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PAGES
10039-10351

Federal Register

FRIDAY, FEBRUARY 16, 1979

highlights

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

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

CONTINUED INSIDE

HOW TO USE THE FEDERAL REGISTER WORKSHOPS

Washington, D.C., Workshops

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

WHAT: Free Friday workshops presenting:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WHEN: February 23; March 9 or 23; or April 6 or 20 from 9–11:30 a.m.

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235.

federal register

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

PRESIDENTIAL PAPERS:

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

PUBLIC LAWS:

Public Law numbers and dates	523-5266 523-5282
Slip Law orders (GPO)	275-3030
U.S. Statutes at Large	523-5266 523-5282
Index	523-5266 523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

contents

list of cfr parts affected in this issue

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

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

3 CFR

EXECUTIVE ORDERS:

12076 (Amended by EO 12119) .. 10039
12119 10039

5 CFR

213 (3 documents) 10041
230 10042
301 10043
310 10043
315 10043
351 10044
511 10044
534 10044
550 10045
572 10046
630 10046
900 10238
930 10046
2413 10047

7 CFR

210 10049
730 10049
910 10050
1701 10051
2880 10051

PROPOSED RULES:

210 10069
1435 10069
1701 10070

9 CFR

85 10306
92 10052

PROPOSED RULES:

113 10071

10 CFR

PROPOSED RULES:

440 10348
791 10090

14 CFR

385 10056

16 CFR

PROPOSED RULES:

13 10074
305 10076

18 CFR

PROPOSED RULES:

154 10336
270 10336
273 10336
704 10316

20 CFR

410 10057

21 CFR

510 10058
520 10058
540 10059

PROPOSED RULES:

10 10077
12 10077
13 10077
14 10077
15 10077
16 10077
182 10078
184 10078
186 10078

24 CFR

1914 10060

PROPOSED RULES:

1917 (7 documents) 10081-10085

31 CFR

1 10061

39 CFR

601 10061

40 CFR

25 10286
35 10300
105 10297
116 (2 documents) 10266
117 10268
118 10268
119 10268
249 10297

PROPOSED RULES:

65 (3 documents) 10085, 10087, 10088
116 10270
117 10271

41 CFR

3-7 10062
3-57 10062

49 CFR

1 10063
1033 10064
1100 10064

PROPOSED RULES:

Ch. X 10090

reminders

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

Rules Going Into Effect Today

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

List of Public Laws

NOTE: No public laws have been received by the Office of the Federal Register for assignment of law numbers and inclusion in today's listing.

[Last Listing Jan. 24, 1979]

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING FEBRUARY

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

1 CFR

Ch. I 6349

3 CFR

ADMINISTRATIVE ORDERS:

Presidential Determinations:
No. 79-2 of January 17, 1979 ... 7103
No. 79-3 of January 22, 1979 ... 7105

Memorandums:
February 8, 1979 8861

EXECUTIVE ORDERS:

10973 (Amended by EO 12118) .. 7939
11958 (Amended by EO 12118) .. 7939
12076 (Amended by EO 12119) .. 10039
12117 7937
12118 7939
12119 10039

PROCLAMATIONS:

4635 6347
4636 6893
4637 7651
4638 8859
4639 9367

5 CFR

213 ..... 6705, 8239, 9369, 10041
230 10042
301 10043
310 10043
315 10043
351 10044
511 10044
534 10044
550 10045
572 10046
630 10046
900 ..... 8520, 10238
930 10046
2413 10047

PROPOSED RULES:

720 8570

6 CFR

705 ..... 9585, 9586
706 ..... 9585, 9586

7 CFR

210 10049
270 8240
271 8240
277 8548
282 8240
401 7107
724 7108
726 7114
730 10049
781 7115
905 ..... 6349, 9589
907 ..... 6350, 7941, 9733
910 ..... 6705, 8240, 10050
911 9370
913 8863
915 9370
928 6706
959 6895

7 CFR—Continued

971 7941
1064 7653
1065 7654
1421 ..... 6351, 9371
1435 9733
1701 10051
1803 6352
1823 6353
1888 6353
1901 6353
1933 6353
1942 ..... 6353, 6354
1980 6354
2880 ..... 9371, 10051

PROPOSED RULES:

Ch. IX 7724, 7729, 8880
210 10069
725 9389
726 9391
932 8897
1011 9761
1133 8897
1435 10069
1464 9393
1701 10070
1933 7971
1951 8898

8 CFR

214 9734
341 8240

9 CFR

85 10306
92 10052
318 9371

PROPOSED RULES:

78 8271
113 10071
318 6735
381 6735

10 CFR

35 8242
205 ..... 7922, 8562
210 ..... 7064, 7070
211 ..... 6895, 7064
212 ..... 7070, 9372
456 ..... 6378, 9375
790 9375

PROPOSED RULES:

Ch. I 8276
50 7736
210 7934
211 7934
212 7934
440 10348
516 9570
790 8276
791 10090

12 CFR

15 7118
225 7120

12 CFR—Continued

226 7942
265 7120
303 7122

PROPOSED RULES:

19 6922
24 6922
26 6421
226 9761
238 6421
348 6421
563f 6421
711 6421

14 CFR

11 6897
39 ..... 6379, 6902, 6903, 9735, 9737-9740
71 ..... 6379, 6904, 7942-7943, 9741, 9742
97 9742
107 9744
207 6645
208 ..... 6645, 9376
212 6645
215 6646
221 9576
223 9377
244 6646
249 6646
252 7655
291 ..... 7655, 9590
296 6634
302 9576
385 ..... 6647, 10056
389 6647
399 ..... 9940, 9948

PROPOSED RULES:

23 7057
25 7057
39 ..... 6929, 9763, 9764
71 ..... 6428, 9765-9769
135 7057
221 9579
241 9394
299 7736
302 ..... 9395, 9579
399 9953

15 CFR

PROPOSED RULES:

30 7738
922 6930

16 CFR

13 ..... 6380, 7124, 7943, 8866, 9378
1205 9990

PROPOSED RULES:

13 ..... 7739, 9395, 9398, 9400, 10074
305 10076
1205 1033

17 CFR

150 7124
239 ..... 7868, 8245

FEDERAL REGISTER PAGES AND DATES—FEBRUARY

Pages	Date	Pages	Date	Pages	Date
6347-6704	Feb. 1	7451-7935	7	9367-9587	13
6705-6892	2	7937-8237	8	9589-9731	14
6893-7102	5	8239-8858	9	9733-10037	15
7103-7649	6	8859-9365	12	10039-10351	16

Title 3—
The President

Executive Order 12119 of February 14, 1979

Levels IV and V of the Executive Schedule

By the authority vested in me as President of the United States of America by Section 5317 of Title 5 of the United States Code, and in order to place the position of Counselor on Legislative and Intergovernmental Policy, Department of the Treasury in level IV of the Executive Schedule, Executive Order No. 12076, as amended, is further amended by deleting "Assistant Attorney General, United States Attorneys and Trial Advocacy, Department of Justice." from Section 1–101(f) and by inserting in lieu thereof "Counselor on Legislative and Intergovernmental Policy, Department of the Treasury.".

THE WHITE HOUSE,
February 14, 1979.

Jimmy Carter

[FR Doc. 79–5237
Filed 2–14–79; 2:37 pm]

Billing code 3195–01–M

rules and regulations

[6325-01-M]

Title 5—Administrative Personnel

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment continues the exception under Schedule A of positions as needed not in excess of GS-13, whose incumbents will implement the Young Adult Conservation Corps program and are to be paid out of funds allocated under title VIII of CETA, as amended, but with the provision that employment under this authority is not to exceed September 30, 1982. This amendment is authorized because it continues to be impracticable to examine for these positions.

EFFECTIVE DATE: January 30, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

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

§ 213.3102 Entire Executive Civil Service.

* * * * *

(hh) Positions as needed not in excess of GS-13, whose incumbents will implement the Young Adult Conservation Corps program and are to be paid out of funds allocated under title VIII of the Comprehensive Employment and Training Act of 1973, as amended. Employment under this authority is not to exceed September 30, 1982.

* * * * *

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

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-4873 Filed 2-15-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment continues and expands the exception under Schedule A to cover positions of teacher, instructor, education aid/technician, and supervisor of classrooms, GS-3/12, at schools run by the Bureau of Indian Affairs, but with the provision that employment under this authority may not exceed September 30, 1980. This amendment is authorized because it continues to be impracticable to examine for these positions.

EFFECTIVE DATE: February 2, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3112(b)(3) is amended as set out below:

§ 213.3112 Department of the Interior.

* * * * *

(b) *Bureau of Indian Affairs.* * * *

(3) Positions of teacher, instructor, education aid/technician, and supervisor of classrooms, GS-3/12, at schools run by the Bureau of Indian Affairs. Employment under this authority may not exceed September 30, 1980.

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

OFFICE OF PERSONNEL MANAGEMENT,
JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-4874 Filed 2-15-79; 8:45 am]

[6325-01-M]

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

CIVIL SERVICE REFORM

Interim Regulations with Request for Comments

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: New regulations to implement sections 3(5) and 1104 of the Civil Service Reform Act of 1978 to delegate to agencies authority to take the following actions without prior Office approval: (1) appointment of severely handicapped or mentally retarded sons and daughters for summer or student employment; (2) employment at Federal mental institutions of former patients of those institutions; (3) contract or part-time employment of local physicians, surgeons, or dentists; (4) extension of appointments of graduate students who are using their Federal employment to meet academic requirements; (5) employment of inmates under work-release programs; (6) summer employment of finalists in national science contests; (7) emergency indefinite appointments under specified emergency conditions; (8) overseas limited appointments; (9) appointments for up to 60 days as an exception to statutory nepotism restrictions in an emergency; (10) noncompetitive appointment based on White House service; (11) noncompetitive appointments of certain disabled veterans; (12) conversion of employees serving under indefinite or status quo appointments or temporary appointments pending establishment of a register; (13) extension of RIF notice period beyond 180 days; (14) exclusion from General Schedule and approval of maximum stipends for certain student employees; (15) payment of an employee for more than one position for more than a total of 40 hours a week; (16) waiver of reduction in military retirement pay for retired regular officers; (17) payment of travel and transportation expenses to first post of duty; (18) exclusion of Presidential appointees from annual and sick leave; (19) use of alternate standards for motor vehicle operators, and (20)

waiver of road test for motor vehicle operators.

AUTHORITIES PROPOSED FOR DELEGATION NOT REQUIRING REGULATION CHANGES

Additionally, the Federal Personnel Manual and other appropriate issuances will be changed to allow delegation of the following authorities: (1) extension of details beyond 120 days; (2) appointment of experts and consultants; (3) extension of one month temporary limited appointments for special needs; (4) appointments based on legislative or judicial service; (5) waiver of limitation on appointment of retired military within 180 days of discharge; (6) extension of temporary limited appointment authority beyond 12 months for certain wage grade positions.

DATES: Effective date: February 16, 1979, and until final regulations are issued.

Comment date: Written comments will be considered if received no later than April 17, 1979.

ADDRESS: Send written comments to Office of the Assistant Director for Agency Compliance and Evaluation, Room 5478, Office of Personnel Management, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Susan Rothschild (202) 632-4467

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(1) of title 5, U.S.C., the Director finds that good cause exists for making these amendments granting exemptions and relieving restrictions effective in less than 30 days in order to provide continuity of operations and to give immediate and timely effect to sections 3(5) and 1104 of the Civil Service Reform Act of 1978.

Accordingly, 5 CFR is amended as follows:

PART 213—EXCEPTED SERVICE

(1) Sections 213.3101(b), and 213.3102, paragraphs (h), (n), (p), (x), and (y) are amended as follows:

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

* * * * *

(b) An agency (including a military department) may not appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service, to a position listed in Schedule A for summer or student employment within the United States. This prohibition does not apply to the appointment of persons (1) who are eligible for placement assistance under the Office of Personnel Management's Displaced Employee (DE) Program, (2) who are employed to meet urgent needs resulting from an emergency posing an immediate threat to life or property, or (3) who are members of families which are eligible to receive financial assistance under a public welfare program or the total income of which in relation to family size does not exceed limits established by the Office of Personnel Management and published in the Federal Personnel Manual, or (4) who are severely physically handicapped or mentally retarded.

* * * * *

§ 213.3102 Entire executive civil service

* * * * *

(h) Positions in Federal mental institutions when filled by persons who have been patients of such institutions and been discharged and are certified by an appropriate medical authority thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

* * * * *

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.

* * * * *

(p) Positions of a scientific, professional or analytical nature when filled by bona fide graduate students at accredited colleges or universities provided that the work performed for the agency is to be used by the student as a basis for completing certain academic requirements toward a graduate degree. Appointments under this authority may not exceed 1-year, but may be extended for additional period(s) not to exceed 1-year as long as the conditions for appointment continue to be met. The appointment of any individual under this authority shall terminate upon the individual's completion of requirements for the graduate degree.

* * * * *

(x) Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under this authority may not exceed 1-year. An initial appointment may be extended for one or more periods not to exceed 1 additional year each upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1-year beyond the date of that person's release from custody.

(y) Positions at grade GS-2 and below for summer employment, as defined in §213.3101(d), of assistants to scientific, professional, and technical employees, when filled by finalists in national science contests.

PART 230—ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT

(2) Section 230.402 is amended to read as follows:

§ 230.402 Agency authority to make emergency-indefinite appointments in a national emergency.

(a) *Basic authority.* In a national emergency, as defined in the Federal Personnel Manual, an agency may make emergency-indefinite appointments to continuing positions (normally those expected to last longer than a year) when it is not in the public interest to make career or career-conditional appointments. Except as provided by paragraphs (b) and (c) of this section, the agency shall make appointments under this authority from appropriate registers of eligibles as long as there are available eligibles.

(b) *Appointment outside the register.* An agency may make emergency-indefinite appointments under this section outside registers of eligibles when all the following conditions are met:

(1) A number of vacancies must be filled immediately as a result of conditions created by the national emergency;

(2) Either the number of vacancies to be filled exceeds the number of immediately available eligibles or emergency conditions do not allow sufficient time to make this determination; and

(3) Available eligibles on registers are given prior or concurrent consideration for appointment to the extent possible within emergency time considerations.

(c) *Appointment noncompetitively.* An agency may give emergency-indefinite appointments under this section to the following classes of persons without regard to registers of eligibles and the provisions in § 332.102 of this chapter:

(1) Persons who were recruited on a standby basis prior to the national emergency in accordance with applicable requirements published in the Federal Personnel Manual;

(2) Members of the National Defense Executive Reserve, designated in accordance with section 710(e) of the Defense Production Act of 1950, Executive Order 11179 of September 22, 1964, and applications issued by the agency authorized to implement the law and Executive Order; and

(3) Former Federal employees eligible for reinstatement.

(d) *Tenure of emergency-indefinite employees.* (1) Emergency-indefinite employees do not acquire a competitive status on the basis of their emergency-indefinite appointments.

(2) An emergency-indefinite appointment may be continued for the duration of the emergency for which it is made.

(e) *Trial period.* (1) The first year of service of an emergency-indefinite employee is a trial period.

(2) The agency may terminate the appointment of an emergency-indefinite employee at any time during the trial period. The employee is entitled to the procedures set forth in § 315.804 or § 315.805 of this chapter as appropriate.

(f) *Eligibility for within-grade increases.* An emergency-indefinite employee serving in a position subject to the General Schedule is eligible for within-grade increases in accordance with Subpart D of Part 531 of this chapter.

(g) *Applications of other regulations.* (1) The term "indefinite employee" as used in the following includes an emergency-indefinite employee: Section 316.801, Part 351, Part 353, Subpart G of Part 550, and Part 752 of this chapter.

(2) The selection procedures of Part 333 of this chapter apply to emergency-indefinite employees appointed outside the register under paragraph (b) of this section.

(3) Despite the provisions in § 831.201(a)(11) of this chapter, an employee serving under an emergency-indefinite appointment under authority of this section is excluded from retirement coverage, except as provided in paragraph (b) of § 831.201 of this chapter.

(h) *Promotion, demotion, or reassignment.* An agency may promote, demote, or reassign an emergency-indefinite employee to any position for which it is makaing emergency-indefinite appointments.

PART 301—OVERSEAS EMPLOYMENT

(3) Part 301 is amended by substituting a new § 301.201; amending and renumbering § 301.202 and § 301.203 and renumbering §§ 301.204-301.207 to become §§ 301.202-301.206 and substituting the word "OPM" for the word "Commission". Part 301 is amended to read as follows:

§ 301.201 Appointment of United States citizens recruited overseas.

An agency may give an overseas limited appointment without competitive examination to a United States citizen recruited overseas, unless there is an adequate and appropriate register resulting from an examination held in the locality where the vacancy exists.

§ 301.202 Appointment of citizens recruited outside overseas areas.

When an agency determines that unusual or emergency conditions make it infeasible to appoint from a register, it may give an overseas limited appointment to a United States citizen recruited in an area where an overseas limited appointment is not authorized.

§ 301.203 Duration of appointment.

(a) An appointment under this subpart is of indefinite duration unless otherwise limited.

(b) An agency may make overseas limited term appointment for a period not in excess of 5 years when a time limitation is imposed as a part of a general program for rotating career and career-conditional employees between overseas areas and the United States after specified periods of overseas service.

(c) Under conditions published by the Office of Personnel Management in the Federal Personnel Manual, an agency may make overseas limited appointment for 1 year or less to meet administrative needs for temporary employment. An agency may extend an appointment made for a period of 1 year or less under this paragraph under conditions published by the Office of Personnel Management in the Federal Personnel Manual.

§ 301.204 Status and trial period.

(a) An overseas limited employee does not acquire a competitive status on the basis of his or her overseas limited appointment. He or she is required to serve a trial period of 1 year when given an overseas limited appointment of indefinite duration or an overseas limited term appointment.

(b) The agency may terminate an overseas limited employee at any time during the trial period. The employee is entitled to the procedures set forth in § 315.804 or § 315.805 of this chapter as appropriate.

§ 301.205 Requirements and restrictions.

The requirements and restrictions in Subpart F of Part 300 and Part 333 of this chapter apply to appointments under this subpart.

§ 301.206 Within-grade increases.

An employee serving under an overseas limited appointment of indefinite duration or an overseas limited term appointment in a position subject to the General Schedule, is eligible for within-grade increases in accordance with Subpart D of Part 531 of this chapter. (5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR, 1954-1958 Comp., p. 218, as amended by E.O. 10641, 3 CFR, 1954-1958 Comp., p. 274)

PART 310—EMPLOYMENT OF RELATIVES

(4) Part 310.202 is amended to read as follows:

§ 310.202 Exceptions.

When necessary to meet urgent needs resulting from an emergency posing an immediate threat to life or property, or a national emergency as defined in the Federal Personnel Manual, a public official may employ relatives to meet those needs without regard to the restrictions in section 3110 of title 5, United States Code, and this part. Appointments under these conditions are temporary not to exceed 1 month, but may be extended for a second month if the emergency need still exists.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

(5) The headnotes of § 315.602, § 315.602(a), 315.604(b), and 315.703(a), are amended. As revised §§ 315.602, 315.604 and 315.703 read as follows:

§ 315.602 Appointment based on service in the Office of the President or Vice-President or on the White House Staff.

(a) *Agency authority.* An agency may appoint noncompetitively a person who has served at least 2 years in the immediate office of the President or Vice-President or on the White House Staff, provided that the appointment is effected without a break in service of 1 full workday.

(b) *Tenure on appointment.* (1) Except as provided in paragraph (b)(2) of this section, a person appointed under paragraph (a) of this section becomes a career-conditional employee.

(2) A person appointed under paragraph (a) of this section becomes a career employee when he or she has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

(c) *Acquisition of competitive status.* A person appointed under paragraph (a) of this section acquires a competitive status automatically on appointment.

§ 315.604 Employment of disabled veterans who have completed a training course under Chapter 31 of Title 38, United States Code.

(a) *Agency authority.* When a disabled veteran completes a course of training prescribed by the Administrator of Veterans' Affairs under chapter 31 of title 38, United States Code, an agency may appoint him or her noncompetitively to the position for which he or she was trained when the Office of Personnel Management determines that the training is adequate for the performance of the duties of the position.

(b) *Conversion.* An agency may convert to career or career-conditional employment a person appointed under paragraph (a) of this section.

(c) *Disqualifications.* Any law, Executive order, or civil service rule or regulation which would disqualify an applicant for appointment also disqualifies him or her for conversion of his or her employment to career or career-conditional employment under this section.

(d) *Tenure on approval of recommendation.* When an agency converts the employee under paragraph (b) of this section, the employee becomes:

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

(2) A career employee when he or she has completed the service requirement for career tenure or is excepted from it by § 315.201(c).

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

§ 315.703a Conversion to career employment from indefinite or temporary employment.

(a) *General.* Employees serving after February 7, 1968, in competitive positions under indefinite appointments or temporary appointments pending establishment of a register or as status quo employees acquire competitive status and are entitled to have their employment converted to career employment when such employees:

(1) Complete a total of at least 3 years of service in such a position under one or more such appointments without a break in service of more than 30 calendar days or without an interruption by nonqualifying service of more than 30 calendar days;

(2) Have rendered satisfactory service for the 12 months immediately preceding the conversion; and

(3) Meet applicable qualification requirements for the positions and are otherwise eligible for career employment. This paragraph does not apply to employees serving under an overseas limited appointment or in positions above GS-15 or equivalent.

(b) *Creditable service.* (1) In computing creditable service under paragraph (a) of this section for an employee who left a competitive position in which he or she was serving under a qualifying appointment covered in paragraph (a) of this section to enter the armed forces and who is reemployed in such a position within 120 calendar days after separation under honorable conditions, the period from the date he or she left the position to the date of reemployment is creditable.

(2) The Office shall publish in the Federal Personnel Manual the conditions under which full-time, part-time, and intermittent employment is creditable in meeting the service requirement under paragraph (a) of this section.

(c) *Termination after failure to meet conversion requirements.* An employing agency shall terminate employees covered by paragraph (a) of this section not later than 90 days after they complete the 3-year service requirement referred to in paragraph (a)(1) of this section, if they have not met the requirements and conditions of paragraphs (a) (2) and (3) of this section before the end of the 90-day period. For an employee who is reemployed after intervening service in the armed forces, the 90-day period begins on the date of reemployment if the employee's combined civilian and military service satisfies the 3-year service requirement on that date.

(d) *Administrative error.* When an employee has met the service requirement under paragraph (a)(1) of this section but, because of administrative error or oversight, has not been converted to career employment within the time limits prescribed in this section, the employing agency may effect the employee's conversion as of the date on which he or she met the service requirement, even though the time limit for such conversion has expired.

PART 351—REDUCTION IN FORCE

(6) Part 351 is amended by deleting paragraph (c) of § 351.801 and revising paragraph (d) and relettering it paragraph (c) so that § 351.801 reads as follows:

§ 351.801 Notice period.

(a) Each competing employee selected for release from his or her competitive level under this part is entitled to a written notice at least 30 full days before the effective date of his or her release.

(b) The notice shall not be issued more than 90-days before release except when the agency determines that additional time will protect employee rights or avoid administrative hardship.

(c) When an agency retains an employee under § 351.606 or § 351.608 the agency may not continue the notice period beyond the employee's retention period. The notice to the employee shall cite the date on which the retention period ends as the effective date of the employee's release from his or her competitive level.

PART 511—CLASSIFICATION UNDER THE GENERAL SCHEDULE

(7) Section 511.201(a) is amended and § 511.201(b) is deleted. Section 511.201 reads as follows:

§ 511.201 Coverage of an exclusions from the General Schedule.

This part and chapter 51 of the title 5, United States Code, apply to all positions in the agencies except thos specifically excluded by section 5102 of title 5, United States Code. (5 U.S.C. 5102)

PART 534—PAY UNDER OTHER SYSTEMS

(8) Part 534, Subpart B, § 534.201, is amended by deleting the analysis and text of Subpart B in its entirety and the following is substituted:

Subpart B—Student-Employees in Government Hospitals

Sec.
534.201 General.
534.202 Coverage.
534.203 Maximum Stipends.
534.204 Previous authorizations.

Subpart B—Student-Employees In Government Hospitals

§ 534.201 General.

Under subchapter V of chapter 53 of title 5, United States Code (U.S.C. 5351-5356), agencies may pay stipends and provide certain services to certain student-employees assigned or attached to hospitals, clinics, or medical or dental laboratories operated by agencies. Student-employees covered under the program are excluded from certain provisions of law relating to classification, General Schedule pay, premium pay, leave, and hours of duty. This subpart authorizes the coverage of certain positions under this program and establishes maximum stipends for student-employees in the program.

§ 534.202 Coverage.

In addition to the student-employees specified in 5 U.S.C. 5351(2) (A), the following student-employees are covered under this program, provided they are assigned or attached princi-

pally for training purposes to a hospital, clinic, or medical or dental laboratory operated by an agency:

(1) Any student-employee whom an agency finds is properly covered under this program, provided that the student-employee is a registered student at an accredited academic institution and that the assignment or attachment for training purposes to the hospital, clinic, or medical or dental laboratory is a part of a medical or dental training program accredited by an appropriate accrediting body;

(2) Any student-employee whom an agency finds is properly covered under this program, provided that the student-employee, during the period of assignment or attachment to the hospital, clinic, or medical or dental laboratory, will receive experience or training that is required to obtain a certificate or license in a medical or dental field; or

(3) Any student-employee not otherwise covered under this program whom the Office of Personnel Management approves for coverage as a student-employee under this program.

§ 534.203 Maximum stipends.

(a) Except as authorized under paragraph (b) or (c) of this section, stipends are to be set by the agency, subject to the maximum stipends prescribed in the following table:

MAXIMUM STIPENDS PRESCRIBED

Code symbol	Academic level of approved training program	Maximums by grade and step[1]
L-A	Below high school graduation	GS-1-1 (minus 3 steps)
L-1	First year college undergraduate	GS-2-1 (minus 3 steps)
L-2	Second year college undergraduate	GS-3-1 (minus 3 steps)
L-3	Third year college undergraduate	GS-3-3 (minus 3 steps)
L-4	Fourth year college undergraduate	GS-4-2 (minus 3 steps)
L-5	First year postgraduate predoctoral	GS-5-1 (minus 3 steps)
L-6	Second year postgraduate predoctoral	GS-7-1 (minus 3 steps)
L-6	Third year medical school	GS-7-1 (minus 3 steps)
L-7	Third year postgraduate predoctoral	GS-9-1 (minus 3 steps)
L-7	Fourth year medical school	GS-9-1 (minus 3 steps)
L-8	Fourth year postgraduate predoctoral	GS-10-1 (minus 3 steps)
L-8	Medical or dental internship	GS-10-1 (minus 3 steps)
L-9	Fifth year postgraduate w/o doctorate	GS-11-1 (minus 3 steps)
L-9	First year postgraduate (Ph. D.)	GS-11-1 (minus 3 steps)
L-9	First year medical or dental residency	GS-11-1 (minus 3 steps)
L-10	Second year postdoctoral (Ph. D.)	GS-12-1 (minus 3 steps)
L-10	Second year medical or dental residency	GS-12-1 (minus 3 steps)
L-11	Third year medical or dental residency	GS-12-4 (minus 3 steps)
L-12	Fourth year medical or dental residency	GS-13-1 (minus 3 steps)
L 13	Fifth year medical residency	GS-14-1 (minus 3 steps)

[1]The maximum money amount in each case is derived by subtracting from the statutory salary for the appropriate grade a sum equivalent to three step increments of that grade. This amount includes overtime pay, maintenance allowances, and other payments in money or kind.

(b) An agency may pay a student-employee a stipend in excess of the amount prescribed under paragraph (a) of this section only if the Office of Personnel Management has determined that a higher maximum stipend is warranted for the student-employee.

(c) Maximum stipends for positions in the Public Health Service in which duty requires intimate contact with persons afflicted with leprosy are increased above the rates prescribed in paragraph (a) of this section to the same extent that additional pay is provided by Public Health Service Regulations (42 CFR 22.1) for employees subject to the General Schedule (Part 531 of this chapter).

(d) Overtime pay, maintenance allowances, and other payments in money or kind for a student-employee must be considered as part of the student-employee's stipend for the purposes of this section, and therefore, may not be used to cause the stipend to exceed the maximum stipend established under this section.

(e) A trainee at a non-Federal hospital, clinic, or medical or dental laboratory who is assigned to a Federal hospital, clinic, or medical or dental laboratory as an affiliate for a part of his or her training may not receive a stipend from the Federal agency other than any maintenance allowance that is provided.

§ 534.204 Previous authorizations.

The provisions of this subpart do not terminate any authorization approved by the Civil Service Commission or the Office of Personnel Management before February 15, 1979, and such authorizations remain in effect until modified or terminated by an agency or the Office of Personnel Management in accordance with the provisions of this subpart.

PART 550—PAY ADMINISTRATION (GENERAL)

(9) Section 550.504 and § 550.603 and its headnote are revised as follows:

§ 550.504 Other exceptions.

(a) When a department, agency, or the government of the District of Columbia encounters difficulty in obtaining employees to perform required personal services because of section 5533(a) of title 5, United States Code, it may make an exception from that section upon determining that the required services cannot be readily obtained otherwise. The exception shall specify the position(s) to which it applies.

(b) The Office of Personnel Management will publish in the Federal Personnel Manual exceptions of general application.

§ 550.603 Exceptions to reduction in retired or retainer pay.

(a) Under conditions set forth in the Federal Personnel Manual, an agency may make exception to the restrictions in 5 U.S.C. 5532(b), without regard to the provisions of 5 U.S.C. 5532 (c) and (e), when the exception is warranted because of special or emergency employment needs which otherwise cannot be readily met. Such exceptions shall apply while the individual for whom the exception was granted continues to serve in the same position. This subsection applies only to:

(i) Any retired officer of a regular component of the uniformed services who was receiving retired pay on or before January 11, 1979;

(ii) Any individual employed in a position on October 13, 1978, so long as the individual continues to hold any such position (disregarding any break in service of 3 days or less) if the individual, on that date, would have been entitled to retired or retainer pay but for the fact that the individual did not satisfy any applicable age requirement.

(b) Except as otherwise provided in subsection (a), the Office may, during the period until January 11, 1984, authorize exceptions to the restrictions in 5 U.S.C. 5532 (a), (b), and (c) only when necessary to meet special or emergency employment needs which result from a severe shortage of well qualified candidates in positions of medical officers which otherwise cannot be readily met. Such exception granted by the Office with respect to any individual shall terminate upon a break in service of 3-days or more.

(Pub. L. 95-454 (5 U.S.C. 1101 Note))

PART 572—TRAVEL AND TRANSPORTATION EXPENSES; NEW APPOINTEES

(10) Part 572 is added as follows:

§ 572.101 Determination of manpower shortage for positions at level GS-16 and above (or equivalents).

(a) The head of a department or agency shall have the responsibility for determining whether a manpower shortage exists for individual positions in level GS-16 and above (or equivalents). In making such determination, the head shall consider the specific items and guidance material in the Federal Personnel Manual.

(b) A determination that a manpower shortage exists is required before a department or agency may pay travel and transportation expenses for new appointees under section 5723 of title 5, United States Code.

(Pub. L. 95-454 (5 U.S.C. 1101 Note))

PART 630—ABSENCE AND LEAVE

(11) Part 630, Subpart B, is amended by adding § 630.211 as follows:

§ 630.211. Exclusion of Presidential appointees.

(a) *Authority.* Section 6301(2)(xi) of title 5, United States Code, authorizes the exclusion of certain Presidential appointees in the executive branch or the government of the District of Columbia from the annual and sick leave provisions of subchapter I of chapter 63 of title 5, United States Code, and from the related provisions of this Part. This authority does not apply to Presidential appointees paid more than the rate for GS-18, who are excluded from the leave provisions by 5 U.S.C. 6301(2)(x), nor does it apply to United States Attorneys or United States Marshals, who may not be excluded from the leave provisions. The President, by Executive Order 10540, as amended, has delegated to the Office of Personnel Management the responsibility for making exclusions under section 6301(2)(xi), and the Office of Personnel Management delegated responsibility to the heads of agencies in accordance with the provisions of this section.

(b) *Criteria for exclusions.* The head of an agency may exclude an officer in the agency from the annual and sick leave provisions only if the officer meets all of the following criteria:

(1) The officer is a Presidential appointee;

(2) The rate of pay for the officer's position does not exceed the rate for GS-18 (Presidential appointees paid more than the rate for GS-18 being automatically excluded from annual and sick leave); and

(3) The officer's responsibilities for carrying out the duties of the position continue outside normal duty hours and while away from the normal duty post.

(c) *Revocation of exclusion.* The head of an agency may revoke an exclusion from the annual and sick leave provisions which was made under this section.

(d) *Reports.* The head of an agency must report any exclusion, or revocation of an exclusion, authorized under this section to the Office of Personnel Management.

(e) *Continuation of previous authorizations.* Any officer in an agency who was excluded by action of the President or the Office of Personnel Management prior to February 15, 1979, from the annual and sick leave provisions under the authority of 5 U.S.C. 6301(2)(xi) shall continue to be excluded from annual and sick leave unless the exclusion is revoked by the agency under the provisions of this section.

(Pub. L. 95-454 (5 U.S.C. 1101 Note))

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATION (MISCELLANEOUS)

(12) Sections 930.105 and 930.107 are revised to read as follows: paragraphs (a) and (b) of 930.107 are amended by substituting the word "OPM" for the word "Commission".

§ 930.105 Office of Personnel Management standards and procedures required.

An agency shall adopt and use the Office of Personnel Management's testing procedures in filling competitive and excepted operator positions unless the agency develops alternate standards and procedures which meet the objectives of the motor vehicle operator program.

§ 930.107 Waiver of practical road test.

(a) The Office of Personnel Management waives the practical road test requirement for operators of vehicles of one ton load capacity or less who possess a current driver's license from one of the 50 States, District of Columbia, or Puerto Rico, where the employee is domiciled or principally employed except for operators of buses, and vehicles used for (1) transportation of dangerous materials, (2) law enforcement, or (3) emergency services.

(b) The Office of Personnel Management waives the practical road test requirement for operators of any class of vehicle who possess a current driver's license from one of the 50 States, District of Columbia, or Puerto Rico, where the employee is domiciled or principally employed, for the specific type of vehicle to be operated.

(c) An agency may waive the practical road test requirement for operations not covered in paragraph (a) or (b) of this section when qualified examiners or test facilities are not available in the area and the operator position is to be filled by (1) temporary appointment pending establishment of a register, (2) temporary limited appointment, (3) noncompetitive temporary appointment, (4) reinstatement, (5) position change, or (6) transfer.

Authorities Proposed for Delegation but not Requiring Regulatory Changes. The following authorities proposed for delegation involve changes to the Federal Personnel Manual and other appropriate issuances but do not involve regulatory changes:

(1) *Extension of Details Beyond 120 Days (FPM Chapter 300)*

Agencies are delegated the authority to detail employees, in 120 day increments, to the same or lower grade positions for up to 1 year without OPM approval. Extensions beyond 1 year will still require OPM approval.

FPM chapter 300 will be revised to reflect this change.

(2) *Appointment of Experts and Consultants (FPM Chapter 304, Subchapter I).*

An agency may appoint experts and consultants without prior OPM approval or entering into agreements with OPM.

FPM Chapter 304, Subchapter I, will be revised to reflect this change.

(3) *Extension of One Month Temporary Limited Appointments for Special Needs (5 CFR 316.402, FPM Chapter 316, Subchapter 4-9b).*

This authority is changed to allow an agency to extend an initial one month temporary limited appointment for an additional month without prior approval of OPM. The agency must adhere to the other provisions of this authority.

FPM Chapter 316, Subchapter 4-9b will be revised to reflect this change.

(4) *Appointment Based on Legislative or Judicial Service (5 USC 3304, FPM Chapter 315, Subchapter 6).*

Prior OPM approval for these appointments is removed.

FPM Chapter 315, Subchapter 6, will be revised to reflect the changes.

(5) *Waiver of Limitation on Appointment of Retired Military Within 180 Days of Discharge (5 USC 3326).*

Prior OPM approval on competitive jobs is removed.

This change will be reflected in an appropriate issuance.

(6) *Extension of Temporary Limited Appointment Authority Beyond 12 Months for Certain Wage Grade Positions (FPM Letter 316-14).*

Prior OPM approval of extensions of temporary limited wage grade appointments beyond 12 months in any con-

secutive 24 month period is removed. An agency may extend without prior OPM approval temporary limited appointments of one year or less to wage grade positions beyond 12 months but not to exceed 24 months.

This change will be reflected in an FPM Letter.

OPM will provide guidance, as necessary to implement these delegations, set minimum standards of performance and monitor to assure that all personnel actions follow merit principles.

OFFICE OF PERSONNEL MANAGEMENT,

JAMES C. SPRY,
Special Assistant to the Director.

[FR Doc. 79-5206 Filed 2-15-79; 8:45 am]

[6325-19-M]

CHAPTER XIV—FEDERAL LABOR RELATIONS AUTHORITY AND FEDERAL SERVICE IMPASSES PANEL

PART 2413—OPEN MEETINGS

Interim Regulations

AGENCY: Federal Labor Relations Authority.

ACTION: Interim regulations, with comments invited for consideration in final rulemaking.

SUMMARY: This rule establishes interim rules and regulations to govern the Federal Labor Relations Authority's implementation of the Government in the Sunshine Act, 5 U.S.C. 552b.

DATES: Effective Date: January 11, 1979, and until final regulations are issued. Comment Date: There is no deadline for submission of comments.

ADDRESS: Send written comments to the Federal Labor Relations Authority, 1900 E Street, NW., Washington, D.C. 20424.

FOR FURTHER INFORMATION CONTACT:

Harold D. Kessler, Deputy Executive Director, 1900 E Street, NW., Washington, D.C. 20424, 202-632-3920.

SUPPLEMENTARY INFORMATION: On January 1, 1979, the provisions of the President's Reorganization Plan No. 2 of 1978 became effective. Part III of the Plan consolidated the central policymaking functions in Federal service labor-management relations previously divided between the Federal Labor Relations Council and the Assistant Secretary of Labor for Labor-Management Relations in a new Federal Labor Relations Authority (Authority). Subsequently, on January 11, 1979, the Civil Service Reform Act of 1978 became effective. Title VII of the Act, entitled "Federal Service Labor-Management Relations," established a new statutory labor-management relations program, to be administered by the Authority, for employees in the executive branch, as well as for employees of the Library of Congress and the Government Printing Office. The Authority is composed of three full-time members appointed by the President with the advice and consent of the Senate. There is also a General Counsel of the Authority, appointed by the President and confirmed by the Senate.

This rule establishes an interim Part 2413 of Subchapter B of the rules and regulations of the Federal Labor Relations Authority to implement the Government in the Sunshine Act, 5 U.S.C. 552b. These rules and regulations of the Federal Labor Relations Authority establish the circumstances under which Authority meetings will be open to public observation, the Authority's procedures for public announcement of time, place, and subject matter of Authority meetings, and provisions for the maintenance of minutes, transcripts, or recordings of such meetings.

The Authority finds that the purposes of the rules and regulations here involved, along with the urgent need to avert a serious disruption of the Federal labor-management relations program and to avoid any prejudice to the rights of interested parties, render impractical a notice of proposed rulemaking and require that these rules and regulations become effective immediately upon publication in the FEDERAL REGISTER. However, interested labor organizations, agencies, and other interested parties may comment in writing. There is no deadline for submission of such comments.

Accordingly, Chapter XIV of Title 5 of the Code of Federal Regulations is amended by adding Part 2413 to read as follows:

PART 2413—OPEN MEETINGS

Sec.
2413.1 Purpose and scope.
2413.2 Public observation of meetings.
2413.3 Definition of meeting.
2413.4 Closing of meetings; reasons therefor.
2413.5 Action necessary to close meeting; record of votes.
2413.6 Notice of meetings; public announcement and publication.
2413.7 Transcripts, recordings or minutes of closed meeting; public availability; retention.

AUTHORITY: 5 U.S.C. 552b

§ 2413.1 Purpose and scope.

This part contains the regulations of the Federal Labor Relations Authority implementing the Government in the Sunshine Act, 5 U.S.C. 552b.

§ 2413.2 Public observation of meetings.

Every portion of every meeting of the Authority shall be open to public observation, except as provided in § 2413.4, and Authority members shall not jointly conduct or dispose of agency business other than in accordance with the provisions of this part.

§ 2413.3 Definition of meeting.

For purposes of this part, "meeting" shall mean the deliberations of at least two members of the Authority where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations to determine whether a meeting should be closed to public observation in accordance with the provisions of this part.

§ 2413.4 Closing of meetings; reasons therefor.

(a) Except where the Authority determines that the public interest requires otherwise, meetings, or portions thereof, shall not be open to public observation where the deliberations concern the issuance of a subpena, the Authority participation in a civil action or proceeding or an arbitration, or the initiation, conduct or disposition by the Authority of particular cases of formal agency adjudication pursuant to the procedures in 5 U.S.C. 554 or otherwise involving a determination on the record after opportunity for a hearing, or any court proceedings collateral or ancillary thereto.

(b) Meetings, or portions thereof, may also be closed by the Authority, except where it determines that the public interest requires otherwise, when the deliberations concern matters or information falling within the reasons for closing meetings specified in 5 U.S.C. 552b(c)(1) (secret matters concerning national defense or foreign policy); (c)(2) (internal personnel rules and practices); (c)(3) (matters specifically exempted from disclosure by statute); (c)(4) (privileged or confidential trade secrets and commercial of financial information); (c)(5) (matters of alleged criminal conduct or formal censure); (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy); (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes); or (c)(9)(B) (disclosure would significantly frustrate implementation of a proposed agency action).

§ 2413.5 Action necessary to close meeting; record of votes.

A meeting shall be closed to public observation under § 2413.4, only when a majority of the members of the Authority who will participate in the meeting vote to take such action.

(a) When the meeting deliberations concern matters specified in § 2413.4(a), the Authority members shall vote at the beginning of the meeting, or portion thereof, on whether to close such meeting, or portion thereof, to public observation and on whether the public interest requires that a meeting which may properly be closed should nevertheless be open to public observation. A record of such vote, reflecting the vote of each member of the Authority, shall be kept and made available to the public at the earliest practicable time.

(b) When the meeting deliberations concern matters specified in § 2413.4(b), the Authority shall vote on whether to close such meeting, or portion thereof, to public observation, and on whether there is a public interest which requires that a meeting which may properly be closed should nevertheless be open to public observation. The vote shall be taken at a time sufficient to permit inclusion of information concerning the open or closed status of the meeting in the public announcement thereof. A single vote may be taken with respect to a series of meetings at which the deliberations will concern the same particular matters where such subsequent meetings are scheduled to be held within thirty (30) days after the initial meeting. A record of such vote reflecting the vote of each member of the Authority shall be kept and made available to the public within one (1) day after the vote is taken.

(c) Whenever any person whose interests may be directly affected by deliberations during a meeting, or a portion thereof, requests that the Authority close that meeting, or portion thereof, to public observation for any of the reasons specified in 5 U.S.C. 552(b)(c)(5) (matters of alleged criminal conduct or formal censure), (c)(6) (personal information where disclosure would cause a clearly unwarranted invasion of personal privacy), or (c)(7) (certain materials or information from investigatory files compiled for law enforcement purposes), the Authority members participating in the meeting, upon request of any one of its members, shall vote on whether to close such meeting, or a portion thereof, for that reason. A record of such vote, reflecting the vote of each member of the Authority participating in the meeting shall be kept and made available to the public within one (1) day after the vote is taken.

(d) After public announcement of a meeting as provided in § 2413.6, a meeting, or portion thereof, announced as closed may be opened, or a meeting, or portion thereof, announced as open may be closed only if a majority of the members of the Authority who will participate in the meeting determine by a recorded vote that Authority business so requires and that an earlier announcement of the change was not possible. The change made and the vote of each member on the change shall be announced publicly at the earliest practicable time.

(e) Before a meeting may be closed pursuant to § 2413.4, the Solicitor of the Authority shall certify that in the Solicitor's opinion the meeting may properly be closed to public observation. The certification shall set forth each applicable exemptive provision for such closing. Such certification shall be retained by the agency and made publicly available as soon as practicable.

§ 2413.6 Notice of meetings; public announcement and publication.

(a) A public announcement setting forth the time, place and subject matter of meetings or portions thereof closed to public observation pursuant to the provisions of § 2413.4(a), shall be made at the earliest practicable time.

(b) Except for meetings closed to public observation pursuant to the provisions of § 2413.4(a), the agency shall make public announcement of each meeting to be held at least seven (7) days before the scheduled date of the meeting. The announcement shall specify the time, place and subject matter of the meeting, whether it is to be open to public observation or closed, and the name, address, and phone number of an agency official designated to respond to requests for information about the meeting. The seven (7) day period for advance notice may be shortened only upon a determination by a majority of the members of the Authority who will participate in the meeting that agency business requires that such meeting be called at an earlier date, in which event the public announcement shall be made at the earliest practicable time. A record of the vote to schedule a meeting at an earlier date shall be kept and made available to the public.

(c) Within one (1) day after a vote to close a meeting, or any portion thereof, pursuant to the provisions of § 2413.4(b), the agency shall make publicly available a full written explanation of its action closing the meeting, or portion thereof, together with a list of all persons expected to attend the meeting and their affiliation.

(d) If after public announcement required by paragraph (b) of this section has been made, the time and place of the meeting are changed, a public announcement shall be made at the earliest practicable time. The subject matter of the meeting may be changed after the public announcement only if a majority of the members of the Authority who will participate in the meeting determine that agency business so requires and that no earlier announcement of the change was possible. When such a change in subject matter is approved, a public announcement of the change shall be made at the earliest practicable time. A record of the vote to change the subject matter of the meeting shall be kept and made available to the public.

(e) All announcements or changes thereto issued pursuant to the provisions of paragraphs (b) and (d) of this section or pursuant to the provisions of § 2413.5(d) shall be submitted for publication in the FEDERAL REGISTER immediately following their release to the public.

(f) Announcements of meetings made pursuant to the provisions of this section shall be made publicly available by the Executive Director.

§ 2413.7 Transcripts, recordings or minutes of closed meeting; public availability; retention.

(a) For every meeting or portion thereof closed under the provisions of § 2413.4, the presiding officer shall prepare a statement setting forth the time and place of the meeting and the persons present, which statement shall be retained by the agency. For each such meeting or portion thereof there shall also be maintained a complete transcript or electronic recording of the proceedings, except that for meetings closed pursuant to § 2413.4(a), the Authority may, in lieu of a transcript or electronic recording, maintain a set of minutes fully and accurately summarizing any action taken, the reasons therefor and views thereon, documents considered and the members' vote on each rollcall vote.

(b) The agency shall make promptly available to the public copies of transcripts, recordings or minutes maintained as provided in accordance with paragraph (a) of this section, except to the extent the items therein contain information which the agency determines may be withheld pursuant to the provisions of 5 U.S.C. 552(c). Copies of transcripts or minutes, or transcriptions of electronic recordings including the identification of speakers, shall to the extent determined to be publicly available, be furnished to any person, subject to the payment of duplication costs in accordance with the schedule of fees set forth in § 2411.10 of this chapter and the actual cost of transcription.

(c) The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two (2) years after such meeting

or until one (1) year after the conclusion of any agency proceeding with respect to which the meeting or portion was held whichever occurs later.

Note.—The Federal Labor Relations Authority has determined that this document does not require preparation of a Regulatory Analysis Statement as required under section 3 of Executive Order 12044.

Dated: February 13, 1979.

RONALD W. HAUGHTON,
Chairman,
Federal Labor Relations Authority.

[FR Doc. 79-5125 Filed 2-15-79; 8:45 am]

[3410-30-M]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Matching of Federal Funds

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The regulations amend Part 210 to implement certain provisions of Pub. L. 95-166, enacted on November 10, 1977. Section 19 of Pub. L. 95-166 amends the National School Lunch Act by changing the period for which States are required to match Federal funds expended for the National School Lunch Program from the fiscal year to the school year. The regulations also establish a 21-month transition period for the matching requirment.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Margaret O'K. Glavin, Director, School Programs Division, FNS, USDA, Washington, D.C. 20250 (202-447-8130).

SUPPLEMENTARY INFORMATION: Prior to 1976 the Federal fiscal year was July 1-June 30. In 1976 the fiscal year was changed to October through September, thus putting the Federal accounting period out of phase with that used by most local school districts. Therefore, Congress enacted Section 19 of Pub. L. 95-166 establishing that the State revenue matching requirement and the three-to-one matching requirement under the National School Lunch Act be based on the school year rather than the fiscal year, beginning with school year 1978. This regulation implements that mandate. In order to provide for an orderly transition, the regulations provide for a 21-month transition period. The transition period, which is lengthy enough to permit States with varying disbursement dates to meet the matching requirements without difficulty, will be October 1, 1977 to June 30, 1979. Subsequent to that period, the matching requirements will be computed and met on the basis of the school year (July 1 to June 30).

The Department is issuing this rule as a final rule in order to implement the statutory mandate of Pub. L. 95-166. Because the mandate of Pub. L. 95-166 was to be effected upon passage of the legislation, the Department considers itself under obligation to immediately implement this rule without the benefit of public comment. Further, because the dictates of Pub. L. 95-166 with regard to matching requirements are mandatory, the Department is not at liberty to vary the matching requirement should public comments indicate disapproval of the rule.

Accordingly, Part 210.6 of the regulations is hereby amended by deleting the word "fiscal" whenever it occurs in paragraphs (c) through (j) and inserting the word "school" in its place; and by revising paragraphs (a) and (b) and adding a new paragraph (a-1) to read as follows:

§ 210.6 Matching of funds.

(a) Beginning July 1, 1979, each State agency shall match, on a school year basis, each dollar of general cash-for-food assistance funds expended by it during that school year for lunches served other than free or at a reduced price with $3 of funds from sources within the State: *Provided however,* That if the per capita income of any State is less than the per capita income of the United States, the matching requirements so computed for any fiscal year shall be decreased by the percentage by which the State per capita income is below the per capita income of the United States.

(a-1) For the purposes of this section, States shall consider a school year to be July 1 through June 30: *Provided however,* That States shall consider the period October 1, 1977 to June 30, 1979 to be a separate transition period for which the matching requirements must be computed and met.

(b) For the period beginning October 1, 1977, and ending June 30, 1979, State revenues (other than revenues derived from the Program), appropriated or specifically utilized for Program purposes (other than salaries and administrative expenses at the State, as distinguished from local levels), shall constitute at least 10 percent of an amount determined by multiplying $3 (or a lower matching requirement based on the State's per capita income), times the total dollars of all general cash-for-food assistance funds expended by the State for the period beginning October 1, 1976 and ending June 30, 1978. For the school year beginning July 1, 1979, and for each school year thereafter, such State revenue shall constitute at least 10 percent of the matching requirements for the preceding school year based on the total general cash-for-food assistance funds expended for that period.

* * * * *

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.

Dated: February 12, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary for
Food and Consumer Services.

[FR Doc. 79-5135 Filed 2-15-79; 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 730—RICE

Subpart—1979—Crop Rice Marketing Quota and Acreage Allotment

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

ACTION: Final rule.

SUMMARY: This action is being taken in accordance with the provisions of Section 352 of the Agricultural Adjustment Act of 1938, as amended, which requires the Secretary of Agriculture to do the following: (1) determine and proclaim a national rice acreage allotment; (2) apportion the national rice acreage allotment to farms and producers in their respective administrative areas; and (3) establish the rice allotment for the farm (or in producer administrative areas, the producer allotments allocated to the farm) which will be used to determine loan eligibility and to compute deficiency and/or disaster payments if necessary.

DATES: This determination shall be effective for the 1979 crop of rice February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert G. Martin, (ASCS) (202) 447-7901, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: The need for this rule is to satisfy the statutory requirements as provided for in Section 352 of the Agricultural Adjustment Act of 1938, as amended (referred to as the "Act").

Section 352 of the Agricultural Adjustment Act of 1938, as amended, requires that the Secretary establish for each of the 1978 through 1981 crops of rice a national acreage allotment in the amount of 1,800,000 acres for each year. Section 352 also provides that the Secretary shall apportion the 1,800,000 acres to farmers and producers on the basis of allotments established for the 1975 crop of rice. State committees may reserve up to one percent of the State allotment for new farmers and for adjustments and corrections.

Since farmers make plans for their rice crops well in advance of actual plantings, and since these determinations and proclamations are prescribed in the statute, it is of the utmost importance that farmers be notified of their 1979 producer and farm rice acreage allotments as soon as possible. Therefore, it is determined that compliance with the public rulemaking requirements of 5 U.S.C. 553 and Executive Order 12044 are impracticable and contrary to the public interest. Accordingly, 7 CFR Part 730 is amended to read as follows:

FINAL RULE

(1) The table of contents is revised to read as follows:

Subpart—1979-80 Marketing Year

AUTHORITY: (Sec. 352, 375, 52 Stat. 60, 66 as amended; 7 U.S.C. 1352, 1375; Sec. 101, 91 Stat. 981; Sec. 701, 91 Stat. 940).

(2) 7 CFR §§ 730.1502 to 730.1504 (Subpart) are hereby amended with respect to the 1979 crop of rice to read as follows:

Subpart—1979-80 Marketing Year

§ 730.1502 National acreage allotment for the 1979 crop of rice.

It is hereby determined and proclaimed that a national acreage allotment of 1,800,000 acres shall be in effect for the 1979 crop of rice.

§ 730.1503 Apportionment of the 1979 national acreage allotment of rice to farms and producers.

The national acreage allotment of 1,800,000 acres for the 1979 crop of rice is apportioned to farms and producers on the basis of the rice allotments established for the 1975 crop of rice, with any adjustments made pursuant to section 352(c) of the Act. The allotment so apportioned within each of the several rice producing States is as follows:

State	Acres
Arkansas	435,116.1
California	326,648.1
Florida	960.3
Louisiana:	
Farm Administrative Area	499,480.8
Producer Administrative Area	18,358.8
State Total	517,839.6
Mississippi	50,786.2
Missouri	4,965.0
North Carolina	41.0
Oklahoma	163.1
South Carolina	2,742.1
Tennessee	288.1
Texas	460,450.4
U.S. Total	1,800,000.0

§ 730.1504 State reserve acreages.

The State reserve acreages set forth in the table in this section were established by the State committees in accordance with Section 352 of the Act, as amended.

State	Reserve [1]
Arkansas	0
California	50
Florida	9.6
Louisiana:	0
Farm Administrative Area	0
Producer Administrative Area	0
Mississippi	0
Missouri	0
North Carolina	0.4
Oklahoma	0
South Carolina	0
Tennessee	0
Texas	50

[1] State reserve for new growers, corrections and adjustments.

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

NOTE.—It has been determined that the regulation does not require an Impact Statement inasmuch as the 1979 national acreage allotment is established by law at 1,800,000 acres.

Signed at Washington, D.C. on February 12, 1979.

BOB BERGLAND,
Secretary.

[FR Doc. 79-5146 Filed 2-15-79; 8:45 am]

[3410-02-M]

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

[Lemon Reg. 186]

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 February 18-24, 1979. 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: February 18, 1979.

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 February 13, 1979, 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 has improved.

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

Section 910.486 is added as follows:

§ 910.486 Lemon Regulation 186.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period February 18, 1979, through February 24, 1979, is established at 210,000 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: February 15, 1979.

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

[FR Doc. 79-5313 Filed 2-15-79; 11:25 am]

[3410-15-M]

CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 1701—PUBLIC INFORMATION

Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration hereby amends Appendix A—REA Bulletins to provide for the issuance of a supplement to REA Bulletin 345-45, "Field Trials of Telephone Construction Materials and Equipment," announcing a change of the provisions of the bulletin which will allow exceptions to the secondary field trial requirements and procedures where approved by REA. In such instances, if after installation the equipment cannot be made to conform to REA specifications, the supplier will agree to remove the equipment from the Purchaser's premises and replace the same with comparable equipment selected by the Seller and approved by the Purchaser and REA, at no additional cost to the Purchaser. No payment for field trial items will be due until the primary field trial has been completed to the Administrator's satisfaction. A new contract Form 399a has been included to be utilized when this particular situation arises.

Notice and public procedure on this rule have been found to be contrary to the public interest. The purpose and need for the action is to allow delivery of equipment on "Secondary" field trial contracts prior to the completion of the "Primary" field trial. If immediate action is not taken to revise REA Bulletin 345-45 some borrowers will not be able to meet commitments to their subscribers for new and improved rural telephone service. For this same good cause found, required publication of this rule is simultaneous with its effective date.

An impact analysis for this revision has been prepared and is available for public inspection.

EFFECTIVE DATE: February 8, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Maynard S. Knapp, Chief, Central Office Equipment Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1334, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-5773.

Dated: February 8, 1979.

JOSEPH VELLONE,
Acting Administrator.

[FR Doc. 79-5128 Filed 2-15-79; 8:45 am]

[3410-37-M]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE (FRUIT AND VEGETABLE QUALITY DIVISION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—EXPORT AND DOMESTIC CONSUMPTION PROGRAMS

PART 2880—FRESH IRISH POTATOES

Subpart—Fresh Russet Potatoes—Livestock Feed and Starch Manufacture Diversion Program

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document provides for two amendments to the regulations. One amendment increases the length of the payment period at the $2.00 rate per hundredweight from 30 to 40 days. Growers have requested that the payment schedule of $2.00 per hundredweight be extended 10 days to compensate for unusually severe weather which has limited their ability to divert potatoes as rapidly as was anticipated in the initial 30-day period so as to obtain the higher rate of payment for lots diverted. For clarification purposes, the other amendment adds a definition of adequate pasturing which USDA will apply under that phase of the program pertaining to the utilization of potatoes for livestock feed after dehydration through a process of alternate freezing and thawing.

EFFECTIVE DATE: February 13, 1979.

FOR FURTHER INFORMATION CONTACT:

D. A. Thibeault, Chief, Commodity Procurement Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2781.

SUPPLEMENTARY INFORMATION: A final rule was published in the January 16, 1979 FEDERAL REGISTER (44 FR 3253-3256) which set forth the terms and conditions of the Fresh Russet Potatoes—Livestock Feed and Starch Diversion Program. Among other things the rule set the rate of payment of potatoes meeting U.S. No. 2 Processing Grade or better quality at $2.00 per hundredweight for the first 30 days and $1.75 per hundredweight thereafter to the termination of the program. Growers have requested that the payment schedule of $2.00 per hundredweight be extended 10 days to compensate for unusually severe weather which has limited their ability to divert potatoes as rapidly as was anticipated in the initial 30-day period so as to obtain the higher rate of payment for lots diverted. In Idaho, for example, where the Russet surplus is focused, heavier than normal snow cover concurrent with extremely low temperatures has restricted potato handling, loading, and movement both to commercial markets and to local diversion outlets. Potato diverters report that extremely low temperatures result in some freezing of potatoes handled in bulk truck lots, notwithstanding attempts to protect them from freezing. In addition, in moving potatoes from storage houses into trucks for hauling, temperatures in storage houses are lowered subjecting the potatoes remaining in storage to freeze-damage. Diversion activity has been reduced due to the cold weather and in many instances heavy snow storms.

The addition of a definition of adequate pasturing will clarify the criteria under which USDA determines whether potatoes utilized for livestock feed after dehydration through a process of alternate freezing and thawing were utilized properly and thereby in compliance with the program requirements.

This action is deemed not to have an adverse economic impact on the public or be in conflict with the original

Impact Analysis Statement issued on December 27, 1978. The gross estimate of the Russet surplus of 9.0 million hundredweight is not affected by this action, nor will the total diversion payment for Russet potatoes, initially determined at $17.1 million dollars, be changed. The action will aid in achieving the objective of the Russet potato diversion program of decreasing the potato surplus and improving potato farmers' prices.

In view of the short time period during which this program is being conducted, it is necessary that any amendments to the regulations be made as soon as possible. Accordingly, Dr. Donald L. Houston, Acting Administrator, FSQS, has determined that compliance with the notice and public procedure provisions of U.S.C. 553 is impracticable and contrary to the public interest and that it is not possible to publish these regulations in proposed form and allow 60 days for public comment in accordance with the provisions of Executive order 12044 (43 FR 12661, March 24, 1978).

Accordingly, §§ 2880.29 and 2880.37 of 7 CFR, Chapter XXVIII, are amended as follows:

1. Section 2880.29 is amended to read as follows:

§ 2880.29 Rate of payment.

The rate of payment per 100 pounds of potatoes in each lot which meet the requirements of Specification A as defined in § 2880.34 will be two dollars per hundredweight for potatoes diverted from the inception of the program through a period of 40 days; and one dollar and seventy-five cents for potatoes diverted thereafter to termination of the program. No payment will be made for any fractional part of 100 pounds and such quantities shall be disregarded.

2. Section 2880.37(c)(3) is amended by adding the following at the end thereof:

§ 2880.37 Methods of utilization.

* * * * *

(c) * * *

(3) * * *. Adequate pasturing will be considered to have occurred when potatoes have been grazed or consumed to the extent little or no feed value remains.

(i) Consideration shall be given to evidence that reasonable numbers of livestock had ample time to consume the edible potatoes as determined through actual counts of livestock or visual remains thereof—tracks, droppings, pasture growth, etc.

(ii) In the event potatoes remain after pasturing, evidence must exist that most of such potatoes are no longer edible because of normal spoilage due to weather conditions, spreading, damage, tramplings, droppings, etc. The range of losses from such causes may be expected to be from 25 percent to 50 percent of the potatoes originally spread. In case of greater loss, documentation satisfactory to ASCS must be provided to establish the cause of such loss.

* * * * *

(Sec. 32, 49 Stat. 774, as amended; 7 U.S.C. 612c)

Done at Washington, D.C., on: February 13, 1979.

D. L. HOUSTON,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 79-5158 Filed 2-15-79; 8:45 am]

[3410-34-M]

Title 9—Animals and Animal Products

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

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS: INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Harry S. Truman Animal Import Center

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document publishes the fees and the method of collection of the fees from importers of cattle to be imported through the Harry S. Truman Animal Import Center (HSTAIC). This action is necessary in order to ensure that importers will be advised of the expected costs for importing cattle through the HSTAIC and the manner of payment. This action should also make possible the coordination and allocation of personnel and resources for the operation of the HSTAIC and ensure its availability to receive cattle when completed and ready for use.

EFFECTIVE DATE: February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: On August 19, 1977 (42 FR 41848-41849) procedures were established for awarding special import permits to prospective importers of cattle from countries affected with foot-and-mouth disease (FMD). On March 31, 1978 (43 FR 11690) specific dates were established to provide for the receipt of applications and to conduct the initial drawing to award the special permits. Thirty-eight applicants were determined to be eligible for the drawing and the entire space available at the Fleming Key facility designated the Harry S. Truman Animal Import Center (HSTAIC), March 21, 1978 (43 FR 11727), was allocated.

The costs associated with the operation of the Harry S. Truman Animal Import Center are to be borne by the importers using this facility and will vary in accordance with the actual number of animals utilizing the facility. Since the facility will be fully utilized for the first importation, the rate for this importation will be $3,354 per animal. Each importer who has been authorized a permit in the drawing, must sign a cooperative agreement which sets forth the payment requirements.

In order to provide sound financial management both for the prospective importers and the Department, it is essential that the importers, prior to issuance of the special permits, assume fiscal responsibility for the expenses to be incurred. Due to the unusual nature of the service and the need to have adequate funds on a fee basis available to the Department for the cost of the significant services which will be performed in connection with the importation of animals into the HSTAIC in accordance with the provisions of section 1 of the Act of May 6, 1970 (21 U.S.C. 135), the Department is requiring either advance payment or a payment bond meeting the requirements specified in the cooperative agreement.

The following table depicts the costs which will be incurred at the Harry S. Truman Animal Import Center for the full capacity of 400 animals. The costs are based upon the best information and data available. These costs will be reviewed following the first importation, and any adjustments necessary will be made for subsequent importations.

Items of cost	Total direct cost	Total plus O/H	Total fixed costs	Total variable costs	Cost/animal full capacity 400 animals
Personnel	$324,749	$379,469	$379,469		$948
Travel	64,800	75,718	75,718		189
Utilities	256,284	299,467	299,467		749
Laboratory Costs	310,200	362,468	262,445	$100,023	906
Supplies	192,454	224,882	93,426.	131,456	393
Total Cost			1,110,525	231,479	
Cost Per Animal			2,776	578	
Fee			3,354		

The charges for personnel includes salary for 6 veterinary medical officers for 45 days, 3 veterinary medical officers for 75 days, and 5 technicians for 75 days, to be assigned to the foreign countries from which cattle are to be permitted entry, and 2 veterinary medical officers and 34 technicians, clerical and animal care personnel to operate the Harry S. Truman Animal Import Center for 6 months. This 6 month period will provide for the preparation of the facility to receive the qualified cattle, the care, feeding, handling, and testing of the imported and contact test animals during the period of quarantine and the cleaning and disinfection of the facility at the conclusion of the quarantine period. These personnel levels are necessary to meet the Department's security requirements necessary for importing animals from FMD countries.

Employee costs were calculated using the average cost for each category of employee, i.e., veterinary medical officer, animal health technician, bio aid, clerical and wage grade positions. This method was utilized because employees have not yet been hired for these positions so their actual salary rates are not known.

The travel and per diem cost estimate provides round trip airfare and per diem for the 14 employees assigned to the foreign countries in accordance with travel regulations presently approved by the Department for such assignments, as well as four courier trips bringing samples from foreign countries to Plum Island Animal Disease Center. These samples are necessarily couriered due to Department security requirements.

The cost for utilities provides for electricity to operate the import center for 6 months and the fuel oil required to operate the incinerators for disposal of animal waste and other items necessary to maintain biological security at the Harry S. Truman Animal Import Center.

The laboratory costs provide for 3 series of foot-and-mouth disease tests for the number of animals for which the permit was issued. The cost is based on the actual cost of conducting a probang (oesophageal-pharengeal fluid) virus isolation test and a serum neutralization test for foot-and-mouth disease, as well as other tests listed in Department protocols, at the Plum Island Animal Disease Center. The costs are based on actual charges to Veterinary Services by the Plum Island Animal Disease Center.

The cost estimate for supplies includes feed, bedding, procurement of contact test animals and miscellaneous supplies for the animal care, maintenance, and testing at the Harry S. Truman Animal Import Center as well as supplies and materials necessary for the testing of animals in foreign countries.

Total Fixed Costs (column 3 of the chart) represents those costs which are of an absolute necessity to accommodate full capacity of 400 animals at the facility as well as process them at the selection sites.

Total Variable Costs (column 4 of the chart) represents those costs which can fluctuate depending on the degree of application (i.e., number of tests performed, amount of feed and bedding, disinfectant, clothing, and lab reagents). Any money not expended for variable cost items is refundable to the importer on a per animal basis.

The estimated cost of purchasing the United States origin swine as foot-and-mouth disease contact test animals is included as these animals will be sacrificed during the quarantine period. The cost includes the estimate cost for feed and bedding for the foot-and-mouth disease contact test animals including the purchase price for test cattle. Proposed procedures should allow this cost to be recovered by resale of the test cattle when the animals being imported leave the Import Center. Proceeds from this sale will be refunded to the importer on a per animal basis. It is expected that because of the extensive pre-arrival testing and inspection procedures, most of the shipments of animals entering the Import Center will ultimately be released for entry into the United States.

All resulting totals were increased 16.85 percent, the percentage of Animal and Plant Health Inspection Service's funds used for overhead. The overhead includes all administrative costs, such as headquarters, staff, Office of the Deputy Administrator, and support functions, such as budget and personnel operations.

The Department is presently preparing protocols which will specify the types of pre-entry testing which must be performed prior to an animal arriving at the Harry S. Truman Animal Import Center. The pre-entry test requirements may require that tests be conducted at farms of origin on more animals than the number specified in the permit and provided for in costs associated with the operation of the Harry S. Truman Animal Import Center. The cost for each such series of additional tests will be $237 per animal tested. Based upon the laboratory records for each such additional sample submitted and tested, each individual importer shall be responsible for the additional costs incurred to conduct such tests. The total cost for conducting such additional test(s) will be due upon receipt by the special permittee of a bill for the services from the Department. When the Department has finalized the test protocols, the Department will make them available to the public, and will add them to the regulations accordingly.

All payments shall be by certified check, bank draft or money order (personal checks are not acceptable) and made payable to USDA-APHIS.

In order to expedite the payment bond process, each importer will be furnished a copy of U.S. Department of the Treasury Circular No. 570, Surety Companies Acceptable on Federal Bonds. The Circular provides the names and addresses of acceptable surety companies, their bonding dollar limits, and their geographical coverage authority.

All importers authorized a permit will be required to execute a cooperative agreement which shall detail the necessary costs as provided in this document. When approved, signed, and returned to Veterinary Services by the importer, the agreement shall be accompanied by a certified check, bank draft or money order or payment bond in the total amount of the costs as provided in this document.

The approval of the cooperative agreement and the deposit of the necessary funds or payment bond is required no later than 30 days after the effective date of this regulation.

A total of 432 cattle were requested to be imported by the 38 applicants determined to be eligible at the drawing for the special permits. To provide that the facility is fully utilized, should an applicant eligible to receive a permit decide not to accept the permit or request that the permit be issued for a lesser number of animals, the applicants that had requested more animals than were awarded at

the drawing shall be offered the additional available spaces in accordance with the regulations (9 CFR 92.41, previously 92.4(e)). This action is necessary in order to provide importers that will be affected additional time to evaluate their position regarding their proposed importations under these regulations, and to secure necessary financing. The importation of animals into the facility is scheduled for June 1979.

The cooperative agreement provides that the importer obtain any permits or permission from the foreign country from where the cattle are to be exported, in order to allow the Department's personnel free access to the inspectional facilities to assess the condition of the animals regarding freedom of exposure to communicable diseases during the period in which the animals are in that country.

The importers would also agree in the cooperative agreement to obtain from the transporting company any necessary permission for the Department's personnel to accompany a shipment of animals to the approved embarkation quarantine facility. Such access is necessary to insure that the animals being imported through the Harry S. Truman Animal Import Center have not been exposed to communicable disease.

The cooperative agreement further provides that the eligibility of the animals offered for entry into the Harry S. Truman Animal Import Center shall be determined by the Department. Such provision is necessary because the importation of animals from countries where foot-and-mouth disease or rinderpest exist constitutes a threat to introduce such diseases into the United States. Therefore, extreme caution is warranted to prevent the entry of such diseases. Additionally, the disease status of each animal in the Harry S. Truman Animal Import Center impacts on every other animal in the Center. The animals will be handled on an "all-in all-out" basis. If any animal is determined to be infected with a communicable disease of livestock or poultry, the remainder of the animals would be considered to be exposed to the communicable disease and, therefore, may not be eligible for entry into the United States. Once a determination has been made that a communicable disease of livestock or poultry exists in any of the animals in the Import Center, the disposition of the animals would be determined by the nature of the communicable disease involved. If the animals are infected with or exposed to foot-and-mouth disease, rinderpest or pleuropneumonia, they will be destroyed. These diseases are particularly virulent and deadly and constitute an extreme threat to the livestock industry of the United States. Therefore, extreme measures must be taken to remove any likelihood that such diseases might be introduced into the United States.

Additionally, if any of the animals in the Import Center are infected with or exposed to any other communicable disease of livestock or poultry, such animals shall be treated if possible and if cured will become eligible for entry into the United States provided all other requirements are met. Any cost of such treatment shall be borne by the importer. This is consistent with the intent of Congress that the facility be self-supporting to the fullest extent possible. However, if such animal cannot be treated or if such animal is not cured then such animal will be refused entry and removed from the United States within 10 days of the date that the importer is notified by the Department that such animal has been refused entry into the United States. However, the importer, in lieu of removing such animal from the United States, may elect to have such animal disposed of in accordance with such conditions as the Deputy Administrator, Veterinary Services, believes necessary to prevent the dissemination of communicable diseases of livestock or poultry into the United States. Such animals must be refused entry into the United States because they constitute a threat to disseminate disease into the United States. A-10 day period has been established to allow time to the importer to remove the animal from the Import Center. The Department believes that such a time period should allow adequate time to the importer to make arrangements regarding the further disposition of the animal involved without constituting an undue burden on the Department in the care, feed and handling of such animal at the Import Center.

The cooperative agreement also makes it clear that the Department is not liable for any loss occasioned by the destruction of any of the animals because of being infected with or exposed to any communicable disease of livestock or for any other loss or damage to the animals. The Act of May 6, 1970 (21 U.S.C. 135-135b) providing for the Harry S. Truman Animal Import Center and its legislative history indicate that any such risk of loss to the animals would be the responsibility of the importers. The payments of indemnities by the Department for animals destroyed would be contrary to the intent of Congress that the Harry S. Truman Animal Import Center be self-supporting to the fullest extent possible.

These procedures are considered necessary since the importation of cattle from countries infected with foot-and-mouth disease require special, nonroutine pre-entry requirements, transportation requirements and port of entry requirements under the supervison of veterinarians of this Service and the cooperation and assistance as required of the Veterinary Service of the country of origin, to collect samples, perform laboratory procedures, complete examination, conduct inspections and supervise the isolation, quarantine, and care and handling of the animals to insure they meet the animal quarantine requirements for entry into the United States.

Certain editiorial and other minor organizational changes have been made to clarify the regulations, with the purpose of having all regulations pertaining to the Harry S. Truman Animal Import Center assembled consecutively.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

§ 92.4 [Amended]

1. The heading of § 92.4 is amended by deleting the comma after the phrase "animal specimens for diagnostic purposes" and inserting in lieu thereof a period and deleting all of the heading after the reference to footnote 5.

2. A new § 92.41 is added to the regulations. The heading for new § 92.41 shall read as follows: § 92.41 *Requirements for the importation of animals into the United States through the Harry S. Truman Animal Import Center.*

3. Paragraph (e) of § 92.4 is deleted and redesignated as paragraph (a) in new § 92.41.

4. All references to Fleming Key Animal Import Center in the heading and content of new § 92.41(a) are deleted and references to Harry S. Truman Animal Import Center are substituted therefor.

5. In § 92.41 new paragraphs (b) and (c) are added to read as follows:

§ 92.41 Requirements for the importation of animals into the United States through the Harry S. Truman Animal Import Center.

* * * * *

(b) *Method of collecting fees.* (1) Costs associated with the maintenance and operation of the facility shall be borne by applicants who receive a special permit under this section in accordance with the provisions of a cooperative agreement specified in paragraph (c) of this section.

(2) The Deputy Administrator is authorized to promulgate reasonable fees for the costs incurred by the Department in the maintenance and operation of the Harry S. Truman Animal Import Center. Such fees shall include

any pre-entry services provided by the Department to special permittees to prepare the facility and animals for entry into the facility. Such fees shall also include costs incurred while animals are in the facility and for a period of 30 days subsequent to the animals leaving the facility for costs incurred in cleaning and disinfecting the facility.

(3) The fees authorized in this section shall be based upon the following items:

(i) Personnel—The hourly rates including appropriate premium pay in accordance with 5 U.S.C. 5541-5549 of the Veterinary Services' employees who perform the service.

(ii) Travel—The costs of travel and per diem of Veterinary Services' employees from their official duty station to their temporary duty station and return in order to qualify animals for entry into the facility. Travel costs shall also include costs for four round trips to courier test samples from temporary duty stations to Plum Island for testing.

(iii) Utilities—The costs of electricity, oil and water for operating the facility for the five month period of quarantine plus one month for cleaning and disinfection.

(iv) Laboratory costs—The cost of conducting three series of laboratory tests for each animal for which a special permit is issued, in accordance with Veterinary Services protocol for importing animals into the United States through the Harry S. Truman Animal Import Center.

(v) Supplies—The cost of supplies (feed, bedding, disinfectants, contact test animals and miscellaneous supplies for the animal care, maintenance and testing at the facility) for the five month period of quarantine plus one month for cleaning and disinfection.

(vi) Overhead—A surcharge for overhead based on the most current historical data available showing the percentage of Animal and Plant Health Inspection Services funds expended for administrative support.

(4) Any tests performed on aminals for a special permittee in excess of the number of animals specified on the special permit is not included in the fees authorized in this section. The Deputy Administrator is authorized to charge the special permittee for whom the service is performed the actual cost of conducting such test. Payment shall be due upon receipt by the special permittee of a bill for the services from the Department.

(5) Any treatments performed on animals for a special permittee in order to cure such animal of a communicable disease of livestock or poultry while at the Harry S. Truman Animal Import Center is not included in the fees authorized in this section. The Deputy Administrator is authorized to charge the special permittee for whom the service is performed the actual cost of such treatment. Payment shall be due upon receipt by the special permittee of a bill for the services from the Department.

(6) The special permittee shall be reimbursed for any moneys advanced for feed, bedding or laboratory tests for animals at the facility if such feed or bedding is not used or if such laboratory tests are not performed by Veterinary Services.

(7) The fee for each animal in Fiscal Year 1979 is $3,354.

(c) *Cooperative Agreements.* Prior to issuance of a special permit, each applicant selected to receive a special permit to import animals through the Harry S. Truman Animal Import Center shall enter into and abide by the provisions of the following cooperative agreement with the Department.

COOPERATIVE AGREEMENT

Cooperative Agreement between ———— (name of the importer) and U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services.

This Agreement is made and entered into by and between ———— (name of the importer) hereinafter referred to as the Cooperator, and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, hereinafter referred to as the Service.

Whereas, the Service is authorized pursuant to section 2 of the Act of February 2, 1903, as amended, and section 1 of the Act of May 6, 1970 (21 U.S.C. 111 and 135, respectively) to regulate the introduction of animals into the United States in order to prevent the introduction of animal and poultry diseases into the United States; and

Whereas, the Cooperator represents parties interested in the importation of cattle into the Harry S. Truman Animal Import Center established by the Service pursuant to 21 U.S.C. 135, for a quarantine period scheduled to begin ————.

Whereas, the Cooperator has requested the Service to conduct inspections, perform laboratory procedures, complete examinations, and supervise the isolation, quarantine, and care and handling of cattle to insure that they meet the Department's quarantine requirements before release into the United States; and

Whereas, it is the intention of the parties hereto that such cooperation shall be for their mutual benefit and the benefit of the people of the United States.

Now, Therefore, for and in consideration of the promises and mutual covenants herein contained, the parties do hereby mutually agree with each other as follows:

A. *The Cooperator Agrees:*

1 a. To deposit with the Service upon execution of this agreement the amount of ———— (equal to the established fee multiplied by the number of cattle on the Cooperator's import permit to cover the cost to the Department to qualify animals in the foreign country for entrance into the Harry S. Truman Animal Import Center and the quarantine period at that facility and to qualify the cattle for importation into the United States), or;

b. To deposit with the Service upon execution of this agreement a payment bond [14] in the amount of ———— (equal to the established fee multiplied by the number of cattle on the Cooperator's import permit). Payment will be due one month prior to the day the cattle are scheduled to be released from quarantine. The bond shall be in effect from ———— (the date of the issue of the import permit) to ———— (the date the cattle are scheduled to be released from quarantine or otherwise disposed of). Forfeiture for the entire amount of the bond shall occur if payment is not received from the Cooperator by the due date.

2. To pay the sum of ———— for each animal tested in excess of the number of animals for which a permit was issued. A bill for costs incurred based on official accounting records will be issued and payable upon receipt.

3. To pay the actual cost of treatment of any of the Cooperator's animals which require treatment to be cured of a communicable disease of livestock or poultry while at the Harry S. Truman Animal Import Center. Such payment shall be due upon receipt by the Cooperator of a bill for such treatment from the Service.

4. To obtain from the (foreign) Government any permits or permission required for the Service's personnel so as to insure free access by the Service to the inspectional facilities to properly assess the safety of the animal(s) regarding exposure to diseases during the period the animal(s) are in ———— (foreign country).

5. To provide for the maintenance and operation of the approved isolation facilities in the exporting country in accordance with approved standards and handling procedures for importation of cattle as provided in Part 92 of 9 CFR.

6. To obtain from the transporting company any necessary permission for the Service's personnel to accompany a shipment of cattle to the approved embarkation quarantine facility.

7. That the eligibility of the animal(s) offered for export to the United States shall be determined by the Service.

B. *The Service agrees:*

1. To furnish the services of technical and/or professional personnel needed to conduct inspections, perform laboratory procedures, complete examinations, and supervise the isolation, quarantine, and care and handling of cattle being imported to insure that they meet the Department's quarantine requirements before release into the United States.

2. To refund to the Cooperator any part of the fees not expended at the Harry S. Truman Animal Import Center for testing, feed, bedding and/or supplies on a per animal basis.

