

federal register

Wednesday
November 19, 1980

Highlights

- 76505 Grant Programs—Education** ED invites applicants for new projects under the Program of Research Grants on Organizational Processes in Education; preapplications by 12-11, 4-9, 8-13-80 or 12-10-81 and applications by 12-11-80 or 4-9-81
- 76507 Guaranteed Student Loan Program** ED announces a special allowance at an annual rate of 6% percent will be paid to holders of eligible loans
- 76534 Community Development Block Grants** HUD revises submission date to 11-3-80 for preapplications for Pittsburgh, Pennsylvania HUD Area Office for the Small Cities Program for Fiscal Year 1981
- 76618 Waste Treatment and Disposal** EPA publishes hazardous waste regulations addressing mining and cement kiln waste exemptions, small quantity generator standards, generator waste accumulation, response to spills and interim status requirements for facilities; effective 11-19-80; comments by 1-19 and 2-17-81 (5 documents) (Part III of this issue)
- 76602 Nuclear Safety** NRC amends regulations to require certain provisions for fire protection in operating nuclear power plants; effective 2-17-81 (Part II of this issue)

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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- 76519 Environmental Protection** HHS publishes procedures for conducting environmental reviews; effective 11-13-80
- 76431 National Defense** DOE/ERA adopts final regulations for priority supply of crude oil and petroleum products for the Department of Defense; effective 12-19-80
- 76449 Customs Duties and Inspection** Treasury/CS proposes change to customs regulations relating to the examination of merchandise; comments by 1-19-81
- 76450 Taxes** Treasury/IRS proposes regulations relating to foreign tax credit for domestic corporate shareholders of certain foreign corporations; comments by 1-19-81
- 76440 Banking** USDA/FmHA proposes to permit borrowers to establish supervised accounts with savings and loan associations, and credit unions; comments by 1-19-81
- 76436 Freedom of the Press** Justice amends its existing policy with regard to issuance of subpoenas to members of the news media; effective 11-12-80
- 76447 Consumer Protection** CPSC proposes minor modifications to its regulations concerning association with voluntary standards development groups; comments by 1-19-81
- 76438 Government Procurement** GSA finalizes rule to produce a single GSA-wide procurement regulation; effective 12-31-80
- 76638 Administrative Practice and Procedure** USDA/AMS establishes rules governing proceedings on petitions to modify or to be exempted from the Wheat and Wheat Foods Research and Nutrition Education Order; effective 11-19-80 (Part IV of this issue)
- 76565 Sunshine Act Meetings**
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Rules and Regulations

Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 911 and 915

[Lime Pack Regulation 9; Avocado Pack Regulation 6]

Limes Grown in Florida, and Avocados Grown in South Florida; Subpart—Pack Regulation, and Subpart—Container and Pack Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes pack requirements for Florida limes and avocados that require containers of limes and avocados to bear a Federal or Federal-State Inspection Service lot stamp number showing that the fruit has been inspected and found to meet applicable regulation requirements issued under these marketing orders. The action is designed to verify inspection and compliance with these requirements, in the interest of producers and consumers.

EFFECTIVE DATE: November 20, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final nation has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant." Notice was published in the October 23, 1980, issue of the Federal Register (45 FR 70278) that the Department was considering amending § 911.311 Lime Regulation 9, and § 915.306 Avocado

Regulation 6, under the marketing agreements, as amended, and marketing Orders 911 and 915, each as amended (7 CFR Parts 911 and 915). These agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). These amendments are based upon recommendations and information submitted by the committees established under these marketing orders, and other available information. In addition, these amendments revise references in these regulations to the U.S. grade standards for Florida limes and avocados to reflect recent changes in such standards. The notice provided that all written comments be submitted by November 7, 1980. None were received.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is found that the amendments are in accordance with the provisions of these marketing agreements and orders, that they are necessary to establish and maintain orderly marketing conditions, and they will tend to effectuate the declared policy of the act in the interests of growers and consumers.

It is further found that good cause exists for not postponing the effective date of these amendments until 30 days after publication in the Federal Register (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning these amendments, with an effective date of November 17, 1980, was published in the Federal Register, and no objection to these amendments or their effective date was received; (2) the recommendations for these amendments were developed at public meetings at which interested persons were afforded an opportunity to submit their views; (3) the amendments will not require any special preparation on the part of the persons subject to the regulatory requirements which cannot be completed by the effective time; (4) shipment of the 1980-81 season Florida lime and avocado crops is underway; and (5) the regulatory provisions for Florida limes and avocados are the same as those proposed in the notice, except that the effective date has been extended to November 20, 1980.

1. Therefore, § 911.311 of Subpart-Pack Regulation is amended by revising paragraph (a)(1), amending paragraph

(a)(2), revising and redesignating paragraph (a)(3) as paragraph (a)(4), adding a new paragraph (a)(3), and revising paragraph (b) to read as follows:

§ 911.311 Lime Pack Regulation 9.

(a) *Order.* (1) The grades set forth in the U.S. Standards for Grades of Persian (Tahiti) Limes (7 CFR 2851.1000-2851.1016) are hereby established as pack specifications for the grading and packing of limes.

(2) On and after November 20, 1980.

