or finance charges) to be added to the direct construction costs in calculating the Cost Performance Ratio. Inclusion of AFUDC penalizes the equity investor for those delays during construction for which he is not protected by the change in scope procedure, according to Alaskan Northwest, which states:

> [T]his feature of the September 15 proposed rule is wholly unacceptable to the project sponsors because (a) it is in direct contravention of the Finance Terms and Conditions set forth in the presidential decision on the Alaska Natural Gas Transportation System; and (b) it imposes upon Alaskan Northwest a rate of return penalty for *all* project delay, whether or not caused by the Partnership.[6]

Alaskan Northwest has misinterpreted the second finance term and condition in the President's *Decision* (p. 36). This condition requires the Commission to exclude interest during construction from the Certification Cost Estimates for purposes of comparison with the March 1977 estimate in order to determine if the Certification Estimate "materially and unreasonably exceeds" the earler estimate. However, this does not mean that the Commission cannot include interest during construction in the calculation of the Cost Performance Ratio. The *Decision* goes on to state that the Commission "may" use the Certification Cost Estimates as the basis for the IROR, implying that some other estimate or some modification to these estimates may also be used. In other words, the Commission has complete flexibility to determine which costs will be included in the calculation of the Cost Performance Ratio.

Alaskan Northwest cites five examples of delays that have occurred in the project because of government action or inaction which are beyond the control of the applicant. All of the examples have occurred prior to certification of the project and prior to the submittal of the Certification Cost Estimates. All costs incurred prior to certification and approved under the Commission's standard audit procedures for inclusion in the rate base will be included in the Projected Capital Costs, including AFUDC. As a result, any delays prior to certification will not increase the Cost Performance Ratio and will not reduce the Incentive Rate of Return. The penalties in the proposed IROR mechanism for delay would occur only for delays after the Commission has granted a certificate.[7]

The Commission understands, and is sympathetic to, the project sponsors' concerns about being penalized for delays which are beyond their control, particularly delays caused by the government. It is our intention that the scope change procedures, to be the subject of a separate rulemaking to be initiated as soon as possible, will absolve the project sponsors of responsibility for delays which are clearly the fault of the government. That same procedure should also address the much more difficult issue of determining what other delays and cost increases are truly beyond the project sponsors' control.

Prior to resolution of the scope change issue, the Commission feels it would be impossible to make any determination, positive or negative, with respect to private financing. The Commission would, if possible, choose to leave AFUDC in the determination of the Cost Performance Ratio, because the Commission believes that well-placed private incentives are virtually always desirable complements to specific government approvals, such as the Federal Inspector will be authorized to grant.

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[3] Comments of the Alaskan Northwest Natural Gas Transportation Company, a Partnership, October 13, 1978, at p. 2.

[4] *Decision and Report to Congress on the Alaska Natural Gas Transportation System (Decision)*, Executive Office of the President, Energy Policy and Planning, September 1977, at p. 36.

[5] The U.S. share of the project capital cost is $9.472 billion for the Base Case and $12.368 billion for the Overrun Case, or an increase of 30.6 percent. *Decision* at p. 157.

[6] Comments of Alaskan Northwest Natural Gas Transportation Company, a Partnership, October 13, 1978, at p. 3.

[7] Alaskan Northwest may also be overestimating the impact of interest during construction or AFUDC on the Cost Performance Ratio even after construction has begun. Interest during construction is calculated periodically and is equal to the product of the interest rate and the capital cost incurred prior to that date. If little or no construction has taken place, interest during construction is small, and the increases in cost due to delay are small. Even when the project is near completion, delay does not greatly increase interest during construction. For example, a year's delay very near the end of construction schedule would increase interest during construction by an amount equal to 5 percent of the cost of the project if the interest rate is 5 percent, or 12 percent if the interest rate is 12 percent. Delay may increase other costs besides interest during construction, such as rentals on idle equipment or salaries for workers with nothing to do, but these are costs that would be included in the Cost Performance Ratio even if interest during construction or AFUDC were not included.

The Commission has revised the manner in which AFUDC is included in Actual and Projected Capital Costs as discussed in more detail below, in order to make its inclusion consistent with the inclusion of other costs in the Cost Performance Ratio. The Commission believes that the clarifications and revisions in the manner of inclusion of AFUDC adequately address the project sponsors' concerns as expressed in their comments on the revised notice. However, because of the significance that the project sponsors have attached to this feature of the IROR mechanism, the Commission feels a responsibility to consider their views on the revisions. The Commission will therefore entertain further comments on the matter—and on this matter alone of inclusion of AFUDC in the Cost Performance Ratio as revised in this order. The Commission will also hold an oral argument for the presentation of views on this specific issue.

IV. Application to the Western Leg and Northern Border

A. Western Leg

In the revised notice, the Commission concluded that application of the IROR mechanism to the Western Leg was not in the public interest, primarily because the sponsors of the Western Leg were proposing a financing plan that consisted entirely of debt. The Commission found that a financing plan with 100 percent debt financing would create major cost control incentives. Also, since debt financing is less costly to consumers and since application of an IROR might make such high levels of debt financing impractical, application of the IROR to the Western Leg would not have the same benefits to consumers as would be the case for other segments of ANGTS.

In their comments on the revised notice, the sponsors of the Western Leg (Pacific Gas Transmission and Pacific Interstate Transmission) have informed the Commission that their financing plans never contemplated 100 percent debt financing, and asserted that the financing plans included in the initial decision by the Presiding Administrative Law Judge,[8] in the Federal Power Commission's *Recommendation to the President,*[9] and in the President's *Decision*[10] were all in error or misleading.

When the project sponsors submit a financing plan for the Western Leg as part of their application for a certificate of public convenience and necessity (as provided by section 7 of the Natural Gas Act), this plan must be reviewed for consistency with past submissions and with the public interest. Substitution of high cost equity for low cost debt will result in increased costs to the consumers and will thus reduce the overall benefit of constructing the Western Leg. The Commission expects that the companies sponsoring the Western Leg will be prepared to demonstrate conclusively that the financing plan which is part of their required section 7 filing utilizes the maximum possible proportion of debt. The Commission nevertheless finds that application of the IROR to the Western Leg will not be in the public interest.

B. Northern Border

The sponsors of the Northern Border Project also argued that development and application of an IROR mechanism to Northern Border would substantially delay the ANGTS. The Commission does not agree. The Commission finds that the potential for delay created by the IROR mechanism is sufficiently small that the public interest is served by its application to the Northern Border Segment. Northern Border argues that the Commission must determine an IROR schedule before a financing plan can be prepared and submitted to the Commission, and that this would delay the project. In a conventional pipeline certification proceeding, the applicant would normally submit a financing plan conditional upon the Commission granting a specific rate of return on equity, special tariff provisions, and so forth. Only after the Commission had before it a proposed financing plan, cost estimates, proposed tariff, and other important information affecting risks borne by investors, could the Commission make a determination of the rate of return on equity necessary to finance the project. In the case of the ANGTS, the only difference is that the Commission must determine a schedule of rates of return (the IROR schedule) instead of a single value, and this can only be done after submission of a proposed financing plan and other exhibits.

The Commission presents below some discussion of the remaining procedures necessary to implement the IROR mechanism, and instructs the Alaska Delegate to develop with the project sponsors a timetable for these procedures that is consistent with time- tables for Canadian and other U.S. Government authorizations, and to report fully to the Commission as soon as possible.

V. Schedules and Procedures

This order will discuss tentative schedules and procedures for filing the necessary applications for the Alaska segment of ANGTS and for the Commission's consideration of these applications. Schedules and procedures will have to be much shorter and will have to be expedited for those portions of the Northern Border and Western Leg segments built to transport Alberta gas in advance of Alaska gas. The Alaskan Delegate is authorized to work with the applicant to develop a schedule and procedure for the filing of applications and to report to the Commission. The Commission will then order a schedule and procedure to provide guidance to the applicants, the Commission staff, and other interested parties.

Three components of a complete procedure to implement the IROR mechanism have not yet been determined by the Commission. These are:

(1) The methodology to be used to deflate actual costs to base year prices;

(2) The cost formats that the applicant must follow in submitting its Certification Cost and Schedule Estimates; and

(3) Procedures to adjust the Certification Cost and Schedule Estimates for certain events not anticipated in preparing the estimates, or other changes in scope for the project.

The Commission expects that a rulemaking may be appropriate to solicit comments from all interested parties before the Commission issues an order establishing these components of the IROR mechanism. Prior to the issuance of a proposed rule, the Alaskan Delegate is authorized to discuss possible approaches or procedures with the applicants or other interested parties. The applicant is specifically invited to submit to the Delegate proposals on these issues.

In addition to raising matters concerning these components of the IROR mechanism, the comments continue to reflect some confusion and uncertainty regarding accounting and tax implications of the one-time adjustment to the rate base. The Alaskan Delegate is authorized to work with the project sponsors and appropriate offices of the Commission staff to identify and resolve these problems. A report on the resolution of such problems, together with recommendations regarding problems which the parties were unable to resolve, should be submitted to the Commission.

The parameters for the IROR schedule, such as the Marginal Rate, the Center Rate, the Non-Incentive Rate and the Center Point, require certain submissions from the project sponsors. The Commission's Alaskan Delegate is authorized to develop the appropriate phasing for the requisite

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[8] *Initial Decision on Proposed Alaska Natural Gas Transportation Systems, El Paso Alaska Company,* Docket No. CP-75-96, *et al.,* Federal Power Commission, February 1, 1977, at p. 377.

[9] *Recommendation to the President, Alaska Natural Gas Transportation Systems,* Federal Power Commission, May 1, 1977, at XII-74.

[10] *Decision,* at p. 109.

filings. The following list reflects the Commission's current assessment as to what filings are required and when they might be expected.

1. Project company tariff: the Alaskan Delegate should report to the Commission as soon as possible on the status of tariff issues, hopefully by the end of January, 1979. Upon completion of that report, the project sponsors should file the project company tariff. Upon approval of the tariff, the Commission should be able to act on a filing for the Operation Phase Rate, if the basic framework of the financing plan has been established.

2. Certification Cost and Schedule Estimate: The Commission understands that the Certification Cost and Schedule Estimate is currently being prepared for presentation to the financial community in mid-1979. If the project sponsors will file that Estimate with the Commission, at least on a provisonal basis, at the same time as it is presented to the financial community, the Commission can then initiate the required comparision with the March 1977 estimate. The Commission should also be able to set the Center Point for the IROR schedule.

3. Center Rate, Marginal Rate and Non-Incentive Rate: proposals for these values will presumably be a part of the financing plan which the project sponsors will file with the Commission.

VI. Revisions in Terms and Conditions

A. Calculation of Cost Performance Ratio

In response to the comments on the revised notice, the terms and conditions specified by this order have been altered in a number of ways. The first change is that the definition of the Cost Performance Ratio no longer makes use of the concept of rate base. A new but similar concept is used instead (1) because it is not appropriate to include some components of rate base in the Cost Performance Ratio and (2) in order to avoid any confusion between the calculation of the Cost Performance Ratio and the calculation of rate base necessary for determining cost of service. Except for the one-time adjustment which is part of the IROR mechanism, procedures described in these terms and conditions for calculating the Cost Performance Ratio do not mean that this order changes in any way conventional and standard procedures for determining the rate base of a newly constructed pipeline.

The Cost Performance Ratio is hereafter defined to be the ratio between Deflated Actual Capital Costs and Projected Capital Costs. The term Capital Costs is meant to include both direct construction costs, such as labor, materials, and overhead, and AFUDC. Projected Capital Costs are based on the Certification Cost and Schedule Estimates approved by the Commission after adjustment for any changes in scope. The Deflated Actual Capital Costs are derived from the actual cost and schedule for construction of the project after deflating to base year prices.

The AFUDC added to direct construction costs will be calculated from a Real Rate of Return to be determined by the Commission. This rate is meant to exclude the effect of inflation on interest rates and rates of return. AFUDC will be calculated quarterly by applying a rate equal to one fourth of the Real Rate of Return to the Deflated Actual and Projected Capital Costs outstanding at the beginning of the quarter.

The major differences between the concept of Actual Capital Costs and the conventional concept of rate base are: (1) accumulated deferred income taxes are a factor in determining rate base but are not relevant in calculating Actual Capital Costs; (2) rate base includes working capital but Capital Costs do not; and (3) rate base includes an allowance for funds used during construction, based on the actual cost of equity and debt capital during construction, while Actual Capital Costs are defined to include an AFUDC charge based on a single Real Rate of Return.

B. Real Rate of Return

The reason for changing the method of calculating the AFUDC included in the Actual and Projected Capital Cost is to make this component of cost consistent with the other cost components. The Projected Capital Cost is based on the Certification Cost Estimates which are in constant base year prices, and the Actual Capital Costs is also deflated back to the same base year prices. In other words, these costs are in real or constant dollars instead of nominal or inflated dollars. Thus to be consistent and to avoid undesirable incentives, the AFUDC included as a cost should also be in constant or real dollars or, in other words, calculated from the Real Rate of Return.

In the September 15 notice, the Commission proposed to use the interest rates actually experienced during construction and the Non-incentive Rate of Return on Equity to calculate the AFUDC included in the Cost Performance Ratio. Assuming a continuation of inflation over coming years, these rates will reflect the inflationary expectations of investors and include a substantial premium because of inflation and thus are nominal or current dollar rates of interest and rates of return. This inflation premium must be removed in order to determine the real or constant dollar AFUDC. As an illustration of how one might calculate the Real Rate of Return, suppose that current expectations are that inflation will continue at a six percent rate for the foreseeable future. Assuming 25 percent equity capitalization, a Non-incentive Rate of 15 percent, and an interest rate on debt of 10 percent, the conventional overall after tax rate of return on rate base used to calculate AFUDC would be 11 percent ($.25\times15 + 75\times10=11.25$). Subtracting the six percent inflation rate produces a Real Rate of Return of about 5 percent.

From the project sponsors' perspective, use of a capital charge closer to the real cost of capital also means that capital charges have a much reduced impact on the Cost Performance Ratio. The Commission believes that this change, in combination with absolving the project sponsors of any responsibility for delay which is the fault of the government, should provide the desired incentive for continuous management interest in avoiding delay, without exposing the sponsors to unreasonable and unjust penalty.

C. One-Time Adjustment to Rate Base

The method of calculating the one-time adjustment to the rate base has been revised in response to two criticisms of the earlier procedure: (1) Northern Border objects to using 12 years as the assumed life of the advance delivery facilities for calculating the one-time adjustment facilities, since the pipeline will be used for 25 years or more when Alaska gas begins to flow; and (2) Alaskan Northwest objects (as did some other parties) to the fact that "there is no simple and clear-cut means of implementing the one-time adjustment to rate base." [11] The revised procedure for calculating the one-time adjustment is based on an assumed life of 25 years for the project, even though the actual life may be different, and on a very simple procedure for projecting the return of and return to equity for purposes of the discounted cash flow analysis.

The one-time adjustment will be based on the assumption that the return of equity will be at the annual rate of 4 percent of the equity investment in the project at the start-up of operations. In other words, equity will be depreciated on a straight line basis over a 25-year period. The annual return on equity will be calculated as the product of the Incentive Rate and the undepreciated equity at the beginning of the year. This method was suggested to the Commission by the proposal for an IROR put forth by the National Energy Board of Canada on October 5, 1978.[12] This return of and on equity will then be discounted back to the date of start-up of the pipeline,

[11] Comments of Alaskan Northwest Natural Gas Transportation Company, A Partnership, October 13, 1978, at p. 13.

[12] National Energy Board, Proposed Approach to Incentive Rate of Return for the Northern Pipeline, Preliminary Draft (October 5, 1978) at p. 21.

using the Operation Phase Rate as the discount rate.

To illustrate this method of calculating the one-time adjustment, Table 1 shows how to calculate the adjustment for a $100 unadjusted equity investment (including AFUDC), assuming that the Incentive Rate is 17 percent and that the Operation Phase Rate is 13 percent. The discounted total (at a 13 percent discount rate) of return of equity and the return to equity is $121.75. A one-time adjustment of $21.75 would thus be added to the allowance in the rate base of the project for equity funds used during construction. When the unadjusted equity investment in the project, the Incentive Rate, and the Operation Phase Rate have been determined, it is a simple, straightforward procedure to calculate the one-time adjustment to rate base.

To illustrate what the size of the one-time adjustment would be for other values of the Incentive Rate, Table 2 gives the one-time adjustment as a percent of the unadjusted investment for various values of the Cost Performance Ratio and the Incentive Rate. In the example, the Operation Phase Rate is assumed to be 13 percent, and the IROR schedule is the example used in the revised notice of September 15. Building the project at a cost equal to projected cost (a Cost Performance Ratio of 1.0) would result in a 36.43 percent increase in the equity investment in the project. An overrun of 30 percent (Cost Performance Ratio of 1.3) would result in a 21.74 percent increase, while an overrun of 134 percent (Cost Performance Ratio of 2.34) would result in no change in the equity investment.

Though the calculation of the one-time adjustment should not be controversial, it is still necessary for the Commission to review the calculation and to make adjustments if an error has been made. The attached terms and conditions therefore require that the applicant submit for Commission approval the one-time adjustment within six months of the initiation of operations of the pipeline. The pipeline company may charge a transportation rate immediately upon first delivery of gas, based upon the Operation Phase Rate and the one-time adjustment as calculated by the Company. If, upon review of the submission, the Commission determines that the one-time adjustment submitted by the pipeline is incorrect, then any excess charges during the intervening period would be subtracted from the one-time adjustment.

TABLE 1—*Example of One-Time Adjustment Procedure*

Year	Return of Equity	Return on Equity (17% IROR)	Total	Discounted Total (13% discount rate)
1	$4.00	$17.00	$21.00	$18.58
2	4.00	16.32	20.32	15.91
3	4.00	15.64	19.64	13.61
4	4.00	14.96	18.96	11.63
5	4.00	14.28	18.28	9.92
6	4.00	13.60	17.60	8.45
7	4.00	12.92	16.92	7.19
8	4.00	12.24	16.24	6.11
9	4.00	11.56	15.56	5.18
10	4.00	10.88	14.88	4.38
11	4.00	10.20	14.20	3.70
12	4.00	9.52	13.52	3.12
13	4.00	8.84	12.84	2.62
14	4.00	8.16	12.16	2.20
15	4.00	7.48	11.48	1.84
16	4.00	6.80	10.80	1.53
17	4.00	6.12	10.12	1.27
18	4.00	5.44	9.44	1.05
19	4.00	4.76	8.76	0.86
20	4.00	4.08	8.08	0.70
21	4.00	3.40	7.40	0.57
22	4.00	2.72	6.72	0.46
23	4.00	2.04	6.04	0.36
24	4.00	1.36	5.36	0.29
25	4.00	0.68	4.68	0.22
Total	100.00	221.00	321.00	121.75

TABLE 2—*One-Time Adjustment as Percent of Original Equity Investment (including AFUDC)*

Cost Performance Ratio	Incentive Rate (%)	One-Time Adjustment to Equity Investment* (%)
0.8	22.6	52.19
1.0	19.7	36.43
1.2	17.8	26.10
1.3	17.0	21.74
1.4	16.4	18.49
1.6	15.3	12.50
1.8	14.5	8.16
2.0	13.9	3.26
2.2	13.3	1.63
2.4	12.9	—0.54

* Operation Phase Rate and the discount rate are 13 percent.

D. CERTIFICATION COST ESTIMATES AND FINANCING PLAN

The attached terms and conditions have been revised slightly to describe in greater detail the submissions the applicant must make with regard to cost estimates and a financing plan. The terms and conditions now require that a comprehensive Construction Plan and Pipeline Design be submitted along with the Certification Cost and Schedule Estimate. Such a Plan and Design are necessary for any change-in-scope procedure. If the Commission is to allow the Certification Cost Estimates to be revised because a change in scope has occurred, then it is necessary to know the original construction plan and design of the project.

The attached terms and conditions also impose certain requirements concerning the financing plan for the project. This plan should describe how both the expected costs of the project and any cost overruns will be financed. The terms and conditions state that, if the actual financing plan deviates significantly from the proposed plan, then the Center Rate, the Marginal Rate, and other parameters of the IROR mechanism may be altered by the Commission. The Commission's concern is that project sponsors could theoretically defeat the purpose of the IROR mechanism by changing the financing of the project during construction. For example, if the project sponsors determine that overruns are very unlikely and that actual cost may be near or even less than the projected cost, then they would have an incentive to increase the equity investment in the project in order to earn the high rate of return allowed by the IROR mechanism. Such a change would be to the detriment of gas consumers.

VII. WRITTEN COMMENT AND HEARING PROCEDURES

The Commission invites interested persons to submit written comments with data, views and other information concerning the single question of whether or not to include AFUDC in the Cost Performance Ratio as revised in this order. An original and 14 copies should be filed with the Secretary of the Commission by December 19, 1978. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should reference Docket No. RM78-12. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street NE., Washington, D.C. 20426, during regular business hours.

In addition, the Commission will hold a hearing for oral presentation of views on the specific issue of the inclusion of AFUDC in the Cost Performance Ratio. This hearing will be held on December 21, 1978 at the Commission Offices. All persons, including Commission Staff, desiring to be heard at that time should so inform the Office of the Secretary of the Commission by December 13, 1978 and request the amount of time they wish to receive.

VIII. FINDINGS

(1) For the reasons set forth, the Commission finds that it is appropriate and in the public interest in administering the Natural Gas Act and Alaska Natural Gas Transportation Act to adopt the terms and conditions as set forth below to the conditional certificates of public convenience and necessity issued by order on December 16, 1977 (Docket Nos. CP78-123, *et al.*).

(2) For the reasons set forth, the Commission finds that written comment and hearing is required on the sole issue of the inclusion of AFUDC in the actual and projected Capital Cost Performance Ratio.

(Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565, E.O. No. 12009, 42 FR 46267 (September 15, 1977), Natural Gas Act, 15 U.S.C. 717, *et seq.*, Alaska Natural Gas Transportation Act, 15 U.S.C. 719(g).)

IX. Conclusion

In consideration of the foregoing, and subject to further modification following comment and hearing respecting the treatment of AFUDC in the Capital Cost Performance Ratio, the following terms and conditions are appended to the conditional certificates of public convenience and necessity issued by the Commission on December 16, 1977 in Docket Nos. CP78-123, *et al.*, be effective 30 days from the date of issuance of this order.

By the Commission.

Lois D. Cashell,
Acting Secretary.

Glossary

Center point.—The value of the Cost Performance Ratio which would be achieved at the expected or most likely level of construction costs for the pipeline. The difference between the Center Point and 1.0 is a measure of the likely or expected level of cost overruns from the Projected Capital Costs of the project.

Center rate of return.—The rate of return allowed at the Center Point of the IROR schedule. This rate of return should provide compensation to equity investors for the unusual risks created by the IROR mechanism itself in addition to the risks borne during the construction and operation of the pipeline.

Certification cost and schedule estimate.—The estimate of construction costs and schedule submitted to and approved by the Commission prior to issuing a final certificate of public convenience and necessity for the project and which is the basis of the Projected Capital Costs.

Change in scope.—An event or situation not anticipated in preparing the Certification Cost and Schedule Estimate for which the Commission allows the Projected Capital Costs of the project to be altered to take into account that event or situation.

Cost performance ratio.—The ratio of Deflated Actual Capital Costs to Projected Capital Costs. This ratio is used to measure the performance of the project sponsors in achieving the budgeted cost of construction and reducing cost overruns.

Deflated actual capital costs.—The cost of construction actually experienced including an allowance for funds used during construction (AFUDC) and after deflating to base year prices using an index measuring the inflation in construction costs. The AFUDC is based on the Real Rate of Return. In earlier versions of the IROR mechanism this was referred to as the Deflated Actual Rate Base.

Incentive rate of return (IROR).—The rate of return on equity that shall be decreased as the Cost Performance Ratio is increased in order to provide an incentive for project sponsors to keep construction costs as low as possible. This rate of return is referred to as a variable rate of return in the President's *Decision.*

Incentive rate of return schedule.—A table or formula establishing a value of the Incentive Rate of Return for each value of the Cost Performance Ratio.

IROR risk premium.—The difference between the Non-Incentive Rate and the Center Rate of Return and provides compensation for the financial risks created by the imposition of the IROR mechanism.

Marginal rate of return.—The rate of return earned on each additional or incremental dollar of capital cost invested in construction. In order to provide an incentive to reduce construction costs this rate shall be set at a level below the cost of capital for an investment in this project. A marginal rate is implicit in the IROR schedule but a single overall rate of return will be earned on all equity investment which is the Incentive Rate of Return.

Non-incentive rate of return.—The rate of return on equity used to calculate the allowance in the rate base for equity funds used during construction. This rate of return shall be equal to the rate that would have been granted for this pipeline if an IROR mechanism had not been instituted and will compensate equity investors for any unusual financial risks during construction of the pipeline as well as during operation.

One-time adjustment to rate base.—An increase (or decrease) in the allowance for equity funds during construction which is equal to the present worth of the difference between the return to equity at the Incentive Rate of Return and at the Operation Phase Rate of Return.

Operation phase rate of return.—The rate of return on equity to be used to determine the cost of service of the pipeline after construction is complete and a one-time adjustment has been made to the rate base. The rate of return shall compensate equity investors for any unusual financial risks during the operation of the pipeline.

Project risk premiun.—The difference between the Operation Phase Rate and the Non-Incentive Rate of Return and provides compensation for any unusual financial risks borne by the equity investors during the construction of the pipeline.

Projected capital costs.—The estimated cost of the pipeline including direct construction costs and an allowance for funds used during construction (AFUDC). The estimate of direct construction costs is provided by the Certification Cost and Schedule Estimate. The AFUDC is based on the Real Rate of Return. The Projected Capital Costs may be adjusted for certain changes in scope of the project that occur during construction. In earlier versions of the IROR mechanism, this was referred to as the Projected Rate Base.

Real rate of return.—The rate of return used to calculate an allowance for funds used during construction (AFUDC) to be included in both the Projected Capital Costs and Deflated Actual Capital Costs of the project. This rate shall be set approximately equal to the weighted cost of debt and equity capital after subtracting an amount equal to the rate of inflation currently expected by investors.

Terms and Conditions

(1) *Applicability.* The Incentive Rate of Return (IROR) Rule will apply to two of the three segments of the Alaskan Natural Gas Transportation System within the United States, as defined in the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (referred to hereinafter as the *Decision*). These segments are: (1) the portion of the system within the State of Alaska, and (2) the portion of the system from the United States/Canadian border near Monchy in the Province of Saskatchewan to a point near Dwight in the State of Illinois. In the following terms and conditions, the term "pipeline" refers to each of these two segments, and the terms and conditions apply to each. The values for schedules, parameters, or variables to be established by the Commission in order to implement the IROR rule pursuant to some future proceeding may be different for each of the segments.

(2) *Cost performance ratio.* Pursuant to the second finance term and condition of the *Decision* (p. 36), the rate of return on equity during the operating period of the pipeline will be increased if the pipeline is completed under budgeted cost and reduced if the pipeline is completed over budgeted cost. The relationship between budgeted cost and completed cost will be determined by a Cost Performance Ratio. This is the ratio of the Deflated Actual Capi-

tal Costs (see condition 4 below) to the Projected Capital Costs (see condition 5 below).

(3) *Incentive rate of return schedule.* The Commission will establish an IROR schedule which may be in the form of a table or formula. The IROR schedule will specify a value for the IROR for each value of the Cost Performance Ratio. The IROR schedule will compensate equity investors for the degree of construction cost overrun and schedule delay risk which they bear. The IROR schedule will take into account financing plans, cost estimates, and any other factors which the Commission determines to be materially relevant.

(4) *Deflated actual capital costs.* The Deflated Actual Capital Costs will be determined at the start of operations as the sum of direct construction costs actually incurred in the construction of the pipeline after conversion into base year prices (see condition 9 below) plus AFUDC calculated from the Real Rate of Return (see condition 13 below). AFUDC will be calculated quarterly, based on the Deflated Actual Capital Cost incurred prior to the beginning of the quarter.

(5) *Projected capital costs.* The Projected Capital Costs will be determined at the start of operations as the sum of direct construction costs included in the Certification Cost and Schedule Estimate approved by the Commission pursuant to condition 6 below and after any adjustments for changes in scope (see condition 10 below) plus AFUDC calculated from the Real Rate of Return (see condition 13 below). AFUDC will be calculated quarterly, based on the Projected Capital Costs estimated to be incurred prior to the beginning of the quarter.

(6) *Certification cost and schedule estimate.* Pursuant to the second finance condition in the *Decision,* the applicant for a certificate of public convenience and necessity for the pipeline shall submit to the Commission a Certification Cost and Schedule Estimate in 1975 prices, adjusted to reflect any design changes resulting from the Agreement on Principles with Canada and any addendum thereto, for comparison with the capital cost estimates filed by Alcan with the Federal Power Commission March 8, 1977: This estimate will not include AFUDC but will include costs actually incurred prior to submission of the estimate. This Certification Cost and Schedule Estimate must also be submitted in 1978 or later base-year prices and with costs set forth according to formats to be specified by the Commission (See condition 8 below). The March 1977 cost estimate referred to in the second finance term and condition in the *Decision* must also be resubmitted in the same format, for comparability with the certification estimate. An explanation of any significant differences between the March 1977 and the Certification cost and Schedule Estimate must be provided. The date of the base-year period for submitting costs may be determined by the applicant. With these estimates, the applicant shall also provide a Construction Plan and Pipeline Design which show the techniques and procedures the applicant proposes to use in constructing the pipeline and provide a detailed description of the pipeline as it will appear when completed.

(7) *Financing plan.* The financing plan (Exhibit L) submitted pursuant to the Commission's regulations (18 CFR 157.14) as part of the application for a certificate of public convenience and necessity under Section 7 of the Natural Gas Act shall describe how the applicant proposes to finance the estimated cost of the project and any overruns, including the proportions of debt and equity financing to be used. If the actual financing of the project deviates significantly from the financing plan submitted to, and approved by, the Commission, these terms and conditions and any determinations concerning parameters of the IROR schedule may be altered by the Commission.

(8) *Cost estimate format.* All cost estimates shall be submitted to the Commission according to a Cost Estimate Format to be determined by the Commission. Prior to submittal of the Certification Cost and Schedule Estimate, the applicant may submit a proposal for the Cost Estimate Format to the Commission. The Cost Estimate Format will specify the functional categories or components into which the total cost estimate must be divided and the key parameters or assumptions for which values must be provided. Each functional category of cost must be further divided according to the time period in which the costs are estimated to occur. The breakdown of costs shall be in sufficient detail that the Commission may compare the various cost estimates and determine the reasonableness of any changes.

(9) *Inflation adjustment.* The direct construction costs actually incurred, excluding interest during construction, will be deflated to base year prices, where the base year will be that used in calculating the Projected Capital Costs. The Commission will specify a construction cost index that generally measures the increase in pipeline construction costs due to inflation. Direct construction costs in any period will be divided by the ratio of the index in that period to the value of the index in the base year period.

(10) *Changes in scope.* Prior to calculation of the Projected Capital Cost for determining the Cost Performance Ratio, the Certification Cost and Schedule Estimate will be adjusted to reflect changes in cost that result from certain events not anticipated in preparing the Estimate, or agreed to changes in values of parameters from those assumed in making the Estimate. The type and number of such events or changes in parameters and the procedure for adjusting the Certification Cost and Schedule Estimate will be determined by the Commission pursuant to a future rulemaking, hearing, or order.

(11) *Non-incentive rate of return.* Prior to final certification of the pipeline, the Commission shall specify a Non-Incentive Rate of Return on Equity that compensates equity investors for any abnormal risks they will bear during the construction of the pipeline, excluding the risk created by the IROR rule. To the extent that equity investors in this pipeline bear greater construction-phase risks than investors in other regulated gas pipelines, this Rate will be higher than the general range of rates allowed for other pipelines. Once established, this Rate will not be altered during the construction phase of the pipeline.

(12) *Operation phase rate of return.* Prior to final certification of the pipeline, the Commission shall specify an Operation Phase Rate of Return that is within the general range of rates of return for other pipelines with similar operating risks. This rate of return will be determined separately and independently from the IROR. Pursuant to the Natural Gas Act, throughout the construction and operation of the pipeline, the Operation Phase Rate of Return may be altered to reflect changes in rates allowed for other pipelines of similar operating risk or to provide just and reasonable compensation to equity investors.

(13) *Real rate of return.* Prior to final certification of the pipeline, the Commission shall specify a Real Rate of Return to be used to calculate the AFUDC to be included in the Actual Capital Costs and Projected Capital Costs. The general approach to calculating this rate will be to subract from current market rates of interest and rates of return on equity an amount approximately equal to the inflationary expectations of current investors.

(14) *Cost of service calculations.* The allowed rate of return on equity used to calculate cost of service during operation of the pipeline will be the Operation Phase Rate defined above in condition 12. The rate base will include an allowance for equity funds used during construction. The equity rate of return during construction used to calculate the allowance is the

Non-incentive Rate defined above in condition 11. The allowance will also include a one-time adjustment calculated pursuant to condition 15 below. The cost of service for the pipeline shall include a charge for depreciation of the one-time adjustment, and a charge for an equity rate of return on the one-time adjustment where the rate of return is the Operation Phase Rate. The one time adjustment will be depreciated in the same manner as the remainder of the allowance for equity funds used during construction.

(15) *Adjustment to rate base.* Upon completion of construction and initial operation of the pipeline, a one-time adjustment to the equity AFUDC account in the rate base will be calculated in three steps. First, for each year in the assumed 25 year operating life of the pipeline, a revenue stream for equity will be derived assuming that the equity investment including AFUDC in the pipeline at the start of operation is fully recovered by depreciation over a 25 year period in equal annual installments, and that an annual return on equity is derived by applying the Incentive Rate to the undepreciated equity investment at the beginning of each year. Second, the present worth of this revenue stream will be calculated using a discount rate equal to the Operation Phase Rate determined pursuant to condition 12 above. Third, the difference between this present worth sum and the equity investment including equity AFUDC at the start of operations will be added to the equity AFUDC in the rate base of the project. If the difference is negative, the allowance for equity funds during construction in the rate base will be reduced by the difference.

Within six months after the initial operation of the pipeline, the one-time adjustment must be submitted for approval by the Commission. If the Commission reduces the one-time adjustment, the excess in transportation charges incurred during the intervening period will be subtracted from the one-time adjustment. Similarly, any shortfall will be added to the one-time adjustment.

[FR Doc. 78-34428 Filed 12-7-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1022-3; OPP-42027C]

DISTRICT OF COLUMBIA

District Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA).

On February 22, 1977, the District of Columbia Plan was approved contingent upon enactment of legislation and promulgation of implementing regulations. Notice of contingent approval was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13580). On October 21, 1977, the Regional Administrator, EPA, Region III, extended contingent approval of the District of Columbia Plan until December 31, 1977. Notice of extension of contingent approval was published in the FEDERAL REGISTER on November 11, 1977 (42 FR 58780).

On April 18, 1978, legislation for enforcement of the District Plan was enacted. On September 25, 1978, regulations necessary to implement the District of Columbia's legislation were promulgated. Having reviewed the legislation and regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region III, hereby gives notice that the District of Columbia Plan is fully approved.

Dated: November 27, 1978.