C. *It is Mutually Understood and Agreed:*

1. During the performance of this cooperative work, the Cooperator agrees to be bound by the Equal Opportunity and Nondiscrimination provisions as set forth in Exhibit B and Nonsegregation of Facilities provisions as set forth in Exhibit C, which are attached hereto and made a part hereof.

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[14] Copies of lists of surety companies acceptable for Federal Bonds may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Hyattsville, MD 20782.

2. No member of or delegate to Congress or resident commissioner, shall be admitted to any share or part of this agreement or to any benefit to arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

3. This agreement shall become effective upon date of final signature and shall continue until final settlement of all matters relevant to the subject quarantine period, as determined by the Service. This agreement may be amended by agreement of the parties in writing. It may be terminated by either party upon 30 days written notice to the other party.

4. All animals which enter the Harry S. Truman Animal Import Center will be handled on an "all-in all-out" basis. If any animal in the Import Center is determined by the Service to be infected with any communicable disease of livestock or poultry, the remaining animals will be considered to be exposed to such communicable disease.

5. If the Service determines that any of the animals are infected with or exposed to foot-and-mouth disease, rinderpest or pleuropneumonia, such animals shall be refused entry and be destroyed in accordance with such conditions as the Deputy Administrator of the Service believes necessary to prevent the dissemination of communicable diseases of livestock or poultry into the United States.

6. If the Service determines that any of the animals are infected with or exposed to any other communicable disease of livestock or poultry, such animal shall be treated if possible, and if cured, become eligible for entry into the United States provided all other requirements under this part are met. However, if it is not possible to treat such animal or if such animal is not cured, then such animal shall be refused entry into the United States and shall be removed from the Import Center to a country other than the United States within 10 days of the date that the Cooperator is notified by the Service that such animal has been refused entry into the United States. However, at the option of the Cooperator, such animal may be disposed of in accordance with such conditions as the Deputy Administrator of the Service believes necessary to prevent the dissemination of communicable diseases of livestock or poultry into the United States.

7. The Cooperator is responsible for the risk of loss for the destruction of any animal subject to this Agreement because of being infected with or exposed to any communicable disease of livestock or poultry or any other loss or damage to the animal.

Date ———————————————

———————————————

Cooperator

Date ———————————————

———————————————

Acting Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture

§ 92.4a Redesignated as 92.42

6. Section 92.4a is redesignated § 92.42. All references in that section to Fleming Key Animal Import Center are deleted and references to Harry S. Truman Import Center are substituted therefor.

(Section 2, 32 Stat. 792, as amended; sec. 1, 84 Stat. 202 (21 U.S.C. 111 and 135); 37 FR 28464, 28477; 38 FR 19141).

These amendments impose additional restrictions relating to the issuance of special permits for quarantine of cattle at the Harry S. Truman Animal Import Center and are essential in order to allow the Department to better coordinate and allocate personnel and materials to the facility. The cattle must pass a three month pre-entry quarantine in their country of origin and certain required inspections and tests prior to being allowed to enter the HSTAIC. The importers of the cattle must make arrangements for the pre-entry quarantine in the country of origin, as well as obtain clearance for this Department's personnel to observe the pre-entry quarantine and conduct the inspections and tests.

The fees prescribed herein for the first quarantine period are based upon full utilization of the facility. If there is less than full utilization of the facility during this quarantine period, then it will not be self-supporting to the fullest extent possible as Congress intended. However, whether or not the facility will actually be fully utilized is dependent on several factors, the first of which is the ability of all prospective importers to obtain the necessary financing to enter into the required cooperative agreement. If a prospective importer cannot obtain such financing, the facility will not be fully utilized, unless there is time for another importer to be offered the space in accordance with the regulations and he has time to make all the necessary financial and pre-entry quarantine arrangements. Since the first importation of cattle into HSTAIC is scheduled for June of 1979, and the cattle must have successfully completed a three-month pre-entry quarantine period in their country of origin, it is necessary to publish these regulations as a final rule, to become effective immediately, in order to allow the importers of cattle to (1) secure the necessary financing; (2) enter into a cooperative agreement with the Department; and (3) make the necessary arrangements for the required pre-entry quarantine procedures. This is necessary in order to insure that the space available in HSTAIC is as fully utilized as possible.

Therefore, for such good cause the Department finds that notice and other public procedure regarding these amendments are impracticable and contrary to the public interest and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044 and Secretary's Memorandum No. 1955. It has been determined by Dr. G. V. Peacock, Director, National Program Planning Staffs, Veterinary Services, Animal and Plant Health Inspection Service, that the emergency nature of this rule, as indicated above, warrants the publication of this rule without waiting for public comment. This amendment, as well as the complete regulation, will be scheduled for review under provisions of E.O. 12044 and Secretary's Memorandum No. 1955. An Impact Analysis Statement has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

Done at Washington, D.C., this 13th day of February 1979.

M. T. GOFF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-5054 Filed 2-15-79; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATIONAL REGULATIONS

[Reg. OR-143; Amdt. No. 78]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION: NONHEARING MATTERS

Amendment of Delegation of Authority to the Director, Bureau of International Aviation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., January 24, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends its delegation of authority to allow the Director, Bureau of International Aviation to grant or deny air carriers' applications for exemptions from section 402 of the Act.

DATES: Effective: January 24, 1979. Adopted: January 24, 1979.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Associate General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Section 416(b) of the Federal Aviation Act of 1938, as amended, permits the Board to exempt foreign air carriers from the provisions of this Act. This

amendment to § 385.26 of the Board's regulations delegates to the Director of the Bureau of International Aviation the authority to exempt such foreign air carriers from the provisions of section 402 of the Act. This authority is limited to cases where the course of action of the Bureau in granting or denying these exemptions is clear under current Board policies.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedure are unnecessary, and that there is good cause for an immediate effective date.

Accordingly, effective January 24, 1979, the Board amends § 385.26 of 14 CFR 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters*, to read:

§ 385.26 Delegation to the Director, Bureau of International Aviation.

* * * * *

(b) Approve or deny applications of direct air carriers for exemptions from sections 401 and 402 of the Act and from applicable regulations under this chapter, relating to operations that are predominantly in foreign air transportation, where the course of action is clear under current Board policies.

* * * * *

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 5 U.S.C. Appendix.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-5008 Filed 2-15-79; 8:45 am]

[4110-07-M]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Subpart G—Rules for the Review of Denied and Pending Claims Under the Black Lung Benefits Reform Act (BLBRA) of 1977

[Regulations No. 10]

PART 410—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, TITLE IV

Review of Denied and Pending Claims Under the Black Lung Benefits Reform Act of 1977

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: These regulations expand the definition of "evidence on file", as contained in our regulations relating to black lung benefits, to include information that was in a person's social security disability or supplemental security income disability claim file as of March 1, 1978. Existing regulations limit "evidence on file" to evidence in a person's black lung claim folder as of March 1, 1978, including the person's earnings record. Expanding the scope of what is considered "evidence on file" should ensure the consideration of all evidence pertinent to a person's file and should enable Social Security Administration to approve more claims.

DATES: Effective date: February 16, 1979. However, following publication in the FEDERAL REGISTER of these Final Regulations, interested parties may submit data, comments or suggestions no later than April 17, 1979.

ADDRESS: Comments must be submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments received in response to the published document will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, Room 5131, North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Harry Short, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-7415.

SUPPLEMENTARY INFORMATION: The Black Lung Benefits Reform Act (BLBRA) of 1977 (1) broadened the definitions of "miner" and "pneumoconiosis" for purposes of establishing entitlement to black lung benefits, (2) modified the standards used to determine whether a miner is or was totally disabled due to pneumoconiosis or whether the miner's death was due to pneumoconiosis, (3) required that each person who has had a claim for black lung benefits denied or whose claim for black lung benefits is pending be given the opportunity to have the claim reviewed under the revised statutory and evidentiary requirements; and (4) made certain other substantive changes in the Federal Coal Mine Health and Safety Act of 1969, as amended.

Regulations implementing these provisions were published in final in the FEDERAL REGISTER on August 7, 1978 (43 FR 34778).

During our review of the previously denied or pending black lung claims we found that evidence important to a person's black lung claim may be in his or her social security disability or supplemental security income disability claim file. Under the regulations published on August 7, 1978, we may consider, when determining whether or not a person is entitled to black lung benefits, only the evidence in a person's black lung claim file as of March 1, 1978, including the person's earnings record. To ensure the consideration of all evidence pertinent to a person's claim within SSA's legal authority, we are expanding the definition of evidence on file to also include evidence in the social security disability and supplemental security income disability claim files as of March 1, 1978.

We believe that this change is consistent with the law and Congressional intent. Expanding the scope of what is considered "evidence on file" should enable us to approve more claims. These regulations are being published without a Notice of Proposed Rulemaking. Publication of a Notice of Proposed Rulemaking is impracticable and contrary to the public interest because it would impede timely execution of this more inclusive definition of "evidence on file," which is implemented by these regulations.

These amendments are hereby adopted and set forth below.

(Sec. 411 of the Federal Coal Mine Health and Safety Act of 1969, as amended; 85 Stat. 793, 30 U.S.C. 921)

(Catalog of Federal Domestic Assistance Program No. 13.802—Special Benefits for Disabled Coal Miners)

Dated: January 9, 1979.

STANFORD G. ROSS,
Commissioner of Social Security.

Approved: January 23, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Part 410 of Chapter III of title 20 of the Code of Federal Regulations is amended as follow:

1. Section 410.702 is amended by revising paragraph (e) to read as follows:

§ 410.702 Definitions and terms.

* * * * *

(e) *"Evidence on file" defined.* Evidence on file is information in the black lung claims file, in the social security title II and title XVI disability claims files, or in a person's earnings record, as of March 1, 1978.

* * * * *

2. Section 410.704 is amended by revising paragraph (f) to read as follows:

§ 410.704 Review procedures.

* * * * *

(f) *Social Security Administration review elected.* (1) If review by the Social Security Administration is requested, a complete review of the evidence on file will be made to see if the file establishes entitlement to benefits under the BLBRA of 1977. Evidence on file is information in the black lung claims file, in the social security title II and title XVI disability claims files, or in a person's earnings record, as of March 1, 1978. In the case of a pending claim which is being appealed, this review will not be delayed because of the pending claim. If it is determined that eligibility to benefits can be established, the claims file, including all evidence and other pertinent material in the claims file, will be transferred to the Office of Worker's Compensation Programs for processing and assignment of liability in accordance with regulations published by DOL at 20 CFR Part 727. The decision of the Social Security Administration approving the claim will be binding upon the Office of Worker's Compensation Programs as an initial determination of the claim. The Social Security Administration will notify the claimant of its approval. If the claimant disagrees with any part of the Social Security Administration's determination of approval, the claimant may request review of this determination by the Office of Worker's Compensation Programs. The Social Security Administration has no authority under the BLBRA of 1977 to process an appeal of any determination made by it in reviewing these denied and pending part B claims.

(2) If it is determined that the evidence on file is insufficient to support an award of benefits, the claims file, including all evidence and other pertinent material in the claims file, will be transferred to the Office of Worker's Compensation Programs for further review in accordance with regulations published at 20 CFR Part 717. The Social Security Administration will notify the claimant of this action.

* * * * *

[FR Doc. 79-5055 Filed 2-15-79; 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 510—NEW ANIMAL DRUGS

Change of Sponsor Name

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations to reflect a change in corporate name of a sponsor of an approved new animal drug application. IMC Chemical Group, Inc., is changed to International Minerals & Chemical Corp.

EFFECTIVE DATE: February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: The FDA has been advised of a sponsor name change—IMC Chemical Group, Inc., to International Minerals & Chemical Corp. The Commissioner of Food and Drugs is amending Part 510 (21 CFR Part 510) to reflect this change.

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 (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 510.600 is amended in paragraph (c)(1) to delete the entry for "IMC Chemical Group, Inc.," and to add a new entry alphabetically; and in paragraph (c)(2) to delete the firm name for "012769" and to insert in its place a new firm name, to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address:	*Drug listing No.*
* * *	
International Minerals & Chemical Corp., P.O. Box 207, Terre Haute, IN 47808.	012769
* * *	

(2) * * *

Drug listing No.:	*Firm name and address*
* * *	
012769	International Minerals & Chemical Corp., P.O Box 207, Terre Haute, IN 47808.

* * * * *

Effective date. This regulation is effective February 16, 1979.

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

Dated: February 7, 1979.

LESTER CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-4785 Filed 2-15-79; 8:45 am]

[4110-03-M]

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

n-Butyl Chloride Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect approval of a new animal drug application (NADA) filed by Happy Jack, Inc., providing for safe and effective use of *n*-butyl chloride capsules as an anthelmintic for dogs. This product is similar to other products reviewed by the National Academy of Sciences—National Research Council Drug Efficacy Study Implementation Group (NAS/NRC) and found to be effective for its labeled uses. Approval of similar products may require submission of bioequivalence or similar data in lieu of other effectiveness data.

EFFECTIVE DATE: February 16, 1979.

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: Happy Jack, Inc., P.O. Box 475, Snow Hill, NC 28580, filed an NADA (46-746V) providing for safe and effective use of capsules containing 0.25 to 5 milliliters (221 milligrams to 4.42

grams) of *n*-butyl chloride used as an anthelmintic for dogs for the removal of certain ascarids and hookworms. This product is identical to Pitman Moore's *n*-butyl chloride capsules (NADA 2-586V, Bu-Chlorin Capsules), which was reviewed by NAS/NRC and found to be effective as an anthelmintic in dogs. The NAS/NRC review was published in the FEDERAL REGISTER of January 8, 1969 (34 FR 274). In addition, this product is identical to Glover's *n*-butyl chloride capsules (NADA 2-115V, Glover's Imperial Dog Capsules), which were reviewed by NAS/NRC and found to be effective as an anthelmintic for dogs. This review was published in the FEDERAL REGISTER of February 5, 1969 (34 FR 1739). The agency concurred that this drug was effective for the removal of certain canine roundworms (ascarids) and hookworms.

The above FEDERAL REGISTER announcements were published to inform holders of NADA's of the findings of the Academy and the agency and to inform all interested persons that such products may be marketed providing that they are the subject of an approved NADA and otherwise comply with the requirements of the Federal Food, Drug, and Cosmetic Act. Applications submitted in response to the NAS/NRC review and those submitted later are in accord with the conclusions of the NAS/NRC review.

Approval of an NADA for uses of these products does not require efficacy data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5)(vi) of the animal drug regulations (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)(vi)) but may require bioequivalency or similar data as suggested in the guidelines for submitting NADA's for NAS/NRC reviewed generic drugs, available in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

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), § 520.260 is amended by revising paragraph (b)(1) to include a footnote, revising paragraph (b)(2) to add a new sponsor, and amending (b)(3) to add footnotes, and by adding the text of the footnote to read as follows:

§ 520.260 *n*-butyl chloride capsules.

* * * * *

(b)(1) *Specifications.* *n*-butyl chloride capsules contain 221, 442, 884, or 1,768 milligrams or 4.42 grams of *n*-butyl chloride in each capsule.[1]

(2) *Sponsors.* See Nos. 015563 and 023851 in § 510.600(c) of this chapter for 221, 442, 884, or 1,768 milligram or 4.42 gram capsules; No. 000115 or 012983 for 884 or 1,768 milligram or 4.42 gram capsules; and No. 000069 for 221 milligram capsules.

(3) *Conditions of use.* (i) * * *[1]

(ii)(*a*) * * *[1]

(*b*) * * *[1]

(iii) * * *[1]

* * * * *

Effective date. This regulation shall be effective February 16, 1979.

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

Dated: February 7, 1979.

LESTER CRAWFORD,
Director, Bureau of Veterinary Medicine.

[FR Doc. 79-4784 Filed 2-15-79; 8:45 am]

[4110-03-M]

[Docket No. 78N-0366]

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

Sterile Benzathine Penicillin G and Procaine Penicillin G Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations for sterile benzathine penicillin G and procaine penicillin G suspension are amended (1) to indicate those portions which reflect the National Academy of Science—National Research Council, Drug Efficacy Study Group (NAS/NRC) evaluation of the product and (2) to specify the conditions of use for which approval of similar products need not include certain types of efficacy data, but may require submission or bioequivalence or similar data.

EFFECTIVE DATE: February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald A. Gable, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of benzathine penicillin G and procaine penicillin G in aqueous suspension was published in the FEDERAL REGISTER of August 5, 1970 (35 FR 12489). In that publication, the Academy concluded and the agency concurred that this drug is probably effective for the treatment of beef cattle, horses, and dogs for infections caused by pathogens sensitive to penicilin. The Academy stated: (1) more information is needed on the production of effective blood levels; (2) the dosages appear to be inconsistent; (3) and the disease claims should be properly qualified as caused by sensitive pathogens, or if the disease cannot be so qualified, the claims must be dropped.

In addition, the NAS/NRC notice required that the product be in compliance with the regulations providing for use of antibiotics in food-producing animals in § 3.25 *Antibiotics used in food producting animals* (21 CFR 3.25, recodified 21 CFR 510.110).

Each holder of an NADA effective before October 10, 1962 was requested to update their application as required by section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) with regard to drug manufacture, including drug components, composition, manufacturing methods, facilities, and controls.

The NAS/NRC review concerned Wyeth Laboratories' Bicillin Fortified (NADA 55-009V) and Fort Dodge Laboratories' Longicil Fortified (NADA 65-087V). Responding to the NAS/NRC review, these two firms brought their products into compliance with the conclusions of NAS/NRC. In addition, two other products were subsequently approved; Bristol Laboratories' Flo-Cillin (NADA 65-169V) and John D. Copanos and Co.'s Combi Pen (NADA 65-277V). These applications complied with the NAS/NRC review. A regulation, § 540.255c *Sterile benzathine penicillin G and procaine penicillin G suspension* (21 CFR 540.255c), reflecting the current approval fails to indicate those conditions of use which reflect the NAS/NRC evaluation. These are the uses for which approval of an NADA for an identical product does not require efficacy data as specified by 21 CFR 514.1(b)(8)(ii) or 21 CFR 514.111(a)(5)(vi). In lieu of those data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs, available from the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), and

[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.

redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR § 5.83), § 540.255c is amended by adding at the end of paragraph (c)(1) and (4) (i), (ii), (iii), and (iv) the footnote reference "[1]" and adding at the end of the section footnote [1] to read as follows:

§ 540.255c Sterile benzathine penicillin G and procaine penicillin G suspension.

* * * * *

(c) *Conditions of marketing*—(1)-* * * [1]

* * * * *

(4) *Conditions of use.* (i) * * * [1]
(ii) * * * [1]
(iii) * * * [1]
(iv) * * * [1]

[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.

Effective date. This regulation is effective February 16, 1979.

(Sec. 512 (i) and (n), 82 Stat. 347, 350-351 (21 U.S.C. 360b (i) and (n)).)

Dated: February 7, 1979.

LESTER M. CRAWFORD,
Director, Bureau Veterinary Medicine.

[FR Doc. 79-4923 Filed 2-15-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 5155]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final Rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294 Bethesda, Maryland 20034 Phone: (800) 638-6620

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator Office of Flood Insurance, Room 5270, 451 Seventh Street, SW. Washington, DC 20410 (202) 755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

1914.6 List of Eligible Communities

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of Flood Insurance in community	Special flood hazard area identified
Kentucky	Hardin	Unincorporated Areas	210094	Feb. 1, 1979, emergency.	Oct. 18, 1974 and July 22, 1977.
Idaho	Madison	Unincorporated Areas	160217-A	Feb. 2, 1979, emergency.	Jan. 31, 1978.
South Carolina	Greenville	Mauldin, City of	450198-B	Aug. 16, 1978, emergency. Sept. 29, 1978 regular. Jan. 17, 1979, suspended. Feb. 1, 1979, reinstated.	Aug. 16, 1974 and Aug. 6, 1976.
North Dakota	Bottineau	Lansford, City of	380184	Feb. 5, 1979,emergency.	Feb. 14, 1975
Utah	Kane	Alton, Town of	490243-New	.....do.....	
Kansas	Ellis	Unincorporated Areas	200094	Feb. 5, 1979, emergency.	Oct. 18 1977.
Missouri	Platte	Platte Woods, City of	290536	.....do.....	Nov. 12, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28. 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 6, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-4931 Filed 2-15-79; 8:45 am]

[4810-25-M]

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury

PART 1—DISCLOSURE OF RECORDS

Subpart A—Under 5 U.S.C., as Amended

AGENCY: Department of the Treasury.

ACTION: Final Rule.

SUMMARY: This amends the Department of the Treasury's Freedom of Information Act (FOIA) regulations as they pertain to classified records or copies of records, originated by another agency, but held by Treasury. These amendments will permit FOIA requests for these records to be referred to the originating agency for a direct response. Additionally, these amendments correct the title of 31 CFR Part 1, Subpart A, to properly reflect the FOIA's citation.

EFFECTIVE DATE: These amendments are effective February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Linda K. Zannetti, Departmental Disclosure Officer, Room 1322, Department of the Treasury, 15th and Pennsylvania Avenue, N.W., Washington, D.C. 20220, (202) 566-5573.

SUPPLEMENTARY INFORMATION: Although the Department considers all regulations or amendments to existing regulations, published in the FEDERAL REGISTER and codified in the Code of Federal Regulations to be significant regulations, it has been determined that this final rule is not a significant regulation within the meaning of Executive Order 12044, "Improving Government Regulations," and the Department's regulations at 43 FR 52120, November 8, 1978, because it is non-substantive, and is procedural and because it does not impose additional requirements or costs or alter the legal rights or obligations of those it affects. Additionally, the amendments are not subject to the notice and public procedures requirements of 5 U.S.C. 553(b)(A) as they relate to matters of agency policy, procedures and practices. Accordingly:

(1) The heading to Subpart A is corrected to read: "Subpart A—under 5 U.S.C. 552, as amended."

(2) Section 1.5 is amended by revising subparagraph (b)(2) and by adding new subparagraphs (b)(3) and (4) to read as follows:

§ 1.5 Specific requests for other records.

* * * * *

(b) * * *

"(2) When an unclassified record created by another Department agency is in the possession of a constituent unit of the Department of the Treasury, and that record is requested under the FOIA, the responsible Treasury official shall make the determination to release or not to release the information. If a question exists whether the record should be exempt from disclosure under the FOIA, the responsible Treasury official may request immediate advice from the originating agency. However, the ultimate decision to release or withhold from disclosure remains with the responsible Treasury official. When a request is denied, the requester shall be advised of the right to appeal and shall be advised that a request for the record may also be made directly to the originating agency. If Treasury's decision is appealed, the originating agency may again be requested to advise immediately regarding the releasability of the records. The ultimate appeal decision, however, again rests with the responsible Treasury official.

(3) When a classified record, originated by another agency, is in the possession of a constituent unit of the Department of the Treasury, and an FOIA request for that record is received, the request shall be referred to the originating Department or agency for a direct response. The requester, however, shall be advised of the referral. This is not a denial of an FOIA request; thus no appeal rights accrue to the requester.

(4) When a record created by another Department or agency, is in the possession of a constituent unit of the Department of the Treasury and the record contains both classified and unclassified material, the entire record shall be referred to the originating agency. As in subparagraph 3 above, a referral is not a denial of an FOIA request and no appeal rights accrue to the requester, but the requester shall be immediately notified of the referral."

Dated: February 8, 1979.

W. J. MCDONALD,
Acting Assistant Secretary (Administration).

[FR Doc. 79-5122 Filed 2-15-79; 8:45 am]

[7710-12-M]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 601—PROCUREMENT OF PROPERTY AND SERVICES

Miscellaneous Amendments to Postal Contracting Manual

Correction

AGENCY: Postal Service.

ACTION: Correction of Effective Date of Final rule.

SUMMARY: In FR Doc. 79-4571 appearing at page 8262 in the issue for Friday, February 9, 1979, make the following correction: On page 8262, in the third column, in the Effective Date, change the effective date from February 29, 1979 to February 28, 1979.

EFFECTIVE DATE: February 28, 1979.

FOR FURTHER INFORMATION CONTACT:

William J. Jones, (202) 245-4603.

W. ALLEN SANDERS,
Acting Deputy General Counsel.

[FR Doc. 79-5108 Filed 2-15-79; 8:45 am]

[4110-12-M]

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-7—CONTRACT CLAUSES

PART 3-57—CONTRACT ADMINISTRATION

AGENCY: Department of Health, Education, and Welfare.

ACTION: Final rule.

SUMMARY: The Office of the Secretary, Department of Health, Education, and Welfare is establishing policy regarding the withholding of contract payments if a contractor fails to comply with contract delivery terms and conditions. The policy is to be established under a new Subpart 3-57.1, Contract Monitoring, under a new Part 3-57, Contract Administration.

Appropriate contract clauses have been developed for use with the withholding of contract payments policy and are added under Part 3-7, Contract Clauses.

EFFECTIVE DATE: This amendment is effective February 16, 1979.

FOR FURTHER INFORMATION, CONTACT:

E. S. Lanham, Division of Procurement Policy and Regulations Development, OGP-OASMB-OS, Room 539H—Hubert H. Humphrey Building, Department of Health, Education, and Welfare, Washington, D.C. 20201 (202-245-6347).

SUPPLEMENTARY INFORMATION: On October 13, 1978, the proposed rule regarding the withholding of contract payments was published in the FEDERAL REGISTER (43 FR 47217) and invited public comments by November 27, 1978. As a result, four responses were received—two from educational institutions, one from a private firm, and one from an educational association.

One of the educational institutions opposed the withholding of the entire contract payment amount and proposed a small percentage be withheld instead, since financial difficulties could result if the entire amount is withheld. The Department emphasizes that the contractor, by signing the contract, agrees to all terms and conditions stated in the contract including the delivery terms and conditions. Payment would only be withheld when the contractor fails to deliver, and, in accordance with the Excusable Delays clause, the contractor is determined to be at fault. If the contractor fulfills its requirements as stated in the contract, there will not be a need for the Department to withhold contract payments.

The other educational institution objected to the proposed policy by citing the quantity of fiscal data reports and the amount of detailed information required by these and other reports, and recommending that these report requirements be validated before initiating the withholding provisions. While the reports and other paperwork required by the Department may seem excessive in some instances, the Department must ensure that payments to the contractor are justifiable and correct before the payment is actually made. The implementation of the withholding of payments policy does not create additional paperwork, but serves as a safeguard to ensure that payments are made for work actually performed, and performed in a timely manner according to the delivery terms and conditions of the contract.

The private firm presented the issue that neither the Excusable Delays clause nor the Withholding of Contract Payments clause account for the possibility that the Government may be at fault, and that the clause should be altered to provide this stipulation. The Excusable Delays clause clearly provides for the circumstances that an overdue delivery of goods, services, or reports may not be the fault of the contractor, and may be the fault of the Government. The Withholding of Contract Payments clause references the Excusable delays clause, and other clauses which would also cover this situation.

The educational association stated that the addition of the two clauses is unnecessary because the Department already has the area covered by present contract clauses. The Department recognizes that it has the inherent right to withhold payment if the contract delivery terms and conditions are not met. However, the purpose of the addition of the regulation and the two clauses is to make it clear that the Department will take the necessary withholding action as required.

Therefore, the suggestions of the respondents are not accepted, and the policy regarding the withholding of contract payments is finalized as originally stated in the proposed rule.

The provisions of the amendment are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

Title 41 CFR Chapter 3 is amended as set forth below.

Dated: February 2, 1979.

E. T. RHODES,
Deputy Assistant Secretary for Grants and Procurement.

1. Part 3-57, Contract Administration, is hereby established. Under Part 3-57, the table of contents, scope of part, and Subpart 3-57.1, Contract Monitoring, are also established.

PART 3-57—CONTRACT ADMINISTRATION

Sec.

AUTHORITY: 5 U.S.C. 301, 40 U.S.C. 486(c).

§ 3-57.000 Scope of part.

This part sets forth responsibilites, policies, and procedures to be followed by Departmental personnel in the administration of contracts.

Subpart 3-57.1—Contract Monitoring

§ 3-57.104 Withholding of contract payments.

§ 3-57.104-1 Policy.

It is the Department's policy that:

(a) All solicitations and resultant contracts contain:

(1) A withholding of contract payments clause, and

(2) An excusable delays clause or a clause which incorporates the definition of excusable delays.

(b) A separate notice to the contractor highlighting its agreement with the withholding of contract payments clause be included in the transmittal or cover letter of the contract.

(c) No contract payment is to be made as long as:

(1) Any report required to be submitted by the contractor is overdue, or

(2) The contractor fails to perform or deliver work or services required by the contract.

(d) A ten-day notice is to be issued, or appropriate termination action is to be initiated, for any failure in the contractor's performance stated under the preceding paragraph (c).

§ 3-57.104-2 Applicability.

The foregoing policy applies to all solicitations and resultant contracts. The policy is to be applied to all contract modifications effecting supplemental agreements which did not contain the policy requirements in the basic contract.

§ 3-57.104-3 Contract clauses.

(a) The contracting officer is to include the Withholding of Contract

Payments clause in § 3-7.5022 in the special provisions of all solicitations and resultant contracts, and in contract modifications effecting supplemental agreements when the basic contract did not contain the clause.

(b) The contracting officer is to ensure that all solicitations and resultant contracts, including contract modifications effecting supplemental agreements, contain a contract clause which defines the term excusable delays.

(1) If the term is defined in another clause which is to be included in the solicitation and resultant contract, as, for example, in Article 5 of Standard Form 23-A, General Provisions (Construction Contract), or Article 11 of Standard Form 32, General Provisions (Supply Contract), the contracting officer need not take further action.

(2) If the solicitation and resultant contract are to contain a termination for default clause where the term excusable delays is not defined, the contracting officer is to include the Excusable Delays clause cited in § 1-8.708.

(3) If the solicitation and resultant contract are to contain neither a termination for default clause nor a definition of the term excusable delays, the contracting officer is to include the clause in § 3-7.5023 in both the solicitation and resultant contract.

2. Part 3-7, Contract Clauses, Subpart 3-7.50, Special Contract Clauses, is amended to add the following:

§ 3-7.5022 Withholding of contract payments.

The following clause is to be included in all solicitations, resultant contracts, and contract modifications effecting supplemental agreements as specified in § 3-57.104-3(a):

WITHHOLDING OF CONTRACT PAYMENTS

Notwithstanding any other payment provisions of this contract, failure of the Contractor to submit required reports when due, or failure to perform or deliver required work, supplies, or services, will result in the withholding of payments under this contract unless such failure arises out of causes beyond the control, and without the fault or negligence of the Contractor as defined by the clause entitled "Excusable Delays," "Default," "Termination," or "Termination for Default," as applicable. The Government shall promptly notify the Contractor of its intention to withhold payment of any invoice or voucher submitted.

§ 3-7.5023 Excusable delays.

The following clause is to be included in solicitations and contracts (and contract modifications effecting supplemental agreements) as specified in § 3-57.104-3(b)(3):

EXCUSABLE DELAYS

Except with respect to failures of subcontractors, the Contractor shall not be considered to have failed in performance of this contract if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the failure of a subcontractor to perform, and if such failure arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be deemed to have failed in performance of this contract, unless (a) the supplies or services to be furnished by the subcontractor were obtainable from other sources, (b) the Contracting Officer shall have ordered the Contractor in writing to procure such supplies or services from such other sources, and (c) the Contractor shall have failed to comply reasonably with such order. Upon request of the Contractor, the Contracting officer shall ascertain the facts and extent of such failure and, if he shall determine that any failure to perform was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the termination clause hereof. (As used in this clause, the terms "subcontractor" and "subcontractors" mean subcontractor(s) at any tier.)

[FR Doc. 79-5148 Filed 2-15-79; 8:45 am]

[4910-62-M]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. No. 1-138]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation to the Commandant of the Coast Guard and to the Administrator of the St. Lawrence Seaway Development Corporation

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to delegate to the Commandant of the Coast Guard and to the Administrator of the St. Lawrence Seaway Development Corporation, function vested in the Secretary of Transportation by the Port and Tanker Safety Act of 1978. The reason for this is that the Ports and Waterways Safety Act of 1972 was superseded by the Port and Tanker Safety Act. The effect of this action will be to update and continue the authority previously delegated by the Secretary.

EFFECTIVE DATE: This Amendment is effective February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Captain P. J. Danahy, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Bldg., 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-1477 or Robert D. Kraft, Saint Lawrence Seaway Development Corporation, Room 814, Building 10-A, 800 Independence Avenue, S.W., Washington, D.C. 20591, (202) 426-3574.

SUPPLEMENTARY INFORMATION: Since this amendment relates to departmental rules of organization, it is excepted from notice and public procedure requirements. It is made effective immediately because it is not a substantive rule.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are Chris Llana, Project Manager, Office of Marine Environment and Systems, U.S. Coast Guard, and Richard Clark, Office of the General Counsel, U.S. Department of Transportation.

DISCUSSION OF DELEGATION

The Port and Tanker Safety Act of 1978 superseded the Ports and Waterways Safety Act of 1972. It revised, restated, and expanded upon the provisions of that Act. The new Act continues all the authority granted to the Secretary in the 1972 Act and in 46 U.S.C. 214 (concerning pilotage standards) and, in addition, gives new authority to carry out the purposes of the legislation.

The authority, with respect to the St. Lawrence Seaway, is being delegated to the Administrator of the St. Lawrence Seaway Development Corporation. All other authority is being delegated to the Commandant of the U.S. Coast Guard.

In consideration of the foregoing, Part 1 of Title 49 of the Code of Federal Regulations is amended as follows:

1. By amending paragraph (n)(4) of § 1.46 to read:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(n) * * *

* * * * *

(4) Port and Tanker Safety Act of 1978 (92 Stat. 1471), except sections 4, 5, 6 and 7 of Sec. 2 to the extent that

those sections pertain to the operation of the St. Lawrence Seaway.

2. By amending paragraph (a) of § 1.52 to read:

§ 1.52 Delegation to Administrator of the St. Lawrence Seaway Development Corporation.

The Administrator of the St. Lawrence Seaway Development Corporation is delegated authority to—

(a) Carry out the functions vested in the Secretary by sections 4, 5, 6 and 7 of Sec. 2 of the Port and Tanker Safety Act of 1978 (Pub. L. 95-474) as they relate to the operation of the St. Lawrence Seaway.

* * * * *

(Sec. 9(e): Department of Transportation Act (49 U.S.C. 1657(e)).)

Issued in Washington, D.C., on January 23, 1979.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc. 79-5007 Filed 2-15-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1356]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Co. at Ripon, Wis.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Service Order No. 1356.

SUMMARY: The lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) serving Ripon, Wisconsin, are inoperable because of heavy snow at this location, which is depriving industries located adjacent to the MILW tracks at this location of railroad service. Service Order No. 1356 authorizes the Chicago and North Western Transportation Company to operate over tracks of the MILW in Ripon in order to restore railroad service to these shippers.

DATES: Effective 3:00 p.m., February 9, 1979. Expires 11:59 p.m., March 15, 1979.

FOR FURTHER INFORMATION CONTACT:

J. K. Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C., 20423, Telephone (202) 275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION:

Decided: February 9, 1979.

The lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) serving Ripon, Wisconsin, have become inoperable because of heavy snow. Numerous shippers located adjacent to the tracks of the MILW have been deprived of essential railroad service because of the inability of the MILW to switch the industries at Ripon. The Chicago and North Western Transportation Company (CNW) has agreed to operate over the tracks of the MILW at Ripon in order to restore essential railroad service to these shippers. The MILW has consented to such use of its tracks by the CNW.

It is the opinion of the Commission that an emergency exists requiring the operation of CNW trains over these tracks of the MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

§ 1033.1356 Service Order No. 1356.

(a) *Chicago and North Western Transportation Company Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Ripon, Wisconsin.* The Chicago and North Western Transportation Company (CNW) is authorized to operate over tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) at Ripon, Wisconsin, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the CNW over tracks of the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved by the CNW over the tracks of the MILW shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 3:00 p.m., February 9, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 15, 1979, unless otherwise modified, changed or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

H. G. HOMME, JR.,
Secretary.

[FR Doc. 79-5149 Filed 2-15-79; 8:45 am]

[7035-01-M]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. MC-116]

PART 1100—RULES OF PRACTICE

Change of Policy; Consideration of Rates in Operating Rights Application Proceedings—General Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Policy Statement.

SUMMARY: This general policy statement governs the consideration of rates in motor common carrier operating rights application proceedings. Parties will have the option of placing rate levels in issue in operating rights proceedings. The ability of an applicant to offer the shipping public lower rates based on operating efficiencies is a factor that will be considered in determining whether there is a need for additional service. This consideration of rates in operating rights application proceedings represents a change in policy.

DATES: This policy statement is effective March 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz (202) 275-7693.

SUPPLEMENTARY INFORMATION: This is the culmination of a three-part public proceeding which was instituted by a Notice of Proposed Rulemaking in the FEDERAL REGISTER on February

24, 1978 (43 FR 7675 (1978)). After considering the numerous comments received, the Commission, on September 19, 1978 (43 FR 42097 (1978)), gave notice of its intention to issue a general policy statement instead of specific regulations. Guidelines for the consideration of rates in operating rights application proceedings were proposed, and public comment again was invited. Eighty-five individuals and organizations have responded.

Past Commission policy has been that rates are generally not a matter for consideration in common carrier application proceedings unless existing rates are so high as to constitute a virtual embargo. *Porter Transp. Co. Common Carrier Application,* 74 M.C.C. 675 (1958), *H. L. & F. McBride Extension—Ohio,* 62 M.C.C. 779 (1954); or where the rate benefit is attributable to differences between two modes of transportation, *Schaffer Transportation Co.* v. *United States,* 355 U.S. 83 (1957); *I.C.C.* v. *J-T Transport Co.,* 368 U.S. 81 (1961). In all other respects, the prevailing view has been that, if shippers are dissatisfied with existing rates, the proper place to test the legality of those rates is in a compliant proceeding, and not in an application proceeding. See *American Trucking Ass'n.* v. *United States,* 326 U.S. 77, 86-87 (1945); *Auclair Transportation, Inc.* v. *United States,* 221 F. Supp. 328, 333-334 (D. Mass. 1963), *aff'd per curiam,* 376 U.S. 514 (1964).

The National Transportation Policy, 49 U.S.C. 10101 (formerly 49 U.S.C. preceding § 1), requires the Commission to "recognize and preserve" the different modes of transportation; "to promote safe, adequate, economical, and efficient transportation;" and "to encourage sound economic conditions in transportation including sound economic conditions among carriers." The courts have generally stated that competition between different modes of transportation, *I.C.C.* v. *Parker,* 326 U.S. 60 (1945), as well as competition within the same mode of transportation, *Bowman Transportation, Inc.* v. *Arkansas-Best Freight, Inc.,* 419 U.S. 381 (1974), is a relevant factor to be considered by the Commission in determining whether the grant of an application would further the National Transportation Policy. *Trans-American Van Service, Inc.* v. *United States,* 421 F. Supp. 308, 321-322 (N.D. Tex. 1976).

Cases where a carrier sought to provide service to an area already served by basically the same type of transportation, only at a lower rate, have been distinguished from cases where an applicant carrier seeks to compete for traffic now handled exclusively by a different mode of transportation. See *Carl Subler Trucking, Inc., Extension—Southern States,* 77 M.C.C. 707 (1958). In the latter situation it has been held that the rate benefit attributable to differences between the two modes of transportation is an "inherent advantage" of the competing type of carrier and must be considered by the Commission. *Schaffer, supra; J-T Transport Co., supra.* There is an analogy between consideration of the inherent advantages of different modes of transportation and consideration of the level of rates assessed by carriers of the same mode. Competition within a mode is just as important as competition among modes.

In determining whether the public convenience and necessity require a proposed service, the Commission is obligated to consider, among other things, the competitive impact of an applicant's proposed service upon the affected marketplace. See *P. C. White Truck Line, Inc.* v. *United States,* 551 F. 2d 1326 (D.C. Cir. 1977). In so doing, the Commission must determine whether an applicant's proposed service would beneficially affect the existing competitive situations and lead to an improved transportation service, or whether the addition of applicant's proposed service would result in destructive competition contrary to the National Transportation Policy. In assessing the competitiveness of a marketplace, comparative rate levels may well be an important factor for us to consider. For example, the fact that existing rate structures are substantially higher than those being offered by an applicant, may indicate a lack of healthy and desirable competition in a particular marketplace.

In many cases rates are already an underlying issue in operating rights proceedings. However, because of our past policy against the consideration of rate evidence, the parties have generally addressed the nature of the proposed service rather than the level of the proposed rates. See *Maxwell Co., Ext.—Chicago to Cincinnati,* 112 M.C.C. 235 (1970); *Rogers Cartage Co., A Corporation—Extension,* 110 M.C.C. 139 (1969); and *Dieckbrader Express, Inc., Extension—Massillon, Ohio,* 103 M.C.C. 540 (1967). In those cases where the rate levels were placed in evidence, the Commission was able to consider this evidence significant only as further proof of the unique nature of the proposed service. See *Ace Transp. Co., Inc., Ext.—Charter Operations,* 130 M.C.C. 382 (1978); and *Robinson Common Carrier Application,* 126 M.C.C. 180 (1976). Although the Commission has often recognized that shippers who support a "no frills" or more "economical" service than that offered by existing carriers are actually interested in cost savings, it has generally not considered the direct benefits which would accrue to the shippers from having the lower rate available. By recognizing rates as a factor in motor common carrier operating rights application proceedings, we seek to have this underlying issue dealt with explicitly.

Throughout this proceeding numerous parties have expressed their concern that this change in policy is in conflict with the provisions of the National Transportation Policy which seek to foster sound economic conditions in transportation and promote fair wages and equitable working conditions. The Congressional aims set out in the National Transportation Policy require the Commission to promote safe, adequate, economical, and efficient transportation; to encourage sound economic conditions in transportation; and to encourage fair wages and working conditions in the industry. It is our view that rates may be considered in operating rights application porceedings for the purpose of encouraging economical and efficient service without necessarily encouraging destructive competition or unfair working conditions. The Commission, in implementing this policy change, does not intend to place undue emphasis on any single provision of the National Transportation Policy. In fact, we believe that under our past policy of generally ignoring any consideration of rate structures, undue emphasis, at times, was placed on the avoidance of destructive competition to the detriment of the Congressional aim that we promote economical and efficient service.

Accordingly, in future proceedings before this Commission, involving applications for permanent motor *common* carrier operating authority, parties will be permitted to raise the issue of rates, and the Commission will consider this issue as a factor in determining whether the proposed service is or will be required by the present or future public convenience and necessity. We anticipate that this change in policy will stimulate innovative pricing and service options, promote efficient and well-managed operations, and encourage rate competition. Furthermore, by allowing carriers who can operate efficiently to enter the market, we believe that increased efficiency and productivity by all carriers will be encouraged which will help control the cost of transportation and inflation.

Our discussion of the comments received therefore will be limited to the two procedural matters raised by several parties and those provisions of the proposed guidelines which require some modification or clarification.

A number of parties suggest that we issue specific rules to govern the introduction of rate evidence in an operating rights proceeding, and one party argues that, pursuant to the require-

ments of the Administrative Procedure Act, 5 U.S.C. 551(4) (APA), this change in policy is a matter that should be handled through the more stringent standards of a rulemaking proceeding.

Our purpose in issuing a policy statement as opposed to promulgating specific regulations is not be be viewed as an attempt to circumvent the procedural requirements of rulemaking. All of the essential procedural safeguards governing rulemaking have been observed by the Commission throughout this proceeding even though the issuance of a general statement of policy and of rules of agency practice or procedure are specifically excluded from such requirements. See section 553(b) of the APA. Furthermore, no provision of the APA requires that an administrative agency immediately cast every principle essential to its effective administration into the mold of a specific rule. We believe that the issuance of this policy statement will provide us with the flexibility needed to deal with any special problems or unforeseeable situations which may arise in our future consideration of rate evidence in operating rights application proceedings. However, since this policy statement relates so directly to procedures for motor common carrier application proceedings, we feel that it should be included in our rules of practice which are set forth in the Code of Federal Regulations. This is especially true for the procedural requirements contained in paragraph 2. Therefore, we are including it in Special Rule 247 of the Commission's rules of practice (49 CFR 1100.237) as a new subsection.

Several of the participants who are dissatisfied with the proposed change of policy request that oral argument be permitted. All interested persons have had ample opportunity to comment on the subject matter in this proceeding. It is doubtful that oral argument would add anything of substance to the numerous comments which have been received. Accordingly, the requests for oral argument are denied.

Notice of Reliance on Rate Considerations

A number of parties question why protestants should be allowed to raise the issue of rates despite the fact that their raising the issue would not force the applicant to support its application with rate evidence. We believe that it is only fair to permit a protestant to introduce evidence concerning its existing rates where it believes that such evidence is relevant to its case. This is true whether or not the applicant is relying upon an alternative theory, such as inadequacy of existing service, and whether or not the applicant addresses the issue of rates at all during the application proceeding. However, we wish to emphasize that the raising of the issue of rates by a protestant does not in any way force the applicant to pursue this issue where the applicant is seeking authority solely on other grounds since the introduction of rate evidence to support an application is entirely optional. Minor changes in the language of paragraph 2 of our policy statement have been made to emphasize this point.

Some parties are concerned that, unless a protestant raises the rate issue when an applicant has not, the protestant will be precluded from cross-examination on the issue of whether rates are actually the shipper's reason for supporting an application. Protestants, under this new policy, will still have the right to cross-examine a shipper witness as to whether its reason for supporting the application is based on rate considerations regardless of whether either the applicant or protestant has directly raised a rate issue.

Some parties believe the Commission should define what it means by a "tentative" schedule in paragraph 2 of the policy statement or should instead require a firm or final schedule of rates to be filed with the application. This would be to insure that the rates submitted in the proceeding can be relied upon by the parties and are complete. The use of the term "tentative" in the policy statement means only that the rate schedule might be modified during the course of an application proceeding, particularly a long proceeding, subject to the Commission's approval. For example, if the Commission approves an application based upon rates, it may or may not permit certain interim or prospective general increases to apply, just as it may or may not impose certain restrictions upon the authority. By treating the schedules as tentative, the Commission will be able to consider a variety of conditions or qualifications to meet the circumstances of any given application.

Furthermore, we have revised the language of the proposed policy statement to insure that the tentative schedule filed with an application constitutes complete and reliable notice. Although the schedules are tentative, we require that they comply with the Commission's regulations governing construction, preparation, form, and contents of motor carrier tariffs, schedules, and classifications (49 CFR Parts 1306, 1307, and 1310). We also specifically require the applicant to submit a copy of the schedule to any protestant who so requests.

Rate Evidence

Several comments request that supporting shippers not be required to negotiate with existing carriers for lower rates, contending that such a requirement encourages rate wars. It is not our intention to require mandatory negotiations to this end. Rather, we ask that applicants show what attempts, "if any," supporting shippers have made to negotiate reduced rates with existing carriers. Failure to try existing carriers before sponsoring a new applicant will not automatically result in exclusion of rates from consideration. On the other hand, we feel that evidence of negotiations may be of real importance to some applications. For example, where there is new traffic involved, existing carriers may be very willing to reduce their rates because the increased volume of traffic warrants it.

Other comments insist that applicants support their rates with cost evidence. We believe that cost evidence, while acceptable and helpful to such applications, should not be required. In many cases actual cost evidence will simply not be available. Except for operations under temporary authority, an applicant may have no cost experience on a new movement, and the new entrant would have no cost experience whatsoever. Finally, we believe that a cost evidence requirement would be unduly harsh on small carriers and would favor large carriers, whether as applicants or protestants.

Some of the comments express concern over what kinds of "operational efficiencies or advantages" the Commission will consider in connection with rate-based applications. Specifically, these comments consider cost savings from low wages, reduced owner-operator compensation, or cuts in employee training, equipment maintenance and replacement, safety, and insurance to be false economies entitled to no weight. Others suggest that an applicant who proposes to "cream" the traffic and avoid undesirable, high-cost freight, or who proposes to operate with inadequate equipment and facilities, is not necessarily an efficient operator.

We recognize that we are under a duty to administer the Interstate Commerce Act consistently with the Congressional policy of promoting safety, fair wages, and equitable working conditions in transportation. Accordingly, unfair wages, neglect of safety, inadequate insurance, and other violations of the provisions or spirit of the Act or our regulations will not be considered as operational efficiencies or advantages. In addition, applicants are in no way relieved of the burden of showing their fitness to perform the service proposed.

We also recognize that carriers utilizing owner-operators lose little through rate reductions, because the greatest part of any rate reduction is borne by the percentage share of the owner-operator himself, rather than by the smaller percentage retained by the carrier. This is a matter of concern, and applications will be closely scrutinized to determine whether the ability to offer lower rates is based on the payment of lower compensation to owner-operators for otherwise similar operations.

Finally, we are asked to clarify the last sentence of paragraph 4, which states that the weight accorded the rate factor will vary on a case-by-case basis, according to the strength of "applicant's evidence." This does not mean that only applicants' evidence will be considered and that protestants' evidence will be ignored. To avoid any such misunderstanding, we will modify this sentence to read: "The weight to be accorded the rate factor will vary on a case-by-case basis, according to the strength of applicant's evidence as determined by the Commission from the record as a whole."

FULFILLING THE RATE COMMITMENT

A number of parties generally suggest the Commission should have a uniform holddown period, such as one year, rather than a requirement "tailored" to the circumstances. They state that such a uniform period will insure that rate reliance is sincere and claim that "tailored" requirements are not necessary since relief from the rate commitment (paragraph 6) will be on a case-by-case basis. Additionally, automatic imposition of a uniform holddown period, it is contended, will allow the Commission to avoid having to make a determination of the special circumstances in each case.

However, uniform holddowns are not always appropriate. The determination of an appropriate holddown period, if any, or of other conditions, involves a balancing of a variety of factors. It requires consideration of the weight of the rate factor, the administrative feasibility of enforcement, and the weight of evidence showing the applicant's ability or lack of ability to maintain lower rates as promised. Furthermore, imposing uniform holddowns would unnecessarily increase the complexity and the time consumed for enforcing each grant of authority. With experience, the Commission will be able to tailor its approvals to suit the circumstances of each application so that future alterations will seldom be necessary. Experience has shown that conditions and enforcement provisions designed to fit the particular circumstances work best. See *Bilyeu Refrigerated Transport Corp., Extension—Missouri Origins to Arkansas, Oklahoma, and Kansas,* 106 M.C.C. 692 (1968).

Accordingly, we adopt the following policy statement and we amend Special Rule 247 of the Commission's Rules of Practice (49 CFR 1100.247) by adding this policy statement as a new paragraph as follows:

§ 1100.247 Rules governing applications by motor carriers of property or passengers and brokers under sections 206 (except section 206(a)(6) relating to certificates of registration), 209 and 211, by water carriers under sections 302(e), 303, and 309, and by freight forwarders under section 410 of the Act. (Rule 247).

* * * * *

(n) *Policy Statement concerning the consideration of rates*—(1) *General.* The Commission's policy is to permit any party in an application proceeding for permanent motor common carrier authority for the transportation of either passengers or property to raise the issue of rates. The introduction of rate considerations in an operating rights case is optional, not mandatory. By making rates an optional factor in our determination of public convenience and necessity in common carrier application proceedings, we seek to insure that the parties have the opportunity to make all relevant factors a part of the record on which our conclusions are based. In this statement, "rates" includes all rates, fares, and charges.

(2) *Notice of reliance on rate considerations.* An applicant electing the option of placing rates in issue must attach to the application form a brief statement that it intends to offer rates lower than those available from existing motor carriers, together with a tentative schedule of the proposed rates and charges for the complete service involved. This tentative schedule must be in compliance with the Commission's regulations governing construction, preparation, form, and contents of tariffs (49 CFR Parts 1306, 1307, and 1310). Public notice of an applicant's reliance on rate issues will be given by publication in the FEDERAL REGISTER. An applicant must submit a copy of its tentative rate schedule to each protestant who so requests. A protestant electing to raise a rate issue in challenging an application must so indicate in its protest. A protestant by raising a rate issue does not in any way force an applicant into relying on the issue of rates where the applicant is seeking authority solely on grounds other than rates (such as inadequacy of existing service), since the introduction of rate evidence by an applicant to support an application is entirely optional.

(3) *Burden of proof.* If an applicant elects to place rates in issue, it has the burden of proof as to all aspects of public convenience and necessity, including its ability to perform the proposed service at rates lower than those of other carriers. However, an applicant in an operating rights case need not assume the burden of establishing that such rates will be just and reasonable and otherwise lawful. Rather, an applicant's evidence should relate to its ability to offer the proposed service at a lesser rate than existing carriers based on efficiency of operations, increased productivity, or other relevant considerations. This policy does not prejudge the lawfulness or change any evidential burden regarding initial rates and will not impair the right of any person to protest a rate after it is filed with the Commission.

(4) *Rate evidence.* Evidence to be submitted by an applicant in support of its proposed rates should include, but need not be limited to, the following: (i) A comparison of applicant's proposed rates, fares, and charges with those maintained by existing motor carriers; (ii) attempts, if any, by those supporting the application to negotiate reduced rates with existing carriers; (iii) a showing that the low rates will not impair applicant's financial fitness; and (iv) a narrative description of applicant's operational efficiencies or advantages which enable it to provide lower rates. The weight to be accorded the rate factor will vary on a case-by-case basis, according to the strength of applicant's evidence as determined by the Commission from the record as a whole.

(5) *Fulfilling the rate commitment.* Applicants that depend upon rates to support a proposed service should fulfill their rate commitment. If necessary, the Commission may impose an express requirement that they do so. For example, the Commission may grant a limited term certificate for an appropriate period, such as 1 to 3 years. The Commission may also require periodic compliance reports, allowing the applicant to petition for permanent authority only at the end of the term. At such time, applicant would have to prove that it has provided satisfactory service at the proposed rate level. In other cases when appropriate, the Commission may impose a rate holddown condition in the certificate. In some cases, other conditions may be appropriate. Applicants relying on rate evidence should be aware that the Commission may impose such restrictions upon a grant of authority and may also impose sanctions, such as revocation of the authority, upon violation of a restriction. Furthermore, whenever there is a restriction upon the authority, the issuance of the certificate may be post-

poned until the date the proposed rate actually becomes effective.

(6) *Relief from rate commitments.* The Commission will allow relief, on a case-by-case basis, from the requirement that applicants fulfill their rate commitment. Rate relief may be expressly provided in the initial grant of authority, or may be permitted upon later petition by the carrier. The Commission may permit increases in the proposed rate, for example, to the extent of general rate increases or provable but unpredictable cost increases, such as substantial increases in the cost of fuel.

This decision does not significantly affect the quality of the human environment nor is it a major regulatory action under the Energy Policy and Conservation Act of 1975.

Dated: February 2, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp and Christian. Commissioner Stafford concurring in part, dissenting in part.

H. G. HOMME, Jr.,
Secretary.

COMMISSIONER STAFFORD, concurring in part, dissenting in part:

I disagree with the way the majority has resolved Item 5, Fulfilling the Rate Commitment, and Item 6, Relief from Rate Commitments. My separate expression here will not be much different from my previous expression, because the result has not changed.

There is more support for the concept of required holddowns (or some similar restriction against rate increases) than any other part of this General Policy Statement. It is supported by shippers (International Paper and Pillsbury), shipper representatives (the meat-packers and National Small Shipments Traffic Conference and Drug and Toilet Preparation Traffic Conference) and the federal government (DOD, DOT, GSA, and the Federal Reserve Banks). The concept is also widely supported by the trucking industry and by the Motor Carrier Lawyers Association.

All of these parties recognize that this issue simply involves an element of reasonableness and fair play. If an applicant receives a grant of authority based on its promise of lower rates, the carrier should be held to that promise, at least for some substantial period of time. The potential for abuse is too great if firm limits are not imposed. In my opinion, a limit on rate increases for one to three years seems reasonable.

Consistent with the above, relief from rate commitments should be granted sparingly (except, of course, that industry-wide general increases should be applicable to these rates as well). The Commission should state that it will not look with favor upon such requests, and that repeated requests for relief may adversely affect a carrier's subsequent applications where it proposes a lower rate. If a carrier receives several grants of authority based on lower rates, and then seeks relief from our holddown conditions, it is an indication that rates should not have been the basis for a grant. In future application proceedings of that carrier, this issue may be raised and it should receive appropriate weight.

One final point worth noting about the notice is that the real beneficiaries of this policy statement will not be the small shippers who need rate relief the most. No matter what incentives the Commission may offer, the large shipper will always receive a better rate than the small shipper. I am concerned that this policy statement may widen the rate differences that already exist.

[FR Doc. 79-5150 Filed 2-15-79; 8:45 am]

proposed rules

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 210]

NATIONAL SCHOOL LUNCH PROGRAM

State Advisory Councils; Correction

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects proposed rule which appeared in Federal Register Docket 79-484 on page 1379 in the issue of January 5, 1979. The following correction should be made in the second column. The date in the first full paragraph should be corrected to read March 6, 1979 instead of January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Margaret O'K. Glavin, Director, School Programs Division, FNS, USDA, Washington, D.C. 20250 (202-447-8130).

Dated: February 12, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 79-5109 Filed 2-15-79; 8:45 am]

[3410-05-M]

Commodity Credit Corporation

[7 CFR Part 1435]

PRICE SUPPORT LOAN PROGRAM FOR 1978 CROP SUGAR BEETS AND SUGARCANE

Proposed Relocation of 1978 Crop Loan Sugar Prior to Loan Maturity

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture gives notice that he is considering a proposal to reimburse processors for the cost of relocating certain 1978 crop sugar under Commodity Credit Corporation (CCC) price support loans.

The sugar industry in Puerto Rico has requested the Department to enhance the ability of processors to open up storage space needed for the 1979 crop by paying the cost of relocating 1978 crop loan sugar to alternate storage sites. Sugar under loan in Puerto Rico is now stored in warehouses which are situated to receive sugar as it is processed. This warehouse space is needed to accomodate 1979 crop sugar for which harvest and processing began early in January.

The proposed relocation reimbursement provision would be made available to sugar producers and processors in all domestic producing areas having a need to open up storage space imminently needed for storage of 1979 crop sugar. Since processors would only be reimbursed for the relocation of sugar intended for forfeiture at loan maturity, CCC would not incur any additional expenses to those which would normally be incurred upon maturity of the price support loans.

DATE: Comments must be received on or before March 5, 1979, to be assured of receiving consideration.

ADDRESS: Mail comments to Sugar Branch, Procurement and Sales Division, ASCS-USDA, Room 5741-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Laurence E. Ackland, ASCS, PSD, Washington, D.C. 20013, (202-447-5647).

SUPPLEMENTARY INFORMATION: Section 902 of the Food and Agriculture Act of 1977 (Pub. L. 95-113, 91 Stat. 949, effective October 1, 1977) amended Section 201 of the Agricultural Act of 1949 to provide that the price of the 1977 and 1978 crops of sugarbeets and sugarcane shall be supported through loans or purchases with respect to the processed products thereof.

On November 11, 1977, a final rule was published in the FEDERAL REGISTER (42 FR 58734) implementing a program effective as of November 8, 1977, to support prices in the marketplace for producers of 1977 crop sugarbeets and sugarcane through nonrecourse loans made to sugar processors. The price support loan program for the 1977 crop was amended on May 17, 1978 (43 FR 21317), on August 23, 1978 (43 FR 37419), on August 30, 1978 (43 FR 38686), and on October 30, 1978 (43 FR 50409). On November 29, 1978, a final rule implementing an extended 1977 crop sugar loan program was published in the FEDERAL REGISTER (43 FR 55742).

A final rule implementing a price support loan program for the 1978 crop of sugarbeets and sugarcane was published in the FEDERAL REGISTER on June 7, 1978 (43 FR 24663). Amendments to the 1978 crop program were published on August 23, 1978 (43 FR 37419), on August 30, 1978 (43 FR 38686), and on October 30, 1978 (43 FR 50410).

The amendment of October 30, 1978 (43 FR 50409) to the 1977 crop price support loan program provided relocation reimbursement for 1977 crop loan sugar which occupied storage space needed for the 1978 crop. The 1977 crop relocation provision was in response to the needs of several mainland sugarcane processors who in the fall of 1978 experienced the same problem now confronting sugarcane processors in domestic offshore producing areas, particularly Puerto Rico, where the 1979 crop harvest began in January of 1979 and on-site storage space is occupied by 1978 crop sugar under loan.

Hawaiian and Puerto Rican processors did not participate in the 1977 crop loan program, and sugarbeet processors had redeemed enough of their quantities under loan by October 1978, that they did not need to make use of the 1977 crop relocation provision. For the 1978 crop, however, quantities in storage under loan in Puerto Rico, and possibly in Hawaii, create an immediate space availability problem for the 1979 crop. A need is also anticipated later this year within most other domestic producing areas because the total quantity of 1978 crop sugar placed under loan is expected to be about twice that of the 1977 crop.

Under the proposed action, CCC would reimburse processors for their cost of transferring 1978 crop loan sugar, intended for forfeiture, to alternate storage space when the present storage space is needed for storage of 1979 crop sugar. Such relocation would have to be made prior to the loan maturity date but not earlier than 60 days prior to the normal beginning of harvest of the 1979 crop for which the storage space is needed. The processor would be required to reimburse CCC for relocation costs paid by CCC, plus interest thereon, with respect to (1) any quantity of loan sugar subsequently redeemed or (2) any quantity of loan sugar for which sub-

stitution is made with other sugar not determined by CCC to be as favorably situated with respect to its normal marketing area.

Because 1978 crop relocation would be offered earlier in the "loan year" than for the 1977 crop, it is proposed that the 1978 crop relocation regulations be modified in three significant areas from those applicable to the 1977 crop:

(1) Reimbursement would not be permitted for relocation made earlier than 60 days before the normal beginning of harvest of the 1979 crop for which the storage space is needed.

(2) Refund of relocation reimbursement would be required if sugar less favorably located in relation to normal markets is substituted as collateral for loan sugar relocated at CCC expense.

(3) Fixed rates would be established for the reimbursement of loading-out and loading-in expenses incurred by the processor in relocating loan sugar.

With regard to the third modification above, a review of "actual" in and out charges submitted in connection with 1977 crop relocation has been difficult and time-consuming because of the need to determine the direct relationship of a variety of expenses to loading-in and loading-out operations. Therefore, it is proposed for 1978 crop relocation that fixed rates be established for loading-in and loading-out reimbursement. Recommendations and supporting cost data on these operations are specifically requested from all segments of the sugarbeet and sugarcane industry.

In the interest of obtaining other information which will assist the Secretary in establishing the provisions of a relocation reimbursement program for 1978 crop loan sugar, it is requested that respondents give careful consideration to all of the matters discussed above and to the provisions of the proposed rule following below.

An approved Draft Impact Analysis Statement on the proposed action is available from Laurence E. Ackland, Room 5761-South Building, USDA, Washington, D.C. 20250.

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

I have determined that it would be impracticable and contrary to the public interest to comply with the Department's requirement that 60 days be allowed for public comment on this proposal. The proposed action, if implemented, should not unduly delay reimbursement to processors in Puerto Rico who had to begin the necessary relocation of loan sugar in December of 1978. Therefore, the closing date for comments is March 5, 1979.

Prior to adopting the proposed action, the Department of Agriculture will give consideration to comments submitted in writing within the comment period. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5761-South Building, 14th Street and Independence Avenue, SW., Washington, D.C. (7 CFR 1.27(b)).

In consideration of the foregoing, it is proposed to amend 7 CFR Part 1435.41 by redesignating paragraph (a) as paragraph (a)(1) and by adding a new paragraph (a)(2) to read as follows:

§ 1435.41 Loan maintenance and liquidation.

(a)(1) *Maintenance of the commodity under loan.* * * *

(2) *Relocation of loan sugar intended for forfeiture.* A processor may, with prior approval of the loan-making office, but not earlier than 60 days before the normal beginning of harvest of the 1979 crop for which the storage space is needed, relocate sugar under loan, which is in storage space needed for the storage of 1979 crop sugar, to other eligible storage space not needed for the storage of 1979 crop sugar. In addition to the requirements of § 1435.38(d), the eligibility of such alternate space shall depend upon the ability of CCC to enter into a contract permitting the storage of sugar in the same space subsequent to loan maturity of the sugar to be relocated to such space. To the extent possible, such storage space must be located between the production and marketing areas for the sugar relocated. For that portion of the quantity of loan sugar which the processor declares an intention to forfeit on maturity of the loan and which is relocated in accordance with the above conditions, CCC shall pay the actual transportation expenses incurred by such processor in the relocation of such sugar and expenses for loading-out and loading-in at the rate of —— cents per pound: *Provided, however,* That such expenses, plus interest thereon at 7 percent per annum, must be repaid to CCC by the processor for any relocated sugar upon its (i) redemption from loan, or (ii) replacement as collateral by sugar at a different location determined by CCC to be less favorably situated with respect to normal markets.

* * * * *

Signed at Washington, D.C., on February 9, 1979.

STEWART N. SMITH,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-5111 Filed 2-15-79; 8:45 am]

[3410-15-M]

Rural Electrification Administration

[7 CFR Part 1701]

SPECIFICATION FOR OVERHEAD GROUND WIRE SUPPORT BRACKET

Proposed REA Specification T-2

AGENCY: Rural Electrification Administration, USDA.

ACTION: Revision to an Existing Specification.

SUMMARY: The Rural Electrification Administration (REA) proposes to revise REA Specification T-2, "REA Specification for Overhead Ground Wire Support Brackets."

This revision is being made to reflect industry changes in material specifications and to remove restrictions on welds in the end links.

DATE: Public comments must be received by REA no later than April 17, 1979.

ADDRESS: Interested persons may obtain copies of REA Specification T-2 from Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number (202) 447-4413. All data, views, or comments should also be directed to Mr. Hand.

All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division, during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland Hand, (202) 447-34413.

Dated: February 8, 1979.

JOE S. ZOLLER,
Acting Assistant Administrator—Electric.

[FR Doc. 79-5083 filed 2-15-78; 8:45 am]

[3410-34-M]

Animal and Plant Health Inspection Service

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Miscellaneous Amendments; Proposed Rulemaking

AGENCY: Animal and Plant Health Inspection Service (USDA).

ACTION: Proposed rule.

SUMMARY: This proposed amendment would add two new sections to the standard requirements of the regulations under the Virus-Serum-Toxin Act regarding the purity, safety, potency, and efficacy to be met by all biological products containing Feline Calicivirus Vaccine and Feline Rhinotracheitis Vaccine, and one new section regarding a purity test for the detection of chlamydial agents (microorganisms of the genus Chlamydia). The test for chlamydial agents that now appears in the individual standard requirement for Feline Panleukopenia Vaccine would be deleted and reference would be made to the new proposed section containing this test. This proposed amendment would also revise the cat safety test prescribed in the regulations for testing vaccines recommended for use in cats by adding an additional test to be used in testing Master Seed Virus. At the present time, such test appears in each Outline of Production for such products filed by biologics establishments with Veterinary Services. This proposed amendment would make available to all licensees a uniform test for testing Master Seed Virus.

Requirements for products containing Feline Calicivirus Vaccine and Feline Rhinotracheitis Vaccine, a test for the detection of chlamydial agents, and revisions of the cat safety test were first published as proposed rulemaking in the Federal Register May 12, 1978.

Further experience with the testing of these vaccines during the comment period, however, indicates that modification of the original proposal is needed to make evaluation of the results less subjective. The Department has, therefore, decided to modify the proposal of May 12, 1978, and to republish it as a proposed amendment to the regulations under the Virus-Serum-Toxin Act.

DATE: Comments must be received on or before April 17, 1979.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301-436-8245.

SUPPLEMENTARY INFORMATION: The standard requirements found in Part 113 of the regulations consist of test methods, procedures, and criteria established by Veterinary Services for evaluating biological products for purity, safety, potency, and efficacy. Until such standard requirements are developed by Veterinary Services and are codified in the regulations, the test methods, procedures, and criteria used in the evaluation of a product are developed by the licensee and are written into the applicable Outline of Production which is required to be filed with Veterinary Services.

When standard requirements for evaluating a biological product have been developed by Veterinary Services, they are proposed for codification in the regulations. Such codification assures uniformity and general availability of such requirements to all licensees and to the general public.

On May 12, 1978, the Animal and Plant Health Inspection Service published a proposed amendment to the regulations under the Virus-Serum-Toxin Act at 43 FR 20506. This amendment proposed the addition of two new sections to the standards (§§ 113.149 and 113.150) regarding the requirements for purity, safety, potency, and efficacy to be met by all biological products containing Feline Calicivirus Vaccine and Feline Rhinotracheitis Vaccine, and one new section (§ 113.43) regarding the detection of chlamydial agents. It also proposed that § 113.39 be amended by the addition of a cat safety test for use in the evaluation of Master Seed Virus used to make cat vaccines.

A test for chlamydial agents already appears in the standard requirement for Feline Panleukopenia Vaccine in § 113.139. Proposed new § 113.43 (Detection of chlamydial agents) would have resulted in the deletion of the chlamydial agent test from § 113.139 and the addition to that section of language stating that the test for chlamydial agents shall be conducted according to § 113.43.

Following publication of the proposed amendment on May 12, 1978, a 60-day period was designated for the purpose of inviting public comment.

During the comment period, additional tests were conducted at National Veterinary Services Laboratories on samples of Feline Calicivirus Vaccine and Feline Rhinotracheitis Vaccine according to the two new standard requirements in proposed §§ 113.149 and 113.150.

From the experience gained by this testing, it became evident that the criteria which were proposed for evaluating the response of vaccinates and controls in the Master Seed immunogenicity test for these vaccines were too subjective. The proposed amendment of May 12, 1978, would have required that the results of the Master Seed immunogenicity tests in these sections be judged on the basis of protection against temperature response and one or more signs of disease observed in the controls. Protection against temperature response can be evaluated objectively, but generally indicates protection against a systemic infection due to the presence of circulating antibodies and is considered to be of limited value when evaluating the efficacy of a vaccine against a respiratory disease.

Protection against one or more signs of disease observed in the controls has been found to give variable test results. Because the evaluation of clinical signs of disease is very subjective, results can vary significantly depending upon the person conducting the test. The proposed amendment has, therefore, been revised to include a new test procedure with a scoring system that must be approved by Veterinary Services. Licensees would be required to describe the scoring system to be used in the Outline of Production for the product concerned. Such a system would have to give set values for each of the clinical signs that may be observed. Scores would be required to be recorded daily for each animal being tested, and at the conclusion of the test, the scores would be evaluated to determine if statistically significant differences can be demonstrated.

Due to the significant modifications that have been made to correct the proposed amendment in this regard, the Department has decided to redraft the origin proposal and to republish it as a proposed rulemaking.

Seven comment were received from licensed producers of biological products during the comment period. Three responses were favorable to the proposal but offered some suggestions for changes. Four responses contained suggestions for changes only.

One response suggested that a general safety test for Master Seed Virus for products recommended for use in cats would not be appropriate for some products such as killed virus vaccines. It was further suggested that the modifications that would be needed in this test to accommodate the differences that exist in these products would best be made by incorporating a test where needed in individual standard requirements. This

suggestion was rejected since § 113.39 contains a provision which would be applicable to such products by indicating that this test "shall be conducted when prescribed in a standard requirement or in the filed Outline of Production for a biological product." Flexibility has also been provided in the test procedures to allow them to be used for different types of products.

One response questioned if the test for the detection of chlamydial agents in § 113.43 would be retroactive and apply to Master Seed Virus for products already licensed. One of the reasons for publishing standard requirements in the regulations is to provide uniform test requirements for products that are to be met by all licensees. The regulations do not make a distinction between Master Seed Virus for products being presented for license and those already licensed. If the Master Seed Virus for products already licensed has not been tested, tests would have to be conducted before the date this proposed amendment becomes effective to keep such products eligible for release.

The need for culturing throat swabs to establish that test cats are susceptible in § 113.149(c)(1) was questioned in one response. This procedure has been retained to detect the instance where test cats may be exposed to virus a short period of time before the test is to be conducted. Such cats may not have had an adequate time to develop antibodies yet may shed virus and would not be satisfactory for use.

It was requested in one suggestion that Master Seed Virus for products already licensed be exempt from the new cat safety test in § 113.39(a). Although data from tests already conducted may be considered, this proposed amendment would require all Master Seed Virus for all applicable products to be tested, as discussed previously, for the test for chlamydial agents.

One response suggested § 113.39(a)(1)(i) be made more flexible by adding the wording "if applicable for the virus tested, throat swabs shall be collected." This suggestion was rejected because § 113.39(a)(1)(ii) already provides for the use of other methods to determine susceptibility of test cats if the test procedure described is not applicable.

It was also suggested that § 113.39(b)(1) be amended to provide that products recommended for administration by the intranasal route be tested by administering eight doses intramuscularly and two doses intranasally. Since the intramuscular route is far less sensitive than the intranasal route when evaluating the safety of these products, administration by the intramuscular route would not be a valid means of testing products that are recommended for administration by the intranasal route.

As proposed, the test would require that each cat be administered 10 cat doses by the method recommended on the label. This does not prevent rehydration of the vaccine to one-tenth the recommended volume to avoid the problem of dose volume when administering 10 doses by the intranasal route.

Suggestions received in five responses were considered appropriate and constructive. These suggestions have been incorporated in this proposed amendment and are explained in the discussion of changes below.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice, and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice is hereby being republished as proposed rulemaking with the following exceptions:

"Injected" has been changed to "administered" in § 113.39(a)(2) and (b)(1), and in proposed § 113.149(c)(2), and § 113.150(c)(2). Some of the vaccines which would be tested by these standards are recommended to be given by the intranasal route and are not injected.

This change would provide more appropriate terminology that is applicable to all methods of administration.

It is further proposed the § 113.39(a)(2) be reworded for consistency.

Proposed § 113.43(b) has been amended to indicate that deaths that occur after subculture must be shown to be due to chlamydial agents before the Master Seed Virus would be declared unsatisfactory. This proposed change makes provision for nonspecific deaths that can occur in embryos after 48 hours. Such deaths would have resulted in an unsatisfactory test result by the previous proposal.

Proposed §§ 113.149(c)(2) and 113.150(c)(2) have been amended for consistency and clarity to indicate that vaccine in the Master Seed immunogenicity test be administered by the method to be recommended on the label.

The challenge level to be used has been specified in proposed §§ 113.149(c)(3) and 113.150(c)(3) to be a minimum of 100,000 $TCID_{50}$ of virulent virus. An adequate response is required in control cats for a valid test. Specifying the challenge level would control one of the variables in the test and provide greater assurance of a valid result.

Proposed §§ 113.149(c)(3)(i) and (ii) and 113.150(c)(3)(i) and (ii) have been revised completely. New proposed subsections 113.149(c)(4)(i) and (ii) 113.150(c)(4)(i) and (ii) have been added. These revisions have been to provide new test procedures and a more objective means of interpreting test results.

The method used to determine the minimum satisfactory titer of vaccine for release has been made more flexible in proposed §§ 113.149(d)(2) and 113.150(d)(2) by changing "plaque forming units" to "$TCID_{50}$ or plaque forming units." This would permit the use of other procedures besides plaquing to determine the titer for release.

A revision of § 113.139 as also been added to this proposal which would delete the test for the detection of chlamydial agents from § 113.139(b)(2) and add a requirement that this test be conducted as prescribed in new proposed § 113.43.

The first letter of each word in the headings for § 113.139, 113.149, and 113.150 shall be capitalized.

1. Section 113.39 would be amended by revising the introductory portion, by revising paragraph (a), by adding new paragraphs (a)(1) and (a)(2), and by adding a new paragraph (b) to read:

§ 113.39 Cat safety tests.

The safety tests provided in this section shall be conducted when prescribed in a Standard Requirement or in the filed Outline of Production for a biological product recommended for use in cats.

(a) The cat safety test provided in this paragraph shall be used when the Master Seed Virus is tested for safety.

(1) The test animals shall be determined to be susceptible to the virus under test as follows:

(i) Throat swabs shall be collected from each cat and individually tested on susceptible cell cultures for the presence of the virus. Blood samples shall also be drawn and individual serum samples tested for antibody to the virus.

(ii) The cats shall be considered susceptible if swabs are negative for virus isolation and the serums are free of virus antibody at the 1:2 final dilution in a 50 percent plaque reduction test or other serum-neutralization test of equal sensitivity.

(iii) When determining susceptibility to a virus which does not lend itself to the methods in subparagraphs (1)(i) and (ii) of his paragraph, a method acceptable to Veterinary Services shall be used.

(2) Each of a least 10 susceptible cats shall be administered a sample of the Master Seed Virus equivalent to the amount of virus to be used in one cat dose of the vaccine, by the method to be recommended on the label, and the cats observed each day for 14 days.

(3) If unfavorable reactions attributable to the virus occur in any of the cats, the Master Seed Virus is unsatisfactory for vaccine production.

(b) The cat safety test provided in this paragraph shall be used when a serial of vaccine is tested for safety before release.

(1) Each of two healthy cats shall be administered 10 cat doses by the method recommended on the label and the cats observed each day for 14 days.

(2) If unfavorable reactions attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated; *Provided*, That, if not repeated, the serial shall be unsatisfactory.

2. Part 113 would be amended by adding three new sections to read:

§ 113.43 Detection of chlamydial agents.

The test for chlamydial agents provided in this section shall be conducted when such a test is prescribed in an applicable Standard Requirement or in a filed Outline of Production.

(a) The yolk sac of 6-day-old chicken embryos shall be injected. Three groups of 10 embryos shall be used sequentially.

(1) The inoculum for each embryo in the first group shall consist of 0.5 ml of a mixture of equal parts of the seed virus with phosphate buffered saline containing 2 mg/ml each of Streptomycin, Vancomycin, and Kanomycin.

(2) On the tenth day postinoculation, the yolk sac of viable embryos shall be harvested, pooled, homogenized as a 20 percent suspension in phosphate buffered saline antibiotic diluent, and 0.5 ml of the mixture injected into the second group of chicken embryos. This process shall be repeated for the injection of the third group of embryos using the yolk sacs of viable embryos from the second group.

(3) For each of the three passages, embryo deaths occurring within 48 hours of injection shall be disregarded except that if more than three such deaths occur at any passage, that passage shall be repeated.

(b) If one or more embryo deaths occur at any passage after 48 hours postinjection, the yolk sacs from each of the dead embryos shall be subcultured into 10 additional embryos. If one or more embryo deaths again occur due to chlamydial agents, the Master Seed Virus is unsatisfactory for use to produce vaccine.

§ 113.149 Feline Calicivirus Vaccine.

Feline Calicivirus Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Mater Seed Virus shall be tested for chlamydial agents as prescribed in § 113.43.

(b) The Master Seed Virus shall be tested for chlamydial agents as prescribed in § 113.43.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Thirty feline calicivirus susceptible cats shall be used as test animals (20 vaccinates and 10 controls). Throat swabs shall be collected from each cat and individually tested on susceptible cell cultures for the presence of feline calicivirus. Blood samples shall be drawn and individual serum samples tested. The cats shall be considered suitable for use if all swabs are negative for virus isolation and if all serums are negative for calicivirus antibody at the 1:2 final dilution in a 50 percent plaque reduction test or other SN test of equal sensitivity.

(2) A geometric mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 cats used as vaccinates shall be administered a predetermined quantity of vaccine virus by the method to be recommended on the label and the remaining 10 cats shall be held as controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used. If two doses are used, five replicate confirming titrations shall be conducted on each dose.

(3) Twenty-one days after the final dose of vaccine, the vaccinates and controls shall each be challenged intranasally with a minimum of 100,000 $TCID_{50}$ of virulent feline calicivirus furnished or approved by Veterinary Services and observed each day for 14 days postchallenge. The rectal temperature of each animal shall be taken and the presence or absence of clinical signs, particularly lesions on the oral mucosa, noted and recorded each day.

(i) If 8 of 10 controls do not show signs of feline calicivirus infection, the test is inconclusive and may be repeated.

(ii) If a significant difference in clinical signs cannot be demonstrated between vaccinates and controls using a scoring system approved by Veterinary Services and prescribed in the Outline of Production, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter, unless use of the lot previously tested is discontinued. Either 10 vaccinates and 6 controls or 5 vaccinates and 3 controls shall be used in the retest.

(i) If 5 of 6 or 3 of 3 of the controls in the retest do not show signs of feline calicivirus infection, the test is inconclusive and may be repeated.