* * *

(3) On and after November 20, 1980, no handler shall handle any container of limes, grown in the production areas, unless such container is marked with a Federal or Federal-State Inspection Service lot stamp number showing that the limes have been inspected in accordance with regulations issued under § 911.45 of the marketing order.

(4) The provisions of paragraphs (a)(2) and (a)(3) of this section shall not apply to individual packages of limes not exceeding 4 pounds, net weight, that are within master containers except that if such packages are individual bags either such bags or the master containers thereof shall be marked or labeled in accordance with the requirements of paragraph (a)(2) of this section and master containers shall be marked or labeled in accordance with the requirements of paragraph (a)(3) of this section.

(b) Terms used in this section shall mean the same as in the marketing order, and terms relating to grade and standard pack shall mean the same as in the U.S. Standards for Grades of Persian (Tahiti) Limes (7 CFR 2851.1000-2851.1016).

2. Therefore, § 915.306 of Subpart-Container and Pack Regulations is amended by revising paragraph (a)(1), amending paragraph (a)(2), revising and redesignating paragraph (a)(3) as paragraph (a)(4), adding a new paragraph (a)(3), and revising paragraph (b) to read as follows:

§ 915.306 Avocado Pack Regulation 6.

(a) *Order.* (1) The grades set forth in the U.S. Standards for Grades of Florida Avocados (7 CFR 2851.3050-2851.3000) are hereby established as pack specifications for the grading and packing of avocados.

(2) On and after November 20, 1980

(3) On and after November 20, 1980, no handler shall handle any container of avocados, grown in the production areas unless such container is marked with a Federal or Federal-State Inspection Service lot stamp number showing that the avocados have been inspected in accordance with regulations issued under § 915.51 of this marketing order.

(4) The provisions of paragraphs (a)(2) and (a)(3) of this section shall not apply to individual packages of avocados not exceeding 4 pounds, net weight, that are within master containers.

(b) Terms used in this section shall mean the same as in the marketing order, and terms relating to grade and standard pack shall mean the same as in the U.S. Standards for Grades of Florida Avocados (7 CFR 2851.3050-2851.3000).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 801-874)

Dated: November 17, 1980 to become effective November 20, 1980

D. S. Kuryloski,

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

[FR Doc. 80-38288 Filed 11-18-80; 8:45 am]

BILLING CODE 2110-02-M

7 CFR Parts 982 and 999

Commodity Credit Corporation

Filbert Imports and Filberts Grown in Oregon and Washington; Stay of Effective Date of Amendment of Import Regulation and of a Change in Marketing Order Grade and Size Regulation

Correction

In FR Doc. 80-34573 appearing on page 73634 in the issue of Thursday, November 6, 1980, make the following correction:

On page 73635, at the top of the first column, delete the paragraph in small type designated "(d)".

BILLING CODE 1505-01-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1980—Crop Sorghum Supplement]

1980—Crop Sorghum Loan and Purchase Program

Correction

In FR Doc. 80-33061 appearing on page 70212 in the issue of Thursday,

October 23, 1980, make the following corrections in the table in § 1421.115(a):

1. Under California, "San Luis Obispo" should have read "San Luis Obispo".
2. Under Texas, the price for Kaufman County should have read "3.94".

BILLING CODE 1505-01-M

7 CFR Part 1421

[CCC Grain Price Support Reg. 1980—Crop Oats Supplement]

Grains and Similarly Handled Commodities; 1980—Crop Oats Loan and Purchase Program

Correction

In FR Doc. 80-33798 appearing on page 72084 in the issue of Friday, October 31, 1980, make the following corrections to the table in § 1421.274(a):

1. Under Illinois, "Livington" should have read "Livingston".
2. Under Indiana, "Koscinusko" should have read "Kosciusko".
3. Under Montana, "Choputeau" should have read "Chouteau", "Metroleum" should have read "Petroleum", and "Wilbaux" should have read "Wibaux".
4. Under Nebraska, "Cloraf" should have read "Colfax".
5. Under Wisconsin, "Calumet" should have read "Calumet", "Langlade" should have read "Langlade", and "Wauahara" should have read "Waushara".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Deletion of Hughes Air West; Addition of Republic Airlines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment to the regulations of the Immigration and Naturalization Service to delete a carrier under its old name and to add the carrier under its new name to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the preinspection of their passengers and crews at places outside

the United States. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkil, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.4 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order deletes a transportation line under its old name and adds the transportation line under its new name to the listing and is editorial in nature.

The Commissioner of the Immigration and Naturalization Service entered into a new agreement effective on November 5, 1980, with Republic Airlines after it changed its name from "Hughes Air West," to guarantee preinspection of its passengers and crew at a place outside of the United States under section 238(b) of the Immigration and Nationality Act and 8 CFR Part 238:

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

In § 238.4 *Preinspection outside the United States*, the listing of transportation lines preinspected at Calgary is amended by deleting "Hughes Air West" and adding in alphabetical sequence "Republic Airlines."