A. R. MORRIS,
Acting Regional Administrator,
Region III.

[FR Doc. 78-34225 Filed 12-7-78; 8:45 am]

[6560-01-M]

[FRL 1022-4]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL POLLUTANT MOVEMENT AND TRANSFORMATION COMMITTEE

Open Meeting

Under Pub. L. 92-463, notice is hereby given of a meeting of the Environmental Pollutant Movement and Transformation Committee of the Science Advisory Board of the U.S. Environmental Protection Agency. The meeting will be held on January 8-9, 1979, beginning each day at 9:30 a.m. in Conference Room 1112A of Crystal Mall Building 2 (1921 Jefferson Davis Highway, Arlington, Virginia 22209).

The agenda for the meeting includes discussions on topics of continuing interest to the Committee: Statistical needs within EPA, theoretical methodologies and models in risk assessment and exposure assessment of organisms to pollutants, utilization of Agency developed modeling methods in air and water resources by non-Federal agencies and groups, and other topics of Committee member interest.

The meeting is open to the public. Members who wish to attend are requested to notify Ms. Carolyn Osborne at the Science Advisory Board Secretariat (703) 557-7710, by close of business on January 4, 1979.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

DECEMBER 4, 1978.

[FR Doc. 78-34226 Filed 12-7-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 77-4; Agreements Nos. 9902-3, 9902-4, 9902-5 and 9902-6]

Availability of Final Energy Environmental Impact Statement

Upon completion of a Final Energy and Environmental Impact Statement ("FEEIS"), the Federal Maritime Commission's Office of Environmental Analysis ("OEA") has identified the energy and environmental consequences of the Commission's final resolution in this proceeding. The FEEIS indicates that the energy and environmentally preferable resolution of this proceeding is Commission approval of the Amendments. Approval would result in conservation of energy, though more in-port air pollutants would be produced.

The assessment of energy consumption is required under section 382(b) of the Energy Policy and Conservation Act of 1975, and an environmental analysis is required under section 4332(2)(c) of the National Environmental Policy Act of 1969.

Docket No. 77-4 was instituted to determine (1) the continued applicability of Agreement No. 9902-3, and (2) whether Agreements Nos. 9902-4, 9902-5, 9902-6 and 9902-8 should be approved, disapproved or modified, pursuant to section 15 of the Shipping Act, 1916.

The OEA's conclusions are contained in the FEEIS, which is available on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-34292 Filed 12-7-78; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

CORPORATE MERGERS OR ACQUISITIONS

Notification and Special Reports

AGENCY: Federal Trade Commission.

ACTION: Revised amendment of Commission's existing premerger notification program implemented pursuant to its resolution requiring notification and submission of special reports relating to corporate mergers or acquisitions, dated August 15, 1974.

SUMMARY: An amendment to the Commission's existing premerger notification program was published in the FEDERAL REGISTER of June 28, 1978, at page 28045. The amendment was designed to eliminate any overlapping obligations imposed by the Commission's old program and the new premerger notification program under the Hart-Scott-Rodino Antitrust Improvements Act of 1976. The amendment, however, was inadequate and is revised to provide that persons that file under the new program, persons that are exempt from filing under the new program and persons that do not meet the statutory "size-of-person" (§ 7A(a)(2)) or "size-of-transaction" (§ 7A(a)(3)) test will be relieved of any obligations to file under the Commission's existing program.

EFFECTIVE DATE: December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Malcolm R. Pfunder, Associate Director for Premerger Notification, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, telephone 202-523-3894.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission published in the FEDERAL REGISTER (39 FR 35717, October 3, 1974) its notification program relating to corporate mergers or acquisitions ("existing premerger notification program"). This program was implemented pursuant to the Commission's Resolution Requiring Notification and submission of Special Reports Relating to Corporate Mergers or Acquisitions, dated August 15, 1974, and its Order Requiring Filing of Special Report, dated August 15, 1974. Statutory authority for the existing premerger notification program is provided by Sections 3, 6, 9, and 10 of the Federal Trade Commission Act (15 U.S.C. 43, 46, 49, and 50).

The existing premerger notification program was instituted prior to Congress' enactment of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, which added a new § 7A to the Clayton Act, 15 U.S.C. 18a ("the Act"), relating to premerger notification. Pursuant to the Act, the Commission has promulgated implementing rules ("new premerger notification program") which were published in the FEDERAL REGISTER of July 31, 1978, at page 33450. The Commission has determined that persons that submit a notification and report form under the new premerger notification program should not be required to file a special report under the existing premerger notification program. Because the new premerger notification program requires the submission of more comprehensive and detailed information than does the existing premerger notification program, compliance with the lattter would be unneccssary for law enforcement purposes.

The Commission has also determined that persons that need not report because of an exemption contained in the Act or the new premerger notification rules or because they do not meet the "sizc-of-person" (§ 7A(a)(2)) or "size-or-transaction" (§ 7A(a)(3)) test of the Act need not report under the existing premerger notification program.

In doing so, the Commission has chosen to amend, rather than repeal, the cxisting premerger notification program. Persons required to comply with the requirements of the new premerger notification program, which fail or decline to do so, are not relieved of their obligations to comply with the requirements of the existing premerger notification program.

REVISED AMENDMENT TO FEDERAL TRADE COMMISSION PREMERGER NOTIFICATION PROGRAM

Accordingly, the Commission's existing premerger notification program is amended by adding the following proviso between the second and third paragraphs under the heading "Introduction" at 39 FR 35717:

Provided, That notification shall not be required from any company (1) that files notification in accordance with Section 7A of the Clayton Act, 15 U.S.C. 18a, and the rules promulgated thereunder, (2) that is exempt from filing requirements under Section 7A or the rules, or (3) that does not satisfy the criteria of Section 7A(a)(2) or (a)(3) of the Act.

Appropriate amendments have been made in the Commission's Resolution Requiring Notification and Submission of Special Reports Relating to Corporate Mergers or Acquisitions, dated August 15, 1974, and Order Requiring Filing of Special Report, dated August 15, 1974.

This revision does not materially change the reporting obligations under the original resolution, 4 CFR 310.5(d). Thus, it is determined that the advance 30-day notice of such change provided for in 5 U.S.C. 553 is unnecessary. The revision will take effect December 8, 1978.

By direction of the Commission dated November 17, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-34277 Filed 12-7-78; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on December 4, 1978. 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 receipts.

The notice includes the title of each 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 CAB requests 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 requests, comments (in triplicate) must be received on or before December 26, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

CIVIL AERONAUTICS BOARD

The CAB requests an extension without change clearance of Form 257, Certificate of Insurance, Air Taxi Operator Policies of Insurance for Aircraft Bodily Injury and Property Damage Liability. Data to be reported on this form is set forth in Part 298 of the Board's Economic Regulations and its submission to the Board is mandatory under the Federal Aviation Act of 1958, as amended. The CAB cstimates respondents number approximately 4,000 and reporting burden averages 30 minutes per report.

The CAB requests an extension without change clearance of Form 262, Standard Endorsement, Air Taxi Operator Policies of Insurance for Aircraft Bodily Injury and Property Damage Liability. Data to be reported on this form is set forth in Part 298 of the Board's Economic Regulations and its submission to the Board is mandatory under the Federal Aviation Act of 1958, as amended. The CAB estimates respondents to number approximately 4,000 and reporting burden to average 15 minutes per annual report.

The CAB requests an extension without change clearance of Form

298-C, Report of Scheduled Operations of Commuter Air Carriers. This form is filed quarterly with the Board by all commuter air carriers registered under Part 298 of the Board's Economic Regulations, and its submission is mandatory under the Federal Aviation Act of 1958, as amended. The CAB estimates respondents number approximately 350 and reporting burden averages 8 hours per report.

The CAB requests an extension without change clearance of Form 298-D, Report of All Revenue Operations (Excluding Rotary-Wing and All-Cargo Operations) Performed by Air Taxi Operators, Including Commuter Air Carriers. This form is filed annually with the Board by all air taxi operators registered under Part 298 of the Board's Economic Regulations, and its submission is mandatory under the Federal Aviation Act of 1958, as amended. The CAB estimates respondents number approximately 4,000 and reporting burden averages 2 hours per annual report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 78-34282 Filed 12-7-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

RHODIA, INC., HESS AND CLARK DIVISION

Dr. Hess, SQX (Sulfaquinoxaline); Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This is a notice of withdrawal of approval of a new animal drug application (NADA) 7-221 for Dr. Hess SQX solution (sulfaquinoxaline) for certain uses in chickens and turkeys. This action is taken in response to a request by Rhodia, Inc., the sponsor.

EFFECTIVE DATE: December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1846.

SUPPLEMENTARY INFORMATION: Rhodia, Inc., Hess and Clark Division, 7th and Orange Streets, Ashland, OH 44805, is sponsor of NADA 7-221, which provides for use of Dr. Hess SQX (sulfaquinoxaline) in chickens and turkeys for control of outbreaks of fowl typhoid caused by *S. gallinarium*, fowl cholera caused by *P. multocida*, and also in chickens for control of cecal coccidiosis caused by *Eimeria tenella* and intestinal coccidiosis caused by *E. necatrix*, *E. acervulina*, *E. maxima*, and *E. brunetti* and in turkeys for control of cecal and intestinal coccidiosis caused by *E. meleagrimitis* and *E. adenoeides*. The firm was requested, by letter of June 21, 1978, to submit certain additional information to update its application. In lieu of submitting the requested information, by letter of July 6, 1978, the sponsor requested that approval of NADA 7-221 be withdrawn because this product has not been marketed for a number of years.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(i)), under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is hereby given that approval of NADA 7-221 and all supplements thereto is hereby withdrawn effective December 8, 1978.

Dated: November 29, 1978.

LESTER M. CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 78-33955 Filed 12-7-78; 8:45 am]

[1505-01-M]

MEDICAL DEVICE CLASSIFICATION PANELS

Request for Nominations for Nonvoting Representatives of Industry Interests on Public Advisory Committee; Extension of Due Date

Correction

In FR DOC. 78-27082 appearing on page 44887, in the issue of Friday, September 29, 1978, under "Supplementary Information," eighteenth line, "86 Stat. 779." should read "86 Stat. 770".

[1505-01-M]

[FDA 225-78-4005]

WATER QUALITY ANALYSIS

Memorandum of Agreement With the Environmental Protection Agency

Correction

In FR DOC. 78-27080, appearing at page 44888, in the issue for Friday, September 29, 1978, on page 44889, in the table for Total anticipated >manpower expenditure for services provided, under Chemistry, the entry "Hexavalent+hromium" should be corrected to read "Hexava>lent+Chromium".

[1505-01-M]

WIEN LABORATORIES

Request for Data and Information on Petition for Reclassification

Correction

In FR DOC. 78-27081, appearing at page 44889, in the issue of Friday, September 29, 1978, on page 44889, third column under "Supplementary Information," third line, "Succassunna," should be corrected to read, "Succasunna".

[4110-39-M]

National Institute of Education

PROGRAM OF RESEARCH GRANTS ON ORGANIZATIONAL PROCESSES IN EDUCATION

Closing Dates for Applications

The National Institute of Education gives notice that, under the authority contained in Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e), applications are being accepted for support of research related to organizational processes in elementary and secondary education. This announcement covers applications for new awards that are to be considered in Fiscal Year 1979 at established intervals of four months each.

A. *Types of awards.* The program funds two types of grants. Small grants may be made for projects of up to twelve months' duration in amounts not to exceed $7,500 in direct costs.

Grants (other than small grants) may be made in any amount for projects of up to three years' duration.

B. *Application procedures.* Application for a grant (other than a small grant) requires a preliminary proposal, which is reviewed by NIE staff, scholars, and educators. NIE returns to the applicant an indication of the relative standing of the preliminary proposal among those received in the same cycle, and information on any major strengths or weaknesses found in the review. An applicant may submit a full proposal for a grant (other than a small grant) only after receiving the review of the preliminary proposal.

Application for a small grant requires only a full proposal, not a preliminary proposal.

In order to conduct its reviews, NIE requires 10 copies of any proposal submitted.

C. *Closing dates.* Applications for new awards are reviewed in batches at four-month intervals. The closing dates for submitting small grant, preliminary, and full proposals which anticipate award of fiscal year 1979 funds are:

December 18, 1978
April 16, 1979

(NIE expects to continue the program in future years, depending on the availability of funds and other factors. Closing dates for review cycles leading to awards of fiscal year 1980 funds will be published at a later date. August 15, 1979, has been tentatively set as the first of them.)

D. *Applications sent by mail.* An application sent by mail must be addressed to: National Institute of Education, Proposal Clearinghouse, Washington, D.C. 20208. Attention: Organization Research.

A mailed proposal will be accepted for review if it is mailed on or before the closing date. Proof of timely mailing may consist of a legible U.S. Postal Service postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted.

NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use first-class mail, registered or certified. Each late applicant will be notified that the proposal will not be considered in the current review cycle. Late applications may be withdrawn or held over for review in the next cycle.

E. *Hand-delivered applications.* An application to be hand-delivered must be taken to the Proposal Clearinghouse, National Institute of Education, 8th floor, 1200 19th St., N.W., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:30 p.m. Washington, D.C. time, except Saturdays, Sundays, and federal holidays.

F. *Program information.* Interested persons may obtain a program announcement from the Head, School Organization and Management Studies, Program on Educational Policy and Organization, National Institute of Education, 1200 19th St., N.W., Washington, D.C. 20208. Telephone 202-254-7930. The announcement contains all rules governing the program, as well as information on eligibility and review criteria, available funds and award history, and instructions on how to apply. Persons interested in applying for research support under this program are strongly urged to obtain the program announcement. Written requests for the program announcement should be accompanied by a self-addressed mailing label.

G. *Multiple year awards.* Grants (other than small grants) may be for projects lasting up to three years. If an application for a multi-year project is approved, an initial grant award will be made for a budget period of one year. Continuation awards will be made on a non-competitive basis subject to satisfactory performance and the availability of funds in future fiscal years.

H. *Availability of funds and estimated number of awards.* Research projects approved for support in the review cycles announced in this notice will be awarded initial funds from the NIE fiscal year 1979 appropriation. The total amount of funds available for support of new projects of all kinds in this program is about $1.0 million. Approximately 25 new grants will be awarded, of which about 12 will be small grants. The range of funding for projects in 1978 was from about $35,000 to $100,000 per year for grants, and $5,000 to $12,000 for one-year small grants. However, the majority of awards was for under $80,000 per year for grants, and under $9,000 for small grants.

The program will support only projects of the highest quality, whether or not the program's resources are exhausted. Nothing in this announcement commits NIE to award any specific amount. The actual total of funds awarded may change because of a need to reserve funds for continuation of projects begun in earlier years, for contract or in-house research, or because of budget or staffing restrictions.

I. *Applicable regulations.* The regulations applicable to this program include the NIE General Provisions Regulations (45 CFR Part 1400) published in the FEDERAL REGISTER on November 4, 1974, at 39 FR 38992, and the final regulations for the Program of Research Grants on Organizational Processes in Education published in the FEDERAL REGISTER on November 22, 1977, at 42 FR 59847.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development)

Dated: December 1, 1978.

PATRICIA ALBJERG GRAHAM,
Director,
National Institute of Education.

[FR Doc. 78-34223 Filed 12-7-78; 8:45 am]

[4110-39-M]

TEACHING AND LEARNING RESEARCH GRANTS PROGRAM

Closing Date for Receipt of Applications

Notice is given that applications are being accepted for grants in the Teaching and Learning Research Grants Program according to the authority contained in Section 405 of the General Education Provisions Act, as amended (20 U S.C. 1221e).

An individual, a college, university, State department of education, local education agency, other public or private agency, organization or group, or any combination of these is an eligible applicant.

Awards will be made for research in the areas of Literacy, Mathematics Learning, Teaching, and Methodology, with primary emphasis on research examining how learning and teaching are affected by race, ethnic or language background, gender and social class.

Applicants should note that under a new procedure, a mailed application meets the deadline requirement if it is mailed on or before the closing date and the required proof of mailing is provided as explained in paragraph C below.

CLOSING DATE: March 29, 1979.

A. *APPLICATION AND PROGRAM INFORMATION:* Persons interested in applying for research support under this program must submit a written request for the program announcement from the Program Staff, Teaching and Learning Program, National Institute of Education, 1200 19th Street, NW, Washington, D.C. 20208, telephone 202-254-6572. (A self-addressed mailing label must be provided.) The program announcement includes the guidelines governing the program, information on the availability of funds, expected number of awards, eligibility and review criteria, and instructions on how to apply. Prospective applicants who have previously requested that their names be placed on the mailing list for this program will be sent copies of the announcement as soon as it is available.

B. *ESTIMATED DISTRIBUTION OF PROGRAM FUNDS:* The program has a proposed funding allocation of $2.5 million in Fiscal Year 1979. It is expected that there will be about 45-50 project awards. The program will support only projects of the highest quality. Further, nothing in the announcement will commit the Institute to award any specific amount. The actual total of funds awarded may change because of a need to reserve funds for continuation of projects begun earlier; for contract or in-house research, or because of budget or staffing restrictions.

C. *APPLICATIONS DELIVERED BY MAIL:* An application sent by mail must be addressed to the Proposal Clearinghouse, National Institute of Education, Attention: Teaching and Learning Research Grants, Room 813, 1200 19th Street, NW, Washington, D.C., 20208. Applications will be accepted only if they are mailed on or before the closing date and the following proof of mailing is provided:

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE. The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that the late application will not be considered in the current competition.

D. *APPLICATIONS DELIVERED BY HAND:* An application that is hand-delivered must be taken to the Proposal Clearinghouse, National Institute of Education, Room 813, 1200 19th Street, NW, Washington, D.C. The proposal Clearinghouse will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications for new awards that are hand-delivered will not be accepted after 4:30 p.m., March 29, 1979.

E. *APPLICABLE REGULATIONS:* The regulations applicable to this program include the National Institute of Education General Provisions Regulations (45 CFR Chapter XIV) published in the FEDERAL REGISTER on November 4, 1974, 39 FR 38992, and the final regulations as amended for the Basic Skills Grants Program published in the FEDERAL REGISTER on September 28, 1976, 41 FR 42661 and on January 20, 1978, 43 FR 2878.

(Catalog of Federal Domestic Assistance Number 13.950, Educational Research and Development)

Dated: December 1, 1978.

PATRICIA ALBJERG GRAHAM,
Director,
National Institute of Education.

[FR Doc. 78-34224 Filed 12-7-78; 8:45 am]

[4110-89-M]

Assistant Secretary for Education

COMMENTS ON COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Pursuant to Section 406(g)(2)(B) General Education Provisions Act notice is hereby given as follows:

The U.S. Office of Education has proposed collections or information and data acquisition activities which will request information from educational agencies or institutions.

The prupose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the Control of Paperwork amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before January 8, 1979, and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

Dated: December 5, 1978.

Description of a Proposed Collection of Information and Data Acquisition Activity

1. Title of Proposed Activity: Law School Clinical Experience Program—Application.
2. Agency/Bureau/Office: U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Training and Facilities.
3. Agency Form Number: OE 595.
4. Legislative Authority for This Activity: "The Commissioner is authorized to enter into grants or constracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the cost of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, with preference being given to programs providing such experience, to the extent practicable, in the preparation and trial of cases." (Pub. L. 90-575, as amended by Pub. L. 92-318, 20 U.S.C. 1136, Sec. 1101. (a).
5. Voluntary/Obligatory Nature of Response: Required to obtain benefits.
6. How Information To Be Collected Will Be Used: This information will be used in the evaluation of applications by a panel of consultants to determine which proposed programs should be funded.
7. Data Acquisition Plan:
a. Method of Collection: Mail.
b. Time of Collection: Fall.
c. Frequency: Once a year.
8. Respondent:
a. Type: Accredited Law Schools.
b. Number: 160.
c. Estimatd Average Man-Hours Per Respondent: 30.
9. Information To Be Collected:
a. Information required on Standard Form 424 (OE 595).
b. The application must show compliance with the Proposed Funding Criteria which will be published in the FEDERAL REGISTER. This includes such items as:
1. Need for clinical program.
2. Nature and scope of clinical program.
3. Relevant faculty and institutional resources.
4. Legal skills to be developed.
5. Degree of clinical supervision.
6. Appropriate academic credit.
7. The law school's commitment to clinical legal education.

Description of a Proposed Collection of Information and Data Acquisition Activity

1. Title of Proposed Activity: *Evaluation of the Special Services for Disadvantaged Students Program.*
2. Agency/Bureau/Office: Office of Education/Office of Evaluation and Dissemination/Postsecondary Programs Division.
3. Agency Form Number: OE-627.
4. Legislative Authority for this Activity: "... the Secretary shall trans-

mit to (appropriate Congressional committees) an annual evaluation report which evaluates the effectiveness of applicable programs . . . such report shall . . . contain information on the progress being made . . . describe the cost and benefits of the applicable program . . . identify which sectors of the public receive the benefits of such program . . ." (20 U.S.C. 1226c) Sec. 417. (a)(1)(B)(C), Pub. L. 93-380.

5. Voluntary/obligatory Nature of Response: Voluntary.

6. How Information Collected Will Be Used: The U.S. Office of Education (USOE) is required by law to conduct evaluations of the special educational programs supported throughout the country with federal tax dollars. The SSDS Program evaluation will address the following general questions:

- What types of postsecondary institutions are receiving SSDS grants?
- How are projects operating?
- What kinds of services and resources do projects provide to students?
- What effects does project participation have on the participating students and host institutions?

The proposed questionnaires, interview schedules, and other data acquisition forms have been designed to collect the information necessary to answer these evaluation questions.

The results of the SSDS Program evaluation will be used to prepare an Executive Summary of the evaluation results that will be submitted to Congress. In addition, a Program Information Memorandum (PIM) summarizing the results of the evaluation, will be prepared detailing the evaluation results; these documents will be made available to members of the educational community.

7. Data Acquisition Plan:

a. Method of Collection:

i. Form for Listing SSDS Eligibles and Participants: Mail.

ii. Student Participation Record of Instructional Services: Mail.

iii. Student Participation Record of Needs Assessment, Counseling and Referral Services: Mail.

iv. Student Participation Record of Student Orientation Services: Mail.

v. Student Participation Record of Cultural Services: Mail.

vi. Project Director Survey: Mail.

vii. Project Director Interview: On-Site Interview.

viii. Student Survey: Mail.

ix. Site Observation Form: On-Site Completion by Contractor.

x. Institutional Survey: Mail.

xi. Institutional Interview: On-Site Interview.

xii. Faculty Survey: Mail.

b. Time of Collection:

i. Form for Listing SSDS Eligibles and Participants: September-October, 1979.

ii. Student Participation Record of Instructional Services: October, 1979 through May, 1980.

iii. Student Participation Record of Needs Assessment, Counseling and Referral Services: October, 1979 through May 1980.

iv. Student Participation Record of Student Orientation Services: October, 1979 through May, 1980.

v. Student Participation Record of Cultural Services: October, 1979 through May 1980.

vi. Project Director Survey: February, 1980.

vii. Project Director Interview: April, 1980.

viii. Student Survey: October, 1979 and May, 1980.

ix. Site Observation Form: April, 1980.

x. Institutional Survey: October, 1979.

xi. Institutional Interview: December, 1979.

xii. Faculty Survey: October, 1979.

c. Frequency:

i. Form Listing SSDS Eligibles and Participants: One Time.

ii. Student Participation Record of Instructional Services: Sixteen Times.

iii. Student Participation Record of Needs Assessment, Counseling and Referral Services: Sixteen Times.

iv. Student Participation Record of Student Orientation Services: Sixteen Times.

v. Student Participation Record of Cultural Services: Sixteen Times.

vi. Project Director Survey: One Time.

vii. Project Director Interview: One Time.

viii. Student Survey: Two Times.

ix. Site Observation Form: One Time.

x. Institutional Survey: One Time.

xi. Institutional Interview: One Time.

xii. Faculty Survey: One Time.

8. Respondents:

a. Type: Project Staff Members.

b. Number: 300.

c. Estimated Average Man-Hours Per Respondent: 5 hours.

a. Type: Project Director.

b. Number: 60.

c. Estimated Average Man-Hours Per Respondents: 1¼ hours.

a. Type: Students.

b. Number: 12,000.

c. Estimated Average Man-Hours Per Respondent: 1¼ hours.

a. Type: Dean of Academic Affairs.

b. Number: 60.

c. Estimated Average Man-Hours Per Respondent: ¾ hour.

a. Type: Institutional Administrator Responsible for Special Projects.

b. Number: 60.

c. Estimated Average Man-Hours Per Respondent: ¾ hour.

a. Type: Faculty Members.

b. Number: 600.

c. Estimated Average Man-Hours Per Respondent: ½ hour.

9. Information To Be Collected:

Project Staff Members

- Lists of freshmen who are eligible to receive project services, and lists of freshmen and non-freshmen project participants.
- Information on the project eligibility criteria met by students.
- Students' current and permanent address/telephone numbers.
- Estimates of amount of project service needed by students.
- Information on project services individual students receive throughout academic year; dates services provided; length of service; project staff members providing service.

Project Director

- Project staffing information (for current year): Number of full-/part-time staff, formal training of staff, years of experience, staff ethnicity/race, official title of Project Director, percent time Director devotes to project/non-project activities/functions, Project Director's prior administrative experience and formal education.
- Project budget information: Level of current funding from Federal, State, and other sources, level of current funding by type of staff, total budget figures for prior academic years Federal, State, and other sources.
- Project background information: Number of years project has been operational, number of students served each year, number of full-/part-time staff each year, number of Directors project has had, level of project staff turnover.
- Project needs assessment information: Information on procedures/criteria used for student needs assessments, and information on how needs assessment data are used by project staff.
- Project Director's perceptions of project's role relationships with host institution and the students served by project.
- Information on the communication channels and flow of operations within the project and between the project staff and host institution students.
- Descriptive background information: Prior participation in Upward Bound and Talent Search projects, student's marital status, ethnicity/race, income level, number of dependents, enrollment status, student's high school program, parental/spouse income levels.
- Student performance information: Student's perception of educational progress, type/number of problems encountered in postsecondary institution, perceived role of project in solv-

ing problems, student's educational and career aspirations, type/level of financial aid received by student, and perceived adequacy of aid.

On-Site Observation by Contractor

- Accessibility of project.
- Project visibility within institution.
- Physical quality of project's facilities.
- Instructional climate of project.
- Resident/non-resident tuition, fees, and other educational expenses.

Institutional Administrator Responsible for Special Projects.

- Institutional characteristics: Type of institution, types of special educational programs or services provided to disadvantaged students, total number of students served by special programs or services, total level of funding of special programs or services from Federal, State, and other sources, faculty/staff sex and ethnicity/race composition, per-student expenditure level.
- Institutional policies and practices regarding admissions, probation, retention, and graduation.

Dean of Academic Affairs

- Information on the relationship between project goals and objectives and those of the host institution.
- Perceived status of the project within the host institution.
- Perceived project impact on the host institution in terms of benefits to participating students and effects on the institution's educational environment, administrative problems and policies, and institution's perceived need to assist disadvantaged students.

Faculty Members

- Faculty member's previous experience in working with disadvantaged students.
- Awareness of project staff and project services within institution, and type and degree of interaction with project staff members.
- Perceived project impact on student participants and on the institution.
- Perceived educational goals and priorities of host institution.

Registrar

- Transcripts on students participating in the evaluation study.

[FR Doc. 78-34300 Filed 12-7-78; 8:45 am]

[4310-17-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

COORDINATION OF FEDERAL LANDS REVIEW UNDER THE SURFACE MINING CONTROL AND RECLAMATION ACT, LAND USE PLANNING UNDER THE FEDERAL LAND POLICY AND MANAGEMENT ACT, AND THE FEDERAL COAL MANAGEMENT REVIEW UNDER THE PRESIDENT'S ENVIRONMENTAL MESSAGE OF MAY 1977

Statement of Policy; Request for Comments

AGENCY: Bureau of Land Management (BLM), U.S. Department of the Interior.

ACTION: Statement of Policy; Request for Comments.

SUMMARY: The BLM is preparing supplements to some of its management framework plans to make the plans consistent with recent statutory changes involving new environmental protection measures that may affect potential development of coal resources on federal lands. The criteria used to make these changes are interim criteria which may be revised after the Department completes its coal programmatic environmental impact statement. If the final criteria are different from the interim ones, all plans would be changed to conform to the final criteria. The interim criteria are being applied to avoid waste of time and money in ongoing planning efforts, to ensure that plans are as environmentally sensitive as possible, and to give the Department as much information as possible on the effect of the criteria before it adopts any final regulations.

DATE: Comments may be submitted until February 1, 1979.

ADDRESS: Comments should be sent to: Director, Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Robert Moore, Director, Office of Coal Management, 202-343-6821 or Robert A. Jones, Chief, Division of Environmental and Planning Coordination, 202-343-5682.

I. Statement of Policy

On November 8, 1978, the Bureau of Land Management (BLM) issued Instruction Memorandum 79-76 authorizing five of its western state offices and the Eastern States Office to revise portions of existing approved land management framework plans (MFP's) after the offices' review of certain areas of the plans to see how the plans are affected by tentative criteria for "unsuitability." A copy of the Instruction Memorandum is attached to this Notice as Appendix A. Additional instructions will soon be sent to these offices for applying the criteria to ongoing and future land-use planning. The three purposes for this review are: (1) to make sure that the MFP's reflect as carefully as possible existing statutory requirements and policies; (2) to begin to carry out the requirements of the federal lands review mandated by section 522(c) of the Surface Mining Control and Reclamation Act (SMCRA) and (3) to make these MFP's more complete, accurate and environmentally sensitive so that the BLM could better delineate proposed leasing tracts after the programmatic environmental impact statement on a federal coal management program is completed *if* the Secretary decides to adopt a program and to lease coal under that program.

The purpose of this notice is to inform the public of the steps that the Department of the Interior (Department) has taken and why these steps are needed to effect its obligations under the SMCRA, the Federal Land Policy and Management Act (FLPMA), and the Federal Coal Leasing Amendments Act (FCLAA) in a coherent manner consistent with our obligations under each statute.

II. Background

The Department has the responsibility to carry out similar land-use planning related duties under several statutes and must coordinate its responsibilities to minimize waste and duplication. The statutes related to the BLM instruction memorandum are described briefly below.

A. Federal Land Policy and Management Act of October 21, 1976

Section 202 of FLPMA, 43 USC 1712, directs the Secretary of the Interior to develop land-use plans for the administration and use of discrete areas (planning units) of the public lands. The plans are to be designed on interdisciplinary, multiple use and sustained yield principles. Section 202 authorizes the issuance of management decisions to implement land-use plans.

Under this authority, the BLM inventories the resources of public lands in each planning unit and formulates MFP's which indicate the resource values and the potential for the use and management of the lands, including exclusive and mutually conflicting uses. These MFP's are devised with extensive public input and opportunity for public comment. Prior to the enactment of FLPMA, the BLM carried out planning activities under sections 1601 to 1609 of the BLM Manual. In response to FLPMA, the Department is modifying and codifying its land-use planning system. 43 FR 8814 (March 3,

1978) (advanced notice of proposed rulemaking). Activities can and are continuing to take place under existing plans and will most likely continue to do so even after regulations are adopted. The Act has not halted new planning or the revision of existing plans.

B. SURFACE MINING CONTROL AND RECLAMATION ACT OF AUGUST 3, 1977 (SMCRA)

SMCRA established the Office of Surface Mining Reclamation and Enforcement (OSM), and directed it to establish performance standards and permitting procedures for all surface coal mining operations. The full background of this Act and an explanation of its requirements and the Department's proposals to carry out the requirements of this Act can be found in the Department's proposed permanent program regulations, 43 FR 41828 (September 18, 1978), and in the draft environmental impact statement and draft regulatory analysis prepared on that proposal.

With regard to federal lands, sections 522(b) and 523 of SMCRA, 30 USC sections 1272(b), 1273, require the Secretary: (1) to establish a federal lands program to govern surface and underground coal mining operations on federal lands; (2) to conduct a federal lands review to determine if certain classes of federal lands should be designated unsuitable for all or certain types of surface coal mining operations; and (3) to establish a process by which the public may petition to have federal lands designated unsuitable for all or certain types of surface coal mining operations.

The specific requirements of the federal lands review are to determine whether there are areas of federal lands "which are unsuitable for all or certain types of surface coal mining operations." Surface mining is permitted on federal lands before the review is completed, but when unsuitable lands are identified, the Secretary is required to limit surface coal mine operations and underground mining with surface effects on those lands. The federal lands review segment of SMCRA's requirement is quite similar to the kind of evaluation that the BLM does during the land-use planning process.

C. PRESIDENT'S ENVIRONMENTAL MESSAGE OF MAY 1977

The President's Environmental Message to Congress of May 23, 1977 (Vol. 13, No. 22, *Compilation of Presidential Documents* 782), and an accompanying memorandum to the Secretary of the Interior, directed the Secretary to review the existing federal coal leasing program, the Energy Minerals Activity Recommendation System (EMARS), 43 CFR Subpart 3525, 42 FR 25471 (May 17, 1977)), and stated the Administration's emphasis on the need for strong strip mining control legislation.

The Department immediately began to study how the leasing program should be redesigned to provide for leasing only in environmentally acceptable areas where mining would be compatible with other land uses, how best to guarantee timely development of existing, environmentally acceptable leases, and how to treat leases on environmentally sensitive lands. As is explained in section D, the importance and urgency of the review was magnified by a court decision on the environmental impact statement that the Department filed in 1975 before adopting the EMARS program on June 1, 1976. The Department plans to publish a new, draft environmental impact statement on its current "preferred alternative" coal management program by mid-December of 1978. The final environmental impact statement is scheduled to be published by April 30, 1979, and a decision by the Secretary whether to adopt a program will occur shortly thereafter.

D. LITIGATION

On September 27, 1977, the U.S. District Court for the District of Columbia enjoined the further implementation of the coal leasing program described in the 1975 programatic environmental impact statement, EMARS, until the Department completed a new or supplemental impact statement on its coal leasing program that would cure deficiencies the court found in the impact statement on which the EMARS program was based. *Natural Resources Defense Council v. Hughes,* 437 F. Supp. 981 (D.D.C. 1977). On June 14, 1978, the court modified the injunction: (1) to enjoin the Department "from taking any steps whatsoever, directly or indirectly, to implement the [EMARS] program, including calling for nominations of tracts for . . . leasing, and issuing any coal leases except [for listed types of cases];" and (2) to provide that "[f]ederal defendants may prepare comprehensive land use plans as long as they do not recommend the leasing of any tracts of federal coal; however, the plans can consider present and potential uses of the public lands." 454 F. Supp. at 151, 152 (D.D.C. 1978), *appeal pending.*

E. DISTRIBUTION OF FUNCTIONS

After the passage of SMCRA, Departmental officials agreed on how the functions that relate to federal coal management would be distributed among Departmental agencies to implement the federal lands program under SMCRA in a manner consistent with existing authorities and responsibilities for federal coal administration. The Assistant Secretaries for Energy and Minerals and Land and Water Resources, and the Directors of OSM, BLM and the Geological Survey transmitted their recommendations for Secretarial approval. On July 5, 1978, the Under Secretary adopted these recommendations. That distribution of functions is attached to this notice as Appendix B. The distribution of responsibility will be formally adopted in a memorandum of understanding among the three agencies that more specifically details the procedures and the functions distributed. that memorandum is currently in preparation. One particularly important decision is that the BLM has the primary responsibility to conduct the federal lands review under section 522 of SMCRA. The Department made this decision because of the overlap between the federal lands review and the existing BLM land-use planning system; a failure to consolidate the two programs would have created unnecessary expense and duplication. The identification of "unsuitable" lands will be done in the BLM land-use planning process; the formal designation will be made separately by BLM.