(ii) A significant difference in clinical signs shall be demonstrated between vaccinates and controls in a valid test as prescribed in paragraph (c)(3)(ii) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) *Test requirements for release.* Each serial and subserial shall meet the requirements prescribed in § 113.135 and in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety Test.* The mouse safety test prescribed in § 113.33(a) and the cat safety test prescribed in § 113.39 shall be conducted.

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{7.5}$ $TCID_{50}$ or plaque forming units per dose.

§ 113.150 Feline Rhinotracheitis Vaccine.

Feline Rhinotracheitis Vaccine shall be prepared from virus-bearing cell culture fluids. Only Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production. All serials of vaccine shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable general requirements prescribed in § 113.135.

(b) The Master Seed Virus shall be tested for chlamydial agents as prescribed in § 113.43.

(c) Each lot of Master Seed Virus used for vaccine production shall be tested for immunogenicity. The selected virus dose from the lot of Master Seed Virus shall be established as follows:

(1) Thirty feline rhinotracheitis susceptible cats shall be used as test ani-

mals (20 vaccinates and 10 controls). Blood samples shall be drawn from these animals and individual serum samples tested. The cats shall be considered susceptible if the results are negative at a 1:2 final dilution in a 50 percent plaque reduction test or other test of equal sensitivity.

(2) A geometic mean titer of the dried vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. The 20 cats used as vaccinates shall be administered a predetermined quantity of vaccine virus by the method to be recommended on the label and the remaining 10 cats shall be held as controls. To confirm the dosage calculations, five replicate virus titrations shall be conducted on a sample of the vaccine virus dilution used. If two doses are used, five replicate confirming titrations shall be conducted on each dose.

(3) Twenty-one days after the final dose of vaccine, the vaccinates and controls shall each be challenged intranasally with a minimum of 100,000 $TCID_{50}$ of virulent feline rhinotracheitis virus furnished or approved by Veterinary Services and observed each day for 14 days postchallenge. The rectal temperature of each animal shall be taken and the presence of respiratory or other clinical signs of feline rhinotracheitis noted and recorded each day.

(i) If at least 8 of 10 controls do not show signs of feline rhinotracheitis infection, the test is inconclusive and may be repeated.

(ii) If a significant difference in clinical signs cannot be demonstrated between vaccinates and controls using a scoring system approved by Veterinary Services and prescribed in the Outline of Production, the Master Seed Virus is unsatisfactory.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years and each 5 years thereafter unless use of the lot previously tested is discontinued. Either 10 vaccinates and 5 controls or 5 vaccinates and 3 controls shall be used in the retest.

(i) If 5 of 6 or 3 of 3 controls in the retest do not show signs of feline rhinotracheitis infection, the test is inconclusive and may be repeated.

(ii) A significant difference in clinical signs shall be demonstrated between vaccinates and controls in a valid test as prescribed in paragraph (c)(3)(ii) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) *Test requirements for release.* Each serial and subserial shall meet the requirements prescribed in § 113.135 and in this paragraph. Final container samples of completed product shall be tested. Any serial or subserial found unsatisfactory by a prescribed test shall not be released.

(1) *Safety test.* The mouse safety test prescribed in § 113.33(a) and the cat safety test prescribed in § 113.39 shall be conducted.

(2) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer sufficiently greater than the titer of vaccine virus used in the immunogenicity test prescribed in paragraph (c) of this section to assure that when tested at any time within the expiration period, each serial and subserial shall have a virus titer of $10^{0.7}$ greater than that used in such immunogenicity test but not less than $10^{3.5}$ $TCID_{50}$ or plaque forming units per dose.

3. Section 113.139 would be amended by revising the introductory portion of paragraph (b)(2) and delelting subparagraphs (b)(2) (i), (ii), (iii), and (iv) to read:

§ 113.139 Feline Panleukopenia Vaccine.

* * * * *

(b) * * *

(2) To detect chlamydial agents, the Master Seed Virus shall be tested as prescribed in § 113.43.

(c) * * *

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All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 7th day of February 1979.

This proposal has been reviewed under the USDA criteria established to implement E. O. 12044, "Improving Government Regulations." Under those criteria, this action has been designated for Agency oversight. A Draft Impact Analysis Statement has been prepared and is available from Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, MD 20782.

M. T. GOFF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-4641 Filed 2-15-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 781 0021; Docket No. 88700007]

HUK-A-POO SPORTSWEAR, INC., ET AL.

Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent agreement, among other things, would require two New York City wearing apparel manufacturers to cease establishing, maintaining or enforcing resale price agreements; suggesting retail prices or issuing price lists for a three-year period; pre-ticketing products with recommended retail prices; soliciting the identity of non-conformers and taking any adverse action against them. Additionally, the companies would be required to reinstate customers who were terminated since January 1, 1974 for failing to maintain suggested prices; and keep records regarding reinstatement requests for five years.

DATE: Comments must be received on or before April 16, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Leroy Richie, Director, 8R, New York Regional Office, Federal Trade Commission, 2243-EB Federal Bldg., 26 Federal Plaza, New York, N.Y. 10007. (212) 264-1207.

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

[File No. 7810021]

HUK-A-POO SPORTSWEAR, INC., AND PRANX FASHIONS, INC.

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Huk-A-Poo Sportswear, Inc. and Pranx Fashions, Inc., corporations, and it now appearing that said corporations, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It is hereby agreed by and between Huk-A-Poo Sportswear, Inc. and Pranx Fashions, Inc., by their duly authorized officer, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondents Huk-A-Poo Sportswear, Inc. and Pranx Fashions, Inc. are corporations organized, existing and doing business under the laws of the State of New York. Proposed respondents have their office and principal place of business at 48 West 38th Street, New York, New York.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

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

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

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

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

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

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

ORDER

For purposes of this Order, the following definitions shall apply:

"Reseller" is defined as any person, firm or corporation which sells any product sold or distributed by any respondent.

"Prospective reseller" is defined as any person, firm or corporation which requests to purchase any product from any respondent.

"Resale price" is defined as any price, price floor, price ceiling, price range, or any mark-up, formula or margin of profit used by any reseller for pricing any product. Such term includes but is not limited to any suggested, established or customary resale price.

"Sale period" is defined as any break date, end of season or period for selling or advertising any product at a price other than the suggested, established or customary price.

"Product" is defined as apparel or apparel accessories including but not limited to handbags, belts, gloves, scarves, hats, jewelry and footwear.

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It is ordered, That each of the respondents Huk-A-Poo Sportswear, Inc. and Pranx Fashions, Inc., corporations, their successors and assigns, and each of the respondents' officers, agents, representatives and employees, directly or indirectly, or through any corporation, subsidiary, division or other device, in connection with the manufacture, offering for sale, sale, distribution or advertising of any product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

1. Establishing, exacting assurances to comply with, continuing or enforcing any combination, agreement, understanding or arrangement to fix, establish, control, maintain or enforce, directly or indirectly, the price at which any product is to be resold or advertised by any reseller or prospective reseller.

2. Communicating, publishing, circulating, disseminating or providing by any means any resale price or sale period to any reseller or prospective reseller for period of three (3) years from the date of service of this Order; *Provided, however*, That after said three (3) year period, a respondent shall not resume suggesting any resale price or sale period until it has mailed to all its open accounts a letter stating that no reseller is obligated to adhere to any suggested resale price or sale period and that suggested resale prices or sale periods are for informational purposes only.

Provided further, however, That after said three (3) year period, a respondent shall not suggest resale prices or sale periods unless it is clearly and conspicuously stated on those pages of any list, book, advertising or promotional material or other document where any suggested resale price or sale period appears:

"THE [RESALE PRICES OR SALE PERIODS] QUOTED HEREIN ARE SUGGESTED ONLY. YOU ARE FREE TO DETERMINE YOUR OWN [RESALE PRICES OR SALE PERIODS]."

Provided further, however, That after said three (3) year period, a respondent shall not suggest resale prices on any tag, ticket or comparable marking affixed or to be affixed to any product.

3. Requiring or coercing any reseller or prospective reseller to establish, maintain, issue, adopt or adhere to any resale price or sale period.

4. Requiring or soliciting any reseller, prospective reseller, person or firm, either directly or indirectly, to report any reseller, prospective reseller, person or firm that does not adhere to any resale price or sale period.

5. Communicating with any reseller or prospective reseller concerning its deviation or alleged deviation from any resale price or sale period.

6. Suggesting or requiring that any reseller or prospective reseller refrain from or discontinue advertising any product at a certain resale price.

7. Representing that any action may or will be taken against any reseller if it deviates from any resale price or sale period.

8. Threatening to withhold or withholding advertising allowances or any other assistance, payment, service or consideration from any reseller, or limiting or restricting the eligibility of any reseller to receive such benefits because said reseller advertises or sells any product at a certain resale price.

9. Making any payment or granting any other consideration or benefit to a reseller because another reseller has sold any product at a certain resale price.

10. Hindering or precluding the lawful use by any reseller of a brand name of any respondent in conjunction with the sale or advertising of any product at any price.

11. Refusing to sell to, terminating, suspending, delaying shipments to or taking or threatening any action against any reseller or prospective reseller because the reseller or prospective reseller has, or was alleged to have, sold or advertised any product at a certain resale price or because the reseller or propsective reseller may engage in any such activity in the future.

12. Attempting to secure any promise or assurance from any reseller or prospective reseller regarding the price at which such reseller or prospective reseller will or may advertise or sell any product; or requesting or requiring any reseller or prospective reseller to obtain approval from any respondent for any price at which such reseller or prospective reseller may or will advertise or sell any product.

II

It is further ordered, That respondents shall:

1. Within sixty (60) days after the date of service of this Order, mail under separate

cover a copy of either this Order or the Federal Trade Commission's news release in this matter to every present reseller of Huk-A-Poo Sportswear, Inc. or Pranx Fashions, Inc. An affidavit of mailing shall be sworn to by an official of respondents verifying that said mailing was completed.

2. Mail a copy of either this Order or the Federal Trade Commission's news release in this matter to any reseller that purchases any product from Huk-A-Poo Sportswear, Inc. or Pranx Fashion's, Inc., within five (5) years after the date of service of this Order. The mailing required by this paragraph shall occur within thirty (30) days after first purchase by said reseller.

3. Within thirty (30) days after the date of service of this Order distribute a copy of this Order to each of respondent's operating divisions and subsidiaries and to all officers, sales personnel, sales agents, sales representatives and advertising agencies retained by each respondent and secure from each entity or person a signed statement acknowledging receipt of said Order.

4. Within sixty (60) days from the date of service of this Order, mail or deliver, and obtain a signed receipt therefor, an offer of reinstatement, to every reseller who was terminated for failing to maintain a certain resale price or sale period by any respondent during the period from January 1, 1974 to the date of service of this Order, unless the reseller does not meet the credit requirements applied by respondents in the retention of accounts, and reinstate any such reseller who requests reinstatement within thirty (30) days after receiving the offer.

5. Notify the Commission at least thirty (30) days prior to any proposed change in any respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries or any other such change in the corporations which may affect compliance obligations arising out of the Order.

6. For a period of five (5) years from the date of service of this Order maintain complete business records which fully disclose the manner and form of respondents' compliance with the Order, including but not limited to any records referring or relating in whole or in part to:

(a) Any communication between any respondent and any reseller or prospective reseller relating to the price at which any reseller or prospective reseller is selling, proposes to sell, is advertising or proposes to advertise any product;

(b) The termination or suspension of any reseller for any reason;

(c) The refusal to deal with any prospective reseller for any reason, including the name and address of the prospective reseller; or

(d) Any request for reinstatement pursuant to Part II Paragraph (4) of this Order.

The records required by this paragraph shall be made available to Commission staff upon reasonable notice.

7. File with the Commission within sixty (60) days after service of this Order a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

HUK-A-POO SPORTSWEAR, INC., PRANX FASHIONS, INC.

[File No. 781 0021]

The Federal Trade Commission has accepted an agreement to a proposed consent order from Huk-A-Poo Sportswear, Inc. and Pranx Fashions, Inc.

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

The complaint alleges that respondents have unlawfully fixed the retail prices at which their products (women's and men's apparel) are sold and have engaged in unfair methods of competition and unfair acts and practices in violation of the Federal Trade Commission Act.

The order is designed to foster competition in the sale of respondents' products and encourage retailer independence. Among other things, its various provisions prohibit respondents from:

(1) Fixing or controlling retail prices;

(2) Suggesting or recommending retail prices to their customers for three (3) years;

(3) Issuing price lists for a period of three (3) years, with a proviso that after that time period any price lists that are issued must carry a notice that the prices are suggested only;

(4) Pre-ticketing their products with suggested retail prices;

(5) Policing the retail prices of their accounts;

(6) Communicating with any customer concerning a deviation from any retail price;

(7) Refusing to deal with prospective customers who do not adhere to certain retail prices; and

(8) Threatening or taking any action against customers who do not adhere to certain retail prices.

In addition to the usual prohibitions against price fixing, the order requires the respondents to reinstate any former customer who was terminated since January 1, 1974 for failing to maintain retail prices: *Provided,* That such customer meets applicable credit requirements. The respondents have to keep records regarding these requests for reinstatement for at least five (5) years, thus enabling the Commission to monitor their compliance.

Another part of the order requires respondents to mail a copy of the order or the press release in this matter to all existing accounts and to any new accounts purchasing products from respondents within the next five (5) years.

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

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-5084 Filed 2-15-79; 8:45 am]

[6750-01-M]

[16 CFR Part 305]

LABELING AND ADVERTISING OF CONSUMER APPLIANCES

Publication of Staff Report on Recommended Rule

AGENCY: Federal Trade Commission.

ACTION: Publication of staff report.

SUMMARY: The Federal Trade Commission's Bureau of Consumer Protection has released to the public a staff report that summarizes and analyzes the evidence in its rulemaking proceeding on energy labeling of consumer appliances. The staff has also recommended the final action which the Commission should take. The staff report and recommended rule have been placed on public record No. 209-18. The Bureau of Consumer Protection will also release to the public, as soon as they are available, complete microfilmed copies of the evidentiary record and an index of the materials in the record.

DATE: Members of the public are invited to comment on the staff report and the recommended rule. Comments will be accepted until March 19, 1979.

ADDRESSES: Request for copies of the staff report should be sent to: Public Reference Branch, Room 130, Federal Trade Commission Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

Comments should be sent to: Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Andrew I. Wolf, 202-724-1453. Lucerne D. Winfrey, 202-724-1560. Kent C. Howerton, 202-724-1515.

SUPPLEMENTARY INFORMATION: Copies of the staff report and recommended rule may be obtained from the Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

Comments, which will be accepted until March 19, 1979, should be identified as "Comment on Staff Report—Appliance Energy Labeling Rule" and addressed to the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580. When feasible, four copies should be submitted.

The Commission cautions all concerned that the staff report has not been reviewed or adopted by the Commission, and that its publication should not be interpreted as reflecting

the present views of the Commission or any individual member thereof.

In addition, the Commission has authorized the Bureau of Consumer Protection to make available to the public an index of the rulemaking record and microfilmed copies of all documents in the record. Copies of the index and microfilm should be requested from the Public Reference Branch, Room 130, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, D.C. 20580. Copies may be obtained as soon as they are available, upon payment of the appropriate fees.

GENERAL QUESTIONS: While interested persons are invited to address any questions of fact, law, or policy which they feel may have bearing upon the Recommended Rule, listed below are three aspects of the Recommended Rule upon which the Commission particularly desires comments:

1. The Recommended Rule prescribes disclosure requirements and methods for determining energy cost and efficiency information for eight of the home appliances within the first thirteen categories listed in Section 322(a) of the Energy Policy and Conservation Act. The Recommended Rule does not apply to: home heating equipment other than furnaces, television sets, kitchen ranges and ovens, clothes dryers and humidifiers and dehumidifiers. Section 305.3 of the Staff Report discusses the statutory criteria for excluding these products. Are there any reasons not to exclude these products?

2. Section 324(c) of the Energy Policy and Conservation Act mandates that two disclosures appear on labels. The first is the estimated annual operating cost. The second is a range of estimated annual operating costs. A measure of energy consumption other than operating cost is authorized only if the Commission "determines that labeling with energy cost is not likely to assist consumers in making purchasing decisions, or is not economically feasible." The Recommended Rule requires a disclosure of the estimated annual energy cost figure for all products except for home heating and cooling equipment, which will be labeled with an Energy Efficiency Rating (EER). Room and Central Air Conditioners and Furnaces are subject to extreme variations in usage patterns which are not quantifiable for a single cost labeling format. Section 305.11 of the Staff Report discusses the reasons for requiring two distinct labeling formats. Are there any reasons not to require an EER disclosure for climate control appliances? Should the Commission consider any other alternative type of disclosure for heating and cooling equipment?

3. Section 305.14 of the Recommended Rule deals with catalogs. The required disclosures are extensively modified from the proposed rule but may still present problems for catalogers covered by the Recommended Rule. What further modifications, if any, would satisfy the congressional intent expressed in Sections 326(a) would satisfy the congressional intent expressed in sections 326(a) and 324(c) (A) and (B) of the Energy Policy and Conservation Act?

ALBERT H. KRAMER,
Director, Bureau of Consumer Protection.

[FR Doc. 79-5085 Filed 2-15-79; 8:45 am]

[1505-01-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 10, 12, 13, 14, 15, and 16]

[Docket No. 78N-0286]

ADMINISTRATIVE PRACTICES AND PROCEDURES

Proposed Amendments

Correction

In FR Doc. 78-31393 appearing at page 51966 in the issue for Tuesday, November 7, 1978, make the following corrections:

(1) In column one of page 51966, under "DATES", the comment date now reading "January 8, 1978" should have read "January 8, 1979".

(2) In column three of page 51972, last paragraph, in the third line, "(21 U.S.C. et seq.)" should have read "(21 U.S.C. 321 et seq.)".

(3) In § 10.3, in the definition of "Petition" which appears in the third column of page 51973, the fourth line should have read as follows: "* * * revoke a regulation or order, or to take or not take * * *".

(4) In § 10.30(j) which appears in the third column of page 51976, both in the fourth and sixth lines, "Commission's decision" should have read "Commissioner's decision".

(5) In § 10.45(f), insert a reference to "10.33(k)" in the tenth line from the top of the third column of page 51980.

(6) In § 10.90(c) which appears in the first column of page 51986, the next to the last line of that paragraph should have read as follows "* * * ISTER, or be published in the FEDERAL REGISTER as regulations under paragraph * * *".

(7) In § 10.95(d), third column of page 51986, beginning in the 13th line of that paragraph, delete the words "Except as provided in paragraph (d)(7) of this section are met."

(8) In § 12.22(a) in the first column of page 51989, paragraphs (4) and (5) should have read as set forth below:

* * * * *

(4) Each objection on which a hearing is requested specifically so states. Failure to request a hearing on an objection constitutes a waiver of the right to a hearing on that objection.

(5) Each objection for which a hearing is requested includes a detailed description and analysis of the factual information to be presented in support of the objection. Failure to include a description and analysis for an objection constitutes a waiver of the right to a hearing on that objection. The description and analysis may be used only for the purpose of detemining whether a hearing has been justified under § 12.24, and do not limit the evidence that may be presented if a hearing is granted.

* * * * *

(9) In § 12.24(b)(6) in the third column of page 51989, the fourth line of that paragraph should have read "* * * 601.7(a), and in the notice promulgating the final regulation or the notice of opportu- * * *".

(10) On page 51990, middle column, make the following changes in paragraph (d)(3) of § 12.28.

In the sixth line, change the words "issues relating" to read "issue relates".

In the thirteenth and fourteenth lines delete the words "if a hearing is denied on all issue relates to an order,".

(11) in the third column of page 51993, in the eleventh line of paragraph (b)(1) of § 12.87, "* * * only that part," should have read "* * * only that party,".

(12) In the third column of page 51997, the sixth and seventh lines of § 13.5(a)(1) should have read "* * * lished in the FEDERAL REGISTER or state that the document is available from the Hearing Clerk or an agency employee designat- * * *".

(13) In column one of page 52015, in the table of contents listing for Part 16, the second entry under Subpart C now reading "19.42 Presiding officer." should have read "16.42 Presiding officer."

[4110-03-M]

[21 CFR Parts 182, 184, and 186]

[Docket No. 78N-0277]

CALCIUM ACETATE, CALCIUM CHLORIDE, CALCIUM GLUCONATE, AND CALCIUM PHYTATE

Proposed Affirmation and Deletion of GRAS Status as Human Food Ingredients

AGENCY: Food and Drug Administration.

ACTION: Proposed Rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to affirm the generally recognized as safe (GRAS) status of calcium chloride, calcium acetate, and calcium gluconate as direct human food ingredients and calcium chloride as an indirect human food ingredient. The agency is also proposing to delete calcium phytate from the GRAS list as a direct human food ingredient. The safety of these ingredients has been evaluated under FDA's ongoing comprehensive safety review. The proposal would list calcium acetate, calcium chloride, and calcium gluconate as direct food substances affirmed as GRAS and calcium chloride as an indirect food substance affirmed as GRAS and would delete calcium phytate from the GRAS list.

DATE: Comments by April 17, 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:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a comprehensive safety review of human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposals (see the FEDERAL REGISTER of July 26, 1973 (38 FR 20040)) initiating this review. Under this review, the safety of calcium acetate, calcium chloride, calcium gluconate, and calcium phytate has been evaluated. Under the provisions of § 170.35 (21 CFR 170.35), the Commissioner of Food and Drugs proposes to affirm the GRAS status of calcium acetate, calcium chloride, and calcium gluconate and to remove calcium phytate from the GRAS list.

Calcium (Ca) is an alkaline earth metal occurring in the earth's crust. It is found naturally only in the form of its compounds and is never uncombined. Calcium is an essential nutrient for man and animals, and the main natural food sources for this element are milk and milk products, legumes, and green leafy vegetables. Acetic acid (CH_3COOH) and gluconic acid (as 6-phosphogluconate) are metabolizable carbohydrates occurring in plants and animals. Phytic acid (1,2,3,4,5,6-cyclohexane-hexolphosphoric acid) does not occur in animal tissue, but if found in many plant foodstuffs such as cereals, nuts, legumes, artichokes, and potatoes. Chlorine (Cl) is a fairly abundant element found in the earth's crust in combined form only. All four substances chemically bond with calcium to form the respective salts.

Calcium acetate, calcium chloride, calcium gluconate, and calcium phytate are listed as GRAS in §§ 182.6185, 182.6193, 182.6199, and 182.6219 (21 CFR 182.6185, 182.6193, 182.6199, and 182.6219), respectively, for use as sequestrants, under a regulation published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368). In addition, calcium chloride and calcium gluconate are listed as GRAS for use as multiple purpose GRAS food substances in §§ 182.1193 and 182.1199 (21 CFR 182.1193 and 182.1199), respectively, under a regulation published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368). Calcium chloride is also listed as GRAS in § 182.70 (21 CFR 182.70) as a substance migrating to food from cotton and cotton fabrics used in dry food packaging, and in § 182.90 (21 CFR 182.90) as a substance migrating to food from paper and paperboard products used in food packaging, under regulations published in the FEDERAL REGISTER of June 10 and 17, 1961 (26 FR 5224 and 5421). Calcium acetate is also listed in § 181.29 (21 CFR 181.29) as a prior-sanctioned food ingredient when used as stabilizer in the manufacture of packaging materials. Calcium Chloride is listed as an optional ingredient in several cheese standards under Part 133 (21 CFR Part 133). Calcium chloride and calcium gluconate are listed as optional ingredients in the standards for artificially sweetened jams, jellies, and preserves under Part 150 (21 CFR Part 150) to aid in gel formation.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which calcium acetate, calcium chloride, calcium gluconate, and calcium phytate are used and the levels of usage. The agency combined information from consumer consumption surveys with the manufacturing information to estimate consumer exposure to these ingredients. The estimated total amounts of calcium acetate, calcium chloride, calcium gluconate, and calcium phytate used in food in 1970 were 88,000 pounds, 26 million pounds, 529,000 pounds and 5,700 pounds, respectively.

Calcium salts (acetate, chloride, gluconate, and phytate) have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 1,050 abstracts on calcium acetate, calcium chloride, calcium gluconate, and calcium phytate was reviewed and 57 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS substances (the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

After reviewing available literature on phytic acid, Oberleas has concluded that the phosphate of phytic acid should be considered as unavailable and also that zinc may not be utilizable when complexed by phytic acid at the pH of the small intestine of animals. Reinhold *et al.* observed negative zinc and calcium balances in three human subjects fed diets rich in phytic acid (35 to 46 mg per kg body weight).

The oral LD_{50} of calcium acetate has been reported to be 4.28 g per kg in the rat. Prioreschi and Selye reported that 6 to 10 forcibly restrained female rats (90 to 100 g body weight) died within 24 hours after an initial dose of 2 millimoles of calcium acetate in 3 ml water by gavage followed by a similar dose 8 hours later (total dose 6.3 g per kg). No deaths occurred when unrestrained rats were dosed similarly. One of ten rats died following a single dose of 4 millimoles in 3 ml water by gavage. Calcifying cardiovascular lesions were described only in animals of the groups in which deaths occurred.

The oral LD_{50} of calcium chloride in the rat is approximately 5 g per kg and in the rabbit 1.38 g per kg. Mahorner found the lethal oral dose to be above 2 g per kg for the dog. For man, the oral lethal dose is estimated as 30 g. Hall has called attention to the use of calcium chloride (6 to 8 g per day) for infants afflicted with neonatal tetany. While corrosive effects of this substance were reported in these cases, lethality cannot be ascribed to use of calcium chloride even with these very high doses. However, Durlacher *et al.* reported that two infants died following the use of calcium chloride for treatment of tetany. One weighing 2,900 g was given 4 g of the substance by gavage, and the other weighing

3,060 g was given 3 g, followed by 1 g at each four-hour feeding thereafter. The author concluded that the recommended dose of this substance, ranging from 2 to 4 g, was dangerous for the newborn infant.

After intramuscular injection of calcium chloride in rats, Boyd and Seymour found that the LD_{50} was about 25 mg per kg. However, no toxic reactions were observed when this substance was administered orally in doses up to 1 g per kg indicating that calcium chloride given by gastric intubation is not absorbed well from the gastrointestinal tract.

The intravenous LD_{50} for calcium gluconate has been reported by Coulston *et al.* to be about 1 g per kg in the mouse.

Sharpless *et al.* studied a possible relationship between thyroid enlargement in rats and the administration of calcium salts. Calcium chloride was administered as 1 percent in the drinking water (about 2 g per kg body weight) over a period of 12 weeks. Calcium chloride caused no thyroid enlargement when compared to that produced by the basal diet except for a slight effect when vitamin D was present. No microscopic alterations were observed.

In a study conducted by Smith, calcium gluconate and calcium chloride were administered by gavage to two groups of ten 200 g rats to give approximately 0.4 g of calcium per kg body weight per day (the gluconate as a suspension and the chloride in water solution). Five of the animals receiving calcium chloride for 65 days and two receiving calcium gluconate for 70 days died prior to sacrifice. Microscopic examination was made of the heart, kidney and liver from animals given the gluconate and no histological alterations were observed. Similarly, no microscopic abnormalities were observed in the animals given calcium chloride. The author concluded that calcium chloride was more toxic than calcium gluconate when given orally.

Acidosis can be produced in rabbits given 1.5 to 2.5 g per kg of calcium chloride. Twenty percent calcium chloride solutions (0.75 to 1.5 g per body weight) can produce severe gastric damage consisting of mucosal necrosis and ulceration in rabbits. In one instance, the stomach was perforated, but the intestine was free of lesions 48 hours after administration of the dose. Oral administration of the same dosage of calcium chloride in more dilute solutions, ranging from 5 to 15 percent, failed to produce lesions in older rabbits, but severe ulcers appeared in unweaned young rabbits. Therefore, it appears that the toxic effect is caused by the concentration of calcium chloride in the solution rather than by the amount of calcium given.

Calcium from [^{45}Ca] calcium phytate, 0.3 percent supplement, was absorbed and deposited in the femurs of five rats given the diet for 3 days. All rats remained healthy.

No short-term studies on calcium acetate have come to the attention of the Select Committee. No reports of long-term studies have come to the attention of the Select Committee on any of the calcium salts.

Lieberman, studying the therapeutic use of calcium gluconate as a calcium source for man, administered 10 g of this salt orally to ten fasting individuals and to an additional ten after a standard breakfast. The salt produced a definite diarrheal tendency in the subjects with empty stomach, but no untoward effects were reported for the group receiving the salt after a meal.

No studies designed to test the carcinogenicity or mutagenicity of calcium acetate, chloride, gluconate or phytate have been found by the Select Committee.

Teratologic studies of calcium chloride in mice, rats, and rabbits have been reported. Oral administration of up to 189 mg per kg in mice (day 6 through 15 of gestation), up to 176 mg per kg in rats (day 6 through 15 of gestation), and up to 169 mg per kg in rabbits (day 6 through 18), had no clearly discernible effect on nidation or on maternal or fetal survival. The number of abnormalities seen in either soft or skeletal tissues of the test groups did not differ from the number occurring spontaneously in the sham-treated controls.

Calcium chloride and calcium gluconate at levels up to 50 mg per kg of egg are reported to have no teratogenicity for the developing chick embryo; calcium gluconate exhibited only moderate embryotoxicity. These findings are not considered significant.

Qualified scientists of the Select Committee have carefully evaluated all of the available safety information on calcium acetate, calcium chloride, calcium gluconate, and calcium phytate. The Select Committee finds that:

Extensive studies have been made to determine the nutritional significance of calcium and its salts. Calcium and the acetate, chloride, and gluconate anions are common constituents of food and are metabolized by the normal metabolic processes in man. Phytic acid is a naturally occurring constituent of food stuffs of plant origin. The very limited use of calcium phytate appears insignificant in light of the natural occurrence of phytic acid. A review of the concentrations of calcium compounds normally present in or added to foods provides no evidence that suggests possible untoward effects at these levels.

The Select Committee concludes that no evidence in the available information on calcium acetate, calcium chloride, calcium gluconate, and calcium phytate demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when those substance are used at levels that are now current or that might reasonably be expected in the future. Based upon his own evaluation of all available information on these ingredients, the Commissioner agrees with this conclusion and concludes that no change in the current GRAS status of calcium acetate, calcium chloride, and calcium gluconate is justified.

The Commissioner believes, however, that calcium phytate should be removed from the GRAS list as a direct human food ingredient because no evidence indicates that it is currently used in food. In previsions GRAS affirmation proposals, the Commissioner emphasized that use information (foods to which the ingredients are added, the intended technical effect, and the levels of addition) is very important in assessing the safety of GRAS food ingredients.

One respondent in the National Academy of Sciences/National Research Council (NAS/NRC) survey of food manufacturers in 1971–72 reported use of calcium phytate as a sequestrant in condiments and relishes. A followup inquiry by NAS/NRC indicated that this firm no longer uses calcium phytate in food, and further communication by FDA with a known manufacturer of food-grade calcium phytate revealed that such production was discontinued in 1975. Furthermore, no information on calcium phytate was received in response to the agency's request for specification and manufacturing method infomation, published in a notice in the FEDERAL REGISTER of May 31, 1977 (42 FR 27676). Because the Commissioner does not have any current food usage, specification, or manufacturing procedure information on this substance, he does not believe that continued listing of calcium phytate as GRAS for direct use in food would be in the public interest.

Although calcium phytate is being proposed for removal from GRAS status, it can receive future consideration in several ways. The Commissioner will reconsider its status provided the use information cited above is submitted as comments on this proposal during the comment period. Alternatively, calcium phytate can be reconsidered through petition procedures as outlined in § 170.35 or § 171.1 (21 CFR 170.35 or 171.1, respectively).

A Select Committee report on GRAS phosphates that are used in food further discusses the absorption, metabolism, and excretion of dietary calcium and the interrelationships of calcium, phosphorus, and vitamin D. Other reports of the Select Committee on acetic acid and gluconates discuss or will discuss evidence for the metabolism of respective acetate and gluconate salts.

Copies of the scientific literature review and the report of the Select Committee on calcium acetate, calcium chloride, calcium gluconate, and calcium phytate and the teratologic evaluation of calcium chloride are available for review at the office of the Hearing Clerk (HFA-305), FDA, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22151, as follows:

Title	Order No.	Price code	*Price
Phosphates (Select Committee report)	PB-262-651/AS	A03	$4.50
Acetic acid, sodium acetate, sodium diacetate (Select Committee report).	PB-274-670/AS	A02	4.00
Calcium sequestrants (scientific literature review)	PB-223-843/AS	A07	7.25
Certain calcium salts (Select Committee Report)	PB-254-539/AS	A02	4.00
Calcium chloride (teratologic study)	PB-234-879/AS	A03	4.50

*Price subject to change.

This proposed action does not affect the present use of calcium acetate, calcium chloride, calcium gluconate, and calcium phytate for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 401, 409(d), 701 (a) and (e), 52 Stat. 1046, 1055, 70 Stat. 919 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 341, 348(d), 371 (a) and (e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 182, 184, and 186 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.70 [Amended]

1. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging*, by deleting the entry for "Calcium chloride."

§ 182.90 [Amended]

2. In 182.90 *Substances migrating to food from paper and paperboard products*, by deleting the entry for "Calcium chloride."

§§ 182.1193, 182.1199, 182.6185, 182.6193, 182.6199, 182.6219 [Deleted]

3. By deleting § 182.1193 *Calcium chloride*, § 182.1199 *Calcium gluconate*, § 182.6185 *Calcium acetate*, § 182.6193 *Calcium chloride*, § 182.6199 *Calcium gluconate*, and § 182.6219 *Calcium phytate*.

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

4. In Part 184, by adding new §§ 184.6185, 184.6193, and 184.6199 to read as follows:

§ 184.6185 Calcium acetate.

(a) Calcium acetate ($Ca(C_2H_3O_2)_2$, CAS Reg. No. 62-54-4), also called acetate of lime or vinegar salts, is the calcium salt of acetic acid. It is produced by the calcium hydroxide neutralization of acetic acid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972),[1] which is incorporated by reference.

(c) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter, pH control agent as defined in § 170.3(o)(23) of this chapter, processing aid as defined in § 170.3(o)(24) of this chapter, sequestrant as defined in § 170.3(o)(26) of this chapter, and stabilizer and thickener as defined in § 170.3(o)(28) of this chapter.

(d) The ingredient is used in foods, in accordance with § 184.1(b)(1) of this chapter, at levels not to exceed good manufacturing practices. Current good manufacturing practices result in a maximum, as served, level of: 0.02 percent in cheese as defined in § 170.3(n)(5) of this chapter, 0.2 percent in gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter, 0.15 percent in sweet sauces, toppings, and syrups as defined in § 170.3(n)(43) of this chapter, and 0.0001 percent in all other food categories.

§ 184.6193 Calcium chloride.

(a) Calcium chloride ($CaCl_2.2H_2O$, CAS Reg. No. 10035-04-8) or anhydrous calcium chloride ($CaCl_2$, CAS Reg. No. 10043-52-4) is commercially obtained as a byproduct in the ammonia-soda (Solvay) process and as a joint product from natural salt brines, or is prepared by substitution reactions with other calcium and chloride salts.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. (1972),[1] which is incorporated by reference.

(c) The ingredient is used as an anticaking agent as defined in § 170.3(o)(1) of this chapter, antimicrobial agent as defined in § 170.3(o)(2) of this chapter, curing or pickling agent as defined in § 170.3(o)(5) of this chapter, firming agent as defined in § 170.3(o)(10) of this chapter, flavor enhancer as defined in § 170.3(o)(11) of this chapter, humectant as defined in § 170.3(o)(16) of this chapter, nutrient supplement as defined in § 170.3(o)(20) of this chapter, pH control agent as defined in § 170.3(o)(23) of this chapter, processing aid as defined in § 170.3(o)(24) of this chapter, stabilizer and thickener as defined in § 170.3(o)(28) of this chapter, surface-active agent as defined in § 170.3(o)(29) of this chapter, synergist as defined in § 170.3(o)(31) of this chapter, and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in foods, in accordance with § 184.1(b)(1) of this chapter, at levels not to exceed good manufacturing practices. Current good manufacturing practices result in a maximum, as served, level of: 0.3 percent for baked goods as defined in § 170.3(n)(1) of this chapter and for dairy product analogs as defined in § 170.3(n)(10) of this chapter; 0.22 percent for nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; 0.2 percent for cheese as defined in § 170.3(n)(5) of this chapter, and for processed fruit and fruit juices as defined in § 170.3(n)(35) of this chapter; 0.32 percent for coffee and tea as defined in § 170.3(n)(7) of this chapter; 0.11 percent for condiments and relishes as defined in § 170.3(n)(8) of this chapter; 0.15 percent for gravies and sauces as defined by § 170.3(n)(24) of this chapter; 0.1 percent for commercial jams and jellies as defined by § 170.3(n)(28) of this chapter; 0.25 percent for meat products as defined in § 170.3(n)(29) of this chapter; 2.0 percent for plant protein products as defined in § 170.3(n)(33) of this chapter; 0.4 percent for processed vegetables and vegetable juices as defined in § 170.3(n)(36) of this chapter; and 0.05 percent or less for all other food categories.

§ 184.6199 Calcium gluconate.

(a) Calcium gluconate ($[CH_2OH(CHOH)_4COO]_2Ca$, CAS reg. No. 299-28-5) is the calcium salt of gluconic acid produced by neutralization of gluconic acid with lime or calcium carbonate.

(b) The ingredient meets the specification of the Food Chemicals Codex, 2d Ed. (1972),[1] which is incorporated by reference.

(c) The ingredient is used as a firming agent as defined in § 170.3(o)(10) of this chapter, formulation aid as defined in § 170.3(o)(14) of this chapter, sequestrant as defined in § 170.3(o)(26) of this chapter, stabilizer or thickener as defined in § 170.3(o)(28) of this chapter, and texturizer as defined in § 170.3(o)(32) of this chapter.

(d) The ingredient is used in foods, in accordance with § 184.1(b)(1) of this chapter, at levels not to exceed good manufacturing practices. Current good manufacturing practices result in a maximum, as served, level of: 1.75 percent for baked goods as defined in § 170.3(n)(1) of this chapter, 0.4 percent for dairy product analogs as defined in § 170.3(n)(10) of this chapter, 4.5 percent for gelatins and puddings as defined in § 170.3(n)(22) of this chapter, and 0.01 percent in sugar substitutes as defined in § 170.3(n)(42) of this chapter.

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

5. In Part 186, by adding new § 186.6193 to read as follows:

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

186.6193 Calcium chloride

(a) Calcium chloride ($CaCl_2 \cdot 2H_2O$, CAS Reg. No. 10035-04-8) or anhydrous calcium chloride ($CaCl_2$, CAS Reg. No. 10043-52-4) is commercially obtained as a byproduct in ammonia-soda (Solvay) process or as a joint product from natural salt brines, or is prepared by substitution reactions with other calcium and chloride salts.

(b) The ingredient meets the specification of the Food Chemicals Codex, 2d Ed. (1972),[1] which is incorporated by reference.

(c) The ingredient is used or intended for use in cotton and cotton fabrics used in dry food packaging and in paper and paperboard products used in food packaging.

(d) The ingredient is used in accordance with § 186.1(b)(1) of this chapter at levels not to exceed good manufacturing practice.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those proposed herein or in Part 181 (21 CFR Part 181). Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before April 17, 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 the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order.

Dated: February 5, 1979.

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

NOTE.—Incorporations by reference were approved by the Director of the Office of the Federal Register on July 10, 1973 and are on file in the FEDERAL REGISTER Library.

[FR Doc. 79-4783 Filed 2-15-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-5148]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Irvine, Orange County, California

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Irvine, Orange County, California. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 17200 Jamboree Road, Irvine, California. Send comments to: Mr. William Wollett, City Manager, City of Irvine, City Hall, 17200 Jamboree Road Irvine, California 92713.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Irvine, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bonita Creek.....	New McArthur Boulevard*.	36
	Coyote Canyon Road-60 feet**.	164
	Coyote Canyon Road-20 feet***.	173
Coyote Canyon Wash.	Coyote Canyon Road-40 feet***.	181
Laguna Road Wash.	San Diego Freeway Culvert-50 feet***.	184
	Laguna Freeway*.....	222
Sand Canyon Wash.	University Drive-100 feet***.	24
	Ridgeline Drive-50 feet***.	98
	At Sand Canyon Reservoir.	197
San Diego Creek ...	Sand Canyon Avenue*....	145
	Laguna Freeway (State Route 133)*.	171
	Interstate Highway 5 (San Diego Freeway)-100 feet***.	255
San Diego Creek Tributary 1.	At confluence with San Diego Creek.	220
Serrano Creek	Interstate Highway 5*....	251
	Atchison, Topeka and Santa Fe Railway-100 feet**..	303
	Atchison, Topeka and Santa Fe Railway-50 feet***.	310
Valencia Storm Channel.	Culver Drive-50 feet***...	68
Peters Canyon Wash.	North of intersection of Harvard Avenue and Atchison, Topeka and Santa Fe Railway.	58

* At centerline
** Downstream from centerline
*** Upstream from centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended

(42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 STAT. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 6, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-4924 Filed 2-15-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5149]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Dalton, Whitfield County, Georgia

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Dalton, Whitfield County, Georgia. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Administrator's Office, King and Pentz Streets, P.O. Box 1205, Dalton, Georgia 30720. Send comments to: Mayor Ellis or Mr. Al Rollins, City Administrator, P.O. Box 1205, Dalton, Georgia 30720.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Dalton, Whitfield County, Georgia, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Tar Creek Tributary.	Just upstream of Riverbend Drive.	714
Tar Creek	Downstream of Lakemont Drive.	753
	Just upstream of Conway Street.	734
	Just downstream of Dee Street.	711
McLellan Creek	Just upstream of Huntington Road.	778
	Just upstream of Tiffany Road.	761
	Just upstream of the Intersection of U.S. 41 and Highway 75.	721
Crown Creek	Just upstream of U.S. Highway 41.	732
City Park Branch	Just downstream of Mitchell St.	705
Slaughter Pen Creek.	Just upstream of New Morris Street.	721
	Just downstream of James Street.	694
Colony Creek	Just upstream of Underwood Street.	690
Mill Creek	Just downstream of I-75	722
	Just upstream of North Glenwood Avenue.	703
Drowning Bear Creek.	Just upstream of South Hamilton Road.	708
Stacy Branch	Just upstream of Lakeland Road.	696

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of Housing and Urban Development Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it take effect on the date indicated.

Issued: February 6, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-4925 Filed 2-15-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5150]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Georgetown, Floyd County, Indiana

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Georgetown, Floyd County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt of show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Georgetown, Indiana. Send comments to: Mr. Kenneth Lone, President, Town of Georgetown, Town Hall, Georgetown, Indiana 47122. Attention: Mr. Larry Wetzel, Vice President.

FOR FUURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Georgetown, in accordance with section 110 of the Flood Disaster Protection Act of 1973

(Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet national geodetic vertical datum
Georgetown Creek	About 1,300 feet downstream of Main St.	680
	Downstream corporate limits.	683
	Just upstream of Main St.	688
	Just upstream of Georgetown-Lanesville Rd.	695
	Just upstream of Walts Rd.	709
	About 1,500 feet upstream from Baylor-Wissman Rd.	736

(National Flood Insurance Act of 1968 (Title XIII of Housing And Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and the Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it take effect on the date indicated.

Issued: February 6, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-4926 Filed 2-15-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5151]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of White Plains, Westchester County, New York

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of White Plains, Westchester County, New York.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the White Plaines Planning Department, Municipal Building Annex, White Plains, New York. Send comments to: Honorable Alfred DelVecchio Mayor of White Plains Municipal Building White Plains, New York 10601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator Office of Flood Insurance 202 755-5581 or toll-free line 800 424-8872 Room 5270 451 Seventh Street, SW Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of White Plains, Westchester County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance of existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Bronx River	Conrail	179
	Hamilton Ave.	186
	Cemetry Rd.	189
	Upstream Corporate Limits.	196

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 STAT. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 6, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-4927- Filed 2-15-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5152]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Maple Shade, Burlington County, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Maple Shade, Burlington County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified

for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Municipal Building, Main Street, Maple Shade, New Jersey. Send comments to: Honorable George R. Weaver, Mayor of Maple Shade, Municipal Building, Main Street, Maple Shade, New Jersey 08052.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or toll-free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Maple Shade, Burlington County, New Jersey in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on exisitng buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, National Geodetic vertical datum
South Branch	Downstream Corporate Limits.	11
Pennsauken Creek	State Route 38 (Upstream).	24
	Kings Highway	30
	Upstream Corporate Limits.	35
North Branch	Downstream Corporate Limits.	10
Pennsauken Creek	Main Street	11
	Lenolu Road	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719).

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 6, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-4928 Filed 2-15-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5153]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Aspinwall, Allegheny County, Pennsylvania

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Aspinwall, Allegheny County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, 217 Commerce Avenue, Aspinwall, Pennsylvania. Send comments to: Mr. John Marmarella, President of the Borough Council of Aspinwall, 217 Commercial Avenue, Aspinwall, Pennsylvania 15215.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or toll-free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Aspinwall, Allegheny County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National geodetic vertical datum
Allegheny River	Downstream Corporate Limits.	738
	ConRail Bridge	738
	Upstream Corporate Limits.	738

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the

Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 6, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-4929 Filed 2-15-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5154]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for The Borough of Union Beach, Monmouth County, New Jersey

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Union Beach, Monmouth County, New Jersey. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Florence Avenue, Union Beach, New Jersery. Send comments to: Honorable Vincent L. Farley, Mayor of Union Beach, Borough Hall, Florence Avenue, Union Beach, New Jersey 07735.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-5581 or toll free Line 800-424-8872.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Union Beach, Monmouth County, New Jersey in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Raritan Bay	Entire Shoreline	12
Thorn's Creek (backwater from Waackaack Creek).	Conrail	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: February 6, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-4930 Filed 2-15-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1057-7]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Ohio Environmental Protection Agency to Buckeye Steel Castings

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to Buckeye Steel Castings. The Order requires the company to bring air emissions from it electric arc furnace in Columbus, Ohio, into compliance with certain regulations contained in the federally approved Ohio State implementation Plan (SIP) by July 1, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received by March 19, 1979.

ADDRESSEES: Comments should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Cynthia Colantoni, Enforcement Division, U.S. environmental Protection Agency, 210 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2082.

SUPPLEMENTARY INFORMATION: Buckeye Steel Castings operates an electric arc furnace at Columbus, Ohio. The Order under consideration addresses emissions from the facility, which is subject to Ohio Administra-

tive Code 3745-17-07 and 3745-17-11. The regulations limit the emissions of particulate matter, and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations of July 1, 1979, through the installation of a baghouse. The source has satisfied the first three increments contained in the Order.

Because this Order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulations it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute and addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: January 30, 1979.

VALDUS V. ADAMKUS,
Acting Regional Administrator,
Region V.

Before the Ohio Environmental Protection Agency.

In the Matter of: Buckeye Steel Castings, 2211 Parsons Avenue, Columbus, Ohio 43207. The Director of Environmental Protection, (hereinafter "Director"), hereby makes the following Findings of Fact and, pursuant to Sections 3704.03(S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

FINDING OF FACT

1. Buckeye Steel Castings, (hereinafter "Buckeye"), operates an electric arc furnace which serves its facility located at 2211 Parsons, Columbus, Ohio 43207.

2. In the course of operation of said arc furnace air contaminants are emitted in violation of OAC Rules 3745-17-11 and 3745-17-07.

3. Buckeye is unable to immediately comply with OAC Rules 3745-17-11 and 3745-17-07.

4. Potential emissions of particulates from the arc furnace are approximately 1110 tons per year; therefore Buckeye constitutes a major source under Section 302(j) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Orders below requires compliance with OAC Rules 3745-17-11 and 3745-17-07 as expeditiously as practicable.

6. Implementation by Buckeye of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. It is technically and economically unreasonable to require Buckeye to install and operate a continuous opacity monitoring system on the arc furnace prior to achieving compliance with the Orders specified below, since Buckeye is currently unable to comply with the requirements of OAC 3745-17-07 pertaining to visible emissions, no data would be produced which is not already known, and, therefore, no purpose would be served.

8. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

ORDER

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Buckeye shall bring its arc furnace located at 2211 Parsons Avenue into final compliance with OAC Rules 3745-17-11 and 3745-17-07 by installing a baghouse no later than July 1, 1979.

2. Compliance with Order (1) above shall be achieved by Buckeye in accordance with the following schedule on or before the dates specified:

Submit final control plans—Complete.
Award contract(s)—Complete.
Begin construction—Complete.
Complete construction—June 1, 1979.
Testing of equipment—June 15, 1979.
Achievement of final compliance with OAC Rules 3745-17-11 and 3745-17-07—July 1, 1979.

3. Pending achievement of compliance with Order (1) above, Buckeye shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable system(s) of emission reduction, and which are necessary to ensure compliance with OAC Rules 3745-17-11 and 3745-17-07 insofar as Buckeye is able to comply with them during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

a. Buckeye shall immediately institute a regular maintenance program to minimize emissions from the arc furnace.

b. Buckeye shall continue to properly maintain and use the United McGill baghouse to minimize emissions from the arc furnace.

4. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, Buckeye shall submit a written progress report to the Central District Office. The person submitting these reports shall certify whether each increment of progress has been achieved and the date it was achieved. The reports shall include the facility's status of compliance with the interim control requirements in Order (3) above.

5. Buckeye shall conduct emission tests on the arc furnace to verify compliance with Order (1) above. Such tests shall be conducted no later than the date specified in the compliance schedule in Order (2) above in accordance with procedures approved by the Director. Written notification of intent to test shall be provided to the Central District Office thirty (30) days prior to the testing date.

6. Buckeye is hereby notified that unless it is exempted under Section 120(a)(2)(B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a non-compliance penalty under Section 120 of the Clean Air Act, as amended.

These orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Dated: December 29, 1978.

NED E. WILLIAMS, P. E.
Director of Environmental
Protection.

WAIVER

Buckeye Steel Castings agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. Buckeye Steel Castings hereby waives the right to appeal the issuance or terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. Buckeye Steel Castings also waives any and all rights it might have to seek judicial review of any approval by U.S. EPA of the attached Findings and Orders or to seek a stay of enforcement of said Findings and Orders in connection with any judical review of Ohio's air implementation plan or portion thereof.

Dated: September 22, 1978.

JOHN T. HUGHES,
President, Authorized Representative
of Buckeye Steel Castings.

[FR Doc. 79-5003 Filed 2-15-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1057-6]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval Of An Administrative Order Issued By Ohio Environmental Protection Agency To Austin Powder Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order Issued by the Ohio Environmental Protection Agency to Austin Powder Company. The Order requires the company to bring air emissions from its boilers in McArthur, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by July 1, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before March 19, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Cynthia Colantoni, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2082.

SUPPLEMENTARY INFORMATION: Austin Powder Company operates an explosive manufacturing plant at McArthur, Ohio. The Order under consideration addresses emissions from Boilers No. 4 and No. 5 at the facility, which are subject to Ohio Administrative Code 3745-17-10. The regulation limits the emissions of particulate matter, and is part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulation by July 1, 1979, through the installation of a baghouse.

Because this Order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulation it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: January 30, 1979.

VALDUS V. ADAMKUS,
Acting Regional Administrator, Region V.

BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY.

In the Matter of: AUSTIN POWDER COMPANY, Applicant, Case No. 75-AV-396, Brudzynski, H.E.

STIPULATION

The Applicant, Austin Powder Company, and the Respondent, Ohio Environmental Protection Agency, hereby stipulate and agree as follows:

1. Austin Powder Company owns and operates two industrial coal-fired boilers at its Red Diamond Plant on State Route 677, McArthur, Ohio, referenced by the company as boilers Nos. 4 and 5.

2. On June 25, 1975, Austin Powder Company submitted to Ohio EPA applications for extension of previously issued variances to operate boilers Nos. 4 and 5 (variance application Nos. 0682000000B001 and 0682000000B002, respectively).

3. On September 12, 1975, the Director of the Ohio Environmental Protection Agency issued proposed variances to operate boilers Nos. 4 and 5. Said proposed variances contained compliance schedules mandating achievement of final compliance with all applicable State and Federal Statutes and regulations by August 15, 1976.

4. On October 15, 1975, the hearing Clerk of the Ohio Environmental Protection Agency received from Austin Powder Company a request for an adjudication hearing on the proposed variances.

5. The attached Order represents a resolution of the issues of fact and law in this proceeding.

6. The attached Order is based upon sufficient reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Order, and their relation to benefits to the people of the State to be derived from such compliance, and is in accordance with law.

7. The Director may issue such order by signing it and entering it upon his Journal.

8. Pursuant to Section 113(d)(2) of the Clean Air Act, as amended, the attached Order shall not take effect until it is approved by the Administrator of the United States Environmental Protection Agency.

9. Upon the effective date of the Order (the date of approval by the Administrator of U.S. EPA), Applicant's hearing request on the proposed variances to operate the subject boilers shall be deemed withdrawn, and this proceeding shall be dismissed. The Director agrees that he will then withdraw the proposed variances which are the subject of this proceeding.

10. Applicant, Austin Powder Company, by signing this Stipulation, hereby consents to the making and entry of the attached Order. Applicant knowingly and voluntarily waives any right to challenge this Order pursuant to Section 307 of the Clean air Act, to seek judicial review of this Order, or to seek judicial review of any subsequent U.S. EPA approval of the Order. This includes the waiver of any right to a hearing before the Ohio EPA and the right to contest the reasonableness or lawfulness of this Order before the Environmental Board of Review or any court of competent jurisdiction.

IT IS SO STIPULATED:

Dated: September 8, 1978.

For Austin Powder Company.

VAN CARSON,
Squire, Sanders & Dempsey, 1800 Union Commerce Building, Cleveland, Ohio 44115, (216) 696-9200.

For the Ohio Environmental Protection Agency.

WILLIAM J. BROWN,
Attorney General of Ohio.

Dated: October 2, 1978.

By: EDWARD P. WALKER,
Assistant Attorney General, Environmental Law Section, 30 East Broad Street, 17th Floor, Columbus, Ohio 43215, (614) 466-2766.

Before the Ohio Environmental Protection Agency.

In the Matter of: AUSTIN POWDER CO. Applicant; Case No. 75-AV-396.

The Director of Environmental Protection (hereinafter "Director") hereby makes the following Findings of Fact and, pursuant to Sections 3704.03(S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the

following Orders, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

FINDINGS OF FACT

1. Austin Powder Company (hereinafter "Austin Powder") is an Ohio corporation engaged in the business of manufacturing explosives at its Red Diamond Plant on State Route 677, McArthur, Ohio.

2. Austin Powder owns and operates two industrial coal-fired boilers at its Red Diamond Plant referenced by the company as boilers nos. 4 and 5.

3. Boiler no. 4 is an Erie City Iron Works coal-fired boiler, Model No. 95140, with a maximum heat input capacity of 22.645 MBtu/hour. Boiler no. 5 is an E. Keeler coal-fired boiler, Model No. 15014, with a maximum heat input capacity of 55.85 MBtu/hour.

4. Potential emissions of air pollutants from each of boilers nos. 4 and 5 are equal to or greater than one hundred tons per year, and therefore these sources constitute major stationary sources as defined in Section 302(j) of the Clean Air Act, as amended.

5. Boilers nos. 4 and 5 are each presently equipped with a Breslov mechanical collector for the control of particulate emissions. However, the operation of the boilers as presently controlled results in the discharge of particulate matter in excess of the allowable emission limitation set forth in OAC 3745-17-10. At the present time Austin Powder is unable to operate the boilers in compliance with this allowable emission limitation; additional pollution control equipment is needed for these boilers to achieve such compliance.

6. In order to abate the particulate emissions from the subject boilers, Austin Powder has proposed to install a baghouse.

7. Austin Powder's implementation of the interim control measures contained in the Order below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

8. The compliance schedule set forth in the Orders below requires compliance with applicable emission regulations as expeditiously as practicable.

9. Continuous opacity monitoring has been determined to be technically unreasonable and unnecessary for this source since: (a) the proposed baghouse installation constitutes the best available technology for control of particulate emissions and is designed to control particulate emissions to a rate of .05 pounds per million Btu heat input, well below the allowable rate of .22 pounds per million Btu heat input; (b) the facility is located in an attainment area for particulates; and (c) the boilers, with Breslov mechanical collectors, have had no history of opacity violations, and since the Breslov mechanical collectors will be left intact, even if a baghouse malfunction should occur the boilers would remain in compliance with applicable opacity regulations.

10. The Director's determination to issue the Orders set forth below is based upon his consideration of sufficient reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

ORDERS

WHEREUPON, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Section 3704.03(S) and (I) and Section 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Austin Powder shall achieve compliance with OAC 3745-17-10 by installing a baghouse to control emissions of particulate matter from boiler no. 4 to a maximum allowable rate of .22 pounds per million Btu heat input and boiler no. 5 to a maximum allowable rate of .22 pounds per million Btu heat input (the existing Breslov mechanical collectors shall be left intact for the preliminary control of emissions prior to discharge into the baghouse). These omission restrictions are based upon the maximum heat input capacities of the boilers as set forth in Finding of Fact No. 3, above.

2. Austin Powder shall bring the subject boilers into compliance with OEPA Regulation OAC 3745-17-10 no later than July 1, 1979, in accordance with the following schedule:

a. Award contracts for the design and installation of particulate control equipment (baghouse) by August 31, 1978.

b. Submit final detail plans to Ohio EPA for approval by August 31, 1978. (The Ohio EPA shall notify Austin Powder of its approval or disapproval of final detail plans at the earliest possible date, but in no event later than September 15, 1978).

c. Initiate on-site work, related to site preparation, by September 18, 1978, or the date of Ohio EPA approval of final detail plans.

d. Complete on-site work related to site preparation and initiate on-site work related to installation of particulate control equipment (baghouse) by April 1, 1979.

e. Complete on-site work related to installation of particulate control equipment (baghouse) by June 1, 1979.

f. Complete emission compliance testing by June 29, 1979.

g. Achieve final compliance with all applicable state and federal statutes and regulations by July 1, 1979.

3. The subject boilers shall be equipped with oxygen analyzers, which shall be operated so as to control excess air. Such instrumentation shall be continuously operated beginning on or before July 1, 1979.

4. During the period of effectiveness of this Order, Austin Powder shall use the best practicable methods of emission reduction in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim measures shall include, at a minimum, utilization of the existing Breslov mechanical collectors and operation and maintenance of the boilers in accordance with good engineering practice so as to minimize emission of particulate matter and ensure compliance with applicable emission regulations insofar as possible.

5. Austin Powder shall comply with the following monitoring and reporting requirements:

a. A progress report shall be forwarded by first class mail to the Southeast District Office of Ohio EPA within ten (10) days of the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order No. 2 above. Such progress report shall indicate when the applicable increment of progress was achieved and shall contain a detailed explanation of the reasons for any failure to so achieve any increment of progress.

b. Quarterly reports shall be submitted to the Southeast District Office concerning the interim maintenance and operation of the boilers as well as the progress being made toward achievement of compliance as set forth in Order No. 2 above.

6. Austin Powder shall conduct stack tests upon boilers nos. 4 and 5 to demonstrate compliance with the emission limitation set forth in OAC 3745-17-10. Such tests shall be performed in accordance with Ohio EPA approved methods on a date no later than June 29, 1979 (see Order No. 2(f) above). Written notification of intent to test shall be provided to the Southeast District Office of Ohio EPA thirty (30) days prior to the testing date, so that a person from that office can be present at the tests. Test results shall be submitted to and received by that office no later than July 31, 1979.

7. Austin Powder Company is hereby notified that it may be required to pay a noncompliance penalty under Section 120 of the Clean Air Act, 42 U.S.C. 7420 (depending on the applicability of Section 120), in the event that it fails to achieve final compliance with applicable laws and regulations by July 1, 1979.

8. Nothing in this Order shall be construed as relieving Austin Powder from its obligation to obtain, in accordance with applicable statutes and OEPA regulations, Permits to Operate the subject boilers. Nothing in this Order shall be construed as waiving or compromising in any way the applicability and enforcement of any statute or regulation applicable to said boilers, except as specified herein and as provided for in Section 113(d) (10) and (11) of the Federal Clean Air Act, as amended.

These Orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Dated December 29, 1978.

NED E. WILLIAMS, P.E.
Director of Ohio Environmental Protection Agency.

[FR Doc. 79-5004 Filed 2-15-79; 8:45 am]

[6560-01-M]

[40 CFR Part 65]

[FRL 1061-4]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Ohio Environmental Protection Agency to Great Lakes Carbon Corp.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to Great Lakes Carbon Corporation. The Order requires the Company to bring air emissions from its product cyclone and mill cyclone in Marion, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by November 1, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATES: Written comments must be received on or before March 19, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Cynthia Colantoni, Enforcement Division, U.S. Environmental Protection Agency Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: Great Lakes Carbon Corporation operates a product cyclone and a mill cyclone at Marion, Ohio. The Order under consideration addresses emissions from the facility, which is subject to Ohio Administrative Code 3745-17-07 and 3745-17-11. The regulations limit the emissions of particulate matter, and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by November 1, 1979, through installing a dry bed filter on the product cyclone, or installing a gas evaporative cooler and fabric filter on the combustion chamber, or installing a venturi scrubber on the combustion chamber and installing a fabric filter on the mill cyclone.

Because this Order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable regulations, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Ohio SIP. However, in the event final compliance is not achieved by July 1, 1979, source compliance with the Order will not preclude assessment of any noncompliance penalties under Section 120 of the Act, unless the source is otherwise entitled to an exemption under Section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: February 1, 1979.

VALDAS V. ADAMKUS,
Acting Regional Administrator,
Region V.

BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY

ORDER

In the Matter of Great Lakes Carbon Corporation, Route 95 West, Marion, OH 43302.

The Director of Environmental Protection (hereinafter "Director"), hereby makes the following Findings of Fact and, pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act:

FINDINGS OF FACT

1. Great Lakes Carbon Corporation (hereinafter Great Lakes Carbon), operates a product cyclone (P003) and a mill cyclone (P004), which serve its facility located at Route 95 West, Marion, Ohio.

2. In the course of operation of said product cyclone (P003) and mill cyclone (P004), air contaminants are emitted in violation of OAC-3745-17-07 and OAC-3745-17-11.

3. Great Lakes Carbon is unable to immediately comply with OAC-3745-17-07 and OAC-3745-17-11.

4. Potential emissions of particulates from the product cyclone (P003) and mill cyclone (P004) are approximately 2103 tons per year; therefore, Great Lakes Carbon constitutes a major stationary source or facility under Section 302(j) of the Clean Air Act, as amended.

5. The compliance schedule set forth in the Orders below requires compliance with OAC-3745-17-07 and OAC-3745-17-11 as expeditiously as practicable.

6. Implementation by Great Lakes Carbon of the interim requirements contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. The Director's determination to issue the Orders set forth below is based upon his consideration of reliable, probative and substantial evidence relating to the technical feasibility and economic reasonableness of compliance with such Orders, and their relation to benefits to the people of the State to be derived from such compliance.

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C., 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Great Lakes Carbon shall bring its product cyclone (P003) and mill cyclone (P004) located at Route 95 West, Marion, Ohio into final compliance with OAC-3745-17-07 and OAC-3745-17-11 by (A) installing a dry bed filter on the product cyclone (P003), or installing a gas evaporative cooler and fabric filter on the combustion chamber, or installing a venturi scrubber on the combustion chamber, and (B) installing a fabric filter on the mill cyclone (P004), by no later than November 1, 1979.

2. Compliance with Order (1) above shall be achieved by Great Lakes Carbon in accordance with the following schedule on or before the dates specified:

Submit final control plans	Dec. 1, 1978.
Award contract(s)	Jan. 1, 1979.
Begin construction	June 1, 1979.
Complete construction	Oct. 1, 1979.
Testing of equipment	Oct. 15, 1979.
Achievement of final compliance with OAC-3745-17-07 and OAC-3745-17-11.	Nov. 1, 1979.

3. Pending achievement of compliance with Order (1) above, Great Lakes Carbon shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable systems of emission reduction, and which are necessary to ensure compliance with OAC-3745-17-07 and OAC-3745-17-11 insofar as Great Lakes Carbon is able to comply with them during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

a. Great Lakes Carbon shall immediately institute a regular maintenance program to

minimize emissions from the product cyclone (P003) and mill cyclone (P004).

b. Great Lakes Carbon shall continue to use the combustion chamber to minimize emissions from the product cyclone (P003) and mill cyclone (P004).

c. Great Lakes Carbon shall continue to operate and maintain the continuous recording opacity monitor for the emissions from the product cyclone (P003) and mill cyclone (P004).

4. Within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above, Great Lakes Carbon shall submit a written progress report to the Northwest District Office. The person submitting these reports shall certify whether each increment of progress has been achieved and the date it was achieved.

On a monthly basis Great Lakes Carbon shall submit a written report to the Northwest District Office concerning any excursions above the 20 percent opacity limitation in OAC-3745-17-07, and the maintenance and operation of the product cyclone (P003) and mill cyclone (P004).

5. Great Lakes Carbon shall conduct emission tests on the product cyclone (P003) and mill cyclone (P004) to verify compliance with Order (1) above. Such tests shall be conducted no later than the date specified in the compliance schedule in Order (2) above in accordance with procedures approved by the Director. Written notification of intent to test shall be provided to the Northwest District Office, thirty (30) days prior to the testing date.

6. Great Lakes Carbon is hereby notified that unless it is exempted under Section 120(a)(2)(B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120 of the Clean Air Act, as amended.

These orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Dated: December 29, 1978.

NED E. WILLIAMS, P.E.,
Director of Environmental Protection.

WAIVER

The Great Lakes Carbon Corporation agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. The Great Lakes Carbon Corporation hereby waives the right to appeal the issuance or terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. The Great Lakes Carbon Corporation also waives any and all rights it might have to seek judicial review of any approval by U.S. EPA of the attached Findings and Orders or to seek a stay of enforcement of said Findings and Orders in connection with any judicial review of Ohio's air implementation plan or portion thereof.

E. D. BURTON,
Authorized Representative of Great Lakes Carbon Corporation, Group Vice President.

[FR Doc. 79-5190 Filed 2-15-79; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 361]

EXEMPTION OF CERTAIN DESIGNATED OPERATORS FROM SECTION 11343 (FORMERLY SECTION 5(2) OF THE INTERSTATE COMMERCE ACT)

FEBRUARY 13, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Correction to the Notice of Proposed Rulemaking published January 17, 1979, in 44 FR 3531.

SUMMARY: The Notice of Proposed Rulemaking contained an inadvertent error as to the effective date (stated as February 15, 1979). The proposed rule which concerns the exemption of companies operating exclusively as designated operators from the requirements of Section 5(2) of the Interstate Commerce Act will not become effective until the Commission issues a decision after consideration of the comments received.

DATE: Comments are due on February 16, 1979.

ADDRESS: Send comments to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, (202) 275-7564.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-5087 Filed 2-15-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

[10 CFR Part 791]

ELECTRIC AND HYBRID VEHICLES

Research, Development, Demonstration and Production Loan Guaranties

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking; cancellation of public hearing.

SUMMARY: The Department of Energy hereby cancels the public hearing on proposed amendments to its regulations on Electric and Hybrid Vehicle Research, Development, and Production Loan Guaranties which was scheduled for Tuesday, February 20, 1979, in Washington, D.C. The public hearing is cancelled due to the lack of any requests to speak at the hearing. As stated in the notice of proposed rulemaking, issued on January 15, 1979, (44 FR 4418, January 19, 1979) written comments on the proposed amendments must be received by 4:30 e.s.t. on March 20, 1979.

FOR FURTHER INFORMATION CONTACT:

Anthony H. Ewing, U.S. Department of Energy, Office of Conservation and Solar Applications, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, (202) 376-4747.

Issued in Washington, D.C., February 15, 1979.

OMI WALDEN,
Assistant Secretary, Conservation and Solar Applications.

[FR Doc. 79-5314 Filed 2-15-79; 11:28 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.

[1505-01-M]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 7]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Period June 1, 1978, Through May 31, 1979); Rice

Correction

In FR Doc. 79-4432, appearing in the issue of Friday, February 9, 1979, on page 8319, in the first column, the first paragraph, the second line from the end, correct the first word in the line now reading "Rise" to read "Rice".

[3410-30-M]

Food and Nutrition Service

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Program Payments for 1979

Pursuant to Section 13 of the National School Lunch Act (42 U.S.C. 1761) and §§ 225.8 and 225.12(e) of the regulations governing the Summer Food Service Program for Children (7 CFR Part 225) notice is hereby given of adjustments in Program payments for meals served to children participating in the Summer Food Service Program for Children during the 1979 Program. Adjustments are based on changes in the Food Away from Home series of the Consumer Price Index for the period November, 1977, through November, 1978.

The Program payment for breakfasts served in the Program is 56.75 cents for each breakfast served in the Program. In addition, 4.25 cents is designated specifically for administrative payments to sponsors. This administrative payment is increased to 5.25 cents for meals served at rural and self-preparation sites.

The Program payment for lunches and suppers served in the Program is 102.00 cents for each lunch and supper served in the Program. In addition, 8.00 cents is designated specifically for administrative payments to sponsors. This administrative payment is increased to 9.75 cents for meals served at rural and self-preparation sites.

The Program payment for supplemental meals served in the Program is 26.75 cents for each supplemental meal served in the Program. In addition, 2.00 cents is designated specifically for administrative payments to sponsors. This administrative payment is increased to 2.75 cents for meals served at rural and self-preparation sites.

The total amount of payments to be made for distribution to Program participants to each State agency from the sums appropriated for the Program shall be based upon these Program payment rates and the number of meals of each type served. The above payment rates represent a 10.03 percent increase in the payment rates prescribed for 1978. This represents the percentage of increase during 1978 (from 205.4 in November, 1977, to 226.00 in November, 1978) in the Food Away from Home series of the Consumer Price Index, published by the Bureau of Labor Statistics of the Department of Labor.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the Summer Food Service Program for Children (7 CFR Part 225).

(Catalog of Federal Domestic Assistance Program No. 10.559)

Effective Date: This notice shall be effective January 1, 1979.

Dated: February 12, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-4996 Filed 2-15-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

DELTA AIR LINES, INC., OF ATLANTA, GA.

Application for an All-Cargo Air Service Certificate

FEBRUARY 9, 1979.

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 34420, from Delta Air Lines, Inc. of Atlanta, Georgia for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application on or before March 9, 1979. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-5155 Filed 2-15-79; 8:45 am]

[6320-01-M]

[Docket No. 30789]

TRANSATLANTIC CARGO SERVICE CASE

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on April 17, 1979, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C.

In order to facilitate the conduct of the conference, all parties are directed to *note well the first complete paragraph on page 9 of Order 78-12-59.* They are also instructed to submit (one copy to each party and six copies to the judge) the following: (1) Proposed statement of issues; (2) proposed stipulations; (3) proposed requests for information and evidence, and suggestions for standardizing and reducing the volume of evidentiary materials; (4) statements of position; (5) proposed procedural dates; and (6) an estimate of the time required for the presentation of its case and for its cross-examination of witnesses for other applicants. The Bureau of International Aviation will circulate its materials on or before March 22, 1979, and the other parties on or before April 2, 1979. Except for suggestions for innovative approaches, as requested by the Board, the submissions of the applicant and intervening parties shall be limited to the points on which they differ with the Bureau. To facilitate

cross-referencing, all parties shall follow the numbering and lettering used by the Bureau.

Dated at Washington, D.C., February 9, 1979.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc. 79-5156 Filed 2-15-79; 8:45 am]

[6320-01-M]

[Docket Nos. 33125, 33335; Order 79-2-40]

UNITED AIR LINES, INC., AND AMERICAN AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of February 1979.

On August 1, 1978, United Air Lines filed an application and motion for hearing for new authority in the following 14 Great Lakes-Florida markets: Buffalo-Orlando / Daytona Beach / Sarasota / Ft. Myers; Cleveland-Orlando / Daytona Beach / Sarasota / Ft. Myers; Rochester-Orlando / Dayton Beach / Sarasota / Ft. Myers; Rochester-Orlando / Daytona Beach / Sarasota / Ft. Myers; and Pittsburgh-Sarasota / Ft. Myers.[1] In addition, it requests, subject to a long-haul restriction, intra-Florida authority between the new points—Sarasota, Ft. Myers, Orlando and Daytona Beach—and its existing Florida points—Tampa / St. Petersburg / Clearwater, West Palm Beach, Ft. Lauderdale and Miami.[2]

In support of its application, it argues that it carries 70 percent of the Great Lakes-Florida traffic although its authority in the markets is restricted; it has a long-standing interest in serving these markets as demonstrated by the number of applications it has previously filed; and, the markets have an urgent need for nonstop service, demonstrated by the tremendous growth in the area surrounding the four Florida points.

Numerous civic parties filed answers supporting United's application.[3] Eastern and Allegheny argue that United has no historic interest in any of the Great Lakes-Florida markets it proposes to serve; most of the markets are small and relatively well served; United has failed to seize existing opportunities to offer improved Great Lakes-Florida service; and, there are enough Florida proceedings already under way, with some of the markets sought by United already being considered.

On August 31, 1978, American Airlines filed a motion to consolidate its own application, which includes the fourteen Great Lakes-Florida markets sought by United and 35 additional ones.[4] It submitted exhibits showing that one daily round trip could be operated profitably in 16 of the 35 proposed markets, and argued that, by combining various traffic flows, economic operations could also be launched in the other markets. However, American did not provide schedules, departure figures and other data required by § 302.908.

Answers opposing American's motion were filed by Allegheny and Delta. Allegheny reiterated its objection against United's application, while Delta focused on American's failure to conform to § 302.908 of the Board's Rules.

We tentatively conclude, on the basis of the tentative findings below, that it is consistent with the public convenience and necessity to award multiple authority on a Category II subsidy-ineligible basis, in the Great Lakes-Florida markets and subject to a long-haul restriction in the intra-Florida markets enumerated below,[5] and to grant the application for these markets of United, American and any other fit, willing and able applicant whose fitness can be established by officially noticeable data.[6,7] Further, we tentatively conclude that no oral evidentiary hearing is needed here since there are no material determinative issues of fact requiring such a hearing for their resolution.

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evidence that approval would not be consistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). To give such opponents a reasonable opportunity to meet an admittedly heavy burden of proof, it is our view that applicants must indicate what type of service they would provide if they serve the markets at issue. This does not mean that an applicant must

[1] Since filing its application, United has received nonstop authority in the Buffalo-Orlando market under the unused authority provisions of the Airline Deregulation Act of 1978 (Order 78-11-41). We shall nevertheless process its application here for regular section 401 authority.

[2] Specifically, United proposes to add new segments 6 and 7 to its Route 51 as follows: "6. Between the coterminal points Buffalo and Rochester, N.Y., Cleveland, Ohio, and Pittsburgh, Pa., and the coterminal points Sarasota and Ft. Myers, Florida; and 7. Between the coterminal points Buffalo and Rochester, N.Y., and Cleveland, Ohio, and the coterminal points Orlando and Daytona Beach, Fla." and a new condition (18) worded as follows: "18. Notwithstanding the linear route description in the holder's certificate for Route 51, the holder may schedule flights between the points within the State of Florida named on Segment 1(a)(ii) (Tampa-St. Petersburg-Clearwater, West Palm Beach, Ft. Lauderdale and Miami) and the points within the State of Florida named on Segments 6 (Sarasota and Ft. Myers) and 7 (Orlando and Daytona Beach) so long as the flight also serves a point outside of the State of Florida on Segments 6 and 7."

[3] Niagara Frontier Transportation Authority and the Buffalo Area Chamber of Commerce, New York State Commissioner of Transportation, Rochester Area Chamber of Commerce, County Council of Volusia County, Florida, Ft. Myers Parties, City of Orlando and the Greater Orlando Aviation Authority, and Sarasota-Manatee Airport Authority.

[4] The additional Great Lakes-Florida markets sought by American are: Buffalo-Ft. Lauderdale / Miami / Tampa; Cleveland-Ft. Lauderdale / Miami / Tampa; Rochester-Ft. Lauderdale / Miami / Tampa; Pittsburgh-Daytona / Ft. Lauderdale / Miami / Orlando / Tampa; Albany-Daytona Beach / Ft. Lauderdale / Ft. Myers / Miami / Orlando / Sarasota / Tampa; Detroit-Daytona Beach / Ft. Lauderdale / Ft. Myers / Miami / Orlando / Sarasota / Tampa; Syracuse-Daytona Beach / Ft. Lauderdale / Ft. Myers / Miami / Orlando / Sarasota / Tampa.

[5] The Great Lakes-Florida markets include: Buffalo-Orlando / Dayton Beach / Sarasota / Ft. Myers; Cleveland-Orlando / Daytona Beach / Sarasota / Ft. Myers; Rochester-Orlando / Daytona Beach / Sarasota / Ft. Myers; and Pittsburgh-Sarasota / Ft. Myers. The intra-Florida markets subject to a long-haul restriction are: Fort Lauderdale-Orlando / Daytona Beach / Sarasota / Ft. Myers; Miami-Orlando / Daytona Beach / Sarasota / Ft. Myers; Tampa-Orlando / Daytona Beach / Sarasota / Ft. Myers; West Palm Beach-Orlando / Daytona Beach / Sarasota / Ft. Myers, Orlando-Daytona Beach / Sarasota / Ft. Myers, Daytona Beach-Sarasota / Ft. Myers, and Sarasota-Ft. Myers. In intro-Florida markets we propose to impose a long-haul restriction because unrestricted authority in these markets is in issue in the *Florida Service Case*, Docket 33091.

[6] We shall not consolidate the 35 additional Great Lakes-Florida markets included in American's application. The addition of such a large number of markets to this one proceeding would be unduly cumbersome. Moreover, a number of them are in issue in ongoing formal proceedings. If American wishes to pursue the matter it should submit the information specified in footnote 8 and we will process the application in one or more proceedings.

[7] Officially noticeable data consist of that material filed under Rule 24(m) of our Procedural Regulations. Applicants whose fitness cannot be so established must make a showing of fitness, as well as dealing with any questions under sections 408 and 409 of the Act. Should such applications be filed, we will then consider how to deal with them procedurally.

On the basis of officially noticeable data, we find that United and American are citizens of the United States and are fit, willing and able to perform the air services proposed and to conform to the provisions of the Act and our rules, regulations and requirements.

show that it will provide service if it receives authority but rather what the nature of its service would be if it decided to serve. We will give all existing and other applicants 15 days from the date of service of this order to supply data,[8] in order to give interested persons sufficient information on the nature of the applicant's proposal to assess consistency with the public convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrative service proposals are contingent on such filings.

Upon review of all the facts and pleadings in this case, we have tentatively determined that there is no reason why we should not grant multiple permissive awards. Our tentative conclusions comport with the letter and spirit of the Airline Deregulation Act of 1978, particularly the declaration of policy set forth in section 102 which instructs us to rely to the maximum extent possible, on competitive forces, including potential competition.[9] See our general conclusions about the benefits of multiple permissive authority in *Improved Authority to Wichita Case, et al.*, Order 78-12-106, December 14, 1978. Accordingly, we conclude that it is desirable to award the additional authority sought by the applicants, whether or not services are in fact operated. The existence of additional operating rights in markets now being served by incumbent carriers or authorized to be served will best effect the statute's policy objective of placing maximum reliance on the decisions of the marketplace. This will occur because newly authorized carriers may actually enter the market in order to exploit unmet demand, both in terms of price and service, or because incumbents will be encouraged by the realistic threat of entry to meet the demand. Because demand is dynamic in character and therefore constantly changing, the most effective means to assure that competitive forces will operate quickly and efficiently is to award multiple operating authority to carriers that are fit, willing and able to provide service.[9a]

Notwithstanding the foregoing tentative conclusions in support of multiple permissive authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additional and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statute. For example, while diversion from existing carriers will not be given decisive weight in rejecting applications for new authority except upon an extraordinary showing of financial jeopardy on the part of one or more existing air carriers, with the consequent loss of air service which cannot be immediately replaced, other provisions suggest that the Congress desires us to take into account other factors. These include, but are not limited to, satellite airport questions, the degree of concentration within the industry, and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications in issue, and should be sufficiently detailed to overcome the statutory presumption of favorable treatment that the Act bestows on applications.

Finally, we will make the determination of the environmental consequences of all the applications in the final order after the receipt of revised environmental evaluations from United and American and environmental data from other applicants.[10]

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague, or unsupported objections.