* * * * *

(Secs. 103 and 238(d); (8 U.S.C. 1103 and 1228(b)))

Dated: November 14, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-36091 Filed 11-18-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY**Economic Regulatory Administration****10 CFR Part 221**

[Docket No. ERA-R-79-50]

Priority Supply of Crude Oil and Petroleum Products to the Department of Defense Under the Defense Production Act**AGENCY:** Economic Regulatory Administration, DOE.**ACTION:** Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) adopts final regulations pursuant to sections 101(a) and 709 of the Defense Production Act of 1950 for priority supply of crude oil and petroleum products to the Department of Defense (DOD).

The regulations permit DOD, whenever necessary or appropriate to promote the national defense, to request ERA to issue a priority rating for crude oil or petroleum product contracts. If ERA determines that issuance of a priority rating is necessary to meet the national defense requirements identified by DOD and that a proposed supplier is capable of delivering the necessary crude oil or petroleum products, ERA would issue a priority rating to DOD complying in whole or in part with the DOD request. When a supplier receives a priority-rated supply order from DOD, it would be required to fill that order regardless of its other supply commitments to non-DOD purchasers. A priority rating also could entitle DOD to a precedence of delivery for its requirements.

The priority procedures in the regulations would be used only for crude oil and petroleum products not subject to allocation controls under the Emergency Petroleum Allocation Act (EPAA). Products subject to EPAA controls would be allocated to DOD under the regulations in Parts 210 and 211 of 10 CFR.

EFFECTIVE DATE: December 19, 1980.**FOR FURTHER INFORMATION CONTACT:**

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Stanley Vass (Office of Petroleum Allocation Regulations), Economic Regulatory Administration, Room 7202, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3263

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1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6736, or 252-6754

SUPPLEMENTARY INFORMATION:

- I. Background and Authority
- II. Discussion of Comments and Major Issues
- III. Section-by-Section Analysis
- IV. Additional Matters

I. Background and Authority

On October 26, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a notice of proposed rulemaking and public hearing (44 FR 63109, Nov. 2, 1979) to amend Chapter II, Title 10 of the Code of Federal Regulations by adding a new Part 221 setting forth regulations for the priority supply of crude oil and petroleum products to the Department of Defense (DOD) under the Defense Production Act (DPA). Written comments were invited, and a public hearing was held in Washington, D.C. Over 18 written comments were received and eight persons provided oral testimony at the hearing. The written and oral comments have been carefully considered by ERA.

These final regulations are being promulgated pursuant to section 101(a) of the DPA, 50 U.S.C. App. § 2071, which provides in pertinent part as follows:

The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

This authority, with respect to energy resources, was vested originally in the Department of Interior (DOI) by Executive Order 10480 (18 FR 4939, Aug. 18, 1953), as amended. The DOI implemented section 101(a) of the DPA by adopting regulations for the mandatory priority supply of crude oil and petroleum products. (38 FR 30572, Nov. 6, 1973). Following the establishment of the Department of Energy (DOE), this authority was delegated to the Secretary of Energy by Executive Order 12038 (43 FR 4957, Feb. 7, 1978), which amended Executive Order 10480, and Executive Order 11790 (39 FR 23785, June 27, 1974), and subsequently has been delegated by the Secretary to the Administrator of the Economic Regulatory Administration

(ERA). (See Amendment No. 1 to DOE Delegation Order No. 0204-4.)

Under the DPA, ERA is authorized to issue priority ratings for DOD and other defense-related contracts which would require that a supplier accept such orders and supply the specified quantities and qualities of crude oil and petroleum products. Additionally, ERA can issue directives to particular companies requiring that they provide necessary supplies for national defense needs. Such orders may be issued under DPA authority without the reimposition of mandatory allocation or price regulations under the Emergency Petroleum Allocation Act (Pub. L. 93-159, EPAA). Priority ratings would be used only during periods when DOD was experiencing difficulties in obtaining supplies needed for national defense purposes.

ERA has determined to adopt final regulations to provide procedures by which these priority rated orders can be requested by DOD and issued. This would enable ERA to act expeditiously and consistently to provide DOD with the necessary relief whenever DOD is unable to obtain needed supplies of crude oil or petroleum products for national defense-related activities. In addition, these regulations would further notify potential DOD suppliers of the possibility of mandatory priority supply obligations and the procedures associated therewith.

The regulations would apply to the priority supply to DOD of crude oil, residual fuel oil, refined petroleum products and lubricants. This regulation would not apply to the supply of natural gas or ethane.

II. Discussion of Comments and Major Issues

A. DPA vs. EPAA authority. Comments were received on the issue of whether the DPA regulations are necessary or appropriate in view of DOE's allocation authority under the EPAA. As we noted in the preamble to the proposed regulations, ERA has authority under the EPAA to allocate products still subject to controls, to reimpose controls under sec. 12(f) of the EPAA on products currently exempt from allocation regulations, to adjust refinery yields to require refiners to produce more of a particular product and under certain circumstances to assign purchasers new suppliers of a particular product. Nonetheless, we believe that there are several reasons why it is appropriate to issue these regulations under the DPA.

The Defense Production Act was enacted in 1950 to ensure the timely production and delivery of materials

necessary for the national defense. The general purposes of the DPA always have been national defense related, and use of DPA section 101(a) authorities is limited expressly to contracts or orders "necessary or appropriate to promote the national defense." The EPAA, on the other hand, provides in section 4(b)(1)(A) that regulations under that Act only need provide "to the maximum extent practicable" for the national defense. Furthermore, national defense is but one of several objectives of the EPAA. It is evident, therefore, that the DPA is more strictly committed to meeting national defense needs than is the EPAA.