F. DEVELOPMENT OF UNSUITABILITY CRITERIA

In November of 1977, a Departmental task force began to formulate criteria for the designation of lands as unsuitable for all or certain types of coal mining operations. The Task Force's review was not limited to criteria required by SMCRA. It addressed all relevant statutory and Executive Order obligations and authorities. It not only reviewed what authority existed, but it also "field tested" different criteria. In the field tests, the Task Force members went to the planning unit, applied the criteria, and determined how much land and how much coal would be excluded from development by each criterion. The Final Task Force Report was filed on September 11, 1978, and is available upon request. The Task Force's recommended unsuitability criteria and the format for the designation process were transmitted for Secretarial review as an issue paper with the coal management review. Although the federal lands program (including the federal lands review) is exempt from the requirements of the National Environmental Policy Act (NEPA) for preparation of an environmental impact statement, 30 USC 1292(d), on September 28, 1978, the Under Secretary endorsed a set of criteria as the preferred alternative for further consideration in the federal coal management programatic environmental impact statement. At the same time, the Under secretary endorsed as part of the preferred alternative the implementation of the cri-

teria through the BLM's land-use planning process. The Under Secretary's decision on this subject is Appendix C to this Notice.

The Department intends to include in the example rules that will be attached as an appendix to the draft programatic impact statement detailed unsuitability criteria. The Department's example rules, if adopted, would fulfill some of the requirements of the federal lands program required by section 523 of SMCRA. The remainder of the federal lands program is covered by other regulations that the Department will adopt. *See* proposed 30 CFR Part 762 (43 FR 41828–29, September 18, 1978).

III. Explanation of Decision To Consider Unsuitability Criteria in Ongoing Land-Use Planning Actions

For the following reasons. the Department has decided to incorporate these draft unsuitability criteria into the ongoing land-use planning process. This process will start first with existing approved MFP's, and will be quickly expanded to include all new MFP's.

First, because BLM's land-use planning process is ongoing, the failure to include these standards in the resource inventory and planning process would require subsequent wasteful duplication of efforts now under way or soon to be initiated. This kind of planning is in no way testrained by *NRDC* v. *Hughes, supra,* and the decision to incorporate new, more environmentally sensitive factors into the planning process is fully consistent with that decision. The *Hughes* decision allows all necessary planning to take place; it only prohibits having the plan recommend *tracts* for leases. There is no impediment to eliminating lands from eligibility for leasing or from identifying *areas* in which tracts could be identified and considered for leasing if and when a leasing program is adopted.

If the Secretary were to conclude after completion of the coal programmatic environmental impact statement that he should adopt a coal management program and if that program were to include prompt competitive leasing to fill existing needs for federal coal, the existence of this completed planning would permit significantly more timely, more informed and more environmentally sensitive preliminary tract identification, tract ranking and tract selection. Failure to exercise this existing authority could also lessen the quality of information available to the Secretary in the final coal programmatic environmental impact statement and at the time of his decision on whether to adopt a leasing program.

Second, although the SMCRA does not require the Department to complete the federal lands review segment of the federal lands program within any particular time, there are several important reasons why the review should be carried out promptly. Once lands have been reviewed for unsuitability characteristics, government, industry and the general public will know where coal development could potentially take place on public lands and where it cannot. Each can then undertake the kind of long-term analysis that will ultimately contribute to sound coal development on federal lands.

The need to avoid delay is also underscored by the ongoing coal management review. The Department, after reviewing the final coal programmatic environmental impact statement, could decide that a program should be adopted and that new leasing should take place. Secretary Andrus has stated that if new leasing is needed, lease sales could begin to be held as early as 1980. If leasing is needed, the interests of the government, the industry and the public in having leases located in environmentally sound areas will be accommodated if BLM has reviewed for potential unsuitability problems as many of the MFP's as is possible prior to the time the initial round of selection of tracts takes place.

Third, the department and the public will benefit greatly from this early application of the criteria before they are formally adopted by the Department. This information will be used to supplement the results of the field tests described in the Task Force Report, and will allow better, more informed decisionmaking. The testing of the initial criteria took place in only three units. This additional testing and use of revised criteria will take place in nine units with full public participation. Final regulations will reflect the results of this round of application, and changes will be made to correct either procedural or substantive shortcomings.

The Department believes that these steps are fully consistent with the NEPA. This is true not only because SMCRA exempts from the environmental impact statement process the criteria ultimately adopted as part of the federal lands program, 30 U.S.C. § 1292, but also because the planning process discussed in this notice and established in the BLM's Instruction Memorandum is the step prior to, and does not include, formal designation of lands as unsuitable.* This step will not be taken until after the procedure and criteria for actual designation are established by regulation. The Department will change the MFP's if necessary to comply with the final regulations. Thus, this process does not irretrievably or irreversibly commit any resources.

In this manner, the Department believes it has begun and will proceed to implement the directives described above in a timely, efficient and lawful manner. The Department will soon publish a schedule for formal rulemaking proceedings on these unsuitability criteria.

Public comment on this notice is welcome. Any comment on the contents of this Notice may be used by the Department in the formulation of coal-related portions of the BLM's land-use planning regulations, in evaluating the BLM's instruction memorandum on this subject, and in the completion of the draft coal programmatic environmental impact statement and example coal regulations to be appended to it. Comments on matters dealt with in this notice should be sent to: Director, Bureau of Land Management (220), Department of the Interior, Washington, D.C. 20240.

Dated: December 5, 1978.

Guy R. Martin,
Assistant Secretary,
Land and Water Resources.

Appendix A

United States Department
of the Interior,
Bureau of Land Management,
Washington, D.C., November 8, 1978.

Instruction Memorandum No. 79-76.
Expires 9/30/79.

To: SD's—Colorado, Montana, New Mexico, Utah, Wyoming; and D-ESO.

From: Associate Director.

Subject: Coal Related Land-use Planning: Interim Guidelines: Existing, Approved MFPs.

Enclosed find the current unsuitability criteria along with relevant background and procedural instructions from the Department.

Upon receipt of this memorandum, you are cleared to do an unsuitability review of the planning areas approved by the office of Coal Mangement in already existing approved MFP's. We will soon be sending you instructions how to apply these criteria as part of MFP's or land-use analyses now underway, and future MFP's. This review is the part of the Department's first effort to satisfy the Federal lands review requirements of section 522(b) of the Surface Mining Control and Reclamation Act (SMCRA); it will be under critical scrutiny from many sources. It is important that you proceed in a consistent fashion and in total compliance with Departmental guidance. To facilitate this, the following step by step procedure is provided.

Our objective is a printed and reproducible MFP supplement, for each MFP involved, which shows clearly how the criteria were applied to the coal area, how the un-

* Similarly, proceeding to this stage in the land-use planning process does not involve the delineation or selection of leasing tracts, and is fully consistent with the present injunction in *Natural Resources Defense Council* v. *Hughes, supra.*

suitability determinations were made, additional coal areas that were eliminated based on multiple use tradeoffs, and the conditions/stipulations to be imposed for the remaining areas which are acceptable for further consideration for coal development.

As explained by the Director to the Coal State Directors on October 18, we also expect these supplements to be the best possible base for (1) formally designating lands unsuitable for mining once the Federal Lands Program is adopted under section 523 of SMCRA, and (2) initiating an efficient coal activity planning process should the Secretary decide to initiate a competitive leasing program following the filing of the final environmental statement next spring.

Lead responsibility for this review is assigned to the Division of Environmental and Planning Coordination (E&PC) since this is part of the land use planning process. The Office of Coal Management will be heavily involved in view of the importance of this process to the Department's coal program.

The MFP supplements are to be completed by May 1, 1979.

General

In acomplishing this review, you should not apply criteria or reach judgments regarding non-Federal coal included within the review area. If an area includes a Federal coal lease and would, based upon the process described in the following steps, be in an area covered by a criterion, this should be noted. If you do so, make it clear that the unsuitability criteria will be formally applied when mining plans are submitted for approval. The Department will have the opportunity to decide whether the standard can legally be applied to the lease and to review the factual basis for the conclusion in greater detail.

Step 1

Identify areas which are to be reviewed. The areas are being approved by the Director (140), and, to begin with, the review will be limited to these areas.

Step 2

Issue a public notice of intent (Federal Register as well as other methods) to apply the criteria and supplement the MFP. Hold meetings as necessary to explain the process.

The Director (140) will provide a standard notice as soon as possible for your use. The SD has discretion as to whether a meeting is needed at this point. If there is sufficient public interest to make such a meeting useful, it should be held. In any event, the process should be discussed fully with all interested parties. The Department will be making shortly a national announcement.

Step 3

Apply each criterion separately. Do *not* apply any exceptions. (See Step 6 for application of exceptions).

1. Where additional data is needed to apply the criteria, such data should (a) be requested immediately from State agencies, universities, or other Federal agencies including the GS, OSM and FWS; or (b) obtained "in-house" by BLM or via contract when it is not available from other sources within the needed time frames, if any.

2. Make determinations as well as possible given the data available. If it is uncertain whether a criterion applies to an area due to a lack of data, but you are quite certain that the area would be judged unsuitable if the data are collected, determine that the area is unsuitable. If data are deficient and you have no indication what adequate data would show, conclude that the area is acceptable, subject to further data collection at the coal activity planning stage should the Secretary decide to undertake a coal leasing program, and subject to further data collection in subsequent MFP revisions whether or not coal program is adopted.

Step 4

Identify areas which are "unacceptable" from a multiple use tradeoff point of view but which are not ruled out based on the unsuitability criteria. This in an important step for those areas outside the coal areas shown on your existing MFPs. This step will show how you are either confirming your prior multiple use plan or modifying it to provide for additional areas acceptable for further consideration for coal development.

Step 5

Prepare composite maps showing (1) all areas to which criteria apply without using exceptions and (2) additional areas that are unacceptable based on multiple use tradeoffs.

Step 6

Apply exceptions to the unsuitability criteria.

1. Exceptions are not identified until this step to avoid the work necessary in considering an exception in the event that more than one criterion might apply to the area, or if the area is unacceptable because of multiple use tradeoffs.

2. Note that under the Secretary's preferred alternative, use of exceptions is discretionary. Use the exception process to insure that the resulting areas acceptable for further consideration are a rational and logical base for further planning. In other words, do not identify a small acreage exception in a large area that is otherwise unsuitable. Consider using an exception when a large acceptable area has a few small areas based on the criteria alone.

3. Identify the stipulations and conditions to accompany each exception area that would apply to leasing or mining activities.

Step 7

If not previously done, consult with the landowners in the remaining acceptable areas. Solicit comments from surface owners using the process prescribed in Instruction Memorandum No. 78-382.

Step 8

Consider surface owner preference and determine additional areas not available for further consideration for coal development. As a general rule, determine an area to be not available if you receive negative comments from the surface landowner.

Step 9

Review with the public and other Federal/State agencies, the resulting areas to which the criteria apply and the areas acceptable for further consideration for coal development. This should be accomplished through the regular form of meeting or workshop or solicitation of comment on a draft MFP supplement, at the discretion of the SD and DM. The results of this review shall be incorporated into the supplement.

Step 10

Prepare a statement for the areas on which the criteria would exclude mining based on the Department's unsuitability criteria *only*. We view this as a fairly concise and brief item (4-5 pages) including for that area (1) the potential coal resources involved; (2) the demand for such resources; and (3) the impact of such designation on the environment, the economy, and the supply of coal. The material for this statement should be available in your ongoing regional ES and in the new programmatic ES which will be in DES form during the period involved.

Step 11

Make a decision on which areas would be excluded from mining by the criteria and multiple-use trade-offs. The remaining areas are acceptable for further consideration for coal development. This decision is permissible under the Federal Land Policy and Management Act (FLMPA), and portions of such decisions are the first step in the Federal Lands Review. Formal designation will follow after the Federal Lands Program is adopted, and all steps required by SMCRA are followed. The MFP supplement should be approved by the Bureau officer who approved the MFP.

Format and Documentation Requirements

The results of the above steps shall be recorded in a reproducible format as follows:

1. *Introduction*

This should be a brief introduction to the area being reviewed and a statement of the original MFP decision (map and narrative). It should explain why the unsuitability review is being accomplished. If appropriate, explain why a larger area is being evaluated than was planned for coal in the recently completed MFP. Such an explanation should indicate that the review is:

a. To begin to carry out the Federal lands review required by section 522(b) of SMCRA. The actual formal designation will follow approval of the plan supplement.

b. To identify areas acceptable for further consideration for coal development should the Secretary decide to proceed with a coal leasing program.

c. Not to identify tracts and, in fact, to look again at larger coal areas in those instances where the recently approved plan displayed potential tracts.

Budget and time limitations should be described and the process which led the partial MFP review should be explained. Indicate that the balance of the area will be reviewed the next time the MFP is revised. Also, if any existing Federal coal leases appear in an area otherwise considered unsuitable and no conclusion is reached for these areas (see Step 1), explain that the criteria will be applied when mining plans are submitted for review and approval.

The introduction should be accompanied by map(s) showing the location of the coal areas relative to the State, the counties involved, major access routes, etc. Keep in mind the fact that many people will see the MFP supplement who have not seen the total MFP.

The introduction should also include (by reference to an appendix if necessary), a

base map which can be overprinted to document the details of the unsuitability review.

2. *The Updated Plan*

This is the approved area considered unsuitable for coal mining and the stipulations and conditions for the remaining area considered acceptable for further consideration for coal development. This should not be construed in anyway as an authorization to recommend tracts for lease. The stipulations and conditions should be those originally developed for the area plus any developed during the application of the criteria and exceptions. The above should be shown by map overprint and narrative.

3. *Impact of the Unsuitability Designation*

This is the statement developed during Step 10.

4. *Record of How the Unsuitable Area Was Developed*

a. Include a separate narrative and map overprint for each criterion showing how it was applied (see Step 3). The applications of several criteria may be shown on the same map, if this is possible without cluttering the map.

Include in the narrative the rationale for the unsuitability determination, and the quality of data used for each criterion (see paragraphs on pages 2, 3, 4 of the enclosed Secretarial memorandum).

b. Print and include the composite map prepared during step 5 showing separately (1) the application of all criterion before exceptions are considered and (2) any additional areas excluded based on multiple use tradeoffs. This map need not distinguish between areas determined unsuitable under each criteria.

c. Print and include a map (over the composite map if the map is not too cluttered) showing all exceptions identified in Step 6 and a narrative indicating the terms or stipulations required.

d. Describe changes in the unsuitable area that you made as a result of public and state consultation.

Since this is the first application of these criteria and, thus, constitutes their first test under field conditions, and because these criteria are subject to change at the time the Secretary makes his decision on the coal management review, the Director (140) should be notified of any serious difficulties encountered in applying any of the criteria immediately. This notice should describe not only the nature of the difficulty, but also how it was adjusted for, and constructive suggestions for change.

GERALD E. PETTY,
Acting.

1 Enclosure:
Encl. 1—Ltr dtd 11/3/78 to Assistant Secretaries and Director, BLM, re: The Lands Unsuitability Criteria in the Preferred Federal Coal Management Program

APPENDIX B

DIVISION OF FUNCTIONS AND RESPONSIBILITIES CONCERNING MANAGEMENT OF FEDERAL COAL BETWEEN THE OFFICE OF SURFACE MINING, THE U.S. GEOLOGICAL SURVEY AND THE BUREAU OF LAND MANAGEMENT

A. *PRE-LEASING FUNCTIONS*

1. *Function:* Evaluate the coal resources.

a. Description of functions: evaluating the coal resources includes determining the mineral characteristics and values of the land proposed for leasing and recommending logical mining units (where applicable), recommending royalty type and amount and rent.

b. *Present responsibility of:* GS

c. *Alternatives:* Leave evaluating the coal resource with GS

d. *Decision:* In as much as neither OSM or BLM has any statutory authority under which they could assume this function, GS shall continue exercising this responsibility.

2. *Function:* Petition process for designation of Federal lands unsuitable for all or certain types of surface coal mining operations.

a. *Description of function:* Persons with an interest which is or may be adversely affected have a right to petition the Secretary of Interior to have an area of Federal lands designated unsuitable for all or certain types of surface coal mining operations or to have such designation terminated. In addition, BLM has authority to manage publically-owned resources under FLPMA of 1976.

b. *Present responsibility of:* Not assigned

c. *Alternatives:*

1. GS in consultation with OSM, BLM and other agencies as appropriate.

2. BLM in consultation with OSM, GS and other agencies as appropriate.

3. OSM in consultation with GS, BLM and other agencies as appropriate.

4. OSM receives all petitions, and refers them to field offices of the Federal surface management agency and other appropriate State and local agencies. Surface managing agency makes substantive review and develops a tentative recommendation. OSM conducts public hearing. Surface managing agency makes final recommendations to OSM. If OSM concurs, decision is issued at field level by OSM. If OSM does not concur, the decision is referred to headquarters for resolution. OSM is to assure consistency with State systems to designate lands and be generally responsible for coordination and preparation of decision documents.

d. *Decision:*

OSM, as the regulatory authority, is responsible for receiving petitions, conducting hearings, and issuing decisions. At the same time, the surface managing agencies have responsibility for the overall planning and management of public lands. Alternative 4 recognizes these responsibilities and we adopt it.

3. *Function:* Federal Coal Lands Review.

a. *Description of function:* Section 522(b) of the SMCRA of 1977 charges the Secretary with reviewing the Federal lands to determine if any areas are unsuitable for all or certain types of surface coal mining operations and to condition any mineral leasing consistent with the designation.

Sections 201 and 202 of FLPMA direct the Secretary to inventory resources of the public lands, designate areas of critical environmental concern and to prepare land use plans on appropriate uses of the public lands.

b. *Present responsibility of:* Not assigned

c. *Alternatives:*

1. GS in consultation with OSM, BLM and other agencies as appropriate.

2. BLM in substantial consultation with OSM, GS and other surface managing agencies as appropriate. OSM to have concurrence in establishing ground rules and criteria for Federal coal lands review. BLM applies the criteria in the determination of suitability.

3. OSM in consultation with GS, BLM and other agencies as appropriate.

4. Special Interagency task force to make an in-depth review of the Federal coal lands and report to the Assistant Secretaries options and recommendations concerning which areas should be designated unsuitable for all or certain types of surface coal mining operations.

d. *Decision:* Because of management authorities of the different agencies we adopt alternative 2.

4. *Function:* Review Process and Petition process for designation of Federal lands unsuitable for non-coal mining.

a. *Description of function:* Persons with an interest which is or may be adversely affected have a right to petition the Secretary of Interior to have an area of Federal lands designated unsuitable for non-coal mining operations. In addition, the Secretary may initiate a review process on his own motion, or initiate such a review at the request of a Governor. The Secretary may withdraw designated areas from mineral entry or leasing according to the nature of the designation.

b. *Present responsibility of:* Not assigned

c. *Alternatives:*

1. GS in consultation with OSM, BLM and other agencies as appropriate.

2. BLM in consultation with OSM, GS and other agencies as appropriate.

3. OSM in consultation with GS, BLM and other agencies as appropriate.

4. OSM receive all petitions, and refer them to agencies with expertise. Agencies make recommendations to their Assistant Secretaries who then vote and make a recommendation to the Secretary. OSM to handle consultation with State and local interests, to arrange hearing and be generally responsible for coordination and preparation of decision document.

d. *Decision:* We adopt alternative 2.

5. *Function:* Preparation of regional EIS or, where required, a site specific pre-lease EIS concerning lease tract selection.

a. *Description of function:* Section 102(2)(c) of NEPA requires agencies taking major Federal actions significantly affecting the environment to prepare environmental impact statements on those actions.

b. *Present responsibility of:* BLM and GS.

c. *Alternatives for lead agency:*

1. GS with OSM, BLM other appropriate agencies, and State and local interests.

2. OSM with BLM, GS, other appropriate agencies, and State and local interests.

3. BLM as the lead agency with special exceptions where another agency is designated as lead agency, in substantial consultation with OSM, GS, other appropriate agencies and State and local interests.

d. *Decision:* Because of BLM's basic responsibility relating lease tract selection, we adopt alternative 3.

6. *Function:* Preparation of special lease terms and conditions.

a. *Description of function:* This function includes preparing special stipulations regarding environmental performance standards and other protective provisions.

b. *Present responsibility of:* BLM and GS.

c. *Alternatives for the coordinating agency with input from relevant agencies:*

1. BLM with OSM and GS concurrence

2. GS

3. OSM

d. *Decision:* Because BLM is the official representative of the Secretary dealing with

lease applicants and taking into consideration OSM's responsibilities under SMCRA (to administer the environmental protection requirements of the Act) and GS responsibilities under the MLA, we adopt alternative 1.

7. *Function:* Acting as the Secretary's official representative in dealing with lease applicants. This function is currently assigned to BLM and is not considered an issue.

8. *Function:* Surface Owner Consent.

a. *Description of the function:* Section 714 of the SMCRA of 1977 prohibits leasing Federal coal where the mineral estate is owned by the Federal Government without the consent of private surface owners. Consultation with surface owners concerning lease tract proposals is required.

b. *Present responsibility of:* Not assigned.

c. *Alternatives:*

1. BLM
2. GS
3. OSM

d. *Decision:* We adopt alternative 1 because this function is a lease tract selection function and therefore belongs with BLM.

B. *POST LEASING PRE-MINING FUNCTIONS*

1. *Function:* Prepare recommendations on applications for use of federally owned surface over leased coal for uses unrelated to rights granted under Federal coal lease.

a. *Description of function:* Upon request of BLM or other surface management agency a mineral report is prepared. The report takes into account whether or not the intended use would interfere with mining, cause damage to coal or other minerals, or make coal or other minerals inaccessible for future extraction or conflict with proper reclamation of the lands.

b. *Present responsibility of:* GS

c. *Alternatives:*

1. GS to continue to exercise entire function.
2. OSM to assume entire function.
3. OSM and GS to jointly exercise function.

d. *Decision:* We agree that BLM should continue to receive applications. Prior to receipt of coal mining plan it is solely GS responsibility to report on surface use application. After receipt of coal mining plan GS retains responsibility with OSM concurrence. Alternative 3.

2. *Function:* Delineation of "area of operations" (AO) on coal leases and approved surface use areas within the AO.

a. *Description of function:* A map is prepared showing the "AO" which is defined as the area within a lease where mining, reclamation, and related activities take place. The purpose of delineating the "AO" is to make clear agency jurisdiction.

b. *Present responsibility of:* GS

c. *Alternatives:*

1. GS to continue to exercise function.
2. GS to retain responsibility until a mining plan is received then OSM to assume responsibility with concurrence of BLM and GS.
3. OSM and GS to jointly exercise function.

d. *Decision:* We adopt alternative 2 because we conclude that GS should retain the authority to delineate AO's until a mining plan is received. After a mining plan is received the AO must be adjusted. Since OSM will receive mining plans, OSM should then have responsibility for delineating the AO in consultation with BLM and GS. OSM will monitor off-site effects of mining operations outside the AO. OSM will obtain concurrence from GS in connection with GS royalty, production, and diligent development responsibilities.

3. *Function:* Review and approval of mining plans or major modifications thereof; lead agency for preparation of site specific EA/EIS and coordination with other agencies outside DOI.

a. *Description of function:* Approval of mining plans or major modifications thereof. Existing procedures require the preparation of an environmental analysis or EIS of a proposed mining plan or a major modification thereof. Under NEPA one agency is designated as the lead agency for preparation of these documents in consultation with the surface managing agency, and for coordination of review by other agencies.

b. *Present responsibility of:* GS has sole authority to recommend approval of mining plans to the Assistant Secretary, Energy and Minerals, after consulting with BLM. GS is responsible for EA and EIS preparation and coordination of review thereof.

c. *Alternatives:*

1. OSM to assume legal responsibility for recommending approval of mining plans and modifications and environmental review to the Assistant Secretary, Energy and Minerals, with written concurrence of the GS on production and resource recovery requirements. OSM to have responsibility for contacts with the mining companies regarding mining plans and post-mining land use, with coordination by GS with OSM on GS contacts with companies regarding matters concerning GS responsibilities relating to development, production and resource recovery requirements. BLM to retain authority to recommend and approve special requirements relating to protection of natural resources and post-mining land use of affected lands and to participate in preparation of EA/EIS.
2. GS to retain existing responsibilities with oversight by OSM. BLM to retain authority to recommend and approve special requirements relating to protection of natural resources and post-mining land use of affected lands, and participate in preparation of EA/EIS.

d. *Decision:* We adopt alternative 1, assigning this function to OSM because it is an essential function delegated to it under Section 201 of SMCRA.

4. *Function:* Responsibility for all nonlessee activity on leased land prior to operations.

a. *Description of function:* Existing procedure assigns sole responsibility to BLM for the control of activities on leased land prior to mining by persons other than the lessee. Section 301(b) of the Federal Lands Policy and Management Act mandates BLM jurisdiction over such activities. GS has responsibility for supervision of exploration license activities and multiple mineral development activities. Other surface managing agencies such as the Forest Service also have responsibility for managing surface resources.

b. *Present responsibility of:* BLM

c. *Decision:* We do not consider this function to be an issue.

C. *FUNCTIONS AND RESPONSIBILITIES DURING MINING OPERATIONS*

1. *Function:* Act as Secretary's representative in dealing with lessees and/or operators during operations.

a. *Description of function:* Agency(ies) acts as Secretary's representative and point of contact with lessees and/or operators concerning operations and compliance with lease terms, regulations and approved mining plans. Function involves assuring compliance with:

(i) production requirements such as diligent development and minimum production, royalty payments, and determination of logical mining units;

(ii) environmental performance standards and other mining plan requirements;

(iii) inspection and enforcement actions; and

(iv) non-mining functions outside the AO.

b. *Present responsibility of:* GS performs all functions except non-mining functions outside AO which are BLM's responsibility.

c. *Alternatives:*

1. GS to retain production functions, environmental and enforcement functions; BLM to retain non-mining functions outside the AO.
2. GS to retain production functions; OSM to assume environmental and related enforcement functions; and BLM to retain non-mining functions outside AO, including rights-of-way and ancillary activities related to mining.

d. *Decision:* We adopt alternative 2 because the environmental and enforcement functions are delegated to OSM under Section 201 of SMCRA. GS and BLM inspection in connection with GS and BLM functions shall be coordinated with OSM inspections, except BLM inspections outside the AO. GS makes royalty audits and other non-field inspections independent of OSM.

2. *Function:* Take necessary action in emergency environmental situations.

a. *Description of function:* Agency(ies) has responsibility in emergency situations involving either imminent danger to public health or safety or where conditions, practices or violations of regulations or lease terms are causing or may cause significant, imminent environmental harm to land, air or water, or significant waste of the coal resource, to order cessation of such activities or violations and to order immediate remedial action.

b. *Present responsibility of:* GS and BLM

c. *Alternatives:*

1. GS and BLM to retain authority to act in emergency situations; OSM to also assume authority.
2. OSM to have primary emergency authority; BLM and GS to have such authority when OSM inspectors are unable to take action before significant harm or damage will occur.

d. *Decision:* We adopt alternative 2 since this function applies only to emergency actions for environmental damage. GS and BLM will retain their present procedures for emergencies involving loss, waste, or damage to coal and other mineral resources and to other MLA functions.

3. *Function:* Conduct inspection prior to abandonment and specify and approve abandonment procedures.

a. *Description of responsibility:* Agency conducts an inspection upon receipt of notice of intention to abandon operations, specifies abandonment procedures, and approves final abandonment of operations.

b. *Present responsibility of:* GS with BLM confirmation of satisfactory reclamation of affected lands.

c. *Alternatives:*

1. GS to retain authority with BLM confirmation to inspect and approve abandonment of operations.

2. OSM to have primary authority to inspect and approve abandonment proeedures and approve abandonment of operations with BLM eoncurrenee with respeet to approval of eomplianee with special requirements relating to protection of natural resources and post-mining land use of affeeted lands; and with GS eoneurrenee with respect to compliance with production and coal resource reeovery requirements. The abandonment inspection shall be a joint inspection by OSM, GS and BLM.

d. *Decision:* We adopt alternative 2 because this function eoineides with other inspeetion and enforeement functions delegated to OSM by SMCRA. It preserves land management agency authority over lands under its jurisdiction and preserves GS authority to inspeet for production requirements consistent with previous decisions. In order to avoid multiple final inspections, a joint final inspection will be eonducted by BLM, GS and OSM with each agency inspecting for its particular area of concern.

4. *Function:* Release of performance bond.

a. *Description of function:* Upon a satisfactory showing that all mining and reelamation requirements of a lease and approved mining plan have been met, ageney releases performanee bond.

b. *Present responsibility of:* BLM.

e. *Alternatives:*

At the present time, BLM has sole authority to grant release of performanee bonds. The initial regulatory program under SMCRA does not include a performanee bond requirement. A bond will be required in the permanent program by section 509 of the Aet. Consequently, BLM should continue to exereise this authority with eoneurrenee by OSM during the initial regulatory program.

d. *Decision:* BLM will continue to exereise bond release authority with OSM and GS eoncurrenee during the initial regulatory program. This will be renegotiated at the time the permanent program is being developed.

I concur:

JOAN DAVENPORT,
Assistant Secretary,
Energy and Minerals.

GUY R. MARTIN,
Assistant Secretary,
Land and Water Resources.

WALTER N. HEINE,
Director,
Office of Surface Mining.

FRANK GREGG,
Director,
Bureau of Land Management.

H. WILLIAM MENARD,
Director,
U.S. Geological Survey.

APPENDIX C

PROPOSED UNSUITABILITY CRITERIA SELECTED BY THE UNDER SECRETARY

General Exception

Federal lands with coal which will be mined by underground mining methods will not be considered unsuitable for coal mining where the mining will result in no surfaee effeets. Where underground mining will produee surfaee effects on Federal lands to which a eriterion applies, those lands will be considered unsuitable unless the conditions exist to permit an exeeption. Surface effeets inelude surfaee oeeupaney, subsidenee, fire, and other environmental impacts of underground mining whieh are manifested on the surfaee.

1. *Federal Land Systems*

Criterion: All Federal lands ineluded in the following land systems or eategories and an appropriate buffer zone, if neeessary, as determined by the land managemcnt agency, shall be eonsidered unsuitable for coal mining: National Park System, National Wildlife Refuge System, National Systems of Trails, National Wilderness Preservation System, National Wild and Scenie Rivers System, National Recreation Areas, and other Federally purchased rcereation lands, Custer National Forest, and Federal lands in ineorporated eities, towns, and villages. All Federal lands which are reeommended for inclusion in sueh systems or eategories by the Administration in legislative proposals submitted to the Congress or which are required by statute to be studied for inelusion in sueh systems or eategories shall be eonsidered unsuitable for coal mining.

Exception: A lease may be issued for underground eoal mining within the Custer National Forest with the eonsent of the Department of Agrieulture.

2. *Rights-of-Way and Easements*

Criterion: Federal lands that are within rights-of-way and easements and within surfaee leases for residential, eommereial industrial, public purposes, and agrieultural erop produetion over Federally-owned surfaee shall be eonsidered unsuitable for coal mining.

Exceptions: A lease may inelude sueh areas if the land management agency determines that:

(1) Coal development (e.g. underground mining) will not interfere with the purpose of the right-of-way or easement, or

(2) The right-of-way or easement was granted for mining purposes, or

(3) The right-of-way or easement was issued for a purpose for whieh it is not being used, or

(4) The parties involved in the right-of-way or easement agree to leasing, or

(5) It is impraetieal to exclude sueh areas due to the loeation of coal and method of mining and sueh areas can be proteeted through use of appropriate stipulations.

3. *Buffer Zones Along Rights-of-Way and Adjacent to Communities and Buildings*

Criterion: Federal lands affeeted by section 522(e) of the Surface Mining Control and Reelamation Aet shall be eonsidered unsuitable for eoal mining. This ineludes lands within 100' outside of the right-of-way of a public highway or within 100' of a eemetery, and within 300' of an occupied building, school, ehureh, eommunity or insitutional building or publie park or within 300' of an oeeupied dwelling.

Exception: A lease may inelude mine aeeess roads or haulage roads that join the right-of-way for a publie road. Additionally, the Surfaee Mining Regulatory Authority may issue a permit to have publie roads relocated. Finally, owners of oeeupied buildings may give permission to mine near the buildings.

4. *Wilderness Study Areas*

Criterion: Federal lands designated as wilderness study areas shall be eonsidered unsuitable for coal mining while under review by the Administration and the Congress for possible wilderness designation. For any Federal land which is to be leased or mined prior to eompletion of the wilderness inventory by the land management agency, the environmental impact statement (or analysis) of the lease sale or mine plan must consider whether the land possesses the characteristies of a wilderness study area. If the finding is affirmative, the land shall be eonsidered unsuitable for coal mining.

Exception: Issuance of noneompetitive coal leases and mining on leases may proceed if authorized by the Wilderness Act and the Federal Land Policy and Management Act of 1976.

5. *Scenic Areas*

Criterion: Seenic Federal lands designated by visual resouree management analysis as Class I or II (areas of outstanding seenic quality and/or high visual sensitivity) but not currently on the National Register of Natural Landmarks shall be considered unsuitable for eoal mining.

Exception: A lease may be issued if the land management ageney determines that eoal mining will not signifieantly diminish or adversely affect the scenic quality of the designated area.

6. *Lands Used For Scientific Studies*

Criterion: Federal lands under permit by the land management agency, and being used, for seientific studies involving food and fiber produetion, natural resources or teehnology demonstrations and experiments shall be considered unsuitable for coal mining.

Exceptions: A lease may be issued:

1. With the eoneurrence of the prineipal scientifie user or ageney, or

2. Where the mining could be done in such a way as not to jeopardize the purpose of the study as determined by the land management agency.

7. *Historic Lands and Sites*

Criterion: All districts, sites, buildings, structures, and objects of historic, architeetural, archeological, or eultural signifieanee whieh are ineluded in or eligible for inelusion in the National Register of Historic Plaees, and an appropriate buffer zone around the outside boundary of the property (to protect the inherent values of the property that made it eligibe for listing in the National Register) as determined by the land management agency, in consultation with the Advisory Council on Historic Preservation or by procedures approved by the Advisory Counеil, shall be considered unsuitable for coal mining.

Exceptions: Leasing may be allowed if the land management agency determines:

1. The site, structure, or object is of regional or local significanee only with the concurrence of the State, or

2. In consultation with the Advisory Counеil on Historie Preservation, the direet and indirect effects of eoal mining to properties on or eligible for the National Register of Historie Plaees will not result in significant adverse impaets to the site, structure, or object.

8. *Natural Areas*

Citerion: Federal lands designated as natural areas or as National Natural Landmarks shall be considered unsuituable for eoal mining.

Exceptions: Leasing may be allowed in these areas or sites if the land management agency determines that:

1. The area or site is only of regional or local significance only with the eoncurrenee of the State, or

2. The use of appropriate mining technology will result in no significant adverse impact to the area or site, or

3. The mining of the coal resource will enhance information recovery (e.g., paleontological sites).

9. *Federally Listed Endangered Species*

Criterion: Legally designated critical habitat for Federal threatened/endangered (T/E) plant and animal species, and habitat for Federal T/E species which is determined by the Fish and Wildlife Service and the land management agency to be of essential value and where the presence of T/E species has been scientifically documented, shall be considered unsuitable for coal mining.

Exception: Leasing may be allowed if, after consultation with the Fish and Wildlife Service, the land management agency determines the species habitat will not be adversely affected by coal development.

10. *State Listed Endangered Species*

Criterion: Habitats deemed critical or essential for plants and animal species listed by the State pursuant to State law as endangered or threatened shall be considered unsuitable for coal mining.

Exception: A lease may be issued if, after consultation with the State, the land management agency determines that the species will not be adversely affected by the coal development.