Accordingly,

1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and

(a) Amending the certificate of public convenience and necessity of United Air Lines for Route 51 and American Airlines for Route 4 so as to authorize them to engage in nonstop operations between Buffalo and Rochester, N.Y., and Cleveland, Ohio, on one hand, and Daytona Beach, Ft. Myers, Orlando and Sarasota-Bradenton, Fla., on the other hand, and between Pittsburgh, Pa., and Ft. Myers and Sarasota; and

(b) Amending the certificate of United Air Lines for Route 51 to authorize it to engage in air transportation between and among Tampa-St. Petersburg-Clearwater, West Palm Beach, Miami, and Ft. Lauderdale, on the one hand, and Daytona Beach, Ft. Myers, Orlando and Sarasota-Bradenton on the other hand, on flights that also serve Cleveland, Buffalo, Rochester or Pittsburgh; and

(c) Amending, to grant any authority in issue, the certificates of any other fit, willing and able applicants whose fitness can be established by officially noticeable material.

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, to file with us and serve upon all persons listed in paragraph 7, no later than March 19, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers shall be due no later than March 29, 1979;

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[8] They should submit an illustrative schedule of service in the markets at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over the segments. For the markets at issue only, they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operations in the markets if they instituted the proposed service, as well as a statement on the availability of the required fuel.

[9] Section 102(a) specifies as being in the public interest, among other things: "The placement of maximum reliance on competitive market forces and on actual and potential competition (a) to provide the needed air transportation system, and (b) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital" and "The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services".

[9a] The above recited policy determinations and findings answer the objections brought forward by Eastern and Allegheny in opposition to United's application and American's motion to consolidate. Specifically, the allegations that the applicants have no historic interest in any of the Great Lakes-Florida markets, that most of the markets are small and relatively well-served, and that the applicants have failed to seize existing opportunities to offer improved Great Lakes-Florida service are not germane to the basis for our policy determinations. As set forth above, notwithstanding any truth in these allegations, the existence of any additional outstanding authority, even if not exercised, will encourage the incumbent carrier or carriers continuously to seek out the best combination of service and price in accordance with the specific demand characteristics of the markets in issue.

[10] We note that United's environmental evaluation submitted with its application (UA-13) does not assume service in every Great Lakes-Florida and intra-Florida market for which it applied, and the carrier may wish to revise it to cover all segments being placed in issue (see footnote 5). In addition, American should revise its evaluation (AA-600) based on the scope of this proceeding.

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action; [11]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. We grant the motion of American Airlines to consolidate its application in Docket 33335, with United's application in Docket 33125, to the extent it seeks authority in issue in this proceeding;

6. We direct United, American and any other applicant for the authority in issue to file the data set forth in footnote 8 no later than March 5, 1979; and [12]

7. We will serve a copy of this order upon all persons named in the service list of Docket 33125.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[13]
Secretary.

[FR Doc. 79-5154 Filed 2-15-79; 8:45 am]

[6320-01-M]

[Order 79-2-36, Docket Nos. 33304, 33367]

ALLEGHENY AIRLINES AND PIEDMONT AVIATION

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of February, 1979; Application of Allegheny Airlines for nonstop Pittsburgh-Washington and one-stop Toledo-Washington authority; Application of Piedmont Aviation for nonstop Pittsburgh-Washington authority.

On August 28, 1978, Allegheny Airlines filed an application in Docket 33304 for an amendment of its certificate of public convenience and necessity for Route 97. The application makes two requests. First, Allegheny seeks removal of its one-stop restriction between Washington, D.C. and Pittsburgh. Second, it asks that the two-stop restriction on its Washington, D.C.-Toledo, Ohio service be modified to enable one-stop service via Pittsburgh. Currently, Northwest Airlines and United Air Lines provide nonstop Washington, D.C.-Pittsburgh air service,[1] while United is the only certificated carrier now serving the Washington, D.C.-Toledo market.[2]

In support of its application, Allegheny submitted a petition for an order to show cause in which it states that the new service which it proposes would be profitable, yield substantial public benefits and have no adverse impact either upon the incumbent carriers or the domestic air transportation system as a whole.

Piedmont Aviation submitted an application (Docket 33367) for amendment of its certificate of public convenience and necessity for Route 87 to authorize nonstop Washington, D.C.-Pittsburgh air transportation, and concurrently filed a motion to consolidate its application with Allegheny's. It argues that simultaneous consideration of the two applications is dictated by the *Ashbacker* doctrine.[3]

Northwest filed an answer in opposition to Allegheny's request. It contends that show-cause procedures are an inappropriate means of dealing with Allegheny's application; that the application should not be granted absent an oral evidentiary hearing; and that the service proposed by Allegheny [4] does not offer significant public benefits.

United, the other incumbent, did not file an answer in opposition either to the Allegheny or the Piedmont application.

The Pittsburgh Airport Advisory Committee and the County of Allegheny filed an answer in support of Allegheny's request for nonstop Washington-Pittsburgh authority, and the Toledo-Lucas County Port Authority, the Toledo Area Chamber of Commerce and the City of Toledo jointly submitted a statement in support of its request for one-stop authority between Washington and Toledo.

TENTATIVE FINDINGS AND CONCLUSIONS

We tentatively conclude, on the basis of the tentative findings below, that it is consistent with the public convenience and necessity to award multiple nonstop authority on a Category II subsidy-ineligible basis in the Pittsburgh-Washington market, and to grant the applications of Allegheny, Piedmont and any other fit, willing and able applicant whose fitness, willingness and ability can be established by officially noticeable data.[5] Further, for the reasons set forth below, we reject Northwest's contention that show-cause procedures are inappropriate, and instead tentatively conclude that no oral evidentiary hearing is needed here since there are no material determinative issues of fact requiring such a hearing for their resolution.

We have also tentatively decided to award authority separately for Washington National an Dulles International airports. If a carrier does not use its authority at one airport, another carrier can obtain that authority under section 401(d)(5) of the Act as long as the airports are listed separately on the first carrier's certificate (See Order 78-11-41). We find this approach more consistent with the Act's declaration of policy which calls on us to encourage air service at major urban areas through secondary or satellite airports.[6]

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evidence, that approval would not be consistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). To give such opponents a reasonable opportunity to meet an admittedly heavy burden of proof, it is our view that applicants must indicate what type of service they would provide if, after receiving authority, they choose to serve the markets at issue. (Allegheny has already done so.) This does not mean that an applicant must show

[11] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

[12] If United wants all of the requested authority it should additionally file illustrative schedules, fuel consumption data, and revised environmental evaluations for the Great Lakes-Florida and intra-Florida markets in which it has not proposed any single-plane service. It should also file a statement on the availability of the required fuel for all of the proposed service.

[13] All Members concurred except member O'Melia who did not vote.

[1] Allegheny has nonstop Baltimore-Pittsburgh authority.

[2] United serves the market on a one-stop basis. Allegheny provides eastbound one-stop service between Toledo and Baltimore.

[3] *Ashbacker Radio Co. v. F.C.C.*, 326 U.S. 327 (1945).

[4] Allegheny states in its petition that if its application is granted, it will offer initially two daily nonstop round trips between Washington and Pittsburgh, one of which will continue on to Toledo.

[5] Officially noticeable data consist of that material filed under subsection 302.24(m) of our Procedural Regulations. Applicants whose fitness cannot be so established must make a showing of fitness, as well as dealing with any questions under sections 408 and 409 of the Act. Should such applications be filed, we will then consider how to deal with them procedurally.

On the basis of officially noticeable data, we find that Piedmont and Allegheny are citizens of the United States and are fit, willing and able to perform the air services proposed and to conform to the provisions of the Act and our rules, regulations and requirements. Our findings in regard to Allegheny apply also to our tentative grant of nonstop Pittsburgh-Toledo authority below.

[6] We will give Allegheny 15 days to file any revisions to its illustrative service proposals for the Washington area.

that it will provide service if it receives the authority, but rather what the nature of its service would be if it decided to serve. We will give Piedmont and all would-be applicants 15 days from the date of service of this order to supply data,[7] in order to give interested persons sufficient information on the nature of the applicant's proposal to assess consistency with the public convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrative service proposals are contingent on such filings.

Upon review of all the facts and pleadings in this case, we have tentatively determined that there is no reason why we should not grant multiple awards in the Pittsburgh-Washington National/Dulles International markets. Our tentative conclusions comport with the letter and spirit of the Airline Deregulation Act of 1978, particularly the declaration of policy set forth in section 102 which instructs us to rely, to the maximum extent possible, on competitive forces, including potential competition.[8] See our general conclusions about the benefits of multiple authority in the *Improved Authority to Wichita Case*, Order 78-12-106, December 14, 1978. Accordingly, we conclude that it is desirable to award the additional authority sought by the applicants, whether or not services are in fact operated. The existence of additional operating rights in markets now being served by incumbent carriers or authorized to be served will best effect the statute's policy objective of placing maximum reliance on the decisions of the marketplace. This will occur because newly authorized carriers may actually enter the market in order to exploit unmet demand, both in terms of price and service, or because incumbents will be encouraged by the realistic threat of entry to meet that demand. Because demand is dynamic in character and therefor constantly changing, the most effective means to assure that competitive forces will operate quickly and efficiently is to award multiple operating authority to carriers that are fit, willing and able to provide service.[9]

Notwithstanding the foregoing tentative conclusions in support of multiple authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additional and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statue. For example, while diversion from existing carriers will not be given decisive weight in rejecting applications for new authority except under an extraordinary showing of financial jeopardy on the part of one or more existing air carriers with the consequent loss of air service which cannot be immediately replaced, other provisions suggest that the Congress desires us to take into account other factors. These include, but are not limited to, satellite airport questions and the degree of concentration within the industry and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications in issue, and should be sufficiently detailed to overcome the presumption of favorable treatment that the Act bestows on applications.

We have tentatively decided, on our own motion, to grant Allegheny unrestricted authority between Toledo and Washington National/Dulles airports even though it has only requested one-stop authority. Such action clearly comports with the letter and spirit of the Airline Deregulation Act for the reason stated infra., p. 4. Moreover, with the exception of a temporary departure in the early 1970's it has been our long-established policy to favor the removal of operating restrictions.[10] This policy has been founded on the recognition that such restrictions are inherently economically wasteful.[11] Thus, even prior to passage of the new Act, we had consistently authorized their elimination upon request *"regardless of the quantity and quality of the incumbent's service unless an affirmative showing is made that the restriction is required."*[12] (Emphasis added.) For these reasons, we tentatively conclude that it is consistent with the public convenience and necessity to grant Allegheny nonstop authority in the Toledo-Washington market.

Environmental Impact and Fuel Consumption

Allegheny has submitted an evaluation of the environmental impact of its proposed new services.[13] On the basis of this material, we tentatively conclude that the requested removal of operating restrictions will not constitute a major Federal action significantly affecting the quality of the environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Allegheny also has estimated the amount of additional fuel usage that the introduction of its proposed new service would entail. It states that an additional 1.6 million gallons of fuel will be required annually to serve the Washington-Pittsburgh market.[14] This estimate is considerably below the 10-million gallon threshold adopted by us in Part 313 as a measure of what constitutes a major regulatory action. We reserve judgment on the environmental and energy consequences of other applications, pending submission of environmental data.

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to support objections, if any, with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. We will not entertain general, vague or unsupported objections. We remind objec-

[7] They should submit an illustrative schedule of service in the markets at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over the segments. For the markets at issue only, they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operations in the markets if they instituted the proposal service, as well as a statement on the availability of the required fuel.

[8] Section 102(a) specifies as being in the public interest, among other things:

"The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits to attract capital" and "The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services."

[9] The above recited policy determinations and findings answer Northwest's objection that Allegheny's service proposal doesn't offer "significant public benefits." The specifics of Allegheny's proposal simply are not germane to the basis for our policy determinations. As set forth above, the existence of any additional outstanding authority, even if not exercised at all, will encourage the incumbent carrier or carriers continuously to seek out the best combination of service and price in accordance with the specific demand characteristics of the markets in issue.

[10] Albuquerque-Phoenix Subpart M Proceeding, Order 77-11-114; Cincinnati-Washington Subpart M Proceeding, Order 77-10-4; Memphis-Tampa/St. Petersburg/Clearwater Subpart N Proceeding, Order 77-4-66; The Shreveport-Dallas Nonstop Proceeding, Order 76-11-1.

[11] The Shreveport-Dallas Nonstop Proceeding, Order 76-11-1.

[12] *Id.*, p. 2.

[13] AL-600.

[14] AL-600.

tors that under the 1978 Act they have the burden of proving why the awards proposed here will not be consistent with the public convenience and necessity. Answers to objections shall be filed within 10 days of the due date for objections.

Accordingly, 1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and amending the certificate of public convenience and necessity of Allegheny Airlines for Route 97 so as to authorize the carrier to engage in nonstop operations between Washington National Airport and Dulles International Airport, on the one hand, and Pittsburgh, Pa. and Toledo, Ohio, on the other hand, and amending the certificate of public convenience and necessity of Piedmont Aviation for Route 87 and the certificates of any other fit, willing and able applicants, the fitness of which can be established by officially noticeable material, so as to authorize nonstop service between Washington National Airport and Dulles International Airports, on the one hand, and Pittsburgh, Pa., on the other;

2. Any persons having objections to the issuance of an order making final any of the proposed findings or conclusions set forth here, shall no later than March 19, 1979, file with us and serve on all persons listed in paragraph 7 below, a statement of objections together with a summary of testimony, statistical data and other material expected to be relied upon to support the stated objections. Answers shall be due no later than March 29, 1979;

3. If timely and properly supported objections are filed, we will consider the matters and issues raised by the objections before taking further action; [15]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we shall proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. We grant Piedmont Aviation's motion to consolidate its application in Docket 33367 with the Allegheny application in Docket 33304;

6. We direct Piedmont and any other applicant for nonstop Pittsburgh-Washington authority to file the data set forth in footnote 7 no later than March 5, 1979;

7. We will serve a copy of this order on Allegheny Airlines, Piedmont Aviation, Northwest Airlines, United Airlines, the Pittsburgh Airport Advisory Committee and the County of Allegheny, and the Toledo-Lucas County Port Authority, the Toledo Area Chamber of Commerce and the City of Toledo.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[16]
Secretary.

[FR Doc. 79-5152 Filed 2-15-79; 8:45 am]

[15] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

[6320-01-M]

[Order 79-2-33; Docket Nos. 32587, 33396, 33561, 33583]

ALLEGHENY AIRLINES INC., ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of February, 1979.

In the matter of applications of Allegheny Airlines, Inc., Docket 32587, Piedmont Aviation, Inc., Docket 33396, Northwest Airlines, Inc., Docket 33561, Southern Airways, Inc., Docket 33583, for certificate authority.

On May 1 1978, Allegheny Airlines filed an Application seeking amendment of its certificate of public convenience and necessity for Route 97 to authorize an extension of its system from Pittsburgh, Pa., to both Charlotte and Raleigh/Durham, N.C. Allegheny petitioned us on September 1, 1978, to process the application by show-cause procedures. In support of its request, it contends that Eastern, the only certificated carrier serving the markets, offers poorly scheduled nonstop service in the Pittsburgh-Charlotte market, and inadequate, poorly scheduled one-stop service in the Pittsburgh-Raleigh/Durham markets.[1] Initially, Allegheny proposes to schedule two daily nonstop round trips in both markets, providing all service with 100-seat DC-9-30 aircraft in an all-coach configuration. Because pittsburgh is the hub of its operations, it states that it will be able to provide Charlotte and Raleigh/Durham with improved one-stop, single-plane or connecting service in numerous markets to which they now receive little or no service.[2] It predicts that as many as 146,000 passengers will receive improved service as a result of its proposals, and that it will earn a net profit (after return on investment and tax) of $178,000, based upon the latest available Subpart K costing methodology. Its application and show-cause petition are supported by various civic parties.[3]

On September 12, 1978, Piedmont filed an application for an amendment to its certificate for Route 87 to authorize nonstop service between Pittsburgh and Charlotte and Raleigh/Durham, and a concurrent motion to consolidate its application with that of Allegheny. It also petitioned to have its application processed by show-cause procedures. In support of its request, it contends that Eastern's inconveniently timed service in these markets reflects its monopoly position. Piedmont proposes to provide two daily nonstop round trips in the Pittsburgh-Charlotte market, and two daily nonstop round trips between Pittsburgh and Raleigh/Durham, with Boeing 737-200 equipment. It asserts that its proposed service will greatly benefit the traveling public due to its high volume of connecting traffic at Pittsburgh, and because it will offer a variety of discount fares, including its Super Saver Fare, a specified 30 percent round trip discount fare subject to restrictions, and a 40 percent discount on its off-peak services, without any restrictions or limitations. It estimates a net profit (after return on investment and tax) of $314,000.

Northwest Airlines filed an application on September 28, 1978, requesting amendment of its certificate for Route 3 to authorize service between Pittsburgh and Charlotte and Raleigh/Durham, and concurrently filed a motion to consolidate its application with that of Allegheny. Southern Airways filed an application on September 29, 1978, seeking to amend its certificate for Route 98 to authorize service between Pittsburgh and Charlotte, and also filed a motion to consolidate its application with that of Allegheny. Neither of these applicants has submitted evidence supporting its application.

Eastern has filed answers opposing the show-cause petitions of Allegheny and Piedmont. It asserts that its three daily nonstop and one daily one-stop round trips in the Pittsburgh-Charlotte market and one and a half daily one-stop round trips in the Pittsburgh-Raleigh/Durham market are more than adequate to meet the demand for service; that its load factors are not sufficiently high to justify further

[16] All Members concurred except Member O'Melia who did not vote.

[1] The only other carrier certificated to serve the markets is United, whose authority is one-stop restricted via Asheville, N.C. It has not served either of the markets in recent years.

[2] Allegheny proposes service via Pittsburgh in the following Charlotte markets: Albany/Allentown/Akron/Canton/Buffalo/Columbus/Dayton/Erie/Evansville/Hartford/Harrisburg/Indianapolis/Providence/Rochester/Toledo/Wilkes-Barre/Scranton. Via Pittsburgh, it proposes service in the following Raleigh/Durham markets: Albany/Allentown/Akron/Canton/Buffalo/Cleveland/Dayton/Erie/Evansville/Harrisburg/Hartford/Indianapolis/Philadelphia/Rochester/Syracuse/Toledo/Wilkes-Barre/Scranton.

[3] The County of Allegheny and the Pittsburgh Airport Advisory Committee, the Raleigh/Durham Airport Authority, and the City of Charlotte and the Charlotte Chamber of Commerce.

service; and that these applications raise issues too complex to be handled by show-cause procedures.[4]

Upon consideration of the facts and pleadings in this case, we have determined that there is no reason not to grant multiple permissive awards here. We therefore tentatively conclude, on the basis of the tentative findings below, that it is consistent with the public convenience and necessity to award multiple permissive authority on a Category II subsidy-ineligible basis, in the Pittsburgh-Charlotte/Raleigh/Durham markets and to grant the applications of Allegheny, Piedmont, Northwest and Southern, and any other fit, willing, and able applicant whose fitness, willingness, and ability can be established by officially noticeable data.[5] Further, for the reasons set forth below, we reject Eastern's contention that show-cause procedures are inappropriate, and instead tentatively conclude that no oral evidentiary hearing is needed here since there are no material determinative issues of fact requiring such a hearing for their resolution.

Under the Airline Deregulation Act of 1978, we must approve an application for certificate authority unless we find, by a preponderance of the evidence, that approval would not be consistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). The new Act creates a presumption that the grant of all applications is consistent with the public convenience and necessity. It places on any opponents of these applications the burden of proving them inconsistent with the public convenience and necessity (Pub. L. No. 95-504, section 14). To give such opponents a reasonable opportunity to meet an admittedly heavy burden of proof, it is our view that applicants must indicate what type of service they would provide if they served the markets at issue. This does not mean that an applicant must show that it will provide service if it receives authority but rather what the nature of its service would be if it decided to serve. We will give all existing and would-be applicants 15 days from the date of service of this order to supply date,[6] in order to give interested persons sufficient information on the nature of the applicant's proposal to assess consistency with the public convenience and necessity. Our tentative findings concerning all applicants that have not filed illustrated service proposals are contingent on such filings.

Upon review of all the facts and pleadings in this case, we have tentatively determined that there is no reason why we should not grant multiple permissive awards. Our tentative conclusions comport with the letter and spirit of the Airline Deregulation Act of 1978, particularly the declaration of policy set forth in section 102 which instructs us to rely, to the maximum extent possible, on competitive forces, including potential competition.[7] See our general conclusions about the benefits of multiple authority in *Improved Authority to Wichita Case, et al.*, Order 78-12-106, December 14, 1978. Accordingly, we conclude that it is desirable to award the additional authority sought by the applicants, whether or not services are in fact operated. The existence of additional operating rights in markets now being served by incumbent carriers or authorized to be served will best effect the statute's policy objective of placing maximum reliance on the decisions of the marketplace. This will occur because newly authorized carriers may actually enter the market in order to exploit unmet demand, both in terms of price and service, or because incumbents will be encouraged by the realistic threat of entry to meet that demand. Because demand is dynamic in character and therefore constantly changing, the most effective means to assure that competitive forces will operate quickly and efficiently is to award multiple operating authority to carriers that are fit, willing and able to provide service.[8]

Notwithstanding the foregoing tentative conclusions in support of multiple authority in this proceeding, we wish to make clear that we in no way desire to deter objections that might be asserted under the 1978 Act by air carriers, civic interests or other interested persons. The new statute contains a completely revised declaration of policy in section 102, as well as numerous additonal and modified substantive provisions. Some of these statutory changes relate to considerations not expressly covered in the preceding statute. For example, while diversion from existing carriers will not be given decisive weight in rejecting applications for new authority except upon an extraordinary showing of financial jeopardy on the part of one or more existing air carriers, with the consequent loss of air service which cannot be immediately replaced, other provisions suggest that the Congress desires us to take into account other factors. These include, but are not limited to, satellite airport questions and the degree of concentration with the industry and safety. Any party in this proceeding may explain in full why the authority that we propose to grant should not issue. Such explanations should apply specifically to the applications in issue, and should be sufficiently detailed to overcome the statutory presumption of favorable treatment that the Act bestows on applications.

Finally, upon review of the environmental evaluations submitted by Alle-

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[4] In a footnote to its answer to Allegheny's petition to show cause, Eastern correctly states that when we instituted the *Roanoke-Pittsburgh Service Investigation*, Docket 33364, by Order 78-9-29 (September 7, 1978), we consolidated Allegheny's application in Docket 32587 to the extent that it conformed to the scope of that proceeding. Eastern assumes that the remainder of Allegheny's application, which involved Pittsburgh-Charlotte/Raleigh/Durham, was dismissed, and that its petition for an order to show cause is therefore moot. We have never dismissed those portions of Allegheny's application that are here involved, and its petition to show cause is therefore not moot.

[5] Officially noticeable data consist of that material filed under Section 302.24(m) of our Procedural Regulations. Applicants whose fitness cannot be so established must make a showing of fitness, as well as dealing with any questions under sections 408 and 409 of the Act. Should such applications be filed, we will then consider how to deal with them procedurally.

On the basis of officially noticeable data, we find that Allegheny, Piedmont, Northwest, and Southern are citizens of the United States and are fit, willing, and able to perform the air services proposed and to conform to the provisions of the Act and our rules, regulations, and requirements.

[6] They should submit an illustrative schedule of service in the markets at issue, which shows all points that they might choose to serve, the type and capacity of the equipment they would likely use and the elapsed trip time of flights in block hours over the segments. For the markets at issue only, they should also provide an environmental evaluation as required by Part 312 of our Regulations, and an estimate of the gallons of fuel to be consumed in the first year of operations in the markets if they instituted the proposed service, as well as a statement on the availability of the required fuel.

[7] Section 102(a) of the Act specifies as being in the public interest, among other things:

"(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital.

"(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices and to determine the variety, quality, and price of air transportation services."

[8] The above recited policy determinations and findings answers the substantive objections brought forward by Eastern in opposition to Allegheny's and Piedmont's show-cause petitions. Specifically, even if true, and failure to demonstrate a need for additional service at the present time in the Pittsburgh-Charlotte and Pittsburgh-Raleigh/Durham markets is not germane to the basis for our policy determinations. As set forth above, the existence of additional outstanding authority, even if not exercised, will encourage the incumbent carrier or carriers continuously to seek out the best combination of service and price in accordance with the specific demand characteristics of these markets.

gheny and Piedmont in their applications, to which no answers have been filed, we find that our decision to award them authority does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975. We reserve judgment on the environmental consequences of other applications, pending submission of environmental data.

We will give interested persons 30 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; replies will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a proceeding that cannot be established in written pleadings. We will not entertain general, vague or unsupported objections.

Accordingly,

1. We direct all interested persons to show cause why we should not issue an order making final the tentative findings and conclusions stated above and amending the certificates of public convenience and necessity of Allegheny for Route 97, Piedmont for Route 87 and Northwest for Route 3, so as to authorize these carriers to engage in nonstop operations between Pittsburgh, on the one hand, and Charlotte and Raleigh/Durham, on the other hand; amending the certificate of public convenience and necessity of Southern for Route 98 so as to authorize it to engage in nonstop operations between Pittsburgh, on the one hand, and Charlotte, on the other; and amending, to grant any of the authority in issue, the certificates of any other fit, willing, and able applicants whose fitness can be established by officially noticeable material;

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here, to file with us and serve upon all persons listed in paragraph 7, no later than March 19, 1979, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections; answers shall be due no later than March 29, 1979;

3. If timely and properly supported objections are filed, we will accord full consideration to the matters and issues raised by the objections before we take further action; [9]

4. In the event no objections are filed, we will deem all further procedural steps to have been waived and we may proceed to enter an order in accordance with the tentative findings and conclusions set forth here;

5. We grant the motions of Piedmont, Northwest, and Southern to consolidate their applications in Dockets 33396, 33561, 33583, respectively, with Allegheny's application in Docket 32587;

6. We direct Northwest, Southern, and any other applicant for the authority in issue to file the data set forth in footnote 6 no later than March 5, 1979;

7. We will serve a copy of this order upon all persons named in the service list of Docket 32587.

We will publish this order in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[10]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-5153 Filed 2-15-79; 8:45 am]

[9] Since provision is made for the filing of objections to this order, we will not entertain petitions for reconsideration.

[10] All Members concurred except Member O'Melia who did not vote.

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

NEBRASKA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil rights, that a conference of the Nebraska Advisory Committee (SAC) of the Commission will convene at 8:00 am and will end at 5:00 pm at the Nebraska Center for Continuing Education Building, Scottsbluff Room, University of Nebraska, 33rd and Holdrege Streets, Lincoln, Nebraska 68583, on March 6 and 7, 1979.

Persons wishing to attend this conference should contact the Committee Chairperson or the Central States Regional Office of the Commission, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of the conference is to provide follow-up training to Nebraska State Agencies in the area of affirmative action plan preparation and implementation. This activity is the follow-up effort to the Four State Affirmative Action Report released on June 8, 1978.

This conference will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 13, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-5124 Filed 2-15-79; 8:45 am]

[6335-01-M]

PUBLIC HEARING

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on March 19, 1979, at Conference Room No. 1, 1100 L Street, N.W., Washington, D.C. An executive session, if appropriate, may be convened at any time before or during the hearing.

The purpose of the hearing is to collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians; to appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians; and to disseminate information with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice, particularly concerning American Indians.

Dated at Washington, D.C., February 13, 1979.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc. 79-5296 Filed 2-15-79; 10:23 am]

[3510-13-M]

DEPARTMENT OF COMMERCE

National Bureau of Standards

I/O CHANNEL LEVEL INTERFACE STANDARDS

Issuance of Federal Information Processing Standards

On June 19, 1978, notice was given in the FEDERAL REGISTER (43 FR 26341-26344) that three proposed input/output (I/O) channel level interface standards were being recommended for Federal use. The three standards mentioned in that notice were (1) I/O

Channel Interface, (2) Channel Level Power Control Interface, and (3) Operational Specifications for Magnetic Tape Subsystems.

Interested parties were invited to submit written comments and, if desired, to testify at a public hearing conducted by the National Bureau of Standards (NBS) regarding those standards. A public hearing was held at NBS on August 11, 1978.

The testimony of the persons who testified at the public hearing, the written comments submitted by interested parties and all other material furnished in connection with those notices have been carefully considered and studied. In addition, the Department has also examined and reviewed its own material relevant to these standards. This examination, study, and review has resulted in the preparation of a detailed evaluation and analysis, including a revision and updating of earlier analyses. On the basis of such evaluation and analysis, and pursuant to the authority vested in the Secretary of Commerce (Secretary) under Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary has approved those three Federal Information Processing Standards and has authorized the publication of this notice announcing her approval of the three standards.

A copy of the evaluation documents on which the Secretary's approval was based, including copies of the transcript of the referenced public hearing and the written comments and materials submitted by interested parties, are available for inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230. This facility is open to the public Monday through Friday between the hours of 9 a.m. and 4:30 p.m. See § 4.4(c) of Title 15 of the Code of Federal Regulations for more details regarding the operation of this facility.

These standards define the mechanical, electrical and functional interface specifications for connecting computer peripheral equipment, such as magnetic tape and disk devices, as a part of medium and large scale automatic data processing (ADP) systems. The standards will enable Federal agencies to procure computer peripheral equipment competitively with regard to cost and performance and to be assured that the resulting interconnected equipment will perform correctly as a part of Federal ADP systems. Such competition will be made possible in the procurement of specifically identified classes of computer peripheral equipment at the time of initial ADP system acquisition, when systems are being augmented, and when system components are being replaced.

The three approved standards are closely interrelated. They together support the fully competitive procurement of magnetic tape peripheral equipment. The first two of these approved standards, together with another standard planned to be recommended to the Secretary for approval in the near future, will enable the fully competitive procurement of magnetic disk peripheral equipment. the I/O Channel Interface standard provides the basic hardware interface structure for transmission of control information and data to and from peripheral equipment. The Channel Level Power Control Interface standard provides for electrical power control of computer peripheral subsystems. The Operational Specifications for Magnetic Tape Subsystems standard provides the detailed functional interface specifications for use of magnetic tape subsystems connected through interfaces conforming to the first two standards.

Each of the approved Federal Information Processing Standards contain two basic sections: (1) An announcement section which provides information concerning the applicability and implementation of the standard, and (2) a specification section which defines the technical parameters of the standard. Only the announcement section of each of these three standards is provided in this notice.

Interested parties may purchase either paper or microfiche copies of these three standards, including the technical specifications pertaining thereto, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for these standards is set out below in the *Where to Obtain Copies* portion of the announcement section of each of these standards.

The criteria for determination by the National Bureau of Standards of excluded systems, as is required in paragraph one of the *Applicability* section of the I/O Channel Interface standard, will be published in the FEDERAL REGISTER no later than March 19, 1979. It will be accompanied by a description of the procedures to be followed in developing, maintaining, and distributing the required list of currently excluded systems.

Persons desiring any further information about these standards may contact Mr. Thomas N. Pyke, Jr., Director, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (301) 921-3436.

Dated February 12, 1979.

ERNEST AMBLER,
Director.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION 60

I/O CHANNEL INTERFACE

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CRF).

Name of Standard. I/O Channel Interface (FIPS PUB 60).

Category of Standard. Hardware Standard, Interface.

Explanation. This standard defines the functional, electrical, and mechanical interface specifications for connecting computer peripheral equipment as a part of automatic data processing (ADP) systems. This standard, together with a companion standard for power control, defines the hardware characteristics for the I/O channel level interface. In order to achieve full plug-to-plug interchangeability of peripheral components, device class specific operational specifications standards are also required for each class of peripheral device. These operational specifications standards will be proposed as Federal Information Processing Standards to accompany this standard as they are developed.

The Government's intent in employing this I/O Channel Interface standard is to reduce the cost of satisfying the Government's data processing requirements through increasing its available alternative sources of supply for computer system components at the time of initial system acquisition, as well as in system replacement and augmentation and in system component replacement.

This standard is also expected to lead to improved reutilization of system components. When acquiring ADP systems and system components, Federal agencies shall cite this standard in specifying the interface for connecting computer peripheral equipment as a part of ADP systems.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standards Institute document X3T9/600, Rev. 2, Draft Proposed American National Standard for I/O Channel Interface.

Applicability. This standard is applicable to the acquisition of all ADP systems and peripheral equipment for those systems except those minicomputer, microcomputer, and other small scale systems which are specifically excluded by the National Bureau of Standards (NBS). A list of such currently excluded systems and the current criteria for exclusion will be developed and maintained by NBS and will be periodically distributed to all Federal agencies and be publicly available upon request.

This standard is applicable to the acquisition of (1) all new and replacement ADP systems, (2) computer peripheral equipment acquired to replace existing peripheral equipment of or to augment ADP systems that employ interfaces conforming with this

standard, and (3) peripheral equipment acquired to replace existing peripheral equipment of or to augment ADP systems that do not conform to this standard, but for which the hardware and software necessary to conform to this standard are commercially available.

Specifically, this standard shall be employed in the interconnection of computer peripheral equipment as a part of ADP systems for the following types of peripherals: (1) Magnetic tape equipment employing open reel-to-reel magnetic tape storage devices, specifically excluding magnetic tape cassette and tape cartridge storage devices, (2) magnetic disk storage equipment employing disk drives each having a capacity greater than 7 megabytes per storage module, specifically excluding flexible disk and disk cartridge devices having a smaller storage capacity per device, and (3) peripheral equipment employing all peripheral device types for which accompanying operational specifications standards have been issued as Federal Information Processing Standards.

Verification of the correct operation of all interfaces that are required to conform to this standard shall, through demonstration or other means acceptable to the Government, be provided prior to the acceptance of all applicable ADP equipment.

Specifications. This standard incorporates by reference the technical specifications of ANSI document number X3T9/600, Rev. 2. Copies of the technical specifications section of the standard will be available from the National Technical Information Service as described in the *Where to Obtain Copies* section below.

Implementation. The provisions of this standard are effective December 13, 1979. All applicable equipment ordered on or after the effective date, or procurement actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this standard.

Regulations concerning the specific use of this standard in Federal procurement will be issued by the General Services Administration to be a part of the Federal Property Management Regulations.

This standard shall be reviewed by NBS within three years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be affirmed, revised, or withdrawn.

Waivers. Heads of agencies desiring a waiver from the requirements stated in this standard, so as to acquire ADP equipment that does not conform to this standard, shall submit a request for such a waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

A request for waiver shall include: (1) A description of the existing or planned ADP system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

The request for waiver shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which this standard is applicable and which does not conform to this standard prior to receipt of a waiver approval response from the Secretary.

Where to Obtain Copies. Either paper or microfiche copies of this Federal Information Processing Standard, including the technical specifications, may be purchased from the National Technical Information Service (NTIS) by ordering Federal Information Processing Standard Publication 60 (NBS-FIPS-PUB-60), I/O Channel Interface. Ordering information, including prices and delivery alternatives, may be obtained by contacting the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161, Telephone: (703) 557-4650.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATON 61

CHANNEL LEVEL POWER CONTROL INTERFACE

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Channel Level Power Control Interface (FIPS PUB 61).

Category of Standard. Hardware Standard, Interface.

Explanation. This standard defines the functional, electrical, and mechanical interface specificatons for a power control interface for use in connecting computer peripheral equipment as a part of automatic data processing (ADP) systems. This standard, together with a companion standard for I/O Channel Interface, defines the hardware characteristics for the I/O channel level interface.

The Government's intent in employing this Channel Level Power Control Interface standard is to reduce the cost of satisfying the Government's data processing requirements through increasing its available alternative sources of supply for computer system components at the time of initial system acquisition, as well as in system replacement and augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of system components.

When requiring ADP systems and system components, Federal agencies shall cite this standard in specifying the power control interface for connecting computer peripheral equipment as a part of ADP systems.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standards Institute document X3T9/666, Rev. 2, Draft Proposed American National Standard Specifications for Power Control Interface.

Applicability. This standard is applicable whenever use of Federal Information Processing Standard I/O Channel Interface (NBS-FIPS-PUB-60) is required.

Verification of the correct operation of all interfaces that are required to conform to this standard shall, through demonstration of other means acceptable to the Government, be provided prior to the acceptance of all applicable ADP equipment.

Specifications. This standard incorporates by reference the technical specifications of ANSI document number X3T9/666, Rev. 2. Copies of the technical specifications section of the standard will be available from the National Technical Information Service as described in the *Where to Obtain Copies* section below.

Implementation. The provisions of this standard are effective December 13, 1979. All applicable equipment ordered on or after the effective date, or procurement actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this standard.

Regulations concerning the specific use of this standard in the Federal procurement will be issued by the General Services Administration to be a part of the Federal Property Management Regulations.

This standard shall be reviewed by NBS within three years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be affirmed, revised or withdrawn.

Waivers. Heads of agencies desiring a waiver from the requirements stated in this standard so as to acquire ADP equipment that does not conform to this standard, shall submit a request for such a waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

A request for waiver shall include: (1) A description of the existing or planned ADP system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

The request for waiver shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which this standard is applicable and which does not conform to this standard prior to receipt of a waiver approval response from the Secretary.

Where to Obtain Copies. Either paper or microfiche copies of this Federal Information Processing Standard, including the technical specifications, may be purchased from the National Technical Information Service (NTIS) by ordering Federal Information Processing Standard Publication 61 (NBS-FIPS-PUB-61), Channel Level Power Control Interface. Ordering information, including prices and delivery alternatives, may be obtained by contacting the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161, Telephone: (703) 557-4650.

FEDERAL INFORMATION PROCESSING STANDARDS PUBLICATION 62

OPERATIONAL SPECIFICATIONS FOR MAGNETIC TAPE SUBSYSTEMS

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315 dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Operational Specifications for Magnetic Tape Subsystems (FIPS PUB 62).

Category of Standard. Interface.

Explanation. This standard defines the peripheral device dependent operational interface specifications for connecting magnetic tape equipment as a part of automatic data processing (ADP) systems. It is to be used together with FIPS PUB 60, I/O Channel Interface and FIPS PUB 61, Channel Level Power Control Interface. This standard, together with these two referenced standards, provides for full plug-to-plug interchangeability of magnetic tape equipment as part of ADP systems.

The Government's intent in employing this standard for Operational Specifications for Magnetic Tape Subsystems is to reduce the cost of satisfying the Government's data processing requirements through increasing its available alternative sources of supply for computer system components at the time of initial system acquisition, as well as in system replacement augmentation and in system component replacement. This standard is also expected to lead to improved reutilization of systems components.

When acquiring ADP systems and system components, Federal agencies shall cite this standard in specifying the interface for connecting magnetic tape peripheral equipment as a part of ADP systems.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standards Institute document X3T9/780, Rev. 3, Draft Proposed American National Standard Operational Specifications for Magnetic Tape Subsystems.

Applicability. This standard is applicable to the acquisition of all magnetic tape equipment whenever the use of Federal Information Processing Standard I/O Channel Interface (NBS-FIPS-PUB-60) is required.

Verification of the correct operation of all interfaces that are required to conform to this standard shall, through demonstration or other means acceptable to the Government, be provided prior to the acceptance of all applicable ADP equipment.

Specifications. This standard incorporates by reference the technical specifications of ANSI document number X3T9/780 Rev. 3. Copies of the technical specifications section of the standard will be available from the National Technical Information Service as described in the *Where to Obtain Copies* section below.

Implementation. The provisions of this standard are effective December 13, 1979. All applicable equipment ordered on or after the effective date, or procurement actions for which solicitation documents have not been issued by that date, must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedure described elsewhere in this standard.

Regulations concerning the specific use of this standard in Federal procurement will be issued by the General Services Administration to be a part of the Federal Property Management Regulations.

This standard shall be reviewed by NBS within three years after its effective date, taking into account technological trends and other factors, to determine whether the standard should be affirmed, revised, or withdrawn.

Waivers. Heads of agencies desiring a waiver from the requirements stated in this standard so as to acquire ADP equipment that does not conform to this standard, shall submit a request for such a waiver to the Secretary of Commerce for review and approval. Approval will be granted if, in the judgment of the Secretary based on all available information, including that provided in the waiver request, a major adverse economic or operational impact would occur through conformance with this standard.

A request for waiver shall include: (1) A description of the existing or planned ADP system for which the waiver is being requested, (2) a description of the system configuration, identifying those items for which the waiver is being requested, and including a description of planned expansion of the system configuration at any time during its life cycle, and (3) a justification for the waiver, including a description and discussion of the major adverse economic or operational impact that would result through conformance to this standard as compared to the alternative for which the waiver is requested.

The request for waiver shall be submitted to the Secretary of Commerce, Washington, D.C. 20230, and labeled as a Request for Waiver to a Federal Information Processing Standard. Waiver requests will normally be processed within 45 days of receipt by the Secretary. No action shall be taken to issue solicitation documents or to order equipment for which this standard is applicable and which does not conform to this standard prior to receipt of waiver approval response from the Secretary.

Where to Obtain Copies. Either paper or microfiche copies of this Federal Information Processing Standard, including the technical specifications, may be purchased from the National Technical Information Sevice (NTIS) by ordering Federal Information Processing Standard Publication 62 (NBS-FIPS-PUB-62), Operational Specifications for Magnetic Tape Subsystems. Ordering information, including prices and delivery alternatives, may be obtained by contacting the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161, Telephone: (703) 557-4650.

[FR Doc. 79-5011 Filed 2-15-79; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

CARIBBEAN FISHERY MANAGEMENT COUNCIL

Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Caribbean Fishery Management Council will conduct a public meeting with a partially closed session.

DATES: February 22, 1979.

ADDRESS: The meeting will be held at the Hotel Pierre, 105 de Diego Avenue, Santurce, Puerto Rico.

FOR FURTHER INFORMATION CONTACT:

Mr. Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, P.O. Box 1001, Hato Rey, Puerto Rico 00919. Telephone (809) 753-4926.

SUPPLEMENTAL INFORMATION: The Carribean Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). Meeting Agendas follow:

Council (Open Meeting) February 22, 1979 (9:00 a.m. to 2:00 p.m.).

Agenda: (1) Status Report on the FMPs for Spiny Lobster and Shallow-Water Reef Fish; (2) Consideration of an RFP for the collection of the biological and socio-economic data available on the mollusks fisheries; (3) Foreign Fishing Permits Applications; (4) Personnel and Administrative matters; and (5) Other Business.

Council (Closed Meeting) February 22, 1979 (2:00 p.m. to 5:00 p.m.).

Agenda: Final selection and award process for a contract to develop a Coastal Migratory Pelagics Draft FMP.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on February 9, 1979, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because matters to be discussed in this session are likely to disclose commercial and financial information obtained from a person, and privileged or confidential, and/or information of a personal nature where disclosure would consti-

tute a clearly unwarranted invasion of personal privacy. This determination was made in accordance with the provisions of 5 U.S.C. 552(b)(4). (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce).

Dated: February 13, 1979.

JACK W. GEHRINGER,
Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 79-5136 Filed 2-15-79; 8:45 am]

[3510-22-M]

WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL

Public Meeting

AGENCY: National Marine Fisheries Service.

SUMMARY: The Western Pacific Fishery Management Council was established under Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established a Pelagic Fishery Resources Subpanel that will meet to discuss management measures for the billfish fishery.

DATES: The meeting will convene on Thursday, March 1, 1979, at 10 a.m. and will adjourn at approximately 3 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place in the conference room of the National Marine Fisheries Service Southwest Fisheries Center, 2570 Dole Street, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT:

Ms. Kitty Simonds, Executive Secretary, Western Pacific Fishery Management Council, Room 1608, 1164 Bishop Street, Honolulu, Hawaii 96813, Telephone: (808) 523-1368.

Dated: February 14, 1979.

WINFRED H. MEIBOHM,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-5214 Filed 2-15-79; 8:45 am]

[3510-17-M]

Office of the Secretary

NATIONAL LABORATORY ACCREDITATION CRITERIA COMMITTEE FOR FRESHLY MIXED FIELD CONCRETE

Open Meeting

The National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete will hold its first meeting on March 8 and 9, 1979 in the Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C. (public entrance to the building is on 14th Street between Constitution Avenue and E Street, N.W.). The Committee will meet from 10 a.m. to 6 p.m. on March 8 and from 9 a.m. to 1 p.m. on March 9 in Room B841.

The Committee was established on December 13, 1978 (43 FR 58222) to develop and recommend to the Secretary of Commerce general and specific criteria for accrediting testing laboratories that test freshly mixed field concrete. The Committee consists of 23 members; 11 of whom represent specifiers, producers, users/contractors, testing laboratories, and general interest in the private sector; 7 of whom represent Federal agency interests; and 4 of whom represent state and local government interests. The Committee is chaired by Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards of the Department of Commerce.

Tentative agenda items include:

1. Discussion of Committee objectives and schedules.
2. Background of the National Voluntary Laboratory Accreditation Program.
3. The role of the National Bureau of Standards and a discussion of the practical aspects of accrediting laboratories.
4. Concepts used in preparing suggested laboratory evaluation criteria.
5. Suggestions for general and specific criteria.

The meeting will be open to public observation. The public may submit written statements or inquiries to the Chairman before or after the meeting. A limited number of seats will be available to the public and to the press on a first-come, first-served basis.

Copies of the minutes and material distributed will be made available for inspection and copying, following certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the U.S. Department of Commerce Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, Washington, D.C.

Additonal information may be obtained from Mr. Peter S. Unger, Assistant Coordinator, National Voluntary Laboratory Accreditation Program, Room 3876, U. S. Department of Commerce, Washington, D.C. 20230. Telephone: 202-377-5872.

Dated: February 12, 1979.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 79-5126 Filed 2-15-79; 8:45 am]

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletions from Procurement List.

SUMMARY: This action deletes from Procurement List 1979 commodities produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: February 16, 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: On December 8, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (43 FR 57639) of proposed deletions from Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from Procurement List 1979:

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.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc. 79-5114 Filed 2-15-79; 8:45 am]

[6820-33-M]

PROCUREMENT LIST

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1979 commodities to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 21, 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.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1979, November 15, 1978 (43 FR 53151):

Class 5120

Screwdrivers, Cross Tip, 5120-00-224-7370, 5120-00-227-7293, 5120-00-234-8913, 5120-00-224-7375, 5120-00-237-8174, 5120-00-820-2995, 5120-00-060-2004, 5120-00-529-3101, 5120-00-596-0866, 5120-00-580-2361, 5120-00-542-3438, 5120-00-357-7175, 5120-00-580-0334.

E. R. Alley, Jr.,
Acting Executive Director.

[FR Doc. 79-5113 Filed 2-15-79; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

February 7, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Missile Basing Verification in Terms of SALT will hold meetings at the Pentagon, Washington, D.C., on March 7 and 8, 1979. The meetings will convene at 8:30 am and adjourn at 4:30 pm both days.

The Ad Hoc Committee will receive classified briefings and presentations on possible Verification Schemes for ICBM Basing. Consequently, meetings will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Carol Rose,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-5120 Filed 2-15-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

NATIONAL PETROLEUM COUNCIL, TASK GROUPS OF THE COMMITTEE ON MATERIALS AND MANPOWER REQUIREMENTS

Meetings

Notice is hereby given that a subcommittee and three task groups of the Committee on Materials and Manpower Requirements will meet in February and March 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The subcommittee scheduling a meeting is the Outlook and Materials Subcommittee. The three task groups scheduling meetings are the Task Group on Business Environment, the Task Group on Drilling Equipment, and the Task Group on Tubular Steel. The time, location and agenda of each task group meeting follows:

The first meeting of the Outlook and Materials Subcommittee will be on Thursday, February 22, 1979, starting at 9:00 a.m. in Room 1890 of the Exxon Building, 800 Bell Avenue, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of scope of the NPC study on Materials and Manpower Requirements.
3. Discussion of the study organization and methodology to be employed by the Outlook and Materials Subcommittee.
4. Discussion of the timetable of the Outlook and Materials Subcommittee.
5. Discussion of any other matters pertinent to the overall assignment of the Outlook and Materials Subcommittee.

The first meeting of the Business Environment Task Group will be on Wednesday, February 21, 1979, starting at 9:00 a.m. in the Main Conference Room on the 26th Floor of the General Crude Oil Company's offices, One Allen Center Building, 500 Dallas Street, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of scope of the NPC study on Materials and Manpower Requirements.
3. Discussion of the study methodology to be employed by the Business Environment Task Group.
4. Discussion of the timetable of the Business Environment Task Group.
5. Discussion of any other matters pertinent to the overall assignment of the Business Environment Task Group.

The second meeting of the Drilling Equipment Task Group will be on Friday, February 23, 1979, starting at 8:00 a.m. on the 9th Floor of the Armco Building, 1455 West Loop South, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the study organization and methodology to be employed by the Drilling Equipment Task Group.
3. Discussion of the timetable of the Drilling Equipment Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Drilling Equipment Task Group.

The third meeting of the Tubular Steel Task Group will be on Thursday, March 1, 1979, starting at 9:00 a.m. in Room 1003 of the Shell Oil Company Building, Two Shell Plaza, Houston, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Discussion of the study methodology to be employed by the Tubular Steel Task Group and review of assignments.
3. Discussion of the timetable of the Tubular Steel Task Group.
4. Discussion of any other matters pertinent to the overall assignment of the Tubular Steel Task Group.

The meetings are open to the public. The chairman of the subcommittee and task groups are empowered to conduct the meetings in a fashion that will, in their judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee or task groups will be permitted to do so, either before or after the meetings. Members of the public

who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633-8383, prior to the meeting a reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room, GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on February 8, 1979.

GEORGE S. MCISAAC,
Assistant Secretary for Resource Applications.

FEBRUARY 8, 1979.

[FR Doc. 79-5112 Filed 2-15-79; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

[Docket No. ERA-R-79-7]

APPLICATION FOR A NO ACTION DETERMINATION (PROPERTY TREATED AS A STRIPPER WELL PROPERTY BY A PRODUCER)

Request for Public Comment

AGENCY: Department of Energy, Economic Regulatory Administration, Office of Enforcement.

ACTION: Notice of Transmittal of Form ERA-102 to the Office of Management and Budget and Opportunity for Written Comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it has submitted a proposed final version of the Application for a No Action Determination (Property Treated as a Stripper Well Property by a Producer), Form ERA-102 to the Office of Management and Budget (OMB) for review and clearance. The purpose of Form ERA-102 is to permit on a voluntary basis certain small producers of domestic crude oil (those producing 10,000 or less barrels of domestic crude oil during the most recent full calendar year) who assert that certain of their producing properties qualify for stripper well property treatment to obtain a determination from the ERA that no enforcement action shall be taken by the ERA with respect to the sale of crude oil produced from these properties. (The first sale price of crude oil produced from a stripper well property is exempt under 10 CFR 212.54.) Form ERA-102 is not applicable to properties in which any part of the working interst is owned by a refiner. In addition, producers who are currently the subject of a DOE or Federal Energy Regulatory Commission (FERC) enforcement proceeding may not file Form ERA-102. Form ERA-102 request information and data with respect to the property for which a no action determination is sought and which is necessary to review the status of the property and to determine the property's "average daily production" during the 12-month stripper well property qualifying period. The ERA may request additional documentation from a producer to complete the review before deciding if no action determination letter should be issued to that producer. If the ERA decides that a no action letter should be provided after reviewing the application, it will issue the requested letter to the producer.

Potential applicants, interested parties and member of the public are invited to submit written comments on the proposed Form ERA-102, which is reproduced herein.

DATES: Comments received no later than April 10, 1979, will be given full consideration.

ADDRESSES: Written comments should be submitted in triplicate to: Thomas E. Miller, Economic Regulatory Administration, Office of Enforcement Policy and Planning, Room 5128, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Thomas E. Miller (Office of Enforcement Policy and Planning), Economic Regulatory Administration, 2000 M Street, NW., Room 5128, Washington, D.C. 20461, (202) 254-6990; Lona L. Feldman or Judith A. Mather, (Office of General Counsel), Department of Energy, 2000 M Street, NW., Room 5308, Washington, D.C. 20461, (202) 254-8700.

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

On August 14, 1976, Congress enacted the Energy Conservation and Production Act (Pub. L. 94-385, ECPA). ECPA Section 121, effective September 1, 1976, exempted the first sale price of stripper well property domestic crude oil from 10 CFR Part 212, Subpart D, of the Federal Energy Administration (FEA) Mandatory Petroleum Price Regulations (currently the DOE Mandatory Petroleum Price Regulations). The stripper well crude oil exemption was designed to maintain domestic crude oil production by providing an incentive for producers to continue crude oil production from marginal or low production wells.

The FEA, a predecessor agency of the DOE,[1] implemented the ECPA stripper well exemption by adopting, effective September 1, 1976, 10 CFR 212.54 (41 FR 48319, November 3, 1976). Section 212.54 provides that the first sale price of crude oil produced and sold from a stripper well property is exempt from the Mandatory Petroleum Price Regulations. The term "stripper well property" is defined in § 212.54(c) as:

> • • • a 'property' whose average daily production of crude oil (excluding condensate recovered in nonassociated production) per well did not exceed 10 barrels per day during any preceding consecutive 12-month period beginning after December 31, 1972. (41 FR 48319, 48323, November 3, 1976.)

The term "average daily production" is defined in § 212.54(c) as:

> • • • the qualified maximum total production of crude oil (excluding condensate recovered in non-associated production) produced from a property, divided by a number equal to the number of days in the 12-month qualifying period times the number of wells that produced crude oil (excluding condensate recovered in non-associated production) from that property in that 12-month qualifying period. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production throughout the 12-month qualifying period and in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production. (41 FR 48319, 48323)

Once a property qualifies as a stripper well property under § 212.54, it retains its stripper well property status regardless of the fact that crude oil production over a subsequent 12-month period exceeds the average daily production of 10 barrels per well. Crude oil produced therefrom and certified pursuant to 10 CFR 212.131 (a)(1) as stripper well crude oil is sold at exempt or market prices. The certification of crude oil produced from a property determined by a producer to be a stripper well property is not reviewed by the ERA except pursuant to a subsequent audit which may conclude that the determination was erroneous and that violations of the DOE price regulations have occurred.

II. GENERAL DISCUSSION

The ERA mentioned in a June 23, 1978, audit policy statement regarding the enforcement of the Mandatory Petroleum Price Regulations (43 FR

[1] Effective October 1, 1977, all functions previously performed by the FEA were transferred to the DOE under the Department of Energy Organization Act, Pub. L. 95-91 and Executive Order No. 12009 (42 FR 46267, September 15, 1977).

27777, June 27, 1978) that, "sound and fair enforcement * * * [does not allow] the period of exposure for civil liability * * * to continue indefinitely." As part of its continuing review of the impact of DOE regulations upon the small businessman, the ERA has determined that the potential liability exposure for errors in stripper well property certification (the difference between the approximately $5 lower tier and the approximately $13-15 market prices of crude oil) and the need for a degree of certainty by small producers for planning and executing investment decisions, require that a mechanism be made available for relieving some of the uncertainty involved in stripper well property certification.

Accordingly, the ERA has decided to implement a no action determination procedure with respect to properties treated as stripper well properties by producers. On the basis of information and data voluntarily submitted by a producer on Form ERA-102 with respect to a particular property, the ERA will decide whether to issue to the producer a letter stating that the ERA has concluded that no enforcement action shall be taken by the ERA against that producer with respect to its sale of crude oil produced from the particular property. The ERA may request additional records or data from the producer if they are needed by the ERA to make its decision to issue the no action determination letter.

The ERA is issuing with this Notice a proposed version of Form ERA-102 together with a set of instructions and definitions. Producers eligible to use Form ERA-102 must not have produced more than 10,000 barrels of crude oil during the most recent full calendar year. Further, eligibility is limited to those producers who are not the subject of a DOE or FERC enforcement proceeding. Finally, Form ERA-102 is not applicable to properties in which any part of the working interest is owned by a refiner.

The determination to allow only those eligible producers producing 10,000 or less barrels of crude oil during the most recent full calendar year to submit Form ERA-102 is subject to review and a possible upward revision at a later date. These volume criteria were chosen by the DOE based on both policy considerations and administrative workability.

An eligible producer may submit to the ERA a Form ERA-102 for each property on which the producer seeks a no action determination. The information and data submitted on this application will allow the ERA to decide whether a no action letter should be issued to the producer. The ERA will assume that the information submitted on and with Form ERA-102 is factually correct, complete and in accordance with the Mandatory Petroleum Allocation and Price Regulations and the instructions to Form ERA-102. An ERA no action determination based on erroneous or incomplete information or data will be rescinded *ab initio*. A review of a producer's sale of crude oil produced from a particular property may be conducted at any time if it appears that the information submitted on Form ERA-102 was inaccurate or incomplete. The ERA's decision to issue a no action determination letter with respect to a particular property will not affect any other investigation or enforcement actions pending or brought in the future by the DOE against the producer seeking the no action determination. Moreover, the no action determination letter does not constitute a formal interpretation of the Mandatory Petroleum Allocation and Price Regulations as contemplated by 10 CFR Part 205, Subpart F.

Under the Federal Reports Act, 44 U.S.C. 3501 *et seq.*, the Form ERA-102 will be reviewed by the OMB. As a part of the review process, ERA hereby solicits comments concerning this application form and accompanying instructions and definitions. An advance copy of the application form will be forwarded to OMB. Comments submitted to ERA concerning the application form will be forwarded to OMB for its consideration in the review process and will be considered by ERA.

III. Other Matters

A. Implementation Program

After such modification as may be made as a result of the public comments received in response to this Notice and the OMB review and clearance process, the Application for a No Action Determination (Property Treated as a Stripper Well Property by a Producer), Form ERA-102, will be available upon request from the ERA, 2000 M Street, NW., Room 5302, Washington, D.C. 20461.

B. Specific Requests for Comments

Comments are requested on any relevant aspect of the Application for a No Action Determination (Property Treated as a Stripper Well Property by a Producer), Form ERA-102.

C. Written Comments Procedures

Written comments will be accepted and considered if received by April 10, 1979. Comments should be submitted to the address indicated in the "Addresses" section of this Notice and should be identified on the outside envelope with the designation "ERA, Application for a No Action Determination (Property Treated as a Stripper Well Property by a Producer)." Three copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA152, Forrestal Building, 1000 Independence Avenue, S.W., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

Issued in Washington, D.C., on February 9, 1979.

David J. Bradin,
Administrator, Economic Regulatory Administration.

Form ERA-102

APPLICATION FOR A NO ACTION DETERMINATION (PROPERTY TREATED AS A STRIPPER WELL PROPERTY BY A PRODUCER)

PART I—APPLICANT IDENTIFICATION

1. Applicant's Name: ———————
Address: ———————

———————

2. Is the applicant a parent firm? Yes — No —.

3. Name(s) and Address(es) of Applicant's Consolidated and Unconsolidated Entities, if any: ———————

———————

4. Contact Person for Purposes of this Application:
Name: ———————
Title: ———————
Phone No.: (Area Code) ———————

5. Certification: I certify that the information submitted on and with this form is factually correct, complete and in accordance with DOE Regulations (Title 10, Code of Federal Regulations) and the Instructions to Form ERA-102.

Name of Applicant, or Applicant's Certifying Officer ———————
Title ———————
Signature ———————
Date Certified ———————

Title 18, U.S. Code (Crimes and Criminal Procedures), Section 1001, makes it a criminal offense for any person knowingly and willingly to make a false statement or representation to any Department or Agency of the United States as to any matter within its jurisdiction. The maximum penalty for such offense is a fine of $10,000, or five years imprisonment; or both.

PART II—PROPERTY AND PRODUCTION INFORMATION

1.a. Total production of crude oil of the applicant and any of its consolidated and unconsolidated entities in the most recent full calendar year: ——— barrels.
b. Number of crude oil properties operated by applicant and any of its consolidated and unconsolidated entities: ——.
c. Number of crude oil properties in which applicant and any of its consolidated and unconsolidated entities have a working interest: —.

d. Does the property produce natural gas? Yes — No —.

2.a. Provide the following information with regard to the property for which a no action determination is sought (if possible, information should be gathered from applicable state regulatory authority reports):

Property Name: ———————
Lease or Deed Number: ———————
Field Name: ———————
County: ———————
State: ———————

b. Does the applicant have a working interest in the property? Yes — No —.

Does the applicant have a royalty interest in the property? Yes — No —.

Is the applicant the operator of the property? Yes — No —.

3. The above-designated property is subject to a right to produce domestic crude oil arising from a lease — or from a fee interest (deed) —. (Check one)

4. Is this property the sole premises or tract described in the instrument (lease or deed) which confers the right to produce crude oil (*i.e.*, are the physical limits stated in the instrument conferring the right to produce the same as the physical limits or dimensions of the above-designated property)? Yes — No —.

5. Does the instrument conferring the right to produce crude oil impose different or special rights or obligations with respect to the development of and production from particular portions of the described premises or tract)? Yes — No —.

6. Has this property been combined or aggregated either in whole or in part with one or more other rights to produce crude oil pursuant to either a voluntary or involuntary agreement, with or without a unitization agreement approved by the appropriate federal, state, or local authorities? Yes — No —.

7. Has this property been segregated from the remainder of the premises of which it is a part because it is a separate reservoir? Yes — No —.

8.a. For the property for which you are requesting a no action determination, provide the information requested in Schedule I (Attachment A) for the twelve-month qualifying period and the previous twelve-month period. Start with the first month of your qualifying period.

b. For the property for which you are requesting a no action determination, provide the information requested in Schedule II (Attachment B) for each calendar year beginning with 1972, through the most recent full calendar year.

c. For the property for which you are requesting a no action determination, provide the information requested in Schedule III (Attachment C) for each calendar year beginning with 1972, through the most recent full calendar year.

9.a. Were the wells identified in Schedule I operated at the maximum feasible rate of production during the qualifying period, in accordance with recognized conservation practices (*i.e.*, operated either at the maximum possible rate of production, or at something less than the maximum possible rate of production because the rate of production was influenced by such considerations as recognized conservation practices, state regulations with respect to allowable production rates for the property, the rate at which crude oil in the reservoir flows into the area of the well-bore from which it is pumped to the surface, or periodic shutdowns for reasons such as maintenance and mechanical repairs resulting in no significant loss of production)? Yes — No —.

b. If the answer to question 10.a. is "Yes":

Has the state in which your property produces crude oil established allowable production rates? Yes — No —.

For any of the producing days tabulated in Schedule I, was production below the allowable production rates set by the state? Yes — No —.

10.a. Was production during the qualifying period significantly curtailed by reason of mechanical failure or other disruption in production (*i.e.*, for any reason, were one or more wells not operating for a period of more than twenty-four consecutive hours)? Yes — No —.

b. If the answer to question 11.a. is "Yes":

Was the period of time during which production of crude oil from one or more wells was significantly curtailed by reason of mechanical failure, maintenance or other disruption in production in excess of the historical pattern for a well operating on this particular property or for similar wells operating in the same or nearby fields? Yes — No —.

If the period of time during which production was significantly curtailed or disrupted was in excess of the normal historical average for mechanical failure, maintenance, or other disruption in production, was that lost production subsequently recouped? Yes — No —.

11.a. Are any of the wells on this property:

(1) wells which produce only non-associated gas? Yes — No —;

(2) wells which produce from separate reservoirs by means of separate tubing strings contained in a single well-bore? Yes — No —;

If "Yes", in computing average daily production, is each tubing string counted as a separate well? Yes — No —;

(3) wells which produce from separate reservoirs by means other than separate tubing strings contained in a single well-bore? Yes — No —;

If "Yes", in computing average daily production, is the single well-bore counted as two or more wells? Yes — No —.

b. Are any of the wells on the property used for the injection of fluids (*e.g.*, gas, water, air, steam, crude oil, etc.) into the ground? Yes — No —.

If "Yes", in computing average daily production for the property, are these wells included in your count of producing wells? Yes — No —.

c. Were any of the wells noted in Schedule I "shut-in" during the qualifying period or during the twelve-month period prior to the qualifying period? Yes — No —.

12. Has crude oil produced from the property been removed from the property for purposes other than a sale of the crude oil? Yes — No —.

If "Yes", has this crude oil removed from the property for purposes other than a sale been included in the total number of barrels of crude oil produced reported on both Schedule I and Schedule II? Yes — No —.

13. Attach copies of all documents delivered to purchasers of crude oil under 10 CFR 212.131 certifying the property for which you are requesting a no action determination.

14.a. Is any property in which the applicant has an interest the subject of any past or current proceeding before the Department of Energy (DOE) (*e.g.*, exception proceeding under 10 CFR, Part 205, Subpart D; appeal proceeding under 10 CFR Part 205, Subpart H; interpretation proceeding under 10 CFR, Part 205, Subpart F; enforcement proceeding under 10 CFR, Part 205, Subpart O; etc.) or the Federal Energy Regulatory Commission (FERC)? Yes — No —.

If "Yes", and it is a current proceeding, attach a copy of your initial correspondence to DOE or FERC concerning this matter.

If "Yes", and it is a past proceeding, attach a copy of any order issued by DOE or FERC with respect to the property.

15. Certification: I certify that the information submitted on and with this form is factually correct, complete and in accordance with the Mandatory Petroleum Allocation and Price Regulations (Title 10, Code of Federal Regulations) and the Instructions to Form ERA-102.

Name of Applicant, or Applicant's Certifying Officer ———————
Title ———————
Signature ———————
Date Certified ———————

Title 18, U.S. Code (Crimes and Criminal Procedures), Section 1001, makes it a criminal offense for any person knowingly and willingly to make a false statement or representation to any Department or Agency of the United States as to any matter within its jurisdiction. The maximum penalty for such offense is a fine of $10,000, or five years imprisionment; or both.

Attachment A

SCHEDULE I: QUALIFYING PERIOD PRODUCTION

PROPERTY NAME: _____

(A)	(B)		(C)		(D)		(E)	
Month Year (Qualifying Period)	Number of Crude Oil Producing Wells		Number of Days Crude Oil Produced		Number of Curtailed Production Days 1/		Barrels of Crude Oil Produced	
	Qualifying Period	Previous 12 Months	Qualifying Period	Previous 12 Months	Qualifying Period	Previous 12 Months	Qualifying Period	Previous 12 Months
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								

1/ Days on which production was significantly curtailed by reason of mechanical failure or other disruption in production (i.e., for any reason, a well was not operating for a period of more than twenty-four consecutive hours).

Attachment B

SCHEDULE II: ANNUAL PRODUCTION SCHEDULE

PROPERTY NAME: _____

Calendar Year	(A) Barrels of Crude Oil Produced	(B) Number of Crude Oil Producing Wells	(C) Variance in Number of Producing Wells	
			Yes	No
1972				
1973				
1974				
1975				
1976				
1977				
1978				

MONTHLY PRODUCTION SCHEDULE [1]

	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEPT.	OCT.	NOV.	DEC.
Year: _____												
Barrels of Crude Oil Produced:												
Number of Crude Oil Producing Wells:												
Year: _____												
Barrels of Crude Oil Produced:												
Number of Crude Oil Producing Wells:												

1/ Monthly Production Schedule is to be prepared only for those years in which there was a variance in the number of producing wells.

Attachment C

SCHEDULE III: MONTHLY SALES

PROPERTY NAME: _____

Calendar Year: _____

Purchaser Name(s) & Classification:	JANUARY BBLS	FEBRUARY BBLS	MARCH BBLS	APRIL BBLS	MAY BBLS	JUNE BBLS	JULY BBLS	AUGUST BBLS	SEPTEMBER BBLS	OCTOBER BBLS	NOVEMBER BBLS	DECEMBER BBLS

Calendar Year: _____

Purchaser Name(s) & Classification:												

[6450-01-M]

Instructions for Preparing the Application for a No Action Determination (Property Treated as a Stripper Well Property by a Producer)—Form ERA-102

General Instructions

Purpose of Form ERA-102: Form ERA-102 provides a means by which small independent domestic crude oil producers (those that produced 10,000 barrels of crude oil or less in the most recent full calendar year) may obtain a no action determination from the Economic Regulatory Administration (ERA) of the United States Department of Energy (DOE) regarding their treatment of certain of their crude oil properties as stripper well properties. The producer is requested to provide relevant information and data with respect to the property for which a no action determination is sought in Form ERA-102. A separate Form ERA-102 is to be submitted for each property for which a no action determination is sought. ERA will review the information in accordance with 10 CFR Part 212, Mandatory Petroleum Price Regulations and will decide whether a no action determination should be issued to the applicant.

Who May File Form ERA-102: Form ERA-102 is a voluntary reporting form for small domestic crude oil producers. Eligibility is limited to those producers with annual crude oil production of 10,000 barrels or less and who are not the subject of a DOE or Federal Energy Regulatory Commission (FERC) enforcement proceeding. This application does not apply to properties in which any part of the working interest is owned by a refiner. Applicants must maintain a file that identifies by item number the source documents of information provided in this form.

Where to Submit Form ERA-102: Eligible domestic crude oil producers should submit a completed Form ERA-102 for each property for which a no action determination is sought to the United States Department of Energy, Economic Regulatory Administration, Code ——, Washington, D.C. 20461.

Request for Confidential Treatment: If the applicant claims that some or all of the information contained in the application is subject to confidential treatment and the applicant requests the DOE not to disclose such information, the applicant should file together with the application a second copy of the application from which the alleged confidential information has been deleted. The applicant should indicate in the original application that the application is confidential or contains confidential information. The applicant must also file a statement justifying the non-disclosure of the alleged confidential information. If the information comes within the exception in Title 5, United States Code, Section 552(b)(4) for trade secrets and commercial or financial information, the applicant should include a statement specifying why such information is privileged or confidential. (*See* 10 CFR 205.9(f))

Definitions: Definitions of terms utilized in the application are appended to the instructions and should be consulted prior to the completion of each item on the form. Authoritative citations also are provided for each definition, and these authorities may be consulted for further explanation of a term, if needed.

Part I—Applicant Identification

Item 1. Enter the legal name and the address of the applicant for whose property this report is being submitted. Applicant refers either to a natural person or to a firm.

Item 2. Indicate whether the applicant is a parent firm.

Item 3. Enter the legal name and address of each of the applicant's consolidated and unconsolidated entities, if any, indicating whether each such entity is consolidated or unconsolidated with the applicant. If none, enter "none".

Item 4. Enter the name, title, and office telephone number of the authorized person to be contacted by DOE regarding the information provided in the application.

Item 5. Part I of Form ERA-102 must be certified by the applicant, the chief executive officer of a firm making the application, or the person specifically authorized by the applicant to make this certification.

Part II—Property and Production Information

General Instructions

A "Yes" or "No" response should be provided for the following questions: 1.d., 2.b., 4, 5, 6, 7, 9.a. and b., 10.a. and b., 11.a., b. and c., 12, and 14.

Particular Instructions

Item 1.a. Enter the total number of barrels of domestic crude oil produced by the applicant and its consolidated and unconsolidated entities, if any, in the most recent full calendar year. To be eligible to file this application, total annual crude oil production must be 10,000 barrels or less.

b. Enter the total number of crude oil producing properties operated by the applicant and its consolidated and unconsolidated entities, if any, as of the date of this application. If none, enter "0".

c. Enter the total number of crude oil producing properties in which the applicant and its consolidated and unconsolidated entities, if any, have a working interest as of the date of this application. If none, enter "0".

d. Indicate whether the property for which a no action determination is sought produces natural gas.

Item 2.a. Enter the name and lease or deed number of the property. If possible, this information should be gathered from reports submitted to your appropriate state regulatory agency. Enter the name of the producing field in which the property is located, as well as the county and state in which this field is located.

Item 3. Indicate whether the right to produce domestic crude oil from this property arises from an oil and gas lease or from a fee interest in the property as evidenced by a deed.

Item 8.a. Prepare Schedule I (Attachment A) for the property for which a no action determination is requested according to the following instructions:

Property Name: Enter the name of the property for which the data is to be provided.

Column A: Beginning with line 1, enter the month and year of the start of the qualifying period for the property. Complete the identification of the qualifying period on lines 2 through 12.

Column B: Enter the number of producing wells on the property for each month of the qualifying period and for each of the twelve consecutive months preceding the qualifying period. For example, if the first month of the qualifying period was March, 1976, and if there were 5 producing wells on the property that month and 4 producing wells on the property in March, 1975, the entry for Column B, line 1, would show 5 under the "qualifying period" and 4 under the "previous 12 months."

Column C: Enter the total number of days the property produced crude oil for each month of the qualifying period and for each of the twelve consecutive months preceding the qualifying period. This figure is the accumulated number of days during a given month that the wells on the property produced crude oil. For example, if in the month of March, 1976, the property had two wells, one of which produced crude oil fifteen days of the month and one of which produced crude oil twenty days of the month, the entry for March, 1976, would be 15 plus 20 days, or 35 producing days. If both wells produced crude oil on every day of March, 1976, the entry would be 31 plus 31, or 62 producing days.

Column D: Enter the total number of days during which production of crude oil from the property was significantly curtailed by reason of mechanical failure or other disruption in production for each month of the qualifying period and for each of the twelve consecutive months preceding the qualifying period. The sum of the producing days and the non-producing days must equal the number of calendar days in the month multiplied by the number of producing wells on the property in that month.

Column E: Enter the number of barrels of crude oil produced from the property during each month of the twelve-month qualifying period and during each month of the twelve consecutive months preceding the qualifying period.

Item 8.b. Prepare Schedule II (Attachment B) for the property for which a no action determination is requested according to the following instructions:

General: Schedule II is a two part schedule: (1) Annual Production Schedule, and (2) Monthly Production Schedule. The Annual Production Schedule should be completed first. If in any given calendar year there was a variance in the number of producing wells on the property (*i.e.*, a "Yes" response in Column C), the Monthly Production Schedule should be completed for the calendar year in which the variance occurred. (See instructions for Column C)

Property Name: Enter the name of the property for which the data is to be provided.

Annual Production Schedule

Calendar Year: the Annual Production Schedule should be completed for calendar year 1972 through the most recent full calendar year. Indicate the succeeding calendar year(s) for any year(s) after 1978.

Column A: Enter the total number of barrels of crude oil producted from the property during each calendar year beginning with 1972 through the most recent full calendar year.

Column B: Enter the total number of wells on the property which produced crude oil during any part of the year for each calendar year beginning with 1972 through the most recent full calendar year.

Column C: Indicate by checking "Yes" or "No" whether the number of producing

wells on the property varied from month to month during each calendar year beginning with 1972 through the most recent full calendar year. A "Yes" response is required if the number of producing wells varied from any month to the next month during the calendar year. A "Yes" response also is required if the number of producing wells differed between the closing month of one calendar year and the opening month of the next calendar year. In the second situation, the "Yes" response should be given for both calendar years affected and the Monthly Production Schedule should be completed for both years.

Monthly Production Schedule: The Monthly Production Schedule should be completed for each calendar year in which a variance in the number of producing wells occurred. In the space provided, indicate the calendar year in which such a variance occurred and provide separate monthly totals for the number of barrels of crude oil produced from the property and the number of producing wells on the property.

Item 8.c. Prepare Schedule III (Attachment C) for the property for which a no action determination is requested according to the following instructions:

Property Name: Enter the name of the property for which the data is to be provided.

Calenar Year: Schedule III: Monthly sales information should be provided for each calendar year beginning with 1972 through the most recent full calendar year. Enter the appropriate calendar year in the space provided in each section of the schedule.

Purchaser Name and Classification: Monthly sales information is to be provided by purchaser. Enter the name of each purchaser of crude oil during the designated calendar year. A purchaser is listed if purchases were made during every month of the year or if purchases were made only during selected months of the year. Also indicate the classification of each purchaser as either a refiner of crude oil, a reseller of crude oil, or a refiner/reseller.

Monthly Column: For each purchaser, provide the total number of barrels of crude oil produced from the property and sold to that purchaser in each month of the designated calendar year. If no sale of crude oil was made to a particular purchaser in a particular month, enter a dash (—) mark in the appropriate space.

Item 13. Attach copies of all documents delivered under 10 CFR 212.131 to purchasers of the crude oil produced from the property whether in the form of billings or invoices, or separate certification documents which were supplied to purchasers.

Item 15. Part II of Form ERA-102 must be certified by the applicant, the chief executive officer of a firm making the application, or by the person specifically authorized by the applicant to make this certification.

DEFINITIONS

Average Daily Production: The qualified maximum total production of crude oil (excluding condensate recovered in non-associated production) produced from a property, divided by a number equal to the number of days in the 12-month qualifying period times the number of wells that produced crude oil (excluding condensate recovered in non-associated production) from that property in that 12-month qualifying period. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production throughout the 12-month qualifying period and in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production. (10 CFR 212.54)

Consolidated Entity: A firm directly or indirectly controlled by the parent which is consolidated with the parent for purposes of financial statements prepared in accordance with generally accepted accounting principles. An individual shall be deemed to control a firm which is directly or indirectly controlled by him or by his father, mother, spouse, children or grandchildren. (10 CFR 212.31)

Crude Oil: 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 production by mechanical separators, whether located on the lease, at central field facilities, or at the inlet side of a gas processing plant. (10 CFR 212.31, 212.54(a))

Firm: Any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The DOE may, in regulations 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. (10 CFR 212.31)

Parent Firm: A firm which is not directly or indirectly controlled by another firm. (10 CFR 212.31)

Price: 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. (10 CFR 212.31)

Producer: A firm or that part of a firm which produces crude oil or natural gas, or any firm which owns crude oil or natural gas when it is produced. (10 CFR 212.31)

Property: The right to produce domestic crude oil, which arises from a lease or from a fee interest. A producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, provided that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation. (10 CFR 212.72)

Qualifying Period: Any consecutive 12-month period of production of crude oil beginning after December 31, 1972 which is used as the measuring period for establishing whether a "property" has an average daily production of crude oil (excluding condensate recovered in non-associated production) per well of not more than 10 barrels per day. (10 CFR 212.54)

Stripper Well Property: A "property" whose average daily production of crude oil (excluding condensate recovered in non-associated production) per well did not exceed 10 barrels per day during any preceding consecutive 12-month period beginning after December 31, 1972. (10 CFR 212.54)

Unconsolidated Entity: A firm directly or indirectly controlled by a parent but not consolidated with the parent for purposes of financial statements prepared in accordance with generally accepted accounting principles. An unconsolidated entity includes any firm consolidated with the unconsolidated entity for purposes of financial statements prepared in accordance with generally accepted accounting principles. An individual shall be deemed to control a firm which is directly or indirectly controlled by him or by his father, mother, spouse, children or grandchildren. (10 CFR 212.31)

[FR Doc. 79-5110 Filed 2-15-79; 8:45 am]

[6450-01-M]

Southeastern Power Administration

GEORGIA-ALABAMA SYSTEM

Intent To Formulate Power Marketing Policy

AGENCY: Southeastern Power Administration (SEPA), Department of Energy.

ACTION: Intent to formulate policy for Georgia-Alabama System of Projects.

SUMMARY: Pursuant to Procedure for Public Participation in the Formulation of Marketing Policy published in the FEDERAL REGISTER of July 6, 1978, 43 FR 29186, SEPA intends to develop new written marketing policy for future disposition of power from its Georgia-Alabama System of Projects.

Existing power marketing policy for SEPA's Georgia-Alabama System is reflected in contracts involving such system power maintained in its headquarters offices. Such policy will be completely reviewed.

SEPA will formulate initially both a policy or plan for the complete Georgia-Alabama System (System Policy) effective with availability of power from the Russell Project and a proposal involving that portion of the power from the Clark Hill and Hartwell projects presently sold east of the Savannah River which will be interim in nature (Pre-System Policy) terminating with the effective date of the system plan.

The respective proposals will address to the extent feasible those policy elements necessary to carry out the provisions of Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s. Proposals and recommendations for consideration in formulating the proposed new written marketing policies are hereby solicited as are requests for further information or consultation.

DATES: All submissions or requests should be made as soon as possible but not later than May 1, 1979.

ADDRESSES: Five copies of written proposals or recommendations should be submitted to the Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283-3261. Further inquiries and requests should be made to the same official.

SUPPLEMENTARY INFORMATION: The Georgia-Alabama System presently consists of Allatoona, Buford, Carters, Clark Hill, Hartwell, Jones Bluff, Millers Ferry, Walter F. George and West Point projects which are integrated through the four operating companies of the Southern Company System with the combined output of the system sold throughout the Southern Company area, in the area served by South Carolina Public Service Authority and in the Duke Power Company area within a radius of 150 miles of the Clark Hill and Hartwell projects. Contracts involving power sold east of the Savannah River contain expiration dates of either July 20, 1979, or June 30, 1981. Power sold west of the Savannah is under contract until at least June 1, 1983. One additional project, Richard B. Russell, is under construction on the Savannah River with initial delivery of power now scheduled for 1984.