Issuing orders and directives to private firms mandating terms of production and delivery constitutes use of extraordinary authority by the Government. The DPA was specifically designed for this purpose. By way of illustration, DPA section 101(a) expressly provides for priority performance of contracts and authority to require acceptance and performance of contracts. Most importantly, section 707 of the DPA expressly provides a defense against damages or penalties so that a supplier will not be subject to claims for damages from its other customers as a result of complying with a priority rated order. Under section 704 of the DPA, the President may even exercise these authorities without adopting regulations. In short, the DPA was designed to remove any impediments to swift delivery of needed materials for the national defense.

The Department of Energy has interpreted the EPAA as authorizing reimposition of controls on a case-by-case basis, thereby enabling DOE, if necessary, to allocate otherwise decontrolled petroleum products to DOD in a manner similar to the DPA. The EPAA authorities, however, were not expressly designed for this purpose, and do not contain the explicit expediting procedures found in the DPA, discussed in the preceding paragraph.

Finally, as was stated in the preamble to our Notice of Proposed Rulemaking on the DPA regulations, it is not our intention to use the DPA for products still subject to EPAA controls, e.g., gasoline. Thus, we do not foresee there being any problem of overlap under the two programs. And, by adopting these rules under the DPA, when the EPAA expires next year, it will not be necessary to adopt new regulations for DOD so long as the DPA remains in effect.

It is our conclusion, in view of our responsibilities under the Defense Production Act and Executive Orders 10480, 11790 and 12038 and the phased

decontrol of crude oil and petroleum products, that the Defense Production Act is the preferable statutory authority for adopting a program to ensure continued supplies of crude oil and petroleum products needed for the national defense.

B. Inclusion of crude oil within the scope of the rule. Most commenters argued that the DPA rule should not include crude oil because DOD has no need for crude oil and no capability to refine the crude oil. ERA believes that although DOD is not a general purchaser of crude oil, a mechanism should be provided to address all of DOD's emergency fuel needs, including a means of providing crude oil to specified refiners for processing. There may be refiners willing to supply products to DOD but for a lack of crude oil to run in the refinery. Crude oil currently is subject to EPAA allocation controls, and it is our intent to use that authority, rather than the DPA, if it is necessary to allocate crude oil for DOD needs. By including crude oil in the DPA regulations at this time, it will eliminate any need in the future to amend these DPA regulations to include crude oil upon expiration of the EPAA.

C. Role of the Federal Emergency Management Agency (FEMA). The proposed regulations provide in §§ 221.31(b) and 221.32(c) for a limited role for FEMA in the priority rating process. FEMA would be notified by DOD when it requested a priority rating from ERA, and ERA and DOD would consult with FEMA where priority ratings would conflict. Some commenters supported an increased oversight role for FEMA, whereas an equal number suggested that greater restriction upon FEMA involvement is more appropriate.

ERA believes that adoption of the regulations as proposed will allow FEMA to exercise sufficient oversight to discharge its general responsibilities under the DPA and relevant Executive Orders. No commenters supported FEMA involvement to the point where it would interfere with the expeditious handling of priority requests by DOD. Sections 221.31(b) and 221.32(c) ensure, however, that FEMA will be apprised of all requests for priority ratings and that it will be able thereafter to monitor the progress of the applications.

D. Need for an exceptions and appeals procedure for the DPA regulations. Six commenters supported the inclusion of an exceptions and appeals mechanism in the DPA regulations, to provide a means for a refiner to be excused from performance under a rated order. There are two reasons why such an exceptions and

appeals procedure is not appropriate in these regulations.

First, the DPA is an extraordinary authority designed to ensure expedited procurement for the national defense. Acceptance and performance of contracts can be mandated (sec. 101(a)), stiff penalties may be imposed for failure to comply with an order (sec. 103) and injunctive provisions are specifically provided for persons who violate the DPA (sec. 706). It therefore would be inconsistent with both the letter and spirit of the DPA to allow for administrative impediments to expedited procurement for the national defense.

The second point is in response to concerns raised by refiners who fear they may receive an order with which they cannot comply. An overriding purpose of the regulations is to provide ERA with the necessary information to identify those refiners which are most capable of meeting DOD's needs. In most circumstances, ERA will not issue an order to a refiner which would suffer a disproportionate burden if it complied. However, all refiners in emergency situations must be prepared to make sacrifices if necessary to protect the national defense.

E. Inclusion of defense contractors and other national defense components. The Department of Defense has strenuously urged the inclusion of defense contractors in the regulations as eligible to apply for priority ratings. The Commerce Department concurred. The two refiners who commented on this issue favored limitation of the regulations to DOD only. As was stated in the preamble to the proposed regulations, the scope of the regulations expressly was limited to crude oil or petroleum products purchased by DOD for its own use or purchases made by DOD on behalf of other agencies of the Federal Government. The final regulations retain this limitation.