11. *Bald and Golden Eagle Nests*

Criterion: Bald and golden eagle nests that are determined to be active and a buffer zone of land in a ¼ mile radius from the nests are areas which shall be considered unsuitable for coal mining, except that, during the non-breeding season, mining can be conducted within the buffer zone. Consideration of availability of habitat for prey species shall be included in the determination of buffer zones.

Exceptions: A lease may be issued if:

1. It can be conditioned in such a way, and during periods of time, that eagles will not be disturbed during breeding season, or

2. A permit or special approval is granted by the Fish and Wildlife Service to allow the eagle nest to be moved.

Buffer zones may be increased or decreased if the land management agency determines that the active eagle nests will not be adversely affected.

12. *Bald and Golden Eagle Roost and Concentration Areas*

Criterion: Bald and Golden Eagle roost and concentration areas used during migration and wintering shall be considered unsuitable for coal mining.

Exception: A lease may be issued if the land management agency determines that mining can be conducted in such a way, and during such periods of time, to ensure that eagles will not be adversely disturbed.

13. *Falcon Cliff Nesting Sites*

Criterion: Federal lands containing falcon cliff nesting sites with active nests and a buffer zone of Federal lands ¼ mile radius from the nest to provide needed prey shall be considered unsuitable for coal mining, except that, during the non-breeding season, mining can be conducted within the buffer zone. Consideration of availability of habitat for prey species shall be included in the determination of buffer zones.

Exceptions: A lease may be issued if:

1. The land management agency determines that coal mining will not adversely impact the nesting sites during the breeding season, or

2. Nest sites may be moved with concurrence of the Fish and Wildlife Service.

Buffer zones may be increased or decreased if the land management agency determines the active falcon nests will not be adversely affected.

14. *Migratory Birds*

Criterion: Federal lands which are high priority habitat for migratory bird species of high Federal interest on a regional or national basis, as determined jointly by the Federal land management agency and the Fish and Wildlife Service, shall be considered unsuitable for coal mining.

Exception: A lease may be issued where the land management agency, after consultation with the Fish and Wildlife Service, determines that coal mining will not adversely impact the migratory bird habitat during periods when such habitat is used by the species.

15. *State Resident Fish and Wildlife*

Criterion: Federal lands which the land management agency and the State jointly agree are fish and wildlife habitat for resident species of high interest to the State and which are essential for maintaining these priority wildlife species shall be considered unsuitable for coal mining.

Such lands shall include:

—Active dancing and strutting grounds for sage grouse, sharp-tailed grouse, and prairie chicken.
—The most critical winter ranges for deer, antelope and elk.
—Migration corridors for elk.

Such lands may include appropriate buffer zones as determined jointly by the land management agency and the State.

Exceptions: A lease may be issued if:

1. It is demonstrated that complete mitigation is possible; or

2. Following discussions between the State wildlife agency and the Federal land management agency, the Federal land management agency determines that the species being protected will not be adversely affected by the mining activity.

16. *Wetlands*

Criterion: Federal lands containing: (1) inland lakes, impoundments, and associated wetlands; (2) inland shallow, predominantly vegetated wetlands; or (3) riverine wetland systems, lower perennial and upper perennial systems with flow greater than 5 cubic feet per second and riparian zones in a "relatively undisturbed" state that are larger than one linear mile along a riverine system, shall be considered unsuitable for coal mining.

Exceptions: A lease may be issued where the land management agency determines that:

1. The use of appropriate mining or reclamation technology will not significantly affect the wetlands or will provide for complete restoration, or

2. The wetlands contain no significant values for groundwater recharge, fish and wildlife habitat, recreation or scientific study.

17. *Floodplains*

Criterion: Riverine, coastal, and special floodplains (100-year recurrence interval) shall be considered unsuitable for coal mining.

Exception: Leasing may be allowed where the land management agency determines that:

1. Leasing a particular tract is the only practicable alternative, and

2. Potential for harm to people or property and natural and beneficial values of floodplains can be minimized through use of demonstrated and available mining and mitigation measures.

18. *Municipal Watersheds*

Criterion: Federal lands which have been committed by the land management agency to use as municipal watersheds shall be considered unsuitable for coal mining.

Exception: Leasing may be allowed where:

1. The land management agency determines that mining will not adversely affect the watershed to any significant degree, and

2. The municipality or water users concur in the issuance of the lease.

19. *National Resource Waters*

Criterion: Federal lands with National Resource Waters, as identified by States in their water quality management plans, and a buffer zone of Federal lands ¼ mile from the outer edge of the far banks of the water, shall be unsuitable for coal mining.

Exception: The buffer zone may be eliminated or reduced in size where the land management agency determines that it is not necessary to protect the National Resource Waters.

20. *State Lands Unsuitable*

Criterion: A buffer zone of Federal lands necessary to provide protection for any adjacent area designated as land unsuitable for mining by the State shall be considered unsuitable for coal mining.

Exception: The buffer zone may be modified or eliminated where the land management agency, in consultation with the State, determines that all or parts of the zone are not necessary to protect the desingated area.

21. *State Proposed Criteria*

Criterion: Federal lands in a State to which is applicable a criterion (i) proposed by the State, and (ii) adopted by rulemaking by the Secretary of the Interior, shall be considered unsuitable for coal mining.

Exceptions: A lease may be issued:

1. For any area, irrespective of the applicability of the State-nominated criterion, if such criterion is adopted by the Secretary less than 12 months prior to the publication of the draft land use plan which includes such area.

2. Where the land management agency, in consultation with the State, determines that, although the criterion applies, mining will not adversely affect the value which the criterion would protect.

22. *Prime Farm Lands*

When the land management agency, with the concurrence of the Secretary of Agriculture (Soil Conservation Service), identifies Federal lands having prime farm land soils, such lands shall be considered unsuitable for coal mining.

Exceptions: A lease may be issued when:

1. Conditions such as soil rockiness, angle of slope or historic or other conditions leading to a negative determination under permanent regulations of the Office of Surface Mining Reclamation and Enforcement (OSM) are present; or

2. Scientific studies show that crop yields equivalent to pre-mining crop yields on non-mined prime farm lands in the surrounding area under equivalent levels of management could be obtained and that an operator or potential operator could meet the soil reconstruction standards in section 515(b)(7) of the Surface Mining Control and Reclamation Act (SMCRA) and OSM's permanent regulations.

23. *Alluvial Valley Floors*

federal lands identified by the land management agency, with the concurrence of the State in which they are located, as alluvial valley floors according to the definition and standards of the SMCRA, the regulations, final alluvial valley floor guidelines, and approved State programs, where mining would interrupt, discontinue, or preclude farming shall be considered unsuitable for coal mining. Additionally, when mining Federal land outside an alluvial valley floor would materially damage the quantity or quality of water in surface or underground water systems that would supply alluvial valley floors, that land shall be considered unsuitable for coal mining.

Exception: A lease may be issued where mining would not interrupt, discontinue, or preclude farming on land to which the first sentence of the criterion applies.

24. *Reclaimability*

As information regarding reclaimability on a local or regional basis becomes available, the land management agency shall use such information to determine if areas of Federal land are reclaimable to the standards of SMCRA, the regulations, and approved State programs. Examples of information on reclaimability would be soil studies, hydrologic studies, and studies concerning revegetatation. If any area is determined not to be so reclaimable, such area shall be considered unsuitable for coal mining.

Exception: A lease may be issued upon presentation of information which contains results of studies showing that reclamation is possible to the standards of the SMCRA, the regulations, and approved State programs, including State regulations.

[FR Doc. 78-34391 Filed 12-7-78; 8:45 am]

[4310-84-M]

[NM 35392]

NEW MEXICO

Application

NOVEMBER 30, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 12 W.,
Sec. 12, SW¼NW¼.

This pipeline will convey natural gas across 0.061 of a mile of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-34052 Filed 12-7-78; 8:45 am]

[4310-70-M]

National Park Service

BATHHOUSE ROW AND VICINITY, HOT SPRINGS NATIONAL PARK, ARK.

Availability of General Management Plan

The National Park Service prepared and distributed, in November 1977, a Proposal/Assessment which delineated a preferred plan and described the impacts of the plan and of the alternatives thereto to revitalize the Bathhouse Row and vicinity at Hot Springs National Park, Garland County, Arkansas. A public workshop was held in Hot Springs, Arkansas, on December 14, 1977 to discuss the plan and elicit citizen reaction and comment.

As a result of the public input received at the workshop and in comment letters received, the National Park Service has prepared a General Management Plan for Bathhouse Row and vicinity in Hot Springs National Park.

It has been concluded the proposed plan does not constitute a major Federal action that would have a significant effect on the human environment. No environmental statement will be prepared and the Service will develop comprehensive drawings and specifications to implement the plan.

Copies of the General Management Plan are available at the following locations: Southwest Regional Office, National Park Service, 1100 Old Santa Fe Trail, P.O. Box 728, Santa Fe, New Mexico 87501; Hot Springs National Park, P.O. Box 1860, Hot Springs, Arkansas 71901; and National Park Service, Room 10-G-3, Fritz G. Lanham Federal Center, 819 Taylor Street, Fort Worth, Texas 76102.

Dated: November 8, 1978.

JOHN E. COOK,
Regional Director, Southwest Region, National Park Service.

[FR Doc. 78-34280 Filed 12-7-78; 8:45 am]

[4510-26-M]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

ALASKA STATE STANDARDS

Notice of Approval

1. *Background:* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628) of the approval of the Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the 'as least as effective as' status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standards changes, the State has submitted by letter dated August 16, 1978 from Edmund N. Orbeck, Commissioner to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards comparable to 29 CFR 1910.401 Subpart T, Commercial Diving Operations; and amendments to Parts 1915, Safety and Health Regulations for Ship Repairing; 1916, Safety and Health Regulations for Shipbuilding; 1917, Safety and Health Regulations for Shipbreaking; 1918, Safety and Health Regulations for Longshoring; 1926, Safety and Health Regulations for Construction; and 1928, Safety and Health Regulations for Agriculture as published in the FEDERAL REGISTER Vol. 42 No. 141 dated July 22, 1977.

These State standards which are contained in Subchapter 6, Alaska Occupational Safety and Health Code, were promulgated after public notice under authority vested by AS 18.60.020 to Edmund Orbeck, Commissioner, on August 21, 1978.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are

at least as effective as the Federal standards and accordingly are approved. The State standards differ from the Federal standards in that the State does not address the Maritime Employment Safety and Health Regulations, Parts 1915 to 1918, due to the State returning jurisdiction for these issues to the Federal Government. Other differences are in the scope, terminology, and the addition of definitions to make the standards applicable to the State.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174: State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Technical Data Center, Occupational Safety and Health Administration, New Department of Labor Building, Room N2349R, 3rd and Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective December 8, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington this 31st day of October, 1978.

JAMES W. LAKE,
Regional Administrator—OSHA.

[FR Doc. 78-34295 Filed 12-7-78; 8:45 am]

[4510-26-M]

CALIFORNIA STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator—OSHA) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 1, 1973 notice was published in the FEDERAL REGISTER (38 FR 10717) of the approval of the California plan and the adoption of Subpart K to Part 1952 containing the decision.

The California plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. State standards have been revised in accordance with Part 1953 to meet the requirement of adopting Federal standard revisions and State initiated changes. Accordingly, California has revised these standards and promulgated them in accordance with applicable State procedures. By letter dated July 19, 1978 from Steven A. Jablonsky, Program Manager, California Occupational Safety and Health Administration to Gabriel J. Gillotti, Regional Administrator, OSHA, and incorporated as part of the plan, the State submitted proof documents concerning standards equivalent to Federal amendments to Walking and Working Surfaces standards of 29 CFR 1910.22(b)(1), 1910.23(c)(1), 1910.23(e)(1), 1910.23(e)(3)(i) and 1910.24(h); Personnel Protective equipment 29 CFR 1910.133(a)(6), Materials Handling and Storage 29 CFR 1910.178(g)(9); Machinery and Machine Guarding, 29 CFR 1910.213(h)(5); Special Industries 29 CFR 1910.265(c)(21)(i), 1910.266(c)(6)(xx), 1910.268(s), 1910.268(h)(2), 1910.268(i)(8), 1910.268(n)(3)(ii), 1910.268(s)(28) and 1910.268(s)(31); Toxic and Hazardous Substances 29 CFR 1910.1045; Tools-Hand and Power 29 CFR 1926.302(b)(2) and 1926.304(f); Demolition 29 CFR 1926.854(b). The State initiated standards changes concerned Accident Prevention Program, General Safety Precautions, Personal Protective Devices, Rock Drilling Operations, Portable Compressors, Definitions, Licensing of Drivers, Industrial Railroads, Box Shook Cut-Off Saw and Truck Driving (Logging and Sawmills). These standards, which are contained in Title 8, Chapter 4 of the California Administrative Code were promulgated by the State, after public hearings between the dates of October 5, 1977 and May 2, 1978.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards. The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator—OSHA, 450 Golden Gate Avenue, Room 9470, San Francisco, California 94102 and California Occupational Safety and Health Administration, Room 3052, 455 Golden Gate Avenue, San Francisco, California 94102; and the Technical Data Center, Room N2439R, 3rd and Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the California plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective December 8, 1978.

Sec. 18, Pub. L. 91-956, 84 Stat. 1608 (29 U.S.C. 667).

Signed at San Francisco, California this 21st day of September 1978.

GABRIEL J. GILLOTTI,
Regional Administrator.

[FR Doc. 78-34296 Filed 12-7-78; 8:45 am]

[4510-26-M]

HAWAII STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator-OSHA) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 4, 1974, notice was published in the FED-

ERAL REGISTER (39 FR 1010) of the approval of the Hawaii plan and the adoption of Subpart Y to Part 1952 containing the decision.

The Hawaii plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. State standards comparable to Federal standard changes and State initiated standards continue to be adopted. Accordingly Hawaii has revised these standards and promulgated them in accordance with applicable State procedures.

Section 1952.310(a) of Subpart Y sets forth the State's procedure for the adoption of at least as effective State standards. By letter dated May 26, 1978 from Joshua C. Agsalud, director of Labor and Industrial Relations to Gabriel J. Gillotti, Regional Administrator-OSHA, and incorporated as part of the plan, the State submitted proof documents concerning the adoption of Federal standard changes and State initiated changes to 29 CFR Part 1910, 29 CFR Part 1926 and 29 CFR Part 1928. These changes include the Commercial Diving Operations 29 CFR 1910.401-444, 1,2-Dibromo-3-Chloropropane, 29 CFR 1910.1044 and changes from the OSHA Program Directive 500 series. These standards, which are contained in Hawaii Occupational Safety and Health Standards—Rules and Regulations, Revision 3, were promulgated by the State after public hearings.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards. The detailed standards comparison is available at the locations specified below.

3. *Location of supplemnt for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 9470, San Francisco 94102; and the offices of the Department of Labor and Industrial Relations, Room 308, 825 Mililani Street, Honolulu, Hawaii 96313; and the Technical Data Center, Room N2439R, 3rd and Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Hawaii plan as a proposed change and making the Regional Administrator-OSHA's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective December 8, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at San Francisco, California this 27th day of September, 1978.

GABRIEL J. GILLOTTI,
Regional Administrator.

[FR Doc. 78-34297 Filed 12-7-78; 8:45 am]

[4510-26-M]

KENTUCKY STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On July 31, 1973, notice was published in the FEDERAL REGISTER (38 FR 20322) of the approval of the Kentucky plan and the adoption of Subpart O to Part 1952 containing the decision.

The Kentucky plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

The State has submitted by letter dated April 25, 1978, from James R. Yocom, Commissioner, Kentucky Department of Labor, to R. A. Wendell, Acting Regional Administrator, and incorporated as a part of the plan amended State standards comparable to amendments to Federal standards. The State submission in addition to updating State standards includes the repromulgation of all previously approved State standards. The updated standards covered by this notice are comparable to amended Federal standards. The standards are: 29 CFR 1910.217, Power Presses, corrections dated January 27, 1975; 29 CFR 1910.93, Vinyl Chloride, amended, dated March 25, 1975; 29 CFR 1910.40, 1910.100, 1910.116, 1910.165(b), 1910.171, 1910.184, 1910.254, National Fire Protection Association, Change of Address, dated April 28, 1975; 29 CFR 1910.106(d)(2), Flammable Liquids, correction, dated June 2, 1975; 29 CFR 1910.179, 1910.184, 1910.190, Industrial Slings, dated June 27, 1975; 29 CFR 1910.184, Industrial Slings, correction, dated July 28, 1975; 29 CFR 1910.401 through .441, a new subpart T, Commercial Diving Operations, dated July 22, 1977; 29 CFR 1926.605, Marine Operations and Equipment, amended to include Commercial Diving, dated July 22, 1977; 29 CFR 1928.21, Safety and Health Standards for Agriculture, amended to exclude Commercial Diving, dated July 22, 1977; 29 CFR 1928.21, Safety and Health Standards for Agriculture, amended to exclude Air Contaminants, dated July 29, 1977; 29 CFR 1910.1044, Emergency Temporary Standard for 1, 2, Dibromo-3-Chloropropane, dated September 9, 1977; 29 CFR 1010.1045, Emergency Temporary Standard for Acrylonitrile, dated January 17, 1978; 29 CFR 1910.1028, Benzene, dated February 10, 1978.

The Kentucky plan also provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under Section 6 of the Act. The State has promulgated standards related to subject matter which is not covered by the Federal Standards. These State Standards are: General Industry Confined Spaces, dated July 1, 1977; Construction Industry Confined Spaces, dated July 1, 1977; Construction Safety and Testing of Supply Lines in Excess of 600 Volts, dated January 1, 1978; General Industry Safety and Testing of Supply Lines in Excess of 600 Volts, dated January 1, 1978. These Standards were promulgated by Standards Board meetings in July 1977, August 1977, September 1, 1977, October 1, 1977, and January 1, 1978; pursuant to the Kentucky Occupational Safety and Health Act and Chapter 13, Kentucky Revised Statutes.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that (1) those standards repromulgated by the State are identical to those standards previously approved on January 13, 1976. (41 FR 1980), February 24, 1977 (42 FR 33814), April 20, 1977 (42 FR 33815), November 1, 1977 (42 FR 57182); (2) updated standards are identical to the Federal standards, and (3) that the State developed standards relate to subjects not covered by Federal standards.

The State standards are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, Kentucky Department of Labor, Elkhorn Court, Frankfort, Kentucky 40601; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Georgia 30309 and Office of the Director of Federal Compliance and State Programs, Room N3603, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the Kentucky State Plan as a proposed change and in making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

The decision is effective December 8, 1978.

(Sec. 18, Pub. L. 91-596; 84 Stat. 1608 (29 U.S.C. 667)

Signed at Atlanta, Georgia this 24th day of May, 1978.

COIS M. BROWN,
Acting Regional Administrator.

[FR Doc. 78-34298 Filed 12-7-78; 8:45 am]

[4510-26-M]

MARYLAND STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the FEDERAL REGISTER (38 FR 17834) of the approval of the Maryland plan and the adoption of Subpart O to Part 1952 containing the decision.

The Maryland plan provided for the adoption of Federal standards as State standards. Section 1952.213 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letter dated August 29, 1978 from Harvey A. Epstein, Commissioner, Maryland Division of Labor and Industry to David H. Rhone, Regional Administrator and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.44, as published in the FEDERAL REGISTER (43 FR 11527) dated March 17, 1978. These standards, which are contained in the Annotated Code of Maryland, were promulgated after public hearings on June 7, 1978 and July 20, 1978, pursuant to Article 41, § 256(e), Annotated Code of Maryland.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, 3535 Market Street, Suite 2100, Philadelphia, Pa. 19104; Office of the Commissioner, Maryland Division of Labor and Industry, Department of Licensing and Regulation, 203 E. Baltimore Street, Baltimore, Md. 21202; and the Technical Data Center, Room N2439R, Third and Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective December 8, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Philadelphia, Pa., this 22nd day of September, 1978.

DAVID H. RHONE,
Regional Administrator.

[FR Doc. 78-34299 Filed 12-7-78; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-3515]

ALABAMA CASUAL CO., INC., UNIONTOWN, ALA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3515: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 18, 1978 in response to a worker petition received on April 6, 1978 which was filed on behalf of workers and former workers producing pants at Alabama Casual Company, Inc., Uniontown, Alabama. The investigation revealed that the plant primarily produced men's and women's jeans. The investigation also revealed that Uniontown Manufacturing Company, Inc. was sold in September 1977. The new company, Alabama Casual Company, Incorporated produced women's jeans until December 1977. From January 1978 to the present the new company has produced women sportswear only.

The Notice of Investigation was published in the FEDERAL REGISTER on May 2, 1978 (43 FR 18789). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Uniontown Manufacturing Company Inc., its manufacturers, Alabama Casual Company, Inc., the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boys' woven cotton and manmade jeans and

dungarees increased from 9 million units in 1975, to 14 million units in 1976 and to 23 million units in 1977. Imports increased from 6.7 million units in the first six months of 1977 to 17.0 million units in the same period of 1978. The ratio of imports to domestic production increased 5.4 percent in 1976 to 8.5 percent in 1977.

U.S. imports of women's, misses' and children's slacks and shorts, which includes jeans, increased from 10,067 thousand dozens in 1975, to 11,040 thousand dozens in 1976 and to 11,622 thousand dozens in 1977. Imports increased from 6,393 thousand dozens in the first six months of 1977 to 8,233 thousand dozens in the same period of 1978. The ratio of imports to domestic production increased from 36.8 percent in 1976 to 38.0 percent in 1977.

A survey of the manufacturers which contracted most of the production of Uniontown Manufacturing Company, Inc. in 1976 and 1977 revealed that the manufacturers do not purchase imported finished garments and do not use offshore contractors to produce these garments.

Alabama Casual, the successor firm to Uniontown, was organized in 1977 and began producing women's sportswear in 1978. Sales increased in the first eight months of 1978 compared to the first eight months of 1977.

CONCLUSION

After careful review, I determine that all workers of Alabama Casual Company, Inc., Uniontown, Alabama are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 34306 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3986]

AMA FISHING CORP. BOAT CURLEW, GLOUCESTER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3986: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 25, 1978 in response to a worker petition received on July 18, 1978 which was filed on behalf of workers and former workers catching and selling fish for AMA Fishing Corporation, Boat Curlew, Gloucester, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on August 1, 1978 (43 FR 33840-33841). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the AMA Fishing Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make a affirmative determination and issue a certification of eligibility to apply for adjustment assistant each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of groundfish decreased in quantity from 1976 to 1977 and in the first six months of 1978 compared to the first six months of 1977. The ratio of imports to domestic production decreased from 1976 to 1977 and from first half of 1977 to in the first half of 1978.

Commercial landings of groundfish at Gloucester, Mass. increased from 1976 to 1977 and in the first six months of 1978 compared to the first six months of 1977.

On March 30, 1977, the Fisheries Conservation Zone (FCZ) which limits domestic and foreign catches within 200 miles of its boundaries was established. Domestic landings of cod, haddock and yellowtail flounder were restricted and no foreign fishing of these species is permitted. Since the institution of FCZ, total imports of groundfish have declined.

CONCLUSION

After careful review, I determine that all workers of the AMA Fishing Corportion, Boat Curlew, Gloucester, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-34307 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3563]

AMAX SPECIALTY METALS CORP., AKRON, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3563: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 3, 1978 in response to a worker petition received on April 20, 1978 which was filed by the Oil, Chemical Atomic Workers International Union on behalf of workers and former workers melting and fabricating zirconium sponge metals at the Akron, New York plant of Amax Specialty Metals Corporation, a division of Amax, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on May 16, 1978 (43 FR 21068). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Amax Specialty Metals Corporation, its customers the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation indicated that the primary customer for zirconium products sold by Amax Specialty Metals Corporation has not purchased imported zirconium products.

Amax Specialty Metals Corporation announced in 1975 that its Akron, New York plant would be closed. Production of fabricated zirconium and hafnium products at the plant was terminated in 1976. Prior to 1976, most of the zirconium sales and production at the plant consisted of mill products fabricated for the U.S. military, for use in nuclear reactors.

The "Department of Defense Appropriations Act of 1973" and paragraph 6-302 of the "Armed Services Procure-

ment regulations" require that domestic sources be used in the procurement of specialty metals for the U.S. Armed Services. Zirconium and zirconium base alloys are included in the definition of specialty metals (Armed Services Procurement Regulations 6-301(c)(iv)).

After Amax Specialty Metals Corporation announced its intention to stop producing zirconium, several commercial customers increased purchases. Production of zirconium ingot was continued at a the Akron plant until April, 1978. By that time, the stockpile of crushed sponge metal and scrap, from which ingots are mde, had been used up. Sales are expected to continue until inventories are deplcted.

CONCLUSION

After careful review, I determine that all workers of the Akron, New York plant of Amax Specialty Metals Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34308 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3924 and TA-W-3944]

ANDREX INDUSTRIES CORP., ASHEVILLE, N.C., AND NAOMI KNITTING MILL, ZEBULON, N.C.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3924 and TA-W-3944: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Secton 222 of the Act.

The investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers engaged in employment related to the production of knitted fabric at the Zebulon, North Carolina Naomi Knitting Mill of Duplan Fabrics, Incorporated and at the Asheville, North Carolina finishing plant of Andrex Industries Corporation. The Duplan Corporation is the parent firm of Duplan Fabrics, Incorporated and Andrex Industries Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-30929). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Naomi Knitting Mill, Andrex Industries Corporation, its customers, Duplan Fabrics, Incorporated, the Duplan Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Naomi Knitting Mill and Asheville finishing plant of Andrex Industries are part of Duplan Corporation's integrated production of knitted fabric. The Duplan Group has marketed fabrics produced by these facilities through Andrex Industries. Customers purchased fabrics as either Duplan Prints, Duplan Knits or as fabrics from Andrex.

A Department of Labor survey revealed that the majority of customers purchased finished fabrics exclusively from domestic sources. Customers who purchased finished fabrics from foreign sources from 1976 through June, 1978, constituted an insignificant proportion of the sales of Duplan Prints, Duplan Knits and Andrex Industries' fabrics.

CONCLUSION

After careful review, I determine that all workers at the Asheville, North Carolina finishing plant of Andrex Industries Corporation and the Zebulon, North Carolina Naomi Knitting Mill are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34309 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4239]

ASARCO, INC., HAYDEN, ARIZ.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 25, 1978 in response to a worker petition received on October 19, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in the smeltering of copper concentrate at the Hayden, Arizona plant of Asarco, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on November 3, 1978 (43 FR 51475). No public hearing was requested and none was held.

The petitioner requested withdrawal of the petition in a letter. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 29th day of November, 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-34310 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4157]

BOAT "GERTRUDE 'D'," NEW BEDFORD, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4157: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 14, 1978 in response to a worker petition received on September 13, 1978 which was filed on behalf of fishermen and former fishermen catching fish for the boat Gertrude 'D', New Bedford, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43587-88). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Gertrude 'D', the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requiremcnts of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed

importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation indicated a downward trend of imports of groundfish from 1977 through the first half of 1978.

U.S. imports of groundfish, fresh, frozen or otherwise processed decreased both absolutely and relative to domestic production in 1977 compared with 1976 and in the first six months of 1978 compared with the first six months of 1977. Fresh groundfish entering in Northeastern districts from foreign sources also decreased over the same period.

On March 30, 1977, the Fisheries Conservation Zone (FCZ) which limits domestic and foreign catches within 200 miles of its boundaries was established. Domestic landings of cod, haddock and yellowtail flounder were restricted and no foreign fishing of these species is permitted. Since the institution of FCZ, total imports of groundfish have declined.

CONCLUSION

After careful review, I determine that all fishermen of the boat Gertrude 'D', New Bedford, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1978.

JAMES F. TAYLOR
Director, Office of Management, Administration, and Planning.

[FR Doc. 34311 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3784]

BOGUE ELECTRIC MANUFACTURING CO., PATERSON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3784: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Secton 222 of the Act.

The investigation was initiated on May 31, 1978 in response to a worker petition received on May 23, 1978 which was filed on behalf of workers and former workers producing electrical generators and golf cars at Bogue Electric Manufacturing Company, Paterson, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26497-26498). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Bogue Electric Manufacturing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of golf cars increased in 1977 compared to 1976.

Bogue Electric Manufacturing Company's Golf Car Divison was established in mid-1976 and produced golf cars until late 1977. None of the customers of golf cars produced by Bogue Electric Manufacturing Company who were surveyed purchased imported electric golf cars.

CONCLUSION

After careful review, I determine that all workers of Bogue Electric Manufacturing Company, Paterson, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34312 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4259]

B-W FOOTWEAR CO., INC. HAVERHILL, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4259: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 16, 1978 in response to a worker petition received on October 11, 1978 which was filed on behalf of workers and former workers stitching men's shoes at the Haverhill, Massachusetts plant of B-W Footwear Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50269-70). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of B-W Footwear Co., Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of men's dress and casual footwear, except athletic, increased from 62.9 million pairs in 1976 to 63.2 million pairs in 1977 and decreased from 34.0 million pairs in the first six months of 1977 to 32.5 million pairs in the first six months of 1978. The ratos of imports to domestic production and consumption increased from 1976 to 1977 and decreased in the first six months of 1978 compared to the first six months of 1977.

The Haverhill, Massachusetts plant was a stitching plant that stitched shoe uppers which were then finished at the company's plant in Webster, Massachusetts.

The Haverhill plant was closed in October 1973. The company opened a new plant in Maine to which production previously performed at Haverhill was transferred. In its first full month of operation, employment and production levels at the new plant were higher than any comparable period during the past 3 years at the Haverhill plant.

CONCLUSION

After careful review, I determine that all workers of the Haverhill, Massachusetts plant of B-W Footwear Co., Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 34313 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3870]

CAMP BIRD COLORADO, INC., OURAY, COLO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3870: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 20, 1978 in response to a worker petition received on June 16, 1978 which was filed on behalf of workers and former workers producing zinc ore concentrates at Camp Bird Colorado, Incorporated, Ouray, Colorado. The investigation revealed that lead, zinc, copper and silver ore concentrates are mined and produced. Silver is a by-product only.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28580). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Camp Bird Colorado, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Interior, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of refined and recovered lead increased from 147 thousand short tons in 1976 to 264 thousand short tons in 1977 and from 47 thousand short tons in the first quarter of 1977 to 66 thousand short tons in the first quarter of 1978. The ratio of imports to domestic production increased from 10.7 percent in 1976 to 19.7 percent in 1977 and from 14.1 percent in the first quarter of 1977 to 19.5 percent in the first quarter of 1978.

U.S. imports of slab zinc decreased from 714,489 short tons in 1976 to 555,147 short tons in 1977. Imports of slab zinc increased from 121,120 short tons in the first quarter of 1977 to 155,998 short tons in the first quarter of 1978. The ratio of imports to domestic production increased from 127.04 percent in 1976 to 127.90 percent in 1977 and from 94.01 percent in the first quarter of 1977 to 152.08 percent in the first quarter of 1978.

U.S. imports of refined copper increased from 384 thousand short tons in 1976 to 391 thousand short tons in 1977 and from 66 thousand short tons in the first quarter of 1977 to 150 thousand short tons in the first quarter of 1978. The ratio of imports to domestic production increased from 21.0 percent in 1976 to 22.2 percent in 1977 and from 13.1 percent in the first quarter of 1977 to 34.1 percent in the first quarter of 1978.

Imports of lead are affected by the differential between the price established by the London Metal Exchange (LME) and the domestic producers' prices. In August 1977 there was a six cent difference between the LME lead price and the domestic producers price. This difference may have prompted some U.S. customers to purchase lead abroad. In late 1977 this difference declined to less than two cents per pound. However by the end of March 1978, lead prices on the LME were nearly seven cents per pound lower than those charged by U.S. producers.

Imports of zinc are affected by the difference between the U.S. producers' price and price of zinc on the London Metals Exchange. A price differential of five cents per pound is approximately equal to the cost of transporting foreign zinc to the United States. This differential was exceeded in the last four months of 1976 and in every month of 1977 except March.

Imports of copper are affected by the differential between the domestic producers' price for copper and the price established by the LME (London Metal Exchange). When the LME price drops more than the estimated transportation cost of 5-8 cents per pound below the domestic producers' price, the demand for imported copper increases. A differential of 5 cents per pound was exceeded during the periods September through December 1976 and April through August 1977. A differential of eight cents per pound was exceeded in October 1976 and from April through August 1977.

The prices that Camp Bird receives are tied to the domestic producers' prices of zinc, lead and copper. The prices Camp Bird receives for its ore concentrates have fallen to such a low level that the mine cannot be operated profitably. The mine ceased production at the end of August 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly cometitive with zinc, lead and copper concentrate produced at Camp Bird Colorado, Incorporated, Ouray, Colorado contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Camp Bird Colorado, Incorporated, Ouray, Colorado who became totally or partially separated from employment on or after June 13, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-34314 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-2681]

CARNIVALE BAG CO., INC., BROOKLYN, N.Y.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on February 28, 1978, applicable to all workers at Carnivale Bag Company Inc., New York, New York who become totally or partially separated from employment on or after April 1, 1977. The Notice of Certification was published in the FEDERAL REGISTER on March 10, 1978 (43 FR 9875).

At the request of a company official a further investigation was made by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that at least one layoff occurred shortly before the impact date originally set in the Department's certification. This layoff was not covered by the original impact date.

The intent of the certification is to cover all workers at the Carnivale Bag Company, Inc., who were adversely affected by the decline in the production of handbags related to import competition. The certification, therefore, is revised, providing a new impact date of March 1, 1977.

The revised certification applicable to TA-W-2681 is hereby issued as follows:

All workers at Carnivale Bag Company, Inc., Brooklyn, New York who became totally or partially separated from employment on or after March 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 1st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-34315 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3635]

DAVID SPORTSWEAR, INC., PASSAIC, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3635: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear at David Sportswear, Incorporated, Passaic, New Jersey. During the course of the investigation, it was revealed that workers at David Sportswear produced women's blazers.

The Notice of Investigation was published in the FEDERAL REGISTER on May 28, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of David Sportswear, Incorporated, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of the principal manufacturers for which David Sportswear worked in 1976 and 1977. Manufacturers that accounted for 100 percent of sales in 1976 did not reduce purchases from David Sportswear and increase purchases of imported women's blazers or use foreign contractors in 1977 compared to 1976. These same manufacturers had increased sales in 1977 compared to 1976.

CONCLUSION

After careful review, I determine that all workers of the Passaic, New Jersey plant of David Sportswear are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-34316 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3941 and TA-W-3946]

DUPLAN YARN, DILLON, S.C., AND DWK FABRICS, INC., DILLON, S.C.

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3941 and TA-W-3946: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers producing texturized yarn at Duplan Yarn, Dillon, South Carolina, and on behalf of workers and former workers producing knitted fabrics at DWK Fabrics, Incorporated, Dillon, South Carolina. The Duplan Corporation is the parent firm for DWK Fabrics and Duplan Yarn.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30923-29). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Duplan Yarn, DWK Fabrics, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

With respect to workers producing texturized yarn at Duplan Yarn, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that the average number of production workers at Duplan Yarn has not decreased since the first quarter of 1977. Employment in the fourth quarter of 1977 and the first two quarters of 1978 increased compared to employment in like quarters of the previous year.

The average weekly hours worked per employee did not change significantly during this period. There is no immediate threat of separation of workers at this plant.