SEPA presently markets power from the Georgia-Alabama System to 150 preference customers and five private utility companies. Numerous other preferred agencies located both within and without the presently established marketing area have expressed interest in purchasing power from SEPA.

Issues which SEPA expects to consider in developing System Policy include, but are not limited to, the following: (1) Determination of marketing area, (2) allocation of power among area customers, (3) handling of energy at pumped storage installations, (4) utilization of area utility systems for power integration, firming, wheeling, and other essential relationships, and (5) handling of resale rates and conservation measures. In developing the Pre-System Policy, SEPA plans to review present policy as reflected in existing contracts paying particular attention to items (1), (2), (4), and (5) above.

Following development of SEPA's proposed marketing policies, further public participation as provided in the Procedure referenced in the first paragraph of this Notice will be invited and resulting comments will be fully considered prior to issuance of the final marketing policies.

Issued in Elberton, Georgia, February 2, 1979.

HARRY F. WRIGHT,
Administrator.

[FR Doc. 79-5094 Filed 2-15-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. ER79-168]

CENTRAL KANSAS POWER CO., INC.

Filing of Interconnection Agreement and Rate Schedules

FEBRUARY 7, 1979.

Take notice that on January 23, 1979, Central Kansas Power Company, Inc. (CKP) tendered for filing, intended as initial rate schedules, an Interconnection Contract between CKP and the City of Colby, Kansas, together with Service Schedule A—Firm Service and a Letter of Intent dated May 11, 1978 in supplement thereof, Service Schedule B-Economy Energy Service and Service Schedule C-Emergency Service. The requested effective date is February 1, 1977.

CKP states that under Service Schedule A, as supplemented by the Letter of Intent, it will furnish to the City of Colby a maximum of 1.9 MW of capacity from June 1, 1978 through May 31, 1979. Service Schedule B provides for the purchase and sale of economy energy when mutually desired by both parties, on a "dividing-the-savings" basis. Service Schedule C provides for the service under emergency conditions (as therein defined) where one of the parties is temporarily unable to obtain power and energy from sources normally available.

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 §§ 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 February 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

FR Doc. 79-5039 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-167]

CENTRAL KANSAS POWER CO., INC.

Filing of Interconnection Agreement and Rate Schedules

FEBRUARY 7, 1979.

Take notice that on January 23, 1979, Central Kansas Power Company, Inc. (CKP) tendered for filing intended as initial rate schedules an Interconnection Contract between CKP and the City of Oakley, Kansas, together with Service Schedule A—Emergency Service and Service Schedule B—Economy Energy Service. The requested effective date is October 1, 1977.

Service Schedule A provides for the service under emergency conditions (as therein defined) where one of the parties is temporarily unable to obtain power and energy from sources normally available. Service Schedule B provides for the purchase and sale of economy energy when mutually desired by both parties, on a "dividing-the-savings" basis.

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 §§ 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 February 16, 1979. Protests will be considered by the Commission 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 must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5019 Filed 2-15-79; 8:45 am]

[6450-01-M]

[EL78-36; Project No. 553]

CITY OF SEATTLE, WASH.

Granting Intervention

FEBRUARY 6, 1979.

On January 11, 1979, the Swinomish Tribal Community, the Upper Skagit Tribe, and th Sauk-Suiattle Tribe (Tribes) filed a petition to intervene in the proceeding designated EL78-36. The proceeding was commenced as a result of a petition by the Secretary of the Department of the Interior for a change in operation at Project No. 553 located on the Skagit River in the State of Washington.

The Tribes state that the Treaty of Point Elliott assures them the right to fish at usual and accustomed grounds along the Skagit River. The Tribes also state that the operation of Project No. 553 adversely impacts the fishery resources of the Skagit River by fluctuating the downstream river flow and altering water temperatures. The Tribes request that the operation of the project be modified to enhance and maximize the downstream fishery.

The City of Seattle, licensee for Project No. 553, filed a response to the Tribes petition on January 11, 1979. The City denies all legal conclusions asserted by the Tribes and further denies all factual allegations regarding adverse effects of current downstream flows. The Cty further states that it will cooperate with all parties to assess the impacts—both beneficial and detrimental—resulting from changes in the project's downstream water releases.

It appears to be in the public interest to allow the Tribes to participate in this proceeding.

Pursuant to § 3.5(a) of the Commission's Rules of Practice and Procedure (Rules), 18 CFR § 3.5(a) (1978), as promulgated by Federal Energy Regulatory Commission Rulemaking RM78-19 (issued August 14, 1978), the above named Tribes are permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act. Participation of the Intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene. The admission of the Intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5020 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket Nos. RP72-142; RP76-135 and RP78-76 (PGA No. 79-1) (AP No. 79-1)]

CITIES SERVICE GAS CO.

Proposed Changes in FERC Gas Tariff

FEBRUARY 7, 1979.

Take notice that Cities Service Gas Company on January 29, 1979, tendered for filing Substitute Revised Third Revised Sheet No. 6 to its FERC Gas Tariff, Original Volume No. 1, to be effective January 23, 1979, replacing Revised Third Revised Sheet No. 6 in compliance with the Commission's letter order dated January 23, 1979. Cities Service states that Substitute Revised Third Revised Sheet No. 6 reflects:

(1) Elimination of $117,627 in carrying charges on estimated NGPA cost increases; and

(2) Elimination of costs relating to supplier increases which the suppliers are not yet authorized to collect at January 23, 1979, under NGPA.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP72-142 and RP76-135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before February 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5021 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. RP79-23, RP 79-24]

DISTRIGAS OF MASSACHUSETTS CORP. AND DISTRIGAS CORP.

Order Rejecting Tariff Sheets, Accepting for Filing and Suspending Tariff Sheets, Initiating Hearing, and Establishing Procedures

FEBRUARY 2, 1979.

On January 5, 1979 in Docket No. RP79-24, Distrigas Corporation (Distrigas) filed revised tariff sheets to the First Revised Volume No. 1 of its FERC Gas Tariff.[1] The tariff revisions proposed by Distrigas would modify Section 5 of its tariff and would include for the first time taxes, duties and demurrage charges as a component of the delivered cost of LNG to be recovered through Distrigas' Unrecovered Purchased LNG Account. Distrigas states the proposed tariff modifications concern the mechanics of recovering taxes, duties and demurrage charges, and that they would not alter its costs or revenues. Distrigas requests a maximum of a one day suspension period for its filing.

Based on a review of Distrigas' filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable. In so finding, the Commission is mindful of its recent action on a similar proposal by Distrigas to establish a tariff provision to collect demurrage charges through its deferred account. By order issued December 28, 1978 in Docket No. R-406, that proposal was rejected without prejudice to Distrigas refiling at a time when a demonstration could be made that the proposed method of recouping demurrage charges is proper. We shall accord Distrigas the opportunity to make such a showing in this proceeding.

Based on a review of Distrigas' filing, the Commission finds that the proposed tariff revisions have not been shown to be just and reasonable and may be unjust, unreasonable and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept Distrigas' revised tariff sheets for filing, suspend their use for five months to become effective July 5, 1979, subject to refund, and shall set the matter for hearing.

Also on January 5, 1979, concurrent with the Distrigas' tariff filing, Distrigas of Massachusetts Corporation (DOMAC) filed in Docket No. RP79-23 revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1.[2] The revised tariff sheets contain rates that would increase jurisdictional revenues for LNG terminalling service under DOMAC's TS-1 Rate Schedule by $4.4 million over the settlement rates approved in Docket No. RP77-216, *et al.*[3] Like Distrigas, DOMAC requests an effective date for its proposed tariff sheets of February 5, 1979. In the alternative, DOMAC requests that any suspension period be limited to one day.

DOMAC is the operator of an LNG terminal at Everett, Massachusetts, and is the sole customer of its corporate affiliate, Distrigas, which is an importer of LNG. DOMAC in turn sells gas processed through its Everett facility to unaffiliated distribution company customers under its Rate Schedules GS-1 and BO-1. DOMAC also provides terminalling service under its Rate Schedule TS-1 and storage service under Rate Schedule SS-1. The January 5 filing of DOMAC does not propose a change in the GS-1, BO-1 or SS-1 rates. However

[1] Title Page First Revised Volume No. 1, First Revised Sheet No. 3, Second Revised Sheet No. 4, Second Revised Sheet No. 5, and First Revised Sheet No. 6.

[2] Title Page First Revised Volume No. 1, First Revised Sheet No. 4, First Revised Sheet No. 5, Second Revised Sheet No. 17, Second Revised Sheet No. 18, First Revised Sheet No. 28, and First Revised Sheet No. 52.

[3] Also on January 5, 1979, DOMAC filed Alternate Second Revised Sheet No. 17 and Alternate Second Revised Sheet No. 18. Those revised alternate tariff sheets would increase its jurisdictional revenues under the TS-1 Rate Schedule by approximately $5.4 million.

DOMAC's GS-1 and BO-1 rates would be affected by approval of the Distrigas filing in Docket No. RP79-24.

As significant factors necessitating its proposed rate increase, DOMAC cites general inflationary conditions including a higher cost of capital, and continuing difficulties and delays in the build up of deliveries from Distrigas. In addition, DOMAC's filing reflect an increased rate of return of 13.81 percent on net investment rate base, including a rate of return of common equity of 16.50 percent. The proposed rates also reflects increased allowances for depreciation expense, prepayments, wages and taxes.

As in the Distrigas filing, the revised tariff sheets submitted by DOMAC also propose a modified treatment of demurrage charges, and in doing so depart from the prescribed treatment under the Uniform System of Accounts. Under that prescribed procedure, demurrage charges are to be accounted for as a terminalling and processing expense. However, DOMAC contends that demurrage charges should be treated as a gas supply expense and be recouped from all resale customers under its rate schedules BS-1 and BO-1. Consistent with this proposal, the $4.4 million increase proposed for the TS-1 Rate Schedule is said to exclude any demurrage charges. Such charges would, of course, be picked up by the modified PGA procedures proposed by Distrigas, if approved, and would thereafter be passed through to DOMAC's GS-1 and BO-1 customers as a purchased gas cost component. The passing through of these costs in this manner must be shown to be appropriate, however, an applicant has the burden of making that showing along with the justification that it is appropriate for GS-1 and BO-1 customers to absorb these costs based on the proposed allocation between them.

DOMAC additionally filed alternate tariff sheets which treat demurrage charges in the manner prescribed by the Uniform System of Accounts. The TS-1 Rate Schedule, again the only service affected, would generate a $5.4 million increase in revenues under the alternate rates. This increase in revenues under the TS-1 rate is attributed by DOMAC to the inclusion of the full amount of estimated demurrage charges in the TS-1 Rate Schedule, to the exclusion of all others. Because we have determined to accept and suspend the tariffs proposed by Distrigas, it is necessary to reject the alternative tariff sheets of DOMAC in order to protect the consumers from a potential double incurrance of demurrage charges. Were we to do otherwise, DOMAC's GS-1 and BO—1 rates might well reflect actual demurrage charges as a purchased gas cost via Distrigas' PGA provision, while its TS-1 rate would also reflect the same demurrage charges as an estimated cost component of the proposed alternate rate. Consequently, DOMAC's alternate tariff sheets are rejected.

On January 30, 1979, the Brooklyn Union Gas Company (Brooklyn Union) filed a petition in each of the above-entitled dockets. Brooklyn Union is a customer of DOMAC and purchases LNG and LNG terminalling services from DOMAC under its Rate Schedules GS-1 and TS-1. In Docket No. RP79-23, Brooklyn Union filed a Petition to Intervene and Motion for Partial Summary Rejection of Proposed Tariff Changes, alleging that "certain aspects of DOMAC's filing * * * are patently unjust and unreasonable and * * * are susceptible to summary rejection by the Commission." Specifically, Brocklyn Union alleges that certain aspects of the filing are inconsistent with certain provisions of a settlement agreement between DOMAC and its customers.[4] Brooklyn Union also moves for summary rejection of DOMAC's proposed 16.5% return on equity, based on the fact that the filing "came barely one week after the Commission's [determination in the December 28, 1978 order] that 15.2% * * * is reasonable and justified."

Brooklyn Union's petition to intervene shall be granted. No action will be taken on the motion for partial summary rejection, however, because the time for answers to the motion prescribed by § 1.12(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.12(c)) has not yet expired.

In Docket No. RP79-24, Brooklyn Union filed a Petition to Intervene and Protest, seeking summary rejection of a proposed automatic recovery of demurrage charges incurred by Distrigas, or, in the alternative, that the tariff changes be suspended for five months and set for hearing. The requested suspension and hearing procedures are granted herein and consideration of the motion for summary rejection is postponed for the reasons discussed above.

By joint motion filed on January 30, 1979, ten other DOMAC customers, listed in Appendix A, filed a petition to intervene in which they raise various issues and request a 5-month suspension period. All have demonstrated an interest in this proceeding which warrants their participation, and intervention by them shall be permitted.

Based on a review of DOMAC's filing, the Commission finds that the proposed rate increase has not been shown to be just and reasonable and may be unjust, unreasonable and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept DOMAC's primary revised tariff sheets for filing, suspend their use for five months, or until July 5, 1979, when they shall be permitted to become effective, subject to refund, pursuant to motion filed in accordance with the provisions of the Natural Gas Act.

By separate filing, DOMAC requests that certain of its tariff sheets be redesignated to reflect the sequence of their effectiveness. DOMAC's January 5 filing in Docket No. RP79-23 contained tariff sheets numbered Second Revised Sheet Nos. 17 and 18 whose effectiveness we have determined to suspend until July 5, 1979. However, on January 10, 1979, DOMAC filed tariff sheets which are also designated Second Revised Sheet Nos. 17 and 18 to be effective December 28, 1978 pursuant to our order of that date issued in Docket No. CP77-216, *et al.* Concurrent with its January 10 filing, DOMAC requested the Commission to redesignate the January 5 tariff sheets as Third Revised Sheet Nos. 17 and 18 in order to properly reflect the order of their effectiveness. We shall grant DOMAC's request.

DOMAC's claimed cost of service reflects construction work in progress in rate base at the time of the filing. We shall grant waiver of Section 154.63(e)(2)(ii) to permit DOMAC to include such costs in its filing, conditioned upon the filing of revised tariff sheets reflecting the elimination of costs associated with facilities not in service on or before July 5, 1979. This waiver is granted upon the condition that DOMAC shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

Finally, it is appropriate to consolidate Docket Nos. RP79-23 and RP79-24. Not only were the filings therein made concurrently, but, as discussed above, the filings pose the common question of the proper treatment of demurrage charges, taxes and duties. Accordingly, we shall consolidate Docket Nos. RP79-23 and RP79-24 for purposes of hearing and decision.

Public notices of the filings of Distrigas and DOMAC were issued on January 19, 1979 providing for the filing of protests or petitions to intervene on or before January 30, 1979.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the re-

[4] Approved by the Commission in *Distrigas of Massachusetts Corporation*, Docket No. CP77-216; *Distrigas Corporation*, Docket Nos. CP77-217 and CP77-218, Order Authorizing Construction And Operation of Liquefied Natural Gas Facilities And Sale Of LNG From Algeria, issued December 28, 1978.

vised tariff sheets proposed by Distrigas and DOMAC, and that the proposed tariff sheets be accepted for filing and suspended as ordered below.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and to the Commission's regulations, a public hearing shall be held concerning the lawfulness of the revised tariff sheets proposed by Distrigas and DOMAC.

(B) Pending hearing and decision, the revised tariff sheets filed by Distrigas and DOMAC on January 5, 1979 and listed in footnotes 1 and 2 above are accepted for filing and suspended for five months, until July 5, 1979, when they shall be permitted to become effective, subject to refund, upon motions filed by DOMAC and Distrigas in accordance with the provisions of the Natural Gas Act.

(C) DOMAC's proposed Alternate Second Revised Sheet No. 17 and Alternate Second Revised Sheet No. 18 are rejected.

(D) The proceedings in Docket Nos. RP79-23 and RP79-24 are consolidated for purposes of Hearing and decision.

(E) DOMAC's request to redesignate Second Revised Sheet Nos. 17 and 18 contained in its January 5 filing as Third Revised Sheet Nos. 17 and 18 respectively is granted. DOMAC shall file copies of the redesignated tariff sheets within 15 days of the date of this order.

(F) The Commission Staff shall prepare and serve top sheets on all parties on or before May 5, 1979.

(G) The petitioners to intervene listed in Appendix A to this order shall be permitted to intervene in this proceeding subject to the Commission's rules and regulations; *Provided, however* that the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not construed as recognition that they might be aggrieved by any order entered in this proceeding.

(H) Waiver of § 154.63(e)(2)(ii) is granted upon condition that DOMAC file substitute revised tariff sheets reflecting the elimination of costs associated with facilities not in service on or before July 5, 1979, and upon the further condition that DOMAC shall not be permitted to make offsetting adjustments to the suspended rates except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those adjustments required by other Commission orders.

(I) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5022 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. ID-1763]

DONALD W. McCARTHY

Application

FEBRUARY 7, 1979.

Take notice that on January 24, 1979, Donald W. McCarthy (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Chairman of the Board—Northern States Power Company (Minnesota)—Public Utility

President—Northern States Power Company (Minnesota)—Public Utility

Director—Northern States Power Company (Minnesota)—Public Utility

Director—Northern States Power Company (Wisconsin)—Public Utility

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 §§ 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 February 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5023 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-162]

FLORIDA POWER & LIGHT CO.

Amendment to Agreement To Provide Specified Transmission Service

FEBRUARY 7, 1979.

Take notice that Florida Power & Light Company (FPL), on January 23, 1979, tendered for filing an amendment to an agreement executed only by it, entitled "Amendment Number Two To Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and City of Homestead." Under the Amendment, FPL will transmit power and energy for the City of Homestead (City) as is required by the City in the implementation of Schedule A of its interchange agreement with the Fort Pierce Utilities Authority, according to FPL.

FPL requests an effective date for this Agreement of no later than 60 days after the date of filing. FPL states that a copy of the filing was served on the Utilities Director of the City of Homestead, Florida.

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 February 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5024 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-176]

FLORIDA POWER & LIGHT CO.

Proposed New Delivery Point

FEBRUARY 2, 1979.

Take notice that on January 25, 1979, Florida Power & Light Company (FPL) tendered for filing an Exhibit A which provides for a new delivery point to Lee County Electric Cooperative, Inc.

FPL proposes an effective date of January 17, 1979, and therefore requests waiver of the Commission's notice requirements.

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 §§ 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 February 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5025 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket Nos. ER76-469 and ER76-508]

IDAHO POWER CO.

Compliance Filing

FEBRUARY 7, 1979.

Take notice that on February 1, 1979, Idaho Power Company submitted for filing amended rate schedules in purported compliance with Commission Opinion Nos. 13 and 13-A in the above-captioned dockets. Idaho Power had submitted a compliance filing on November 8, 1978, which was found to be deficient by Commission Letter of January 2, 1979. The February 1, 1979 filing was a response to the January 2 letter.

Any person desiring to be heard or to protest said filing should file a 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 protests should be filed on or before March 1, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5026 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-173]

KANSAS GAS & ELECTRIC CO.

Proposed Tariff Change

FEBRUARY 7, 1979.

Take notice that Kansas Gas and Electric Company on January 24, 1979, tendered for filing proposed changes in its FPC Electric Service Tariff No. 128. The proposed change increases the transmission capacity for the City of Chanute, Kansas, according to Kansas Gas & Electric.

This change is necessary because the City has requested the increase, according to Kansas G&E.

Copies of the filing were served upon the City of Chanute.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before February 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5027 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Project No. 2671]

KENNEBEC LOG DRIVING CO. AND KENNEBEC WATER POWER CO.

Application for Approval of Exhibit R

FEBRUARY 6, 1979.

Take notice that on December 26, 1978, the Kennebec Log Driving Company and the Kennebec Water Power Company (Applicants) filed an application for Commission approval of the Exhibit R (Recreation Use Plan) for the Moosehead Lake Project No. 2671. The project is located on Moosehead Lake in Piscataquis and Somerset Counties, Maine. Copies of correspondence regarding this proposal should be sent to: Seward B. Brewster, Kennebec Log Driving Company and Kennebec Water Power Company, Edison Drive, Augusta, Maine 04336.

Generally, the Exhibit R describes the existing recreational uses of the lake which include several historic sites, three State Parks, and various hunting, fishing, boating and winter sports activities. There are approximately nine public campgrounds and 42 privately owned developments which consist of lodges, hotels, motels, and camps located around the lake. Applicants state that an extensive number of facilities currently exist at the project; therefore, Applicants are proposing to provide only a parking area for 10 to 12 vehicles in the vicinity of the east outlet dam for the use of recreationists. The parking area is scheduled for completion prior to the 1979 tourist season. State and federal agencies consulted on this proposal have generally expressed support for it.

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 March 19, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5028 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-21]

MISSOURI UTILITIES CO.

Order Accepting Rates for Filing, Suspending Proposed Rate Increase, Making Summary Disposition, and Establishing Procedures

FEBRUARY 2, 1979.

On October 13, 1978, Missouri Utilities Company (MU) submitted for filing a proposed increase in rates for wholesale service to the City of California, Missouri. The rates proposed by MU would result in increased revenues of $160,239 (or 27.5%) based on estimated sales for the year ending June 30, 1979 (Period II). By Commission letter dated November 7, 1978, MU was advised of deficiencies in the filing. On December 6, 1978, MU submitted additional information to cure these deficiencies.

Among other items, MU's submittal includes the following in its cost of service treatment:

1) Missouri Utilities has used plant ratios for its functionalization of central division general plant;

2) Missouri Utilities has proposed to flow through increases in the cost of power from its affiliate Union Electric Company;

3) MU's Period II data incorporates a Federal Income Tax rate of 48%, rather than the lower 46% rate established by the Revenue Act of 1978, Pub. Law 95-6003.

Notice of the filings was issued on October 23, 1978, with protests or petitions to intervene due on or before November 6, 1978.With regard to the functionalization of general plant, we shall require MU to meet the burden of showing that use of labor ratios is unreasonable as applied to the Company, not merely that its alternative method might be reasonable. This requirement is consistent with prior Commission action.[1]

Our review indicates that MU's flow-through of purchase power costs from its affiliate Union Electric Company may be unjust and unreasonable. In Docket No. ER77-614, the Commission allowed the increase in charges by Union to go into effect subject to refund on March 27, 1978. However, Union may subsequently be required to reduce its rates as proposed in ER77-614. In such a case, Missouri Utilities would be required to flow through the appropriate portion of any refunds received form Union.

With regard to the Federal Income Tax rate, we shall grant summary disposition and require that MU compute its Period II tax expense on the basis of the 46% tax rate. However, we shall not order MU to refile to reflect the Federal tax change since the net benefit to the customer may not be more than the cost of refiling, which would ultimately be passed on to the consumer as a regulatory expense.

Our review indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Therefore, the Commission will accept Missouri Utilities' submittal for filing and suspend the rates for five months, to become effective April 6, 1979, subject to refund.

The Commission orders:

(A) Missouri Utilities Company's proposed rates are hereby accepted for filing and suspended for five months, to become effective April 6, 1979, subject to refund.

(B) Missouri Utilities Company must meet the burden of showing that the use of labor ratios is an unreasonable method of functionalizing its general plant expenses.

(C) Missouri Utilities Company's purchase power expenses are hereby made subject to the outcome of *Union Electric Company*, Docket No. ER77-614, now pending before this Commission.

(D) The 46% Federal Income Tax rate should be used to compute Missouri Utilities Company's Period II tax expense.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by the Missouri Utilities Company.

(F) The Staff shall serve top sheets in this proceeding on or before April 12, 1979.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge shall convene a conference in this proceeding to be held within ten (10) days of the serving of top sheets in a hearing room of the Federal Energy Regulatory Commssion, 825 North Capitol Street, NE., Washington, D.C. 20426. The designated Law Judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(H) The Secretary shall cause prompt publication of the order to be made in the FEDERAL REGISTER.

By the Commission. Commissioner Smith present but not voting.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5029 Filed 2-15-79; 8:45 am]

[1] *Pennsylvania Electric Company*, Docket No. ER78-494 (Order issued September 29, 1978); *see also*, Opinion Nos. 20 and 20-A, issued August 3, 1978 and October 30, 1978, respectively, *Minnesota Power & Light Company*, Docket Nos. E-9499 and E-9502 and *Superior Water, Light and Power Company*, Docket No. ER 76-20.

[6450-01-M]

[Docket No. ID-1472]

R. L. ROYER

Application

FEBRUARY 7, 1979.

Take notice that on January 15, 1979, R. L. Royer (Applicant) filed an application pursuant to Section 305(b) fo the Federal Power Act to hold the following positions:

Director—Ohio Valley Electric Corporation—Public Utility.

Vice President—Indiana-Kentucky Electric Corporation—Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 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 February 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5030 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. ID-1860]

ROBERT L. LOUGHHEAD

Application

FEBRUARY 7, 1979.

Take notice that on January 15, 1979, Robert L. Loughhead (Applicant) filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Director—Ohio Edison Company—Public Utility.

Group Vice President-Steel—Cooperweld Corporation—Supplier of Electrical Equipment.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 20, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.79-5031 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-160]

SOUTHERN INDIANA GAS & ELECTRIC CO.

Filing

FEBRUARY 7, 1979.

Take notice that Southern Indiana Gas and Electric Company (Company) on January 22, 1979, tendered for filing a letter agreement constituting a Fifth Supplement to Electric Power Agreement dated May 28, 1971 (Alcoa Generating Corporation Rate Schedule FPC No. 2) modifying said Agreement, as modified by the First, Second, Third and Fourth Supplements thereto (Southern Indiana Gas and Electric Company Rate Schedule FPC No. 32).

According to the Company the instant filing proposes wheeling service at the rate of 2 mills per kilowatt hour and limited term firm power at a demand charge of $3.25 per kilowatt reserved which shall be reduced $0.10 per kilowatt of reduction for each day during which any reduction is in effect. The energy charge shall be the operating cost rate for that month plus 10% multiplied by the kilowatt hours received at the point of delivery during that month, according to the Company.

Waiver of the Commission's notice requirements is requested to allow for an effective date of January 1, 1979.

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 §§ 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 February 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5032 Filed 2-15-79; 8:45 am]

[6450-01-M]

TENNESSEE GAS PIPELINE CO.

Order Approving Settlement Agreement

FEBRUARY 5, 1979.

In the matter of Tennessee Gas Pipeline Company, a Division ot Tenneco Inc. (Pike Nat ural Gas Company and Delta Natural Gas Company), (Docket No. RP77-141), Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Pike Natural Gas Company and Delta Natural Gas Company) (Docket No. RP77-132), Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Pike Natural Gas Company and Delta Natural Gas Company) (Docket No. RP77-133-1), Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Springfield Gas System. Springfield, Tennessee) (Docket No. RP77-134).

In this proceeding, we consider four complaints filed against Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee).[1] These complaints challenge Tennessee's implementation of its curtailment plan.[2] At the request of the parties we scheduled a settlement conference, and on May 17, 1978 Tennessee submitted a proposed settlement agreement. A number of intei venors have expressed objections to the proposal.[3] The issue presented, therefore, is whether we should adopt the proposed agreement as a just and reasonable settlement of the complaints raised in this proceeding.

The Background

The complainants, Pike Natural Gas Company (Pike), Delta Natural Gas Company (Delta), and Springfield Gas System (Springfield), are natural gas distribution companies which purchase gas from Tennessee under its general service (G) and small general Service (GS) rate schedules. Each is one hundred percent dependent on Tennessee for its supply of natural gas. Their supply requirements are classified under Tennessee's curtailment criteria as priorities 0, 1, or 2.[4]

Neither Pike nor Delta have any storage facilities. Springfield has constructed a liquefied natural gas (LNG) satellite peak shaving plant.[5] This facility is capable of storing and regasifying LNG, but is incapable of liquefying natural gas. Springfield is dependent on the Nashville Gas Company (Nashville) for liquefaction service. Nashville will not liquefy gas for Springfield until its own LNG storage facility has been filled. Consequently, Springfield must closely monitor the amount of gas it takes from Tennessee during the early summer months in order to insure that an adequate supply will be available for liquefaction when Nashville is willing to perform that service.

Volumetric limitations have been in effect on the Tennessee system since 1974.[6] Tennessee's curtailment plan uses end use criteria[7] and a fixed base period.[8] Generally Tennessee establishes for each customer a curtailment period quantity entitlement (CPQE) for use during a summer period (April 1 through October 31) and a winter period (November 1 through March 31).[9] Although a customer's CPQE is calculated as a series of monthly volumes, the customer is not required to accept supplies strictly in accordance with these monthly supply figures. It may vary its daily and monthly takes provided that its average daily volume does not exceed its maximun daily contract quantity (MDQ), and its total

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[1] These complaints were originaliy filed with the Federal Power Commission (FPC). After October 1, 1977, the functions of the FPC were transferred to the Federal Energy Regulatory Commission (FERC) in accordance with the Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977).

[2] Tennessee Gas Pipeline Company, a Division of Tenneco Inc. FPC Gas Tariff, Ninth Revised Volume No. 1, Article XXIV.

[3] Brooklyn Union Gas Company, Columbia Gas Transmission Corporation, Consolidated Gas Supply Corporation, New England Customer Group (18 gas distribution companies in Tennessee's New England rate zone), Orange and Rockland Utiiities, Inc. (Orange & Rockland), Peoples Gas Light and Coke Company (Peoples), Public Service Electric and Gas Company.

[4] These priorities are defined as:

(0) gas used by the company, lost, or not accounted for;

(1) gas distributed for residential or small commercial use (less than 50 Mcf on peak day);

(2) gas distributed for large commercial use (50 Mcf or more on a peak day), firm industrial use for piant protection, feedstock and process needs, firm industrial use of up to 300 Mcf per day, and use by pipeline customer for storage injection requirements.

[5] Peak shaving refers to the use of a supplemental supply of gas to augment normal pipeline supplies during peak demand periods of relatively short duration.

[6] *See,* FPC Opinion No. 712, 52 FPC 1459 (1974).

[7] This concept involves the ranking of competing demands in the order in which they will be served. The end use plan fuliy serves the high priority load for which gas is available. Where not enough gas is available to fully serve a priority, the available supply is prorated among the various customers with demands in that priority.

[8] *See Pennsylvania Gas and Water Co* v. *Tennessee Gas Pipeline Co.,* Docket No. RP75-50, "Order Accepting Settlement," issued February 28, 1977. The fundamental aim of a fixed base period plan is to serve future needs in accordance with the schedule of end use priorities, but only to the extent that those needs were served in an earlier period and the currently available supply permits.

[9] A customer's entitlement is calculated as follows:

(1) Tennessee determines the volumes of gas available for deliveries during the perspective curtailment period;

(2) It allocates the available gas to each customer in accordance with its fixed base period end use data;

(3) It subtracts from the amount determined in part (2) the amount by which the customer's actual supplies taken during the previous curtailment period exceeded its CPQE for that period.

seasonal takes do not exceed its total seasonal CPQE. There is a $10 per Mcf overrun penalty.

In implementing its curtailment plan, Tennessee has found it necessary on numerous occasions to cut short a seasonal curtailment period and to recalculate CPQE's for the succeeding period. In recalculating each customer's entitlement, it is Tennessee's policy to decrease a customer's CPQE to the extent its actual takes were in excess of its CPQE for the shortened period, but not to credit a customer to the extent its actual takes were below the level of its CPQE for the superseded period.[10] As a result, customers that husband[11] gas received no credit for their underages when a seasonal curtailment period is cut short.

Bases of the Complaints

In March 1977 Tennessee notified each of the complainants of its CPQE for the upcoming summer period. Based on this knowledge, Springfield underran the monthly volumes that constituted its summer CPQE in order to have gas available in October for liquefaction by Nashville. Pike determined that it could balance an anticipated supply shortfall in the months of August and September by underrunning its monthly entitlements in the months of April through July. Delta concluded that its summer CPQE would be inadequate. It therefore arranged to supplement its supplies by purchasing 60,000 Mcf of emergency gas pursuant to 18 CFR 2.68. This infusion enabled Delta to bank a portion of its entitlement in June and July.

In August, Tennessee reported to its customers that its estimate of the supplies available in the latter months of the summer period showed an unanticipated increase. It therefore cut short the summer period and divided the remainder of the season into two segments.[12] Pike's recalculated CPQE showed a slight drop despite Tennessee's improved supply situation. Delta and Springfield received slightly higher CPQE's. All three, however, lost the gas husbanded during the early part of the summer curtailment period. Each was thereby placed in a precarious supply situation. We granted interim emergency relief, but reserved the question of a possible pay back obligation for this proceeding.[13]

The Settlement Agreement

The proposed settlement provides that within thirty days of Commission approval Tennessee will file revised tariff sheets which will provide that:

(1) Small customers shall be defined as those affected services—

a. purchasing under Tennessee's GS rate schedules

b. purchasing under Tennessee's G rate schedules pursuant to a contract with a maximum daily quantity (MDQ) of 5,100 Mcf or less; [14]

(2) Small customers shall be exempt from daily curtailment;

(3) If Tennessee terminates a curtailment period prior to its originally announced expiration date or *reduces* CPQE's for its customers, the small customers' CPQE's shall not be reduced below those announced for the original curtailment period;

(4) If Tennessee increases CPQE's during a curtailment period of the prospective portion thereof, small customers shall be entitled to a share of the increase as long as the small customer's CPQE is not increased to a level exceeding its priority 0, 1, and 2 base period requirement;

(5) If a small customer shares in an interim supply increase as explained in (4), and if Tennessee subsequently reduces CPQE's for its customers, the small customer's entitlement shall be reduced, but only to the extent it shared in a previous increase;

(6) If a customer uses grouped delivery points for curtailment purposes, and if it includes within the grouping both delivery points which would qualify for small customer treatment and those which would not, that customer shall not shift entitlements from the qualified delivery points to the unqualified delivery points after Tennessee terminates an original curtailment period or reduces CPQE's for it customers.

The agreement would relieve Pike, Delta and Springfield of any contingent pay-back obligation arising form their receipt of interim emergency supplies. In addition, the settlement states that it will not prejudice the issues of cost allocation, rate design, and allocation of storage injection.[15]

The proposed settlement is supported by the complainants, Tennessee, the Commission staff, and a group of 24 of the total 75 GS under 5, 100 Mcf per day MDQ Tennessee customer which would be benefitted by the settlement calling themselves the Tennessee Small Distributor Group (Small Distributor Group). They contend that the proposed settlement is a just and reasonable resolution of a bona fide complaint common to Tennessee's small customers by assuring the small customers of the flexibility necessary to their continued operation while threatening Tennessee's larger customer with a potential loss of gas which is *de minimis*.

The opponents of the proposal base their attack on both precedural and substantive grounds. It is alleged that the settlement is a sham in that Tennessee has actually sought to bring a complaint against itself. The complaints are also attacked as being improper attempts to attack prior Commission orders collaterally. It is further argued that there is a lack of sufficient record evidence to support the settlement, and that an evidentiary hearing is necessary to establish an adequate record.

In addition, the opponents charge that the limitation of the preference to small customers unduly discriminates against Tennessee's other customers, that the small customers should not be eligible to share in interim supply increases, and that customers who have grouped delivery points for curtailment purposes cannot be legitimately included in the small customer definition.

Discussion

We reject at the outset the notion that the complaints are improper. We construe the complaints as ones validly brought pursuant to section 5 of the Natural Gas Act. There is no evidence to support Consolidated's suggestion that Tennessee has colluded in some manner to encourage these complaints.

The principal objection to the settlement, an alleged need for an evidentiary, trial-type hearing to develop adequate record support, does not withstand scrutiny. We observe that a contested settlement may be adopted as a resolution on the merits where material issues of fact exist if independent findings are made which are supported by substantial evidence on the record as a whole that the settlement is just and reasonable.[16] But, in the event that no material issue of fact exists, no further evidentiary hearing is required, and the settlement may be approved in a fashion analogous to a "summary judgment"

[10] The complainants were aware of that policy. See Springfield's Petition, appendix B, Docket No. RP77-134 (September 2, 1977); Pike and Delta's Complaint, Appendix A. Docket No. RP77-132 (August 31, 1977).

[11] Husbanding is the process of taking as in the early part of any seasonal curtailment period at a level less than the average daily entitlement under the existing CPQE in order to have such supplies available at a later time within such seasonal period.

[12] August 15 through September 30, and the month of October.

[13] "Order Granting Temporary Emergency Relief and Granting Interventions," Docket No. RP77-134 (November 3, 1977); "Order Granting Temporary Emergency Relief and Granting Intervention," Docket No. RP77-133-1 (November 1, 1977).

[14] We take official notice of Tennessee's tariff definitions which limit GS tariff service to customers which, among other things, have MDQ's of 5,100 Mcf per day or less.

[15] A number of Tennessee's customers have attempted to raise the storage injection issue in this case. That issue has been specifically raised in Docket No. TC78-4.

[16] *Placid Oil Co.* v. *F.P.C.*, 483 F.2d 880 (5th Cir. 1973) *aff'd sub nom. Mobil Oil Co.* v. *F.P.C.*, 417 U.S. 283, 314 (1974).

granted on motion by the litigant in a civil action before a court.[17]

An examination of the documents which presently constitute the record in this proceeding demonstrates that, although a factual issue has been raised, it is not material. From the information at hand, we are able to meet our obligation "to perceive, define and resolve the various stands of public interest."[18]

The sole factual issue raised by the comments opposing the settlements is whether the small distributors to be benefitted by the settlement are in such poor financial or operating circumstances that they cannot obtain sufficient alternate or supplemental supplies and, therefore, truly need the proposed exemption from the adverse consequences of CPQE recalculation.[19] But, the total amount of gas which would be affected by the proposed settlement is so small a portion of Tennessee's total gas deliveries that the issue raised simply is not material.[20]

The comments supporting the settlement filed by Tennessee and by the Small Distributor Group state that the 75 distributors covered by the proposed settlement represent more than 71 percent of Tennessee's customers and that the total base period volumes of these 75 customers comprises only a negligible 1.9 percent of the total annual base period volumes of all customers on the Tennessee system. Springfield states in its comments that the 75 customers have an aggregate MDQ of 155,895 per day which is approximately 4 percent of Tennessee's customers' aggregate MDQ of 3,922,100 Mcf per day. Thus, since the proposed exemption would shelter the 75 customers from a *change* in CPQE's, the actual volumes impacted by the exemption would be minuscule. For example, if Tennessee changed summer period CPQE's to reflect an increase in curtailment from 100 percent of priorities 3 through 9 to 100 percent of priorities 3 through 9 and 50 percent of priority 2, the proposal would effect approximately 1,751.5 MMcf or .9 percent of Tennessee's volumes available for delivery.

It follows that even if it were conceded that the arguments of the opponents of the settlement were correct that a substantial portion of the 75 customers benefitted by the settlement have the capability to add flexibility through self-help measures, any arguably unfair diversion of volumes to these 75 customers by operation of the settlement would be *de minimis*.

The parties' submissions also provide a basis for concluding that the small customers need protection from the adverse consequences of the recalculation of CPQE's and that approval of the settlement is in the public interest.

Affidavits of nine mayors and other officials responsible for gas distribution activities of some of the 75 customers benefitted by the settlement have been submitted. These affidavits which we consider trustworthy assert that self-help measures, such as development of storage, LNG, or propane-air facilities, are not feasible for most GS and small G service customers. The affidavits also indicate that the small customers' only feasible alternatives at the present time are to purchase emergency gas pursuant to 18 CFR 2.68, to absorb $10 per Mcf overrun penalties, to suspend service, and thereby, produce the closing of industrial plants, schools, and churches, or to seek extraordinary relief. Examples of how the small customers have fared pursuing these alternatives are worth noting.

The affidavit of the president of Delta, which serves a total of 7,511 customers located in several separate service areas, explains that Delta's priority 2 customers have been curtailed as much as 50 percent in a season. The company's attempts to provide full service to these customers through purchases of emergency gas has not been completely successful because of the effect of CPQE recalculation. The company purchased 60,000 Mcf of emergency gas early in summer 1977 thereby, in essence, "banking" the regular gas allocation from Tennessee for later use. In August, however, CPQE's were recalculated, and the gas "banked" for use in September and October were lost requiring the company to seek and obtain extraordinary relief as noted above.

The affidavit of the manager of City of Parsons, Tennessee, which is a municipal gas distributor providing service to approximately 1,400 customers, states that, in December 1976, Parsons was notified that its priority 2 customers would be curtailed 11 percent over the allocations for January, February and March 1977. In January 1977, Parsons was placed on day-to-day allocations. To avoid the $10 per Mcf overrun penalty, Parsons suspended service to all industrial customers except for plant protection requirements; all county schools were closed for four weeks, and churches were restricted to single weekly services. Approximately 1,750 employees were affected.

The affidavit of the Vice-President of Entex, Inc., which distributes gas in 8 service areas to a total of approximately 10,000 customers, states that during the 24 months between November 1975 and October 1977, Tennessee established 21 different curtailment periods. During the 24 month period, Entex had to shut down selected industries and schools for brief periods of time.

The affidavit of the manager of Lexington Gas System, Lexington, Tennessee, which serves 2,000 customers, claims no storage capability and 100 percent dependence upon Tennessee. The affidavit states that April 1 to October 1, 1977, Lexington saved about 15,000 Mcf expecting to use these volumes in October 1977; but these husbanded volumes were lost when a new curtailment period was established by Tennessee. Lexington was thereby required to purchase 9,000 Mcf of expensive emergency gas. The affidavit further states that because of Tennessee's curtailment practices, Lexington Gas System had to cut off schools, factories and other business to stay within its allocation.

None of the comments opposing the settlement revealed anything at variance with the foregoing specific factual assertions of the settlement's supporters. Furthermore, no comments in reply to the supporting comments were filed, although Orange & Rockland requested and was granted an extension of time to file such comments.

Admittedly, a total picture of the circumstances faced by small distributors impacted by CPQE recalculation by Tennessee is not presented by the comments and affidavits in support of the settlement supplemented by the evidence presented in Docket Nos.

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[17] *Pennsylvania Gas and Water Co.* v. *F.P.C.*, 463 F.2d 1242, 1246, 1250-1251 (D.C. Cir. 1972); *Citizens for Allegan County, Inc.* v. *F.P.C.*, 414 F.2d 1125, 1129 (D.C. Cir. 1969); *Cities of Lexington etc, Ky* v. *F.P.C.*, 295 F.2d 109, 120-122 (4th Cir. 1961); *Sun Oil Co.* v. *F.P.C.*, 256 F.2d 233, 240-241 (5th Cir. 1958), *cert. denied* 358 U.S. 872 (1958).

[18] *Citizens for Allegan County, Inc.* v. *F.P.C.*, 414 F.2d 1125, 1129 (D.C. Cir. 1969).

[19] Certain customers, which serve a number of communities each one of which is served through a different service agreement and whose aggregate MDQ under all classes of service would be outside the range of "small", may nonetheless enjoy an exemption under the settlement for their delivery points served under GS rate schedules or G rate schedules with MDQ's below 5,100 Mcf per day. We do not view this result as a defect in the settlement proposal. Tennessee's FERC Gas Tariff, revised Volume No. 1, Revised Sheets Nos. 227 through 235, containing the index of Tennessee's customers with the MDQ applicable to each delivery point, and Revised Sheets Nos. 5 through 12, Tennessee's service area maps, indicate that generally the qualifying delivery points of these multiple-service area customers are used to serve areas separated by some distance and not susceptible to operation on an integrated system basis. CPQE recalculation should have the same general impact on operations at the qualifying delivery points of the multiple-service area customers as on qualifying customers who serve a single service area.

[20] Although the principle has broader application, it has been determined in the specific context of natural gas curtailment proceedings that issues raised by opponents of contested settlement lack materiality where only *de minimis* aggrievement is demonstrated. *Philadelphia Gas Works* v. *F.P.C.*, 557 F.2d 840, 844 n. 7, 845 (D.C. Cir. 1977).

RP75-35 *et al.* Enough, however, has been presented upon which we may apply our experience acquired through review of the operation of curtailment plans which contain small distributor exemptions [21] to make a reasoned conclusion on the merits of the proposed settlement. We conclude that the small customers benefitted by the settlement generally do not have the resources to mitigate the impact of sudden loss of "banked" curtailment allocations through CPQE recalculations to the degree that Tennessee's larger customers are able to do and that the smaller customers cannot reasonably be expected in the foreseeable future to develop such resources. We conclude that the presently effective Tennessee curtailment plan is unjust and unreasonable to the extent that it permits CPQE entitlement recalculations without protecting the smaller customers from its impact.[22] The settlement proposal does provide a just and reasonable method for avoiding the unjust and unreasonable aspect of the plan.

We do not agree that the proposed settlement should be amended to deny its benefits to customers with grouped delivery points or to deny small customers a right to share in interim supply increases. The New England Group argues for the latter change. It reasons that small customers which have their basic allotment protected from curtailment should not expect to share, at the further expense of Tennessee's larger customers, in any interim supply increase. It calls this a clear case of overreaching.

We believe, however, that the issue of relief from interim curtailment is conceptually distinct from the issue of who should share in any interim supply increase. The rationale underlying the policy of relieving small customer from interim decreases in entitlements because of a need to protect high priority loads does not require that a preference be given to large customers in the event of a supply increase.

Finally, we are not persuaded that companies with grouped delivery points should be excluded from the category of small customers. Both Orange & Rockland and Peoples argue that grouped customers have the ability, by grouping, to adjust to curtailment, and that therefore such customers do not deserve preferential treatment.

We think that the settlement agreement contains adequate protection to assure that no undue preference is given to grouped customers. Such customers could not shift entitlement from a delivery point eligible for the small customer preference to an ineligible delivery point once Tennessee had made an interim reduction in CPQE's. Thus the benefits of the small customer preference would be effectively limited. [23]

Having given full consideration to the merits of the proposed settlement agreement and to the objections raised we conclude that adoption of the proposal is in the public interest.

The Commission finds and orders:

(A) The settlement agreement of May 17, 1978, which contains a just and reasonable adjustment to the operation of the Tennessee curtailment plan, is in the public interest and should be approved.

(B) Tennessee shall file revised tariff sheets consistent with appendix A of the settlement agreement within 30 days of the date of this order.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5033 Filed 2-15-79; 8:45 am]

[21] In a number of cases, the FPC approved the exemption of small distributors from curtailment (subject to volumetric limits, alone, or in combination with conditions on redelivery) after finding that the small distributors generally lack flexibility, they characteristically have high priority end-use profiles, and the exemptions would have a minor impact on other pipeline customers. *Panhandle Eastern Pipe Line Company*, 50 FPC 1877 (1973); *Texas Eastern Transmission Corporation*, 52 FPC 437 (1974); *Algonquin Gas Transmission Company*, Docket Nos. RP71-131 and RP72-61, issued August 20, 1975; *Panhandle Eastern Pipe Line Company*, Docket No. RP71-119 (Opinion No. 754), issued February 27, 1976; *Transcontinental Gas Pipe Line Corporation*, Docket No. RP72-99 (Opinion No. 778), October 8, 1976; *Texas Eastern Transmission Corporation*, Docket Nos. RP71-130, RP72-58, and RP75-111 (Opinion No. 787-A), issued June 1, 1977. This Commission has made a similar approval in *Southern Natural Gas Company, et al.*, (Opinion No. 5), issued November 17, 1977.

[22] We would have no hesitancy to make this finding for purposes of section 5 of the Natural Gas Act. But, since we are merely approving a proposal offered by parties, as opposed to imposing a curtailment plan modification of our own making, it appears that our approval is an action only under section 4 of the Act, and no finding that the existing plan is unjust and unreasonable under section 5 of the Act is required. *Southern Natural Gas Company* v. *F.P.C.*, 547 F.2d 826 (5th Cir. 1977).

[23] We note that Delta has grouped delivery points for curtailment purposes. Its experience cannot support the interpretation that grouping is so advantageous that it precludes the need for protection from interim decreases in entitlement.

[6450-01-M]

[Docket Nos. CP78-124, CP78-123, et al.]

NORTHERN BORDER PIPELINE CO.

Application

FEBRUARY 12, 1979.

Take notice that on January 26, 1979, Northern Border Pipeline Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP78-124 an application pursuant to Section 7(c) of the Natural Gas Act for the transfer of interest to Applicant in the conditional certificate of public convenience and necessity issued in said docket on December 16, 1977, and for authority to construct a portion of what would be Applicant's segment of the Alaska Natural Gas Transportation System for the purpose of transporting Canadian gas from Alberta prior to the time of commencement of delivery of Alaskan gas to the lower 48 states, all as more fully set forth in the application which is on file with the Commission and open to pubic inspection.

Applicant states that it has been reorganized so as to create, in effect, a new partnership distinct from the partnership granted the conditional certificate issued December 16, 1977, although retaining the same name for continuity and identification. It is indicated that the new partnership consists of four partners which are subsidiaries of Northern Natural Gas Company (Northern), Northwest Energy Company, Panhandle Eastern Pipeline Company (Panhandle), and United Gas Pipe Line Company (United). Accordingly, Applicant requests that the new partnership succeed to all right, title and interest in and to the conditional certificate issued December 16, 1977.

Further, Applicant requests that an amended certificate be issued to it authorizing the construction of facilities required to transport gas to be imported from Canada pursuant to import authorization granted to Northwest Alaskan Pipeline Company (Northwest Alaskan) in Docket No. CP78-123, *et al.* Applicant proposes to construct approximately 809 miles of 42-inch pipeline extending from a point near Port of Morgan, Montana, to a point near Ventura, Iowa, along precisely the same route as that authorized by the President's *Decision and Report on an Alaskan Natural Gas Transportation System* and one 16,200 horsepower compressor station in Mackenzie County, North Dakota. It is indicated that the estimated total capital cost of the facilities is approximately $770,000,000 in 1975 constant dollars, the cost estimating basis on which the President's Decision was based. Applicant anticipates the actual total captial cost to be incurred prior to com-

pletion of the proposed facilities would be approximately $1,400,000,000, including AFUDC based on a January 1980 to November 1981 construction schedule.

Applicant states that the facilities proposed are required to transport 800,000 Mcf per day of Canadian gas to be purchased by Northwest Alaskan from Pan-Alberta Gas, Ltd., of Canada, and resold by Northwest Alaskan at Monchy, Saskatchewan to United, Northern, and Panhandle.

Applicant proposes to finance the proposed facilities on a "project financing" basis, with equity funds being subscribed by the partnership participants, in proportions to be agreed upon among them and debt funds being obtained by Applicant from traditional sources.

Applicant alleges that transportation of Canadian gas through the proposed facilities is specifically described as an advantage in the President's Decision on an Alaskan Natural Gas Transportation System. Applicant further alleges that such early construction would greatly facilitate the financing of the Alaskan System in its entirety and would also significantly improve the economics of transporting Alaskan gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore intervened in the proceedings in Docket No. CP78-123, *et al.*, need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5040 Filed 2-15-79; 8:45 am]

[6450-01-01]

[Docket No. OR78-1]

TRANS ALASKA PIPELINE SYSTEM

Petition for Relief

FEBRUARY 9, 1979.

Take notice that on January 31, 1979, a petition was filed on behalf of the eight owners of the Trans Alaska Pipeline System. The petitioners seek certain relief they allege is necessary to avoid injury by the Commission through what petitioners describe as violations of separation of functions principles in the conduct of two related proceedings, namely a valuation audit under Section 19a of the Interstate Commerce Act 49 USC §§ 1, *et seq.*, ("Act") and a tariff proceeding under Section 15 of that Act.

Petitioners allege there is substantial overlap between questions of allowing certain TAPS expenditures as prudent investments for purposes of the Section 19a audit and for purposes of the tariff proceeding.

Petitioners set forth reasons for believing that continued communications between the Commission's staff, Division of Audits and Touche Ross constitute prohibited ex parte communications. Petitioners request that the Commission: "(1) order a complete separation between the adversary parties in the TAPS tariff proceedings * * * and all other Commission personnel and consultants and specifically direct that there be no further off-the-record contacts between the Division of Audits and Touche Ross or Staff Counsel; (2) require that the Division of Audits return all documents and data prepared by or obtained from Touche Ross or Staff Counsel and provide petitioners with a copy of all such documents; and (3) require that all written communications and written summaries of all oral communications between the Division of Audits and Touche Ross or Staff Counsel be placed on the public records * * * ."

Any person desiring to file comments on the above-referenced petition should file such comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. It appears that a period for filing comments of less than ten days is reasonable and consistent with the public interest. Accordingly, all such comments should be filed on or before February 20, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5041 Filed 2-15-79; 8:45 am]

[6450-01-M]

DETERMINATION BY A JURISDICTIONAL AGENCY UNDER THE NATURAL GAS POLICY ACT OF 1978

FEBRUARY 7, 1979.

On Februray 5, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

NEW MEXICO ENERGY AND MINERALS DEPARTMENT, OIL CONSERVATION DIVISION

API Well Number—30-025-26081
Section of NGPA—103
Operator—Doyle Hartman
Well Name—Etz No. 2
Field—Jalmat (Oil) Pool
County—Lea
Purchaser—El Paso Natural Gas Company
Volume—91 MMcf.

API Well Number—30-025-25667
Section of NGPA—103
Operator—Doyle Hartman
Well Name—Cities Laughlin No. 1
Field—Eunice-Monument
County—Lea
Purchaser—Northern Natural Gas Co.
Volume—105 MMcf.

API Well Number—None
Section of NGPA—108
Operator—J. Gregory Merrion and Robert L Bayless
Well Name—Eaton White #1
Field—West Kutz Pictured Cliffs
County—San Juan
Purchaser—Gas Company of New Mexico
Volume—8 MMcf.

The applications for determination is these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before March 5, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5042 Filed 2-15-79; 8:45 am]

[6450-01-M]

DETERMINATION BY A JURISDICTIONAL AGENCY UNDER THE NATURAL GAS POLICY ACT OF 1978

FEBRUARY 7, 1979

On February 2, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

STATE OIL AND GAS BOARD OF MISSISSIPPI

API Well Number—23-065-20104
Section of NGPA—107
Operator—Florida Gas Exploration Company
Well Name—Unit 25-10 #1
Field—Oakvale
County—Jefferson Davis

Purchaser—Florida Gas Transmission Company
Volume—1475 MMcf.

API Well Number—23-065-20112
Section of NGPA—107
Operator—Florida Gas Exploration Company
Well Name—Unit 30-11#1
Field—Oakvale
County—Jefferson Davis
Purchaser—Florida Gas Transmission Company
Volume—1460 MMcf.

API Well Number—23-065-20083
Section of NGPA—107
Operator—Florida Gas Exploration Company
Well Name—Smith, et al #1
Field—Oakvale
County—Jefferson Davis
Purchaser—Florida Gas Transmission Company
Volume—1820 MMcf.

API Well Number—23-065-20089
Section of NGPA—107
Operator—Florida Gas Exploration Company
Well Name—Unit 6-6 #1
Field—Oakvale
County—Jefferson Davis
Purchaser—Florida Gas Transmission Company
Volume—1558 MMcf.

API Well Number—23-065-20103
Section of NGPA—107
Operator—Florida Gas Exploration Company
Well Name—Shirley L. Sherman #1
Field—Oakvale
County—Jefferson Davis
Purchaser—Florida Gas Transmission Company
Volume—1500 MMcf.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before March 5, 1979.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5043 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-166]

KANSAS CITY POWER & LIGHT CO.

Proposed Increased Schedules of Rates and Charges

FEBRUARY 7, 1979.

Take notice that on January 23, 1979, Kansas City Power & Light Company (KCPL) filed with the Commission new increased Schedules of Rates and Charges for Wholesale Firm Power Service to supersede and replace Schedules of Rates and Charges for Wholesale Firm Power Service in contracts and agreements with the following wholesale customers:

1. Missouri Power & Light Company (MPL), FPC No. 73
2. City of Marshall, Missouri (Marshall), FPC No. 83
3. Missouri Public Service Company (MPS), FPC No. 74
4. City of Gardner, Kansas (Gardner), FPC No. 79
5. City of Higginsville, Missouri (Higginsville), FPC No. 72
6. City of Pomona, Kansas (Pomona), FPC No. 82
7. City of Prescott, Kansas (Prescott), FPC No. 76
8. City of Salisbury, Missouri (Salisbury), FPC No. 61
9. City of Slater, Missouri (Slater), FPC No. 81
10. Coffey County Rural Electric Cooperative Association, Inc. (Coffey County), FPC No. 69
11. United Electric Cooperative, Inc. (United), FPC No. 84.

KCPL states that the proposed effective date for each new increased Schedule of Rates and Charges is March 31, 1979, and that the new Schedules of Rates and Charges reflect an increase of $997,178 in annual revenues to KCPL based on its cost of service to wholesale firm power customers during the 12-month test period ended June 30, 1978. Additionally, KCPL states that the changes embodied in the new Schedules of Rates and Charges include only increased rates for Demand and Energy Charges.

Any person desiring to be heard or to protest such 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 February 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5044 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. RP75-104]

LAWRENCEBURG GAS TRANSMISSION CORP.

Report of Refunds

FEBRUARY 7, 1979.

Take notice that on January 26, 1979 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) filed a Report of Refunds, pursuant to Article V of its Stipulation and Agreement at Docket No. RP75-104, as approved by Commission order issued July 12, 1976. Lawrenceburg states that on January 19, 1979 it made gas refunds to its two (2) jurisdictional customers, Lawrenceburg Gas Company in the amount of $43,969.25, and The Cincinnati Gas & Electric Company in the amount of $31,467.28, for a total refund of $75,436.53.

Lawrenceburg states that its refund, applicable to the period between April 1, 1978 through October 31, 1979, was required in order to flow through an identical refund it received from Texas Gas Transmission Corporation dated January 16, 1979, and resulting from the settlement of Texas Gas' rate proceeding at Docket No. RP77-139.

Lawrenceburg states that copies of its refund report have been mailed to its two jurisdictional customers and to the two interested State Commissions for the States of Indiana and Ohio.

Any person desiring to be heard or to protest said filing should file a petition to intervene (unless such intervention has previously been granted) 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 February 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5045 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket Nos. CS79-249, *et al.*]

MERLIN ENERGY, INC., ET AL.

Applications for "Small Producer" Certificates [1]

FEBRUARY 7, 1979.

Take notice that each of the Applicants listed herein has filed an appli-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

cation pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirments of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecesary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date Filed	Applicant
CS79-249.....	1/8/79	Merlin Energy, Inc., 320 S. Boston, Suite 1804, Tulsa, Oklahoma 74103
CS79-250.....	1/9/79	Dorthy McGill, P.O. Drawer H, Alva, Oklahoma 73717
CS79-251.....	1/11/79	Aviva, Inc., P.O. Box 2532, Denver, Colorado 80201
CS79-252.....	1/12/79	Ka-Hugh International, Inc., 8989 Westheimer, #215, Houston, Texas 77063
CS79-253.....	1/12/79	Virlar Exploration, Inc., 8989 Westheimer, #215, Houston, Texas 77063
CS79-254.....	1/29/79	Mat Petroleum, Inc., P.O. Box 2411, Amarillo, Texas 79189
CS79-255.....	1/15/79	Chancorp, Inc., 1401 Denver Club Building, Denver, Colorado 80202
CS79-256.....	1/15/79	Moseley Petroleum Corporation, 13601 Preston Road, Suite 410-E, Dallas, Texas 75240
CS79-257.....	1/15/79	Ritters Brothers Enterprises, Inc., Drawer H, Alva, Oklahoma 73717
CS79-258.....	1/15/79	Gordon and Gene Taylor, d/b/a Taylor Bros. Oil & Gas Co., P.O. Box 670, Sunray, Texas 79086
CS79-259.....	1/15/79	Verdell H. Daehling, 3101 Thomas, Midland, Texas 79701
CS79-260.....	1/15/79	Bob W. Dutton, P.O. Box 2519, Midland, Texas 79702
CS79-261.....	1/15/79	Hawkeye Oil & Gas Corporation, P.O. Box 12322, Fort Worth, Texas 76116
CS79-262.....	1/18/79	James M. Scott, P.O. Box 1046, Bryn Mawr, Pa. 19010
CS79-263.....	1/18/79	David C. Scott, c/o James M. Scott, P.O. Box 1046, Bryn Mawr, Pa. 19010
CS79-269.....	1/22/79	Berry M. Johnson, 2637 N.W. 56th Street, Oklahoma City, Okla. 73112
CS79-270.....	1/22/79	Leland D. Barby, P.O. Box 400, Beaver, Oklahoma 73932
CS79-271.....	1/22/79	Clover Bobo Cole, et al., 1100 Milam Building, Suite 2155, Houston, Texas 77001
CS79-272.....	1/22/79	Shakespeare Oil Company, Inc., P.O. Box 669, Salem, Illinois 62881
CS79-273.....	1/23/79	B. G. Barby, P.O. Box 1063, Woodward, Oklahoma 73801
CS79-274.....	1/23/79	William D. Brown and William H. Krutzer, P.O. Box 4803, Monroe, Louisiana 71203
CS79-275.....	1/22/79	Pike Oil Company, 833 E. Arapahoe, Suite #211, Richardson, Texas 75081
CS79-276.....	1/23/79	Moody Energy Company, P.O. Box 36, Canadian, Texas 79014
CS79-277.....	1/25/79	Tara N. Fedric, 2924 Kings Road, Apt. #118, Dallas, Texas 75219
CS79-278.....	1/25/79	Unit Operations, Suite 141, Ciudad Building, 3000 United Founders Blvd., Oklahoma City, Okla. 73112
CS79-279.....	1/25/79	OJB, Inc., P. O. Drawer 1645, Ozona, Texas 76943
CS79-280.....	1/26/79	Floyd A Nunley, 3510 Bryan Street, Amarillo, Texas 79109
CS79-281.....	1/26/79	Alice C. Hadwiger, P.O. Drawer H, Alva, Oklahoma 73717
CS79-282.....	1/29/79	Ky. Geological Engineering Co., P.O. Box 8071, Lexington, Kentucky 40533

[FR Doc.79-5046 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket Nos. CP79-170; CP78-123, et al.]

NORTHWEST ALASKAN PIPELINE CO.

Application

FEBRUARY 7, 1979.

Take notice that on February 1, 1979, Northwest Alaskan Pipeline Company (Applicant) (formerly Alcan Pipeline Company (Alcan)), 136 East South Temple, Salt Lake City, Utah 84711 filed in Docket No. CP79-170 (CP-123, *et al.*) an application pursuant to Section 7(c) of the Natural Gas Act and the provisions of the Alaska Natural Gas Transportation Act of 1976 (ANGTA) for a certificate of public convenience and necessity authorizing the sale of a daily average quantity of 800,000 Mcf of natural gas to Northern Natural Gas Company (Northern), Panhandle Eastern Pipe Line Company (Panhandle), and United Gas Pipe Line Company (United) for use in their respective market areas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that the instant application is one of several related applications filed by various parties to permit the importation, transportation, and sale of Canadian gas which, in turn, would allegedly facilitate the prebuilding of the Alaska Highway Pipeline Project which is designed to bring Alaskan North Slope gas through Canada and down into the lower 48 states.

It is asserted that on September 22, 1977, the President, pursuant to Section 7 of ANGTA, issued his *Decision and Report to Congress on the Alaska Natural Gas Transportation System* in which he designated the sponsors of the Alaska Highway Pipeline Project as the companies responsible for construction of the Alaska Natural Gas Transportation System (ANGTS) and that Congress ratified the President's decision by joint resolution which the President signed into law. By order issued December 16, 1977, in Docket No. CP78-123, *et al.*, the Commission issued conditional certificates to the sponsors of the project, Alcan, Northern Border Pipeline Company (Northern Border) and Pacific Gas Transmission Company (Pacific Gas), it is said.

Applicant states that on April 5, 1978, it filed two applications for authorization to import, on an average daily basis up to 240,000 Mcf of gas at

an existing import point near Kingsgate, British Columbia, and up to 800,000 Mcf of gas per day at a proposed import point in the vicinity of Monchy, Saskatchewan. Applicant proposes to purchase such gas from Pan-Alberta Gas, Ltd. (Pan-Alberta), in order to facilitate the prebuilding of the southern portions of ANGTS, which includes the eastern and western transmission legs, it is said. It is asserted that by order of June 7, 1978, in Docket No. CP78-123, *et al.*, the Commission granted conditional approval of the two import applications.

By the subject application, Applicant requests authorization to sell up to a total of 800,000 Mcf of natural gas on an average daily basis to Northern, Panhandle, and United (Purchaser) for ultimate delivery, less fuel and line loss, to their respective market areas. Applicant states that the gas would be delivered into the facilities of Northern Border by Foothills Pipeline Saskatchewan Limited (Foothills Saskatchewan) for the accounts of Applicant and Pan-Alberta and that the sale would be concurrent with the delivery by Foothills Saskatchewan to Northern Border at the Monchy delivery point. Applicant says that it does not propose to construct or operate any facilities to effectuate the importation of natural gas or to effectuate the proposed sale of gas. In order to effectuate the delivery of the Canadian gas to the Purchasers, Applicant states that it is informed that Northern Border, or its successor, proposes to construct and operate a large diameter, high pressure natural gas transmission system from Monchy to a proposed point of interconnection with the facilities of Northern in the vicinity of Ventura, Iowa, where, Applicant understands, Panhandle and United are making appropriate arrangements in order to receive the natural gas into their respective systems for delivery to the market areas.

It is stated that of the 800,000 Mcf, 200,000 Mcf per day would be initially allocated for sale to Northern, 150,000 Mcf per day would be allocated for sale to Panhandle and 450,000 Mcf per day would be initially allocated for sale to United, and that at the beginning of the third contract year and each year thereafter, Northern may increase its average daily quantity to 250,000 Mcf per day. In this case, the delivery to United would be decreased by a like amount, it is said. It is asserted that the terms and conditions of the agreement with Purchasers basically track the terms and conditions of the contract with Pan-Alberta. The initial term of the sale is for 12 years, it is indicated.

The application indicates that the Purchasers' payments to Applicant shall include the amount paid to Pan-Alberta by Applicant for deliveries of natural gas at the U.S.-Canadian border established and approved by the National Energy Board of Canada, plus a proportionate share of Applicant's administrative costs.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 1, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore intervened in the proceedings in Docket No. CP78-123, *et al.*, need not do so again.

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.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5047 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. CP77-547]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Inviting Comments

FEBRUARY 7, 1979.

On August 4, 1977, Transcontinental Gas Pipe Line Corporation (Transco) filed in Docket No. CP77-547, an application pursuant to Section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the rendition of a storage service in its Washington and Hester Storage Fields. On August 25, 1977, the Federal Power Commission granted Transco temporary authorization to commence the proposed storage service. No further action has been taken with respect to the application filed in the instant docket.

In view of the length of time that has elapsed since the issuance of the temporary authorization, it is believed that the parties should be given a further opportunity to comment before any permanent certificate of public convenience and necessity is issued in the instant docket. Therefore, comments are invited from all parties in this proceeding as to the appropriate disposition which should be made of all issues, including the disposition of the revenues collected by Transco pursuant to the temporary authorization.

Any party desiring to be heard with reference to said application should on or before February 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, any comments such party desires to make.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5048 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. CP77-403]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Inviting Comments

FEBRUARY 7, 1979.

On May 20, 1977, Transcontinental Gas Pipe Line Corporation (Transco) filed in Docket No. CP77-403, an application pursuant to Section 7 of the Natural Gas Act, for a cretificate of public convenience and necessity authorizing the rendition of a storage service in its Washington Storage Field. On July 17, 1977, Transco filed an application for a temporary certificate of public convenience and necessity authorizing the immediate commencement of its proposed storage service. The request was granted and temporary authorization was given by a letter order of July 15, 1977. Subsequently, on October 17, 1977, the temporary authorization was amended so as to authorize certain changes in the customers and allocations of storage gas among customers. No further action has been taken with respect to the application filed in the instant docket.

In view of the length of time that has elapsed since the issuance of the temporary authorization, it is believed that the parties should be given a fur-

ther opportunity to comment before any permanent certificate of public convenience and necessity is issued in the instant docket. Therefore, comments are invited from all parties in this proceeding as to the appropriate disposition which should be made of all issues, including the disposition of the revenues collected by Transco pursuant to the temporary authorization.

Any party desiring to be heard in the reference to said application should on or before February 27, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, any comments such party desires to make.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5034 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. RP 73-3 (PGA Tracker)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

FEBRUARY 7, 1979.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing Thirteenth Revised Sheet No. 12 and Twelfth Revised Sheet No. 15 to Second Revised Volume No. 1, and Nineteenth Revised Sheet No. 121 to Original Volume No. 2 of Transco's FERC Gas Tariff. These tariff sheets, which are proposed to be effective March 1, 1979, reflect a net increase of 22.3¢ per dekatherm (dt) in the commodity or delivery charge of Transco's CD, G, OG, E, PS, S-2 and ACQ rate schedules and a decrease of 2.3¢ per dt in the delivery charge of the X-20 rate schedule.

Transco states that these changes result from an increase in gas purchase costs computed under the currently effective Purchased Gas Adjustment Clause contained in Section 22 of its General Terms and Conditions, and a decrease in curtailment-related credits computed in Section 20 of the General Terms and Conditions, of Transco's FERC Gas Tariff. The tracking rate change under the PGA Clause, caused primarily by producer increases due to the implementation of the Natural Gas Policy Act effective December 1, 1978 and thereafter, amounts to an increase of 24.6¢ per dt in the commodity or delivery charge in Transco's CD, G, OG, E, PS, S-2 and ACQ rate schedules. The tracking rate change to reflect the curtailment related credits estimated to be deferred as of February 28, 1979, is a decrease of 2.3¢ per dt in the commodity or delivery charge in Transco's CD, G, OG, E, PS, S-2 and X-20 rate schedules.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 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 February 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5035 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Project No. 459]

UNION ELECTRIC CO.

Application for Temporary Change in Project Operation

FEBRUARY 2, 1979.

Take notice that on January 12, 1979, Union Electric Company (Applicant) filed an application pursuant to the Federal Power Act, 16 U.S.C. 791a-825r, for a temporary change in operation for its Osage Project No. 459, located in Benton, Camden, Miller, and Morgan Counties, Missouri. Correspondence concerning the application should be sent to: Michael F. Barnes, Esq., Union Electric Co., P.O. Box 149, St. Louis, Missouri 63166.

The Applicant requests that when flows to the reservoir exceed 50,000 cfs that it be permitted to increase the discharge from the dam to match the inflow into the reservoir. The Applicant states that the purpose of the request is to aid in providing maximum stability of the dam, pending completion of proposed post-tensioned anchoring of that structure in mid-1981.

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 March 5, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5036 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. ER79-159]

UNION ELECTRIC CO.

Revised Service Schedules

FEBRUARY 7, 1979.

Take notice that on January 22, 1979 Union Electric Company (Union) tendered for filing Fifth Revised Service Schedules, C, E and F to the Interconnection Agreement dated February 18, 1972 between Union, Central Illinois Public Service Company and Illinois Power Company.

Union indicates that said Revised Service Schedules revise the reservation charges for Maintenance, Short-term Non-firm, and Short-term Firm Power transactions.

Union requests an effective date of March 1, 1979 for the Revised Service Schedules.

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 §§ 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 February 16, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5037 Filed 2-15-79; 8:45 am]

[6450-01-M]

[Docket No. CI78-968]

UNITED GAS PIPE LINE CO.

Order Prescribing Interim Protective Provisions

FEBRUARY 5, 1979.

This order relates to a request by Exchange Oil & Gas Corporation (Exchange) for a protective order pending final action by the Commission in the above entitled case. On July 5, 1978, United Gas Pipe Line Company (United) filed in Docket No. CI78-968 a petition for a declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR § 1.7(c)), requesting the Commission to remove uncertainty as to whether natural gas allocated to and to be produced by Exchange from the Ridge Field, Lafayette Parish, Louisiana, is dedicated to United. In its petition United stated that Exchange is making other arrangements for the disposition of the gas without delay. Therefore, United requested, in addition to a hearing to determine whether the subject gas is committed to United and a resultant declaratory order, an interim order prohibiting Exchange from delivering its interest in the subject gas to any party other than United pending a determination of the matter.

On August 28, 1978, Exchange filed an answer in opposition to United's petition. On September 12, 1978, United filed its Reply to the Answer of Exchange, in which United set forth its proposals for language to be included in any interim order which might be issued.

There appearing no disputes as to any material facts, on September 19, 1978, the Commission issued its Order on Petition for Declaratory Order and Granting Interventions. In that order the Commission held that Exchange may not sell to anyone other than United gas produced from, or attributable to, its interest in acreage committed to existing certificates held by Sun Oil Company and Continental Oil Company, previous lessees of lands in which Exchange subsequently acquired an interest in leases, without prior permission and approval of the Commission under Section 7(b) of the Natural Gas Act. Further the Commission directed Exchange to file a status report of the three wells involved in the controversy.

In conformance with the September 19, 1978 order, on September 26, 1978, Exchange filed a letter stating that of the three wells in controversy, the two new wells were currently shut-in, awaiting the formation of units by the Louisiana Department of Conservation, and Exchange's share of the production of the reworked well has been stored in the ground since Exchange acquired its interest.

On October 12, 1978, Exchange filed its petition for rehearing of the September 19, 1978 order herein alleging new facts and requesting a hearing. Among the new facts asserted by Exchange was a pre-existing dedication to Transcontinental Gas Pipe Line Corporation (Transco) and a partial abandonment under Commission order. On October 19, 1978, Transco, an intervenor herein, filed an application for rehearing and a request for an informal conference. [1]

On November 7, 1978, United filed a document styled Reply of United Gas Pipeline Company to Applications of Exchange Oil & Gas Corporation and Transcontinental Gas Pipe Line Corporation for Rehearing. The Commission's Rules do not provide for the filing of such document. However, in light of the circumstances of this case, the Commission finds good cause to waive its regulations in § 1.34(d) to permit the response.

On November 13, 1978, the Commission issued its Order Granting Rehearing for Purposes of Further Consideration.

On November 21, 1978, Exchange filed its response to the November 7, 1978 filing of United stating that effective September 6, 1978, the Louisiana Department of Conservation issued orders established pooled units for the two new wells, one of which, among other things, includes a small portion of the area alleged to have been previously abandoned with Commission permission. Exchange also urges the issuance of a protective order on the following bases:

1. Delivery of gas from the two new wells for the 1978-79 heating season
2. Safety considerations since the wells are high-pressure wells
3. To protect Exchange from delivering gas to United that belongs to others
4. Immediate commencement of recovery of investment to allow drilling of wells for additional gas
5. Prevent gas from the area covered by partial abandonment being made subject to dedication by delivery to United.

On the basis of the foregoing, this Commission believes it appropriate to issue an order for the purpose of protecting the respective interests of the parties to this proceeding pending final action by the Commission disposing of the substantive questions presented.

The Commission finds. It is necessary and appropriate in the administration of the Natural Gas Act and the Natural Gas Policy Act of 1978 as well as in the public interest that the protective language below be adopted to cover the period prior to final action by the Commission disposing of the substantive issues in this proceeding.

The Commission orders. (A) During the interim period until final action by the Commission disposing of the substantive issues in this proceeding, Exchange shall deliver gas to United and United shall pay Exchange the lesser of the contract rate or the applicable maximum lawful price prescribed in subsection 104(b) of the Natural Gas Policy Act of 1978. Automatic collection of the monthly inflation adjustments prescribed in this subsection shall not be effective until Exchange files the blanket affidavit established in Order Nos. 15 and 15-A covering such sale or subsequently files the statement of inclusion specified in Section 154.94(h)(3)(ii) thereof. United shall include its purchased gas costs such amounts paid to Exchange.

(B) Exchange may not collect any rate in excess of the rate authorized in Ordering Paragraph (A) above unless (i) it complies with the Part 273 interim collection procedure, (ii) a final determination has been made by the jurisdictional agency under Part 274, or (iii) a final non-appealable action has been taken by the Commission in accordance with Section 275.202 of the regulations relating to Section 503(e) of the Natural Gas Policy Act of 1978 and (iv) its contract so provides. United shall include in its purchased gas costs such amounts paid to Exchange.

(C) If it is determined by final action by the Commission that the gas, or any portion thereof, is not dedicated to United, United shall repay to Exchange and/or to such persons other than Exchange as may have been determined entitled to receive such gas, or a portion thereof, the gas purchased from Exchange, and not dedicated to United, in accordance with a reasonable delivery schedule mutually acceptable to the parties, and Exchange, and/or such persons other than Exchange as may have been determined entitled to receive such gas, shall pay United as each Mcf of gas is redelivered an amount equal to the average per Mcf price paid by United to Exchange for the gas, taking into consideration the quality of the gas. United shall credit its purchased gas cost with the amounts received from Exchange and/or such other person for such redelivered volumes, and such volumes redelivered by United shall not be treated as sales volumes.

(D) Any volumes of gas determined not to be dedicated to United shall

[1] On January 25, 1979, Transco filed a document setting forth an agreement and stipulation between Transco and United and further, requesting permission to withdraw its application for rehearing in that on the basis of investigations and discussions Transco now states it has no claim of entitlement to the gas being produced by Exchange.

not, by delivery to United under this Protective Order, be deemed to be dedicated to United.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-5038 Filed 2-15-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

Environmental Criteria and Assessment Office

[FRL 1062-1]

AIR QUALITY CRITERIA FOR LEAD

Availability of Document

The final printed version of the Air Quality Criteria for Lead is now available. All parties interested in receiving a copy should write the Library Services Office, U.S. Environmental Protection agency, MD-35, Research Triangle Park, N.C., 27711, or telephone (919) 541-2777. (FTS use 629-2777).

Dated: February 13, 1979.

STEPHEN J. GAGE,
Assistant Administrator for Research and Development.

[FR Doc. 79-5151 Filed 2-15-79; 8:45 am]

[1610-01-M]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 8, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before March 6, 1979, 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, DC 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 438, Monthly Report of Schedule Arrival Performance on Designated Passenger Flights. This report is mandatory under the Federal Aviation Act of 1958, as amended, for certain certificated route carriers as prescribed in Part 234 of the Board's Economic Regulations. The data collected by this form is used by the Board for analyzing schedule reliability. CAB estimates respondents to number approximately 26 and reporting burden to average one hour per monthly report.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 79-5107 Filed 2-15-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Psychopharmacologic Drugs Advisory Committee.	March 5, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 4:30 p.m.; Robert C. Nelson (HFD-120), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3800.

General function of the Committee. The Committee reviews and evaluates available data concerning safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested persons may present data, information, or reviews, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will review and evaluate the new drug application (NDA) for Trazadone (Besyrel) from Mead Johnson Co. for safety and efficacy.

Committee name	Date, time, and place	Type of meeting and contact person
2. Cardiovascular and Renal Drugs Advisory Committee.	March 5 and 6, 9 a.m., Conference Rm. F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open public hearing March 5, 9 a.m. to 10 a.m.; open committee discussion March 5, 10 a.m. to 5 p.m.; March 6, 9 a.m. to 5 p.m.; Joan Standaert (HFD-110), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4730.

General function of the Committee. The Committee reviews and evaluates data concerning safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. Searle Laboratories will present a review of postmarketing experience with Norpace (disopyramide phosphate) (NDA 17-447); the committee will review Pfizer (NDA 17-442) Minipress (prazosin HCl) for treatment of congestive heart failure; Squibb's NDA 18-063 Cogard (nadolol) for treatment of hypertension and angina; and ICI Americas, Inc. NDA 16-191 Sorbitrate (isosorbide dinitrate)—a study on sorbitrate used to treat acute angina attack. Discussion will also include an update of recommentations on Selacryn (ticarynafen) (Smith, Kline and French).

Committee name	Date, time, and place	Type of meeting and contact person
3. Ophthalmic panel	March 9 and 10, 9 a.m., Conference Rm. B, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD. (March 9); Connecticut Room, Holiday Inn, Bethesda, MD. (March 10).	Open public hearing March 9, 9 a.m. to 10 a.m.; open committee discussion March 9, 10 a.m. to 4:30 p.m.; March 10, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before February 28, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
4. Miscellaneous External Drug Products Panel	March 11 and 12, 9 a.m., Connecticut Room, Holiday Inn, Bethesda, MD. (March 11); Conference Rm. L, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD. (March 12).	Open public hearing March 11, 9 a.m. to 10 a.m.; open committee discussion March 11, 10 a.m. to 4:30 p.m.; March 12, 9 a.m. to 4:30 p.m.; John T. McElroy (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before March 1, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted in response to the over-the-counter (OTC) review's call for data for this Panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
5. Dental Devices Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel.	March 12 and 13, 9 a.m., Rm. 1813, 200 C St., SW., Washington, DC.	Open public hearing March 12, 9 a.m. to 10 a.m.; open committee discussion March 12, 10 a.m. to 4 p.m.; March 13, 9 a.m. to 4 p.m.; D. Gregory Singleton (HFK-460), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7536.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agency—Open public hearing. Interested persons are encouraged to present information pertaining to proposed classification recommendations for dental devices to D. Gregory Singleton, D.D.S. Those desiring to make formal presentations should notify Dr. Singleton by February 9, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and

addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss the information provided concerning denture cushions, boron-containing denture adhesives, refrigerant pulp testers, and artificial saliva substitutes, and a classification recommendation will be given for these devices.