To include in the regulations defense contractors and some or all of the other agencies which are included within the definition of national defense, e.g., DOE nuclear programs and the National Aeronautics and Space Administration, would substantially expand the scope of these regulations. Also, the inclusion of all defense contractors likely would generate a large volume of requests for priority assistance which would have to be processed even if they did not merit a priority. The potential volume of such requests could adversely affect our ability to meet national defense priorities. Accordingly, ERA has decided to limit the scope of these regulations to DOD and to issue a separate rulemaking

for defense contractors and other defense entities.

As was noted in the preamble to the notice of proposed rulemaking, ERA does have authority under the DPA to authorize priority ratings for defense contractors. In extraordinary circumstances, even in the absence of additional regulations, DOD may determine that failure to provide crude oil or petroleum products to a particular defense contractor will have a substantial negative impact on the national defense. ERA could invoke the general DPA authorities to assist that contractor notwithstanding the absence of a specific provision in these regulations authorizing ratings for contractors. DOD has procedures for determining contractor energy shortages in its Instruction No. 4170.9 (May 16, 1978), and we assume that DOD will rely upon these or similar procedures for identifying contractors in need of priority assistance. Similarly, other national defense programs may come to ERA for priority assistance where necessary in an emergency.

F. Need for a defined methodology for determining which suppliers receive rated orders. Several commenters expressed the view that the regulations should include standards for distribution of rated orders among refiners so that one group of refiners will not be assigned a disproportionate share of priority orders. ERA does not believe that it would be possible to adopt strict guidelines to ensure equitable distribution of the rated orders among suppliers. Broad discretion is needed under the regulations to afford ERA ample flexibility to deal with DOD emergency requirements. ERA will, to the extent practicable, spread the priority orders as equitably as possible among potential suppliers.

G. Pricing under a priority rated order and other contract provisions. Most of the commenters were in favor of a provision in the regulations to ensure that DOD and ERA would not use the DPA regulations to secure a price advantage for DOD when purchasing petroleum products. This is a matter beyond the scope of these regulations.

It long has been recognized that the DPA cannot be used merely to obtain a better price. If the reason that DOD cannot find a supplier is that it is unable to come to terms on price, DOD will not receive a priority rating. ERA must evaluate under § 221.32 whether DOD's needs can reasonably be satisfied without exercising the authority in the regulations. If DOD is unwilling to pay suppliers a reasonable price for the products and seeks ERA priority assistance, such assistance will be

denied since DOD's needs can be met if it is willing to pay a reasonable price.

The commenters were virtually unanimous in their criticism of DOD procurement procedures and cited DOD's contract terms as one reason why suppliers avoid DOD contracts. The main criticisms were: cumbersome and onerous contracting procedures; drawn out procurement and payment procedures; and specifications requiring segregated storage. It is outside the scope of these regulations for ERA directly to affect DOD's contract procedures. But, for the reasons stated above, ERA will not permit DOD to resort to the DPA simply to cure normal procurement difficulties. If necessary, however, ERA can include in a priority rating or a directive certain terms as to quantity, quality, delivery, etc. Otherwise, except as provided in § 221.35 of the final regulations, DOD and the supplier will have to negotiate contract terms between themselves.

III. Section-by-Section Analysis

The regulations are being adopted as proposed. Therefore, the section-by-section analysis in the proposed regulations, 44 FR 63109, 63110 (Nov. 2, 1979), should be referred to for additional information on the operation and effect of the regulations.

IV. Additional Matters

A. Section 404 of the DOE Act. Pursuant to the requirements of section 404 of the Department of Energy Act, a copy of the proposed rule was sent to the Federal Energy Regulatory Commission (FERC) for review. The FERC determined that this rule would not significantly affect any of its functions.

B. National Environmental Policy Act. It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

C. Executive Order 12044. ERA has determined that this rulemaking is not subject to the provisions of Executive Order No. 12044 on Improving Government Regulations (43 FR 12661, March 24, 1978). Section 6 of that Executive Order excepts from the coverage of the Order regulations issued with respect to a military function of the United States and regulations related to Federal Government procurement.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163 as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E. O. 12009, 42 FR 46267; Defense Production Act, Pub. L. 82-774, as amended; E.O. 10480 (18 FR 4939); E.O. 12038 (43 FR 4957); E.O. 11790 (39 FR 23785))

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations, is amended by adding a new Part 221 as set forth below.

Issued in Washington, D.C., on November 12, 1980.

Hazel R. Rollins,
Administrator, Economic Regulatory
Administration.

Subchapter A of Chapter II, Title 10 of the Code of Federal Regulations is amended to add a new Part 221 as follows:

PART 221—PRIORITY SUPPLY OF CRUDE OIL AND PETROLEUM PRODUCTS TO THE DEPARTMENT OF DEFENSE UNDER THE DEFENSE PRODUCTION ACT

Subpart A—General

- Sec.
- 221.1 Scope.
- 221.2 Applicability.

Subpart B—Exclusions

- 221.11 Natural gas and ethane.

Subpart C—Definitions

- 221.21 Definitions.

Subpart D—Administrative Procedures and Sanctions

- 221.31 Requests by DOD.
- 221.32 Evaluation of DOD request.
- 221.33 Order.
- 221.34 Effect of order.
- 221.35 Contractual requirements.
- 221.36 Records and reports.
- 221.37 Violations and sanctions.