With respect to workers producing finished fabrics at DWK Fabrics, Incorporated, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department of Labor survey revealed that customers of DWK Fabrics generally purchased finished fabrics from domestic sources. Only in the first half of 1978 did a single minor customer purchase imported finished fabric. The import purchases of this customer represented a negligible proportion of its total purchases. In addition, the purchases of this customer constituted an insignificant proportion of DWK's total sales.

CONCLUSION

After careful review, I determine that all workers at Duplan Yarn, Dillon, South Carolina and at DWK Fabrics, Incorporated, Dillon, South Carolina are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34317 Filed 12-7-78; 8.45 am]

[4510-28-M]

[TA-W-3940]

DUPLAN CORP., NEW YORK, N.Y.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3940: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Secton 222 of the Act.

The investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978, which was filed on behalf of workers and former workers engaged in employment related to the production of

knitted fabrics at the New York, New York office of the Duplan Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-29). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Andrex Industries Corporation, Duplan Fabrics, Incorporated, the Duplan Corporation, their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Department of Labor survey revealed that the customers of the Duplan Corporation generally purchased finished fabrics exclusively from domestic sources.

Of the customers who purchased imports from 1976 through June 1978, only four increased purchases of imported finished fabrics and decreased purchases from the Duplan Corporation.

The import purchases of these customers represented a negligible proportion of their total purchases.

In addition, the purchases of these customers constituted an insignificant proportion of Duplan Corporation's finished fabrics sales.

CONCLUSION

After careful review, I determine that all workers at the New York, New York office of the Duplan Corporation, including workers of the subsidiaries of Duplan Fabrics Incorporated and Andrex Industries Corporation, are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34318 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3908]

E. I. DU PONT DE NEMOURS & CO., INC., CARNEY'S POINT, N.J.

Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3908: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 26, 1978 in response to a worker petition received on June 26, 1978 which was filed by the United Chemical Workers on behalf of workers and former workers producing nitrocellulose and smokeless powder at the Carney's Point, New Jersey plant of E. I. du Pont de Nemours and Company, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on July 7, 1978 (43 FR 29364). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of E. I. du Pont de Nemours and Company, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. With respect to workers producing smokeless powder at the Carney's Point plant, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof contributed importantly to the total or partial separation, or threat thereof, and to the decline in sales or production.

U.S. imports of smokeless powder, in quantity, declined both absolutely and relative to domestic production from 1976 to 1977, and increased both absolutely and relative to domestic production from the first half of 1977 to the first half of 1978. Despite this recent increase in imports, the ratio of U.S. imports of smokeless powder to domestic production was below one percent from 1976 through the first six months of 1978.

Prior to April, 1978, Du Pont had transferred part of the smokeless powder production process from its Carney's Point plant to its plant in Martinsburg, West Virginia. An explosion in April, 1978 at the Carney's Point plant destroyed much of the equipment used in the production of smokeless powder. As a result, production of smokeless powder at Carney's Point was terminated and production workers were laid off. At that time, the company determined that it would be more economical to import smokeless powder than to purchase new equipment and build a new facility. Du Pont did not begin importing smokeless powder until June, 1978.

With respect to workers producing nitrocellulose at the Carney's Point plant, all of the group eligibility requirements of Section 222 of the Act have been met.

U.S. imports of nitrocellulose decreased from 66.1 thousand pounds in 1976 to 66.0 thousand pounds in 1977. Imports increased from 23.7 thousand pounds in the first half of 1977 to 9,038.1 thousand pounds in the first half of 1978. The ratio of imports to domestic production decreased from .09 percent in 1976 to .08 percent in 1977. The ratio of imports to domestic production increased from .06 percent in the first half of 1977 to 30.16 percent in the first half of 1978.

In July, 1977, Du Pont announced its intention to phase out domestic production of nitrocellulose. Such production would ultimately be replaced by company imports. Cutbacks in employment and production of nitrocellulose at the Carney's Point plant began at the time of the announcement. Du Pont began importing nitrocellulose in December, 1977. Imports of nitrocellulose increased as a percentage of production at Carney's Point from the first quarter of 1978 to the second quarter of 1978. In quantity, company imports of nitrocellulose were 10.0 percent higher in June, 1978 than in December, 1977. Du Pont no longer produces nitrocellulose at Carney's Point or at any other domestic facility.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the nitrocellulose produced at the Carney's Point, New Jersey plant of E. I. du Pont de Nemours and Company, Incorporated contributed importantly to the decline in sales and production and to the total or partial separation of workers engaged in employment related to the production of that product at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of nitrocellulose at the Carney's Point, New Jersey plant of E. I. du Pont de Nemours and Company, Incorporated who became totally or partially separated from employment on or after July 1,

1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that workers engaged in employment related to the production of smokeless powder at the Carney's Point, New Jersey plant of E. I. Du Pont de Nemours and Company, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34319 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3772]

FAIRFIELD-NOBLE CORP., FARMINGDALE, N.Y., NEW YORK, N.Y., LONG ISLAND CITY, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3772: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 25, 1978 in response to a worker petition received on May 23, 1978 which was filed on behalf of workers and former workers who comprised the executive, accounting and data processing personnel of the Fairfield-Noble Corporation, New York, New York. The investigation was expanded to include workers of Fairfield-Noble Corporation at Farmingdale, New York and Long Island City, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on June 9, 1978 (43 FR 25197-25198). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Fairfield-Noble Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's suits (including pant suits and jumpsuits) decreased absolutely and relative to domestic production in 1977 and increased in the first six months of 1978 compared with the first six months of 1977.

Imports of women's, misses' and children's coats and jackets increased absolutely and relative to domestic production in 1977 but decreased in the first six months of 1978 compared with the same period of 1977.

Imports of women's, misses' and children's sweaters decreased absolutely and relative to domestic production in 1977 and decreased in the first six months of 1978 compared with the first six months of 1977.

Imports of women's, misses' and children's blouses and shirts increased from 1976 to 1977. However the ratio of imports to domestic production decreased from 1976 to 1977. Imports increased in the first six months of 1978 compared with the first six months of 1978.

Imports of women's, misses' and children's skirts decreased absolutely and relative to domestic production in 1977 and in the first six months of 1978 compared with the same period of 1977.

Imports of women's, misses' and children's slacks and shorts increased absolutely and relative to domestic production in 1977 and increased in the first six months of 1978 compared with the first six months of 1977.

Some customers who were surveyed by the U.S. Department of Labor and U.S. Department of Commerce indicated that they had decreased purchases from Fairfield-Noble and increased purchases of imported women's apparel from 1975 through the first quarter of 1978. These findings are consistent with those of the U.S. Department of Commerce, which certified Fairfield-Noble as eligible to apply for firm adjustment assistance on June 29, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the women's tops, sweaters, jackets, pants, shirts, blouses, skirts and suits produced by Fairfield-Noble Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of the Farmingdale, New York, New York and Long Island City, New York offices of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Farmingdale, New York, New York, New York, and Long Island City, New York offices of Fairfield-Noble Corporation engaged in employment related to the production of women's tops, sweaters, jackets, pants, shirts, blouses, skirts and suits who became totally or partially separated from employment on or after May 23, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34320 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3991]

FERAG, INC., BRISTOL, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3991: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 25, 1978 in response to a worker petition received on July 18, 1978 which was filed on behalf of workers and former workers producing mailroom machinery and conveyors at Ferag, Incorporated, Bristol, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on August 4, 1978 (43 FR 33840). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Ferag, Incorporated the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of newpaper mailroom machinery increased from 1,612 thousand dollars in 1976 to 1,950 thousand dollars in 1977. Imports increased from 856 thousand dollars in the first half of 1977 to 1,971 thousand dollars in the first half of 1978. The ratio of imports to domestic production decreased from 11.0 percent in 1976 to 10.6 percent in 1977. The ratio increased from 10.8 percent in the first half of 1977 to 11.1 percent in the first half of 1978.

Ferag, Incorporated, Bristol, Pennsylvania imports and markets mailroom machinery produced in Switzerland by its parent company in addition to marketing the mailroom machinery produced at its Bristol, PA plant. The company imports of mailroom machinery increased in the fiscal year ending March 31, 1978 compared with the previous fiscal year and increased in the period from April through July

1978 compared with the same period of 1977. Company plans, which were implemented in July, 1978, call for the replacement of the majoity of production at the Bristol plant with imports of a more advanced type of mailroom machinery produced in Switzerland by the parent company.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with newspaper mailroom machinery produced at Ferag, Incorporated, Bristol, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Ferag, Incorporated, Bristol, Pennsylvania who became totally or parially separated from employment on or after July 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1978.

JAMES F. TAYLOR
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34321 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3992]

FIRESTONE TIRE & RUBBER CO., AKRON II PLANT, AKRON, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3992: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 25, 1978 in response to a worker petition received on July 18, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers formerly producing passenger car tires at the Akron II plant of the Firestone Tire and Rubber Company in Akron, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on August 1, 1978 (43 FR 33840). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Firestone Tire and Rubber Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of passenger car tires increased in 1976 and 1977, decreasing slightly during the January-August period of 1978 compared with the same period of 1977.

A Department survey of customers of Firestone Tire and Rubber Company revealed that, while most of the customers increased purchases of passenger car tires from Firestone from 1976 to 1977, the ratio of import purchases to total domestic purchases by these customers increased from 1976 to 1977. A number of customers increased purchases of imported tires and reduced purchases from Firestone in the first half of 1978 compared to the first half of 1977.

The closure of the Akron II plant, which primarily produced bias tires, was hastened by the shift in consumer preference to radial tires which are imported in greater quantities than bias tires.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with passenger car tires produced by the Akron II plant of the Firestone Tire and Rubber Company contributed importantly to the decline in sales and production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Akron II plant of the Firestone Tire and Rubber Company in Akron, Ohio who became totally or partially separated from employment on or after July 17, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34322 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4138]

FRONTIER SPAR CORP., SALEM, KY.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4138: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 6, 1978 in response to a worker petition received on September 5, 1978 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing materials which are mined, purified and dried at Frontier Spar Corporation of Salem, Kentucky. The investigation revealed that the product is acid-grade fluorspar (acid-spar).

The Notice of Investigation was published in the FEDERAL REGISTER on September 29, 1978 (43 FR 44935). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Frontier Spar Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

The Department's investigation revealed that U.S. imports of acid-spar increased from 591 thousand short tons in 1976 to 594 thousand short tons in 1977. Imports deceased from 332 thousand short tons during the first two quarters of 1977 to 314 thousand short tons during the same period in 1978. The ratio of imports to domestic production increased from 509.5 percent in 1976 to 583.1 percent in 1977 and increased from 562.7 percent during the first two quarters of 1977 to 640.8 percent during the same period in 1978.

Frontier Spar Corporation's sole customer increased purchases of imported acid-spar and decreased purchases from Frontier Spar Corporation during January-August, 1978 compared with January-August, 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with fluorspar produced at Frontier Spar Corporation of Salem, Kentucky contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Frontier Spar Corporation of Salem, Kentucky who became totally or partially separated from employment on or after August 29, 1977 are eligible to apply

for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34323 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4034]

F/V MARY ANN, INC., GLOUCESTER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4034: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 3, 1978 in response to a worker petition received on July 27, 1978 which was filed on behalf of workers and former workers engaged in the catching and selling of fish for the F/V Mary Ann, Incorporated, Gloucester, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on September 1, 1978 (43 FR 39193). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the F/V Mary Ann, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of groundfish decreased in quantity from 755,538 thousand poinds in 1976 to 736,302 thousand pounds in 1977 and decreased from 349,115 thousand pounds in the first half of 1977 to 346,559 thousand pounds in the first half of 1978. The ratio of imports to domestic production decreased from 191.0 percent in 1976 to 167.8 percent in 1977 and decreased from 159.1 percent in the first half of 1977 to 146.3 percent in the first half of 1978.

Total commercial landings of groundfish by all fishing vessels at Gloucester, Massachusetts increased from 46,672 thousand pounds in 1976 to 70,453 thousand pounds in 1977 and from 36,483 thousand pounds in the first six months of 1977 to 44,075 thousand pounds in the first six months of 1978.

On March 30, 1977, the Fisheries Conservation Zone (FCZ) which limits domestic and foreign catches within 200 miles of its boundaries was established. Domestic landings of cod, haddock and yellowtail flounder were restricted and no foreign fishing of these species is permitted. Since the institution of FCZ, total imports of groundfish have declined.

CONCLUSION

After careful review, I determine that all workers of the F/V Mary Ann, Incorporated, Gloucester, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research

[FR Doc.78-34324 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4027]

F/V BOAT GAETANO S., INC., GLOUCESTER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4027: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 2, 1978 in response to a worker petition received on July 28, 1978 which was filed on behalf of workers and former workers engaged in the catching and selling of fish for the F/V Boat Gaetano S., Incorporated, Gloucester, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on August 11, 1978 (43 FR 35759). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the F/V Boat Gaetano S., Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of groundfish decreased in quantity from 755,538 thousand pounds in 1976 to 736,302 thousand pounds in 1977 and decreased from 349,115 thousand pounds in the first half of 1977 to 346,559 thousand pounds in the first half of 1978. The ratio of imports to domestic production decreased from 191.0 percent in 1976 to 167.8 percent in 1977 and decreased from 159.1 percent in the first half of 1977 to 146.3 percent in the first half of 1978.

Total commercial landings of groundfish by all fishing vessels in the Gloucester, Massachusetts area increased from 46,672 thousand pounds in 1976 to 70,453 thousand pounds in 1977 and from 36,483 thousand pounds in the first six months of 1977 to 44,075 thousand pounds in the first six months of 1978.

Two fires on the Boat Gaetano S. has prevented the vessel from fishing since November 1977, except for a four week period in February and March 1978. Repairs were completed in August 1978 and the vessel resumed fishing. Sales by the Boat Gaetano S. increased in 1977 compared with 1976.

CONCLUSION

After careful review, I determine that all workers of the F/V Boat Gaetano S., Incorporated, Gloucester, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-34325 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4007]

GAF CORP., BUILDING PRODUCTS GROUP, HOUSTON, TEX.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4007: investigation regarding

certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 31, 1978 in response to a worker petition received on July 24, 1978 which was filed by the Teamsters Union on behalf of workers and former workers producing vinyl asbestos floor tile at the Houston, Texas plant of GAF Corporation's Building Products Group.

The Notice of Investigation was published in the FEDERAL REGISTER on August 8, 1978 (43 FR 35130 and 35131). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the GAF Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation indicated that the Houston plant was closed as the result of a management decision by GAF to consolidate production of tile at its other domestic plants. Total corporate production increased in quantity in the last quarter of 1977 compared to 1976 and increased in the first three quarters of 1978 compared to the same period in 1977.

CONCLUSION

After careful review, I determine that all workers of GAF Corporation's Building Products Group, Houston, Texas are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34326 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3413]

GENERAL ELECTRIC CO., YOUNGSTOWN LAMP PLANT, YOUNGSTOWN, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3413: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 27, 1978 in response to a worker petition received on March 9, 1978 which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers and former workers producing incandescent lamps at General Electric Company, Youngstown Lamp Plant, Youngstown, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on April 11, 1978 (43 FR 15205). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of General Electric Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of large incandescent lamps decreased absolutely from 162.1 million units in 1976 to 151.1 million units in 1977. The ratio of imports to domestic production declined from 1976 to 1977.

U.S. imports increased from 82.2 million units in the first six months of 1977 to 87.1 million units in the first six months of 1978. A survey conducted by the Department revealed that customers who increased purchases of imports also increased purchases of incandescent lamps from General Electric in 1977 compared to 1976 and in the first six months of 1978 compared to the first six months of 1977.

CONCLUSION

After careful review, I determine that all workers of General Electric Company, Youngstown Lamp Plant, Youngstown, Ohio, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 1st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 34327 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3867]

HEPPENSTALL CO., DAMAN DIVISION, EAST BRADY, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3867: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Secton 222 of the Act.

The investigation was initiated on June 19, 1978 in response to a worker petition received on June 9, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in the repair of valves and marine internal parts at Heppenstall Company, Daman Division, East Brady, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on June 30, 1978 (43 FR 28581). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Heppenstall Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation indicated that imports of machine shop jobwork

like or directly competitive with the work performed at Heppenstall Company, Daman Division were negligible.

Industry sources indicate that imports of repaired or rebuilt machine parts are estimated to amount to less than one quarter of one percent of domestic output, and that the value of imports of machine shop jobwork would total less than three quarters of one percent of domestic machine shop jobwork.

CONCLUSION

After careful review, I determine that all workers of Heppenstall Company, Daman Division, East Brady, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34328 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3999]

JANICE M. INC., GLOUCESTER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3999: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 26, 1978 in response to a worker petition received on July 21, 1978 which was filed on behalf of workers and former workers catching fin fish for Janice M. Incorporated, Gloucester, Massachusetts. The investigation revealed that the F/V Janice M. was the only fishing vessel of Janice M. Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on August 4, 1978 (43 FR 34562). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Janice M. Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of groundfish decreased in quantity from 1976 to 1977 and in the first six months of 1978 compared to the first six months of 1977. The ratio of imports to domestic production decreased from 1976 to 1977 and from first half of 1977 to the first half of 1978.

Commercial landings of groundfish at Gloucester, Massachusetts increased from 1976 to 1977 and in the first six months of 1978 compared to the first six months of 1977.

On March 30, 1977, the Fisheries Conservation Zone (FCZ) which limits domestic and foreign catches within 200 miles of its boundaries was established. Domestic landings of cod, haddock and yellowtail flounder were restricted and no foreign fishing of these species is permitted. Since the institution of FCZ, total imports of groundfish have declined.

CONCLUSION

After careful review, I determine that all workers of the Janice M. Incorporated, Gloucester, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-34329 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3594]

JO-DAN APPAREL, PATERSON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3594: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Secton 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 28, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' blazers at Jo-Dan Apparel, Paterson, New Jersey. The investigation revealed that the firm produced blazers and coats.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1978 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jo-Dan Apparel, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

Sales and employment at Jo-Dan Apparel, Paterson, New Jersey, increased in 1977 compared to 1976, and increased in the first five months of 1978 compared to the first five months of 1977. Sales equals production since Jo-Dan is a contractor.

Both sales and employment at Jo-Dan declined in the first quarter of 1978 compared to the first quarter of 1977. The decline in sales was attributable to the loss of Jo-Dan's major manufacturer in 1977. However, Jo Dan was able to replace contracts from this manufacturer with orders from a new manufacturer, as reflected in the increase in Jo-Dan's sales in the first five months of 1978 compared to the first five months of 1977.

CONCLUSION

After careful review, I determine that all workers of the Jo-Dan Apparel, Paterson, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34330 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3925]

KNIT MILL STORE, ASHEVILLE, N.C.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3925: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers engaged in employment related to the production of knitted fabrics at the Asheville, North Carolina Knit Mill Store of Andrex Industries Corporation. Duplan Corporation is the parent firm of Andrex Industries Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-30929). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Andrex Industries Corporation, its customers, the Duplan Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Knit Mill Stores serve as retail outlet stores for Andrex Industries Corporation. Andrex Industries markets finished fabrics through the Knit Mill Stores and to outside customers.

A Department of Labor survey revealed that the outside customers generally purchased finished fabrics exclusively from domestic sources. Of the customers who purchased imports from 1976 through June, 1978, only three increased purchases of imported finished fabric and decreased purchases from Andrex Industries. The import purchases by these customers represented a negligible proportion of their total purchases.

In addition, the purchases by these customers constituted an insignificant proportion of the sales of Duplan Prints, Duplan Knits, and Andrex Industries' fabrics.

CONCLUSION

After careful review, I determine that all workers of the Asheville, North Carolina Knit Mill Store of Andrex Industries Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 34331 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3931, 3932, 3934, 3936, 3937]

KNIT MILL STORES, GALLIPOLIS, MARIETTA, HILLSBORO, CHILLICOTHE, COLUMBUS, OHIO

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3931, 3932, 3934, 3936, 3937: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978, which was filed on behalf of workers and former workers engaged in employment related to the production of knitted fabrics at the Gallipolis, Marietta, Hillsboro, Chillicothe and 74 Robin Wood (formerly at 1163 West Henderson Road West), Columbus, Ohio Knit Mill Stores of Andrex Industries Corporation. Duplan Corporation is the parent firm of Andrex Industries Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-29). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials of Andrex Industries Corporation, its customers, the Duplan Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Knit Mill Stores serve as retail outlet stores for Andrex Industries Corporation. Andrex Industries markets finished fabrics through the Knit Mill Stores and to outside customers.

A Department of Labor survey revealed that the outside customers generally purchased finished fabrics exclusively from domestic sources. Of the customers who purchased imports from 1976 through June 1978, only three increased purchases of imported finished fabric and decreased purchases from Andrex Industries. The import purchases by these customers represented a negligible proportion of their total purchases. In addition, the purchases by these customers constituted an insignificant proportion of the sales of Duplan Prints, Duplan Knits, and Andrex Industries' fabrics.

CONCLUSION

After careful review, I determine that all workers at the Gallipolis, Marietta, Hillsboro, Chillicothe and 74 Robin Wood (formerly at 1163 West Henderson Road West), Columbus, Ohio Knit Mill Stores of Andrex Industries Corporation are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34332 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3927, 3928, 3929, 3935, 3939]

KNIT MILL STORES, LEXINGTON, OWENSBORO, BOWLING GREEN, FRANKFORT, AND ELIZABETHTOWN, KY.

Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3927, 3928, 3929, 3935, and 3939: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Secton 222 of the Act.

The investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers engaged in employment related to the production of knitted fabrics at the Lexington, Owensboro, Bowling Green, Frankfort, and

Elizabethtown, Kentucky Knit Mill Stores of Andrex Industries Corporation. Duplan Corporation is the parent firm of Andrex Industries Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-30929). No public hearing was requested and none was held.

The determinations were based upon information obtained principally from officials of Andrex Industries Corporation, its customers, the Duplan Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivison have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Knit Mill Stores serve as retail outlet stores for Andrex Industries Corporation. Andrex Industries markets finished fabrics through the Knit Mill Stores and to outside customers.

A Department of Labor survey revealed that the outside customers generally purchased finished fabrics exclusively from domestic sources. Of the customers who purchased imports from 1976 through June, 1978, only three increased purchases of imported finished fabric and decreased purchases from Andrex Industries. The import purchases by these customers representated a negligible proportion of their total purchases. In addition, the purchases by these customers constituted an insignificant proportion of the sales of Duplan Prints, Duplan Knits, and Andrex Industries' fabrics.

CONCLUSION

After careful review, I determine that all workers of the Lexington, Owensboro, Bowling Green, Frankfort, and Elizabethtown, Kentucky Knit Mill Stores of Andrex Industries Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34333 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3938]

KNIT MILL STORE, HUNTINGTON, W. VA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3938: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978 which was filed on behalf of workers and former workers engaged in employment related to the production of knitted fabric at the Huntington, West Virginia Knit Mill Store of Andrex Industries Corporation. Duplan Corporation is the parent firm of Andrex Industries Corporaton.

The Notice of Investigation was published in the FEDERAL REGISTER on July 13, 1978 (43 FR 30928-30929). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Andrex Industries Corporation, its customers, the Duplan Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Knit Mill Stores serve as retail outlet stores for Andrex Industries Corporation. Andrex Industries markets finished fabrics through the Knit Mill Stores and to outside customers.

A Department of Labor survey revealed that the outside customers generall purchased finished fabrics exclusively from domestic sources. Of the customers who purchased imports from 1976 through June, 1978, only three increased purchases of imported finished fabric and decreased purchases from Andrex Industries. The import purchases by these customers represented a negligible proportion of their total purchases. In addition, the purchases by these customers constituted an insignificant proportion of the sales of Duplan Prints, Duplan Knits, and Andrex Industries' fabrics.

CONCLUSION

After careful review, I determine that all workers at the Huntington, West Virginia Knit Mill Store of Andrex Industries Corporation are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34334 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3926, 3930, 3933]

KNIT MILL STORES, KNOXVILLE AND NASHVILLE, TENN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3926, 3930, and 3933: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 5, 1978 in response to a worker petition received on July 5, 1978, which was filed on behalf of workers and former workers engaged in employment related to the production of knitted fabrics at the 1209 Merchants Road and 7337 Kingston Pike, Knoxville and 4978 Nolensville Road, Nashville, Tennessee Knit Mill Stores of Andrex Industries Corporation. Duplan Corporation is the parent firm of Andrex Industries Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on July 18, 1978 (43 FR 30928-29). No public hearing was requested and none was held.

The information upon which the determinations were made was obtained principally from officials of Andrex Industries Corporation, its customers, the Duplan Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced

by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Knit Mill Stores serve as retail outlet stores for Andrex Industries Corporation. Andrex Industries markets finished fabrics through the Knit Mill Stores and to outside customers.

A Department of Labor survey revealed that the outside customers generally purchased finished fabrics exclusively from domestic sources. Of the customers who purchased imports from 1976 through June 1978, only three increased purchases of imported finished fabric and decreased purchases from Andrex Industries. The import purchases by these customers represented a negligible proportion of their total purchases. In addition, the purchases by these customers constituted an insignificant proportion of the sales of Duplan Prints, Duplan Knits, and Andrex Industries' fabrics.

CONCLUSION

After careful review, I determine that all workers at the 1209 Merchants Road and 7337 Kingston Pike, Knoxville and 4978 Nolensville Road, Nashville, Tennessee Knit Mill Stores of Andrex Industries Corporation are denied eligibility to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34335 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4239]

McAULEY TEXTILE CORP., ELLSWORTH, MAINE

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4239: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 4, 1978 in response to a worker petition received on October 3, 1978 which was filed on behalf of workers and former workers producing yarn (mostly synthetic) at the McAuley Textile Corporation, Ellsworth, Maine.

The Notice of Investigation was published in the FEDERAL REGISTER on October 20, 1978 (43 FR 49060-61). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the McAuley Textile Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivison have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation indicated that imports of articles like or directly competitive with yarn produced at McAuley Textile Corporation, Ellsworth, Maine did not increase from January through June 1978 compared with the like period in 1977. Imports of yarn increased both absolutely and relatively from 1976 to 1977. However, imports supply only a small percentage of the domestic yarn market. The ratio of imports to domestic production of yarn has been below 2 percent in every year since 1974. In 1977, the ratio of imports to domestic production was 1.7 percent.

CONCLUSION

After careful review, I determine that all workers of the McAuley Textile Corporation, Ellsworth, Maine are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34336 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4000]

OGDEN ALLOYS, INC., BARTH DIVISION, NEWARK, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4000: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Secton 222 of the Act.

The investigation was initiated on July 26, 1978 in response to a worker petition received on July 24, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing copper alloy parts. The investigation revealed that the plant primarily produces brass and bronze ingots, and buys and sells copper based scrap.

The Notice of Investigation was published in the FEDERAL REGISTER on August 4, 1978 (43 FR 34562). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Ogden Alloys, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The petitioners allege that increased imports of copper at depressed prices contributed importantly to the decline in production and to separations at Ogden Alloys, Barth Division, Newark, New Jersey. However, imports of copper cannot be considered like or directly competitive with brass and bronze ingots. Imports of brass and bronze ingots (unwrought copper alloys) must be considered in determining import injury to workers producing brass and bronze ingots.

A survey by the Department revealed that customers of the Barth Division who decreased purchases from the subject firm in 1977 compared to 1976 and in the first nine months of 1978 compared to the first nine months of 1977 did not purchase imports of brass or bronze ingots. Customers indicated that imports of brass and bronze were not having a significant effect on the domestic market. The Barth Division closed permanently at the end of August 1978.

CONCLUSION

After careful review, I determine that all workers of Ogden Alloys, Incorporated, Barth Division, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34337 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4040]

PIMBI, LTD., KEYPORT, N.J.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4040: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 7, 1978 in response to a worker petition received on August 7, 1978 which was filed on behalf of workers and former workers producing ceramic jewelry at Pimbi Limited, Keyport, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on October 29, 1978 (43 FR 38635). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Pimbi Limited, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative detemrination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department conducted a survey of some of the customers of Pimbi Limited. Respondents, in general, indicated that they did not purchase imported ceramic jewelry. Several of the respondents stated that they had reduced purchases from Pimbi because ceramic costume jewelry is a fashion item which is no longer in style.

CONCLUSION

After careful review, I determine that all workers of Pimbi Limited, Keyport, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 78-34338 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4150]

POND LILY CO., NEW HAVEN, CONN.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4150: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 13, 1978 in response to a worker petition received on September 11, 1978 which was filed on behalf of workers and former workers dyeing and finishing of cotton synthetics for the footwear industry, luggage, handbag and women's apparel at the Pond Lily Company, New Haven, Conn.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43588). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pond Lily Company, its customers (manufacturers), the U.S. Department of Commerce, American Textile Manufacturers Institute, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Office of Trade Adjustment Assistance conducted a survey of the principal manufacturers for whom Pond Lily worked in 1976 and 1977. The Pond Lily Company is a commissioned dyer. Manufacturers that accounted for a majority of sales reported no use of foreign commissioned dyers during the period under investigation.

CONCLUSION

After careful review, I determine that all workers of The Pond Lily Company, New Haven, Conn. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34345 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4313]

PROFESSIONAL RESOURCE CONSULTANTS, INC., SAN DIEGO, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4313: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 30, 1978 in response to a worker petition received on October 27, 1978 which was filed on behalf of workers and former workers providing engineering and consulting work for the copper producing industries at Professional Resource Consultants, Inc., San Diego, California.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51866). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Professional Resource Consultants, Inc., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of Section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm".

Professional Resource Consultants, Inc., (PRC, Inc.), was founded in 1974, and incorporated in 1976 in the state of Nevada. The company operates out of a single office location in San Diego, California. PRC, Inc., is not affiliated with any other company.

PRC, Inc., provides management and engineering consulting for copper com-

panies, primarily those in the Southwest, particularly in Arizona. The consulting work applies to the full range of copper producing activities from mining through refining.

Workers of PRC, Inc., are engaged exclusively in providing consulting services, and do not produce an article within the meaning of Section 222(3) of the Act.

PRC, Inc., and its customers have no controlling interest in one another.

All workers engaged in providing engineering and managment consulting at PRC, Inc., San Diego, California are enployed by that firm. All personnel actions and payroll transactions are controlled by PRC, Inc. All employee benefits are provided and maintained by PRC, Inc. Workers are not, at anytime, under employment or supervision by customers of PRC, Inc. Thus PRC, Inc., must be considered to be the "workers' firm".

CONCLUSION

After careful review, I determine that all workers of Professional Resource Consultants, Inc., San Diego, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of December 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34339 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4129]

SERAFINA II, INC., GLOUCESTER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4129: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 31, 1978 in response to a worker petition received on August 28, 1978 which was filed on behalf of workers and former workers catching and selling fish for Serafina II, Inc., Gloucester, Massachusetts. The investigation revealed that the F/V Serafina II, was the only fishing vessel of Serafina II, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on September 12, 1978 (43 FR 40576). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Serafina II, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of groundfish decreased in quantity from 1976 to 1977 and in the first six months of 1978 compared to the first six months of 1977. The ratio of imports to domestic production decreased from 1976 to 1977 and from first half of 1977 to the first half of 1978.

Commercial landings of groundfish at Gloucester, Massachusetts increased from 1976 to 1977 and in the first six months of 1978 compared to the first six months of 1977.

On March 30, 1977, the Fisheries Conservation Zone (FCZ) which limits domestic and foreign catches within 200 miles of its boundaries was established. Domestic landings of cod, haddock and yellowtail flounder were restricted and no foreign fishing of these species is permitted. Since the institution of FCZ, total imports of groundfish have declined.

CONCLUSION

After careful review, I determine that all workers of Serafina II, Inc., Gloucester, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-34340 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4148, 4149]

ST. JOE MINERALS CORP., BALMAT AND EDWARDS, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4148, 4149: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 13, 1978 in response to a worker petition received on September 11, 1978 which was filed by Local 3701 of the United Steelworkers of America on behalf of workers and former workers mining zinc ore and producing zinc concentrate at the St. Joe Zinc Company, Balmat and Edwards, New York. The investigation revealed that the correct name of the company is the St. Joe Minerals Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43588). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the St. Joe Minerals Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

United States imports of zinc concentrate increased in the first half of 1978 compared to the first half of 1977.

The St. Joe Minerals Corporation increased its purchases of imported zinc concentrate in the first five months of 1978 compared to the first five months of 1977 while reducing production of zinc concentrate at its facilities in Balmat and Edwards, New York during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with zinc concentrate produced at the Balmat and Edwards, New York facilities of the St. Joe Minerals Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of St. Joe Mineral Corporation, Balmat and Edwards, New York engaged in employment related to the production of zinc ore and zinc concentrate who became totally or partially separated from employment on or after May 31, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Adminstration, and Planning.

[FR Doc. 78-34341 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4374]

SUPER KNITTING MILLS, BROOKLYN, N.Y.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on November 13, 1978 in response to a worker petition received on November 3, 1978 which was filed on behalf of workers and former workers producing sweaters at Super Knitting Mills, Brooklyn, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55012). No public hearing was requested and none was held.

The Department received a letter from the petitioning group of workers requesting withdrawal of the petition. On the basis of the withdrawal, continuing the investigation would serve no purpose. Consequentiy, the investigation has been terminated.

Signed at Washington, D.C. this 29th day of November, 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-34342 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3671]

TARGET TOGS, INC., GARFIELD, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3671: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 8, 1978 in response to a worker petition received on April 26, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' sportswear and raincoats at Target Togs, Inc. Garfield, New Jersey. The investigation revealed that Target Togs actually produces ladies' spring and winter coats, jackets and vests.

The Notice of Investigation was published in the FEDERAL REGISTER on May 26, 1977 (43 FR 22793). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Target Togs, Inc., its manufacturers, a customer of a manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department's investigation revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased from 2252 thousand dozen in 1976 to 2723 thousand dozen in 1977. Imports declined from 590 thousand dozen in the first quarter of 1977 to 572 thousand dozen in the first quarter of 1978. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

U.S. imports of women's, misses' and children's suits decreased from 408 thousand dozen in 1976 to 384 thousand dozen in 1977 and increased from 62 thousand dozen in the first quarter of 1977 to 104 thousand dozen in the first quarter or 1978. The ratio of imports to domestic production decreased from 11.4 percent in 1976 to 10.5 percent in 1977.

The Department conducted a survey of the principal manufacturers for which Target Togs, Inc. worked in 1976 and 1977. Two manufacturers that accounted for a majority of Target Togs sales in 1976 and 1977 decreased sales with the subject firm during the period under investigation. One manufacturer increased imports of coats and jackets. A major customer of the other manufacturer that had decreasing sales revealed that the customer decreased purchases from the manufacturer and increased imports of ladies' coats and jackets during the period under investigation.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the ladies' coats, jackets and vests produced at Target Togs, Inc., Garfield, New Jersey contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of Target Togs, Inc., Garfield, New Jersey who became totally or partially separated from employment on or after October 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 1st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-34343 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4264]

TEXACO, INC., PITTSBURGH DIVISION OFFICE, CORAOPOLIS, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4264: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 16, 1978 in response to a worker petition received on October 12, 1978 which was filed on behalf of workers and former workers producing petroleum products at the Pittsburgh Division Office in Coraopolis, Pennsylvania of Texaco Incorporated. The investigation revealed that the workers at the Pittsburgh Division Office are engaged in employment related to the marketing of refined petroleum products.