Committee name	Date, time, and place	Type of meeting and contact person
6. Fertility and maternal Health Drugs Advisory Committee.	March 16, 9 a.m., Conference Rm. G-H, Parklawn Bldg., 5600 fishers Lane, Rockville, MD..	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; A. T. Gregoire (HFD-130), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3520.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. Topics for discussion are bromocriptine for postpartum breast engorgement (NDA 17-962) and estradiol pellets for contraception (IND 13,628).

Committee name	Date, time, and place	Type of meeting and contact person
7. Ear, Nose, and Throat, Devices Section of the Opthalmic; Ear, Nose, and Throat; and Dental Device Panel.	March 19 and 20, 9 a.m., Rm. 703A, 200 Independence Ave. SW., Washington, DC.	Open public hearing March 19, 9 a.m. to 12 m.; open committee discussion March 19, 1 p.m. to 4:30 p.m.; open public hearing March 20, 9 a.m. to 10:30 a.m.; open committee discussion March 20, 10:45 a.m. to 4:30 p.m.; Harry R. Sauberman (HFK-460), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7536.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons are encouraged to present information pertaining to proposed classification recommendations for ear, nose, and throat devices to Harry R. Sauberman. Those desiring to make formal presentation should notify Mr. Harry R. Sauberman by March 5, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will review: (a) medical and scientific data on the safety and efficacy of porous polyethylene when used as a middle ear implant material; (b) proposed regulation identifications governing ear, nose, and throat implants; (c) medical and scientific data on the safety and efficacy of glottography instrumentation; (d) medical and scientific data on speech therapy aids; (e) other matters that may come to the Panel's attention relating to the classification of ear, nose, and throat devices.

Committee name	Date, time, and place	Type of meeting and contact person
8. Anesthetic and Life Support Drugs Advisory Committee.	March 19 and 20, 9 a.m., Conference Room F, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.	Open committee discussion March 19, 9 a.m. to 12:15 p.m.; open public hearing March 19, 12:15 p.m. to 1:15 p.m.; open committee discussion March 19, 1:15 p.m. to 4 p.m.; open committee discussion March 20, 9 a.m. to 1:30 p.m.; open public hearing March 20, 1:30 p.m. to 2:30 p.m.; open committee discussion March 20, 2:30 p.m. to 4:45 p.m.; John M. Singer (HFD-160), 5600 Fishers Lane, Rockville, MD 20857, 301-443-3560.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the fields of anesthesiology and surgery.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those desiring to make formal presentations at the open public hearing on March 20, 1979, should notify John M. Singer by March 12, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Attendance by the public on March 20 will necessarily be limited to available space in the conference room.

Open committee discussion. On March 19, the Committee will review a subcommittee report on the pediatric dosage of Lidocaine and the reported hepatic dysfunction with the use of Ethrane (enflurane) (NDA 17-087).

The subject on March 20 will be the Perinatal and Possible Long-Term Ef-

fects of Obstetrical Anesthetics and Analgesics. The Program is as follows:

Introduction: Martha M. Freeman, M.D., Assistant to the Associate Director for New Drug Evaluation, Bureau of Drugs, FDA.

Obstetrical Medication and Development in the First Year of Life: Yvonne Brackbill, Ph.D., Psychology Dept., University of Florida and Sarah H. Broman, Ph.D., National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health.

Comments from FDA's Division of Biometrics: Gordon Pledger, Ph.D., FDA.

Discussion regarding presentation of Drs. Brackbill and Broman.

Collaborative Perinatal Project Data and Analysis: Emanuel A. Friedman, M.D., Chairman, Dept. of Obstetrics-Gynecology, Beth Israel Hospital, Boston, Massachusetts, and Mieczyslaw Finster, M.D., Professor, Dept. of Anesthesiology, Columbia Hospital, New York, N.Y.

What Constitutes Safe Anesthetic and Analgesic Practice in Obstetrics with Emphasis on Neonatal Safety: Milton H. Alper, M.D., Department of Anesthesiology, Boston Hospital for Women.

Neurobehavioral Studies: Short-Term and Long-Term with Considerations of Cost-Effectiveness: John W. Scanlon, M.D., Director of Perinatology, Columbia Hospital for Women, Washington, D.C.

Discussion regarding the presentations of Drs. Friedman, Finster, Alper, and Scanlon.

Discussion of Literature References on Perinatal Effects of Drugs from a Regulatory Point of View: Larry K. Powe, M.D., Medical Officer, Division of Neuropharmacological Drug Products, FDA; David L. Scally, M.D., Medical Officer, Division of Surgical-Dental Drug Products, FDA; Charles Anello, Ph.D., Director, Division of Biometrics, FDA; Gordon Pledger, Ph.D., Division of Biometrics, FDA; and William W. Fairweather, Ph.D., Division of Biometrics, FDA.

Specific questions which will be asked of the Committee are summarized as follows:

1. Are there adequate data on delayed effects on the child of drugs administered to the mother during labor and delivery to suggest a need for drug regulatory action?

2. If so, what changes in the prescribing information do you recommend?

3. If so, is there any other drug regulatory action which you recommend?

4. If the answer to question 1 is negative, do you recommend further analysis of the data on perinatal effects presented at this meeting? Which data?

5. Does the clinical information presented at this meeting concerning short-term perinatal effects of drugs administered to the mother during labor and delivery suggest a need for drug regulatory action?

6. If so, what changes in the prescribing information do you recommend?

7. If so, is there any other drug regulatory action which you recommend?

8. The current guidelines for clinical investigation of general anesthetics and local anesthetics recommend neonatal neurobehavorial studies (if the drug under investigation is under consideration for use in obstetrical patients). Does the clinical information presented at this meeting suggest a need for revising these guidelines to recommend these more strongly? Do you have any additional recommendations about clinical investigational requirements concerning short-term neonatal effects of drugs used in obstetrics?

Committee name	Date, time, and place	Type of meeting and contact person
9. Subcommittee on Training and Medical Applications of the Medical Radiation Advisory Committee.	March 21, 8:30 a.m., Rm. 400, 12720 Twinbrook Parkway, Rockville, MD.	Open public hearing 8:30 a.m. to 9:30 a.m.; open committee discussion 9:30 a.m. to 12:30 p.m.; Gordon C. Johnson (HFX-4), 12720 Twinbrook Parkway, Rockville, MD 20857, 301-443-6220.

General function of the Committee. The Committee advises on the formulation of policy and development of a coordinated program related to the application of ionizing radiation in the healing arts.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committree discussion. The Committee will discuss chest radiography optimization; diagnostic referral criteria; fluoroscopy quality assurance; and medical radiation recommendations—dissemination.

Committee name	Date, time, and place	Type of meeting and contact person
10. Subcommittee on Nuclear Medicine of the Medical Radiation Advisory Committee.	March 21, 1:30 p.m., Rm. 400, 12720 Twinbrook Parkway, Rockville, MD..	Open public hearing 1:30 p.m. to 2:30 p.m.; open committee discussion 2:30 p.m. to 5 30: p.m.; Gordon C. Johnson (HFX-4), 12720 Twinbrook Parkway, Rockville, MD 20857, 301-443-6220.

General function of the Committee. The Committee advises on the formulation of policy and development of a coordinated program related to the application of ionizing radiation in the healing arts.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss gamma camera performance and criteria; thyroid scanning and efficacy; clinical use, pattern, and trends; quality assurance; and technologist training and qualifications.

Committee name	Date, time, and place	Type of meeting and contact person
11. Medical Radiation Advisory Committee.....	March 22 and 23, 9 a.m., Rm. 416, 12720 Twinbrook Parkway, Rockville, MD.	Open public hearing March 22, 9 a.m. to 10 a.m.; open committee discussion March 22, 10 a.m. to 5 p.m.; March 23, 9 a.m. to 3 p.m.; Gordon C. Johnson (HFX-4), 12720 Twinbrook Parkway, Rockville, MD 20857, 301-443-6220.

General function of the Committee. The Committee advises on the formulation of policy and development of a coordinated program related to the application of ionizing radiation in the healing arts.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss selection criteria for diagnostic imaging; development and dissemination of guidelines for radiation protection; risk/benefit assessment and application; public information needs and methods; nuclear medicine technology and use; quality assurance needs and recommendations; technologist training and qualifications; and reports of the Nuclear Medicine Subcommittee and the Training and Medical Applications Subcommittee.

Committee name	Date, time, and place	Type of meeting and contact person
12. General and Plastic Surgery Devices Section of the Surgical and Rehabilitation Devices Panel.	March 30, 9 a.m., Rm. 339A, 200 Independence Ave. SW., Washington, DC.	Open committee discussion 8:30 a.m. to 3 p.m.; open public hearing 3 p.m. to 4 p.m.; Mark F. Parrish (HFK-410), 8757 Georgia. Ave., Silver Spring, MD 20910, 301-427-7238.

General function of the Committee. The Committee reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open committee discussion. The Panel will classify synthetic fibers for artificial hair replacement and surgical instrument lubricants (milks). The Panel will also review the safety and efficacy of surgical dusting powder (used to facilitate donning surgical and procedure gloves).

Open public hearing. Interested persons are encouraged to present information pertaining to the classification of general and plastic surgery devices to Mark F. Parrish. Submission of data related to tentative classification findings is also invited. Those desiring to make formal presentations should notify Mark F. Parrish by March 15, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: February 9, 1979.

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

[FR Doc. 79-4894 Filed 2-15-79; 8:45 am]

[4110-03-M]

MEDICAL RADIATION ADVISORY COMMITTEE

Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Medical Radiation Advisory Committee by the Secretary of Health, Education, and Welfare for an additional period of 2 years beyond January 5, 1979. The charter for this Committee will expire January 5, 1981.

FOR INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFA-27), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: February 8, 1979.

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

[FR Doc. 79-4893 Filed 2-15-79; 8:45 am]

[4110-03-M]

[Docket No. 78N-0334]

PREGNANCY TEST KITS

Transfer of Responsibility From the Bureau of Biologics to the Bureau of Medical Devices

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the transfer of responsibility for regulating Anti-Human Chorionic Gonadotropic serum (Anti-HCG), used to assist in determining pregnancy, from the Bureau of Biologics to the Bureau of Medical Devices. In addition, these products are no longer subject to the biologics licensing requirements of the Public Health Service Act. All existing licenses for Anti-HCG serum intended for use in pregnancy test kits are hereby revoked. Anti-HCG serum used in assisting the determination of pregnancy is, however, regulated as a device under the Federal Food, Drug, and Cosmetic Act.

EFFECTIVE DATE: February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. William H. Damaska, Bureau of Medical Devices (HFK-115), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7208.

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295) were enacted into law on May 28, 1976. They amended the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) to provide the Secretary of Health, Education, and Welfare and, by delegation, the Commissioner of Food and Drugs, with significant new and expanded authority to assure the safety and effectiveness of medical devices intended for human use. The amendments also expanded the definition of "device" in section 201(h) of the act (21 U.S.C. 321(h)) to include in vitro reagents and similar articles intended for use in the diagnosis of disease or other conditions.

Before the enactment of the amendments, FDA considered Anti-HCG serum used in assisting the determination of pregnancy in humans to be a biological product and required it to be licensed under section 351 of the Public Health Service Act (42 U.S.C. 262). Anti-HCG serum products were originally used to detect Human Chorionic Gonadotropin (HCG) not only in the determination of pregnancy, but also in the determination of cancerous conditions such as chorioepithelioma and hydatidiform mole. These products clearly fell within the licensing provisions of section 351 for biological products which are applicable to the prevention, treatment, or cure of diseases or injuries of humans (42 U.S.C. 262); under FDA regulations, the provisions apply to biological products used in diagnosis as well (21 CFR 600.3(j)).

At present, however, the current licensed Anti-HCG serum products are recommended solely for assisting in the determination of pregnancy. FDA has considered whether it is appropriate to continue to regulate them under section 351 of the Public Health Service Act.

The United States Court of Appeals for the Third Circuit has affirmed a United States District Court decision that interpreted the definition of "drug" in section 201(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)) and held that FDA lacks authority to regulate pregnancy test kits as drugs. *United States* v. *An Article of Drug . . . OVA II*, 535 F.2d 1248 (3d Cir. 1976), *aff'g.* 414 F. Supp. 660 (D. N.J. 1975). The District Court believed that pregnancy is not a disease and that a pregnancy test kit is not intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals. Although FDA believes that the *OVA II* decision is not a sound precedent for future cases because it adopts an unduly restrictive interpretation of the definition of "drug," the precise issue in that case, FDA's authority to regulate pregnancy test kits, has been addressed by the Medical Device Amendments of 1976, which expanded the definition of "device" in section 201(h) of the Act (21 U.S.C. 321(h)) to include in vitro products for the diagnosis of any "condition" as well as for the diagnosis of disease. Other provisions of the amendments authorize FDA to impose adequate controls on new and present products for use in the determination of pregnancy.

Because FDA has clear and adequate authority to regulate in vitro products for the determination of pregnancy as devices, FDA has concluded that Anti-HCG serum products for assisting in the determination of pregnancy will be regulated only under the device provisions of the Federal Food, Drug, and Cosmetic Act. Accordingly, by this notice, Anti-HCG serum intended for assisting in the determination of pregnancy is no longer subject to the licensing requirements of section 351 of the Public Health Service Act. All existing licenses for Anti-HCG serum intended for use in assisting in the determination of pregnancy are hereby revoked under § 601.8 (21 CFR 601.8).

This notice applies only to Anti-HCG serum intended for use in assisting in the determination of pregnancy and not to Anti-HCG serum intended or labeled for the detection of cancer or for other medical or therapeutic uses. The other uses of Anti-HCG serum will be addressed in a separate FEDERAL REGISTER notice.

Currently, the licensed Anti-HCG serum, used in pregnancy test kits, may continue to be marketed subject to the general control provisions of the Federal Food, Drug, and Cosmetic Act, including but not limited to, provisions relating to: adulteration in section 501 (21 U.S.C. 351), misbranding in section 502 (21 U.S.C. 352), registration in section 510 (21 U.S.C. 360), banned devices in section 516 (21 U.S.C. 360f), notification in section 518 (21 U.S.C. 360h), records and reports in section 519 (21 U.S.C. 360i), and good manufacturing practices in section 520(f) (21 U.S.C. 360j(f)). Manufacturers licensed to market Anti-HCG serum intended for use in assisting in determination of pregnancy will be notified of the manner in which present labels must be modified.

Any manufacturer who intends to market a new pregnancy test kit must comply with the premarket notification requirements of section 510(k) of the Federal Food, Drug, and Cosmetic Act and its implementing regulations, 21 CFR 807.81-807.97.

Section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c) requires the classification of all medical devices into one of three regulatory categories: class I (general controls); class II (performance standards); and class III (premarket approval). The Clinical Chemistry and Hematology Devices Panel, an FDA advisory committee, has recommended that HCG serum for determination of pregnancy be classified into class II (performance standards). The FDA will soon publish this panel recommendation along with a proposed regulation that classifies these products into class I, class II, or class III. After considering comments on the proposal, FDA will publish a final classification regulation.

Because pregnancy test kits are no longer being regulated as biologics and are being regulated as medical devices, the Commissioner of Food and Drugs has transferred administrative responsibility of these products from the Bureau of Biologics to the Bureau of Medical Devices, effective February 16, 1979.

Dated: February 9, 1979.

WILLIAM F. RANDOLPH
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-4895 Filed 2-15-79; 8:45 am]

[1505-01-M]

[Docket No. 78N-0278; DESI 5378 and 10187]

UNIFORM PHYSICIAN LABELING FOR STIMULANT DRUGS FOR CHILDREN

Revised Lobeling

Correction

In FR Doc. 78-29843, appearing at page 49573, on Tuesday, October 24, 1978, on page 49574, in the third column in the first full paragraph, in the sixth line, "February 2," should be corrected to read "February 21,".

[4110-35-M]

Health Care Financing Administration

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

Request for Nomination of Members

As a result of the Secretary's June 10, 1977 decision to stagger membership on the National Professional Standards Review Council, and Section 1163(a)(2) of the Social Security Act (as added by Public Law 95-142, Section 5(f) on October 25, 1977) the terms of five members will expire as of June 30, 1979. The purpose of this notice is to solicit suggestions for qualified individuals to fill the vacancies on the Council.

The National Professional Standards Review Council was established in 1973 pursuant to Section 1163 of Public Law 92-603 (U.S.C. 101 *et seq.*). Section 1163 (a) and (b) of the Law require that the Council be composed of the following: eleven physicians of recognized standing and distinction in the appraisal of medical practice, not otherwise in the employ of the United States; a majority of which shall have been recommended by national organizations recognized by the Secretary as representing practicing physicians; including physicians recommended by consumer groups and other health care interests. Members are appointed for three years and are eligible for reappointment.

In order to achieve a balance of expertise on the Council, we are particularly interested in individuals experienced in the areas of health finance, data analysis, and medical review methodologies.

Send nominations and curriculum vitae by March 18, 1979 to:

Margaret VanAmringe, Staff Director, National Professional Standards Review Council, Room 5127, Switzer Building, 330 C Street, SW., Washington, D.C. 20201, Telephone: (202) 472-5536.

Nominations must state that the nominee is aware of the nomination and is willing to serve as a member of the Council.

Thank you for your assistance and prompt attention.

Dated: February 12, 1979.

LEONARD D. SCHAEFFER,
Administrator.

[FR Doc. 79-5090 Filed 2-15-79; 8:45 am]

[1505-01-M]

Office of Human Development Services

FEDERAL ALLOTMENT TO STATES FOR SOCIAL SERVICES EXPENDITURES INCLUDING CHILD DAY CARE SERVICES PURSUANT TO TITLE XX OF THE SOCIAL SECURITY ACT

Promulgation for Fiscal Year 1979—Revised

Correction

In FR Doc. 79-3434, appearing in the issue of Thursday, February 1, 1979, on page 6519 in the middle column, in the table, under the heading of "Federal allotment", the second total, now listed as "$2,000,000,000" should be corrected to read "$200,000,000".

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DRAFT INTERIM MANAGEMENT POLICY FOR WILDERNESS STUDY AREAS

Meeting

Notice is hereby given that a public meeting and workshop will be held at International Falls, Minnesota on February 27, 1979, from 2:00 to 6:00 p.m., in the Rainy River Community College Library.

The purpose of the meeting is to discuss the draft *Interim Management Policy and Guidelines for Wilderness Study Areas* and proposed regulations for *Exploration and Mining-Wilderness Review Program* on Bureau of Land Management Lands, both published in the FEDERAL REGISTER on January 12, 1979. The public comment period on both proposals ends March 14, 1979.

For further information contact: Judith A. Lent, Public Information Specialist, Bureau of Land Management, Eastern States Office, 7981 Eastern Avenue, Silver Spring, Maryland 20910; (301) 427-7440.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc. 79-4946 Filed 2-25-79; 8:45 am]

[4310-84-M]

[AA-16669]

ALASKA NATIVE CLAIMS SELECTION

Publication

On November 2, 1977, Cook Inlet Region, Inc. filed an application for title to oil, gas and coal pursuant to Sec. 12(b)(2) of the act of January 2, 1976, as clarified on August 31, 1976, 89 Stat. 1151 and Sec. I.B.(1) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet area.

Section 12(b)(2) of the act of January 2, 1976, authorizes conveyance to Cook Inlet Region, Inc. of the subsurface estate of the oil, gas and coal within lands described in appendix B-1 of the Terms and Conditions. These lands are located within the Kenai National Moose Range.

The selection application of Cook Inlet Region, Inc. as to the lands described below are properly filed and meet the requirements of the act. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the subsurface estate of the oil, gas and coal in the following described lands, aggregating approximately 66,959 acres, is considered proper for acquisition by Cook Inlet Region, Inc. and is hereby approved for conveyance pursuant to Sec. 12(b)(2) of the act of January 2, 1976, and the Terms and Conditions for Land Consolidation and Management in the Cook Inlet area:

SEWARD MERIDIAN, ALASKA (SURVEYED)

T. 8 N., R. 10 W.
Sec. 1, Lots 1 to 11, inclusive, S½NW¼, SE¼SE¼;

SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 10 N., R. 7 W.
Sec. 19, 20 and 21, all;
Sec. 28, NW¼NE¼, N½NW¼;
Secs. 29 to 32, inclusive, all.
T. 7 N., R. 9 W.
Sec. 6, SE¼;
Sec. 7, all;
Sec. 14, NW¼, S½;
Sec. 16, SW¼;
Sec. 17, NW¼NE¼, S½NE¼, NW¼, S½;
Secs. 18, 19 and 20, inclusive, all;
Sec. 21, NW¼, S½;
Secs. 23 to 36, inclusive, all.
T. 8 N., R. 9 W.
Sec. 1, all;

Sec. 4, NW¼;
Secs. 5 to 8, inclusive, all;
Sec. 12, all;
Sec. 13, E½;
Secs. 17 to 20, inclusive, all;
Sec. 24, NE¼.
T. 6 N., R. 10 W.
Sec. 1, all;
Sec. 2, E½, E½NW¼, SW¼;
Secs. 5 to 8, inclusive, all;
Sec. 12, all;
Secs. 16 and 17, all;
Secs. 20 and 21, all.
T. 7 N., R. 10 W.
Secs. 1 to 5, inclusive, all;
Secs. 7 to 25, inclusive, all;
Sec. 26, E½, NW¼, E½SW¼;
Secs. 29 to 32, inclusive, all;
Sec. 35, E½;
Sec. 36, all.
T. 8 N., R. 10 W.
Sec. 1, all unsurveyed portions;
Secs. 12, 13 and 14, all;
Secs. 23 to 26, inclusive, all;
Secs. 32 to 36, inclusive, all.
T. 6 N., R. 11 W.
Secs. 1 and 2, all;
Secs. 11 to 14, inclusive, all.
T. 7 N., R. 11 W.
Secs. 23 to 26, inclusive, all;
Secs. 35 and 36, all.

Conveyance of the subsurface estate of the oil, gas and coal of the lands described above shall contain the following reservation to the United States:

1. All other minerals including but not limited to common varieties of minerals.

The grant of the above described estate shall be subject to:

1. Issuance of patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands; and

2. Valid existing rights in said subsurface estate, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act, 72 Stat. 339, 341), contract, permit, right-of-way, or easement, and the right of the leasee, contractee, permitee, or grantee to the complete enjoyment of all rights, privileges, and benefits granted to him; and

3. Requirement of Sec. 22(g) of the Alaska Native Claims Settlement Act, 85 Stat. 688, 714; 43 U.S.C. 1621(g), that the portion of the above described lands, which has been withdrawn by Public Land Order No. 3400, on May 22, 1964, and is now a part of the Kenai National Moose Range, remains subject to the laws and regulations governing use and development of such Range.

4. The provisions of Sec. I.B.(1) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet area. The covenant that the right to extract coal shall be conditioned upon the opening by the Secretary for the extraction of coal of that portion of the Range in which these lands are located, and provided further, that coal shall only be extracted in a liquid or gaseous state. All activities related to the extraction of oil, gas and coal which affect the surface of the Kenai National Moose Range shall be conducted in accordance with a surface use plan approved by the Secretary. Such extraction shall be undertaken in accordance with the most advanced technology commercially available at that time and causing the least practicable temporary and permanent harm to the fish and wildlife habitats of the Range. Any surface damage caused by the exercise of the rights herein must be repaired or reclaimed by Cook Inlet Region, Inc., its successors and assigns, as rapidly as practicable without unreasonable interference with the rights of extraction.

All of the lands contained in the following oil and gas leases are herein approved for conveyance; therefore, in accordance with the provisions of Sec. 14(g) of the Alaska Native Claims Settlement Act, the United States will waive administration of the leases and transfer them to Cook Inlet Region, Inc. when conveyance to the subsurface estate of lands is issued.

SEWARD MERIDIAN, ALASKA

Serial Number	Legal Description
A-028078	T. 6 N., R. 10 W. Sec. 5, all; Sec. 6 E½; Sec. 8, E½, NW¼.
A-02804	T. 7 N., R. 10 W. Sec. 15, all; Sec. 16, NE¼, NE¼NW¼, S½NW¼, S½; Secs. 21 and 22, all.
A-028084-A	T. 7 N., R. 10 W. Sec. 16, NW¼NW¼.
A-028085	T. 7 N., R. 10 W. Sec. 9, SE¼; Sec. 10, all.
A-028120	T. 7 N., R. 10 W. Sec. 29, all; Sec. 30, NE¼, S½ Sec. 31, N½, SE¼; Sec. 32, all.
A-028149	T. 7 N., R. 10 W. Sec. 17, SE¼; Sec. 19, SE¼; Sec. 20, all.
AA-5809	T. 7 N., R. 9 W. Sec. 16, SW¼; Sec. 21, W½, SE¼.
AA-5810	T. 7 N., R. 9 W. Sec. 17, SE¼NE¼, W½NE¼, Sec. W¼, SE¼; Secs. 18 to 20, inclusive, all.
AA-13275	T. 6 N., R. 10 W. Sec. 6, NW¼.
AA-13276	T. 7 N., R. 10 W. Sec. 3, all; Sec. 4, all; Sec. 9, N½, N½SW¼, Sec. SE¼SW¼.
AA-13278	T. 7 N., R. 10 W. Sec. 30, NW¼; Sec. 31, SW¼.
AA-13279	T. 7 N., R. 10 W. Sec. 17, NE¼, E½NW¼, Sec. SW¼NW¼, SW¼; Sec. 18, SE¼; Sec. 19, NE¼, SW¼.

Pursuant to Sec. 12(c) of the act of January 2, 1976, conveyance of title to 3.58 townships (82,483.20 acres) of the subsurface estate of the oil, gas and coal within the Kenai National Moose Range shall constitute the full surface and subsurface entitlement of Cook Inlet Region, Inc. under Sec. 14(h)(8) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)). This conveyance constitutes a portion of the 3.58 townships and action on the remaining 14(h)(8) entitlement will be taken at a later date.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the ANCHORAGE DAILY TIMES. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510. A copy must also be served upon the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving actual notice of this decision shall have 30 days from the receipt of actual notice to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign a receipt for actual notice, shall have until March 19, 1979, to file an appeal.

3. Any party known or unknown, who may claim a property interest which is adversely affected by this decision shall be deemed to have waived his rights which are adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

JUDITH A. KAMMINS,
Chief, Division of ANCSA Operations.

[FR Doc. 79-5127 Filed 2-15-79; 8:45 am]

[4310-84-M]

LAS VEGAS DISTRICT GRAZING ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Las Vegas District Grazing Advisory Board will be held on March 29, 1978 at 10 a.m. in the conference room of the Bureau of Land Management office at 4765 West Vegas Drive, Las Vegas, NV.

The agenda for the meeting will include:

(1) Discussion of the board's functions; (2) election of officers; (3) status of Caliente Planning Unit MFP; (4) preview of Clark County range survey; (5) current range betterment project criteria; (6) summary and status of 1979 range projects; (7) report on projects completed with funds donated by last grazing advisory board; (8) status of funds; (9) review of schedule of grazing ES's in district; (10) arrangements for next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:15 p.m. on the date of the meeting or file written statements for the board's consideration before or during the meeting. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 4765 West Vegas Drive, Las Vegas, NV (P.O. Box 5400, Zip Code 89102) by March 28, 1979. Depending on the number of persons wishing to make an oral statement, the District Manager may establish a per-person time limit.

Summary minutes of the board meeting will be maintained at the district office. They will be available for public inspection and reproduction (during regular business hours) within 30 days after the meeting.

JOHN S. BOYLES,
District Manager.

FEBRUARY 9, 1979.

[FR Doc. 79-5118 Filed 2-15-79; 8:45 am]

[4310-84-M]

[NM 35770]

NEW MEXICO

Application

FEBRUARY 9, 1979

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for a right-of-way involving several natural gas pipelines consisting of two, four and six-inch diameters. These pipelines will cross the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 6 W.,
Sec. 4, W½SW¼, N½SE¼ and SE¼SE¼
Sec. 5, lots 2, 4, SW¼NE¼, SE¼NW¼, N½S½ and SE¼SE¼
Sec. 6, S½SE¼
Sec. 7, lot 4, N½NE¼, SE¼SW¼, NE¼SE¼ and S½SE¼
Sec. 8, N½NW¼ and N½SW¼
Sec. 9, N½NW¼ and N½SE¼
Sec. 10, W½NE¼, NE¼NW¼, S½NW¼, N½S½, SE¼SW¼ and SW¼SE¼
Sec. 11, NW¼SW¼
Sec. 13, N½SW¼ and SE ¼SW¼
Sec. 14, NW¼NW¼, S½SW¼, N½SE¼ and SW¼SE¼
Sec. 15, N½N½, SW¼, W½SE¼ and SE¼SE¼
Sec. 18, lots 1, 3, 4 and SE¼SW¼
Sec. 21, NE¼NE¼ and S½NE¼
Sec. 22, NW¼NE¼, N½NW¼ and SW¼NW¼.
T. 26 N., R. 7 W.,
Sec. 13, E½, N½NW¼, SE¼NW¼, N½SW¼ and SW¼SW¼
Sec. 14, NE¼NE¼, SW¼, NE¼SE¼ and S½SE¼.

These piplines will convey natural gas across 18.335 miles of public lands in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-5119 Filed 2-15-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-42]

CERTAIN ELECTRIC SLOW COOKERS

Orders for Terminating Certain Respondents and Action Regarding Recommended Determination of the Presiding Officer

This is a proceeding instituted pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), by a notice published in the FEDERAL REGISTER on February 9, 1979 (43 FR 5590). The matter was assigned to administrative law judge Donald K. Duvall (the presiding officer) after the Commission instituted the investigation.

On September 12, 1978, the presiding officer recommended that the Commission grant certain motions to terminate certain respondents (Motion Nos. 42-1 and 42-4) and that the Commission find certain respondents in violation of the statute. On October 20, 1978, the presiding officer recommended that the Commission find an additional respondent in violation of the statute.

Upon consideration of the presiding officer's recommended determination and the record in this proceeding, the Commission—

(1) grants the motion to terminate respondents Sanyei Corporation, Sanyei New York Corporation, Kusumi Electric Mfg. Co., Ltd., and NGK Insulators, Ltd. (also known as Nippon Gaishi Mfg., Ltd.) (Motion No. 42-1);

(2) grants the motion to terminate respondents Lakewood Manufacturing Company and Imarflex Manufacturing Company, Ltd. (also known as Imanishi Flexible Tube Manufacturing Company, Ltd.) (Motion No. 42-4); and

(3) declares the proceeding more complicated as to respondents H & H Manufacturing Co.; H & H Appliances; and Electrical and Electronics, Ltd., in regard to the issue of violation and remands to the presiding officer so that he may augment the record concerning the issue of violation and issue a new recommended determination not later than 90 days after the date these orders issue.

This investigation is designated as more complicated for the reason that there has been difficulty in obtaining information, resulting in an inadequate record upon which to base a reasoned determination. The Commission believes that additional time is necessary to resolve the difficulty by obtaining specific information as to the allegedly infringing imported articles, such as samples, and as to the effect or tendency of the unfair methods or unfair acts alleged to cause injury by these respondents to a domestic industry.

These Commission orders are effective on the date of their publication in the FEDERAL REGISTER. Any party wishing to petition for reconsideration of a Commission determination when such has been made must do so within fourteen (14) days of service of the Commission determination. Petitions must be in accord with § 210.56 of the Commission rules (19 CFR 210.56). Any person adversely affected by a Commission determination may appeal such determination to the U.S. Court of Customs and Patent Appeals.

Copies of the Commission's orders and opinion in support of these orders are available to the public during official working hours at the Office of the Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone (202) 523-0161.

By order of the Commission.

Issued: February 9, 1979.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-5050 Filed 2-15-79; 8:45 am]

[7020-02-M]

[303-TA-4 and 303-TA-5]

CERTAIN YARNS OF WOOL FROM URUGUAY AND BRAZIL

Determination of No Injury or Likelihood Thereof

On the basis of information developed during the course of investigations Nos. 303-TA-4 and 303-TA-5, undertaken by the United States International Trade Commission under secion 303(b) of the Tariff Act of 1930, as amended, the Commission determines unanimously [1] that an industry in the United States is not being injured, is not likely to be injured, and is not prevented from being established, by reason of the importation of certain duty-free yarns of wool from Uruguay or Brazil, provided for in item 307.60 of the Tariff Schedules of the United States (TSUS), upon which the Department of the Treasury has determined that a bounty or grant is being paid within the meaning of section 303 of the Tariff Act of 1930, as amended.

On November 22, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to certain duty-free yarns of wool imported from Uruguay and Brazil that are entered under TSUS item 307.06. Accordingly, the Commission, on December 4, 1978, instituted investigations No. 303-TA-4 and 303-TA-5 under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of the institution of the investigations and public hearing was published in the FEDERAL REGISTER of December 13, 1978 (43 FR 58233). On January 9, 1979, a public hearing was held in Washington, D.C., at which any person interested in the proceeding was given the opportunity to appear by counsel or in person, to present information, and to be heard.

The Treasury investigations resulting in the countervailing duty determinations were initiated as a result of a petition filed with the Treasury Department on November 7, 1977, by the Amalgamated Clothing and Textile Workers Union, Washington, D.C.

STATEMENT OF REASONS OF CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

On November 22, 1978, the United States International Trade Commission received advice from the Department of the Treasury that bounties or grants were being paid with respect to certain duty-free yarns of wool imported from Uruguay and Brazil. Accordingly, on December 4, 1978, the Commission instituted investigations Nos. 303-TA-4 and 303-TA-5 under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being injured, is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

DETERMINATION

On the basis of the information obtained in the investigations, we determine that an industry in the United States is not being injured, is not likely to be injured, and is not prevented from being established, by reason of the importation of the duty-free yarns of wool, provided for under TSUS item 307.60, from Uruguay or Brazil which the Department of the Treasury has determined are receiving bounties or grants from the Governments of Uruguay and Brazil.

THE PRODUCT

The articles covered by these investigations are dyed yarns of wool, cut into uniform pieces of not more than 3 inches in length and packaged for retail sale in immediate packages or containers weighing no more than 6 ounces in weight, including the weight of the immediate package or container. These highly specialized yarns of wool are only used in the handicraft industry in making latch-hook rugs.

THE U.S. INDUSTRY

In making our determination in these investigations we have considered the relevant U.S. industry to consist of the U.S. facilities used in the cutting and packaging of the dyed wool yarns that are the subject of these investigations.

Only two U.S. firms are known to have cut and packaged such yarns during the period 1975-78. Both were in production in 1978. The largest is Emile Bernat and Sons Co., of Uxbridge, Mass.; the other is American Family Crafts, of Danbury, Conn.

NO INJURY OR LIKELIHOOD THEREOF BY REASON OF SUBSIDIZED IMPORTS

There was no evidence of injury that developed during the investigation. In fact, both domestic producers were completely unaware of the petition filed by the Amalgamated Clothing and Textile Workers Union, and indicated that they had no knowledge of any imports from Uruguay or Brazil. The two producers asserted that any injury they may have suffered during recent years could have been caused by a shift in the market place from yarns of wool to yarns of snythetic fiber. In addition, a spokesman for the petitioner indicated a lack of interest in pursuing the investigations in view of the limited importation of the product in recent years.

Total imports of the yarns in question from Uruguay and Brazil in recent years have been negligible and the Commission's investigations developed no information indicating that they were injurious to the domestic industry. Imports from Uruguay were accounted for by one entry, which occurred in May 1975, representing only 0.23 percent of all U.S. imports in that year. Total imports of the duty-free wool yarns from Brazil were accounted for by a single entry that occurred in March 1977, accounting for only 1.5 percent of imports of the product from all sources for that year.

Furthermore, there appears to be no likelihood of future injury to the domestic industry from subsidized imports of the wool yarns in question from either Uruguay or Brazil. In the case of Uruguay, no such imports have occurred since 1975 and there is no indication that any are expected in the future. Although Brazilian bounties and grants applicable to wool products have been in effect since at least 1974, the only imports from Brazil appear in a single entry which occurred in March 1977. No Brazilian imports of this product are expected in the future, and Brazilian bounties and grants are, according to Treasury, in the process of being phased out.

VIEWS OF COMMISSIONERS BILL ALBERGER AND PAULA STERN

In order for the Commission to make an affirmative determination in an investigation under Section 303(b) of the Tariff Act of 1930, as amended, it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established,[1] *and* the injury or likelihood thereof must be by reason of the importation into the United States of duty-free merchandise found by the Department of the

[1] Chairman Joseph O. Parker, Vice Chairman Bill Alberger and Commissioners George M. Moore, Catherine Bedell, and Paula Stern concurred in the negative determinations.

[1] Prevention of establishment of an industry in this investigation is not in question and will not be discussed further in these views.

Treasury (Treasury) to be receiving a bounty or grant from the exporting country.

DETERMINATION

On the basis of the information obtained in these investigations, we determine that an industry in the United States is not being injured or likely to be injured by reason of the importation of yarns of wool from Uruguay and Brazil which treasury has determined are receiving bounties or grants from the Governments of Uruguay and Brazil, respectively.

THE PRODUCT AND THE DOMESTIC INDUSTRY

This investigation covers dyed yarns of wool, cut into uniform pieces of not more than three inches in length and packaged for retail sale in immediate packages or containers weighing no more than six ounces, including the weight of the package or container. These are highly specialized yarns of wool used only in the handicraft industry in making latch-hook rugs. The relevant industy consists of those U.S. production facilities used in cutting and packaging these yarns. Only two U.S. firms are known to have cut and packaged such yarns during the 1975-78 period. The larger is Emile Bernat and Sons Co., of Uxbridge, Massachusetts; and the other is American Family Crafts, of Danbury, Connecticut. Both produced in 1978.

NO INJURY OR LIKELIHOOD THEREOF BY REASON OF SUBSIDIZED IMPORTS

Total imports of these yarns from Uruguay and Brazil in recent years have been negligible and could not have been injurious to the domestic industry. Imports from Uruguay were accounted for by only one entry, which occurred in May 1975, representing only 0.23 percent of all U.S. imports in that year. Total imports of the duty-free wool yarns from Brazil were accounted for by a single entry that occurred in March 1977, accounting for only 1.5 percent of imports of the product from all sources for that year.

Furthermore, there appears to be no likelihood of future injury to the domestic industry from subsidized imports of the wool yarns in question from either Uruguay or Brazil. It is highly unlikely that any Uruguayan subsidies of the wool yarns in question will cause any injury to the U.S. industry that manufactures this product since no such imports have occurred since 1975 and none are expected in the future. No Brazilian imports of this product are expected in the future, and Brazilian bounties and grants are, according to Treasury, in the process of being phased out.

This investigation resulted from a petition filed by the Amalgamated Clothing and Textile Workers Union covering men's and boys' wearing apparel and a multitude of textile mill products from eight countries, including Uruguay and Brazil. Apparently Treasury listed the relevant products and corresponding TSUSA numbers, but this list was not adequately researched to reflect the specific interest of the petitioner. Both domestic producers of these yarns were completely unaware of the petition and indicated that they had no knowledge of any imports from Uruguay or Brazil. The two producers asserted that any injury they may have suffered during recent years could have been caused by a shift in the market place from yarns of wool to yarns of synthetic fiber. In addition, a spokesman for the petitioner indicated at the Commission's hearing a complete lack of interest in these investigations. Further, in view of the limited importation of the product in recent years, no witnesses at the hearing expressed any interest in imports of these articles from Uruguay or Brazil. Whether the blame lies with Treasury or the petitioners, these investigations have been a significant waste of government time and taxpayer's money. It is unfortunate that this product was *not* eliminated from the scope of the Treasury investigations before its procedures began. This should not be allowed to occur again.

CONCLUSION

There is no apparent injury to the domestic industry in either of these cases. However, even if there were, such injury would clearly not have been by reason of the importation of certain subsidized wool yarns from Uruguay or Brazil.

Issued: February 13, 1979.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-5052 Filed 2-15-79; 8:45 am]

[7020-02-M]

[332-87]

CONDITIONS OF COMPETITION IN THE WESTERN U.S. STEEL MARKET BETWEEN CERTAIN DOMESTIC AND FOREIGN STEEL PRODUCTS

Continuation of Investigation and Scheduling of Additional Hearing

Notice is hereby given that the United States International Trade Commission is continuing its investigation No. 332-87, Conditions of Competition in the Western U.S. Steel Market Between Certain Domestic and Foreign Steel Products. The Commission will shortly issue an interim report setting forth the results of its study thus far. The Commission plans to complete the study and issue its final report by August 1, 1979.

In addition to matters identified in earlier notices, in this latter phase of the investigation the Commission will be particularly concerned with changes in conditions of competition in the Western U.S. carbon steel mill products market as a result of economic developments in 1978.

Additional hearing. An additional public hearing in connection with this investigation has been set for 10 a.m., P.s.t., Thursday, March 29, 1979, in Room 8544 of the Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. Persons wishing to appear at the hearing should file written requests with the Secretary to the Commission, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, no later than Thursday, March 22, 1979.

Notice of the institution of the investigation was published in the FEDERAL REGISTER of June 15, 1977 (42 FR 30555).

Issued: February 12, 1979.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-5051 Filed 2-15-79; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Pursuant to 21 U.S.C. 823(a)(1), and Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 25, 1979, Lee Laboratories, Inc., Petersburg Industrial Park, 2999 Frontage Road, Petersburg, Virginia 23803, requested modification of their application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer (Notice published in the FEDERAL REGISTER on January 24, 1979 (44 FR 5026) to include the schedule II controlled substances Ethylmorphine (9190) and Thebaine (9333).

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing, for this basic class only, may be addressed to the

Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than March 26, 1979.

Dated: February 9, 1979.

PETER B. BENSINGER,
Administrator,
Drug
Enforcement Administration.

[FR Doc. 79-5106 Filed 2-15-79; 8:45 am]

[4510-43-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-78-133-C]

PINEY CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Piney Creek Coal Company, P.O. Box 1325, Beckley, W.Va. 25801, has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations) to its No. 1 Mine in Raleigh County, W.Va. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. In several locations poor roof conditions and falls of about 10 feet in thickness prevent safe travel between survey stations 286 and 65 in the No. 1 and 2 entries of the petitioner's mine.

2. These entries are not designated escape routes.

3. About 49,000 c.f.m. of return air is coursed through these entries.

4. In lieu of weekly exmainations between survey stations 65 and 286 the petitioner proposes to examine these two locations daily and record the volume of air and percentage of methane at the regulator adjacent to station 65.

The petitioner states that this alternative will achieve no less protection for miners than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before March 19, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Copies of the petition are available for inspection at that address.

Dated: February 6, 1979.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 79-5134 Filed 2-15-79; 8:45 am]

[4510-43-M]

[Docket No. M-78-120-C]

SALYER COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Salyer Coal Company, Post Office Box 670, Lynch, Kentucky 40855, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine in Letcher County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

1. The petitioner is mining in seam heights varying from 25 to 30 inches.

2. Because the petitioner's coal scoop is 23 inches high, installation of overhead lights on the scoop would be impractical.

3. The work face is amply lit from miners' lights and lights on the scoop.

4. The glare from overhead lighting would impair the vision of miners and thus constitute a hazard.

5. For this reason, the petitioner states that the application of the standard would diminish the safety of the miners in its mine.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before March 19, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 8, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for
Mine Safety and Health.

[FR Doc. 79-5133 Filed 2-15-79; 8:45 am]

[4510-27-M]

Office of Federal Contract Compliance Programs

FEATURE RING CO., INC.

Contract Ineligibility and Contract Cancellation

Notice hereby is given that pursuant to an Administrative Law Judge approved Consent Order, all existing United States Government contracts and subcontracts with Feature Ring Company, Inc., New York, New York, are cancelled and the Company (its officers, divisions and subsidiaries, and any and all purchasers, successors, assignees, and/or transferees), is declared ineligible for further contracts or subcontracts funded in whole or in part with Federal funds, and for extensions or other modifications of any such existing contracts or subcontracts until such time as the Company has satisfied the Director, Office of Federal Contract Compliance Programs, that it has established and will carry out employment policies and practices in compliance with Executive Order 11246, as amended, and the implementing rules and regulations of the Secretary of Labor.

The contract ineligibility and contract cancellation also apply but are not limited to, the following Feature Ring divisions or subsidiaries: Gotham Wedding Ring Company, Inc., Ideal Setting Company and Foremost Casting Company.

A copy of the referenced Consent Order is enclosed for publication in the FEDERAL REGISTER.

Dated: January 23, 1979.

WELDON J. ROUGEAU,
Director, OFCCP.

U.S. DEPARTMENT OF LABOR, OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

United States Department of Labor, Plaintiff, v. *Feature Ring Company, Inc.,* Defendant.

OFCCP No. 78-OFCCP-10

CONSENT ORDER

This Consent Order, made and entered into between plaintiff United States Department of Labor,[1] and defendant feature Ring Company, Inc. witnesseth:

WHEREAS plaintiff United States Department of Labor (hereinafter "DOL") alleges that defendant Feature Ring Company, Inc. (hereinafter "Feature Ring") has violated its contractual obligations under Executive Order 11246, as amended, and the Secretary of Labor's implementing regulations at 41 CFR Chapter 60, as set out with particularity in the Administrative Complaint herein, including, but not limited to, the following violations:

(1) Defendant Feature Ring failed to develop any written affirmative action compliance program for any of its establishments within 120 days of its receipt of Contract No. HQ (CMRD) MR-73-2374-010, (entered into on June 1, 1974), in violation of Sections 202(4) and (50 and 203(a) of Executive Order 11246 and 41 CFR Sections 60-1.4(a)(4) and (5), 60-1.40, 60-1.20(d) and 60-2.1.

(2) Defendant Feature Ring failed to develop an acceptable written affirmative

[1] Pursuant to Executive Order 12086 (43 FR 46501) the Department of Labor is substituted for the Defense Logistics Agency as Plaintiff herein. That Executive Order, which was issued by President Carter on October 5, 1978, and become effective on October 8, 1978, eliminated the previously existing compliance agencies and consolidated the contract compliance program into the Department of Labor.

action compliance program within 120 days of its receipt of Contract No. AAFES-MR-76-36-76-013FE, (entered into on October 15, 1976), in violation of Sections 202 (4) and (5) and 203(a) of Executive Order 11246 and 41 CFR Sections 60-1.4 (a)(4) and (5), 60-1.40, 60-1.20(d) and 60-2.1.

(3) Defendant did not have any written affirmative action compliance program at the time the Defense Logistics Agency (DLA) conducted a compliance review of defendant in September 1976. As a condition of being awarded Contract No. AAFES-MR-76-36-76-013FE in the amount of $1 million, defendant signed a letter of commitment on October 1, 1976 in which it agreed:

(1) not to discriminate against any employee or applicant because of race, creed, color, sex or national origin, to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin—such action to include, but not be limited to the following: employment, upgrading, layoff or termination, and rates of pay or other forms of compensation.

(2) To include in all solicitations or advertisements for employment placed by or on behalf of the Company, the phrase, "An Equal Opportunity Employer M/F".

(3) To include in all purchase orders and subcontracts in excess of $10,000 in connection with government business the equal opportunity clause of 41 Code of Federal Regulations Section 60-1.4, and to send compliance certificates to subcontractors, vendors and suppliers requesting appropriate action on their part.

(4) Prominently to display EEO posters.

(5) To certify that facilities are maintained on a non-segregated basis.

(6) To request that Article XLVII, "Non-Discrimination", Paragraph 47.1, page 40, of the Collective Bargaining Agreement between the Company and the Amalgamated Jewelry, Diamond & Watchcase Workers Union, Local No. 1, be amended to include a statement of bilateral non-discrimination by the Union, and to add the word, "color", in the text.

(7) To file an EEO-1 Form for 1976. (The EEO-1 Form had last been filed by defendant in December 1974.)

(8) Immediately to acknowledge the award of the subject contract and the date of the award, in writing, to DCASR-New York.

(9) To develop and submit to the Defense Supply Agency a written acceptable affirmative action compliance program within 120 days from the commencement of the contract.

Defendant Feature Ring failed to fulfill all of the commitments which it made in the October 1, 1976 letter of commitment in violation of 41 CFR 60-1.20(b).

(4) The written affirmative action compliance programs which defendant Feature Ring submitted to DLA on February 15, 1977 and on May 13, 1977, were deficient in that:

(a) the Utilization Analysis sections did not completely consider all eight factors in violation of 41 CFR 60-2.11(b) (1) and (2).

(b) annual rates of hire/promotion, and Ultimate Goals and Timetables were not established as required by 41 CFR 60-2.12.

(c) the programs failed completely to discuss the methods used to disseminate Feature Ring's equal employment opportunity policy, both internally and externally in the Dissemination of Policy statement in violation of 41 CFR 60-2.13(b) and 60-2.21.

(d) the programs failed to discuss, in the Responsibility for Implementation statement, line responsibilities in regard to Feature Ring's Equal Opportunity Program in violation of 41 CFR 60-2.13(c) and 60-2.22.

(e) the programs did not provide, in the Identification of Problem Areas by Organizational Units and Job Groups, a specific in-depth analysis to determine possible problem areas in the personnel procedures or practices at Feature Ring's facilities in violation of 41 CFR 60-21.13(d) and 60-2.23.

(f) the programs did not provide, in the statement as to Sex Discrimination Guidelines, an analysis of personnel procedures and job policies and practices in respect of current or prospective female employees, in violation of 41 CFR Part 60-20.

(g) the programs did not provide, in the Support of Action Programs, any information concerning the action to be taken to support local community action programs and community service programs designed to improve the employment of minorities and women, in violation of 41 CFR 60-2.13(i) and 60-2.26.

(h) the programs did not provide, in the Statement of Consideration of Minorities and Women having Requisite Skills Not Currently in the Workforce, any information concerning action taken or to be taken in the recruitment and hiring of minorities and women having requisite skills not currently in the workforce, in violation of 41 CFR 60-2.13(j).

(i) the programs did not provide the statistical data in connection with Maintenance of Programs, in violation of 41 CFR 60-1.7(a)(2)(3)(4); and

WHEREAS defendant Feature Ring denies that is has violated Executive Order 11246, as amended or the Secretary of Labor's implementing regulations including the allegations all as above described; and

WHEREAS both parties wish to resolve the instant matter without further administrative proceedings;

IT IS HEREBY AGREED AS FOLOWS:

1. Feature Ring Company, Inc., its officers, divisions, subsidiaries, affiliates, purchasers, successors, assignees and/or transferees are hereby ineligible to enter into any further Government contracts or subcontracts, or extensions or other modifications of existing Government contracts or subcontracts, including federally assisted construction contracts.

2. In order to be reinstated as an eligible bidder on Government contracts or subcontracts or to be reinstated as eligible for extensions or other modifications of existing government contracts or subcontracts, defendant Feature Ring Company, Inc. or any of its divisions, subsidiaries, affiliates, purchasers, successors, assignees and/or transferees must request reinstatement in a letter directed to the Director of OFCCP and must show that it has established and will carry out employment policies and practices in compliance with Executive Order 11246, as amended and the implementing regulations at 41 CFR Chapter 60.

3. The attached "Notice of Contract Ineligibility and Contract Cancellation" (Exhibit A) will be published by OFCCP in the FEDERAL REGISTER together with the entire text of this Consent Order.

4. Feature Ring will be listed on the Comptroller General's list of companies which have been declared ineligible to enter into any further Government contracts or subcontracts, or extensions or other modifications of existing Government contracts or subcontracts, with a notation that the company has been declared ineligible pursuant to this Consent Order.

5. This Consent Order shall not become final unless and until it has been signed by Administrative Law Judge, Rhea Burrow.

6. After it has been signed by Administrative Law Judge Burrow, this Consent Order shall be made a part of the record of the proceedings herein.

It is So Ordered.

Effective Date: December 29, 1978.

HENERY PETERSON,
President, for Feature Ring Company, Inc.

RHEA M. BURROW,
Administrative Law Judge.

JAMES D. HENRY,
Associate Solicitor.

LOUIS G. FERRAND,
Counsel for Civil Rights.

BARBARA J. SULLIVAN,
Attorney, U.S. Department of Labor.

Based upon the foregoing Consent Order, the proceeding herein is DISMISSED.

[FR Doc. 79-5132 Filed 2-15-79; 8:45 am]

[4510-29-M]

Office of the Secretary

PRIVACY ACT ISSUANCES

New System of Records

AGENCY: Labor-Management Services Administration, Department of Labor.

ACTION: Issuance of new system of records entitled Veterans' Reemployment Rights Impact Survey.

SUMMARY: The purpose of this document is the issuance of a new system of records under the Privacy Act of records compiled by contractor, Arthur Young and Company, for a statistical study under the Veterans' Reemployment Rights program of the Department of Labor in conjunction with the Department of Defense. As the records contain names, addresses, and personal data on the participants, the system is established in order to protect the privacy of those participants.

DATES: Comments should be received on or before March 19, 1979. The system will become effective March 19, 1979, unless the Department publishes notice to the contrary.

FOR FURTHER INFORMATION CONTACT:

Walter Steiner, (202) 523-8928.

SUPPLEMENTARY INFORMATION: The new system of records is compiled in order to analyze the information delivery system of the Veterans' Reem-

ployment Rights program. Based upon lists of names and addresses supplied by the Veterans' Administration and the Department of Defense, selected participants will be questioned about their personal experience and knowledge of their reemployment rights under the Federal law. This information will be coded and analyzed by the contractor in order to provide a statistical basis to evaluate the present delivery of information to those covered by the Veterans' Reemployment Rights Act, to corroborate workload forecasts and to aid in the development of alternate systems.

Pursuant to 5 U.S.C. 552(a)(e)(4), Section 3 of the Privacy Act of 1974, the Department of Labor hereby publishes notice of a new system of records. The Department of Labor systems were previously published at 42 FR 49654 (September 27, 1977) and in Volume 2 of the 1977 Privacy Act Issuances Compilation. Notice is given of the addition of DOL/LMSA-18, Veterans' Reemployment Rights Impact Survey.

Signed at Washington, D.C., this 6th day of February, 1979.

RAY MARSHALL,
Secretary of Labor.

System name.

Veterans' Reemployment Rights Impact Survey and Analysis.

System location.

Arthur Young and Company, 1025 Connecticut Avenue NW., Washington, D.C. 20036 and Market Facts, Inc., 1750 K Street, NW., Washington, D.C. 20036.

Categories of individuals covered by the system.

1. Recently discharged veterans of military service.
2. Members of military reserve.
3. National Guard members.

Categories of records in the system.

Personal, employment, and reemployment data on reservists, National Guard members, and recently discharged veterans.

Authority for maintenance of the system.

Chapter 43 of Title 38, United States Code and predecessor statutes.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses.

Arthur Young and Company—to aid contractor in developing alternate information delivery systems.

Department of Defense, National Committee for Employer Support of the Guard and Reserve and Veterans' Administration.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage.

Lists of names and addresses maintained in locked files until transferred to computer tapes. Tapes returned to original source after use. Tapes and questionnaires maintained by Arthur Young with access limited to authorized personnel and then returned to Department of Labor and stored in locked files until eventual destruction. Statistical analysis on computer tape and then distributed to appropriate agencies.

Retrievability.

By name and address of individual until tabulation of survey data. After coding of questionnaires, retrievable solely through statistical category with no individual identifications.

Safeguards.

Original lists maintained in locked files at Department of Labor until transferred to tapes by contractor. Address tapes, post cards and questionnaires maintained by contractor, Arthur Young, with access limited to personnel working on contract. Materials are not used for any other purpose. Individual identifiers will be removed from questionnaires upon coding for computers.

Retention and disposal.

Final report retained by systems managers for Department of Labor, Department of Defense, Veterans' Administration, and the National Committee for Employer Support of the Guard and Reserve. Post cards destroyed by Arthur Young after telephone interviews completed. Lists and address tapes returned to Department of Defense and Department of Labor to be erased. Questionnaires retained in locked files for 6 months by systems manager, Department of Labor, and then destroyed.

Systems managers and addresses.

William J. Kruse, Arthur Young and Company, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

James T. Heisler, Market Facts, Inc., 1750 K Street, N.W., Washington, D.C. 20036.

Walter Steiner, U.S. Department of Labor, Labor-Management Services Admin., Room N-4101, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Notifications procedure.

Walter Steiner, Systems Manager.

Record access procedures.

As above.

Contesting record procedure.

As above.

Record source categories.

Data voluntarily provided by veterans, reservists, and members of the National Guard in telephone survey.

[FR Doc.79-4815 Filed 2-15-79; 8:45 am] ch

[4510-29-M]

Pension and Welfare Benefit Programs

[Application No. D-761]

CHICAGO TITLE & TRUST CO. EMPLOYEES SAVINGS AND INVESTMENT PLAN

Proposed Exemption for Certain Transactions

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would permit the Chicago Title and Trust Company (the Employer) to loan money to Fund C under the Chicago Title and Trust company Employees Savings and Investment Plan (Savings Plan). The proposed exemption, if granted, would affect participants and beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department on or before March 16, 1979.

ADDRESSES: All written comments and requests for a hearing (at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-761. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ivan Strasfeld, U.S. Department of Labor, Pension and Welfare Benefit Programs, Office of Fiduciary Standards, (202) 523-8530. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a)(1) and 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer and trustee of the Savings Plan pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Employer established the Savings Plan and a Pension Plan in 1968 as replacements for a predecessor Profit-Sharing Plan. Assets representing the accounts of former Profit-Sharing Plan participants were frozen and transferred to Fund C under the Savings Plan. Although the Employer also serves as trustee of the Savings Plan, investment decisions regarding the Savings Plan, including Fund C, some under the supervision of the nine member Trust Investment Committee.

2. Bonds and mortgages under the predecessor Profit-Sharing Plan were valued at amortized cost while the equity holdings were valued at fair market value. Amortized cost is defined in the application as the purchase price adjusted to reflect the discount or premium incurred when the debt instrument was originally purchased. Under this method, amortized cost equals the face amount of the security at maturity. The trustee believed that this valuation method was sound inasmuch as under the predecessor Profit-Sharing Plan contributions were being made in an amount sufficient to meet distributions and they could, therefore hold bonds and mortgages until maturity at which time they would be paid in full. This valuation method has continued under Fund C.

3. As Savings Plan participants terminate their employment with the Employer, assets representing Fund C accounts are distributed to them. A participant entitled to a distribution from Fund C receives the vested portion of his account balance as of the valuation date coincident with or next preceding the date of his termination. These participants are paid their account balances based on the amortized cost method of valuation as to the bond and mortgage portion of their account. All other assets are valued at fair market value.

4. The applicants have indicated that as a result of the cessation of new contributions to Fund C in 1968 and a faster rate of preretirement distributions than anticipated, liquid assets of Fund C became depleted.

5. The trustee normally would sell either bonds, mortgages or equity holdings to generate cash for these distributions. The sale of bonds and mortgages at currently depressed market values would reduce the values of remaining Fund C accounts while the sale of the equity holdings would destroy a bond to equity ratio maintained for Fund C investments. In this regard, the Trust Investment Committee's determination that a prudent portfolio mix required that not less than 50% of plan assets be invested in equity securities is supported by data furnished by an independent investment adviser.

6. In order to permit the trustee to hold the bonds until maturity and to maintain an appropriate bond to equity ratio, a loan arrangement was entered into in 1970 between Fund C and the Employer, Chicago Title and Trust Company, whereby the Employer would periodically loan cash to Fund C whenever distributions exceeded its liquid assets. A series of loans and repayments were made between the Employer and Fund C and, as of July 1, 1978, a loan in the amount of $200,000 was outstanding.

Interest on the outstanding balance of the loan is charged quarterly at a rate equal to the annual rate of interest earned on those securities carried at amortized cost. For the period 1973-1977, the rate of interest paid by Fund C to the Employer averaged 4.6 percent. Interest at the rate of 4.6 percent was paid by Fund C on loans outstanding in 1978.

The trustee has the option to repay the loan without penalty in whole or in part at any time. As the long-term bonds and mortgages mature, the proceeds are used to repay the loans and to fund future payments to participants.

7. In the absence of a loan arrangement between Fund C and the Employer, it would have been necessary for the trustee to enter into a similar credit arrangement with an outside lending institution. In such event, the interest charges to Fund C would have at least equalled the prime rate charged to reliable borrowers.

8. The trustee's decision to borrow funds from the Employer for the purpose of funding distributions has not adversely affected the interests of remaining Fund C participants. Interest paid to the Employer on amounts borrowed is offset by interest received by Fund C on bonds and mortgages which would otherwise have been liquidated at a loss. The bonds and mortgages can then be held to maturity at which time they are redeemable at face value. Moreover, in each year beginning in 1970, the trustee advised the participants that it would make necessary borrowings, pursuant to the loan arrangement, in order to avoid the need to liquidate bonds and mortgages at a value below amortized cost.

9. As a part of the Employer's general review of its employee benefit plans, the Employer has determined that it would be in the best interests of the Employer and its employees to discontinue the practice of making loans to Fund C. Therefore, as of January 1, 1979, all the assets of Fund C are being valued at fair market value thus alleviating the need for such loans. Accordingly, by December 31, 1978, all loan transactions between Fund C and the Employer were completed.

As of November 22, 1978, all of those Fund C assets previously valued at amortized cost have been sold to unrelated persons. The Employer has made a cash contribution to Fund C in an amount representing the difference between the higher amortized cost valuation of the bonds and mortgages and their fair market value. This contribution to Fund C has been allocated to the accounts of remaining Fund C participants in a manner which will treat them identically with those Fund C participants who previously received benefits under the plan while the loan arrangement was in effect. In the future all Fund C assets will be valued at fair market value.

Notification of Interested Persons

Within 10 days after publication by the Department of this proposed exemption, notice will be provided to current Fund C participants by the posting of appropriate notices on employee bulletin boards. Notice will be mailed to the last known address of other interested persons within such 10 day period. A copy of the notice of proposed exemption will be distributed to all interested persons in the manner outlined above.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the Plan solely in the interests of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before any exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of the rights of participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

WRITTEN COMMENTS AND HEARING REQUESTS

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1.

SECTION I. TRANSACTION

Effective from January 1, 1975, until December 31, 1978, the restrictions of section 406(a)(1) and 406(b)(1) and (b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to loans made by the Employer to Fund C provided that the conditions set forth in section II of this exemption have been met.

SECTION II. CONDITIONS

(a) The amounts borrowed have not exceeded the sums necessary to enable the trustee of Fund C to make required distributions to participants.

(b) The annual rate of interest paid to the Employer by Fund C did not exceed the interest earned for the previous year on those Fund C investments valued at amortized cost.

The pending exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 9th day of February, 1979.

IAN D. LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-5005 Filed 2-13-79; 10:02 am]

[4510-29-M]

[Application No. D-682]

FRED & WAYNE'S CAR CARE CENTERS, INC.

Proposed Exemption for Certain Transactions Involving the Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale by the Fred & Wayne's Car Care Centers, Inc. Profit Sharing Plan and Trust (the Plan) of real property to a party in interest and disqualified person with respect to the Plan, and the use of the same property by the party in interest and disqualified person from January 1, 1977, until the date the sale is consummated. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before March 16, 1979.

ADDRESS: All writen comments and requests for a hearing (at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-682. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room C-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT

C. E. Beaver of the Department of Labor (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustee of the Plan, the Bank of Commerce (the Trustee), located in Idaho Falls, Idaho, and the two fiduciaries and sole participants, Wayne J. Peterson and Fred Kvarfordt, Jr., pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

In 1976, Fred & Wayne's Car Care Centers, Inc. (the Employer) curtailed its operations and liquidated its retail and wholesale operations. Accordingly, the Employes discharged all its employees with the exceptions of Messrs. Kvarfordt, Jr. and Peterson. All other former participants in the Plan have been paid, in full, their entitled benefits under the Plan. These two individuals, in addition to being the sole remaining participants of the Plan, sole shareholders (each owns 50% of the shares) and employees of the Employer, comprise the Administrative Committee of the Plan which directs the Trustee in making investments for the Plan.

On September 28, 1976, at the direction of the Administrative Committee, the Plan purchased, pursuant to a Real Estate Sale Contract (the Agreement), a tract of land and the 50 to 75 year old building thereon for $50,000 from unrelated third parties, Mr. and Mrs. Kishiyama. Twelve thousand dollars of the purchase price was paid upon execution and delivery of the Agreement. The balance of the purchase price $38,000, together with interest thereon, at the rate of 8.25% from October 1, 1976, was to be due and payable in installments as follows: $5,000 with accrued interest on all unpaid balances by October 1, 1977, and $5,000 together with accrued interest on all unpaid balances on the first day of October of each year thereafter until the entire amount of principal and interest is fully paid. After January, 1977, the purchaser may accelerate payments, and such payments shall be applied to the last payments due under the agreement.

At the time of the purchase of the property, the tenent occupying the property was planning to vacate, and the Plan exepected to be able to inexpensively renovate the property for a new tenant with a long-term lease. However, inspection of the building subsequent to the Plan's purchase revealed deficiencies in the electrical and heating systems. City officials and electrical contractors indicated that it would require perhaps as much as $50,000 to remodel the building to satisfy a new tenant. An appropriate lessee was never found. An attempt to sell the property to unrelated third parties resulted in three indications of interest; however, none in excess of the $50,000 originally paid by the Plan because of the need for extensive renovation and/or remodeling to make the building operable.

Mr Kvarfordt, Jr. now proposes to purchase the property for the use of his son. The Trustee and Mr. Peterson agreed to obtain two appraisals of the property and to compromise between the two to arrive at the sales price. Two individuals, with longstanding real estate experience in the community in which the property is located, submitted appraisals of $68,000.00 and $62,500.00, as of December 30, 1976, and January 11, 1977, respectively. Mr. Peterson, with the concurrence of the Trustee, has agreed to sell the property to Mr. Kvarfordt, Jr. for $65,000. It is proposed that the purchaser, Mr. Kvarfordt, Jr., will pay the Trustee in cash the difference between $65,000 and the balance owing on the property under the Agreement; and, in addition, will pay the Trustee interest on the Plan's equity in the property at 9% commencing with his use of the property and until the sale transaction is consummated. In addition, Mr. Kvarfordt, Jr. will assume, pay and perform the obligations of the Agreement, and will indemnify, hold harmless, and defend the Trustee from any further obligations and responsibilities under the Agreement. No sales commission is to be paid by the Plan. In a formal instrument, executed on May 23, 1977, both Mr. and Mrs. Kishiyama have acknowledged and agreed that they will accept the financial responsibility of Fred Kvarfordt, Jr., as to the assumption of all liabilities and obligations under the said Agreement in lieu of the obligations of the Trustee of the Plan.

Notice to Interested Persons

Notice of the proposed exemption as published in the Federal Register will be delivered to each participant and the Trustee on or before March 5, 1979.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act, and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive or whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Request

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale by the Plan for cash or real property and the improvements thereon known as 365 Shoup Avenue, Idaho Falls, in Bonneville County, Idaho to Fred Kvarfordt, Jr. for not less than the greater of either a sales price of $65,000 or its fair market value at the time of the sale, and to the use of the same property by Fred Kvarfordt, Jr. from January 1, 1977, until the date the sale is

consummated for a rental not less than the greater of either 9% interest on the Plan's equity in the real property or the fair market rental commencing with Mr. Kvarfordt, Jr.'s use of the real property and until the sale transaction is consummated.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 8th day of February, 1979.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-5006 Filed 2-13-79; 10:02 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-17]

NASA ADVISORY COUNCIL (NAC) AERONAUTICS ADVISORY COMMITTEE

Meeting

The Informal Ad Hoc Advisory Subcommittee on Rotorcraft Design Methodology of the NAC Aeronautics Advisory Committee will meet March 6-8, 1979, in Room 217, Building 200, NASA Ames Research Center, Moffett Field, California. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including Subcommittee members and participants).

The Subcommittee was established to assist the NASA in assessing the current adequacy of rotorcraft design methodology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program in rotorcraft aerodynamics, acoustics, structures, dynamics, propulsion system components, flight control, and avionics. The Chairperson is Mr. William B. Peck, and there are five members of the Subcommittee.

For further information, contact Mr. John F. Ward, Executive Secretary of the Subcommittee, Code RJL-4, NASA Headquarters, Washington, D.C. 20546 (202/755-2375).

MARCH 6, 1979

9:00 a.m. Introductory Remarks.
9:30 a.m. Summary of NASA Rotorcraft R&T Program, FY 1978 Accomplishments, FY 79-80 Plans.

MARCH 7, 1979

8:30 a.m. Continuation of Summary of NASA Rotorcraft Program Plans.
10:30 a.m. Subcommittee Assessment of Current Adequacy of Rotorcraft Design Methodology.
1:00 p.m. Discussion of NASA FY 1979-80 Rotorcraft R&T Program Plans; Draft Recommendations.

MARCH 8, 1979

8:30 a.m. Preparation of Subcommittee Final Recommendations on NASA FY 1979-80 Rotorcraft R&T Program Plans, Other Conclusions.
11:30 a.m. Adjourn.

FRANK J. SIMOKAITIS,
Acting Associate Administrator for External Relations.

FEBRUARY 8, 1979.

[FR Doc. 79-5015 Filed 2-15-79; 8:45 am]

[7510-01-M]

[Notice 79-16]

NASA WAGE COMMITTEE

Meeting

Pursuant to the provisions of Section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), Notice is hereby given that a meeting of the National Aeronautics and Space Administration Wage Committee will be held on March 5, 1979.

The entire meeting is open to the public. It will convene at 1:30 p.m. and will be held in Room 226-B, 600 Independence Avenue, SW, Washington, D.C. 20546.

The Committee's primary responsibility is to consider and make recommendations to the Director of Personnel, National Aeronautics and Space Administration on all matters involved in the development and authorization of a wage schedule for the Cleveland, Ohio, Wage Area pursuant to Pub. L. 92-392.

The approved agenda of the Committee provides that it will review the survey specifications for the Cleveland, Ohio, Wage Area which were recommended by the Local Wage Committee and will determine whether to recommend acceptance or modification of those survey specifications.

FRANK J. SIMOKAITIS,
Acting Associate Administrator for External Relations.

FEBRUARY 8, 1979.

[FR Doc. 79-5014 Filed 2-15-79; 8:45 am]

[7510-01-M]

[Notice 79-18]

SPACE AND TERRESTRIAL APPLICATIONS STEERING COMMITTEE (STASC), PROPOSAL EVALUATION ADVISORY SUBCOMMITTEE

Meeting

The Laser Geodynamics Satellite (Lageos) Panel of the STASC Proposal Evaluation Advisory Subcommittee will meet at the Goddard Space Flight Center, Greenbelt, Maryland 20771, on March 6 and 7, 1979. The meeting will be held in Room 200 of Building 26 from 8:30 a.m. to 5:30 p.m. on each day. The Subcommittee will discuss, evaluate, and categorize the proposals submitted to NASA in response to the Announcement of Opportunity for investigations using data to be obtained from its Laser Geodynamics Satellite (Lageos) with ground based laser systems. Public discussion of the professional qualifications of the proposers and their potential scientific contributions to the Lageos Program would invade the privacy of the proposers and other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), as described above, it has been determined that the sessions should be closed to the public.

For further information, please contact Mr. Charles Finley, NASA Headquarters, Washington, D.C. 20546, area code 202/755-3848.

FRANK J. SIMOKAITIS,
Acting Associate Administrator for External Relations.

FEBRUARY 9, 1979.

[FR Doc. 79-5016 Filed 2-15-79; 8:45 am]

[7510-01-M]

[NASA Notice 79-19]

REMOTE SENSING FROM SPACE

Increased Involvement with Private Sector

The Federal government has been conducting research and development of systems for remote sensing from space for the past several years. Remote sensing from space involves taking photo-like images and obtaining data on the earth and its environment from orbiting spacecraft. The government is now interested in determining how to increase the involvement of the private sector in such activities. At the request of the President, an Interagency Task Force cochaired by NASA and the Department of Commerce is developing a plan of action on how to encourage private investments and direct participation in

civil systems for remote sensing of the earth from space. This plan of action will be submitted to the Space Policy Review Committee (SPRC) for consideration and action. Expressions of interest in such systems may be extended to include sensing of the oceans and/or atmosphere, if desired. Interest may involve the ownership and/or operation of the total system or any segment of it, e.g., spacecraft, space-to-ground communications links, data processing, data dissemination and storage, analytical services, etc.

The views of interested parties are solicited for consideration in developing recommendations for a plan of action. The information desired includes:

1. Incentives believed required from the Federal government, if any. Actions recommended to the government to attract greater private participation and investment in this field.
2. Desirable institutional or corporate arrangements.
3. Desirable and undesirable government regulation, if any.
4. A description of the remote sensing system of choice and its capabilities, including area of coverage, resolution, sensor frequency bands, frequency of coverage.
5. Preferred, proposed, or required data products, both as to type and quantity.
6. Estimate of the markets for and uses of data products; overall market size as well as markets of special interest to you (both domestic and foreign); maket growth potential.
7. Estimates of the private investment deemed necessary for the level of involvement envisioned, the availability of investment capital.
8. Consideration of possible foreign competition and its effects.
9. Time frame in which private participation is considered feasible.
10. Any other information or views you believe should be considered.

This information will also be used in a study of possible integration of Remote Sensing Systems chaired by NASA.

The Co-chairs of the Interagency Task Force are Mr. A. W. Frutkin, Code L, NASA Headquarters, Washington, DC 20546, telephone: (202) 755-3972 and Mr. W. Eskite, NOAA, Code OAl, Bldg. 5, Room 826, 6010 Executive Blvd., Rockville, MD 20852, telephone: (301) 443-8680.

Submissions will be considered up to March 15, 1979, and should be addressed to Mr. E. Z. Gray, Code L, NASA Headquarters, Washington, DC 20546, telephone: (202) 755-8433.

Queries may be addressed to any of the above.

ROBERT A. FROSCH,
Administrator.

[FR Doc. 79-5086 Filed 2-15-79 8:45 am]

[7555-01-M]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE ON POST-INTERNATIONAL PHASE OF OCEAN DRILLING (IPOD) SCIENCE

Reestablishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463); it is hereby determined that the reestablishment of the Advisory Committee on Post-International Phase of Ocean Drilling (IPOD) Science is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, National Science Foundation (NSF) by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Committee Management Secretariat, pursuant to the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

NAME OF COMMITTEE: Advisory Committee on Post-International Phase of Ocean Drilling (IPOD) Science.

PURPOSE: To evaluate, in the context of the national scientific effort, a proposed program of drilling, and related activities, in the deep oceans for scientific purposes in the 1980's and to make recommendations concerning the advisability of the National Science Foundation sponsoring such a program.

EFFECTIVE DATE OF REESTABLISHMENT AND DURATION: The reestablishment of the Committee is effective upon filing the charter with the Director, NSF, and the standing committees of Congress having legislative jurisdiction of the Foundation. The life of the Committee is six months from the date of reestablishment.

MEMBERSHIP: The Committee will consist of 12 persons selected from the scientific community, the business sector and the general public. Members will be chosen so as to be reasonably representative of competence in the broad range of issues to be addressed, of the sexes, of minorities and of geographic regions in the United States.

OPERATION: The Committee will operate in accordance with provisions of the Federal Advisory Committee act (Pub. L. 92-463); NSF policy and procedures, OMB Circular No. A-63, Revised, and other directives and instructions issued in implementation of the Act.

RICHARD C. ATKINSON,
Director.

FEBRUARY 12, 1979.

[FR Doc. 79-5088 Filed 2-15-79; 8:45 am]

[7555-01-M]

ADVISORY COMMITTEE ON SCIENCE AND SOCIETY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee on Science and Society.

Date, time and place: March 9—9 a.m. to 5 p.m., March 10—9 a.m. to 12:30 p.m., Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Contact person: Marian Scheiner, Administrative Assistant, Office of Science and Society, National Science Foundation, Rm. W-672, Washington, D.C. 20550, telephone 202-282-7770.

Type of meeting: Open.

Purpose of meeting: To identify problems and priorities and to increase the effectiveness of the Office of Science and Society (OSS) and its constituent programs.

Agenda:

MARCH 9

9:00 Introductions
9:15 Science and Society Programs in the Context of Science Education—Dr. F. James Rutherford, Asst. Director, Science Education
9:45 The Tasks of the OSS and the Committee—Dr. A. Morin, Director, OSS
10:30 Ethics and Values in Science & Technology: Program Review—Dr. W. Blanpied, Program Director, EVIST
11:15 Science for Citizens: Program Review—R. Hollander, Program Manager, SFC
12:00 Break
1:30 Public Understanding of Science: Program Review—G. Tressel, Program Director, PUOS
2:15 Discussion of Policy Issues and Tasks
5:00 Adjournment

MARCH 10

9:00 NSF Oversight Requirements and Procedures—Dr. J. Fregeau, Director, Office of Audit and Oversight
10:00 Science Education Oversight Procedures—A. Buccino, Director, Office of Program Integration
10:45 Discussion of OSS Oversight
12:30 Adjournment

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative

Management, Rm. 248, National Science Foundation, Washington, D.C. 20550

M. REBECCA WINKLER,
Committee Management Coordinator.

FEBRUARY 13, 1979.

[FR Doc. 79-5092 Filed 2-15-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE ON HISTORY AND PHILOSOPHY OF SCIENCE OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on History and Philosophy of Science of the Advisory Committee for Social Sciences.
Date and time: March 9 and 10, 1978—9 a.m. to 5 p.m., both days.
Place: National Science Foundation, Room 338, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed 9:00 a.m.-5:00 p.m., March 9 and 10, 1978.
Contact person: Dr. Ronald J. Overmann, Associate Program Director for History and Philosophy of Science, Room 312, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632-4182.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Financial and Administrative Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in history and philosophy of science.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

FEBRUARY 13, 1979.

[FR Doc. 79-5091 Filed 2-15-79; 8:45 am]

[7555-01-M]

SUBCOMMITTEE FOR THE REVIEW OF GRAVITATIONAL PHYSICS

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics; Subcommittee for the Review of Gravitational Physics.
Date and time: March 8-9, 1979; 9:00 a.m. to 5:00 p.m. each day.
Place: Room 341, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Laura P. Bautz, Senior Staff Associate, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632-4175.
Purpose of subcommittee: To provide program oversight concerning NSF support for research in gravitational physics.
Agenda: To review NSF Gravitational Physics Program documentation as part of the program oversight function.
Reason for closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Director, NSF pursuant to provisions of Section 10(d) of the Federal Advisory Committee Act.

M. REBECCA WINKLER,
Committee Management Coordinator.

FEBRUARY 13, 1979.

[FR Doc. 79-5089 Filed 2-15-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REGULATORY ACTIVITIES

Meeting

The March 7, 1979, meeting of the ACRS Subcommittee on Regulatory Activities has been rescheduled to be held on March 6, 1979, in Room 1046, 1717 H St., N.W., Washington, DC 20555. Notice of this meeting was published in the FEDERAL REGISTER on January 19, 1979 (44 FR 4056).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978 (43 FR 45926) oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

TUESDAY, MARCH 6, 1979

(The Meeting Will Commence at 8:45 a.m.; Open)

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

(1) Draft Regulatory Guide 1.33, Revision 3, "Quality Assurance Program Requirements (Operation)."

(2) Draft Regulatory Guide 1.137, Revision 1, "Fuel Oil Systems for Standby Diesel Generators."

(3) Regulatory Guide 1.140, Revision 1, "Design, Testing, and Maintenance Criteria for Normal Ventilation Exhaust System Air Filtration and Adsorption Units of Light-Water-Cooled Nuclear Power Plants."

(4) Regulatory Guide 1.143, Revision 1, "Design Guidance for Radioactive Waste Management Systems, Structures, and Components Installed in Light-Water-Cooled Nuclear Power Plants."