Authority: Defense Production Act, 50 U.S.C. App. 2061 *et seq.*, E.O. 10480 (18 FR 4939, Aug. 18, 1953) as amended by E.O. 12038 (43 FR 4957, Feb. 7, 1978), and E.O. 11790 (39 FR 23785, June 27, 1974)

Subpart A—General

§ 221.1 Scope.

This Part sets forth the procedures to be utilized by the Economic Regulatory Administration of the Department of Energy and the Department of Defense whenever the priority supply of crude oil and petroleum products is necessary or appropriate to meet national defense needs. The procedures available in this

Part are intended to supplement but not to supplant other regulations of the ERA regarding the allocation of crude oil, residual fuel oil and refined petroleum products.

§ 221.2 Applicability.

This Part applies to the mandatory supply of crude oil, refined petroleum products (including liquefied petroleum gases) and lubricants to the Department of Defense for its own use or for purchases made by the Department of Defense on behalf of other Federal Government agencies.

Subpart B—Exclusions

§ 221.11 Natural gas and ethane.

The supply of natural gas and ethane are excluded from this Part.

Subpart C—Definitions

§ 221.21 Definitions.

For purposes of this Part—

"Directive" means an official action taken by ERA which requires a named person to take an action in accordance with its provisions.

"DOD" means the Department of Defense, including Military Departments and Defense Agencies, acting through either the Secretary of Defense or the designee of the Secretary.

"ERA" means the Economic Regulatory Administration of the Department of Energy.

"National defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling and space, or activities directly related to any of the above.

"Person" means any individual, corporation, partnership, association or any other organized group of persons, and includes any agency of the United States Government or any other government.

"Priority-rated supply order" means any delivery order for crude oil or petroleum products issued by DOD bearing a priority rating issued by ERA under this Part.

"Supplier" means any person other than the DOD which supplies, sells, transfers, or otherwise furnishes (as by consignment) crude oil or petroleum product to any other person.

Subpart D—Administrative Procedures and Sanctions

§ 221.31 Requests by DOD.

(a) When DOD finds that (1) a fuel supply shortage for DOD exists or is anticipated which would have a substantial negative impact on the national defense, and (2) the defense

activity for which fuel is required cannot be postponed until after the fuel supply shortage is likely to terminate, DOD may submit a written request to ERA for the issuance to it of a priority rating for the supply of crude oil and petroleum products.

(b) Not later than the transmittal date of its request to ERA, DOD shall notify the Federal Emergency Management Agency that it has requested a priority rating from ERA.

(c) Requests from DOD shall set forth the following: (1) the quantity and quality of crude oil or petroleum products determined by DOD to be required to meet national defense requirements; (2) the required delivery dates; (3) the defense-related activity and the supply location for which the crude oil or petroleum product is to be delivered; (4) the current or most recent suppliers of the crude oil or petroleum product and the reasons, if known, why the suppliers will not supply the requested crude oil or petroleum product; (5) the degree to which it is feasible for DOD to use an alternate product in lieu of that requested and, if such an alternative product can be used, the efforts which have been made to obtain the alternate product; (6) the period during which the shortage of crude oil or petroleum products is expected to exist; (7) the proposed supply source for the additional crude oil or petroleum products required, which shall, if practicable, be the historical supplier of such crude oil or product to DOD; and (8) certification that DOD has made each of the findings required by paragraph (a).

§ 221.32 Evaluation of DOD request.

(a) Upon receipt of a request from DOD for a priority rating as provided in § 221.31, it shall be reviewed promptly by ERA. The ERA will assess the request in terms of (1) the information provided under § 221.31; (2) whether DOD's national defense needs for crude oil or petroleum products can reasonably be satisfied without exercising the authority specified in this Part; (3) the capability of the proposed supplier to supply the crude oil or petroleum product in the amounts required; (4) the known capabilities of alternative suppliers; (5) the feasibility to DOD of converting to and using a product other than that requested; and (6) any other relevant information.

(b) The ERA promptly shall notify the proposed supplier of DOD's request for a priority rating specified under this Part. The proposed supplier shall have a period specified in the notice, not to exceed fifteen (15) days from the date it is notified of DOD's request, to show

cause in writing why it cannot supply the requested quantity and quality of crude oil or petroleum products. ERA shall consider this information in determining whether to issue the priority rating.

(c) If acceptance by a supplier of a rated order would create a conflict with another rated order of the supplier, it shall include all pertinent information regarding such conflict in its response to the show cause order provided for in subsection (b), and ERA, in consultation with DOD and the Federal Emergency Management Agency shall determine the priorities for meeting all such requirements.

(d) ERA may waive some or all of the requirements of § 221.31 or this section where the Secretary of Defense or his designee certifies, and has so notified the Federal Emergency Management Agency, that a fuel shortage for DOD exists or is imminent and that compliance with such requirements would have a substantial negative impact on the national defense.

§ 221.33 Order.