The Notice of Investigation was published in the FEDERAL REGISTER on October 27, 1978 (43 FR 50269). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Texaco Incorporated, petitioners, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The evidence developed during the Department's investigation revealed that the separation of workers at the Pittsburgh Division office was attributable to a consolidation move by Texaco, resulting in a domestic transfer of operations. Prior to the consoli-

dation move, divisional offices for Marketing, Supply and Distribution, and Fuel Oil were located in different areas of the country, with Marketing handled by the Pittsburgh Division Office. During 1978 Texaco united these various divisions under the title, Texaco Petroleum U.S.A., and transferred this new organization to Houston, Texas. All employees at the affected divisional offices were offered their same positions in Houston but some workers were not able to move and therefore had to be laid off.

The workers at the Pittsburgh Division Office were engaged in employment related to the marketing of all petroleum products of Texaco, ranging from fuel oils to gas. These workers perform clerical and support activities in the marketing of these products. The importation of crude oil promotes, not discourages, employment in the marketing division since increased crude oil imports enables the company to maintain or increase its domestic production of refined petroleum products which are marketed by the Pittsburgh Division Office.

CONCLUSION

After careful review, I determine that all workers at the Pittsburgh Division Office in Coraopolis, Pennsylvania of Texaco Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34344 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-3811]

WEST POINT-PEPPERELL, INC., LINDALE MILL, LINDALE, GA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3811: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 5, 1978 in response to a worker petition received on May 25, 1978 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing denim fabric at the Lindale Mill, Lindale, Georgia of West Point-Pepperell, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 20, 1978 (43 FR 26498-99). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of West Point-Pepperell, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like of directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished declined from 464 million square yards in 1976 to 453 million square yards in 1977. Imports increased from 187 million square yards in the first six months of 1977 to 255 million square yards in the first six months of 1978. The ratios of imports to domestic production and consumption remained less than 2 percent from 1974 through 1977.

A survey of customers who purchased denim fabric from West Point-Pepperell was conducted. The survey, in general, indicated that respondents did not purchase imported denim fabric.

CONCLUSION

After careful review, I determine that all workers of the Lindale Mill, Lindale, Georgia of West Point-Pepperell, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-34346 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4156]

WIMAN CORP., BENSON, MINN.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4156: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 13, 1978 in response to a worker petition received on September 11, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing luggage and coats at the Benson, Minnesota plant of Wiman Corporation. The investigation revealed that the plant primarily produced hard-sided luggage.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43588). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Wiman Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of luggage increased both absolutely and relative to domestic production in 1977 from 1976 and in January-March 1978 compared to the same period in 1977.

Imports of luggage by Fingerhut Corporation, the major purchaser from and parent firm of Wiman, increased in 1977 from 1976 and in 1978 from 1977.

CONCLUSION

After careful review of the facts obtaincd in the investigation, I conclude that increases of imports of articles like or directly competitive with the hard-sided luggage produced at the Benson, Minnesota plant of Wiman Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Benson, Minnesota plant of Wiman Corporation who became totally or partialy separated from employment on or after August 25, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 1st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-34347 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4151-4152, 4153, 4154, and 4155]

WIMAN CORP., BIRD ISLAND, WINDOM, GAYLORD, SAUK CENTRE, AND PRINCETON, MINN.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4151-4155: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 13, 1978 in response to a worker petition received on September 11, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and women's sportswear at the following plants of Wiman Corporation: Bird Island, Minnesota (TA-W-4151); Windom, Minnesota, (TA-W-4152); Gaylord, Minnesota (TA-W-4153); Sauk Centre, Minnesota (TA-W-4154); and Princeton, Minnesota (TA-W-4155). The investigation revealed that the plants primarily produce men's and women's coats.

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43588). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Wiman Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's coats increased both absolutely and relative to domestic production in 1977 from 1976 and increased absolutely in January-June 1978 compared to the same period in 1977.

Imports of women's coats increased absolutely and relative to domestic production in 1977 from 1976 and decreased absolutely in January-June 1978 compared to the same period in 1977.

Imports of coats by Fingerhut, the parent company and major purchaser of Wiman products, increased in 1977 from 1976 and in January-September 1978 from the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's and women's coats produced at Wiman Corporation plants at Bird Island, Windom, Gaylord, Sauk Centre, and Princeton, Minnesota contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Wiman Corporation, Bird Island, Windom, Gaylord, Sauk Centre, and Princeton, Minnesota who became totally or partially separated from employment on or after August 25, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 1st day of December 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-34348 Filed 12-7-78; 8:45 am]

[4510-28-M]

[TA-W-4066]

WINGATE CO., YERINGTON, NEV.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4066: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on August 15, 1978 in response to a worker petition received on August 10, 1978 which was filed on behalf of workers and former workers of the Yerington, Nevada facility of Wingate Company who formerly processed and supplied sulphur to the Anaconda Company, Weed Heights, Nevada mine.

The Notice of Investigation was published in the FEDERAL REGISTER on August 29, 1978 (43 FR 38635). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Wingate Company, its customer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Yerington, Nevada facility of Wingate Company produced crushed sulphur exclusiveiy for Anaconda Company's Weed Heights, Nevada copper mine. There is no corporate relationship between the Wingate Company and Anaconda. Anaconda Company reported that they did not import crushed sulphur in 1976, 1977 or the first half of 1978. Anaconda Company ceased operations at the Weed Heights mine in 1978 due to causes unrelated to imports of sulphur, chiefly low copper prices and increased copper imports. The Weed Heights mine shutdown in turn caused Wingate Company to close its Yerington, Nevada facility.

Petitioners allege that imports of copper caused the shutdown of the Yerington, Nevada facility. However, imports of copper cannot be considered to be like or directly competitive with sulphur used in the production of copper. Imports of sulphur must be considered in determining imports injury to workers processing sulphur at Wingate Company's Yerington, Nevada facility.

CONCLUSION

After careful review, I determine that all workers of the Yerington, Nevada facility of Wingate Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of November 1978.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 78-34349 Filed 12-7-78; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 18, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 18, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 30th day of November 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of:)	Location	Date Received	Date of Petition	Petition Number	Articles Produced
Acme Leather Sportswear (Amalgamated Cotton Garment & Allied Ind.).	Elizabeth, N.J	11/27/78	11/21/78	TA-W-4,451	men's suede and leather sportswear and outerwear
Atlantic Steel Casting, Inc. (IUMSWA).	Chester, Pa	11/27/78	11/26/78	TA-W-4,451	steel castings of various sizes and weights
Brunswick Worsted Mills (ACTWU)	Moosup, Conn	11/27/78	11/1/78	TA-W-4,453	distributor of textiles (arts & crafts) to customers
Fiesta Fashions Inc. (company)	Farmingdale, N.Y	11/27/78	11/21/78	TA-W-4,454	ladies', misses, childrens, juniors, and girls coats
Foreman Mfg. Co., Inc. (ILGWU)	Collings Lakes, N.J	11/27/78	11/20/78	TA-W-4,455	ladies' outerwear
Inland Steel Mining Co., Sherwood Mine (USWA).	Iron River, Mich	11/27/78	11/22/78	TA-W-4,456	mining of iron ore
Lousons Knitting Mills, Marder Knitting Mills (ILGWU).	Philadelphia, Pa	11/27/78	11/9/78	TA-W-4,457	men's & ladies' sweaters
William Pryma, Inc. (ACTWU)	Dayville, Conn	11/6/78	11/1/78	TA-W-4,458	sewing novelties (notions)
Putnam-Herzl Finishing Company (ACTWU).	Putnam, Conn	11/6/78	11/1/78	TA-W-4,459	finish, dye, and coat synthetic material
Revere Textile Prints (ACTWU)	Sterling, Conn	11/6/78	11/1/78	TA-W-4,460	textile prints on cloth
Scandia Glass Works, Inc. (American Flint Glass Workers Union).	Denova, W. Va	11/27/78	11/7/78	TA-W-4,461	glass globes and shades handblown
Victoria Fashions (ILGWU)	Springfield, Mass	11/27/78	11/22/78	TA-W-4,462	dresses, blazers, pants, & jackets

[FR Doc. 78-34350 Filed 12-7-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-313 and 50-368]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 37 and 5 to Facility Operating Licenses Nos. DPR-51 and NPF-6, issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Units Nos. 1 and 2 (ANO-1&2) located in Pope County, Arkansas. The amendments become effective no later than 90 days after the date of issuance.

The amendments modify the ANO-1&2 Technical Specifications dealing with the plant organization structure, and revise the ANO-1 Administrative Controls of the Environmental Technical Specifications to make them current and consistent with ANO-2.

The application for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the licensee's filing dated September 22, 1978, as supplemented October 17, 1978, (2) Amendment No. 37 to License No. DPR-51 and Amendment No. 5 to License No. NPF-6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 13th day of November 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-34230 Filed 12-7-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-592; STN 50-593]

ARIZONA PUBLIC SERVICE COMPANY, ET AL. (PALO VERDE NUCLEAR GENERATING STATION, UNITS 4 AND 5)

Supplemental Notice of Hearing and Notice of Opportunity To Intervene With Regard to Environmental Issues in Hearing on Application for Construction Permits

On May 8, 1978, the Nuclear Regulatory Commission published in the FEDERAL REGISTER a notice of a hearing to be held to consider the application for construction permits filed by Arizona Public Service Company on behalf of itself and ten joint applicants—Southern California Edison Company, El Paso Electric Company, San Diego Gas and Electric Company, Nevada Power Company, Department of Water and Power of the City of Los Angeles, City of Anaheim, California, City of Burbank, California, City of Glendale, California, City of Pasadena, California, City of Riverside, California (43 FR 19727). These permits would authorize construction of two pressurized water nuclear reactors designated as the Palo Verde Nuclear Generating Station, Units 4 and 5 (the facilities), each of which will be designed for operation at a core power level of 3,800 thermal megawatts, with a net electrical output of approximately 1,307 megawatts. The proposed facilities are to be located in Maricopa County, Arizona, about 36 miles west of Phoenix.

That notice, among other things, provided an opportunity to intervene to any person whose interest may be affected by the proceeding, who wishes to participate as a party in the proceeding. However, because at the time of that notice the Environmental Report required by 10 CFR § 50.30(f) of the Commission's regulations had not been filed, petitioners for leave to intervene were not required to raise environmental issues by the deadline established in the notice. Furthermore, the notice stated that after the Environmental Report was filed the Board would publish a notice of opportunity to intervene in the proceeding with regard to issues raised by the Environmental Report.

Therefore, by January 8, 1979, any person whose interest may be affected by the proceeding and who desires to participate as a party must file a written petition for leave to intervene in accordance with the provisions of 10 CFR § 2.714. Any such petition for leave to intervene shall be limited to environmental issues and shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific environmental aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene may amend a petition, but such an amended petition must satisfy the specificity requirements described above. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, the petitioner shall file a supplement to the petition to intervene which must include a list of the environmental contentions which are sought to be litigated in the proceeding, and the bases for each contention set forth with reasonable specificity. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention on environmental issues will not be permitted to participate as a party.

Persons permitted to intervene on environmental issues become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to present evidence and cross-examine witnesses.

Nontimely filings will not be entertained absent a determination by the Atomic Safety and Licensing Board that the petitioner has made a substantial showing of good cause for the granting of a late petition. That determination will be based upon a balancing of the factors specified in 10 CFR §§ 2.714(a)(1)(i)-(v) and 2.714(d).

A petition for leave to intervene on environmental issues shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Arthur C. Gehr, Esq., Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85073, attorney for the applicant. Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR § 2.708, an original and twenty (20) conformed copies of each such paper with the Commission. Any questions or requests for additional information regarding the content of this notice should be addressed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. nuclear Regulatory Commission, Washington, D.C. 20555.

For further details, see the application for construction permits dated March 1, 1978, including site suitability information, and the applicants' environmental report dated October 10, 1978, which, along with any amendments or supplements thereto, are or will be available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, between the hours of 8:30 a.m. and 5:00 p.m. on weekdays. Copies of these documents will also be available at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona 85004, for inspection by members of the public between the hours of 10:00 a.m. and 9:00 p.m. Monday through Thursday, 10:00 a.m. and 6:00 p.m. Friday, 9:00 a.m. and 6:00 p.m. Saturday, and 2:00 p.m. and 6:00 p.m. on Sunday. As they become available, a copy of the safety evaluation report by the Commission's staff, the draft and final environmental statements, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permits, the transcripts of the prehearing conferences and of the hearing, and other relevant documents, will also be available at the above locations. Copies of the proposed construction permits and the ACRS report may be obtained, when available, by request to the Director, Division of Project Management, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the Commission's staff safety evaluation report and final environmental statement, when available, may be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

It is so ordered.

Dated at Bethesda, Maryland, this 4th day of December, 1978.

For the Atomic Safety and Licensing Board.

ROBERT M. LAZO,
Chairman.

[FR Doc. 78-34229 Filed 12-7-78;8:45 am]

[7590-01-M]

[Docket Nos. 50-424; 50-425]

GEORGIA POWER CO. (ALVIN W. VOGTLE NUCLEAR PLANT, UNITS 1 AND 2)

Request for Order to Suspend Construction Permits of Georgia Power Company for Vogtle Units 1 and 2

Notice is hereby that by letter dated October 31, 1978, Georgians Against Nuclear Power, Atlanta, Georgia, requested that the Commission suspend the construction permits issued to Georgia Power Company for the Alvin W. Vogtle Nuclear Plant, Units 1 and 2, and hold hearings to determine the need for the Vogtle units in light of allegedly new evidence concerning electrical demand in Georgia and relative costs of energy alternatives. This request is being treated under 10 CFR 2.206 of the Commission's regulations. Action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the local public document room for the Alvin W. Vogtle Nuclear Power Plant located at the Burke County Library, 4th Street, Waynesboro, Georgia 30830.

Dated at Bethesda, Md. this 30th day of November 1978.

For the Nuclear Regulatory Commission.

HAROLD DENTON,
Director Office of Nuclear Reactor Regulation.

[FR Doc. 78-34231 Filed 12-7-78; 8:45 am]

[7590-01-M]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced, (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulations has published Revision No. 1 to Sections Nos. 2.1.2, Exclusion Area Authority and Control, 2.1.3, Population Distribution, 2.2.3, Evaluation of Potential Accidents, 6.1.2, Organic Materials, 6.4, Habitability Systems, 15.1.5, Radiological Consequences of Main Steam Line Failures Outside Containment (PWR), 15.4.9, Radiological Consequences of Control Rod Drop Accidents (BWR), 15.6.3, Radiological Consequences of Steam Generator Tube Failure (PWR), 15.7.5, Spent Fuel Cask Drop Accidents of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Virginia 22161. The domestic price is $70.00, including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 2.1.3 is $4.00, 2.1.2 is $4.00, 2.2.3 is $4.00, 6.1.2 is $4.00, 6.4 is $4.00, 15.1.5 is $4.00, 15.4.9 is $4.00, 15.6.3 is $4.00, 15.7.5 is $4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Md., this 16 day of October 1978.

For the U.S. Nuclear Regulatory Commission.

DANIEL R. MULLER,
Deputy Director, Division of Site Safety and Environmental Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 78-34235 Filed 12-7-78; 8:45 am]

[7590-01-M]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 24 to Facility Operating License No. DPR-54 issued to Sacramento Municipal Utility District, which revised Technical Specifications for operation of the Rancho Seco Nuclear Generating Station, located in Sacramento County, California. The amendment is effective as of its date of issuance.

This amendment revises the administrative controls portion of the Technical Specifications to reflect a revised plant organization structure and clarify the review requirements for changes to the Security and Emergency Plans and their implementing procedures.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 21, 1978, (2) Amendment No. 24 to License No. DPR-54, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Business & Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 14th day of November 1978.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-34232 Filed 12-7-78; 8:45 am]

[7590-01-M]

[Docket Nos. STN 50-518, STN 50-519, STN 50-520, STN 50-521]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendment to Construction Permit

Notice is hereby given that U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit No. CPPR-150, Amendment No. 1 to Construction Permit No. CPPR-151, Amendment No. 1 to Construction Permit No. CPPR-152, and Amendment No. 1 to Construction Permit No. CPPR-153 issued to the Tennessee Valley Authority. The amendments reflect the addition of a construction phase monitoring plan for mussels during discharge diffuser construction. The amendments are effective as of the date of issuance.

The amendments were issued in response to a Decision on Motion for Summary Disposition by the Atomic Safety and Licensing Board (Board) dated October 31, 1978.

For further details with respect to this action, see (1) the Board's Decision on Motion for Summary Disposition dated October 31, 1978, (2) Amendment No. 1 to Construction Permit CPPR-150, (3) Amendment No. 1 to Construction Permit CPPR-151, (4) Amendment No. 1 to Construction Permit CPPR-152, and (5) Amendment No. 1 to Construction Permit CPPR-153. All of these items and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Local Public Document Room located at the Tennessee State Library and Archives, 403 Seventh Avenue, North, Nashville, Tennessee.

A copy of items (2), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 30th day of November 1978.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-34233 Filed 12-7-78; 8:45 am]

[7590-01-M]

[Docket No. 40-1162]

WESTERN NUCLEAR, INC.

Availability of Draft Environmental Statement for Split Rock Mill

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Material Safety and Safeguards related to the operations of the Split Rock Uranium Mill located in Fremont County, Wyoming, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555. The Draft Statement is also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyoming 82001. Requests for copies of the Draft Environmental Statement (identified as NUREG-0451) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Division of Technical Information and Document Control.

The Applicant's Environmental Report and supplements by Western Nuclear, Inc. are also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on February 24, 1977 (42 FR 10913).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. Comments are due by January 22, 1979. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, WAshington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Silver Spring, Md., this 17th day of November, 1978.

For the Nuclear Regulatory Commission.

ROSS A. SCARANO,
Section Leader, Uranium Mill Licensing Section, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 78-34234 Filed 12-7-78; 8:45 am]

[7590-01-M]

REGULATION OF RADIOACTIVE WASTE STORAGE AND DISPOSAL FACILITIES

Workshop on State Participation

On January 16-18, 1979, the Nuclear Regulatory Commission will sponsor a State workshop on State participation in the regulation of waste storage and disposal facilities. This workshop is being held to obtain views of, and to provide opportunity for discussion among State and NRC officials on methods to improve the opportunities for State participation in the process for siting, licensing and developing nuclear waste storage and disposal facilities.

The workshop, which will be open to the public, will be held on January 16 from 1 p.m. to 5 p.m., on January 17 from 9 a.m. to 5 p.m. and January 18 from 9 a.m. to 12 Noon at the Sheraton-Biltmore Hotel in Atlanta, Ga.

Persons who wish further information about this workshop should contact Sheldon A. Schwartz, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, or call him at 301-492-7794.

Dated at Bethesda, Md., this 1st day of December, 1978.

For the Nuclear Regulatory Commission.

ROBERT G. RYAN,
Director, Office of State Programs.

[FR Doc. 78-34228 Filed 12-7-78; 8:45 am]

[7590-01-M]

[Docket No. 50-237 etc.]

COMMONWEALTH EDISON CO.

(DRESDEN STATION, UNITS 2 AND 3, AND QUAD CITIES STATION, UNITS 1 AND 2)

Order

Before the Atomic Safety and Licensing Board.

On November 9, 1978, this Board gave notice that a Special Prehearing Conference in the above-captioned proceeding (Docket Nos. 50-237, 50-

249, 50-254, 50-265; amendments to Facility Operating License Nos. DPR-19, DPR-25, DPR-29, DPR-30) would be held Friday, December 15, 1978, in Rock Island, Illinois. In response to this notice, the parties to this proceeding and the persons seeking to intervene in this proceeding (petitioners) jointly arranged and participated in a telephone conference on November 17, 1978 with the Chairman of the Board in order to discuss the Special Prehearing Conference. During the telephone conference the parties and the petitioners requested a postponement of the Special Prehearing Conference to January 10, 1979 and requested that it be held in Chicago, Illinois instead of Rock Island, Illinois.

The parties and petitioners stated that there was a strong likelihood that they could agree upon a set of stipulated contentions if additional time were allowed for filing contentions, and it was possible that they could agree upon an agreement making known the particular interest of affected members of petitioner Natural Resources Defense Council and petitioner Citizens for a Better Environment while implementing the desire of these petitioners to prevent the identity of their members from becoming publicly known.

For good cause shown, the Special Prehearing Conference scheduled for December 15, 1978 is hereby cancelled and notice is hereby given that the Conference shall be held at 10:30 a.m. on Thursday, January 11, 1979 in the Tax Courtroom (room 1743), United States Courthouse and Federal Building, 219 South Dearborn Street, Chicago, Illinois.

The parties and petitioners are directed to report to the Board on December 15, 1978 the progress of the negotiations looking toward the agreements mentioned above.

It is so ordered.

Dated at Bethesda, Maryland, December 1, 1978.

For the Atomic Safety and Licensing Board designated to rule on petitions for leave to intervene.

GARY L. MILHOLLIN,
Chairman.

[FR Doc. 78-34160 Filed 12-7-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 1, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes—

The name of the Agency sponsoring the proposed collection of information;

The title of each request received;

The Agency form number(s), if applicable; the frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

Emergency Heating Oil Telephone Survey
EIA-127
Other (see SF-83)
Heating oil resellers
9,600 responses; 2,400 hours
Hill, Jefferson B., 395-5867.

Emergency Product Price Telephone Survey
EIA-126
Other (see SF-83)
Refiners and large resellers
3,240 responses; 3,240 hours
Hill, Jefferson B., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education
Study of Program Management Procedures in the Campus Based and Basis Grant Programs
OE-637
Single-time
Finan. aid officers, the fiscal officers, students
19,350 responses; 9,225 hours
Laverne V. Collins, 395-3214.

Office of Education
National Survey of Individualized Education Program
OE 631
Single-time
Teachers, principals, directors, superintendents
4,920 responses; 922 hours
Laverne V. Collins, 395-3214.

Social Security Administration
Quarterly Statement of Expenditures
SSA-41
Quarterly
St. and poss. rep. their tot. and Fed. share expend. pub. assis.
876 responses; 3,504 hours
Reese, B. F., 395-3211.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration
NCJRS Market Survey Forms
(Series 1431)
Single-time
NCJRS services
4,200 responses; 1,390 hours
Laverne V. Collins, 395-3214.

REVISIONS

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service
Certificate for Poultry or Hatching Eggs for Export
VS 17-6
On occasion
Poultry farms and hatcheries
16,000 responses; 2,080 hours
Ellett, C. A., 395-6132.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service
Application for Export Certification and/or Stamps
(Meat, poultry, veal products)
MP 412
On occasion
Exporters of meat and meat products
31,835 responses; 5,305 hours
Ellett, C. A., 395-6132.

DEPARTMENT OF LABOR

Bureau of Labor Statistics
Form Letter for Collection of Convention Proceedings and Constitutions and Form Letter Requesting Convention Dates
BLS-2410
On occasion
Labor organizations
150 responses; 23 hours
Strasser, A., 395-6132.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-34293 Filed 12-7-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 20809; 70-6229]

ALABAMA POWER CO., ET AL

Proposal to Issue First Mortgage Bonds for Sinking Fund Purposes

DECEMBER 1, 1978.

In the matter of Alabama Power Company, P.O. Box 2641, Birmingham, Alabama 35291; Gulf Power Company, P.O. Box 1151, Pensacola, Florida 35320; Georgia Power Company, P.O. Box 4545, Atlanta, Georgia 30302; Mississippi Power Company, P.O. Box 4079, Gulfport, Mississippi 39501.

Notice is hereby given that Alabama Power Company ("Alabama"), Gulf Power Company ("Gulf"), Georgia Power Company ("Georgia"), and Mississippi Power Company ("Mississippi"), all of which are public-utility sub-

sidiaries of The Southern Company, a registered holding company, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Alabama, Georgia, Gulf and Mississippi propose to issue their respective First Mortgage Bonds ("Sinking Fund Bonds") and to surrender such Sinking Fund Bonds to the trustees under their respective Indentures for the purpose of satisfying the sinking fund (improvement fund, in the case of Alabama) requirements thereunder to be satisfied on or prior to June 1, 1979. The amounts and series of Sinking Fund Bonds are proposed to be issued as follows:

Name of Company	Amount	Series
Alabama	$18,433,000	3½% Series due 1985.
Georgia	23,312,000	2⅞% Series due 1980.
Gulf	2,777,000	3¼% Series due 1984.
Mississippi	2,621,000	2¾% Series due 1980.

The Sinking Fund Bonds are to be issued on the basis of unfunded net property additions, thus making available for construction purposes cash which would otherwise be needed to satisfy the sinking fund requirements or to purchase bonds to be used for such purpose. It is stated that the delivery of the Sinking Fund Bonds is exempt from the competitive bidding requirements of Rule 50 by reason of clause (a)(5) thereof inasmuch as such bonds will not constitute obligations of the companies for the payment of money.

In order to issue bonds for sinking (improvement) fund purposes each of the indentures have similar coverage requirements. Currently, Alabama does not have the necessary coverage to issue any additional bonds under its Indenture because of a lack of earnings. If, at the time necessary to satisfy the sinking fund requirement, Alabama is unable to issue additional bonds for that purpose, it will be necessary for Alabama to satisfy such requirement by depositing cash with its trustee.

The fees, commissions, and expenses incurred or to be incurred in connection with the proposed transactions total $8,000, including fees for legal counsel of $1,600 and charges of trustees of $4,000.

The issuance of the bonds by Alabama and Georgia has been expressly authorized by the Alabama Public Service Commission and the Georgia Public Service Commission, respectively; the Florida Public Service Commission has jurisdiction over the issuance of the Sinking Fund Bonds by gulf, and application for approval will be made before such commission.

It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 28, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be 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 declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations 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. 78-34203 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Rel. No. 10504; 812-4394]

AMERICAN VARIABLE ANNUITY LIFE ASSURANCE COMPANY AND AMERICAN VARIABLE ANNUITY LIFE ASSURANCE COMPANY SEPARATE ACCOUNTS D AND E

Application Approving Certain Offers of Exchange and for Exemption From the Provisions

DECEMBER 1, 1978.

Notice is hereby given that American Variable Annuity Life Assurance Company (the "Company") and American Variable Annuity Life Assurance Company Separate Accounts D and E (the "Separate Accounts"), 440 Lincoln Street, Worcester, MA 01605, as issuers of the Company's individual non-qualified variable annuity contracts to be funded by the Separate Accounts (the "Contracts"), have filed an application on November 13, 1978, pursuant to Section 11 of the Investment Company Act of 1940 (the "Act") for an order approving certain offers of exchange and pursuant to Section 6(c) of the Act exempting the company and the Separate Accounts (hereinafter collectively referred to as the "Applicants") from Sections 26(a) and 27(c)(2) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

The Company is a stock life insurance company organized under the provisions of the Delaware Insurance Code in July 1974. It is the successor in interest by virtue of merger to the stock life insurance company of the same name which was incorporated in the State of Arkansas in January 1967. The Company is a wholly-owned subsidiary of State Mutual Life Assurance Company of America ("State Mutual"), a mutual life insurance company incorporated under the laws of the Commonwealth of Massachusetts in 1844. The Company's principal operational office is in Worcester, Massachusetts. As of December 31, 1977, the Company had total assets in excess of $60 million and capital and surplus in excess of $3.5 million. As of June 30, 1978, capital and surplus of the Company exceeded $4 million.

The Separate Accounts are separate accounts of the Company established by the Board of Directors of the Company, pursuant to Section 2933 of the Delaware Insurance Code, on February 21, 1978 to fund certain of the Company's variable annuity contracts. The Separate Accounts are registered collectively as a unit investment trust under the Act. The assets of Separate

Account D will be invested entirely in shares of Colonial Option Income Fund, Inc.; the assets of Separate Account E will be invested entirely in shares of Colonial Income Fund, Inc. (hereinafter referred to as the Funds).

The Funds are registered as open-end diversified management investment companies under the Act and are managed and distributed by Colonial Management Associates, Inc. ("Colonial") which is indirectly a wholly-owned subsidiary of State Mutual. Colonial is registered as an investment adviser under the Investment Advisers Act of 1940 and as a brokerdealer under the Securities Exchange Act of 1934 and is a member of the NASD. Colonial will serve as principal underwriter for the Contracts.

The Company proposes to issue a new series of individual single payment deferred variable annuity contracts to be funded through the Separate Accounts. Net purchase payments, in a minimum amount of $10,000, may be allocated to either or both Separate Accounts, subject to a minimum of $1,000 allocated to each separate account to which net purchase payments are allocated. Purchase payments under the Contracts may be allocated to accumulate in either or both Separate Accounts.

Subject to consent of the Company, the contracts permit a Contract Owner prior to the annuity commencement date to transfer all or a portion of the accumulated value in one Separate Account to the other Separate Account without imposition of any charge for sales and administrative expense. Currently, the Company imposes the following non-discriminatory restrictions on transfers:

(1) Each transfer must involve a minimum of $1,000.

(2) If the transfer would reduce the value of the account from which the transfer is made to less than $1,000, the Company will include the remaining value in the amount transferred.

(3) At least 30 days must have elapsed since the last transfer, if a previous transfer has been made.

Such restrictions are subject to change by the Company. Applicants state that the transfer privilege, including any restrictions currently imposed by the Company, will be described in the current prospectuses relating to the Contracts.

Applicants further state that the purpose of the transfer provisions of the contracts is to provide the contract owners the flexibility to re-direct their investments as they deem appropriate from time to time.

Section 11

Section 11(a) makes it unlawful for any registered open-end investment company to make an offer to the holder of a security of such company to exchange that security for a security in the same or any other investment company on any basis other than the net asset value of such securities, unless the terms of the offer have been first submitted to and approved by the Commission. Subsection (c) of Section 11 applies the provisions of subsection (a) "irrespective of the basis of the exchange" to "any type of offer of exchange of the securities of registered unit investment trusts or registered face amount certificate companies for the securities of any other investment company."

Applicants state that the transfer provision of the Company's contracts would permit a transfer of accumulated values under one Separate Account to the other Separate Account, both Separate Accounts being registered collectively as a unit investment trust and the transfers would thus involve an "exchange" from one "division" of the unit investment trust to another "division" of the same unit investment trust. Applicants state that there would be no change in or exchange of the variable annuity contracts for which the Separate Accounts serve as funding vehicles. However, in the event Section 11(a) may be considered applicable by virtue of Section 11(c), Applicants are seeking, to the extent necessary, approval of the Commission pursuant to Section 11 of the Act for an exemption from the provisions of Section 11 so that Applicants may offer owners of the contracts the transfer provisions described above, subject to the right of the Company to change non-discriminatory restrictions on such transfers described above by reducing or increasing the minimum amounts transferable and the time period between transfers.

Applicants state that the exchanges will be based on the unit values of the Separate Accounts next computed after a written request signed by the Contract Owner is received at the Company's principal office and no fee, penalty or other charge will be assessed by the Company against contract owners for utilizing such transfer provision.

Applicants assert that the transfer privilege provided by Applicants is in no way inequitable to Contract Owners. Applicants state that the transfer provision is undertaken on an entirely no-load basis; the transfers will be effected at the current unit values of the Separate Accounts which is equivalent to an exchange at net asset value per share. Neither the Company nor either of the Separate Accounts will receive any charge or load in connection with the exercise of the transfer provision. Applicants state that current prospectuses of both the Separate Accounts and the Funds requested by the investor will be provided to any such Contract Owner, as required by law, in connection with the exercise of this transfer provision. The terms of the Contract will remain the same. Applicants assert that the main reason for transfer provisions is to provide Contract Owners with the right to transfer accumulated values to a Separate Account which operates under investment objectives more closely aligned to such Contract Owner's current financial objectives and to provide such Contract Owner flexibility in financial planning. Applicants further assert that allowing transers on the terms described herein is consistent with the protection of Contract Owners and the purposes clearly intended by the policy and provisions of the Act.

Sections 26(a) and 27(c)(2)

Sections 26(a) and 27(c)(2) of the 1940 Act provide, in substance, that a registered unit investment trust or issuer of a periodic payment plan certificate and any depositor and underwriter for such investment company are prohibited from selling periodic payment plan certificates unless the proceeds of all payments, other than the sales load, are deposited with a qualified bank as trustee and are held under an indenture or agreement containing the following provisions: (1) That the trustees or custodian be a bank of a designated size, (2) that the assets be held in trust and only certain charges be made against them, (3) that the trustee or custodian may only resign in a specified fashion and (4) that certain records be kept and notice given to securities holders in the event of substitution of the trust's securities.

Applicants state that the provisions of Section 26(a) and 27(c)(2) were designed to assure performance of contractual obligations under periodic payment plans, to minimize the opportunities for misuse of the assets of unit investment trusts and to prevent sponsors from reaping hidden profits.

Applicants further state that under the provisions of the Delaware Insurance Laws, the Company is not permitted to hold itself out as a trustee of the property of a Separate Account (and cannot place such property in trust in the hands of another). However, IRS regulations require use of a custodian for the purpose of establishing certain tax records which will permit the Company to minimize the impact of capital gains taxes on the Separate Accounts. Applicants are seeking an exemption from Section 26(a) and Section 27(c)(2) to the extent necessary to permit State Mutual to serve as custodian of the assets of the Separate Accounts on the ground that State Mutual's and the Company's status as regulated insurance companies and the Company's obligations as an insurance company to the Contract Owners provide substantially the protection contemplated

by the requirements of Section 26(a) and 27(c)(2).

Applicants state that fund shares owned by the Separate Accounts will be held on an open account basis and will not be represented by any transferable stock certificates. The records of the Separate Account will reflect its ownership of Fund shares and Fund records will reflect Separate Account ownership. The records of the Fund and of the Separate Account will be cross-verified to insure accuracy. The Company will perform all accounting functions relating to the Separate Accounts. The accounting systems for the Separate Accounts will incorporate internal controls existing in the Company's Accounting Department, and will be subject to audit by the Internal Auditing Department of the Company and a firm of independent accountants. Applicants assert that under the foregoing circumstances, the dangers against which Section 26(a) and 27(c)(2) are directed are not present.

The Applicants consent to this requested exemption being made subject to the condition (a) that deductions under the Contracts for administrative services shall not exceed such reasonable amount as the Commission shall prescribe, the Commission reserving jurisdiction for such purposes, and (b) that the payment of sums and charges out of the assets of the Separate Accounts shall not be deemed to be exempted from regulation by the Commission by reason of the requested order: Provided, the Applicants' consent to this condition shall not be deemed to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets other than charges for administrative services, and the Applicants reserve the right in any proceeding before the Commission or in any suit or action in any court to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Section 6(c) of the Act provides that the Commission may conditionally exempt any person or transaction from any provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protections 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 December 26, 1978 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement of the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant 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. An order disposing of the matter will be issued as of course following December 26, 1978, 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 notice of further developments 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. 78-34204 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Rel. No. 20793; 70-5723]

APPALACHIAN POWER CO. AND SOUTHERN APPALACHIAN COAL CO.

Proposed Capital Contribution To Coal Mining Subsidiary

NOVEMBER 28, 1978.

Notice is hereby given that Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24009, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, and Southern Appalachian Coal Company ("SACO"), 301 Virginia Street, Charleston, West Virginia 25327, a coal mining subsidiary of Appalachian, have filed with this Commission a declaration and amendments thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12 of the Act and Rule 45 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated March 6, 1972 (HCAR No. 17507), Appalachian was authorized to acquire through December 31, 1974, up to 10,000 shares of SACO's common stock for a consideration of $2,000 per share. Appalachian so acquired 6,950 shares of SACO's common stock, the proceeds from such acquisition being used by SACO for investment in mining plant and for working capital. SACO is developing coal lands and reserves, presently owned by Appalachian at sites known as Bull Creek, Lens Creek, Julian and Tasa located in the counties of Boone, Kanawha and Lincoln, West Virginia, which are estimated to contain current coal reserves of 50,000,000 tons.