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Persons wishing to submit written statements regarding Regulatory Guides 1.140, Revision 1, and 1.143, Revision 1, may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. However, to insure that adequate time is available for full consideration of these comments at the meeting, it is desirable to send a readily reproducible copy of the comments as far in advance of the meeting as practicable to Mr. Gary R. Quittschreiber (ACRS), the Designated Federal Employee for the meeting, in care of ACRS, Nuclear Regulatory Commission, Washington, D.C. 20555 or telecopy them to the Designated Federal Employee (202-634-3319) as far in advance of the meeting as practicable. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted

therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Gary R. Quittschreiber, (telephone 202-634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Dated: February 13, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 79-5123 Filed 2-15-79; 8:45 am]

[6325-01-M]

PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

MEETING

Pursuant to Pub. L. 92-463, notice is hereby given that Regional Selection Meetings for the President's Commission on White House Fellowships will be held in each of eleven U.S. cities beginning March 8, 1979. The date and place of each meeting is as follows:

Friday, March 9, 1979, 8:00 a.m., Office of Personnel Management, William J. Green, Jr., Federal Building, Room 3400, 600 Arch Street, Philadelphia, Pennsylvania.

Friday, March 9, 8:30 a.m., Hyatt Regency—Dallas, 300 Reunion, Dallas, Texas.

Tuesday, March 13, 9:00 a.m., Office of Personnel Management, 1900 "E" Street, N.W., Washington, D.C.

Wednesday, March 14, 8:00 a.m., John C. Kluzinski Building, 230 S. Dearborn, Chicago, Illinois.

Wednesday, March 14, 8:00 a.m., Levi Strauss & Co., 2 Embarcadero Center, San Francisco, California.

Friday, March 16, 8:00 a.m., Office of Personnel Management, Federal Office Building, 916 Second Avenue, Seattle, Washington.

Tuesday, March 20, 8:30 a.m., Office of Personnel Management, Denver Federal Center, Building 20, Denver, Colorado.

Tuesday, March 20, 8:00 a.m., Office of Personnel Management, John W. McCormack Post Office and Courthouse Building, Room 1038, Boston, Massachusetts.

Thursday, March 22, 8:30 a.m., Allied Chemical Corporation, 1221 Avenue of the Americas, New York, New York.

Tuesday, March 27, 8:00 a.m., Office of Personnel Management, 1520 Market Street, St. Louis, Missouri.

Saturday, March 31, 8:30 a.m., Rich's Executive Offices, 45 Broad Street, 5th Floor, Atlanta, Georgia.

These selection meetings are part of the screening process of the White House Fellowship program. In these meetings, selected applicants to the program are interviewed by a panel of eight to ten outstanding community leaders in each region. At the conclusion of the interviews, each regional panel recommends to the President's Commission on White House Fellowships those candidates who should continue in the competition.

It has been determined that, due to the very nature of the screening process where personnel records and confidential character references must be used, the content of these meetings falls within the provisions of Title 5 of the United States Code, section 552b(c)(6), and that these meetings will be closed to the public.

Additional information concerning these meetings may be obtained by contacting Gerry Newman, Administrative Officer, The President's Commission on White House Fellowships, 1900 "E" Street, N.W., Room 1308, Washington, D.C. 20415, (202-653-6263).

W. LANDIS JONES,
Director.

DETERMINATION TO CLOSE MEETINGS OF THE PRESIDENT'S COMMISSION ON WHITE HOUSE FELLOWSHIPS

The regional selection meetings of the President's Commission on White House Fellowships are part of the screening process leading to the selection of individuals for White House Fellowships. In these meetings, selected applicants to the program are interviewed by a panel of eight to ten outstanding community leaders in each region. The panel also reviews confidential files and character references which we believe are exempt from disclosure under the provisions of the Freedom of Information and Privacy Acts. At the conclusion of the interviews, each regional panel recommends to the President's Commission on White House Fellowships those candidates who should continue in the competition.

These meetings are covered by the provisions of the Federal Advisory Committee Act; Pub. L. 92-463. That act provides that meetings may be closed to the public only as provided for by subsection (c) of section 552b of title 5, United States Code. That section contains the ten exemptions to the open meeting requirements of the "Government in the Sunshine Act." Exemption (6) permits closing of meetings where they would "disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy:"

It is hereby determined that the regional selection meetings of the President's Commission on White House Fellowships are concerned with personal information as described in exemption (6) above. Accordingly, the regional panel meetings of the Commission to be held between March 9 and March 31, 1979, shall be closed to the public.

ALAN K. CAMPBELL,
Director,
Office of Personnel Management.

FEBRUARY 8, 1979.

[FR Doc. 79-5115 Filed 2-15-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 15562; SR-Amex-78-26]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

FEBRUARY 9, 1979.

On November 24, 1978, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006, 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 would amend Section 152 of the Amex Company Guide. Currently, companies with stock listed on the Amex are not required to pay the continuing annual listing fee during the initial calendar year of listing. This proposal would authorize the Amex to charge listed companies the continuing annual fee on a pro-rata basis during the initial calendar year of listing.

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. 34-15383, December 5, 1978) and by publication in the FEDERAL REGISTER (44 FR 1807, January 8, 1979). All written statements with respect to the proposed rule change which were filed with the Commission and all written 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 national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder. Specifically, the proposed rule change provides for an equitable allocation of reasonable fees among issuers using the facilities of the Amex.

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. 79-5058 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 34-15550; File No. SR-Amex-79-2]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 25, 1979 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Article IV, Section 1(e) of the Amex Constitution provides that the Amex shall not be liable to any member for the conduct of business except as may be specifically provided by rule with regard to facilities for the electronic transmission of orders. Proposed Amex Rule 60 provides that the Amex shall assume responsibility for: (1) Failure by its clerks to deliver to the specialist in a timely fashion messages received on the floor through the Post Execution Reporting ("PER") or Amex Options Switch ("AMOS") systems, and (2) errors by its clerks in entering message responses for transmission off the floor: *Provided*, The messages are clearly and accurately communicated to the clerks. The total extent of the Amex liability arising under proposed Rule 60 is limited to $10,000 for all claims by all members in the aggregate on a single day and $35,000 for all claims by all members in the aggregate during a single calendar month, with provisions made for proration of claims exceeding such amounts. The proposal provides that a member initiating transmission of a message through PER or AMOS is responsible for the message to the point that a legible copy is received on the floor. Thereafter, the specialist assumes responsibility for the message to the point that a proper response is entered into the system for transmission. Thereafter, the initiating member bears all further responsibility.

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows: PER (Post Execution Reporting) and AMOS (Amex Options Switch) are systems which route orders from Exchange members' upstairs offices to the Exchange Floor; PER for stocks and AMOS (when implemented) for options.

The purpose of proposed Rule 60 is to enable the Exchange to assume liability, subject to certain specified limits and conditions, for those losses incurred by members in their use of the Exchange's PER and AMOS systems which result from errors or omissions of Exchange employees responsible for processing and handling PER and AMOS orders on the Floor. The proposed rule is authorized under Article IV, Section 1(e) of the Exchange Constitution, which provides that the Exchange shall not be liable to any member for losses arising out of his use of Exchange facilities for the conduct of his business, except as may be specifically provided by rule with regard to Exchange facilities for the electronic transmission of orders.

The proposed rule is designed to provide for an equitable allocation of losses arising out of members' use of PER and AMOS and thereby to encourage the use of these electronic order transmission facilities, which will tend to enhance competition and facilitate development of a national market system. Therefore, the proposed rule is consistent with Section 6(b) of the Act.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

The proposed rule was developed with the guidance and advice of the Exchange's Trading Floor Operations Committee, a membership committee consisting of representatives of specialist and floor broker firms and firms engaging in a general securities business with the public.

BURDEN ON COMPETITION

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 9, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 5, 1979.

[FR Doc. 79-5067 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 6023; 18-33]

ARNOLD & PORTER PROFIT-SHARING PLAN AND TRUST

Filing of Application for an Order Exempting From Provisions of Section 5 of the Act Interests or Participations

FEBRUARY 8, 1979.

Notice is hereby given that Arnold & Porter, a law firm organized as a partnership under the laws of the District of Columbia, on January 22, 1979, filed an application for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for participations or interests issued in connection with the Arnold & Porter Profit-Sharing Plan and Trust (the "Plan"), 1229 Nineteenth Street, N.W., Washington, D.C. 20036. All interested persons are referred to that application, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

INTRODUCTION

Applicant's Plan is a profit-sharing plan available to all employees (including partners) of the Applicant who have completed three years of service. Participation in the plan is voluntary. Applicant states that presently contributions made under the Plan are made by the Applicant on a noncontributory basis. However, Applicant is presently considering amending the Plan to permit optional personal contributions by participants of up to 10% of their compensation, subject to certain limitations. The participant's contributions would be allocated to a separate account established for each participant. Applicant states that the proposed amendment will not be implemented until receipt of an exemptive order of the Commission under Section 3(a)(2) of the Act. Also, Applicant states that the Plan is of the type commonly referred to as a "Keogh" plan, which covers 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, as amended (the "Code"), and, therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in certain employee benefit plans of corporate employers.

Section 3(a)(2) of the Act provides, however, 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 is subject to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"). Applicant represents that pursuant to the disclosure requirements under ERISA, it makes available to those individuals eligible to participate a summary plan description and a summary annual report containing financial statements of the Plan audited by Elmer, Fox, Westheimer & Co. The Plan has received a determination letter from the Internal Revenue Service ("IRS") that it is qualified under Section 401(a) of the Internal Revenue Code, as amended. The proposed amendment to permit voluntary contributions will not be implemented until the issuance by the IRS of a determination as to the continued qualification of the Plan, as so amended.

Applicant states that, under the Plan, each year Applicant contributes out of net earning on behalf of each participant an amount equal to the lesser of (a) 7½% (in the case of a partner who so elects, 2½% or 5%) of that part of a participant's base salary not in excess of $100,000, or (b) $7,500. In the event that the total amount to be contributed is greater than the net earnings (as defined) for the contribution period, the amount to be contributed will be reduced to an amount equal to the net earnings for the contribution period. The Plan also provides that Applicant may unilaterally suspend or discontinue such contributions.

Applicant represents that employer contributions to the Plan are invested by three individual Trustees chosen by the firm. At present, the three Trustees are partners of Applicant. The Trustees are empowered to appoint an administrator to assist in the Administration of the Plan. The Business Manager of Applicant serves as administrator.

Applicant states that the American Bar Retirement Association Master Trust ("ABRA Master Trust") is part of the Plan, and that the Trustees of the Plan have cause a portion of the funds of the Plan to be invested under the ABRA Master Trust. According to Applicant, the assets of the ABRA Master Trust are invested presently through The Equitable Life Assurance Society of the United States in either an Equity (Common Stock) Account or a Fixed Income Account, or any combination of the Accounts, at the choice of the participant. Applicant states that the offering of the ABRA Master Trust is registered under the Act, and current prospectuses are available pursuant to such registration. The remainder of Plan assets are invested in certificates of deposit and a guaranteed investment contract issued by an insurance company.

Applicant states that, under the proposed amendment to the Plan, the Trustees of the Plan will select one or more permitted investment media in which the voluntary personal contributions of participants will be invested. Applicant represents that each such investment medium will be either registered under the Act or exempt from such registration, and that it is the intention of the Trustees at all times to provide each participant in the Plan with the most current prospectus for any permitted Securities Act-registered investment medium. The participant will have full discretion to elect to have his voluntary personal contributions in such account invested in one or more of the investment alternatives selected by the Trustees for such voluntary contributions. A participant's voluntary contributions will be fully vested at all times.

Applicant states that the exemption from registration provided by Section 3(a)(2) of the Act is not available because of the participation in the Plan of Applicant's partners, who are "employees" within the meaning of Section 401(c)(1) of the Code.

Applicant submits that the limitation on the exemption contained in Section 3(a)(2) of the Act appears to have resulted primarily from a concern on the part of Congress that plans commonly known as "Keogh" or "HR-10" plans are complex investment vehicles which could be sold by sponsoring financial institutions to self-employed individuals who might be unable to protect adequately their interests and those of their participating employees. It is Applicant's opinion that the Plan does not present the risks associated with the sale of interests or participations in multi-employer plans by financial institutions with which Congress appeared to be concerned.

Applicant's Plan is not a uniform prototype or master plan to be marketed by a sponsoring financial institution or promoter to numerous unrelated self-employed persons. According to Applicant, while the Plan authorizes the Trustees to invest funds in the ABRA Master Trust, the ABRA Master Trust is fully registered under the Act. Applicant also represents that all investment media in which the voluntary personal contributions will be invested will be either registered under the Act or exempt from such registration.

Applicant states that it maintains extensive administrative control over the Plan, and that it is engaged in furnishing legal services which necessarily involve financially sophisticated and complex matters and is able to represent adequately the interests of the participants in the Plan. Applicant also states that the Plan is subject to the fiduciary standards of ERISA and will provide a substantial amount of descriptive and financial information concerning the Plan to participants. Applicant states that it has not distributed and does not intend to distribute to Plan participants any type of promotional material regarding the Plan, and it has not actively solicited and does not intend to solicit voluntary contributions.

Applicant concludes that, under the circumstances, granting the requested exemptive order would be appropriate in the public interest, 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 March 5, 1979, 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 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 application will be issued as of course following March 5, 1979, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hear-

ing, or advice as to whether a hearing is odered,, 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. 79-5072 Filed 2-15-79; 8:45 am]

[8010-01-M]

BOSTON STOCK EXCHANGE, INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

FEBRUARY 6, 1979.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Wyly Corporation (New), Common Stock, $.10 Par Value, File No. 7-5069.
Fluor Corporation (Delaware), Common Stock, $0.62 ½ Par Value, File No. 7-5079.
UNC Resources, Inc. (VA), Common Stock, $.20 Par Value, File No. 7-5071.
SAVIN Corporation (Deleware), Common Stock, $.10 Par Value, File No. 7-5072.
ALCO Standard Corporation, Common Stock, No Par Value, File No. 7-5077.
Barry Wright Corporation, Common Stock, $1 Par Value, File No. 7-5078.
Bates Manufacturing Company, Inc., Common Stock, $5 Par Value, File No. 7-5079.
Caesar's World, Inc., Common Stock, $0.10 Par Value, File No. 7-5080.
Cessna Aircraft Co., Common Stock, $1 Par Value, File No. 7-5081.
Charter Company (The), Common Stock, $1 Par Value, File No. 7-5082.
Church's Fried Chicken, Common Stock, $0.12 Par Value, File No. 7-5083.
Computer Sciences Corporation, Common Stock, $1 Par Value, File No. 7-5084.
Data Terminal Systems, Inc., Common Stock, $0.20 Par Value, File No. 7-5085.
Hall (Frank B.) & Co., Inc., Common Stock, $0.50 Par Value, File No. 7-5086.
Hanes Corporation, Common Stock, $1 Par Value, File No. 7-5087.
International Rectifier Corporation, Common Stock, $1 Par Value, File No. 7-5088.
Levi Strauss & Co., Common Stock, $1 Par Value, File No. 7-5089.
Maryland Cup Corporation, Capital Stock, $1 Par Value, File No. 7-5090.
Parker Drilling Company, Common Stock, $1 Par Value, File No. 7-5091.
Playboy Enterprises, Inc., Common Stock, $1 Par Value, File No. 7-5092.
Prime Computer Inc., Common Stock, $.0125 Par Value, File No. 7-5093.
Sambo's Restaurant, Inc., Common Stock, No Par Value, File No. 7-5094.
Saxon Industries, Inc., Common Stock, $0.25 Par Value, File No. 7-5095.
Shaklee Corporation, Common Stock, No Par Value, File No. 7-5096.
Storage Technology Corp., Common Stock, $1 Par Value, File No. 7-5097.
Sun Company, The, Common Stock, No Par Value, File No. 7-5098.
Texas International Co., Common Stock, $0.25 Par Value, File No. 7-5099.
United Inns, Inc., Common Stock, $1 Par Value, File No. 7-5100.
Webb (Del E.) Corp., Common Stock, No Par Value, File No. 7-5101.
Wickes Corporation (The), Common Stock, $2.50 Par Value, File No. 7-5102.

Upon receipt of a request, on or before March 6, 1979, from any interested person, the Commission will determine whether the applications with respect to the companies named shall be set down for hearing. Any such request should include a brief statement as to the title of the security in which the person is interested, the nature of his interest in making the request, and the position which he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-5073 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 15561; SR-CBOE-78-33]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Approving Proposed Rule Change

FEBRUARY 9, 1979.

On December 14, 1978, the Chicago Board Options Exchange, Incorporated (the "CBOE") LaSalle at Jackson, Chicago, Illinois 60604, 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 to amend three rules of the CBOE. First, Rule 3.15(c) would be amended to expand the scope of claims by members that can be satisfied out of the proceeds of the sale of a CBOE membership. Second, Rule 16.3 would be amended to provide that the time during which a suspended member may seek reinstatement by vote of the Membership Committee is six months in the case of a suspension due to operating difficulty, and thirty days in the case of a suspension due to financial difficulty. Finally, certain minor technical amendments would be made to Rule 16.4 to conform it to the proposed changes in Rule 16.3.

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. 34-15432, December 22, 1978) and by publication in the FEDERAL REGISTER (44 FR 1809, January 8, 1979). 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 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. 79-5059 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 10587; 812-4414]

DREYFUS INCOME TRUST (FIRST SHORT TERM SERIES AND SUBSEQUENT SERIES) AND DREYFUS SERVICE CORP.

Filing of Application for an Order of Exemption

FEBRUARY 8, 1979.

Notice is hereby given that The Dreyfus Income Trust (First Short Term Series and Subsequent Series) ("Trust"), a unit investment trust registered under the Investment Company Act of 1940 ("Act"), and its sponsor, Dreyfus Service Corporation ("Sponsor") (Sponsor and Trust collectively referred to as "Applicants"), 600 Madison Avenue, New York, New York 10022, filed an application on Decem-

ber 29, 1978, and amendments thereto on January 25 and February 2, 1979, pursuant to Section 6(c) of the Act for an order of the Commission exempting Trust from compliance with the initial net worth requirements of Section 14(a) of the Act and exempting the secondary market operations of Sponsor from the provisions of Rule 22c-1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Trust previously has filed a registration statement on Form S-6 under the Securities Act of 1933 for units of fractional undivided interest of The Dreyfus Income Trust, First Short Term Series to be offered to investors at a public offering price set forth in the prospectus included in said Registration Statement. The Securities Act Registration Statement for the First Short Term Series was declared effective on January 16, 1979. Securites Act Registration Statements for the Second and Third Short Term Series were filed on January 18, 1979 and January 23, 1979, respectively, but have not yet become effective. The Trust has previously filed a Notification of Registration on Form N-8A and a Registration Statement on Form N-8B-2 under the Act relating to all Series of the Trust. Said Registration Statement on Form N-8B-2 was declared effective on January 16, 1979.

Each Series of the Trust will be governed by a trust agreement ("Agreement") under which the Sponsor (or any succeeding sponsor or sponsors) will act as such, The Bank of New York will act as trustee ("Trustee"), and Interactive Data Services, Inc. will act as evaluators ("Evaluator"). Each Agreement will contain standard terms and conditions of trust common to all Series.

Pursuant to each Agreement, the Sponsor will deposit with the Trustee in excess of $5,000,000 principal amount of certificates of deposit, including contracts and cash for the purchase of certain of such certificates ("Certificates of Deposit"). The Trustee will deliver to the Sponsor a certificate for Units representing the entire ownership of each Series. The Units will then be offered for sale to the public by the Sponsor.

All of the Certificates of Deposit deposited with the Trustee will be certificates of deposit of domestic banks, and London branches of domestic banks, with assets in excess of $3,000,000,000 and having maturities of approximately six months. The Certificates of Deposit will not be pledged or be in any other way subjected to any debt by Applicants at any time after the Certificates of Deposit are deposited with the Trustee.

Each Series will consist of Certificates of Deposit, such Certificates of Deposit as may continue to be held from time-to-time in exchange or substitution for any of the Certificates of Deposit in those cases in which exchange or substitution is required under the circumstances, accrued and undistributed interest and undistributed cash. Certain of the Cerfificates of Deposit may from time to time be sold under the special circumstances set forth in the Agreement or may be redeemed or may mature in accordance with their terms. The proceeds from such dispositions will be distributed to Unitholders and not reinvested. The application states that there is and will be no provision in any Agreement for the sale and reinvestment of the Certificates of Deposit, and that such activity will not take place.

Each Unit for a particular Series will represent a fractional undivided interest in that Series and will be redeemable. In the event that any Unit shall be redeemed, the portion of the fractional undivided interest represented by each Unit outstanding will be increased. Units will remain outstanding until redeemed or until the termination of the Agreement. The Agreement may be terminated by 100% agreement of the Unitholders of the Series. The application states that there is no provision in the Agreement for the issuance of any Units after the initial offering of Units.

Section 14(a)

Section 14(a) of the act requires, in substance, that a registered investment company (a) have a net worth of at least $100,000 prior to making a public offering of its securities, (b) have previously made a public offering and at that time have had a net worth of $100,000 or (c) have made arrangements for at least $100,000 to be paid in by 25 or fewer persons before acceptance of public subscriptions, and that arrangements will be made whereby any amount so paid in, as well as any sales load, will be refunded to any subscriber on demand in the event the net proceeds so received by the company do not result in the company's having a net worth of at least $100,000 within 90 days after its registration statement becomes effective.

Applicants have consented to the entering of an order which is applicable only to any series of the Trust whose Registration Statement under the Securities Act of 1933 is declared effective subsequent to the entering of the above-mentioned order and the Sponsor agrees to hold for the term of the appropriate Series in excess of the $100,000 in Units for each series whose Registration Statement under the Securities Act of 1933 is declared effective prior to the entering of the abovementioned order.

Trust seeks an exemption from the provisions of Section 14(a) in order that it may make a public offering of Units of future Series as described above without complying with the requirements of Section 14(a). In connection with the requested exemption from Section 14(a), Trust represents that at the date of deposit of the Certificates of Deposit for each Series and before any Unit of that Series is offered to the public, each Series will have a net worth in excess of $5,000,000 represented by the market value of the Certificates of Deposit on that date. The application further states that the Sponsor has agreed to refund, on demand and without deduction, all sales charges paid by purchasers of Units in the initial public offering of a Series if, within 90 days from the time that the Registration Statement under the Securities Act of 1933 relating to such Series becomes effective, either (i) the net worth of such Series shall be reduced to less than $100,000, or (ii) the Series shall have been terminated. The Sponsor further agrees, in such event, to refund any sales charge to any purchaser of Units purchased from the Sponsor or any dealer participating in the underwriting on demand and without deduction. Finally, Applicants contend that the intended course of conduct of the Sponsor demonstrates that the creation of the Trust will take place in a responsible way by responsible persons.

Rule 22c-1

Rule 22c-1, adopted pursuant to Section 22(c) of the Act, provides, in pertinent part, that redeemable securities of registered investment companies must be sold, redeemed, or repurchased at a price based on current net asset value (computed on each day during which the New York Stock Exchange is open for trading not less frequently than once daily as of the time of the close of trading on such Exchange) which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. The Sponsor, while it claims it is not obligated to do so, intends to maintain, for a specified time period disclosed in the prospectus for each Series, a market for the Units following the initial public offering period by continuously offering to purchase Units and selling those Units owned by it. These purchases and sales will usually be made at prices equal to the net asset value per unit of the Trust as detemined by the Evaluator once each week. Evaluation will be made at the expense of the Trust. Applicants contend that additional evaluations would be so costly as to

constitute a substantial financial loss to the Trust, and thus the Unitholders.

The Sponsor has undertaken to adopt a procedure whereby the Evaluator, without a formal evaluation, will provide the Sponsor with estimated evaluations on trading days. In the case of a repurchase, if the Evaluator cannot state that the previous Friday's price is at least equal to the current bid price, the Sponsor will order, and the Trust will pay for, a full evaluation which shall determine the repurchase price. In case of resale by the Sponsor, if the Evaluator cannot state that the previous Friday's price is no more than one-half point ($5.00 per $1,000.00 principal amount of underlying certificates of deposit) greater than the current offering price, a full evaluation will be ordered. thus, a Unitholder wishing to sell his Unit will not receive less from the Sponsor than he might have received from the Trust upon redemption, and a purchaser of such Units from the Sponsor will not pay more for a Unit than approximately the current net asset value per Unit.

The secondary market activities of the Sponsor, which may buy Units, and the manner for the acquisition by investors of new Units, may be deemed to violate Rule 22c-1 because of the absence of daily pricing. Applicants submit that the purposes of Rule 22c-1 will not be offended by the Sponsor's secondary market activities. Applicants represent that the pricing of Units by the Sponsor in the secondary market will in no way dilute the assets of the Trust, and that Unitholders will benefit from the Sponsor's pricing procedure in the secondary market, since they will normally receive a higher repurchase price for their Units than they could by redeeming their Units at the current net asset value and that this will be accomplished without the cost burden to the Trust of daily evaluations of the unit redemption value. Applicants also state that speculation in Units of any Series is unlikely because price changes are limited in respect to the kind of Certificates of Deposit which will be held by such Series.

The Applicants represent that until such time as the order is issued, the Sponsor will continue to price daily and otherwise comply with the forward pricing requirements of Rule 22c-1.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provisions of the Act or of any rule or regulation under 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.

Notice is further given that any interested person may, not later than March 5, 1979, 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 Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 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. 79-5080 Filed 2-15-79; 8:45 am]

[8010-01-M]

[File No. 81-414]

ERIE CORP.

Application Pursuant to Section 12(h) of the Securities Exchange Act of 1934 and Opportunity for Hearing

FEBRUARY 6, 1979.

Notice is Hereby Given that Erie Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from the filing requirements of Sections 13, 12(g) and 15(d) of the 1934 Act.

The Application states in part:

(1) The Applicant was an Indiana corporation subject to the reporting provisions of Sections 13, 12(g) and 15(d) of the 1934 Act;

(2) As a result of a reorganization in May 1978, Applicant has only one common stockholder; and

(3) There is no public market for Applicant's securities.

In the absence of an exemption, Applicant is required to file certain reports with the Commission pursuant to Sections 13, 12(g) and 15(d) of the 1934 Act, including an annual report on Form 10-K for the fiscal year ended May 31, 1978. Applicant argues that no useful purpose would be served in filing the required periodic reports.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the office of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than March 5, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interst of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

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. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-5074 Filed 2-15-79; 8:45 am]

[8010-01-M]

[File No. 81-417]

HUNT BUILDING CORP.

Application pursuant to Section 12(h) of the Securities Exchange Act of 1934 and Opportunity for Hearing

FEBRUARY 6, 1979.

Notice is Hereby Given that Hunt Building Corporation, ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from the

filing requirements of Sections 13 and 15(d) of the 1934 Act.

The Application states in part:

(1) The Applicant is a Delaware corporation subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act;

(2) As a result of a merger and offer to purchase in February 1978, Applicant has no common stockholder, and 24 Class A shareholders; and

(3) There is no public market for Applicant's securities.

In the absence of an exemption, Applicant is required to file with the Commission pursuant to Sections 13 and 15(d) of the 1934 Act, an annual report on Farm 10-K for the fiscal year ended August 31, 1978. Applicant argues that no useful purpose would be served in filing the required periodic report.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the office of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than March 5, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

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. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-5075 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 10580; 812-4153]

HUSCO BROADCASTING & ELECTRONICS CORP. AND HUSCO CABLEVISION CORP.

Filing of Application for Order Granting Exemptions From Provisions

FEBRUARY 6, 1979.

Notice is hereby given that Husco Broadcasting and Electronics Corporation ("Company") and Husco Cablevision Corporation ("Subsidiary") (collectively "Applicants"), 31 West Sixth Avenue, Huntington, West Virginia 25701, West Virginia corporations, filed an application on July 7, 1977, and amendments thereto on June 6, 1978 and November 17, 1978, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting Applicants from Sections 8(b), 10, 12(d)(1), 13, 16, 17(h), 18 (except 18(i)), 19, 20, 30, 31, 32 and 34(a) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that until June 1, 1977, Company and Subsidiary, which is wholly owned by Company, were engaged in the business of operating cable television systems in the areas of Huntington and Barboursville, West Virginia. On June 1, 1977, pursuant to agreements entered into on March 7, 1977 ("Agreement"), Applicants sold substantially all their assets to Century Huntington Company ("Century"), a wholly owned subsidiary of Century Communications Corporation, in exchange for $2,500,000 in cash and secured promissory notes ("Notes") in the principal amount of $1,500,000. The Notes bear interest at the rate of 5% per year, payable quarterly beginning September 1, 1977, with principal payable in ten equal, annual, successive installments beginning in 1985. The Notes contain provisions for offsetting claims indemnified by Applicants against payments on the Notes and grant Century first refusal rights in connection with any proposed disposition of a Note. Applicants represent that there is no market for the Notes.

The application states that the only assets of the Applicants are the Notes and $43,000 in cash. Applicants represent that the cash, and principal and interest payments on the Notes, will be distributed to the Company's stockholders to the extent not used to pay expenses of the Applicants, including pending litigation.

Applicants state that Company has only 336 shareholders of record. There is virtually no trading in its shares. Applicants further represent that their certificates of incorporation do not contemplate investment company activity, that they have no security analyst, trading staff or investment department, and that none of their officers or directors is in the investment company or securities business.

Without conceding that Applicants are investment companies as defined in the Act, Applicants request that they be exempted from Sections 8(b), 10, 12(d)(1), 13, 16, 17(h), 18 (except 18(i)), 19, 20, 30, 31, 32 and 34(a) of the Act pursuant to Section 6(c).

SECTIONS 8(b) AND 13

Section 8(b), in substance, requires that every registered investment company file with the Commission a registration statement in such form and containing such information and documents as prescribed by Commission rules and regulations. Section 13 generally makes it unlawful for a registered investment company to change its subclassification under the Act, engage in certain business activities, deviate from its stated investment policy, or change the nature of its business so as to cease to be an investment company unless authorized by a majority of its outstanding voting securities. Applicants assert that the preparation of the registration statement contemplated by Section 8(b) would involve a substantial expense and is not required by the public interest or for the protection of investors since the Company and the Subsidiary have virtually no assets other than the Notes and are not engaged in any activities other than answering telephone calls, communicating with shareholders, paying bills, preparing tax returns and arranging for payments and litigation concerning adjustments under the Notes. Applicants state that the provisions of Section 13 should not apply to them since they will merely hold the Notes and will not be filing a registration statement as required by Section 8(b) of the Act if the requested order is granted.

SECTIONS 10, 16 AND 17(h)

Section 10, as here pertinent, sets forth minimum standards respecting the composition of the board of directors of a registered investment company and limits the circumstances in which an investment company may do business with its directors, officers, and employees or affiliates of such persons. Section 16 sets forth the procedures for the election of directors of a registered investment company and for filling vacancies on the boards of directors of such companies, and requires, among other things, that directors be elected by the holders of the outstanding voting securities of such companies at an annual or special election meeting. Applicants state that because of the limited role of the directors of the Company and the Subsidi-

ary, there is no need and no public interest to be served by imposing on the Company and Subsidiary the expense of either shareholder meetings to elect directors or the burdens of Section 10.

Section 17(h) provides, in part, that no instrument pursuant to which a registered investment company is organized or administered shall contain any provision protecting any director or officer of such company against any liability to the company or to its security holders to which he would otherwise be subject by reason of willful misfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office. Applicants contend that the public interest and protection of investors do not require that they incur the expense or burden of compliance with the restrictions on exculpation in Section 17(h).

SECTIONS 12(d)(1), 18 AND 19

Section 12(d)(1) prohibits a registered investment company in certain circumstances, from acquiring more than a limited interest in another investment company or from selling or otherwise disposing of securities issued by it to another investment company. Section 18 generally prescribes the circumstances under which an investment company may issue senior securities and otherwise organize its capital structure. Applicants represent that although it appears that Section 12(d)(1) would not prohibit the Company from holding shares of the Subsidiary, an exemption should be granted under this section in order to eliminate any question of improper conduct by Applicants. Furthermore, because of the limited role of the Company and Subsidiary, Applicants believe that compliance with the provisions of Section 12(d)(1) and of Section 18 are not required by the public interest or for the protection of investors. Similarly, because the Company and the Subsidiary merely serve as conduits for interest payments, Applicants contend that the restrictions on dividends and other distributions contained in Section 19 are not in the stockholders' interest.

SECTIONS 20, 30, 31, 32 AND 34(a)

Applicants contend that it is appropriate to exempt them from Sections 20, 30, 31, 32 and 34(a) of the Act. Applicants state that in light of the expense that compliance with the rules adopted under Section 20(a) would involve, they should not be required to comply with requirements concerning proxy solicitation. Section 30 requires registered investment companies to file with the Commission and distribute to their shareholders various periodic reports; Section 31 requires that various books and records be maintained by registered investment companies; Section 32 establishes procedures for the selection of accountants; and Section 34(a) prohibits the destruction or falsification of reports and records required to be preserved under the Act. Applicants submit that neither the public interest nor shareholder protection justifies the expense and burden compliance with these recordkeeping requirements would involve, particularly in light of the undertakings agreed to by Applicants as set forth below.

Applicants have agreed, in the event the Commission grants their application, that the Commission's order may be issued subject to the following conditions:

1. Applicants will not pay any remuneration in the future to their officers and directors or any advisory board and will notify the Commission at the time of any changes in their officers or directors.

2. Applicants will not issue any common stocks or senior securities.

3. Applicants will not underwrite securities, purchase or sell real estate or commodities, or make loans or borrow money without the vote of a majority of the outstanding securities of the Company and the Subsidiary: *Provided,* That (a) for purposes of this sentence, acquiring or disposing of the real estate securing the Notes shall not be deemed to involve a purchase or sale of real estate, and (b) the Company and the Subsidiary may borrow funds for current expenses without such vote.

4. Applicants will not engage in any activities except in connection with the collection of principal and interest on the Notes, the exercise of their rights under the Notes, and the liquidation and dissolution of the Company.

5. Applicants will distribute quarterly principal and interest payments received pursuant to the Notes to the extent that the funds received are not required for the payment of current expenses of the Company and Subsidiary.

6. Applicants will notify the Commission at the time of any change in the custody of the Notes, will furnish the Commission with the name and address of any new custodian and will notify the Commission 60 days prior to their selling or otherwise disposing of any of the Notes.

7. Applicants will distribute to the stockholders of the Company each year the federal income tax returns of the Company and the Subsidiary and will file with the Commission their Federal income tax returns, including an unaudited balance sheet and income statement, for each fiscal year commencing with the fiscal year in which such order is issued.

8. Applicants will preserve the records used in preparing such tax returns until the Notes have been paid in full and will permit the Commission to inspect their operations, including their accounts, books and records and custody arrangements established for the Notes and any other of their assets.

9. Applicants annually will furnish the Commission with a list of their stockholders and indicate the persons who own more than 5% of the respective outstanding shares.

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 from any provision or provisions of the Act and rules thereunder if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 2, 1979, 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 Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 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. 79-5068 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Rel. No. 10586; 812-4408]

INA INVESTMENT SECURITIES, INC.

Application

FEBRUARY 8, 1979.

Notice is hereby given that INA Investment Securities, Inc. ("Applicant"), Three Parkway, Philadelphia, PA 19101, a closed-end diversified investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on December 15, 1978, pursuant to Section 6(c) of the Act for an order of the Commission declaring that Dr. Dan M. McGill, a director of the Applicant, shall not be deemed an "interested person" of the Applicant or its investment manager, INA Capital Management Corporation, within the meaning of Section 2(a)(19) of the Act by reason of his status as a trustee of The Northwestern Mutual Life Insurance Company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The application states that Dr. McGill is Chairman of the Insurance Department, Wharton School of the University of Pennsylvania, and has been a director of the Applicant since it was organized in 1972. On May 24, 1978, Dr. McGill was elected a trustee of The Northwestern Mutual Life Insurance Company ("Northwestern"). NML Corporation is a wholly-owned subsidiary of Northwestern. NML Equity Services, Inc. ("Equity"), a wholly-owned subsidiary of NML Corporation, is a broker-dealer registered with the Commission under the Securities Exchange Act of 1934 ("1934 Act"). The application states that Equity's securities activities are limited to the distribution of variable annuity contracts under separate accounts excluded from the definition of "investment company" by virtue of Section 3(c)(11) of the Act and to occasional portfolio transactions for Northwestern and its corporate affiliates.

Section 2(a)(19) of the Act, in pertinent part, defines an interested person of an investment company, and of an investment adviser of an investment company, to include a broker or dealer registered under the 1934 Act or an affiliated person of such broker or dealer. Section 2(a)(3) of the Act, in pertinent part, defines an "affiliated person" of another person to include any person directly or indirectly controlling such other person.

Dr. McGill might, at present, be deemed an "interested person" of both the Applicant and its investment manager as that term is defined in Section 2(a)(19) of the Act if, by virtue of his affiliation with Northwestern, he were deemed to be a controlling person of Northwestern's indirect subsidiary, Equity. Applicant contends, however, that Dr. McGill is not a controlling person of Equity as that term is defined in Section 2(a)(3) of the Act.

Applicant states that Dr. McGill is only one of 30 trustees of Northwestern and is a member of the Trustees' Insurance Product and Marketing Committee. The Insurance Product and Marketing Committee may from time to time consider some of the Northwestern products which are marketed by Equity. In that context, Dr. McGill is one of eight committee members who would be involved in giving consideration to such products. Applicant states that although the Northwestern trustees review and authorize the filing of registration statements covering the variable annuities, matters pertaining directly to Equity occupy a small portion of the trustees' attention. The assets managed by Equity amount to approximately $75,000,000 while the total assets of Northwestern are about 9.6 billion dollars.

Applicant submits that Dr. McGill's position as a trustee of Northwestern or as a member of a committee of the Board of Trustees under the circumstances described should not cause him to be deemed an interested person of Applicant or its investment manager. Applicant also asserts that relief provided by Rule 2a-5 under the Act, which generally states that a person is not an "interested person" of an investment company solely by virtue of his affiliation with a broker if such a broker limits his activities to the distribution of investment company securities, would be available except for Equity's involvement in the distribution of variable annuity contracts under separate accounts which are excluded from the definition of "investment company" under Section 3(c)(11) and in occasional portfolio transactions for Northwestern and its corporate affiliates. Although the technical requirements of Rule 2a-5 are not satisfied, Applicant contends that the requested exemption is consistent with the policy behind the rule.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from the provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than March 5, 1979, 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 Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 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. 79-5071 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 10579; 812-4208]

INSTITUTIONAL LIQUID ASSETS

Filing of Application for Order Rescinding Prior Order of the Commission; Reinstating Application for Exemptions To Enable the Use of Amortized Cost Valuation; Reinstating Prior Temporary Order of Exemption; and Reinstating Order for Hearing

FEBRUARY 6, 1979.

Notice is hereby given that Institutional Liquid Assets ("ILA"),[1] a "money market fund" registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on January 5, 1979, and an amendment thereto on January 12, 1979. The application requests an order pursuant to Sections 6(c) and 38(a) of the Act: (1) Rescinding, as to ILA, the Commission's order of October 26, 1978 (Investment Company Act Release No. 10451), which order (a) permitted ILA and its princi-

[1] ILA, a Massachusetts business trust, succeeded to the business of its predecessor, Institutional Liquid Assets, Inc., a Maryland corporation, on December 31, 1978. Where appropriate, references herein to ILA shall be deemed to refer to such predecessor.

pal underwriter to calculate ILA's per share price to the nearest one cent on a $1.00 share value, and (b) cancelled the hearing previously ordered with respect to ILA's application for exemptions to enable it to utilize amortized cost valuation; (2) reinstating ILA's application for exemptions to enable the use of amortized cost valuation; (3) rcinstating, as to ILA, the Commission's order of November 28, 1977 (Investment Company Act Release No. 10027), which order granted, on a temporary basis, ILA's application for exemptions to enable the use of amortized cost valuation; and (4) reinstating, as to ILA, the Commission's order of April 12, 1978 (Investment Company Act Release No. 10201), which set down for a consolidated hearing, ILA's application for exemptions to enable the use of amortized cost valuation. 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.

ILA states that on May 31, 1977, the Commission published an interpretation (Investment Company Act Release No. 9786) ("Release No. 9786") concerning the valuation of portfolio securities by money market funds in which it expressed, among other things, the view that money market funds should not determine the fair value of short-term debt portfolio securities with remaining maturities of greater than 60 days on an amortized cost basis. ILA further states that, on October 14, 1977, it filed an application for an order, pursuant to Section 6(c) of the Act, exempting it from the provisions of Section 2(a)(41) of the Act, and Rules 2a-4 and 22c-1 thereunder, and exempting its principal underwriter, Salomon Brothers, from the provisions of Rule 22c-1, to enable ILA to calculate its net asset value per share using the amortized cost method of valuation. On November 8, 1977, a notice of the filing of such application was issued (Investment Company Act Release No. 10000), giving interested persons until November 29, 1977, to request a hearing. Subsequent to the filing of requests for hearing on the matter, thc Commission, on November 28, 1977, issued an order (Investment Company Act Release No. 10027) which permitted ILA, on a temporary basis, to use the amortized cost valuation method, subject to certain conditions. Such order was to remain in effect until final disposition of ILA's application, including any judicial review thereof. Twelve other money market funds filed similar applications prior to April 12, 1978, and 11 such funds received similar temporary exemptions. [2]

[2]See Investment Company Act Release Nos. 10027 (November 28, 1977), 10161 (March 17, 1978), and 10190 (April 5, 1978).

On April 12, 1978, the Commission issued an order for hearing on the applications (Investment Company Act Release No. 10201) and, pursuant to Rule 10 of the Commission's rules of practice (17 CFR 201.10), consolidated for hearing the proceedings on all such applications. [3] Prior to the commencement of the hearing, ILA and eight of the other applicant funds in the hearing, entered into, with the companies which had requested the hearing, a Joint Agreement to Amend Applications and to Withdraw Objections Thereto ("Joint Agreement"). Based upon the terms of the Joint Agreement, ILA and the 8 other applicant funds filed amended applications.

ILA states that such amended applications requested orders of the Commission, pursuant to Section 6(c) of the Act, exempting each of the funds from the provisions of Rules 2a-4 and 22c-1 under the Act to permit ILA and the other funds to calculate net assct values per share to the nearest one cent on share values of $1.00 ("penny rounding"). In all other respects, portfolio securities were to be valued in accordance with the views of the Commission expressed in Release No. 9786. ILA's application also requested that Salomon Brothers, ILA's principal underwriter, be exempted from the provisions of Rule 22c-1 under the Act.

On October 26, 1978, the Commission issued an order (Investment Company Act Release No. 10451), pursuant to Sections 6(c) and 38(a) of the Act, (1) granting the amended applications, and (2) cancelling the consolidated hearing previously ordered with respect to such applications.[4] The order also extended the expriation dates of the temporary orders for such periods as was necessary to convert to penny rounding, but in no event beyond February 28, 1979.

ILA states that it is a "money market" fund which offers its shares exclusively to institutional investors, and that it is organized as a series company with two separate portfolios: (1) A Prime Obligations Portfolio consisting primarily of commercial paper, bank certificates of deposit and repurchase agreements, and (2) a Government Portfolio consisting of various types of U.S. Government securities, and further states that its net assets at the close of business on December 31, 1978, were approximately $367 million.

[3]An additional application to use amortized cost valuation was later set down for hearing and consolidated with the aforementioned proceeding. Investment Company Act Release No. 10366 (August 18, 1978).

[4]A hearing was held with respect to the five money market funds involved in the proceeding which were not parties to the Joint Agreement. The evidentiary portion of the hearing concluded on December 20, 1978. Upon the request of the Division of Investment Management, the Administrative Law Judge issued an order on January 25, 1979, reopening the evidentiary hearing for certain limited purposes. The hearing is scheduled to resume on February 8, 1979.

ILA states that, although it reluctantly entered into the Joint Agreement because it considered amortized cost to be a far superior valuation method, it considered penny rounding to be a viable alternative to the amortized cost method of valuation. If further states that, at the time it entered into the Joint Agreement, it believed that penny rounding provided an alternative method whereby ILA could meet its shareholders' objectives of stable net asset value and daily income, commensurate with prevailing money market yields, without the burden and expense of the administrative hearing.

According to the application, on November 29, 1978, ILA issued lengthy proxy materials which disclosed, *inter alia*, that it would be adopting the penny rounding method and that, under such method, a theoretical possibility of a deviation of the net asset value per share from $1.00 per share existed. ILA states that, in response to this information, Barnett Banks Trust Company ("Barnett"), ILA's largest shareholder, informed ILA that the proposed change in valuation and pricing methods would necessitate a redemption of Barnett's shares of ILA. ILA asserts that it could not convince Barnett that penny rounding was comparable to amortized cost valuation and, as a result, Barnett redeemed its entire investment in ILA, $44 million over a three day period. According to the application (1) such redemption represented approximately 10 per cent of ILA's assets, and (2) three additional shareholders have informed ILA that they have various concerns with respect to the penny rounding method, and are considering redeeming their current ILA investments of approximately $51 million. ILA states that these potential redemptions have been forestalled pending resolution of the application it has filed which, if granted, would enable ILA to continue its use of amortized cost valuation.

ILA states that, based upon information it has received, including statements on the record in the above mentioned hearing, it is of the opinion that there is a substantial likelihood that the amortized method of valuation, with appropriate conditions, will become available at some time in the future. According to the application, ILA would adopt the use of, or apply for an exemption to use, the amortized cost valuation method should that method be made available by rule, or by order. ILA states that it has requested relief in order to prevent the confusion and expense of converting to penny rounding and then, shortly

thereafter, converting back to the amortized cost method. ILA also states that the use of penny rounding would place it at a competitive disadvantage with respect to the money market funds participating in the hearing, some of which are continuing to operate under temporary orders permitting the use of amortized cost valuation. ILA states that these reasons have led it to seek the requested relief which, if granted, would, according to ILA, restore ILA to the status it occupied immediately prior to its entry into the Joint Agreement. Thus, ILA requests an order, pursuant to sections 6(c) and 38(a) of the Act: (1) Rescinding, as to ILA, the Commission's order of October 26, 1978 (Investment Company Act Release No. 10451), which order (a) permitted ILA and its principal underwriter to calculate ILA's per share price to the nearest one cent on a $1.00 share value, and (b) cancelled the hearing previously ordered with respect to ILA's application for exemptions to enable it to utilize amortized cost valuation; (2) reinstating ILA's application for exemptions to enable the use of amortized cost valuation; (3) reinstating, as to ILA, the Commission's order of November 28, 1977 (Investment Company Act Release No. 10027), which order granted, on a temporary basis, ILA's application for exemptions to enable the use of amortized cost valuation; and (4) reinstating, as to ILA, the Commission's order of April 12, 1978 (Investment Company Act Release No. 10201), which set down for a consolidated hearing ILA's original application for exemptive relief to enable the use of amortized cost.[5]

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 38(a) of the Act provides, in part, that the Commission shall have the authority from time to time to make, issue, amend and rescind such orders as are necessary or appropriate to the exercise of the powers conferred upon the Commission by the Act.

[5] ILA Also requests emergency temporary relief, without notice or opportunity for hearing, postponing the expiration date of its temporary order permitting the use of amortized cost valuation, should the Commission be unable to act on ILA's application prior to February 28, 1979. It does not appear that there is a necessity to consider this aspect of ILA's application at this time.

ILA submits that the relief it seeks is appropriate and in the public interest, and represents that: (1) Absent the requested order it will be required to change valuation and pricing methods twice within a brief period of time, resulting in expense and confusion to its shareholders; (2) ILA would be placed at a competitive disadvantage if the requested order is not issued because the money market funds which did not enter into the Joint Agreement will be able to use amortized cost valuation while ILA would be required to utilize penny rounding; (3) the requested relief will return ILA to the position which it occupied immediately prior to its execution of the Joint Agreement, the filing of the amended application, and the issuance of the order granting the amended application; (4) there are no interests that would be adversely affected by granting the requested relief; (5) ILA will be subject to the same conditions, upon the use of amortized cost as those other money market funds which chose not to enter into the Joint Agreement and which are using amortized cost valuation pursuant to temporary orders; (6) ILA considers amortized cost to be a far superior valuation method; and (7) ILA's shareholders cannot accept the fluctuations in net asset value per share which may occur under the penny rounding method. Thus, ILA states that the relief it seeks is necessary and appropriate in the puclic 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 February 26, 1979, 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 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. 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.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-5069 Filed 2-15-79; 8:45 am]

[8010-01-M]

[File No. 81-445]

LMF CORP.

Application and Opportunity for Hearing

FEBRUARY 6, 1979.

Notice is hereby given that LMF Corporation (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

Applicant states, that as the result of a merger on November 15, 1978 it became a wholly-owned subsidiary of Diamond International Corporation. Applicant no longer has any publicly held common stock. Accordingly, Applicant believes that the granting of an exemption would not be inconsisitent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, NW., Washington, D.C.

Notice is further given that any interested person not later then March 5, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 1100 L Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-5076 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 34-15557; File No. SR-MCC-79-1]

MIDWEST CLEARING CORP.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, Section 16 (June 4, 1975), notice is hereby given that on February 5, 1979, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED RULE CHANGE

MCC FEE INCREASES

	Old	New	Change
Trade Recording (MCC)			
Other Exchange	.40	.45	+0.05
Odd Lot	.20	.40	+0.20
Specialist (appr. 4% increase):			
1-1,000	.93	.97	+0.04
1,001-2,000	.84	.87	+0.03
2,001-4,000	.75	.78	+0.03
4,001-8,000	.66	.69	+0.03
8,001-over	.57	.59	+0.02
Clearing Corp. Services (MCC)			
Automatic Stock Loan	.0015	[1].0020	+0.0005
Member to Member Stock Loan:			
Receipts	$1.50	$2.00	+0.50
Mandatory	15.00	20.00	+5.00
Request	7.00	8.00	+1.00
Collateral Loan Items:			
Pledge	1.50	2.00	+0.50
Release	1.50	2.00	+0.50
Service Charges			
Participants Account Maintenance Fee/ Month: MCC	100.00	105.00	+5.00

[1] Of DAV.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change is a new Midwest Clearing Corporation ("MCC") pricing schedule that incorporates new price increases as a result of near double digit inflation during 1978, required increases in controls and audit support, and the need for continued product enhancement.

The proposed rule change represents an equitable allocation of reasonable dues among its participants. It also assures prompt and accurate clearance and settlement of security transactions and fosters cooperation and coordination among persons engaged in the clearance and settlement of security transactions by making the Midwest Clearing Corporation more competitive.

The proposed rule change was presented to the MCC Board of Directors and the consensus of the Board was favorable to these changes.

The Midwest Clearing Corporation believes that no burdens have been placed on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission 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, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced above and should be submitted on or before March 9, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 9, 1979.

[FR Doc. 79-5064 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 34-15525/January 25, 1979; File No. SR-MSE-79-1]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 8, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Article XIII, Rule 4 is hereby amended as follows: *Additions Italicized*—[Deletions Bracketed].

SALES COMMUNICATIONS

Rule 4. *(a) Approval by Registered Options Principal. All advertisements and sales literature issued by a member or member organization pertaining to options shall be approved in advance by a general partner or officer of the member organization who is a Registered Options Principal, and copies thereof, together with the names of the persons who prepared the material and, in the case of sales literature, the source of any recommendations contained therein shall be retained by the member or member organization and be kept readily available for examination by the Exchange for a period of three years.*

(b) Standards of Approval. No advertisement or sales literature shall be approved under paragraph (a) of this Rule which:

(i) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(ii) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labeled as forecasts;

(iii) contains hedge clauses or disclaimers which are not easily identifiable, which attempt to disclaim responsibility for the content of such literature or for opinions expressed therein, or which are otherwise inconsistent with such advertisement or sales literature;

(iv) fails to meet general standards of good taste, judgment and truthfulness common to the securities industry;

(v) would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act.

(c) Exchange Approval Required for Options Advertisements. In addition to the approval by a Registered Options Principal required by paragraph (a) of this Rule, every advertisement of a member or member organization pertaining to options shall be submitted to the Department of Member Firms of the Exchange at least ten days prior to use (or such shorter period as the Department may allow in particular instances) for approval and, if changed or expressly disapproved by the Exchange, shall be withheld from circulation until any changes specified by the Exchange have been made and further, in the event of disapproval, until the advertisement has been resubmitted for, and has received, Exchange approval. The requirements of this paragraph shall not be applicable to:

(i) advertisements submitted to and approved by another self-regulatory organization having identical requirements regarding approval of advertise-

ments pursuant to an arrangement approved by the Exchange;

(ii) advertisements in which the only reference to options is contained in a listing of the services of a member organization; and

(iii) advertisements approved within the last six months.

(d) Except as otherwise provided in the Interpretations and Policies hereunder, no written materials respecting options may be disseminated to any person without prior or contemporaneous dissemination to such person of a current prospectus of the Options Clearing Corporation.

(e) Definitions. For purposes of this Rule, the following definitions shall apply:

(i) The term "advertisement" shall include any material that reaches a mass audience through public media such as newspapers, periodicals, magazines, radio, television, telephone recording, motion picture, audio or video device, billboards, signs, or through letters designed for customer mailing not accompanied or preceded by a current prospectus of The Options Clearing corporation.

(ii) The term "sales literature" shall include any communication for distribution to customer or the public (or which may be made accessible to customers or the public) which contains any analysis, report, recommendation, opinion, prediction or comment with respect to options, underlying securities or market conditions, or any seminar text which pertains to options and which is communicated to customers or the public at seminars, lectures or similar such events, or any exchange-produced materials pertaining to options.

Interpretations and Policies * * *

.01 The special risks attendant to options transactions and the complexities of certain options investment strategies shall be reflected in any advertisement or sales literature which purports to diseuss the uses or advantages of options. In the preparation of communications respecting options, the following guidelines should be observed:

A. Any statement referring to the opportunities or advantages presented by options should be balanced by a statement of the corresponding risks. The risk statement should reflect the same degree of specificity as the statement of opportunities, and broad generalities should be avoided. Thus, a statement such as "with options, an investor has an opportunity to earn profits while limiting his risk of loss", should be balanced by a statement such as "Of course, an options investor may lose the entire amount committed to options in a relatively short period of time."

B. It should not be suggested that options are suitable for most investors, or for small investors. Indeed, it is strongly suggested that there be included in all literature discussing the use of options a warning to the effect that options are not for everyone.

C. Statements suggesting the certain availability of a secondary market for options should not be made.

.02 Advertisements pertaining to options shall conform to the following standards:

A. Advertisements may only be used (and copies of the advertisements may be sent to persons who have not received a prospectus of the Options Clearing Corporation) if the material meets the requirements of Rule 134 under the Securities Act of 1933, as that Rule has been interpreted as applying to options. Under Rule 134, advertisements must be limited to general descriptions of the security being offered and of its issuer. Advertisements under this Rule shall state the name and address of the person from whom a current prospectus of the Options Clearing Corporation may be obtained. Such advertisements may have the following characteristics:

(i) The text of the advertisement may contain a brief description of such options, including a statement that the issuer of every such option is the Options Clearing Corporation. The text may also contain a brief deseription of the general attributes and method of operation of the exchange or exchanges on which such options are traded and of The Options Clearing Corporation, including a discussion of how the price of an option is determined on the trading floor(s) of such exchange(s);

(ii) The advertisement may include any statement required by any state law or administrative authority;

(iii) Advertising designs and devices, including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type spaces and lettering as well as attention getting headlines and photographs and other graphics may be used, provided such material is not misleading.

B. The use of performance figures, including annualized rates of return, are not permitted in any advertisement pertaining to options.

.03 Sales literature pertaining to options must be preceded or accompanied by a current prospectus of The Options Clearing Corporation and shall conform to the following standards:

A. Such literature may contain projected performance figures (including projected annualized rates of return in connection with covered call option writing programs) provided that:

(i) no suggestion of certainty of future perfomance is made;

(ii) parameters relating to such performance figures are clearly established (e.g., to indicate exercise price of option, purchase price of the underlying stock and its market price, option premium, anticipated dividends, etc.);

(iii) commissions, transaction costs and interest charges (if applicable with regard to margin transactions) are included in all calculations; and such returns are plausible and are intended as a source of reference or a comparative device to be used in the development of a recommendation;

(iv) any assumptions made in such calculations are clearly identified (e.g., "assume option expires", "assume option unexercised", "assume options exercised," etc.); and

(v) further provided, in the case of literature relating to annualized rates of return, that such returns are not calculated on any more than four (4) consecutive three-month option periods; any formulas used in making calculations are clearly displayed; and a statement is included to the effect that the annualized returns cited might be achieved only if the parameters described can be duplicated.

B. Sales literature featuring records and statistics concerning past recommendations shall include the date of each initial recommendation, the price(s) of such security at that date and at the end of the period when liquidation of the security position(s) was suggested, and the trend of the market during that period. Records and statistics must be confined to a specific "universe", e.g., (i) the work of one research analyst for a period of at least one year; (ii) the work of an entire firm for a period of at least one year; (iii) the results of all accounts under management for a period of at least one year; or (iv) some other clearly definable area which can be fully isolated and circumscribed. All such sales literature shall state that the results presented should not and cannot be viewed as an indicator of future performanee.

C. All sales literature shall state that supporting documentation for any claims, comparisons, recommendations, statistics or other technical data, will be supplied upon request.

[ADVERTISEMENTS, MARKET LETTERS AND SALES LITERATURE RELATING TO OPTIONS

Rule 4. (a) Approval by Registered Options Principal. All advertisements, market letters and sales literature issued by a member or member organization pertaining to options shall be approved in advance by a general partner or officer of the member orgnization who is a Registered Options Principal and copies thereof, together with the names of the persons approving

their issuance, the names of the persons who prepared the material and the source of any recommendations contained therein shall be retained by the member organization and kept readily available for examination by the Exchange for a period of three years.

(b) Standards of Approval. No advertisement, market letter or sales literature shall be approved under paragraph (a) of this Rule which:

(i) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(ii) would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act; or

(iii) otherwise fails to meet the standards of Article XIII of the Rules of the Exchange.

(c) Exchange Approval Required for Options Advertisement. In addition to the approval required by paragraph (a) of this Rule, every advertisement of a member organization pertaining to options shall be submitted to the Department of Member Firms of the Exchange at least ten days prior to use (or such shorter period as the Department may allow in particular instances), and, if expressly disapproved by the Exchange, shall be withheld or withdrawn from circulation until any changes specified by the Exchange have been made and the advertisement resubmitted for Exchange approval. The requirements of this paragraph shall not be applicable to advertisements submitted to and approved by another national securities exchange or national securities association (having similar requirements regarding approval of advertisements) pursuant to an arrangement approved by the Exchange.

(d) Definitions. For purposes of this Rule, the following definitions shall apply:

(i) The term "advertisement" shall include any material for use in any newspaper or magazine or other public media or by radio, telephone recording, motion picture or television.

(ii) The terms "market letter" and "sales literature" shall include any communication for distribution to customers or the public which contains any analysis, report, recommedation, opinion, prediction or comment with respect to options, underlying stocks or market conditions pertaining thereto.

Interpretations and Policies * * *

.01 In addition to adhering to the general standards of truthfulness and good taste prescribed by Rule XIII of the Exchange Rules, the advertisements, market letters and sales literature of Exchange member organizations pertaining to exchange traded options (options contracts issued or to be issued by the Options Clearing Corporation) should reflect the following factors:

I. Exchange traded options are securities registered under the Securities Act of 1933, and are the subject of a currently effective registration statement. Section 5 of the Securities Act prohibits the use of any written material or radio or television advertisements (or other material constituting a "prospectus" as defined in the Act) relating to a registered security unless certain conditions are met. With respect to advertisements and sales literature pertaining to exchange traded options, the following must be observed:

A. Except as provided in paragraph B below, no written material with respect to exchange traded options may be sent to any person unless prior to or at the same time with written material a current prospectus of the Options Clearing Corporation was sent to such person.

B. Advertisement (including letters designed for a customer mailing) may be used (and copies of the advertisements may be sent to persons who have not received a prospectus of the Options Clearing Corporation) if the material meets the requirements of Rule 134 under the Securities Act of 1933, as that Rule has been interpreted as applying to exchange traded options. Under Rule 134 advertisements must be limited to general descriptions of the security being offered and of its issuer. In the case of exchange traded options, advertisements under this Rule must have the following characteristics:

(i) The advertisement should state the name and address of the person from whom a current prospectus of the Options Clearing Corporation may be obtained (this would usually be the member organization sponsoring the advertisement);

(ii) The text of the advertisement may contain a brief description of such options, including a statement that the issuer of every such option is the Options Clearing Corporation. The text may also contain a brief description of the general attributes and method of operation of the exchange or exchanges on which such options are traded and the Options Clearing Corporation, including a discussion of how the price of an exchange traded option is determined on the trading floor(s) of such exchange(s);

(iii) The advertisement may include any statement required by any state law or administrative authority;

(iv) Advertising designs and devices including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type faces and lettering as well as attention getting headlines and photographs and other graphics may be used, provided such material is not misleading.

II. There are special risks attendant to options transactions and certain options transaction involve complex investment strategies. These factors should be reflected in any communication (including advertising sales literature and similar material) which purports to include any discussion of the uses or advantages of exchange traded options. Although it is up to each member organization in preparing its communications concerning such options to take into consideration these factors, the following points of particular importance are presented for the general guidance of members in this regard:

A. Any statement referring to the opportunities or advantages presented by exchange traded options should be balanced by a statement of the corresponding risks. The risk statement should reflect the same degree of specificity as the statement of opportunities, and broad generalities should be avoided. Thus, a statement of opportunities, and broad generalities should be avoided. Thus, a statement such as "With options, an investor has an opportunity to earn profits while limiting his risk of loss," should be balanced by a statement such as "Of course, an options investor may lose the entire amount committed to options in a relatively short period of time."

B. It should not be suggested that options are suitable for most investors, or for small investors. Indeed, it is strongly suggested that there be included for all literature discussing the uses of exchange traded options a warning to the effect that options are not for everybody.

C. Statements suggesting the certain availability of a secondary market for exchange traded options should be avoided. Instead, references to the secondary market should be expressed in such terms as, "The secondary markets on exchanges for exchangee traded options are intended to provide a means for the liquidation of positions in such options."]

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to amend Exchange Article XIII, Rule 4 (concerning advertisements, market letters and sales literature relating to options) to conform with similar proposals of other options exchanges and to reflect uniform policies and standards applicable to options sales communications directed to public investors by Exchange members and member organizations.

As used herein, communications with the public involving options include, in a broad sense, both advertisements and sales literature (as those terms are defined in paragraph (e) of proposed Rule 4). Basically, a communication which meets the standards of an advertisement may be disseminated to the public without a prospectus; sales literature, however, must be preceded or accompanied by a prospectus. The proposed rule sets forth the several procedures and standards which member firms must follow in preparing (and obtaining approval, where required) of options related advertisements and sales literature. In part, the rule incorporates traditional standards of truthfulness and good taste required of non-options marketing material and clarifies certain specific requirements pertaining to exchange-traded options.

While all options exchanges presently have rules similar to Exchange Article XIII, Rule 4, the exchanges have sought to further refine such rules in light of experiences gained since the establishment of their respective options programs. In recognition of the need for uniformity in the area of communications with the public relating to exchange-traded options, representatives of the Amex, CBOE, Midwest Pacific and Philadelphia Exchanges have conducted during the past several months an in-depth review of present rules.

Two of the objectives of the review were: (i) To prepare rule changes which would reflect uniform policies and standards applicable to communications with the public concerning options; and (ii) to prepare an industry-wide publication which would amplify on such rules and assist firms in their preparation of such communications.

In addition to retaining certain specific requirements (such as general standards of truthfulness and good taste discussed above), the proposed rule seeks to: (1) Expand the definitions of the terms "advertising" and "sales literature" (see Rule 4(c)); (2) eliminate, in the case of dual members, the need for approval of advertisements by more than one exchange and permit a firm to submit advertisements to any one exchange in which it maintains a membership for necessary pre-publication approval (see Rule 4(c)); and (3) establish uniform standards to be used in discussion of rates of return, annualized returns, recommendations and performance figures (see Rule 4.02 and Rule 4.03.)

Following Commission approval of the proposed rule change, the options exchanges intend to jointly publish a booklet, tentatively entitled Guidelines for Options Communications, which is designed to assist member firms in maintaining proper standards in their preparation of communications with the public. The booklet will also serve to explain and amplify upon exchange rules relating to option sales communications and ensure a uniform reference source applicable to all firms who communicate with the public respecting options.

The basis for the proposed rule change is found in Section 6(b)(5) of the Act which provides, in pertinent part, that Exchange rules be designed to promote just and equitable principles of trade and protect investors and the public interest.

The Midwest Stock Exchange, Incorporated has neither solicited nor received any comments. However, some dual member organizations have orally indicated that, in certain respects, present rules lack specific standards which the exchanges will employ in approving and commenting upon options-related advertisements and sales literature. They have cited instances where identical advertisements submitted to more than one options exchange have received varying (and sometimes inconsistent) comments which resulted in delays in obtaining publication approval.

The Midwest Stock Exchange, Incorporated believes that no burdens have been placed on competition.

On or before March 23, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 9, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 25, 1979.

[FR Doc. 79-5065 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 34-15554; File No. SR-MSRB-79-1]

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 January 31, 1979 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 proposed amendments to rule G-12 on uniform practice and rule G-15 on customer confirmations (hereafter sometimes referred to as the "proposed rule changes"). The proposed rule changes would make identical changes to the parallel provisions in rules G-12 and G-15 relating to the information to be furnished on confirmations sent to other municipal securities professionals and customers, respectively. The text of the proposed rule changes appears below.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes is as follows:

PURPOSE OF PROPOSED RULE CHANGES

Rules G-12 and G-15 currently require that when a transaction is effected on a yield basis, the dollar price must be calculated to the lowest of price to premium call, price to par option, or price to maturity. Each rule also requires that the yield to maturity be shown on confirmations in such cases. The requirement to show yield to maturity applies even if the securities are priced on the basis of yield to premium call or yield to par option.

The proposed rule changes modify rules G-12 and G-15 to require that the "yield at which transaction was effected" be shown on confirmations, in lieu of the "yield to maturity," when transactions are effected on a yield basis. The Board is of the view that information regarding the yield at which a transaction is actually effected is more meaningful to the contra-

party, whether another municipal securities professional or customer, than information regarding yeild to maturity alone, when yield to maturity is not the basis of the price calculation.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The Board has adopted the proposed rule changes pursuant to the provisions of section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act"), which directs the Board to propose and adopt rules

• • • designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest • • •.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

The Board did not solicit or receive written comments on the proposed rule changes. On June 9, 1978, the Board issued a notice soliciting comments on certain recommendations concerning rule G-15 made to the Board by an Ad Hoc Committee on Callable Securities, consisting of members of the Board and representatives of the industry who are not members of the Board. The recommendations did not directly address the subject of the proposed rule changes. However, in considering the recommendations of the Ad Hoc Committee and the comments received on such recommendations, the Board focused on the requirement in rule G-15 to show yield to maturity when securities are priced on the basis of yield to premium call or par option and determined that it should be changed, as reflected in this filing. The Board determined subsequently that rule G-12 should be similarly modified.

BURDEN ON COMPETITION

The Board does not believe that the proposed rule changes will impose any burden on competition.

On or before March 23, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 9, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 8, 1979.

TEXT OF PROPOSED RULE CHANGES [1]

Rule G-12. Uniform Practice.

(a) Through (b) No change.

(c) Dealer Confirmations.

(i) Through (iv) No change.

(v) Each confirmation shall contain the following information:

(A) Through (H) No change.

(I) *yield at which transaction was effected* [yield to maturity] and resulting dollar price, except in the case of securities which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown (in cases in which securities are priced to premium call or to par option, this must be stated, and where a transaction is effected on a yield basis, the dollar price shall be calculated to the lowest of price to premium call, price to par option, or price to maturity);

(J) Through (N) No change.

(vi) No change.

(d) Through (l) No change.

Rule G-15. Customer Confirmations.

(a) At or before the completion of a transaction in municipal securities with or for the account of a customer, each broker, dealer or municipal securities dealer shall give or send to the customer a written confirmation of the transaction containing the following information:

(i) Through (vii) No change.

(viii) *Yield at which transaction was effected* [yield to maturity] and resulting dollar price, except in the case of securities which are traded on the basis of dollar price or securities sold at par, in which event only dollar price need be shown (in cases in which securities are priced to premium call or to par option, this must be stated, and where a transaction is effected on a yield basis, the dollar price shall be calculated to the lowest of price to premium call, price to par option, or price to maturity);

(ix) Through (xiii) No change.

(b) Through (h) No change.

[FR Doc. 79-5062 Filed 2-15-79; 8:45 am]

[1] Italics indicate new language; [brackets] indicate deletions.

[8010-01-M]

[Release No. 34-15559; File No. SR-NASD-79-1]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, Section 16 (June 4, 1975), notice is hereby given that on January 22, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

TEXT OF PROPOSED RULE CHANGE

The following is the full text of the proposed amendment to Section C.3 of Part I of Schedule D of the Association's By-Laws. Due to the addition of proposed paragraph (b), existing paragraphs (b) through (d) will be redesignated (c) through (e). (New language is indicated by italics.)

Proposed Amendment to Section C.3 of Part I of Schedule D of the Association's By-Laws

C. Level III Service

3. Continuing Qualifications

(b) *Clearance and Settlement—A registered market maker shall clear and settle its transactions through the facilities of a registered clearing agency if clearing facilities are available in the area where the registered market maker is located (as defined by the Board of Governors from time to time.)*

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed amendment to Section C.3 of Part I of Schedule D of the Association's By-Laws, which requires the use of clearing facilities by registered NASDAQ market makers, is to encourage the development of a nationwide system for the execution, clearance, and settlement of securities transactions. In addition to enhancing the efficiency of clearing operations, the proposals will effect substantial savings for members as well as the investing public. The Association's Board of Governors has determined at this time that a registered clearing facility will be considered "available" if located within twenty-

five miles of a registered NASDAQ market maker.

The proposed amendment is consistent with the mandate of Section 17A of the Securities Exchange Act of 1934. Section 17A(a)(2) provides that the Commission shall "facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities" with "due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and maintenance of fair competition among brokers and dealers, clearing agencies and transfer agents."

Eight comment letters were received in response to the NASD's publication of the proposed amendment in a notice to members, Release No. 78-20, dated May 26, 1978. Three of the letters favored the proposal, while five were opposed. For the most part, the comments critical of the proposal were directed at the facilities of the Pacific Clearing Corporation. The comment letters referenced above are attached as an exhibit to the NASD's filing on Form 19b-4A.

NASD believes that the proposed amendment will create a burden on competition to the extent that registered NASDAQ market makers not presently utilizing the facilities of a registered clearing agency will be required to do so under the proposal, should such a facility be located within twenty-five miles of the NASDAQ market maker. The Association believes, however, that, in furtherance of the purposes of the Act, such a burden is necessary and appropriate to improve the efficiency and safety of clearing operations, reduce the overall costs of handling securities transactions and to encourage the establishment of a national clearing system.

The majority of the negative comments regarding the proposal were received from registered NASDAQ market makers who either presently utilize the services of the Pacific Clearing Corporation, or who would be required to utilize Pacific Clearing Corporation facilities under the proposal. As a result of the comment letters, the Association's Board of Governors directed the Uniform Practice Committee to obtain additional information on the rates of the Pacific Clearing Corporation. The Committee subsequently prepared a comparative cost analysis of clearing fees and depository fees which indicated that, for regional firms, the fee structure of the Pacific Clearing Corporation is more economical than that proposed by the National Securities Clearing Corporation. The Board has determined, therefore, that the proposal's contribution to the development of an effective national clearance system far outweighs the aforementioned objections to the mandatory use of clearing facilities by registered NASDAQ market makers. Accordingly, the Association believes that any burden on competition which the proposed amendment may create is necessary and appropriate in furtherance of the purposes of the Act.

On or before March 23, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 9, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 9, 1979.

[FR Doc. 79-5060 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 34-15560; File No. SR-NYSE-79-7]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975) (the "Act"), notice is hereby given that on February 7, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes, and submitted the following statements of terms of substance, purpose and basis under the Act of the proposal:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The proposed rule changes have been filed by the New York Stock Exchange, Inc. ("the Exchange") as amendments to the Exchange's Constitution. Basically, the rule changes would extend from one to two years the term of members of the Exchange's Nominating Committee, which nominates candidates for election to the Exchange's Board of Directors. The eight members of the Nominating Committee would be elected in a staggered fashion, so that four new members would be elected each year. In addition, the rule changes would provide that the chairmanship of the Nominating Committee, which is for a one-year term, shall alternate each year, so that the Chairman is selected in one year from among the public members of the Nominating Committee and in the next year from among those Nominating Committee members who are also members or allied members of the Exchange.

PURPOSE OF PROPOSED RULE CHANGES

The purpose of the proposed changes to the Constitution is to provide for continuity on the Nominating Committee of the Exchange by extending the term of service on the Committee to two years, and by staggering the terms so that only half of the members are elected each year. Also, the amendment prohibits any person from serving more than one year as chairman of the Nominating Committee and provides that the office of chairman will alternate between a representative of the public and a member or allied member of the Exchange. Presently all eight members of the Nominating Committee are elected for one-year terms and are not permitted to succeed themselves. Thus, each year a new Committee must start its work without the benefit of the experience acquired by its predecessors.

The desired continuity will be achieved by electing four Committee members to two-year terms in the May 1979 election. Four other Committee members will be elected to one-year terms. Each year thereafter four Committee members will be elected to two-year terms. As a result, after each future annual election, half the members of the Nominating Committee will have one year's prior experience with the Committee's work and procedures. This system of staggered terms has worked well with the Board of Directors and other Exchange committees.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

The proposed rule changes relate to Section 6(b)(3) of the Securities Exchange Act of 1934 in that they would assure a fair representation of Exchange members in the selection of its Directors and administration of its affairs.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGES

The Exchange has not solicited comments regarding the proposed rule changes and has received none.

BURDEN ON COMPETITION

The Exchange does not believe the proposed rule changes will impose any burden on competition which is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange consents to an extension of the time periods specified in Section 19(b)(2) of the Act until 35 days after the Exchange has filed an appropriate amendment to this filing indicating the completion of all action which is required to be taken under the Exchange Constitution in order to effect this rule change. The Exchange membership is scheduled to vote on the proposal on February 16, 1979.

On or before March 23, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 9, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 9, 1979.

[FR Doc. 79-5063 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 34-15558; File No. SR-OCC-79-2]

OPTIONS CLEARING CORP.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, Section 16 (June 4, 1975), notice is hereby given that on February 5, 1979, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would convert the $10,000.00 "base contribution" to the Clearing Fund currently required of Clearing Members into a minimum requirement, instead of an additional requirement.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to make the $10,000.00 "base contribution" to the Clearing Fund currently required under OCC's Rules a minimum requirement, rather than an additional requirement.

Under Rule 1001 in its present form, each Clearing Member is required to make a $10,000.00 "base contribution" to the Clearing Fund, plus a "variable contribution," redetermined monthly, consisting of the Clearing Member's proportionate share (based on the average size of its positions) of a fund equal to 7% (or such greater percentage as the Board of Directors may from time to time prescribe by resolution) of the average daily value of the positions maintained by all Clearing Members with OCC during the three preceding calendar months.

As of December 31, 1978, the variable portion of the Clearing Fund amounted to $59,812,634.39. OCC has concluded that to require an additional $10,000.00 contribution from each Clearing Member, regardless of the size of the Clearing Member's positions, imposes an unnecessary burden on Clearing Members. If OCC should determine at some future time that the Clearing Fund should be increased, that can be done by fixing the Fund at a higher percentage of open interest value than the current 7%, thereby distributing the additional burden among Clearing Members on an equitable basis.

OCC continues to believe that each Clearing Member should be required to contribute a minimum amount to the Clearing Fund, regardless of the size of its positions. Accordingly, under the proposed rule change, the $10,000.00 "base contribution" requirement would be retained as a minimum requirement, so that each Clearing Member would be obligated to contribute at least $10,000.00 to the Clearing Fund.

The proposed rule change relates to the equitable allocation of reasonable dues, fees and other charges among OCC's Clearing Members.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition.

On or before March 23, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 9, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 9, 1979.

[FR Doc. 79-5061 Filed 2-15-79; 8:45 am]

[8010-01-M]

PACIFIC STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

FEBRUARY 6, 1979.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

The Penn Central Corporation Common Stock, $1.00 Par Value, File No. 7-5074.

Upon receipt of a request, on or before March 6, 1979, from any interested person, the Commission will determine whether the applications with respect to the companies named shall be set down for hearing. Any such request should include a brief statement as to the title of the security in which the person is interested, the nature of his interest in making the request, and the position which he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-5077 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 10583; 811-1840]

PATHFINDER EQUITIES, INC.

Application for an Order Declaring That Company Has Ceased To Be an Investment Company

FEBRUARY 8, 1978.

Notice is hereby given that Pathfinder Equities Inc. ("Applicant"), P.O. Box 2438, Los Angeles, CA 90051, registered as a diversified management investment company under the Investment Company Act of 1940 ("Act"), filed an application pursuant to Section 8(f) of the Act on November 16, 1978, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant was organized as a Delaware corporation and its registration statement under the Act was filed April 30, 1969. The application states that Applicant never undertook operations or acquired any assets. Applicant filed, but thereafter withdrew, a registration statement under the Securities Act of 1933. Applicant has no security-holders. The application states that Applicant is not a party to any litigation or administrative proceedings and that it has no outstanding debts. The application further states that Applicant dos not now and does not propose to engage in any business activities.

Notice is further given that any interested person may, not later than March 5, 1979, 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 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. 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 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. 79-5078 Filed 2-15-79; 8:45 am]

[8010-01-M]

PHILADELPHIA STOCK EXCHANGE, INC.

Applications for Unlisted Trading Privileges and of Opportunity for Hearing

FEBRUARY 6, 1979.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the securities of the companies as set forth below, which securities are listed and registered on one or more other national securities exchanges:

Beatrice Foods Company, $3.38 Series A Cumulative Convertible Preference Stock, $1 Par Value, File No. 7-5073.
UNC Resources, Inc. (Virginia), Common Stock, $.20 Par Value, File No. 7-5075.
Savin Corporation (Delaware), Common Stock, $.10 Par Value, File No. 7-5076.

Upon receipt of a request, on or before March 6, 1979, from any interested person, the Commission will determine whether the applications with respect to the companies named shall be set down for hearing. Any such request should include a brief statement as to the title of the security in which the person is interested, the nature of his interest in making the request, and the position which he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-5079 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 34-15516/January 25, 1979; File No. SR-PHLX 78-23]

PHILADELPHIA STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Propased Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 26,

1978, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change amendment as follows:

EXCHANGE'S STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Philadelphia Stock Exchange, Inc. (PHLX) proposes the adoption of amendments to By-Laws 26-2(2) and 26-2(4) in order to provide a third method by which regular members can qualify for options privileges. The text of the amendments is set forth below. Brackets indicate deletions. Italics indicate new material.

26-2(2) Options Member—A regular member who has qualified for options privileges by *either* the payment of an options fee, [or has acquired] *the acquisition of* a membership for which an options fee has been paid [.] *or the acquisition from the Corporation of a membership held in its treasury for which options privileges have been granted by the Board of Governors without the payment of an options fee.*

26-2(4) Options Privileges—The privilege to deal in options on the Exchange as a floor broker, retail member or specialist or to conduct other Exchange options business, except that members and nonmembers who have not [paid an options fee] *qualified for options privileges* will be entitled to place their trades through members who have [paid an options fee, upon qualificaton for options access] *so qualified.*

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULE CHANGE

The basis and purpose of the foregoing proposed rule change is as follows:

Periodically no regular memberships with options privileges are offered for sale by members or the quote spreads for the options membership market exceed reasonable ranges. There are no authorized and unissued memberships of any classification and memberships held in the Exchange treasury lack options privileges. Under present By-Laws the only way to become an options member is to pay an options privilege fee on a regular membership or to acquire a regular membership on which an options fee has been paid. The amendments will provide a third method for becoming an options member, i.e., the acquisiton from the Exchange of a treasury membership which the latter would be empowered to convert to a membership with options privileges, without payment of a fee. When additional options memberships are required by either new or present members it is in the best interests of the Exchange to meet the demand for expansion of options trading capability among members. The Exchange would exercise such conversion power only so far as necessary to maintain a fair and orderly two-sided market in memberships with options privileges.

Availability of memberships with options privileges through a fair and orderly membership market will tend to enhance market-making capability on the options floor, contribute to market liquidity and competition through addition of off-floor options members, and facilitate the ability of a registered broker-dealer in becoming a member (Section 6(b)(2) of the Act).