(a) *Issuance.* If ERA determines that issuance of a priority rating for a crude oil or refined petroleum product is necessary to provide the crude oil or petroleum products needed to meet the national defense requirement established by DOD, it shall issue such a rating to DOD for delivery of specified quantities and quantities of the crude oil or refined petroleum products on or during specified delivery dates or periods. In accordance with the terms of the order, DOD may then place such priority rating on a supply order.

(b) *Compliance.* Each person who receives a priority-rated supply order pursuant to this Part shall supply the specified crude oil or petroleum products to DOD in accordance with the terms of that order.

(c) *ERA directives.* Notwithstanding any other provisions of this Part, where necessary or appropriate to promote the national defense ERA is authorized to issue a directive to a supplier of crude oil or petroleum product requiring delivery of specified quantities and quantities of such crude oil or petroleum products to DOD at or during specified delivery dates or periods.

(d) *Use of ratings by suppliers.* No supplier who receives a priority-rated supply order or directive issued under the authority of this section may use such priority order or directive in order to obtain materials necessary to meet its supply obligations thereunder.

§ 221.34 Effect of order.

Defense against claims for damages.
No person shall be liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with any ERA authorized priority-rated supply order or ERA directive issued pursuant to this Part, notwithstanding that such priority-rated supply order or directive thereafter be declared by judicial or other competent authority to be invalid.

§ 221.35 Contractual requirements.

(a) No supplier may discriminate against an order or contract on which a priority rating has been placed under this Part by charging higher prices, by imposing terms and conditions for such orders or contracts different from other generally comparable orders or contracts, or by any other means.

(b) Contracts with priority ratings shall be subject to all applicable laws and regulations which govern the making of such contracts, including those specified in 10 CFR 211.26(e).

§ 221.36 Records and reports.

(a) Each person receiving an order or directive under this Part shall keep for at least two years from the date of full compliance with such order or directive accurate and complete records of crude oil and petroleum product deliveries made in accordance with such order or directive.

(b) All records required to be maintained shall be made available upon request for inspection and audit by duly authorized representatives of the ERA.

§ 221.37 Violations and sanctions.

(a) Any practice that circumvents or contravenes the requirements of this Part or any order or directive issued under this Part is a violation of the regulations provided in this Part.

(b) Criminal Penalties. Any person who willfully performs any act prohibited, or willfully fails to perform any act required by this Part or any order or directive issued under this Part shall be subject to a fine of not more than \$10,000 for each violation or imprisoned for not more than one year for each violation, or both.

(c) Whenever in the judgment of the Administrator of ERA any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of these regulations, the Administrator may make application to the appropriate court for an order enjoining such acts or

practices, or for an order enforcing compliance with such provision.

[FR Doc. 80-36068 Filed 11-18-80; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF COMMERCE**International Trade Administration****15 CFR Parts 385 and 399****Correction of Commodity Control List and Related Matters**

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Correction of interim rule.

SUMMARY: This document corrects errors in documents on the Export Administration Regulations and the Commodity Control List (CCL) which appeared in the Federal Register of June 25, 1980. The error in Part 385 appeared on page 43145 of Federal Register Document 80-18860, and the errors in the CCL appeared on page 43010 of Federal Register Document 80-18859. A technical amendment is made to Part 385, and the following entries of the CCL are corrected:

1110A(c); 1206A; 4363B; 2406A; 5406D; 2409A; 1416A; 1418A; 1431A; 4460B; 6460F; 6490F; 6499G; 5510D; 5597B; 4678B; 3709A; 4799B; and 5999B.

DATES: This rule becomes effective on November 19, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: (202) 377-5247 or 377-4811.

SUPPLEMENTARY INFORMATION: By notice published in the Federal Register on June 25, 1980 (45 FR 43010 and 43145) the Department issued a revision in interim form of Part 385 of the Export Administration Regulations as well as a revision in interim form of the Commodity Control List (CCL). This rule amends those revisions by correcting errors made in the amendments to Part 385 and to the CCL entries. Although there is no formal comment period, public comments on these corrections are welcome.

1. The following correction is made in Federal Register Document 80-18860, appearing at page 43145 in the issue of June 25, 1980:

The second sentence of § 385.1 is corrected to read as follows:

§ 385.1 Country Group Z: North Korea, Vietnam, Cambodia and Cuba.

* * * * *

Certain exceptions are contained in Parts 371 and 379, and in ECCN's 7599 and 7999 on the Commodity Control List.

2. The following corrections are made in Federal Register Document 80-18859, appearing at page 43010 in the issue of June 25, 1980:

Section 399.1 is corrected as follows:

§ 399.1 [Amended]

(a) On pages 43064 and 43069 of the Federal Register, Entry Nos. 1110A(c) and 1206A are corrected by inserting code "1," in the "Reason for Control" column preceding code "4" in that column. Footnotes to these entries remain unchanged.

(b) On pages 43078 and 43129, Entry Nos. 4363B and 4678B are corrected by transferring footnote "1" from the "Reason for Control" column to the "Validated License Required" column. The footnote is corrected to read as follows:

¹ A validated license is *not* required for export of these commodities to the countries listed in Supps. No. 2 and No. 3 to Part 373.

(c) On page 43083, Entry No. 6499G is corrected by: (a) deleting "and Afghanistan" from the "Validated License Required" column, and (b) adding a footnote "2" in this same column reading as follows:

² A validated license also is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. (See §§ 371.2(c)(11) and 385.4(a)).