By declaration filed herein Appalachian requests authority to make capital contributions to SACO through December 31, 1978, of up to $23,000,000. It is stated that SACO proposes to expand its mining program so as to assure a reliable supply of low-sulfur coal for use at Appalachian's generating plants. Approximately 75% of the coal produced will be delivered to the John E. Amos Plant, with the remainder being delivered to the Kanawha River Plant and, perhaps, the Phillip Sporn Plant. It is stated that such coal will displace coal that would otherwise be purchased on a spot basis or under short-term contracts.

The annual rate of production by SACO was 1,437,018 tons in 1976 and 915,243 tons in 1977, and is estimated at 900,000 tons for 1978 (1978's results having been affected by the coal miners' strike) and 1,700,000 tons for 1979. Declarants state that SACO's capital expenditures for its expansion program were $11,100,000, $11,100,000 and $700,000 for the years 1975, 1976 and 1977, respectively, and that SACO's estimated capital expenditures for 1978 and 1979 are $500,000 and $9,000,000, respectively.

Declarants state that SACO's expansion program has been financed largely through retained earnings, which have accumulated to approximately $15,000,000 as of September 30, 1978. Declarants propose that a portion of the proposed capital contributions of $23,000,000 be utilized to finance the payment by SACO of dividends to Appalachian in the amount of the previously accumulated retained earnings. The remaining amount of the proposed capital contribution will be utilized for mine development, for coal mining equipment and structures, and to finance SACO's expansion of its mining program, including estimated construction expenditures of $9,000,000 for 1979.

Development costs include expenditures relating to site preparation, the mine portal, extensions of slopes or shafts from the portal and overhead expenditures. Overhead expenditures include the excess of production costs over revenues from coal sale during the development period, construction, engineering and design expenditures, temporary facilities and allowances for funds used during construction.

Mining equipment acquired or to be acquired by SACO includes mining machines, bolting machines, conveyors, power centers, batteries and char-

gers, personnel carriers, rock dusters, shuttle cars, coal haulers and bulldozers together with other miscellaneous transportation and coal handling equipment.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $4,500. The State Corporation Commission of Virginia and the West Virginia Public Service Commission have authorized the proposed $23,000,000 capital contribution. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 26, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, 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 declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices 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. 78-34205 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Release No. 10503; 812-4379]

COLONIAL TAX-MANAGED TRUST AND COLONIAL MANAGEMENT ASSOCIATES, INC.

Filing of Application of the Act To Permit an Offer of Exchange an Exemption

NOVEMBER 30, 1978.

Notice is hereby given that Colonial Tax-Managed Trust ("Fund"), 75 Federal Street, Boston, Massachusetts 02110, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), and Colonial Management Associates, Inc. ("CMAI"), the investment adviser to and the principal underwriter for the Fund (collectively "Applicants"), filed an application on October 18, 1978, and an amendment thereto on November 16, 1978, for an order of the Commission (1) pursuant to Section 11(a) of the Act, permitting the Fund to offer to exchange its shares for shares of InterCapital Liquid Asset Fund, Inc. ("ICAP"), held in a Colonial Exchange Account on the basis of their relative net asset values per share at the time of the exchange except for a $5 service charge and (2) pursuant to section 6(c) of the Act, exempting Applicants from the provisions of Section 22(d) of the Act and the rules thereunder to permit the sale of fund shares through such exchange offers without imposition of the customary sales charge. 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 CMAI, as principal underwriter for the Fund, will maintain a continuous public offering of the shares of the Fund at net asset value plus a sales charge. Applicants also state that Fund shares will be sold with a maximum sales charge of 8.5% and that no sales charge will be imposed on the reinvestment of dividends and capital gains.

ICAP is an open-end investment company registered under the Act. Applicants state that ICAP invests primarily in short-term money market instruments, acts as distributor of its own shares, and imposes no sales or administrative charge in connection with the sale of its shares. Applicants propose to permit certain ICAP shareholders who were formerly shareholders of the Fund to reacquire shares of the Fund by exchanging their ICAP shares held in the shareholder's name at ICAP in a Colonial Exchange Account (hereinafter referred to as the "Exchange Privilege"). ICAP shares held in a Colonial Exchange Account may only be acquired (1) by investing directly the net proceeds from a redemption of Fund shares in ICAP shares or (2) by reinvesting in ICAP shares income dividends and capital gains distributions paid on all ICAP shares held in a Colonial Exchange Account. Applicants state that ICAP shares acquired in any other manner would not qualify for the Exchange Privilege. Applicants state that the Fund imposes no charge on redemption of its shares and that a shareholder of the Fund will be able to redeem Fund shares and to purchase shares of ICAP to be held in the shareholder's name at ICAP in a Colonial Exchange Account (*Provided*, That the investor's minimum initial investment in ICAP shares is $5,000) without payment of any redemption or sales charge other than a $5 service fee which will be charged by Bradford Trust Company of Boston ("Bradford"), the Fund's transfer and shareholder services agent, for setting up a shareholder's Colonial Exchange Account at ICAP and for handling all exchanges made pursuant to the Exchange Privilege. Applicants represent that the customary sales charge described in the prospectus of the Fund would not be imposed in connection with the exchange of ICAP shares for shares of the Fund and that no other charge will be imposed by ICAP or by Applicants on such exchange.

Applicants state that the proposed Exchange Privilege will enable any shareholder of the Fund, who redeems his shares in the Fund and uses the proceeds of such redemption to acquire ICAP shares held in a Colonial Exchange Account, to reacquire shares of the fund with the proceeds from the redemption of the ICAP shares in the investor's Colonial Exchange Account without incurring the Fund's customary sales charge. A participant in a Colonial Exchange Account may exercise the Exchange Privilege at any time by instructing ICAP to redeem shares of ICAP held in the investor's Colonial Exchange Account and to apply the proceeds of the redemption to the acquisition of Fund shares. The Exchange Privilege will not be available with respect to the proceeds from a redemption of ICAP shares that are paid directly to the investor. The Fund and ICAP have reserved the right to establish a limit on the number of exchanges pursuant to the Exchange Privilege that any investor may make within a certain period. In addition, the Exchange Privilege will be subject to termination by the Fund or by ICAP or not less than six months prior written notice to holders of ICAP shares in a Colonial Exchange Account. The Exchange Privilege will lapse for an investor if the investor's account with the Fund has a zero share balance for a period of three consecutive years. Finally, an investor maintaining a Colonial Exchange Account will receive a current prospectus both of ICAP and of the Fund, provided that the investor remains entitled to exercise the Exchange Privilege.

Section 11(a) of the Act provides, in part, that it shall be unlawful for any registered open-end company or for any principal underwriter for such company to make or cause to be made an offer to the holder of a security of

such company or any other open-end investment company to exchange his security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first submitted to and approved by the Commission.

Applicants assert that the Exchange Privilege is an integrated arrangement, exercisable only by an investor who initially acquires ICAP shares by redeeming Fund shares and by using the proceeds of that redemption to purchase ICAP shares. Applicants submit that an exercise of the Exchange Privilege may be deemed to be an exchange on a basis other than the relative net asset value of the shares exchanged, because a $5 service charge will be imposed on the initial acquisition of ICAP shares held in Colonial Exchange Accounts. Applicants represent that the $5 service charge will defray the administrative costs included in each exchange.

Section 22(d) of the Act provides, in part, that no registered investment company or principal underwriter for such company shall sell any redeemable security issued by such company to any person except at a current offering price described in the prospectus.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of the Act, if and to the extent 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.

Applicants state that the Exchange Privilege may be deemed to violate Section 22(d) of the Act, since an investor would be able to purchase Fund shares without incurring the customary sales charge. Applicants state that each investor eligible to exercise the Exchange Privilege must initially have been an investor in the Fund. Applicants also state that each investor eligible to exercise the Exchange Privilege will continue to receive a current prospectus of the Fund while holding a Colonial Exchange Account with ICAP. Applicants assert that no additional sales efforts will be involved in connection with the reacquisition of shares of the Fund and that, accordingly, no sales charge should be imposed on the investors. Applicants also assert that the Exchange Privilege will not enable any investor to avoid payment of the applicable sales charge on his original investment in Fund shares.

Notice is further given that any interested person may, not later than December 26, 1978, 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 the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 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. 78-34206 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Release No. 20807; 70-6238]

COLUMBIA GAS SYSTEM, INC., ET AL.

Proposed Open Account Advances to Subsidiary Companies by Parent Company in Connection With Intrasystem Prepayment of Promissory Notes and Related Transactions

DECEMBER 1, 1978.

In the matter of the Columbia Gas System, Inc., Columbia LNG Corporation, Columbia Gas Development Corporation, Columbia Gas System Service Corporation, 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; Columbia Gas of Ohio, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of West Virginia, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., 99 North Front Street, Columbus, Ohio 43215; Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027; Columbia Hydrocarbon Corporation, The Inland Gas Company, Inc., 340—17th Street, Ashland, Kentucky 41101.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its wholly-owned subsidiary companies listed above, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 6(b), 9, 10, and 12(b) of the Act and Rules 42(b)(2) and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

It is stated that during the winter heating season Columbia's distribution subsidiary companies generate substantial amounts of cash in excess of current requirements. During the same period, however, the transmission subsidiary companies generate lesser amounts of cash and have generally larger construction expenditures, requiring Columbia to advance funds to such subsidiary companies. In recent years, the Commission has authorized open account advances by Columbia to subsidiary companies and certain related transactions which are designed to alleviate this situation. The present filing requests authorization to continue such transactions during the calendar year 1979.

It is proposed that the subsidiary companies listed below will prepay from time to time prior to the end of 1979, with excess cash in aggregate amounts not to exceed the amounts set forth below, a portion of their outstanding installment promissory notes ("Notes") held by Columbia. The following amounts represent the estimated aggregate maximum excess funds that such companies are expected to accumulate at any one time during the year 1979.

Columbia Gas System Service Corporation	$6,000,000
Columbia Gas Transmission Corporation	375,000,000
Columbia Gas of Pennsylvania, Inc.	40,000,000
Columbia Gas of New York, Inc.	7,500,000
Columbia Gas of Maryland, Inc.	4,000,000
Columbia Gas of Kentucky, Inc.	12,000,000
Columbia Gas of Virginia, Inc.	5,000,000
Columbia Gas of West Virginia, Inc.	20,000,000
Columbia Gas of Ohio, Inc.	90,000,000
Columbia Gulf Transmission Company	125,000,000
Columbia Hydrocarbon Corporation	3,,300,000
The Inland Gas Company, Inc.	8,500,000
Columbia LNG Corporation	93,000,000
Columbia Gas Development Corporation	35,000,000
Total	$819,300,000

The Notes ("Indebtedness") prepaid by the individual companies will be those bearing the highest interest rate

or rates outstanding at the time of each prepayment. Interest on such Indebtedness will cease upon prepayment and recommence upon reissuance. As any of such companies require funds for construction and other corporate purposes after prepayment, it is proposed that advances be made to them on open account by Columbia, provided that at no time will the amount of such advances to any subsidiary exceed the amount of Indebtedness theretofore prepaid by it, less any current maturities applicable to prepaid Notes which would have matured subsequent to the date of prepayment.

The open account advances to any subsidiary company will bear interest commencing on the date of the advances, at the same rate or rates as borne by the equivalent principal amounts of Indebtedness previously prepaid by it during 1979, but in reverse order to that of the prepayments, i.e., beginning from the lowest rate payable on the Indebtedness previously prepaid to the highest rate. Interest on the open account advances will become due on June 30, 1979, and December 31, 1979, and/or on the date such advances are repaid by the issuance of Notes. It is further proposed that advances on open account to individual subsidiary companies will be increased or decreased from time to time in accordance with variations in the cash flow of the individual subsidiary companies. The proposed advances will not be in excess of the Indebtedness prepaid theretofore. At such time as the advances to any subsidiary company equal the aggregate amount of the Indebtedness prepaid by it, or in any event not later than December 31, 1979, such prepaid Indebtedness will be reinstated in repayment of the outstanding open account advances.

Financing of construction or gas storage programs of any operating subsidiary company pursuant to Commission authorization will not be consummated until such time as advances have been made in amount equal to the amount of Indebtedness prepaid. Any subsidiary company which during 1979 has borrowed on open account from Columbia an amount smaller than the amount of Indebtedness theretofore prepaid by it will, on December 31, 1979, reinstate its Indebtedness to Columbia in an amount sufficient to discharge its open account borrowings, and the balance of its prepaid Indebtedness will be considered to have been permanently prepaid. Such permanent prepayment would be applied against Indebtedness bearing the highest interest rates and would be consummated only with respect to Indebtedness bearing interest at a rate equal to or in excess of the rate applicable to borrowings by subsidiary companies from Columbia as of December 31, 1979. In the event that a permanent prepayment by any subsidiary company would be indicated with respect to Notes bearing an interest rate less than the rate applicable to debt purchased by Columbia from subsidiary companies at December 31, 1979, such Notes will be reissued by the subsidiary company at or before the end of 1979.

It is stated that the proposed transactions are designed to achieve the following: (1) Flexibility to prepay at the earliest possible date inventory loans with commercial banks and other short-term borrowings, (2) deferment of outside financing until aggregate system funds approach a minimum balance, (3) facilitate the internal financing of emergency requirements, and (4) allow subsidiaries, during any period in which they have excess cash, to temporarily prepay Notes owed Columbia, thereby decreasing their own net corporate interest expense.

Expenses to be incurred by Columbia and its subsidiary companies in connection with the proposed transactions are estimated at $6,000, including $3,000 for services, at cost, provided by Columbia Gas System Service Corporation.

It is stated that the Public Service Commission of West Virginia has authorized the prepayment and reissuance of prepaid Notes by Columbia Gas of West Virginia, Inc., that the Public Service Commission of New York has authorized the reissuance of prepaid Notes by Columbia Gas of New York, Inc., that the Public Service Commission of Kentucky has authorized the reissuance of prepaid Notes by Columbia Gas of Kentucky, Inc., and that the State Corporation Commission of Virginia has authorized the reissuance of prepaid Notes by Columbia Gas of Virginia, Inc. It is represented that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions. The applicants-declarants have requested that authorization be granted to file certificates under Rule 24 with respect to the proposed transactions on a quarterly basis.

Notice is further given that any interested person may, not later than December 26, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing in respect thereof. 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 applicants-declarants at the above-stated addresses, 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 filed or 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. 78-34207 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Release No. 20808; 70-6240]

CONSOLIDATED NATURAL GAS CO., ET AL.

Proposed Open Account Advances to Subsidiary Companies by Parent Company in Connection With Intrasystem Prepayment of Promissory Notes and Related Transactions

DECEMBER 1, 1978.

In the matter of Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York, New York 10020; CNG Producing Company, Consolidated Gas Supply Corporation, Consolidated System LNG Company, the East Ohio Gas Company, the Peoples Natural Gas Company, West Ohio Gas Company.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its subsidiary companies, CNG Producing Company ("Producing Company"), Consolidated Gas Supply Corporation ("Supply Corporation"), Consolidated System LNG Company ("LNG Company"), The East Ohio Gas Company ("East Ohio"), The Peoples Natural Gas Company ("Peoples"), and West Ohio Gas Company ("West Ohio"), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 6(b), 7, 9(a), 10, and 12(b) of the Act and Rules 42(b)(2), 45, and 50(a)(3) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a com-

plete statement of the proposed transactions.

It is stated that certain companies in the Consolidated system temporarily accumulate cash over and above current requirements, for the most part because of large seasonal heating business. At the same time, Consolidated may require funds for working capital and for the financial requirements of other system companies. Therefore, Consolidated may be making short-term borrowings when subsidiaries with excess cash are making temporary money-market investments outside the system. It is stated that it would be advantageous to alleviate this situation and to continue the temporary prepayment of the subsidiaries' long-term notes which optimizes the internal utilization of excess cash funds accumulated within the system.

It is proposed that the following subsidiaries make temporary prepayments on long-term notes held by Consolidated from excess cash funds, from time to time prior to December 31, 1979, not exceeding at any time the aggregate amounts set forth below:

East Ohio	$75,000,000
Peoples	15,000,000
Producing Company	10,000,000
Supply Corporation	50,000,000
LNG Company	10,000,000
West Ohio	3,500,000
	$163,500,000

Consolidated estimates that the aggregate prepayment of $163,500,000 is the maximum that can be utilized for the temporary financing of system requirements during 1979.

The long-term notes temporarily prepaid by an individual subsidiary will be those bearing the highest interest rate outstanding at the time of each prepayment. Interest on such notes will cease upon prepayment and start again upon reinstatement of the notes. As funds are thereafter required by such subsidiary for corporate purposes, including construction, it is proposed that advances be made on open account to the subsidiary by Consolidated in an aggregate amount not to exceed the amount of long-term notes previously prepaid, less any current maturities applicable to notes which have matured subsequent to the prepayment dates. The open account advances will bear interest at the same rate or rates as borne by the equivalent principal amounts of the notes previously prepaid by such subsidiary during 1979, but in reverse order to that of the prepayments, i.e., from the lowest rate on the notes previously prepaid to the highest rate. Interest on the open account advances will commence on the date of the advance and will become due on June 30, 1979, and December 31, 1979, and/or on the date such advances are repaid by the reinstatement of the prepaid notes.

It is proposed that open account advances to a subsidiary be increased or decreased from time to time in accordance with variations in the cash flow of the subsidiary; however, at no time will the advances outstanding be in excess of the notes prepaid. At such time as the open account advances equal the aggregate amount of the prepaid notes, or in any event not later than December 31, 1979, the notes prepaid by a subsidiary will be reinstated in repayment of the related outstanding open account advances made to the subsidiary by Consolidated. However, if the aggregate of the notes prepaid exceeds such advances at the end of 1979, Consolidated proposes to make cash repayment of the difference in order to effect reinstatement of the proposed notes in full. No financing of any subsidiary which may be presently or subsequently authorized by this Commission in connection with the construction or gas storage programs of any such subsidiary will be consummated until such time as advances have been made in an amount equal to the amount of notes prepaid.

It is stated that the proposed transactions will be beneficial to the system because they will: (1) permit subsidiary companies with excess cash to prepay temporarily long-term notes held by Consolidated, with a resulting reduction in their interest expense; (2) make available to Consolidated a temporary cash source for working capital and for the financing of other companies within the system; and (3) permit Consolidated, which obtains all external financing required by the system, to consequently defer or prepay short-term financing such as inventory loans with banks and commercial paper borrowings for working capital.

The expenses to be incurred in connection with the proposed transactions are estimated not to exceed $2,600. It is stated that the Public Service Commission of West Virginia has authorized the prepayment and reactivation of the long-term notes and the short-term borrowings proposed by Supply Corporation and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. The applicants-declarants request that authority be granted to file certificates under Rule 24 reporting transactions consummated pursuant to this filing on a quarterly basis.

Notice is further given that any interested person may, not later than December 26, 1978, request in writing that a hearing by held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing 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 applicants-declarants 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 filed or 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 or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-34208 Filed 12-7-78; 8:45 am]

[8010-01-M]

[File No. 1-4228]

ESSEX CHEMICAL CORP.

Application to Withdraw From Listing and Registration

NOVEMBER 29, 1978.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Essex Chemical Corporation (the "Company") has been listed for trading on the Amex since October 8, 1959. On July 29, 1977, the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE"). The Company has decided that it no longer wishes to incur the expenses attendant to maintaining a dual listing for its stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such common stock of the NYSE. The

Amex has posed no objection in this matter.

Any interested person may, on or before December 29, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-34209 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Rel. No. 20794; 70-6099]

GENERAL PUBLIC UTILITIES CORP.

Proposed Extension of Short-Term Debt Authorization

NOVEMBER 28, 1978.

Notice is hereby given that General Public Utilities Corporation ("GPU"), 260 Cherry Hill Road, Parsippany, New Jersey 07054, a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act as applicable to the proposed transaction. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By order dated December 29, 1977 (HCAR No. 20346), GPU was authorized until December 31, 1978, to issue and renew its unsecured promissory notes to various commercial banks provided that the aggregate principal amount of such indebtedness outstanding at any one time should not exceed $71,000,000.

By post-effective amendment GPU requests that said $71,000,000 short-term borrowing authorization be extended until December 31, 1979. Although no commitments or agreements for the proposed borrowings have been made, GPU expects that borrowings will be made from among 8 designated banks. The maximum short-term credit made available by such banks will total $115,000,000, a sum exceeding by $44,000,000 the maximum amount for which authority is being requested. It is stated that the purpose of this excess amount is to provide flexibility with one or more particular banks since some banks have indicated from time to time that it is not always convenient for them to renew outstanding notes at the time GPU requests them to do so.

Each note to be issued will bear interest at a rate not exceeding the lending bank's prime rate, will mature not more than nine months from the date of issue and will be prepayable at any time without premium. It is anticipated that the banks from which borrowings will be made will require compensating balances at levels generally approximating 10% of the line of credit or 20% of the amounts actually borrowed, whichever is higher. Assuming compensating balances of 20% of the aggregate amounts borrowed and a prime rate of 11%, the effective interest cost would be 13.75%.

GPU proposes to use the proceeds of the short-term borrowings for investment in its operating subsidiaries or for reimbursement of its treasury for expenditures made therefrom for that purpose.

The additional fees and expenses to be incurred in connection with the proposed transaction will be supplied by further amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 27, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant 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, as amended by said post-effective amendment or as it may be further amended, may be granted 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 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. 78-34210 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Rel. No. 6002; 18-26]

HAHN, LOESER, FREEDHEIM, DEAN & WELLMAN RETIREMENT PLAN

Filing of Application

DECEMBER 1, 1978.

Notice is hereby given that Hahn, Loeser, Freedheim, Dean & Wellman, 800 National City E. 6th Building, Cleveland, OH 44114, a law firm organized as a partnership under the laws of the State of Ohio (hereinafter referred to as "Applicant" or "Firm") on October 30, 1978 filed an application for exemption from the registration requirements of the Securities Act of 1933 (the "Act") for interests or participations issued in connection with the Hahn, Loeser, Freedheim, Dean & Wellman Retirement Plan (the "Plan"). All interested persons are referred to the document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

The Plan covers all employees, legal and non-legal, and all partners of the Firm who customarily render service for the Firm for at least 1,000 hours during a Plan year. Such persons are eligible to participate in the Plan if they participated in the Plan prior to January 1, 1976, or have completed three years of service with the Firm. As of June 30, 1978, 28 partners, two associates and 21 non-legal employees were participants in the Plan.

Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, whose participants include persons (in this case Applicant's partners) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code"), and, therefore, is excepted from the exemption from the registration provisions of the Act provided by Section 3(a)(2) of the Act for interests or participations in certain employee benefit plans of corporate employers. However, Section 3(a)(2) of the Act provides that the Commission may exempt from the provisions of Section 5 of the Act any interest or participation issued in connection with a pension or profit sharing plan which covers employees, some or all of whom are employees within the meaning of

Section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be 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.

DESCRIPTION AND ADMINISTRATION OF THE PLAN

Applicant states that the Plan was originally adopted in 1968 and was amended and restated in its entirety effective as of January 1, 1976, in order to comply with the Employee Retirement Income Security Act of 1974 ("ERISA"). The Internal Revenue Service has issued a ruling to the effect that the Plan, as so amended and restated, is a qualified plan under Section 401(a) of the Code. The Plan is an "employee pension benefit plan" subject to the fiduciary standards and to the full reporting and disclosure requirements of ERISA.

Contributions are made by Applicant each year on behalf of all employee participants and active partners who have been such for at least five years in amounts equal to 7½% of their compensation. With respect to partners who have been partners for less than five years, there is a graduated scale of contributions up to a maximum of 6% of their compensation. In addition, each Plan participant may make voluntary contributions in any year up to an additional 5% of such participant's compensation.

Applicant states that the National City Bank of Cleveland, Ohio is trustee (the "Trustee") for the Plan under an Amended Trust Agreement (the "Trust Agreement"). Under the Trust Agreement, the Trustee has exclusive authority and discretion to manage trust assets, subject to the right of the Firm to direct investments itself or to appoint an investment manager to manage some or all of the assets of the Plan. Commencing in July, 1978, the Firm did appoint an investment manager (Carnegie Capital Advisors, a division of Prescott, Ball & Turban, investment bankers) to invest approximately one-half of the assets of the Plan. It is the Firm's intention, upon receipt of the requested exemption to direct the Trustee to invest substantially all the balance of the assets of the Plan in a guaranteed investment contract to be issued by John Hancock Mutual Life Insurance Company. A retired or terminated participant has the right to direct that the balance in such participant's account be invested in a fixed income fund maintained by the Trustee.

Applicant states that if it were a corporation or if its partners were not included among Plan participants, interests and participations in the Plan would be exempt from registration under Section 3(a)(2) of the Act. Applicant submits that Congress excepted interests issued in connection with Keogh plans from the Section 3(a)(2) exemption primarily out of concern over interests in commingled or collective Keogh funds which might be marketed by sponsoring financial institutions to self-employed persons unsophisticated in financial matters. Applicant notes that the Plan is not a prototype or master plan marketed to the public by a sponsoring financial institution and that Plan assets are not commingled in collective investment media with the assets of plans of other employers. Applicant states that the characteristics of the Plan are essentially no different from the retirement plans maintained by many single corporate employers, for which Section 3(a)(2) provides an exemption, and that the concerns which led to that Section's inapplicability to Keogh plans do not apply to Applicant's Plan.

Applicant represents that it has not distributed and does not intend to distribute any type of promotional material relating to the Plan (other than such material as Applicant is required under ERISA to distribute to participants or to employees) and has not made and does not intend to make any solicitation of voluntary contributions under the Plan. Applicant makes available to Plan participants upon request and without charge, copies of the Plan, the Trust Agreement and the latest interim financial statements of the Plan.

Applicant states that it is engaged in furnishing legal services of a type which necessarily involves financially sophisticated and complex matters and for that reason, as well as the extensive administrative control over the Plan maintained by the Firm, is able to represent adequately its interests and the interests of its employees who are participants in the Plan.

Applicant concludes that for the foregoing reasons, granting the requested exemptive order would be 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 December 26, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application, accompanied by a statement of the nature of his or her interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant 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. An order disposing of the matter will be issued as of course following December 26, 1978, 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 notice of further developments 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. 78-34211 Filed 12-7-78; 8:45 am]

[8010-01-M]

[File No. 1-7197]

INTERWAY CORP.

Application To Withdraw From Listing and Registration

NOVEMBER 29, 1978.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Interway Corporation (the "Company") has been listed for trading on the Amex since August 8, 1973. On September 13, 1978 the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining a dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such

common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before December 29, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-34212 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Rel. No. 20799; 70-6232]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

NOVEMBER 29, 1978.

Notice is hereby given that Indiana & Michigan Electric Company 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, ("I&M"), an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

I&M proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $100,000,000 aggregate principal amount of its first mortgage bonds of a new series ("Bonds"), having a maturity of not less than 5 nor more than 30 years. The interest rate (which will be expressed in a multiple of ⅛ of 1%) and the price to be paid to I&M for the Bonds (which will not be less than 99% nor more than 102¾%) will be determined by competitive bidding. None of the Bonds may be redeemed prior to five years from the date of issuance if such redemption is for the purpose of refunding such Bonds through the use, directly or indirectly, of borrowed funds at an effective interest cost less than the effective interest cost of the Bonds.

It is stated that the Bonds will not be issued and sold, however, unless I&M shall receive prior to such sale one or more cash capital contributions in an aggregate amount of $25,000,000 from AEP. The making of such cash capital contributions by AEP is the subject of a separate application before this Commission (File No. 70-6082).

The proceeds from the sale of the Bonds will be used by I&M to repay unsecured short-term indebtedness (which aggregated $93,740,000 at November 1, 1978, and is expected to be not less than $100,000,000 at the time of sale of the Bonds) and to reimburse its treasury for expenditures incurred in connection with its construction program. I&M estimates its 1979 construction expenditures will total approximately $230,172,000 (exclusive of estimated 1979 construction costs of $22,423,000 of its generating subsidiary).

The fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that the Public Service Commission of Indiana and the Michigan Public Service Commission have jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 27, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application 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 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, as filed or as it may be amended, may be granted 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. 78-34213 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Rel. No. 20806; 70-6230]

MIDDLE SOUTH UTILITIES, INC.

Proposed Issuance and Sale of Common Stock at Competitive Bidding

DECEMBER 1, 1978.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration which is summarized below for a complete statement of the proposed transaction.

Middle South proposes to issue and sell at competitive bidding up to 8,500,000 shares of its authorized but unissued common stock, par value $5 per share, ("Additional Common Stock") to underwriters or investment bankers who will agree promptly to make a public offering thereof. Middle South estimates that the sale will result in aggregate net proceeds of approximately $127,500,000. The net proceeds from the sale of the Additional Common Stock will be applied toward the repayment of then outstanding bank loans made to Middle South, pursuant to the Credit Agreement between Middle South and various commercial banks dated as of June 29, 1978. The amount of such bank loans presently estimated to be outstanding at the time of the sale is $137,000,000.

Middle South believes that the sale of the Additional Common Stock may require the assistance of underwriters if market conditions at the time of the offering of the securities are unfavorable. Accordingly, Middle South may amend this application-declaration to seek an exemption from the competitive bidding requirements of Rule 50 so that it may offer the Additional Common Stock through a negotiated public offering.

The fees and expenses to be incurred in connection with this transaction will be supplied by amendment. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 26, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said 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 the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations 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. 78-34214 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Rel. No. 15378; SR-MSE-78-21]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

DECEMBER 1, 1978.

On September 6, 1978, the Midwest Stock Exchange Incorporated, ("MSE") 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which provides for two additional exceptions to the rule restricting trading in out-of-the-money options. First, investors would be permitted to enter an order for out-of-the-money options provided that such order would result in a spread position. Such exception would permit an investor to initiate an opening purchase or sale in out-of-the-money options and subsequently execute the other side of the spread. Second, investors would be permitted to purchase (opening) out-of-the-money puts provided such position is offset in the account by long stock or convertible security positions.

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. 15186, September 25, 1978) and by publication in the FEDERAL REGISTER (43 FR 45484, October 2, 1978). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered 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 above-mentioned proposed rule change 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. 78-34215 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Release No. 34-15360; File No. SR-MSRB-78-15]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on November 17, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission the proposed rule changes as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The Municipal Securities Rulemaking Board (the "Board") is filing herewith amendments to Board rule A-3 relating to membership on the Board and rule A-5 relating to the election of officers of the Board (hereafter referred to as the "proposed rule changes"). The proposed rule changes modify rule A-3 to provide that the term of office of Board members will commence on October 1 in the year in which elected and expire on September 30 in the third year after their election. The proposed rule changes also modify rule A-5 to reflect the change in rule A-3. The text of the proposed rule changes appears below.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

PURPOSE OF PROPOSED RULE CHANGES

Prior to the filing of the proposed rule changes, rule A-3 provided that the term of office of members of the Board, other than initial members, commenced on September 5 in the year in which elected and expired on September 4 of the third year of their term. With respect to initial members, Board rule A-3(d) provided that the five remaining initial members would leave office on September 4, 1979. The September 5 date was used solely because it was the anniversary date of the day on which the Commission announced the appointment of the initial Board members.

The proposed rule changes modify rule A-3 to provide that in the future new Board members will take office on October 1 of the year in which they are elected. The proposed rule changes also modify rule A-3 to provide that the terms of office of all current members of the Board, including initial members, will terminate on September 30 of the year in which their terms would otherwise expire.

The purpose of the proposed rule changes is to align the terms of office of Board members with the Board's fiscal year, which begins on October 1 and ends on September 30. This change will promote continuity in financial planning and implementation during a given Board fiscal year. Under the rule prior to amendment, each new Board has had to operate for at least the first month of its existence under the budget and financial procedures established by the previous Board. The change will also promote other efficiencies in the operation of the Board relating to, among other matters, the scheduling of meetings and the appointment of committees.

Prior to the filing of the proposed rule changes, rule A-5 provided in pertinent part that the terms of office of Board members commenced on the date of their election and ended on September 4 or the election of their successors. The proposed rule changes modify rule A-5 to substitute September 30 for September 4, so that the terms of officers of the Board will coincide with the terms of Board members.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted the proposed rule changes pursuant to section 15B(b)(2)(B) and 15B(b)(2)(I) of the Securities Exchange Act of 1934, as amended (the "Act"). The proposed rule changes were adopted under the general authority conferred on the Board by section 15(b)(2)(I) of the Act to provide for the operation and administration of the Board. In addition, section 15B(b)(2)(B) of the Act authorizes the Board to establish procedures for the nomination and election of members of the Board.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

The Board neither solicited nor received comments on the proposed rule changes.

BURDEN ON COMPETITION

The proposed rule changes do not affect the conduct of business by any broker, dealer, or municipal securities dealer. The Board therefore believes that the proposed rule changes do not impose any burden on competition.

The foregoing rule changes have become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within 60 days of the filing of such proposed rule changes, the Commission may summarily abrogate such rule changes if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 29, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 28, 1978.

TEXT OF PROPOSED RULE CHANGES*

Rule A-3. Membership on the Board.

(a)-(c) No change.

(d) Nomination and election of Members.

(i) Except for the initial members of the Board, members shall be nominated and elected in accordance with the procedures specified by this rule. The members of the Board elected to succeed the initial members shall consist of five of the initial members who shall serve for a succeeding term of one year, five of the initial members who shall serve for a succeeding term of two years, and five individuals who are not initial members, who shall serve for a term of three years; provided, however, that each such category of initial members shall include at least one public representative, one broker-dealer representative and one bank representative. Subsequent to such first election of members, all members of the Board shall be elected for terms of three years, so that the terms of office of one-third of the whole Board shall expire each year. *Except for members of the Board elected on or prior to September 5, 1978, the terms of office of all members of the Board shall commence on October 1 of the year in which elected and shall terminate on September 30 of the year in which their terms expire. With respect to members of the Board elected on or prior to September 5, 1978, including initial members of the Board, the terms of such members shall end on September 30 of the year in which their terms would otherwise expire.* Except for the succeeding terms for initial members as hereinbefore provided, no member of the Board may succeed himself in office and no broker-dealer representative or bank representative may be succeeded in office by any person associated with the municipal securities broker or municipal securities dealer with which such member was associated at the expiration of his term.

(ii)-(x) No change.

(xi) Upon completion of the procedures for nomination and election of new Board members as set forth above, the Board will announce the names of the new members. [Such persons will assume office on September 5 in the year in which they are elected.]

(e)-(g) No change.

Rule A-5. Officers and Employees of the Board.

(a) No change.

(b) Election of Officers of the Board. Officers of the Board shall be elected annually from among the members, by vote of the members, as soon as practicable following the commencement of the term of the new members. Officers shall serve for a term commencing on the date of their election and ending with the September [4] *30* next following their election, [and] *or* until their successors are elected; provided, however, that any officer may resign his office prior to the expiration of his term by filing a written notice of resignation with the Secretary to the Board which shall specify the effective date of such resignation. In no event shall such date be less than 10 days or more than 30 days from the date of filing of such notice. If no date is specified, the resignation shall become effective 10 days from the date of filing. The Board may remove any officer at any time by two-thirds vote of the whole Board. Vacancies in office shall be filled as soon as practicable by vote of the members and any person elected to fill a vacancy shall serve only for the remainder of his predecessor's term. The election of the initial officers of the Board shall be held as soon as practicable following the effective date of this rule and the next election shall be held on or as soon as practicable after September 5, 1976.

(c)-(d) No change.

[FR Doc. 78-34222 Filed 12-7-78; 8:45 am]

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* Italics indicate new language; brackets indicate deletions.