No comments have been received from members or others on the proposed amendments, but approval will be solicited from certain persons who paid initial options privileges fees.

The PHLX has determined that the proposed amendment will not impose any burden on competition.

On or before March 23, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commissoin will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission. Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspecton and copying in the Public Reference Room, 1100 "L" Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 9, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 25, 1979.

[FR Doc. 79-5066 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Rel. No. 10581; 812-4404]

SCUDDER CASH INVESTMENT TRUST

Filing of Application for an Order To Amend an Order Previously Issued

FEBRUARY 6, 1979.

Notice is hereby given that Scudder Cash Investment Trust (the "Applicant"), 175 Federal Street, Boston, Massachusetts 02110, a diversified, open-end management investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on December 8, 1978, for an order pursuant to Section 6(c) of the Act that would amend an order, pursuant to Section 6(c) of the Act, previously issued on October 26, 1978 (Investment Company Act Rel. No. 10451) ("October order"), which permitted Applicant, subject to certain conditions, to calculate its net asset value for the purposes of sales, redemptions, and repurchases to the nearest one cent on a share value of $1.00. The amendment would modify certain quality conditions in the October order to permit Applicant to purchase instruments issued by London branches of U.S. banks. All interested persons are referred to the application which is on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund, designed as an investment vehicle for institutional investors requiring a constant net asset value per share, and that its objectives are to maintain the stability of capital and provide current income. Applicant states that it filed an application on October 3, 1977, which was subsequently amended to request an order of the Commission exempting Applicant from the provisions of Rules 2a-4 and 22c-1 to the extent necessary to permit the Applicant to calculate its net asset value to the nearest one cent on a share value of $1.00. Applicant states that the October order was subject to certain conditions, including conditions with respect to the quality of investments. Applicant represents that one such condition prohibits Applicant from investing in instruments of foreign, or foreign branches of domestic, banks and savings and loan associations.

Applicant states its desire to acquire assets which will produce a competitive level of income consistent with the maintenance of a stable and liquid portfolio and a constant net asset value per share. Applicant represents that a greater rate of return may be available on Eurodollar certificates of deposit (dollar denominated deposits in a bank located outside the territory of the United States) than on certifi-

cates of deposit issued by domestic banks. Applicant states that it requests, therefore, that the quality conditions of the October order be modified to the extent necessary to permit substitution of the following condition: "The Fund will not invest in instruments of foreign, or foreign branches of domestic, banks and savings and loan associations, except for instruments of London branches of domestic banks."

Applicant submits that this modification will increase its ability to provide income to its investors without significantly jeopardizing the quality of its portfolio. In addition, Applicant states that its management believes that competing investment companies have the authority to invest in Eurodollar certificates of deposit. Applicant asserts that the requested modification is 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.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision of provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 2, 1979, 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 Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 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. 79-5070 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 10584; 811-2532]

TRANSAMERICA GUARANTEED SHARES, INC.

Application for an Order Declaring That Company Has Ceased To Be an Investment Company

FEBRUARY 8, 1979.

Notice is hereby given that Transamerica Guaranteed Shares, Inc. ("Applicant"), P.O. Box 2438, Los Angeles, CA 90051, registered as an open-end, diversified management investment company under the Investment Company Act of 1940 ("Act"), filed an application pursuant to Section 8(f) of the Act on November 16, 1978, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant was organized as a Maryland corporation and its notification of registration under the Act was dated October 10, 1974. No registration statement was filed by Applicant pursuant to Section 8(b) of the Act. The application states that Applicant never undertook operations of any kind nor acquired any assets. Applicant never filed a registration statement under the Securities Act of 1933 and has no securityholders. The application further states that Applicant is not a party to any litigation or administrative proceedings and that it has no outstanding debts. The application states that it does not now and does not propose to engage in any business activities.

Notice is further given that any interested person may, not later than March 5, 1979, 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 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. 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. 79-5082 Filed 2-15-79; 8:45 am]

[8010-01-M]

[Release No. 10582; 811-2417]

TRANSAMERICA MUNICIPAL SHARES

Application for an Order Declaring That Company Has Ceased To Be an Investment Company

FEBRUARY 8, 1979.

Notice is hereby given that Transamerica Municipal Shares ("Applicant"), 1150 South Olive Street, Los Angeles, CA 90015, registered as a diversified management investment company under the Investment Company Act of 1940 ("Act"), filed an application pursuant to Section 8(f) of the Act on November 16, 1978, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant was organized as a California limited partnership and its notification of registration under the Act was filed September 21, 1973. A registration statement pursuant to Section 8(b) of the Act was never filed. The application states that Applicant never filed a registration statement under the Securities Act of 1933 and has no securityholders. The application states that Applicant is not a party to any litigation or administrative proceedings and that it has no outstanding debts. The application further states that Applicant does not now and does not propose to engage in any business activities.

Notice is further given that any interested person may, not later than

March 5, 1979, 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 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. 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. 79-5081 Filed 2-15-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1565, Amdt. No. 1]

CONNECTICUT

Declaration of Disaster Loan Area

The above numbered Declaration (See 44 FR 6540) is amended by a change in the incidence period for Fairfield, New Haven, and New London Counties, Connecticut from January 21, 1979, to January 21, 1979 through January 25, 1979 for heavy rainfall, melting snow, and flooding. All other information remains the same, i.e., the termination dates for filing applications for physical damage is close of business on March 26, 1979, and for economic injury until the close of business on October 25, 1979.

Dated: February 2, 1979.

HAROLD A. THEISTE,
Acting Administrator.

[FR Doc. 79-5097 Filed 2-15-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1559]

IDAHO

Declaration of Disaster Loan Area

The following county and adjacent counties within the State of Idaho constitute a disaster area as a result of natural disaster(s) as indicated:

County	Natural disaster(s)	Date(s)
Nez Perce	Excessive rain	09/01/78-10/25/78

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 30, 1979, and for economic injury until the close of business on October 30, 1979, at:

Small Business Administration, District Office, 651 U.S. Courthouse, Spokane, Washington 99210

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 30, 1979.

HAROLD A. THEISTE,
Acting Administrator.

[FR Doc. 79-5101 Filed 2-15-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1574]

IOWA

Declaration of Disaster Loan Area

Henry and Scott Counties and adjacent counties within the State of Iowa constitute a disaster area as a result of damage caused by heavy snowfall and blizzard which occurred on January 11, 1979, and January 13, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms, and organizations may file application for loans for physical damage until the close of business on April 5, 1979, and for economic injury until the close of business on November 2, 1979, at:

Small Business Administration, District Office, 210 Walnut Street, Des Moines, Iowa 50309

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 2, 1979.

HAROLD A. THEISTE,
Acting Administrator.

[FR Doc. 79-5098 Filed 2-15-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1552, Amdt. #3]

KENTUCKY

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 59561) and Amendment No. 1 (see 44 FR 2445) and Amendment #2 (see 44 FR 5038) was amended in accordance with the President's declaration of December 12, 1978, to include Larue County in the State of Kentucky. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named county and adjacent counties within the State of Kentucky. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on February 12, 1979, and for economic injury until the close of business on September 12, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: January 10, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-5096 Filed 2-15-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1568]

MISSOURI

Declaration of Disaster Loan Area

The 100 block of Polk Street in the City of Albany, Gentry County, Missouri constitutes a disaster area because of damage resulting from a fire which occurred on December 9, 1978. Applications will be processed under provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 6, 1979, and for economic injury until close of business on November 6, 1979, at:

Small Business Administration, District Office, 12 Grand Bldg. 5th Floor, 1150 Grand Avenue, Kansas City, Missouri 64106

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 6, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-5102 Filed 2-15-79; 8:45 am]

[8025-01-M]

[License No. 05/05-0137]

NATIONAL CITY CAPITAL CORP.

Issuance of a Small Business Investment Company License

On November 29, 1978, a notice was published in the FEDERAL REGISTER (43 FR 55830) stating that an application had been filed by National City Capital Corporation, 623 Euclid Avenue, Cleveland, Ohio 44114, with the Small Business Administration (SBA), pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1978)) for a license as a small business investment company.

Interested parties were given until close of business December 14, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0137 on February 8, 1979, to National City Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 12, 1979.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 79-5095 Filed 2-15-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1575]

NEW JERSEY

Declaration of Disaster Loan Area

Bergen and Morris Counties and adjacent counties within the State of New Jersey constitute a disaster area as a result of damage caused by heavy rains and flooding which occurred on January 20, 1979 through January 24, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 6, 1979, and for economic injury until the close of business on November 5, 1979, at:

Small Business Administration, District Office, 970 Broad Street, room 1635, Newark, New Jersey 07102

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 5, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-5100 Filed 2-15-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1573]

NEW MEXICO

Declaration of Disaster Loan Area

As a result of the President's major disaster declaration I find that Catron, Grant, Hidalgo, Lincoln and Sierra Counties and adjacent counties within the State of New Mexico, constitute a disaster area because of damage resulting from flooding beginning about December 19, 1978. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business of March 30, 1979, and for economic injury until the close of business on October 29, 1979, at:

Small Business Administration, District Office, 5000 Marble Avenue, N.E., Patio Plaza Building, Albuquerque, New Mexico 87110

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: February 7, 1979.

A. VERNON WEAVER,
Administrator.

FR Doc. 79-5103 Filed 2-15-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1571]

NEW YORK

Declaration of Disaster Loan Area

Westchester County and adjacent counties within the State of New York constitute a disaster area as a result of damage resulting from heavy rains, high winds, snow and flooding which occurred on January 19, 1979 through January 25, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 73/8 percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 2, 1979, and for economic injury until the close of business on November 1, 1979 at:

Small Business Administration, District Office, 26 Federal Plaza, room 3100, New York, New York, 10007

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 1, 1979.

HAROLD A. THEISTE,
Acting Administrator.

[FR Doc. 79-5099 Filed 2-15-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area #1577]

RHODE ISLAND

Declaration of Disaster Loan Area

The area of 7-12 Robinson Street in the Wakefield section of the town of South Kingstown, Washington County, Rhode Island, constitutes a disaster area because of damage resulting from a fire which occurred on October 22, 1978. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on April 12, 1979, and for economic injury until the close of business on November 9, 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: February 9, 1979.

WILLIAM H. MAUK,
Acting Administrator.

[FR Doc. 79-5104 Filed 2-15-79; 8:45 am]

[4710-07-M]

DEPARTMENT OF STATE

[Public Notice CM-8/157]

SHIPPING COORDINATING COMMITTEE; SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on fire protection of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10:00 a.m. on Thursday, March 1, 1979, at the Department of Transportation, Room 8236, 400 Seventh Street, SW., Washington, D.C. 20590.

The purpose of the meeting will be to:

Discuss a proposed amendment of Chapter II-2 of SOLAS 1974 which would require the posting of general arrangement plans aboard vessels to aid outside fire fighting teams,

Review the action taken at the Twenty-Second Session of the IMCO Subcommittee on Fire Protection, and

Prepare for the Twenty-Third Session, July 16-20, 1979.

Requests for further information should be directed to Mr. Daniel F. Sheehan, United States Coast Guard, (G-MMT-4/82), telephone number (202) 426-2197.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

FEBRUARY 9, 1979.

[FR Doc. 79-5093 Filed 2-15-79; 8:45 am]

[4710-08-M]

Office of the Secretary

[CM-8/156]

ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW; AD HOC STUDY GROUP ON THE SECOUND INTER-AMERICAN SPECIALIZED CONFERENCE ON PRIVATE INTERNATIONAL LAW

Meeting

A meeting of an Ad Hoc Committee on the Second Inter-American Specialized Conference on Private International Law, a subgroup of the Secretary of State's Advisory Committee on Private International Law, will be held at 9:30 a.m. on Friday, March 2, 1979, in room 1406 of the Department of State. Members of the general public may attend and participate in the discussion subject to instructions of the Chairman.

The purpose of the meeting will be to consider draft conventions to be placed before the Second Inter-American Specialized Conference on Private International Law, to take place in Montevidco, April 23-May 8, and positions that the United States Delegation will take on those Conventions.

Members of the general public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to March 2, 1979, members of the general public who plan to attend the meeting communicate their name, affiliation and address to Ms. Sue Short, Office of the Legal Adviser, Department of State; the telephone number is (202) 632-2678. All non-governmental attendees at the meeting should use the C Street entrance.

Dated: February 9, 1979.

STEPHEN M. SCHWEBEL,
Vice Chairman.

[FR Doc. 79-5117 Filed 2-15-79; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition Docket SA-78-7]

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

In accordance with 49 CFR § 211.41 and § 211.9, notice is hereby given that the Massachusetts Bay Transportation Authority (MBTA) has submitted a waiver petition to the Federal Railroad Administration (FRA) requesting a temporary waiver of compliance with 49 CFR Part 231 (Safety Appliance Standards). That part requires that each passenger and freight car be equipped with handholds and sill steps of prescribed dimensions at specific locations.

The MBTA seeks a temporary waiver of compliance with this part for approximately sixty passenger cars. The passenger cars involved are being leased by MBTA from the Toronto Area Transit Operating Authority (TATA) for a period of two years.

The passenger cars were constructed for TATA by Hawker Siddeley Canada Limited and have been operated successfully by TATA for a period of nearly ten years. Given the design of these passenger cars, which includes wide vestibules located near the end of each car, and the long-term use of these cars by TATA the vehicles were not equipped with vertical handholds as required by § 231.12(b). Furthermore, when the doors of these cars are closed the ability to use the vestibule stairwell as a sill step is impaired.

The MBTA seeks the temporary waiver of compliance with the regulation in order to permit the operation of these pasenger cars without modifying them. The MBTA notes that only a two year period of operation is being contemplated and that at the end of that period the cars will be returned to TATA.

In submittting the request for a waiver the MBTA sought immediate authority to utilize the cars in order to relieve problems of equipment availability associated with existing passenger cars. The Railroad Safety Board (Board) of the FRA, which has been delegated responsibility for determining whether it is appropriate to grant a waiver of compliance, has already responded to the portion of the MBTA request. The Board, after conducting a field investigation concerning this matter, granted the MBTA conditional authority to operate these cars during the period necessary to permit public participation in this proceeding. In deciding to permit the operation of these vehicles during this period the Board concluded that temporary operation of the vehicles was consistent with railroad safety and in the public interest.

Prior to making a decision on the long term operation of these passenger cars, the Board is seeking public comment on this matter. Consequently, interested person are invited to participate in this proceeding by submitting written data, views, or comments.

The Board does not anticipate scheduling a public hearing in connection with this proceeding since the facts do not appear to warrant it. However, a public hearing will be scheduled if requested by an interested person before February 23, 1979.

All communications concering these petitions must identify the appropriate docket number (FRA Waiver Petition Docket No. SA-78-7) and should be submittted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 2100 Second Street, S.W., Washington, D.C. 20590. Communications received before March 15, 1979 will be considered by the FRA before final action is taken. Comments received after that date will be considered to the extent practicable.

Detailed information concerning this proceeding is on file with the Docket Clerk. Any comments received will also be on file. This material is available for examination by the public during regular business hours in Room 4406, Trans Point Building, 2100 Second Street, S.W., Washington, D.C. 20590.

AUTHORITY: Sec. 12, Safety Appliance Acts, as amended (45 U.S.C. 12); Sec. 1.49(c), Regulations of the Office of the Secretary of Transportation (49 CFR § 1.49(c)).

Issued in Washington, D.C. on February 6, 1979.

ROBERT H. WRIGHT,
Acting Chairman, Railroad Safety Board.

[FR Doc. 79-5116 Filed 2-15-79; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

IMPORTATION OF TUNA AND TUNA PRODUCTS FROM COSTA RICA PROHIBITED

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has certified to the Secretary of the Treasury that two United States fishing vessels, while fishing in waters beyond any foreign nation's territorial sea, to the

extent that such sea is recognized by the United States, were seized by Costa Rica as a consequence of a claim of jurisdiction which is not recognized by the United States. Pursuant to section 205(b) of the Act, the Secretary of the Treasury has determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

EFFECTIVE DATE: This prohibition is effective as to tuna and tuna products from Costa Rica imported on or after February 16, 1979. Such importations shall not entered for consumption or withdrawn from warehouse for consumption on or after that date.

FOR FURTHER INFORMATION CONTACT:

Harrison C. Feese, Entry, Examination, and Liquidation Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8651).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving the certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On January 18, 1979, the UNCLE LOUIE and the SEAFOX, fishing vessels of the United States, were seized by authorities of the government of Costa Rica approximately 170 miles off the shore of Costa Rica for fishing tuna without Costa Rican authorization. Costa Rica claims jurisdiction over tuna within 200 miles of its coast. The United States does not recognize this jurisdiction.

Pursuant to section 205(a) of the Act, on February 6, 1979, the Assistant Secretary of State certified the seizure of the UNCLE LOUIE and the SEAFOX, while fishing in waters beyond the jurisdiction of Costa Rica.

DETERMINATION

Under the authority of sections 205 (b) and (c) of the Fishery Conservation and Management Act of 1976, on February 9, 1979, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica (the "country of origin") is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

DRAFTING INFORMATION

The principal author of this document was Laurie Strassberg Amster, Regulations and Legal Publications Division, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Treasury Department participated in its development.

Dated: February 13, 1979.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 79-5121 Filed 2-15-79; 3:41 pm]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 241, Rule 19, 56th Revised Exemption No. 90]

ABERDEEN & ROCKFISH RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

To all railroads: It appearing, That certain of the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR
Camino, Placerville & Lake Tahoe Railroad Company
Reporting Marks: CPLT
City of Prineville
Reporting Marks: COP
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP
Duluth, Missabe and Iron Range Railway Company
Reporting Marks: DMIR
East Camden & Highland Railroad Company
Reporting Marks: EACH
Genessee and Wyoming Railroad Company
Reporting Marks: GNWR
Greenville and Northern Railway Company
Reporting Marks: GRN
Lake Superior & Ishpeming Railroad Company
Reporting Marks: LSI
Lenawee County Railroad Company, Inc.
Reporting Marks: LCRC
Louisiana Midland Railway Company
Reporting Marks: LOAM
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Manufacturers Railway Company
Reporting Marks: MRS
Middletown and New Jersey Railway Company, Inc.
Reporting Marks: MNJ
Missouri-Kansas-Texas Railroad Company
Reporting Marks: BKTY-MKT
New Orleans Public Belt Railroad
Reporting Marks: NOPB
Oregon & Northwestern Railroad Co.
Reporting Marks: ONW
Oregon, Pacific and Eastern Railway Company
Reporting Marks: OPE
Pearl River Valley Railroad Company
Reporting Marks: PRV
Peninsula Terminal Company
Reporting Marks: PT
Raritan River Rail Road Company[1]
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Lawrence Railroad
Reporting Marks: NSL
Sierra Railroad Company
Reporting Marks: SERA
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
The Texas Mexican Railway company
Reporting Marks: TM
Tidewater Southern Railway Company
Reporting Marks: TS
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Vermont Railway, Inc.
Reporting Marks: VTR
WCTU Railway Company
Reporting Marks: WCTR
Youngstown & Southern Railway Company
Reporting Marks: YS

[1]Providence and Worcester Company deleted.

Yreka Western Railroad Company
Reporting Marks: YW

Effective February 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C. January 26, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-5138 Filed 2-15-79; 8:45 am]

[7035-01-M]

[Notice No. 27]

ASSIGNMENT OF HEARINGS

FEBRUARY 13, 1979.

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. MC 104656 (Sub-No. 14F), Mandrell Motor Coach, Inc., now assigned for hearing on April 25, 1979, (3 days), at Eastern Maryland in a hearing room to be later designated.

No. MC 124004 (Sub-No. 45F), Richard Dahn, Inc., now assigned for hearing on May 7, 1979, (2 days), at New York, NY., in a hearing room to be later designated.

No. MC 141369 (Sub-No. 6F), V.I.P. Limousine, Inc., now assigned for hearing on May 9, 1979, (3 days), at New York, NY., in a hearing room to be later designated.

No. MC 123872 (Sub-No. 81F), W & L Motor Lines, Inc., now assigned for hearing on May 8, 1979, (2 days), at Denver, Colorado in a hearing room to be later designated.

No. MC 25869 (Sub-No. 144F), Nolte Bros. Truck Line, Inc., now assigned for hearing on May 14, 1979, (2 days), at Denver, Colorado in a hearing room to be later designated.

No. MC 123407 (Sub-No. 478F), Sawyer Transport, Inc., now assigned for hearing on May 14, 1979, (5 days), at Denver, Colorado in a hearing room to be later designated.

No. MC 76065 (Sub-No. 34F), Ehrlich Newmark Trucking Co., Inc., now assigned for hearing on March 12, 1979 at Philadelphia, Pennsylvania and will be held in U.S. Customs Court Room, 3rd Floor, U.S. Customs House Building.

No. MC 25798 (Sub-No. 347F), Clay Hyder Trucking Lines, Inc., MC 95540 (Sub No. 1025F), Watkins Motor Lines, Inc., MC 111812 (Sub No. 381F), Midwest Coast Transport, Inc., MC 115841 (Sub No. 637F) Colonial Refrigerated Transportation, Inc., MC 124988 (Sub No. 5F), Truck Service Company an Oklahoma Corporation, MC 138875 (Sub No. 91F), Showmaker Trucking Company, MC 140024 (Sub No. 117F), J.B. Montgomery, Inc., MC 140829 (Sub No. 117F), Cargo Contract Carrier Corp., MC 143215 (Sub No. 4F), Cycles Limited, MC 143775 (Sub No. 9F), Paul Yates, Inc., and MC 145059 (Sub No. 3F), Spinelli Bros. Trucking, Inc., now assigned for hearing on March 14, 1979, at Philadelphia, Pennsylvania and will be held in U.S. Customs Court Room, 3rd Floor, U.S. Customs House Building.

No. MC 141369 (Sub-No. 6F), V.I.P. Limousine, Inc., now assigned for hearing on May 9, 1979, (3 days), at New York, New York, in a hearing room to be later designated.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-5137 Filed 2-15-79; 8:45 am]

[7035-01-M]

[ICC Order No. P-16]

ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

Passenger Train Operation

It appearing, That the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Chicago, Illinois, and Laredo, Texas; that the operation of these trains requires the use of the tracks and other facilities of the Missouri-Kansas-Texas Railroad Company (MKT) between Temple, Texas, and Taylor, Texas; that these tracks of the MKT are temporarily out of service because of a derailment; that an alternate route between these points is available via The Atchison, Topeka and Santa Fe Railway Company between Temple, Texas, and Milans, Texas, thence via the Missouri Pacific Railroad Company between Milans, Texas, and Taylor, Texas; that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, (a) Pursuant to the authority vested in me by order of the Commission served December 10, 1976, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 USC § 562(c)), The Atchison, Topeka and Santa Fe Railway Company is directed to permit use of its tracks between Temple and Milans, Texas, by trains of the National Railroad Passenger Corporation.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(d) *Effective date.* This order shall become effective at 11:30 a.m., February 1, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 1:59 p.m., February 1, 1979, unless otherwise modified, changed or suspended by order of this Commission.

It is further ordered, That this order shall be served upon The Atchison, Topeka and Santa Fe Railway Company, and upon the National Railroad Passenger Corporation and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., February 1, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-5139 Filed 2-15-79; 8:45 am]

[7035-01-M]

[Ex Parte No. 241; Rule 19, Exemption No. 157]

BALTIMORE & OHIO RAILROAD CO. ET AL.

Exemption Under Mandatory Car Service Rules

To all railroads:

The railroads named below own numerous open hopper cars for the purpose of transporting substantial volumes of coal and other bulk freight originating on their lines and destined to points on other lines. There are no significant volumes of traffic trans-

ported in similar cars originating on other lines and terminating on these lines which would provide a source of empty hopper cars for return loading. These lines have agreed to refrain from loading hopper cars owned by other lines without the express consent of the car owners even though such use might otherwise be authorized by Car Service Rules 1 and 2. Under these conditions it is imperative that open hopper cars owned by these railroads be returned to the owning railroad empty unless their use is authorized by the car owner.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

(a) Hopper cars listed under the heading "Class 'H' Hopper Car Type" in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, and owned by the railroads named in section (c) below, are exempt from the provisions of Car Service Rules 1(a), 2(a) and 2(b). These cars must be returned empty to the car owner unless their use has been authorized by the car owner.

(b) Railroads named in section (c) below are prohibited from using hopper cars foreign to their line unless their use has been authorized by the car owner.

(c) List of railroads and car reporting marks:

The Baltimore and Ohio Railroad Company
Reporting Marks: B&O
Bessemer and Lake Erie Railroad Company
Reporting Marks: B&LE
The Chesapeake and Ohio Railway Company
Reporting Marks: C&O
Louisville and Nashville Railroad Company
Reporting Marks: L&N-NC-MON
Norfolk and Western Railway Company
Reporting Marks: ACY-N&W-NKP-P&WV-VGN-WAB
Western Maryland Railway Company
Reporting Marks: WM

(d) For the purpose of improving car utilization and the efficiency of railroad operations, or alleviating inequities or hardships, modifications may be authorized by the Chief Transportation Officer of the car owner, or by the Director or Assistant Director of the Bureau of Operations, Interstate commerce Commission. Modifications authorized by the car owner must be confirmed in writing to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for submission to the Director or Assistant Director.

(e) No common carrier by railroad subject to the Interstate Commerce Act shall accept from shipper any loaded hopper car, described in this exemption, contrary to the provisions of the exemption.

(f) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

Effective February 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., January 31, 1979.

JOEL E. BURNS,
Agent.

[FR Doc. 79-5142 Filed 2-15-79; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 24 under Service Order No. 1344]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO.

Rerouting Traffic

In the opinion of Joel E. Burns, Agent, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company is unable to transport promptly all traffic offered for movement via its lines via Kansas City, because of adverse weather conditions and congestion.

It is ordered,

(a) *Rerouting traffic.* The Chicago, Milwaukee, St. Paul and Pacific Railroad Company, being unable to transport promptly all traffic offered for movement via its lines via Kansas City, because of adverse weather conditions and congestion, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree; said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 11:30 a.m., January 31, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 5, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 31, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-5140 Filed 2-15-79; 8:45 am]

[7035-01-M]

[Finance Docket No. 28949F]

CHICAGO & NORTH WESTERN TRANSPORTATION CO.

Trackage Rights Over Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Between Wolsey and Aberdeen in Beadle, Spink, and Brown Counties, S. Dak.

CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY (North Western), 400 West Madison Street, Chicago, IL 60606, represented by Anne E. Valle, Attorney, Chicago and North Western Transportation Company, 400 West Madison Street, Chicago, IL 60606, hereby give notice that on the 26th day of January, 1979, it filed with the Interstate Commerce Commission at Washington, DC, an application under Section 5(2) of the Interstate Commerce Act for a decision approving and authorizing the acquisition of trackage rights over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee Road) between Wolsey and Aberdeen, SD, via Redfield, a distance of 70.6 miles.

North Western presently operates over its own existing trackage between Wolsey and Aberdeen.

Under the proposed trackage rights agreement, North Western would operate over the Milwaukee Road trackage between a point of connection milepost 705.0 at Wolsey to milepost 765.6 at Aberdeen, SD, a distance of 70.6 miles, all in Beadle, Spink and Brown Counties.

In the opinion of the Applicant, the Commission's approval of the trackage right will not have any significant environmental impact and will not adversely affect the quality of the human environment.

The transaction will not significantly affect shippers, receivers or employees of the carriers. No new markets will be served by North Western as a result of this transaction. The transaction will provide a more direct and profitable route for traffic carried by North Western between Wolsey and Aberdeen, SD.

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.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28949F and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the Applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-5145 Filed 2-15-79; 8:45 am]

[7035-01-M]

[Ex Parte No. 241; Rule 19; Exemption No. 158]

PITTSBURGH & LAKE ERIE RAILROAD CO.

Exemption Under Mandatory Car Service Rules

To all railroads:

Because of a strike situation, The Pittsburgh and Lake Erie Railroad Company is unable to furnish shippers gondola cars of suitable ownership to maintain operations thereby threatening to close factories and create substantial economic loss.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19:

The Pittsburgh and Lake Erie Railroad Company is authorized to accept from shippers general service plain gondola cars less than 61-ft., in length and bearing mechanical designations "GA", "GB", "GD", "GH", "GS", and "GT" as listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, regardless of the provisions of Car Service Rules 1 and 2.

It is further ordered, This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

Effective February 1, 1979.

Expires February 6, 1979.

Issued at Washington, D.C., February 1, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-5141 Filed 2-15-79; 8:45 am]

[7035-01-M]

[No. 37088]

PONY EXPRESS COURIER CORP.

Petition for Relief

AGENCY: Interstate Commerce Commission.

ACTION: Decision, granting petition for relief.

SUMMARY: Petitioner, Pony Express Courier Corporation, a motor contract carrier, has requested relief from the requirements of filing with the Commission schedules of actual rates and charges in 49 U.S.C. 10702 (formerly section 218(a) of the Interstate Commerce Act) and copies of actual contracts negotiated with shippers in 49 CFR 1053.6. Thereafter, petitioner would only file schedules of minimum rates and charges. The sought relief is provisionally granted.

DATES: The sought relief is granted and will become effective on or before March 19, 1979: *Provided,* That comments are not filed with the Commission giving sufficient reason for denying the relief.

ADDRESS: Send Comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20424 (202) 275-7693.

SUPPLEMENTARY INFORMATION: The relief sought by petitioner is in connection with its authority under permit No. MC 143691 and sub numbered permits. By those permits, petitioner is authorized to perform courier service for banks. This is a specialized service for a distinct class of shippers. It generally involves the expedited transportation of checks and similar commercial papers, which are picked up at a bank late in the day. These so-called "cash letters" are then delivered to a computer facility, where they are processed during the night. Computer print-outs are then returned to the originating bank before the beginning of the next business day, and the checks are forwarded to a Federal Reserve Bank for collection.

Petitioner provides a range of services and its charges depend on the nature of the service required and the frequency of demand. In some instances, a bank will need the exclusive use of one of petitioner's vehicles.

Petitioner's principal competitor is Purolator Courier Corporation, which is the successor to Armored Carrier Corporation. The latter carrier was granted the same type of exemption sought here by petitioner in *Armored Carrier Corporation Petition for Relief, Section 218(a)*, 303 ICC 781(1958). Purolator has the benefit of the exemption granted Armored, and, as a result, has an advantage over petitioner in competitive bidding. It does not have to disclose the actual rates negotiated with shippers, since it is only required to file schedules of *minimum* rates and charges.

According to petitioner, it has acquired another contract courier, Financial Courier Corporation, which, in docket No. 36009 (decided May 14, 1975), was granted relief from section 218(a). It was granted relief, among

other reasons, so that it would be competitive with Purolator, to the extent of its authority.

Finally, petitioner provides a specialized service for a distinct class of shippers, without any limit on the number of contracts. This constitutes a substantial burden in processing and filing all contracts with the Commission. At present, it has negotiated a total of 24 contracts. In addition, shippers' needs and demands change over a period of time. When this happens, the contracts must be modified, necessitating additional filings.

Dated January 25, 1979.

By the Commission, Division 2, Commissioners Stafford, Brown, and Christain.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-5143 Filed 2-15-79; 8:45 am]

[7035-01-M]

[Docket No. AB-7 (Sub-No. 48)]

STANLEY E. G. HILLMAN, TRUSTEE OF THE PROPERTY OF CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO., DEBTOR

Abandonment Near Woonsocket and Wessington Springs, in Sanborn and Jerauld Counties, SD; Findings

Notice is hereby given pursuant to Section 10903 of the Interstate Commerce Act (formerly Section 1a) (49 U.S.C. 10903) that by a Certificate and Decision decided December 19, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen,* 354 ICC 584 (1978), the present and future public convenience and necessity permit the abandonment by Stanley E.G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, of its line of railroad known as the Woonsocket to Wessington Springs Branch. The line extends from railroad milepost 393.8 near Woonsocket in a westerly direction to railroad milepost 409.0 near Wessington Springs, a distance of 15.2 miles in Sanborn and Jerauld Counties, SD. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company. Since the proceeding is now unopposed, the requirements of § 1121.38(a) of the Regulations that publication of notice of abaondonment decisions in the FEDERICK REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the oferor the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 121.45 of the Regulations). Such documents shall be made available during regulation business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than March 5, 1979. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorized abandonment shall become effective April 2, 1979.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-5144, Filed 2-15-79; 8:45 am]

[7035-01-M]

[Notice No. 26]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 13, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C, and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 19311 (Sub-53TA), filed January 4, 1979. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Representative: Elmer J. Maue, 34200 Mound Road, Sterling Heights, MI 48077. *Paper and paper products,* from Detroit, MI, Port Huron, MI and Buffalo, NY to points in IL, IN, IA, KY, MI, MN, MO, OH, WI, and that portion of NY and PA located west of U.S. Hwy 219 and NY Hwy 78, for 180 days. SUPPORTING SHIPPER(S): Abitibi Paper Company, Ltd., Toronto-Dominion Centre, Toronto, ON, Canada M5K 1B3. SEND PROTESTS TO: Tim Quinn, I.C.C., 604 Federal Bldg. & U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 34227 (Sub-14TA), filed January 11, 1979. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, 15910 East Colfax, Aurora, CO 80011. Representative: James P. Beck, 717-17th Street, Suite 2600, Denver, CO 80202. *Contract carrier,* irregular routes: *Paper and paper products* from the facilities of Simpson Paper Company, at or near Anderson and Ripon, CA to points in AZ, CO, NV, UT and WY for 180 days. RESTRICTION: Restricted to a transportation service under continuing contract with Simpson Paper Company. Applicant filed underlying ETA seeking 90 days authority. SUPPORTING SHIPPER: Simpson Paper Company, Shasta Mill, P.O. Box 634, Anderson CA 96007. SEND PROTESTS TO: D/S Roger Buchanan, ICC, 492 U.S. Customs House, Denver, CO 80202.

MC 51146 (Sub-679TA), filed January 3, 1979. Applicant: Schneider Transport, Inc., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Metal containers* from Mankato, MN to Mullins, SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Continental Can Company, 10050 Regency Circle, Suite 300, Omaha, NE 68114 (Richard Skalla). Send protests to: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Avenue, Rm. 619, Milwaukee, WI 53202.

MC 58923 (Sub-5TA), filed January 4, 1979. Applicant: GEORGIA HIGH-

WAY EXPRESS, INC., 2090 Jonesboro Road, S. E., P. O. Box 6944, Atlanta, Georgia 30315. Representative: William W. West, Georgia Highway Express, Inc., 2090 Jonesboro Road, S.E., P. O. Box 6944, Atlanta, Georgia 30315. Authority sought to operate as a *common carrier*, by motor vehicle, over regular/irregular routes, transporting *General Commodities* (except those of unusual value, Classes A and B Explosives, Household Goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment). (1) Between Chattanooga, TN, and the junction of U.S. Hwy. 70 and U.S. Hwy 27: From Chattanooga, TN, over U.S. Hwy. 27 to the junction of U.S. 70, at or near Rockwood, TN, and return over the same route. (2) Between Knoxville, TN, and Nashville, TN: From Knoxville, TN, over U.S. Hwy. 70 (also, U.S. Hwy. 70N and U.S. Hwy. 70S) to Nashville, TN, and return over the same routes, and between points in Davidson County, TN. (3) Between McMinnville, TN, and Chattanooga, TN: From McMinnville, TN, over over TN Hwy. 8 to Chattanooga, TN, and return over the same route. (4) Between McMinnville, TN, and Dayton, TN: From McMinnville, TN, over U.S. Hwy. 70S to the junction of TN Hwy. 30, then over TN Hwy. 30 to Dayton, TN, and return over the same route. (5) Between Livingston, TN, and the junction of TN Hwy. 42 an U.S. Hwy. 70: From Livingston, TN, over TN Hwy. 42 to the junction of U.S. Hwy. 70, at or near Sparta, TN, and return over the same route. (6) Between Jamestown, TN, and Crossville, TN: From Jamestown, TN, over U.S. Hwy. 127 to Crossville, TN, and return over the same route. (7) Between Jamestown, TN, and Livingston, TN: From Jamestown, TN, over TN Hwy. 52 to Livingston, TN, and return over the same route. (8) Between McMinnville, TN, and Morrison, TN: From McMinnville, TN, over TN Hwy. 55 to Morrison, TN, and return over the same route. Serving all intermediate points on routes (1)-(8), and all points in Cumberland, Dekalb, Putnam, Van Buren, and White Counties, TN, not intermediate on the above regular routes as off-route points in connection therewith. Applicant requests the authority to tack and combine all of the above referenced authority with its authorized operations, and to interline with other carriers, for 180 days. An underlying ETA seeks 90 days authority. There are approximately (32) statements of support attached to this application which may be examined at the I.C.C., in Wash. D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Sara K. Davis, Trans. Asst., I.C.C., 1252 W. Peachtree St., N. W., Rm. 300, Atlanta, GA 30309.

MC 69116 (Sub-215TA), filed December 28, 1978. Applicant: SPECTOR FREIGHT SYSTEM, d/b/a SPECTOR INDUSTRIES, INC., 1050 Kingery Highway, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 S. LaSalle Street, Chicage, IL 60603. *Bodies, hoists, power gates, cranes, rear loaders, front loaders, stationary compactors, tilt frames, containers, OEM components and other commodities and parts and materials, equipment and supplies* used in manufacturing or production of such commodities, between Galion, OH, on the one hand, and, on the other, points in and east of the States of MN, IA, MO, AR, and LA., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Deane E. Eggert, Field Sales Mgr., Peabody Galion Corporation, P.O. Box 607, Galion, OH 44833. SEND PROTESTS TO: Lois M. Stahl Transp. Asst., ICC, Everett KcKinley Dirksen Building, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 74416 (Sub-19TA), filed December 29, 1978. Applicant: LESTER M. PRANGE, INC., Box 1, Kirkwood, PA 17536. Representative: Chester A Zyblut, 366 Executive Building, 1030 Fifteenth Street, N.W., Washington, D.C. 20005 *Iron and steel articles*, between the facilities of Crucible, Inc., Division of Colt Industries, Midland, PA., on the one hand, and, on the other, points in NY, NJ, DE, MD and DC and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Colt Industries, Crucible, Inc., Alloy & Stainless Steel Division, P.O. Box 226, Midland, PA 15059. SEND PROTESTS TO: Charles F. Myers DS, ICC, P.O. Box 869 Federal Building, 228 Walnut Street, Harrisburg, PA 17108.

MC 82492 (Sub-216TA), filed January 3, 1979. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: Dewey R. Marselle (same as above). (1) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds*, (except in bulk, in tank vehicles), *and filters*, from points in Warren County, MS, to points in AR, IL, IN, IA, KY, KS, LA, MI, MN, MO, NE, ND, OH, OK, SD, TN, TX, and WI, (2) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, filters, materials, supplies, and equipment* as are used in the manufacture, sale, and distribution of the commodities named in Part (1) above, (except in bulk, in tank vehicles), from points in IL, IN, KY, OH, OK, NY, PA and WV to points in Warren County, MS. RESTRICTION: Restricted in Parts 1 and 2 above to shipments originating at or destined to the facilities of Quaker State Oil Refining Corporation located in Warren County, MS, for 180 days. SUPPORTING SHIPPER(S): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. SEND PROTESTS TO: C.R. Flemming, I.C.C., 225 Federal Bldg., Lansing, MI 48933.

MC 85970 (Sub-16TA), filed January 2, 1979. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38107. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. *Printed matter and related products*, between the facilities of W.F. Hall Printing Company located at or near Dresden, TN on the one hand, and on the other, points within the continental limits of the United States (all 48 states). Note: Applicant intends to tack the authority here applied for to authority held by it in MC-85970 and subs thereunder. Applicant further intends to interline with other carriers at Memphis, TN, Nashville, TN, St. Louis, MO, Jackson, TN Fulton,KY, Union City, TN, Alamo, TN Trenton, TN and Dyersburg, TN, for 180 days. SUPPORTING SHIPPER(S): W.F. Hall Printing Company, 2071 Evergreen, Dresden, TN 38225. SEND PROTESTS TO: Floyd A. Johnson, I.C.C., 100 North Main Bldg., Suite 2006, 100 North Main Street, Memphis, TN 38103.

MC 95540 (Sub-1056TA), filed November 13, 1978, and published in the FEDERAL REGISTER issue of January 3, 1979, and republished as corrected this issue. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher, 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. *Wearing apparel and store displays, fixtures and supplies*, from Dallas, TX to Tampa, and Orlando, FL and Newnan, GA, for 180 days. There is no environmental impact involved in this application. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): County Seat Stores, P.O. Box 1442, Minneapolis, NM 55440. SEND PROTESTS TO: Donna M. Jones, Transp. Asst., ICC, Monterey Bldg., Suite 101, 8410 NW., 53rd Terrace, Miami, FL 33166. The purpose of this republication is to substitute "Newnan, GA" as a destination in lieu of the city of Atlanta, GA, which was published previously in the application.

MC 97251 (Sub-4TA), filed January 9, 1979. Applicant: TURNER TRUCKING COMPANY, INC., 1215 West Main Street, Lebanon, IN 46052. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN

46204. *Animal feed supplements*, from the facilities of Eli Lilly & Company at Clinton, IN to Indianapolis, IN, for 180 days. SUPPORTING SHIPPER: Eli Lilly & Company, P.O. Box 618, Indianapolis, IN 46206. SEND PROTESTS TO: Beverly J. Williams, Transportation Assistant, Rm. 429. 46 E. Ohio St., Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 99019 (Sub-10TA), filed January 25, 1979. Applicant: KILLIAN-BLACK TRUCKING, INC., 100 Katharine Street, Buffalo, NY 14210. Representative: Robert D. Gunderman, 710 Statler Building, Buffalo, NY 14202. *Flour, in bulk, in tank vehicles*, from Baldwinsville and Buffalo, NY to Detroit, MI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPERS: International Multifoods Corp., 120 Childs Street, Buffalo, NY 14203. Peavey Company, 87 Childs Strect, Buffalo, NY 14203. SEND PROTESTS TO: ICC, 910 Federal Bldg., 111 West Huron Street, Buffalo, NY 14202.

MC 109376 (Sub-11TA), filed January 2, 1979. Applicant: SKINNER TRANSFER CORP., P.O. Box 284, Reedsburg, WI 53959. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Ferrous gates, risers, and scrap castings*, from the facilities of Grede Foundries, Inc., at or near Reedsburg, WI to the facilities of Grede Foundries, at or near Kingsford, MI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Grede Foundries, Inc., 9898 West Bluemound Rd., Milwaukee, WI 53226. SEND PROTESTS TO: Gail Daugherty, Trans. Asst., ICC, Federal Bldg., 517 East Wisconsin Ave., Milwaukee, WI 53202.

MC 111274 (Sub-34TA), filed December 27, 1978. Applicant: SCHMIDGALL TRANSFER, INC., Route 2, Box 356, Morton, IL 61550. Representative: Fred Schmidgall (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Grain drying, handling and storage equipment and components of foregoing on return*, (1) between Assumption, IL, on the one hand, and all points in the United States (except Alaska, Hawaii and Illinois), on the other, (2) from Assumption, IL, to the points of entry on the United States-Canadian boundaries located in NY, MI, MN, ND, MT, WA and ID, under a continuing contract, or contracts, with Grain Systems, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Stephen D. Ruot, Traffic Manager, Grain Systems, Inc., Route 51, Assumption, IL 62510. SEND PROTESTS TO: Charles D. Little, DS, ICC, 414 Leland Office Building, 527 E. Capitol Avenuc, Springfield, IL 62701.

MC 113509 (Sub-10TA), filed January 3, 1979. Applicant: DANTE GENTILINI TRUCKING, INC., 819 Industrial Drive, P.O. Box 387, West Chicago, IL 60185. Representative: Donald S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Building erection equipment normally used in the construction industry*, between the facilities of Waco Scaffold & Shoring Co., at or near Addison, IL, on the one hand, and, on the other, points in AK, IA, IN, KY, KS, MI, MN, MO, OH, PA, TN, and WI, limitcd to a transportation service to be performed under a continuing contract with Waco Scaffold & Shoring Co., for 180 days. SUPPORTING SHIPPER(S): Edwin J. Burk, Vice President, Waco Scaffold & Shoring Co., 450 W. Algonquin Road, Arlington Heights, IL 60005.

MC 114362 (Sub-14TA), filed January 16, 1979. Applicant: ROBERT J. ECKLUND, d/b/a Ecklund Trucking, P.O. Box 151, Kiester, MN 65051. Representative: John B. Van de North, Jr., c/o Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. *Pre-stressed concrete beams and joists* from the facilities of Wells Concrete Products, Inc. at Wells, MN to Kansas City, KS for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Wells Concrete Products Co., Inc., P.O. Box 37, Wells, MN 56097. SEND PROTESTS TO: Delores A. Poe, Transportation Assistant, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minncapolis, MN 55401.

MC 118838 (Sub-39TA), filed December 26, 1978. Applicant: GABOR TRUCKING, INC., Rural Route #4, Box 124B, Detroit Lakes, MN 56501. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58102. *Fiberglass reinforced concrete slabs*, from the facilities of Modulars, Inc., at or near Hamilton, OH, to ports of entry between the United States and Canada located in WA and MT, and to points in King and Spokane Counties, MA, Multnomah County, OR, Ada County, ID, and Sedgwick County, KS. RESTRICTION: Restricted to traffic originating at the facilities of Modulars, Inc., at or near Hamilton, OH, and further restricted against the transportation of commodities which because of size or weight require the use of special equipment, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Modulars, Inc., P.O. Box 216, Hamilton, OH 45011. SEND PROTESTS TO: Ronald R. Mau, DS, ICC, Room 268, Federal Bldg. & U.S. Post Office, 657 2nd Avenue, North, Fargo, ND 58102.

MC 119493 (Sub-248TA), filed December 26, 1978. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, West 20th Street Road, Joplin, MO 64801. Representative: Thomas D. Boone, P.O. Box 1196, Joplin, MO 64801. *Utility boxes, tool boxes, chests, medical cabinets, tools, benches, shelving, and materials and supplies used in the manufacture and distribution*, (except in bulk), Between Waterloo, IA; Sedalia, MO; and Pocahontas, AR, on the one hand, and on the other hand, points in the United States in and East of MT, WY, CO, and NM, restricted to traffic fron and/or to facilities of Waterloo Industries, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Waterloo Industries, Inc., 300 Ansborough, Waterloo, IA 50704. SEND PROTESTS TO: John V. Barry DS, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 121082 (Sub-16TA), filed January 2, 1979. Applicant: ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell, Detroit, MI 48238. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. *General Commodities*, Limited to individual articles not exceeding 100 pounds in wcight moving in shipments not exceeding 500 pounds in weight, from one consignor to one consignee in a single day, between Cincinnati, OH, on the one hand, and on the other, Lexington and Danville, KY, (restricted to traffic moving on bills of lading of surface, interstate freight forwarders), for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): American Delivery Systems, Inc., 300 East Seven Mile, Detroit, MI. (Sharon Makowski, Vice President-Services). SEND PROTESTS TO: Tim Quinn, I.C.C., 604 Federal Bldg. & U.S. Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.

MC 124078 (Sub-923TA), filed January 4, 1978. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Liquid fertilizer*, in bulk, in tank vehicles, from the facilities of Texas Sulphur Products Co., Inc., at or near Ottawa, IL to points in IL, IN, IA, KY, MI, MN, MO, NE, ND, OH, PA, SD and WI, for 180 days. SUPPORTING SHIPPER(S): Texas Sulphur Products Co., Inc., 116 West 6th St., Borger, TX 79007. (Edward A. Krysl, Mgr.). SEND PROTESTS TO: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg.

& Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-924TA), filed January 4, 1979. Applicant: SCHWERMAN TRUCKING COMPANY, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). *Petroleum products, vehicle body sealers, sound deadening compounds & accoustical control items,* in bulk in tank vehicles, from Warren County, MS to ponts in the United States except AK and HI, for 180 days. SUPPORTING SHIPPER(S): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. (J.D. Campell, General Traffic Mgr.) SEND PROTESTS TO: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & U.S. Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 124078 (Sub-925TA), filed January 5, 1979. Applicant: SCHWERMAN TRUCKING COMPANY, 611 South 28th St., Milwaukee, WI 53215. Representative: Richard H. Prevette (same as above). (1) *Dry fertilizer, in bulk or bags and* (2) *Fungicides, herbicides and insecticides in containers,* from the facilities of Swift Agricultural Chemical Corp. at or near Shreveport, LA to Swift Agricultural Chemical Corporation facilities located in TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Swift Agricultural Chemicals Corp., 111 West Jackson Blvd., Chicago, Il 60604. (E. C. Ross, Trans. Mgr.). SEND PROTESTS TO: Gail Daugherty, Trans. Asst., I.C.C., U.S. Federal Bldg. & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 125368 (Sub-40TA), filed January 4, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher, P.O. Box 26, Holly Ridge, NC 28445. *Cheese and cheese spreads,* from the facilities of Fisher Cheese Company, Wapakoneta, OH to points in AL, AR, DE, DC, GA, KY, LA, MD, MS, MI, NJ, NC, OK, PA, SC, TN, TX, VA, and WV, restricted to traffic originating at the above named origin and destined to the above named destination states, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Fisher Cheese Company, 409 Krien Avenue, P.O. Box 409, Wapakoneta, OH. SEND PROTESTS TO: Archie W. Andrews, I.C.C. P.O. Box 26896, Raleigh, NC 27611.

MC 133095 (Sub-230TA), filed January 9, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Plumbers goods and fittings, and materials, supplies, and equipment used in the manufacture and distribution of the foregoing commodities,* from the facilities of American Standard, at New Orleans, LA, to points in AR, OK, NM, and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER: American Standard, Inc., P.O. Box 2003, New Brunswick, NJ 08903. SEND PROTESTS TO: Martha A. Powell, Transportation Assistant, ICC, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 133095 (Sub-231TA), filed January 9, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Rocky Moore (same address as applicant). *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, (except commodities in bulk, in tank vehicles), and filters,* from points in Warren County, MS, to points in U.S., except those in AK, HI, WA, OR, MT, WY, ND, SD, ID, NV, and UT, for 180 days. SUPPORTING SHIPPER: Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. SEND PROTESTS TO: Martha A. Powell, Transportation Assistant, ICC, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 133566 (Sub-128TA), filed December 30, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING, INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, 1 World Trade Center, Suite 4959, New York, NY 10048. *Malt Liquor,* From Trenton, NJ, to points in FL, GA, IA, IL, IN, KS, KY, MI, MN, NE, OH, TN and WI., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Champale, Inc., 1024 Lamberton Street, Trenton, NJ 08611. SEND PROTESTS TO: J. H. Gray DS, ICC, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

MC 134145 (Sub-70TA), filed December 29, 1978. Applicant: NORTH STAR TRANSPORT, INC., Route 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Computer paper,* from Jersey City, NJ; Long Island City, NY; and Manchester, CT; to Merced, CA., under a continuing contract, or contracts, with Control Data Corp., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Control Data Corp., P.O. Box 42-A, Minneapolis, MN 55440. SEND PROTESTS TO: Ronald R. Mau DS, ICC, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 134477 (Sub-315TA), filed January 17, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Malt beverages (except in bulk)* from Trenton, NJ to St. Paul, MN, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): McLean Distributing Co., Inc., 2328 Territorial Road, St. Paul, MN 55114. SEND PROTESTS TO: Delores A. Poe, Transportation Assistant, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 134477 (Sub-316TA), filed January 26, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Cleaning, washing, buffing or polishing compounds, textile softener, lubricants, hypochlorite solution, deodorants or disinfectants, paints, stains or varnishes (except commodities in bulk)* from the facilities of Economics Laboratory, Inc. at or near Avenel, NJ to points in IL, MI, OH, and PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Economics Laboratory, Inc., Osborn Building, St. Paul, MN. SEND PROTESTS TO: Delores A. Poe, Transportation Assistant, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 135070 (Sub-27 TA), filed January 23, 1979. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, 521 S. 14th Street, Lincoln, NE 68501. *Petroleum products* in packages, from the facilities of Texaco, Inc., in Jefferson County, TX to CO and CA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Texaco, Inc., 1111 Rusk, Houston, TX 77052. Send protests to: District Supervisor Haskell E. Ballard, Box F-13206 Federal Building, Amarillo, TX 79101.

MC 135070 (Sub-28 TA), filed January 23, 1979. Applicant: JAY LINES, INC., 720 N. Grant, Amarillo, TX 79120. Representative: Gailyn Larsen, 521 S. 14th Street, Lincoln, NE 68501. *Air conditioning and heating duct work and registers* and equipment, materials, and supplies used in the installation thereof, from the facilities of Goodman Manufacturing Corporation, at or near Houston, TX to points in the United States, except AK and HI, for 180 days. Underlying ETA seeks up to 90 days authority. Supporting shipper(s): Goodman Manufacturing

Corp., 1020 W. Loop North, Houston, TX 77055. Send protests to: District Supervisor Haskell E. Ballard, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 136268 (Sub-17TA), filed December 28, 1978. Applicant: WHITEHEAD SPECIALITIES, INC., 1017 Third Avenue, Monroe, WI 53566. Representative: Michael J. Wyngaard, 150 E. Gilman Street, Madison, WI 53703. *Plastic articles*, from Warren, IL, and Mt. Horeb, WI, to IA and Minneapolis, St. Paul, MN, restricted to traffic originating at the facilities of Janlin Plastics of Wisconsin, Inc., at Mt. Horeb, WI and Janlin Plastics of Illinois, Inc., at Warren, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Janlin Plastics of WI, Inc., 1204 E. Lincoln Street, Mt. Horeb, WI 53572. Send protests to: Gail Daugherty Transp. Asst., ICC, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 136342 (Sub-14 TA), filed January 4, 1979. Applicant: JACKSON & JOHNSON, INC., West Church St., P.O. Box 327, Savannah, NY 13146. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cranberries and cranberry products, grapefruit, grapefruit juice, prunes and prune products, in containers*, from Middleboro, MA and storage facilities controlled by Ocean Spray Cranberries, Inc. in MA and Bordentown, NJ to points in PA on and west of Route 15 and all points in OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ocean Spray Cranberries, Inc., Bridge & Wood St.—P.O. Box 152 Middleborough, MA 02346 (Frank E. Cooper, Northeast Traffic Mgr.). Send protests to: I.C.C., U.S. Courthouse & Federal Bldg., 100 S. Clinton St., Rm. 1259, Syracuse, NY 13260.

MC 138635 (Sub-70TA), filed January 4, 1979. Applicant: CAROLINA WESTERN EXPRESS, INC., Box 3961, Gastonia, NC 28052. *Foodstuffs (except in bulk) when moving in mechanically refrigerated equipment*, from the facilities of Mumford Refrigerated Warehouse, Division of Mumford, Incorporated, at or near Atlanta, GA, to points in AL, DE, LA, MS, NC, SC, TN, WV, and VA, for 180 days. SUPPORTING SHIPPER(S): Mumford Refrigerated Warehouse, 6150 Xavier Dr., Atlanta, GA 30336. SEND PROTESTS TO: Terrell Price, I.C.C., 800 Brair Creek Rd., Rm. CC-516, Mart Office Bldg., Charlotte, NC 28205.

MC 140452 (Sub-14TA), filed December 29, 1978. Applicant: ROSE BROTHERS TRUCKING, INC., 2425 U.S. Business Hwy 41 North, Suite 204, Evansville, IN 47711. Representative: David Konnersman, 5101 Madison Avenue, Indianapolis, IN 46227. *Structural steel and other iron and steel products fabricated for industrial applications and commerical construction*, from the facilities of Interstate Welding & Fabrication, Inc. in Terre Haute, IN to points in IL, MI, OH, and PA, for 180 days. SUPPORTING SHIPPER: Interstate Welding & Fabrication, Inc., 1670 David Avenue, Terre Haute, IN 47802. SEND PROTESTS TO: Beverly J. Williams, Transportation Assistant, Rm. 429, 46 E. Ohio Street, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 142140 (Sub-3TA), filed December 29, 1978. Applicant: CITY TRANSFER & STORAGE OF CONRAD, INC., Box 1432, Conrad, MT 59425. Representative: Eugene D. Riewer, Box 1432, Conrad, MT 59425. *Animal and poultry feed*, (in bulk), from the United States-Canada International Boundary line located at Sweetgrass, MT to Great Falls, Lewistown, Choteau, Belgrade, Hamilton, Billings and Chinook, MT., restricted to foreign commerce, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER (S): Alberta Processing Company, Division of West Coast Reductions, Ltd., Calgary, Alberta, Canada. North Montana Feeders, Choteau, MT. SEND PROTESTS TO: Paul J. Labane DS, ICC, 2602-1st Avenue North, Billings, MT 59101.

MC 143499 (Sub-2TA), filed January 11, 1979. Applicant: DOUBLE NICKEL TRANSPORT LTD., 32 North Lexow Avenue, Nanuet, NY 10954. Representative: John L. Alfano, Esq., 550 Mamaroneck Avenue, Harrison, NY 10580. *Contract carrier*, irregular routes: *Agricultural herbicides, insecticides, and fungicides, (except in bulk, in tank vehicles)*, from the facilities of Ciba-Geigy Corporation, at McIntosh and Mobile, AL, Baton Rouge and St. Gabriel, LA, and Memphis, TN, to points in the states of IL, IN, IA, KS, MD, MN, NE, NJ, NY, OH, TX, and WI, under contract with Ciba-Geigy Corporation of Ardsley, NY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER: Ciba-Geigy Corporation, Ardsley, NY 10502.

MC 143540 (Sub-9TA), filed November 17, 1978, and published in the FEDERAL REGISTER issue of January 8, 1979, and republished, as corrected this issue. Applicant: MARINE TRANSPORT COMPANY, 2321 Burnette Boulevard, P.O. Box 2142, Wilmington, NC 28402. Representative: Jean H. Lewis, 9525 Trojan Court, Richmond, VA 23229. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery ingredients*, from the facilities of Globe Products Company, Inc., at or near Clifton, NJ to points in AL, AR, LA, MS, NC, OK, TN, and TX, under a continuing contract or contracts with Globe Products Company, Inc., for 180 days. SUPPORTING SHIPPER(S): Globe Products Company, Inc., P. O. Box 1927, Clifton, NJ 07015. SEND PROTESTS TO: Archie W. Andrews, ICC, P.O. Box 26896, Raleigh, NC 27611. The purpose of this republication is to add LA., as a destination state which was omitted in the publication.

MC 143651 (Sub-6TA), filed November 22, 1978, and published in the FEDERAL REGISTER issue of January 15, 1979, and republished, as corrected this issue. Applicant: BLACKHAWK EXPRESS, INC., P.O. Box 705, Lake View, IA 51450. Representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, IA 52501. *Potting soil and organic compost*, from LaPorte, IN., to points in Delaware, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Nebraska, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, West Virginia and WI., for 180 days. An underlyint ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Leon Rydberg National Traffic Manager, Green Thumb Company, Division of Ralston Purina, P.O. Box 760, 'Apopka, IL 32703. SEND PROTESTS TO: Carroll Russell DS, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102. The purpose of this republication is to add Minnesota as a destination state which was previously omitted in the application.

MC 144452 (Sub-6TA), filed January 22, 1979. Applicant: ARLEN LINDQUIST, d/b/a Arlen E. Lindquist Trucking, 3242 Old Highway 8, Minneapolis, MN 55415. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58102. *Tires* from (1) Tupelo, MS, Guntersville, AL, Des Moines, IA and Columbus, OH to points in IA, MN, ND, SD, and WI, and (2) from Columbus, OH to points in CO, KS and WY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Vetta Tire, 131 West Burnsville Crosstown, Room 100, Burnsville, MN 55337. Fleetwood Tire West, Inc., Box 6556, Colorado Springs, CO 80934. Dealers United, 131 West Burnsville Crosstown, Room 100, Burnsville, MN 55337. SEND PROTESTS TO: Delores A. Poe, Transportation Assistant, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 145054 (Sub-8TA), filed January 2, 1979. Applicant: COORS TRANSPORTATION CO., 5101 York Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. (1) *Meats, meat products, meat by-products and articles distributed by meat packinghouses (except hides and commodities in bulk) and (2) foodstuffs when moving in mixed loads with articles listed in (1) above,* from the facilities of Oscar Mayer and Co., Inc. at or near Beardstown, IL and Davenport and Perry, IA to points in CA and Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Oscar Mayer & Co., Inc., P.O. Box 7188, Madison, WI 53707. SEND PROTESTS TO: Herbert C. Ruoff, I.C.C., 492 U.S. Courthouse, 721 19th St., Denver, CO 80202.

MC 145783 (Sub-2TA), filed December 29, 1978. Applicant: ALPINE TRANSPORTATION CO., INC., 191 Tenafly Road, Tenafly, NJ 07670. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Urethane foam products, supplies and commodities used in the manufacture thereof,* (excluding commodities in bulk), Between New York, NY and Hackensack, NJ, on the one hand, and, on the other, points in the United States, (excluding AK and HI), under a continuing contract, or contracts, with Mercury Foam Corporation and Mercury Foam Corporation of NJ, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Mercury Foam Corp., 55 Washington St., Brooklyn, NY (2) Mercury Foam Corp. of New Jersey, 214 S. Newman Street, Hackensack, NJ. SEND PROTESTS TO: Joel Morrows DS, ICC, 9 Clinton Street, Newark, NJ 07102.

MC 145855 (Sub-2TA), filed December 27, 1978. Applicant: JOHN RAY TRUCKING COMPANY, INC., P.O. Box 206, Eastaboga, AL 36260. Representative: John W. Cooper, Cooper & Huey, Suite 200, Woodward Bldg., Birmingham, AL 35203. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Pipe, pipe fittings and accessories,* From Anniston and Birmingham, AL, to all points in the United States in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials, equipment and supplies,* From points in the United States in and east of ND, SD, NE, KS, OK, and TX, to Anniston and Birmingham, AL, under a continuing contract, or contracts, with Union Foundry Company, Div., McWane, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Union Foundry Company, Division of McWane, Inc., 2700 Cresthill Road, Anniston, AL 36201. SEND PROTESTS TO: Mabel E. Holston Transp. Asst., ICC, Room 1616, 2121 Bldg., Birmingham, AL 35203.

MC 145858 (Sub-1TA), filed December 27, 1978. Applicant: B & G SUPPLY COMPANY, INC., P.O. Box 748, Albertville, AL 35950. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Rubber and rubber products,* From Guntersville, AL, to points in AZ, CA, ID, KS, MT, NE, NV, NM, OR, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Ashland Petroleum Company, Division of Ashland Oil, Inc., P.O. Box 391, Ashland, KY 41101. SEND PROTESTS TO: Mabel E. Holston Transp. Asst., ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 145879TA, filed December 13, 1978. Applicant: ELDER AND COMPANY, 407 South East 24th Street, Fort Lauderdale, FL 33335. Representative: Charles W. Loe, Jr., 516 Bay Street, Tampa, FL 33606. *Containers,* having a prior or subsequent movement by water, from, to or between the Ports of Miami, Port Everglades (Fort Lauderdale) and West Palm Beach, and between said ports on the one hand, and all points and places in Dade, Broward and Palm Beach Counties, FL, on the other hand, for 180 days. There is no environmental impact involved in this application. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately (11) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Donna M. Jones Transp. Asst., ICC, Room 101, 8410 NW., 53rd Terrace, Miami, FL 33166.

MC 145922 (Sub-1TA), filed January 2, 1979. Applicant: WRIGHT TRUCKING, INC., Rt. 1, Box 116, Coalville, UT 84017. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84017. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Acids and chemicals and products used in the compounding, manufacture and distribution thereof, except commodities in bulk,* between points in CA, NV, UT, ID and WY, under continuing contract or contracts with Chemopharm Company and Dychem International, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Dychem International, 503 North 400 West, Salt Lake City, UT 84103. Chemopharm Company, 503 North 400 West, Salt Lake City, UT 84103. (Fred H. Lieber, Vice President). SEND PROTESTS TO: L. D. Helfer, I.C.C., 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 145934 (Sub-1TA), filed December 28, 1978. Applicant: B & G SUPPLY CO., INC., 589 Great Western Road, P.O. Box 777, Brighton, CO 80601. Representative: C. Vincent Phelps, P.O. Box 439, 25 South 4th Avenue, Brighton, CO 80601. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Oil field treating chemicals and related tools for application,* between points in CO, ND, SD, MT, NE, NM, OK, TX, UT and WY., under a continuing contract or contracts, with Dowell Division of Dow chemical, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Dowell division of Dow Chemical, 815 Metrobank Building, Denver, CO 80231. SEND PROTESTS TO: Roger L. Buchanan DS, ICC, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 145937 (Sub-1TA), filed January 3, 1979. Applicant: CONSOLIDATED DISTRIBUTING COMPANY, 750 South Main St. Tooele, UT 84074. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Authority sought to operate as a *contract carrier,* motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products,* between points in UT, NV, AZ, CA, NM, WA, OR, ID, MT, CO, and WY, under a continuing contract or contracts with Bonus International Corp., and Humboldt Oil Company, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Humboldt Oil Company, 1315 South Carson, Carson City, NV (Jack Thatcher, Mgr.). Bonus International Corp., 2995 South West Temple, Salt Lake City, UT 84115. (Earl L. Tate, Mgr.) SEND PROTESTS TO: L. D. Helfer, I.C.C., 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 145956TA, filed December 27, 1978. Applicant: TRANSMEDIC CARRIERS, INC., 1340 Indian Rocks Road, Belleair, FL 33516. Representative: Paul Meilleur, 1340 Indian Rocks Road, Belleair, FL 33516. *Blood, derivatives of blood, plasma, medical and dental products and materials, equipment and supplies used in connection therewith,* between all points in the United States, (except Alaska and Hawaii), for 180 days. There is no environmental impact involved in this application. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): (1) Cutter Laboratories, 4th & Parker Streets, Berkeley, CA

94710. (2) Armour Pharmaceutical Company, P.O. Box 511, Kankakee, IL. (3) Alpha Therapeutic, 5555 Valley Boulevard, Los Angeles, CA 90032. SEND PROTESTS TO: Donna M. Jones Transp. Asst., ICC, Monterey Building, Suite 101, 8410 N.W., 53rd Terrace, Miami, FL 33166.

MC 145962TA, filed December 27, 1978. Applicant: P.M.E. MOTOR EXPRESS, INC., 1200 N. Galena Avenue, Dixon, IL 61021. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Slag*, (in bulk), for the account of Medusa Cement Company, from Beloit, WI, to Dixon, IL, under a continuing contract, or contracts, with Medusa Cement Company, for 180 days. SUPPORTING SHIPPER(S): Mr. Robert Schaake Plant Manager, Medusa Cement Company, P.O. Box 467, Dixon, IL 61021. SEND PROTESTS TO: Lois M. Stahl Transp. Asst., ICC, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145963TA, filed December 27, 1978. Applicant: NICK MIELE TRUCKING COMPANY, INC., 475 Sonia Avenue, Matawan, NJ 07747. Representative: William J. Augello, 120 Main Street, P.O. Box Z, Huntington, NY 11743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fruit drinks, non-carbonated, liquid, powder and crystal*, (except in bulk, in tank vehicles), and chilled juice, in vehicles equipped with mechanical refrigeration, (except in bulk, in tank vehicles), from Florence, Hightstown and Vincetown, NJ, to points in CT, New York City commercial zone and Suffolk County, NY, York, PA and those points in PA on and east of the Susquehanna River, under a continuing contract, or contracts, with Coca-Cola Co., Foods Divisicn, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Coca-Cola Co., Foods Division, 480 Mercer Street, Hightstown, NJ 08520. SEND PROTESTS TO: John P. Lynn, Transp. Specialist, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 146031TA, filed December 29, 1978. Applicant: JOSEPH MOVING AND STORAGE CO., INC., d/b/a ST. JOSEPH MOTOR LINES, 573 Dutch Valley Road, Atlanta, GA 30324. Representative: Edward J. Kiley, 1730 M Street, N.W., Washington, D.C. 20036. *Printed matter and materials and supplies* used in the production and distribution of printed matter, (except commodities in bulk and commodities requiring special equipment). Betweeen the facilities of R. R. Donnelley & Sons Co., at or near Chicago, and Mattoon, IL, Warsaw and Crawfordsville, IN, Glasgow, KY, Willard, OH, Lancaster, PA and Gallatin, TN, on the one hand, and, on the other points in the United States in and east of MN, IA, MO, OK and TX, (except ME, VT, MA, CT and RI), for 180 days. SUPPORTING SHIPPER(S): R. R. Donnelley & Sons Company, 2223 South King Drive, Chicago, IL 60616. SEND PROTESTS TO: Sara K. Davis, Transp. Asst., ICC, 1252 W. Peachtree St., N.W., Room 300, Atlanta, GA 30309.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-5129 Filed 2-15-79; 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

[6320-01-M]

1

[M-194 Amdt. 1; Feb. 9, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the February 15, 1979 agenda.

TIME AND DATE: 9:30 a.m., February 15, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 9a. Freedom of Information Act request by Mr. Levin, an attorney representing Viking Travel of New York, to inspect inactive investigative files concerning alleged rebating in the New York Ethnic Tour Market (Memo No. 8510, OGC, BCP).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 9a is a Freedom of Information Act appeal on which Board action is required at the next meeting to satisfy the requester's need for a Board determination on a timely basis. While most staff work was completed by Tuesday, February 6, 1979, final OGC clearance was not obtained until Friday morning, February 9, 1979. Accordingly, the following members have voted that agency business requires the addition of item 9a to the February 15, 1979, agenda and that no earlier announcement of this addition was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-315-79 Filed 2-14-79; 10:34 am]

[6320-01-M]

2

[M-195 Feb. 13, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., February 20, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Maryland Department of Transportation to make a presentation to familiarize the Board with Maryland's efforts to develop air service at Baltimore-Washington International Airport and the State's view of BWI's role within the Washington/Baltimore region.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-316-79 Filed 2-14-79; 10:34 am]

[6351-01-M]

3

COMMODITY FUTURES TRADING COMMISSION:

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, No. 28, Thursday, February 8, 1979, p. 8098.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: February 16, 1979, 11 a.m.

CHANGES IN THE MEETING: Canceled.

[S-325-79 Filed 2-14-79; 3:26 pm]

[6351-01-M]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., February 21, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Commission Quarterly Review, first quarter, fiscal year 1979.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-326-79 Filed 2-14-79; 3:26 pm]

[6351-01-M]

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., February 21, 1979.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters/proposed injunctive proceeding; review of staff denial of petition for confidential treatment of portions of a pending application for designation as a contract market.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-327-79 Filed 2-14-79; 3:26 pm]

[6570-06-M]

6

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, February 20, 1979.

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:

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 February 13, 1979.

[S-319-79 Filed 2-14-79; 11:34 am]

[6712-01-M]

7

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, February 14, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following item has been deleted:

Agenda, Item Number, and Subject

Assignment and Transfer—1—Assignment of KFMK, Houston, Tex., from Liberty Communications Corp. to First Media Corp., (BALH-2731, BASCA-909).

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone number (202) 632-7260.

Issued: February 12, 1979.

[S-320-79 Filed 2-14-79; 2:34 pm]

[6712-01-M]

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, February 14, 1979.

PLACE: Room 856, 1919 M Street, NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following items have been deleted:

Agenda,—Item Number, and Subject

Common Carrier—3—Transatlantic communications facilities construction and use plan [1] submitted by the U.S. International Service Carriers on December 15, 1978, in Docket No. 18875.

Broadcast—1—Petition for rule making (RM-2830), filed by the National Association of Broadcasters, to permit rebroadcast of CB and amateur transmissions of emergency information.

Complaints and Compliance—3—Response of KIFW (AM and TV), Sitka, Alaska, to a Notice of Apparent Liability.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone number (202) 632-7260.

Issued: February 14, 1979.

[S-321-79 Filed 2-14-79; 2:34 pm]

[1] This item is rescheduled for a Special Meeting, Wednesday, February 21, 1979, at 9:30 a.m.

[6712-01-M]

9

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, February 14, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following the open meeting which is scheduled to commence at 9:30 a.m.

CHANGES IN THE MEETING: The following item has been deleted:

Agenda, Item Number, and Subject

Complaints and Compliance—1—Field investigaton into the operation of radio stations WDAS and WDAS-FM, Philadelphia, Pa.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone number (202) 632-6410.

Issued: February 14, 1979.

[S-322-79 Filed 2-14-79; 2:34 pm]

[6720-01-M]

10

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., February 21, 1979.

PLACE: 1700 G Street, N.W., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Franklin O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED: Consideration of Regulation Regarding Interstate Branching.

Application filed by Overland Park Financial Corporation, Kansas City, Missouri, for Proposed Acquisition of Overland Park Savings and Loan Association, Overland Park, Kansas.

Application filed by Kaneb, Inc., Houston, Texas, to acquire Southwestern Group Financial, Inc., Sugar Land, Texas.

Consideration of Assessment of Federal Home Loan Banks—January 1, 1979 to June 30, 1979.

Consideration of Withdrawal from Bank Membership—Cherry Grove Savings and Loan Company, Cherry Grove, Ohio.

Branch Office Application—Beacon Federal Savings and Loan Association, Baldwin, New York.

Application for Extension of Time to Open Satellite Office—First Federal Savings and Loan Association of Madison, Madison, Wisconsin.

Satellite Office Application—First Federal Savings and Loan Association of Redding, Redding, California.

Branch Office Application—First Federal Savings and Loan Association of Fox Valley, Fond du Lac, Wisconsin.

Branch Office Application—Charleroi Federal Savings and Loan Association, Charleroi, Pennsylvania.

Branch Office Application—Home Federal Savings and Loan Association of San Diego, San Diego, California.

EFTS-RSU Application—Portland Federal Savings and Loan Association, Louisville, Kentucky.

Concurrent Consideration of: 1) Insurance of Accounts Application—La Hacienda Savings and Loan Association, San Diego, Texas; and, 2) Branch Office Application—Security Federal Savings and Loan Association, Alice, Texas.

Branch Office Application—York Federal Savings and Loan Association, York, Pennsylvania.

Branch Office Application—Santa Fe Federal Savings and Loan Association—San Bernardino, California

Limited Facility Application—Mid-America Federal Savings and Loan Association, Tulsa, Oklahoma.

Bank Membership and Insurance of Accounts Applications—Grand Prairie Savings and Loan Association, Stuttgart, Arkansas.

Consideration of Report to the Bank Board on Proposed Amendments to the Liquidity Regulations.

No. 217, February 14, 1979.

[S-323-79 Filed 2-14-79; 2:35 pm]

[6210-01-M]

11

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, February 21, 1979.

PLACE: 20th Street and Constitution Avenue N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed discontinuance of the Monthly Supplement to the Survey of Terms of Bank Lending to Business (FR 2028C).

2. Proposed amendment to Regulation BB (Community Reinvestment) to implement a portion of the Financial Institutions Regulatory and Interest Rate Control Act relating to financial institutions that serve predominantly military personnel. (Proposed earlier for public comment; Docket No. R-0192).

3. Proposed amendments to the Board's Rules Regarding Public Observation of Meetings.

4. Report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of

The Eastern Ohio Bank, Morristown, Ohio, and The Community Savings Bank Company, Yorkville, Ohio.

5. Report to the Comptroller of the Currency regarding the competitive factors involved in the proposed merger of The Citizens First National Bank of Greene County, Xenia, Ohio, and The Third National Bank and Trust Company of Dayton, Dayton, Ohio.

DISCUSSION AGENDA

1. Proposed amendment to Regulation Y (Bank Holding Companies) to permit bank holding companies to engage in the sale at retail, of money orders and similar variable denominated instruments, travelers checks, U.S. Savings Bonds, financial management courses, and other educational materials dealing with financial matters. (Proposed earlier for public comment; Docket No. R-0145).

2. Proposed policy statement on supervision of foreign bank holding companies.

3. Any agenda items carried forward from a previously announced meeting.

NOTE.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: (202) 452-3204.

Dated: February 14, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-318-79 Filed 2-14-79; 11:34 am]

[6730-01-M]

12

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., February 21, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

1. Agreement No. 10160-1: Application for extension of the Polarctic Joint Service Agreement for three years.

2. Agreement No. 10347: Cooperative working arrangement between Deutsche Dampfschifffahrts-Gesellschaft "Hansa" and Nedlloyd Lijnen B.V.

3. Advance Notice of Proposed Rulemaking Dealing with Improvements in Prehearing and Discovery Procedures.

4. Docket No. 78-50: Petitions for Declaratory Order—Consideration of the Record.

PORTIONS CLOSED TO THE PUBLIC

1. Docket Nos. 75-57 and 76-43: Matson Navigation Company—Proposed Rate Increases in the United States Pacific Coast/Hawaii Domestic Offshore Trade—Petitions for Reconsideration of the Final Decisions.

2. Docket No. 77-18: Seatrain Gitmo, Inc.—Rates on Government Cargo—and No. 77-38: Sea-Land Service, Inc.—Rates on Government Cargo—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5727.

[S-317-79 Filed 2-14-79; 10:34 am]

[8010-01-M]

13

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of February 19, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

Open meetings will be held on Wednesday, February 21, 1979, at 10 a.m., and at 2:30 p.m. Closed meeting will be held on Wednesday, February 21, 1979, following the 2:30 p.m. open meeting and on Thursday, February 22, 1979, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans and Pollack determined to hold the aforesaid meetings in closed session.

The subject matter of the open meeting scheduled for Wednesday, February 21, 1979, will be:

1. Consideration of whether to issue a release requesting comment on a proposal (1) to adopt Rule 17e-2 under the Investment Act of 1940 that would deem remuneration received by affiliated brokers for transactions on a securities exchange which is reasonable and fair (compared to that received by other persons in comparable transactions) as not exceeding the usual and customary broker's commission allowed under section 17(e) of the Investment Company Act of 1940, and (2) to rescind Rule 17e-1 under the Investment Company Act of 1940, which exempts affiliated brokers from certain statutory limitations on remuneration in effecting over-the-counter transactions. For further information, please contact Mark B. Goldfus at (202) 755-0230.

2. Consideration of a request by Amswiss International Corp. that the Commission either (1) concur in an interpretation that Amswiss, under certain circumstances, would not be deemed a "third market maker" for purposes of rule 11Ac1-1 under the Securities Exchange Act of 1934 or (2) grant Amswiss an exemption from the rule, pursuant to paragraph (d) thereof, relieving it of the obligation to communicate quotation information to the National Association of Securities Dealers, Inc. for dissemination to quotation vendors. For further information, please contact Stephen L. Parker at (202) 755-8949.

3. Consideration of whether to authorize an interpretive release on accounting changes by oil and gas producers, and (2) whether to withdraw the supplemental disclosure requirements for oil and gas producers who follow the full cost method of accounting which were proposed in Securities Act Release No. 5968 (August 31, 1978). For further information, please contact James L. Russell at (202) 755-0222.

4. Consideration of a voluntary plan of reorganization and amendments thereto filed, pursuant to Section 11(e) of the Public Utility Holding Company Act of 1935, by Eastern Utilities Associates, a registered holding company and its three operating subsidiaries, Brockton Edison Co., Fall River Electric Light Co. and Blackstone Valley Electric Co. For further information, please contact Grant G. Guthrie at (202) 523-5156.

5. Consideration of whether to issue a release responding to certain letters received by the Division of Corporation Finance requesting its interpretation of specific provision of the management remuneration disclosure requirements as set forth in regulation S-K, item 4. For further information, please contact Steven J. Paggioli at (202) 376-8090.

The subject matter of the open meeting scheduled for Wednesday, February 21, 1979 at 2:30 p.m. will be:

The Commission will hear oral argument on an appeal by Frank DeFelice, Ph. D. and Associates, Inc. and Dr. DeFelice from disciplinary action taken against them by the National Association of Securities Dealers, Inc.

The subject matter of the closed meeting scheduled for Wednesday, February 21, 1979, following the 2:30 p.m. open meeting will be:

Post oral argument discussion.

The subject matter of the closed meeting scheduled for Thursday, February 22, 1979, at 10 p.m. will be:

Access to investigative files by Federal, State, or Self-Regulatory Authorities.
Access to investigative files by Federal, State or Self-Regulatory Authorities and litigation matter.
Formal orders of investigation.
Settlements of injunctive actions.
Other litigation matters.
Institution of administrative proceedings of an enforcement nature.
Order compelling testimony.

FOR FURTHER INFORMATION, CONTACT:

Mike Rogan at (202) 755-1638.

Dated: February 13, 1979.

[S-324-79 Filed 2-14-79; 3:00 pm]