[8010-01-M]

[Rel. No. 20795; 70-6049]

OHIO POWER CO.

Supplemental Notice of Proposed Increase in Short-Term Borrowing Authorization

NOVEMBER 28, 1978.

Notice is hereby given that Ohio Power Company ("Ohio Power"), 301 Cleveland Avenue, S.W., Canton, Ohio 44701, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By previous notice issued herein (HCAR No. 20755 dated November 1, 1978), Ohio Power requested that its $137,000,000 short-term borrowing au-

thorization, which expires December 31, 1978, be extended until December 31, 1979, pursuant to credit arrangements described in said previous notice.

By post-effective amendment Ohio Power request that the amount of said short-term borrowing authorization be increased from $137,000,000 to $150,000,000 for the year ending December 31, 1979.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by further amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may not later than December 28, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application, as amended by said post-effective amendments, 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 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, as amended by said post/effective amendment 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. 78-34216 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Rel. No. 20805; 70-6212]

PHILADELPHIA ELECTRIC POWER CO., ET AL.

Proposed Issuance and Sale of Short-Term Notes to Banks; Exception From Competitive Bidding

DECEMBER 1, 1978.

In the Matter of PHILADELPHIA ELECTRIC POWER COMPANY, 2301 Market Street, Philadelphia, Pennsylvania 19101; THE SUSQUEHANNA POWER COMPANY, 2301 Market Street, Philadelphia, Pennsylvania 19101.

Notice is hereby given that Philadelphia Electric Power Company ("PEPCo"), a registered holding company, and public utility subsidiary company of Philadelphia Electric Company, an exempt holding company, and PEPCo's wholly-owned subsidiary company, The Susquehanna Power Company ("SPCo"), a public utility company, have filed a declaration and amendments thereto with this Commission designating Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the amended declaration for a complete statement of the proposed transactions.

As of July 31, 1978, PEPCo and SPCo had outstanding $1,650,000 and $1,600,000, respectively, of unsecured promissory notes issued to banks pursuant to the first sentence of Section 6(b) of the Act. PEPCo proposes to issue and sell, from time to time through June 30, 1980, to the banks named below, additional notes in the maximum aggregate principal amount of $4.25 million outstanding at any time. SPCo proposes to issue and sell, from time to time through June 30, 1980, to the banks named below, its promissory notes in the maximum aggregate principal amount of $4 million outstanding at any time. All the notes will mature not later than nine months from the respective dates of issue and may be prepaid at any time without premium. The interest rate on such notes will be the prime commercial rate in effect on the date of issuance or renewal. There are no requirements for compensating balances in conjunction with the proposed bank loans. Assuming the present prime interest rate of 11% per annum the effective cost of the borrowing will be 11% since there are no compensating balances or other fees involved.

The proposed borrowings will be obtained from the following banks in the following aggregate principal amounts outstanding at any one time for the combined borrowings of both companies:

	Maximum Borrowing
The First Pennsylvania Bank N.A.	$2,000,000
Girard Bank	2,000,000
Industrial Valley Bank & Trust Company	1,000,000
The Fidelity Bank	1,000,000*
The Philadelphia National Bank	2,000,000
Provident National Bank	10,000,000
Cheltenham National Bank	500,000*
Central Penn National Bank	6,000,000
Frankford Trust Company	700,000*
American Bank & Trust Company	500,000
Southeast National Bank	2,500,000*
Lincoln National Bank	900,000*
Total	29,100,000

* Line of credit applies only to PEPCo.

PEPCo proposes to utilize the proceeds of its contemplated borrowings to make interest payments on its 4½% Debentures estimated to be $981,000 and $945,000, for the years 1979 and 1980, respectively; to meet sinking fund obligations on such debentures of approximately $231,000 in 1979 and approximately $800,000 in 1980; and for common stock dividend payments to PEPCo. SPCo proposes to utilize the proceeds of its contemplated borrowings for the purposes of financing construction costs estimated at $2,100,000, $720,000, and $443,000 for the years 1978, 1979, and 1980, respectively; for taxes estimated at $3.9 million, $2.5 million, and $2.6 million for the years 1978, 1979, and 1980, respectively; and for common stock dividend payments to PEPCo.

It is stated that no fees or expenses are expected to be incurred in connection with the proposed transactions other than the filing fee of this Commission. No state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 26, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be 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 declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended, or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Com-

mission may grant exemption from its rules under the Act 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. 78-34217 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Release No. 20810; 70-6097]

SYSTEM FUELS, INC., ET AL

In the matter of SYSTEM FUELS, INC., 225 Baronne Street, New Orleans, Louisiana 70112; MIDDLE SOUTH UTILITIES, INC., 225 Baronne Street, New Orleans, Louisiana 70112; ARKANSAS POWER & LIGHT COMPANY, First National Building, Little Rock, Arkansas 72203; LOUISIANA POWER & LIGHT COMPANY, 142 Delaronde Street, New Orleans, Louisiana 70174; MISSISSIPPI POWER & LIGHT COMPANY, Electric Building, Jackson, Mississippi 39205; NEW ORLEANS PUBLIC SERVICE, INC., 317 Baronne Street, New Orleans, Louisiana 70112.

Proposal by Nonutility Subsidiary Relating to Procurement, Storage and Transportation of Fuel for the Benefit of Operating Companies and Financing Such Operations Through Loans From Parent Companies

DECEMBER 1, 1978.

Notice is hereby given that System Fuels, Inc. ("SFI"), a fuel subsidiary of Arkansas Power & Light Company ("AP&L"), Louisiana Power & Light Company ("LP&L"), Mississippi Power & Light Company ("MP&L") and New Orleans Public Service, Inc. ("NOPSI") (collectively referred to as the "Operating Companies"), all of which are public utility subsidiaries of Middle South Utilities, Inc. ("MSU"), a registered holding company, has filed an application-declaration with this Commission pursuant to Sections 6(a), 7, 9(a), 10 and 12 of the Act and Rules 45, 50(a)(3), 90 and 91 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration for a complete statement of the proposed transaction.

By orders dated January 4, 1978 (HCAR No. 20363), March 9, 1978 (HCAR No. 20441) and May 4, 1978 (HCAR No. 20530), in this matter the Commission approved, through December 31, 1978, certain financing arrangements and other transactions related to the procurement, storage and transportation of fuel by SFI for use by the Operating Companies. SFI was authorized to borrow up to $148,000,000 from the Operating Companies under a loan agreement ("1978 Loan Agreement"). It is estimated that $17,000,000 will be outstanding under the 1978 Loan Agreement on December 31, 1978 and will be converted into loans under an amended 1978 Loan Agreement ("Loan Agreement") which will provide for additional borrowings by SFI from the Operating Companies in 1979 of up to $92,900,000 to be used to finance, in part, transactions entered into by SFI in the ordinary course of its fuel supply business for the 1979 calendar year. The exact amount of the borrowings proposed to be made under the Loan Agreement will be adjusted to reflect the actual amount of loans outstanding on December 31, 1978; total borrowings by SFI under the Loan Agreement are presently estimated at $109,900,000.

Potential borrowing requirements of SFI during 1979 include up to $61,200,000 for payment of notes and bankers' acceptances and a net amount of $31,700,000 for SFI's fuel supply program, including $28,300,000 for fuel procurement, $2,000,000 for storage facilities and $1,400,000 for transportation facilities.

Certain other Commission authorizations are also requested in the instant filing where required, to carry out or continue programs which the initial years of SFI's operation have shown to be essential.

It is presently contemplated that net capital requirements of $28,300,000 will be required for SFI's fuel procurement program during 1979 as follows:

	1979
Gas and Oil Exploration and Development	$13,600,000
Uranium Exploration	9,000,000
Nuclear Fuel Procurement	*
Coal Procurement	2,600,000
Fuel Oil Procurement	3,100,000
Net Requirements	$28,300,000

*Capital requirements for nuclear fuel procurement will be financed as described in the Commission's order dated October 31, 1978 (HCAR No. 20753).

It is presently estimated that $22,100,000 will be required for SFI to continue its gas and oil exploration and development activities in the tri-state area of Arkansas, Louisiana and Mississippi during 1979. Additionally $5,700,000 will be required by SFI to purchase gas and pay royalties on gas produced from prospects in which SFI has an interest. During the same period, SFI estimates that it will generate approximately $11,300,000 from the sale of gas and $2,900,000 from deferred taxes, thereby resulting in a net capital requirement of $13,600,000 during the period.

Pursuant to the Commission's order of March 9, 1978, in this matter, SFI has embarked on a uranium exploration program to help assure an adequate supply of uranium to accommodate the increased commitment to nuclear power of the system. SFI is involved, acting individually or together with nonaffiliates, in conducting geological and geophysical studies and explorations for, and acquiring and disposing of leases and other mineral rights with respect to, uranium reserves, and proving such reserves. It is presently contemplated that SFI's capital requirements for this program during 1979 will be approximately $11,000,000 offset by deferred taxes of $2,000,000, thereby resulting in a net requirement of $9,000,000.

SFI contemplates that during 1979 approximately $60,400,000 will be expended for the acquisition of nuclear materials and services offset by $82,500,000 from sales of enriched UF_6 to the Operating Companies and Middle South Energy, Inc. ("MSE"), a generating subsidiary of MSU. SFI's nuclear materials and processing services supply program during 1979 will be financed by the issuance by SFI of short-term notes as authorized in the Commission's order of October 31, 1978 (HCAR No. 20753).

It is presently contemplated that SFI's coal procurement program during 1979 will involve expenditures of $2,600,000 for carrying costs, including interest charges, storage and certain overhead expenses, to be capitalized primarily in connection with SFI's participation in a coal supply arrangement with Antelope Coal Company ("Antelope") pursuant to a contract entered into between SFI and Antelope as approved by the Commission's order dated March 8, 1977 (HCAR No. 19924).

To assure the availability to the Operating Companies and Arkansas-Missouri Power Company ("Ark-Mo"), another utility subsidiary of MSU, of an adequate supply of fuel oil it will be necessary to have an inventory on hand at January 1, 1979, and December 31, 1979, of 6,800,000 bbls. During the ensuing twelve months, the inventory level will vary because of seasonal factors and other conditions. However, due to an increase in cost, the inventory at December 31, 1979, is expected to be worth approximately $78,700,000 compared to an estimated worth of approximately $75,600,000 at January 1, 1979. Net cash requirements of $3,100,000 are therefore expected during 1979.

SFI anticipates expenditures of $4,500,000 in 1979 to insulate certain of its storage tanks to facilitate storage of heavier fuel oils, to construct an

additional storage tank and to make certain improvements to existing docking and unloading facilities. The anticipated expenditures will be funded in part by $2,500,000 in fuel storage depreciation expenses included in oil billing to the Operating Companies and Ark-Mo, thereby resulting in a net requirement of $2,000,000.

It is presently contemplated that SFI's fuel transportation program during 1979 will involve expenditures of $1,800,000 for the provision of gathering systems and/or pipelines to transport gas, which has been discovered pursuant to SFI's exploration program, to certain of the System's power plants, for certain improvements to towboats and barges and for the financing and general costs applicable to the program to be capitalized. The anticipated expenditures will be funded in part by $400,000 in fuel transportation depreciation expenses included in fuel billing to the Operating Companies and Ark-Mo, thereby resulting in a net requirement of $1,400,000.

SFI's capital requirements during 1979 may involve the following:

$36,200,000	To pay SFI's commercial paper notes or The Aetna Casualty and Surety Company ("Aetna") under the arrangement described below.
$25,000,000	To pay bankers' acceptances from Citibank due periodically through 1979 as authorized by the Commission's order of November 7, 1977 (HCAR No. 20246).
$31,700,000	To cover capital expenditures for activities herein described.
$92,900,000	Total

Pursuant to the financing program authorized by Commission order dated October 31, 1978 (HCAR No. 20753), SFI will finance its nuclear materials and processing services supply program during 1979 by the issuance of its commercial paper notes backed by Aetna's Bond of Indemnity. SFI has retained the right to cancel this program at any time should it become economically disadvantageous. In addition, the program may be terminated upon the occurrence of certain events. SFI currently estimates that the maximum amount of notes or obligations to Aetna at any one time outstanding during 1979 will total $36,200,000. Authority is herein requested to make borrowings under the Loan Agreement, if necessary, in 1979, in an amount sufficient to effect repayment of its borrowings or reimbursement of Aetna. In addition, SFI will endeavor to extend, renew or otherwise refinance its obligations to Citibank, but in the event that such refinancing is not available, it will need $25,000,000 to pay the acceptance upon their maturity. SFI also needs the assurance that borrowing capacity is available immediately to meet contingencies which might arise in connection with leasing and other transactions previously entered into upon authorization from the Commission.

Commission authorization is therefore sought for SFI to enter into the Loan Agreement with the Operating Companies pursuant to which SFI would be authorized to make borrowings, which will mature on December 31, 2004, from the Operating Companies, from time to time through December 31, 1979, in an aggregate amount not to exceed, at any one time, the sum of $92,900,000 and the amount to be outstanding at December 31, 1978, under the 1978 Loan Agreement, currently estimated to be $17,000,000, which amount will be converted into loans under the Loan Agreement as described below. Such borrowings would be in addition to the $26,500,000 of outstanding borrowings authorized by the Commission by order dated December 17, 1971 (HCAR No. 17400) and the $13,000,000 of outstanding borrowings authorized by Commission orders dated December 17, 1973 (HCAR No. 18221), December 24, 1975 (HCAR No. 19314) and December 30, 1976 (HCAR No. 19835).

SFI follows the practice of investing excess funds available on a daily basis in temporary cash investments of short duration. It would be economically advantageous for SFI to repay borrowings from the Operating Companies in lieu of making such investments, because the interest available on short-term cash investments is generally less than the interest rate paid to the Operating Companies. In order to facilitate the rapid repayment of borrowings from the Operating Companies, SFI proposes to provide in the Loan Agreement for master notes, under which borrowings may be repaid without notice and without the cumbersome cancellation of notes.

Under the Loan Agreement, each Operating Company will agree to make loans to SFI until December 31, 1979, in aggregate principal amounts at any one time outstanding up to but not exceeding the amount set opposite its name below (collectively the "Commitments" and individually the "Commitment").

Operating Company	*Commitment*
Arkansas Power & Light Company	$35,168,000
Louisiana Power & Light Company	45,059,000
Mississippi Power & Light Company	18,683,000
New Orleans Public Service Inc.	10,990,000
Total	109,900,000

The amount of the Commitments include an assumed $17,000,000 to be outstanding under the 1978 Loan Agreement at December 31, 1978. The amounts will vary to reflect the loans actually outstanding at that time.

Each Operating Company's Commitment to make additional loans in 1979 is equal to an amount in such proportion as its kilowatt-hour sales for the twelve months ended September 30, 1978, bear the total kilowatt-hour sales of the Operating Companies for that period, computed in both cases by including sales to rural electric cooperatives and municipalities but excluding sales to other public utilities.

The obligation of SFI to repay the loans made by each Operating Company under the Loan Agreement shall be evidenced by the promissory note ("Note") of SFI in the principal amount equal to such Operating Company's Commitment and payable to the order of such Operating Company on December 31, 2004. SFI will authorize each Operating Company to endorse on the reverse side of the Note payable to such Operating Company an appropriate notation evidencing its pro rata share of the loans made to SFI under the Loan Agreement and each prepayment and payment of principal with respect to such loans. Each loan will be made pro rata according to the Commitments. Simultaneously with the delivery of the Notes and their appropriate notation for borrowings outstanding at December 31, 1978, under the 1978 Loan Agreement, the notes issued under the 1978 Loan Agreement which evidence such borrowings will be returned to SFI and cancelled.

Each Note will bear interest on the unpaid principal balance thereof, adjustable monthly on the first day of each month, at an annual rate for such month equal to the annual rate of interest borne on the last day of the preceding month by the short-term bank borrowings of the Operating Company to which such Note shall have been issued. If on the last day of any month, such Operating Company shall have short-term bank borrowings bearing more than one rate of interest, the highest rate shall apply. If, on the last day of the month, such Operating Company shall not have any short-term bank borrowings, the prime commercial rate generally charged by commercial banks in New York City on such day to responsible and substantial corporate borrowers shall apply. The loans will be prepayable at any time in any amount without premium or penalty. Each prepayment on account of the unpaid principal balance of the Notes will be made by SFI to the Operating Companies pro rata in accordance with their respective percentage shares of the Commitments.

SFI is endeavoring and will endeavor to obtain funds from external sources under arrangements advantageous to SFI and the System to meet SFI's capital expenditure requirements in lieu of borrowings from the Operating

Companies. Subject to the receipt of such regulatory approvals from the Commission as may be necessary at the time, it is anticipated that SFI may borrow from banks, insurance companies and other nonaffiliated lenders and enter into specific arrangements for financing.

The rights and obligations of the parties under the Loan Agreement will be subject to certain restrictions set forth in (1) the loan agreement with Hibernia, (2) the acceptance facility line of credit agreement with Citibank, as amended, and (3) the participation agreement with The Aetna Casualty and Surety Company. These restrictions relate principally to the payment or prepayment by SFI of its indebtedness to the Operating Companies during the terms of those agreements.

In carrying out its financing program for 1979 SFI represents that it will at all times, unless the Commission shall otherwise expressly authorize, maintain the aggregate of its capital stock, surplus, and principal amount of its indebtedness to the Operating Companies at an amount equal to at least 35% of SFI's total capitalization.

SFI proposes to file certificates of notification pursuant to Rule 24 promulgated under the Act on a quarterly basis through 1979. Such certificates will include a description of the progress of its fuel supply program for 1979 including any deletions, additions or changes therein, and will furnish the Commission on or before December 1 in 1979 a copy of SFI's budget and projected cash flow statement for the next succeeding calendar year. It is specifically agreed that SFI will make, keep and preserve for such period, such accounts, cost-accounting procedures, correspondence and other records relating to any transaction in which SFI participates as may be required by Section 15 of the Act or any rules, regulations or orders promulgated thereunder and that all of the foregoing shall be subject at any time and from time to time to such reasonable periodic, special and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe.

SFI and the Operating Companies have found the flexibility resulting from certain authorizations previously granted to SFI in the ordinary course of its fuel supply business to be of great use in the economical and efficient supply of fuel for the System. Accordingly it is requested that authorization be extended during 1979 for the following:

1. The Operating Companies, in connection with a transaction in the ordinary course of SFI's fuel supply business as described above and not involving the issuance of a security, to assure any party contracting with SFI that the Operating Companies will, in accordance with their respective shares of ownership of the Common Stock of SFI, take such action as may be appropriate from time to time to keep SFI in a sound financial condition so that it may discharge its obligations under the particular contract;

2. In situations where the assurance of the Operating Companies referred to in (1) above is insufficient, to have MSU guarantee the performance by SFI of its obligations under contracts so long as guarantees of MSU outstanding at any one time in respect of all System companies do not exceed $75,000,000 (any such guarantee to be reported within 10 days by MSU by Rule 24 Certificate), excluding guarantees otherwise specifically authorized by the Commission; and

3. To have personnel employed by the other companies in the System perform services for SFI at cost where it is more economical and efficient for such personnel to perform such services.

It is stated that no state or federal commission, other than this Commission, is required to authorize the proposed transaction. As required, AP&L has filed pertinent information relating to its participation in the proposed transactions with the Arkansas Public Service Commission.

Notice is further given that any interested person may, not later than December 26, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing 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 applicants-declarants 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 or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-34218 Filed 12-7-78; 8:45 am]

[8010-01-M]

[File No. 1-5963]

SUN ELECTRIC CORP.

Notice of Application To Withdraw From Listing and Registration

NOVEMBER 29, 1978

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Sun Electric Corporation (the "Company") has been listed for trading on the Amex since July 1, 1969. On June 2, 1978 the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurrently therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining a dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before December 29, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date men-

tioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-34219 Filed 12-7-78; 8:45 am]

[8010-01-M]

[File No. 160.18]

TOKHEIM CORP.

Application to Withdraw from Listing and Registration

NOVEMBER 29, 1978.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the AMERICAN STOCK EXCHANGE, INC. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Tokheim Corporation (the "Company") has been listed for trading on the Amex since July 14, 1969. On September 8, 1978 the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE") and concurring therewith, such stock was suspended from trading on the Amex. In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining a dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for such stock.

The applicant relates solely to the withdrawal from listing and registration on the Amex and shall have no effect on the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before December 29, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-34220 Filed 12-7-78; 8:45 am]

[8010-01-M]

[Rel. No. 20792; 70-6226]

YANKEE ATOMIC ELECTRIC CO.

Proposed Issuance and Sale of Short-Term Promissory Notes to a Bank and a Dealer in Commercial Paper and Request for Exemption From Competitive Bidding

NOVEMBER 28, 1978.

Yankee Atomic Electric Company ("Yankee Atomic"), 20 Turnpike Road, Westborough, Massachusetts 01581, an electric utility subsidiary company of New England Electric System and Northeast Utilities, registered holding companies, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7 and 9 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Yankee Atomic proposes to issue and sell from time to time, but not later than December 31, 1979, short-term promissory notes in order to finance its nuclear fuel requirments. The notes are expected to be sold to The First National Bank of Boston, Massachusetts, or to A. G. Becker & Company, Inc. ("Becker"), a dealer in commercial paper, or to both, up to a maximum aggregate principal amount of $16,000,000 to be outstanding at any one time. Yankee Atomic now has borrowing authority aggregating $16,000,000 through December 31, 1978 (File No. 70-6084), and expects to have about $11,000,000 of short-term debt outstanding at the end of 1978. During 1979 Yankee Atomic expects to spend approximately $9,500,000 for nuclear fuel and to make capital expenditures of approximately $5,000,000 for plant improvements.

The proposed short-term borrowing will be repaid from time to time in part from internally generated funds and the balance will be refinanced either through additional short-term borrowings or permanent financing.

The proposed borrowings from The First National Bank of Boston will be evidenced by notes payable maturing in less than one year from the date of issuance and will provide for prior payment in whole or in part without premium. Yankee Atomic will either maintain funds in the bank which represent compensating balances or, in lieu thereof, pay fees equivalent to such compensating balance requirement.

The notes will bear interest at not in excess of the prime rate (not including fees in lieu of compensating balances). Based on prevailing compensating balance requirements of 10% of the line of credit and 10% of any borrowing thereunder, or fees equivalent thereto, the effective cost to Yankee would be approximately 13.44% per annum assuming borrowings up to the maximum amount of the lines of credit based on a prime rate of 10¾%.

Yankee Atomic also proposes to issue and sell its commercial paper during the period through December 31, 1979, directly to Becker. Becker, as a principal, will reoffer such commercial paper to not more than 200 of its customers whose names appear on a nonpublic list prepared by Becker in advance. No additions will be made to such list of customers. It is expected that such commercial paper will be held to maturity by the purchasers, but, if any such purchaser wishes to resell prior to maturity, Becker, pursuant to an oral repurchase agreement, will repurchase the paper for resale to others on said list of customers. The commercial paper so issued and sold will be in the form of unsecured promissory notes having varying maturities of not in excess of 270 days. Actual maturities will be determined by market conditions, the effective interest cost to Yankee Atomic, and Yankee Atomic's cash requirements at the time of issuance. The commercial paper will be in denominations of not less than $50,000 and not more than $1,000,000 and will not by its terms be prepayable prior to maturity. The commercial paper will be purchased by Becker from Yankee Atomic at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for the particular maturity at which prime commercial paper of comparable quality is sold by public-utility issuers to commercial paper dealers. Becker will initially reoffer the commercial paper at a discount rate not more than ⅛ of 1% per annum less than the prevailing discount to Yankee Atomic.

No commercial paper notes having a maturity of more than 90 days will be issued at an effective interest cost which exceeds the effective interest cost at which Yankee Atomic could borrow from The First National Bank of Boston.

Yankee Atomic request exemption from the competitive bidding requirements of Rule 50 with respect to the

proposed issuance and sale of commercial paper pursuant to paragraph (a)(5) thereof.

The fees and expenses to be incurred with the proposed transaction is $2,000. Incidental services will be performed by New England Power Service Company at actual cost. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 21, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said 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 filed or 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.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-34221 Filed 12-7-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1547]

RHODE ISLAND

Declaration of Disaster Loan

The area of 357 Westminster Street in the downtown Providence, Providence County, Rhode Island, constitutes a disaster area because of damage resulting from a fire which occurred on May 3, 1978. Applications will be processed under the provisions of Public Law 95-89. Eligible persons firms, and organizations may file applications for loans for physical damage until the close of business on December 5, 1979 and for economic injury until the close of business on February 5, 1979 at:

Small Business Administration, District Office, 57 Eddy Street, Providence, Rhode Island 02903

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 5, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc 78-34366 Filed 12-7-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 752]

ASSIGNMENT OF HEARINGS

DECEMBER 5, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 117940 (Sub-284F), Nationwide Carriers, Inc., and
MC 114632 (Sub-169F), Apple Lines, Inc., now being assigned on January 11, 1979, (1 day), at New York, N.Y., in a hearing room to be later designated.
MC 32166 (Sub-10), Bronaugh Motor Express, Inc., now assigned for hearing on January 16, 1979, at Lexington, Kentucky will be held in the Hyatt Regency, 400 West Vine, instead of the Hilton Inn, Junction of Interstate 75, and Kentucky Highway 922.
MC 116915 (Sub-52F), Eck Miller Transportation Corp., now being assigned for hearing on May 8, 1979 (4 days), at Birmingham, Alabama, in a hearing room to be later designated.
MC 19311 (Sub-40), Central Transport, Inc., now being assigned for continued hearing on December 6, 1978 (2 days), at Lansing, Michigan, at the Holiday Inn South, Pennsylvania Ave. & U.S. Highway 127, State Room No. 710.
MC 58885 (Sub-33F), Atlanta Motor Lines, Inc., now being assigned for hearing on February 6, 1979 (9 days), at Atlanta, Georgia, in a hearing room to be later designated.
MC 96881 (Sub-19F), Fine Truck Line, Inc., now being assigned for hearing on February 6, 1979, at Texarkana, Texas, in a hearing room to be later designated.
MC 135797 (Sub-127F), J. B. Hunt Transport, Inc., now being assigned for hearing on January 30, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 124170 (Sub-99F), Frostways, Inc., now being assigned for hearing on January 24, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 113908 (Sub-443F), Erickson Transport Corp., now being assigned for Hearing on January 31, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 136123 (Sub-2F), Meat Dispatch, Inc., now being assigned for Pre-hearing Conference on January 23, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 114301 (Sub-96F), Delaware Express Co., now being assigned for continued hearing on January 31, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34304 Filed 12-7-78; 8:45 am]

[7035-01-M]

[Finance Docket No. 28876]

STANLEY E. G. HILLMAN, TRUSTEE OF THE PROPERTY OF CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO., DEBTOR

Acquisition and Operation Over Chicago & North Western Transportation Co. at Winnebago, Faribault County, Minn.

Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Milwaukee Road), 516 W. Jackson, Boulevard, Chicago, IL 60606, represented by Thomas H. Ploss, General Solicitor—Commerce and William C. Sippel, Attorney, Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Suite 888, Union Station, 516 W. Jackson Boulevard, Chicago, IL 60606, hereby give notice that on the 6th day of October, 1978, it filed with the Interstate Commerce Commission at Washington, DC, an application under Section 1(18) of the Interstate Commerce Act with a Motion to Dismiss for a decision approving and authorizing the acquisition and operation of a line of railroad presently owned and operated by the Chicago and North Western Transportation Company (North Western) located at Winnebago, Faribault County, MN.

By decision served November 29, 1978, the entire Commission denied the Motion to Dismiss.

Milwaukee Road proposes to acquire and operate existing trackage owned by North Western located entirely within Faribault County, MN, a distance of approximately 1.38 miles.

The trackage to be acquired and operated will enable Milwaukee Road to serve two additional shippers in Winnebago, MN, which it does not pres-

ently serve: Winnebago Farmers Elevator Company and Farmers Union Central Exchange, both of whom are located on the subject trackage. Abandonment of the subject trackage, which is owned by North Western, has recently been authorized by the Commission in Docket No. AB-1 (Sub-No. 57), subject to the issuance of a Certificate and express condition that Milwaukee Road acquire and operate it in the future so that these two shippers will continue to have direct rail service available to them.

In the opinion of the applicant, the granting of the authority sought will 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. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-34303 Filed 12-7-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

[6335-01-M]

1

DECEMBER 6, 1978.

U.S. COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, December 11, 1978, 1 p.m. to 7 p.m.

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C.

STATUS: Open to public.

MATTERS TO BE CONSIDERED:

I. Approval of agenda.
II. Approval of minutes from last meeting.
III. Staff Director's Report:
A. Status of funds,
B. Personnel Report, and
C. Correspondence:
1. Letter from Asst. Attorney General Drew Days on police misconduct in Memphis.
2. Letter from Labor Secretary Marshall on Hispanic Labor force data.
D. Office Directors' Reports.
IV. SAC Recharters: (a) Alaska, (b) Georgia, (c) Nebraska, (d) Nevada, (e) Pennsylvania, and (f) Texas.
V. Report on civil rights developments in the Central States Region.
VI. Action re higher education desegregation.
VII. Discussion re Women in Poverty.
VIII. Discussion re Post Bakke followup strategy.
IX. Interim report concerning response to Houston Police Chief Caldwell.
X. Review of housing report.

CONTACT PERSON FOR MORE INFORMATION:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-2484-78 Filed 12-6-78; 3:32 pm]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., December 12, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed:

MATTERS TO BE CONSIDERED: Proposed administrative proceedings.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2476-78 Filed 12-6-78; 10:35 am]

[6351-01-M]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., December 15, 1978.

PLACE: 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2477-78 Filed 12-6-78; 10:35 am]

[6570-06-M]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Monday, December 11, 1978.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Final Affirmative Action Guidelines.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required that this meeting be held and that no earlier announcement was possible.

In favor of change: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; and Armando M. Rodriguez, Commissioner.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued December 5, 1978.

[S-2478-78 Filed 12-6-78; 11:42 am]

[6570-06-M]

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, December 12, 1978.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Proposed response in the matter of a court opinion concerning the credibility of a Commission representative acting in his official capacity.
2. EEOC Compliance Manual: Additions to provide implementing procedures for FCC/EEOC Memorandum of Understanding and changes to charge intake procedures.
3. Guidelines on Minority Recruitment under Civil Service Reform Act of 1978.
4. Report on Commission operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CFR 1612.13.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-

6748.

This notice issued December 5, 1978.

[S-2479-78 Filed 12-6-78; 11:42 am]

[6715-01-M]

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, December 13, 1978, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audits and audit policy. Compliance. Personnel.

DATE AND TIME: Thursday, December 14, 1978, at 10 a.m.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:
Setting of dates for future meetings.
Correction and approval of minutes.
Advisory opinions: AO 1978-81, AO 1978-83, AO 1978-93, AO 1978-94, AO 1978-95, and AO 1978-96.
Draft regulations for Presidential Primary Matching Fund, Title 11, Code of Federal Regulations, Subchapter C.
Earmarked contributions.
Audit policy.
First Fiscal year 1979 management report.
Budget execution report.
Appropriations and budget.
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.

Portions of the meeting closed to the public:
Any matters not concluded on December 6, 1978.

PERSONS TO CONTACT FOR INFORMATION:

Ms. Sharon Snyder, Press Office, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-2486-78 Filed 12-6-78; 3:32 pm]

[6720-01-M]

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., December 14, 1978.

PLACE: 1700 G Street NW., sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Branch Office Application—First Federal Savings & Loan Association, Delray Beach, Fla.
Branch Office Application—First Federal Savings & Loan Association, Beresford, S. Dak.
Branch Office Applications to be Considered Concurrently—(1) Lamesa Federal Savings & Loan Association, Lamesa, Tex.; and (2) First Federal Savings & Loan Association of Big Spring, Big Spring, Tex.
Satellite Office Application—Florida Federal Savings & Loan Association, St. Petersburg, Fla.
Consideration of Proposed Alternative Mortgage Instruments Regulations.

No. 201, December 6, 1978.

RONALD A. SNIDER,
Assistant Secretary.

[S-2485-78 Filed 12-6-78; 3:32 pm]

[6730-01-M]

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., December 13, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
2. Agreement No. 10159-6: Modification of a rationalization agreement at Lagos/Appa, Nigeria, to extend its term of approval for two years.
3. Agreement No. 5600-36: Petition of Philippines North America Conference for reconsideration of conditional approval of its self-policing mechanism.
4. Informal Docket No. 439(I): *Mine Safety Appliances Co.* v. *South African Marine Corp.*—Consideration of the record.
5. Docket No. 78-29: *Seatrain Gitmo, Inc. and Seatrain International, S.A.* v. *Puerto Rico Maritime Shipping Authority and Puerto Rico Ports Authority*—Appeal of Presiding Judge's denial of motions to dismiss.
6. Docket No. 78-3: *Organic Chemicals (Glidden-Durkee) Division of SCM Corp.* v. *Farrell Lines, Inc.*—Joint appeal of Presiding Judge's denial of settlement and dismissal.
7. Agreement No. 10270: Petition of Gulf-European Freight Association for Clarification of Duration of Agreement.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-2475-78 Filed 12-6-78; 10:35 am]

[6210-01-M]

9

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 56337, December 1, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, December 6, 1978.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item was added:

Appointment of new members to the Consumer Advisory Council. (This matter was originally announced for a meeting on Monday, December 4, 1978.)

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: December 6, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2482-78 Filed 12-6-78; 3:32 pm]

[7035-01-M]

10

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, December 12, 1978.

PLACE: Hearing Room "C", Interstate Commerce Commission Building, 12th & Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTERS TO BE CONSIDERED:

1. Planning, Policy, Evaluation and Research Function.
2. Relationship of Field and Headquarters.
3. Division Assignments.
4. Election of Vice Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

DECEMBER 5, 1978.

[S-2474-78 Filed 12-6-78; 10:35 pm]

[7590-01-M]

11

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 12, 1978.

PLACE: Commissioner's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

TUESDAY, DECEMBER 12; 9:30 A.M.

1. Discussion of two requests to transfer and store spent fuel at reactor sites other than the site where the fuel was irradiated, and to have such storage indemnified (approximately 1 hour), public meeting.
2. Discussion of PIRG Petition on Population Density (approximately 1 hour), public meeting.

TUESDAY, DECEMBER 12; 2 P.M.

1. Discussion of status of S-3 Interim Rule (approximately one-half hour), public meeting.
2. Discussion of personnel matter (approximately 2 hours), closed—exemption 6.

ADDITIONAL INFORMATION

Item f of the Affirmation Session (approximately 10 minutes), public meeting titled Order in UCS Petition for Reconsideration, originally scheduled for Friday, December 8, has been postponed to the week of December 18.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

DECEMBER 5, 1978.

ROGER M. TWEED,
Office of the Secretary.

[S-2480-78 Filed 12-6-78; 11:42 am]

[7910-01-M]

12

RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, December 12, 1978; 9:30 a.m.

PLACE: Conference Room, 4th floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Bata Shoe Co., Inc., fiscal year ended December 31, 1972.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: December 5, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-2483-78 Filed 12-6-78; 3:32 pm]

[8010-01-M]

13

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 56338, December 1, 1978.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

PREVIOUSLY ANNOUNCED DATE: November 27, 1978.

CHANGES IN THE MEETING: Open meeting cancelled.

The open meeting scheduled for Wednesday, December 6, 1978, at 10 a.m., has been cancelled.

Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the above change and that no earlier notice thereof was possible.

DECEMBER 6, 1978.

[S-2481-78 Filed 12-6-78; 11:42 am]