(d) On page 43087, Entry No. 5510D is corrected by changing the second word in the "Commodity Description" column from "Sonal" to "Sonar."

(e) On page 43125, Entry No. 5597B is corrected by deleting the words "and identification" from the phrase "fingerprint and identification cameras."

(f) On page 43131, Entry No. 3709A is corrected by deleting footnote "1" in the column entitled "GLV \$Value Limits T & V."

(g) On page 43136 Entry No. 4799B is corrected by changing the "Commodity Description" column to read as follows:

Chemical agents, including tear gas formulations containing 1 percent or less of orthochlorobenzalmononitrile (CS), or 1 percent or less of chloracetophenone (CN), and smoke bombs; and fingerprint powders, dyes and inks. (Specify by name.) (See § 376.14.)

(h) On page 43080, Entry No. 2406A is corrected by adding a footnote "1a" in the "Unit" column reading as follows:

^{1a} Report vehicles, and engines in number.

(i) On page 43083, Entry No. 6490F is corrected by adding a footnote "2a" in the "Unit" column reading as follows:

➤ Report tractors in number.

(j) On page 43080, Entry No. 5406D is corrected by adding a footnote "2a" in the "Unit" column reading as follows:

➤ Report engines in number.

(k) On page 43081, Entry No. 1431A is corrected by adding a footnote "b" in the "Unit" column reading as follows:

➤ Report engines in number.

(l) On page 43080, Entry No. 2409A is corrected by adding a footnote "4" in the "Unit" column reading as follows:

➤ Report engines and motors in number.

(m) On page 43081, Entry Nos. 1416A and 1418A are corrected by adding a footnote "a" in the "Unit" column reading as follows:

➤ Report vessels or vehicles in number.

(n) On page 43138, Entry No. 5999B is corrected by deleting "nonmilitary gas masks designed for protection against tear gas and other chemical agents" and adding a footnote "4" as follows:

➤ Gas masks designed for protection against tear gas and other chemical agents are controlled by the Office of Munitions Control. See § 370.10.

(o) On page 43082, Entry Nos. 4460B and 6460F are corrected by adding a footnote "a" in the "Unit" column reading as follows:

➤ Report aircraft, helicopters and engines in number.

3. The Commodity Interpretations incorporated by reference at 15 CFR 399.2 are corrected as follows:

Paragraph (b)(4) of Interpretation 20 is corrected to read as follows:

Interpretation 20: Aircraft, Parts, Accessories and Components

* * * * *

(4) Airborne communications equipment having any of the following characteristics:

(i) Designed to operate at frequencies greater than 156 MHz,

(ii) Incorporating facilities for (a) the rapid selection of more than 200 channels per equipment, *except equipment operating in frequency range 108-136 MHz with 720 or fewer channels at not less than 25 kHz spacing and which has been in normal civil use for at least one year*, or (b) using frequency synthesis techniques with a speed of switching from one selected output frequency to another selected output frequency less than 10 milliseconds,

* * * * *

(Secs. 5, 6, 7, 13, 15 and 21, Pub. L. 96-72, to be codified at 50 U.S.C. App. 2401 *et seq.*; E. O. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3 (45 FR 6141, January 25, 1980); and International Trade Administration Organization and Function Orders 41-1 (45 FR 11862, February 22, 1980) and 41-4 (effective August 26, 1980))

Dated: November 6, 1980.

Eric L. Hirschhorn,
Deputy Assistant Secretary for Export
Administration.

[FR Doc. 80-36118 Filed 11-18-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 50

[Order No. 916-80]

Policy With Regard to Issuance of Subpoenas to Members of News Media, Subpoenas for Telephone Toll Records of Members of News Media, and Interrogation, Indictment, or Arrest of, Members of News Media

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends the existing policy with regard to issuance of subpoenas to members of the news media. The amendment is necessary in order to make the existing policy applicable to subpoenas in civil proceedings and to subpoenas for telephone toll records and for other purposes.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: Victor H. Kramer, Counselor to the Attorney General, Office of the Attorney General, Department of Justice, Washington, D.C. 20530, (202) 633-3892.

By virtue of the authority vested in me as Attorney General by 5 U.S.C. 301, and 28 U.S.C. 509, 516 and 519, it is hereby ordered:

1. Section 50.10 of Title 28, Code of Federal Regulations, is revised to read as follows:

§ 50.10 Policy with regard to the issuance of subpoenas to members of the news media, subpoenas for telephone toll records of members of the news media, and the interrogation, indictment, or arrest of, members of the news media.

Because freedom of the press can be no broader than the freedom of reporters to investigate and report the news, the prosecutorial power of the government should not be used in such a way that it impairs a reporter's responsibility to cover as broadly as possible controversial public issues.

This policy statement is thus intended to provide protection for the news media from forms of compulsory process, whether civil or criminal, which might impair the news gathering function. In balancing the concern that the Department of Justice has for the work of the news media and the Department's obligation to the fair administration of justice, the following guidelines shall be adhered to by all members of the Department in all cases:

(a) In determining whether to request issuance of a subpoena to a member of the news media, or for telephone toll records of any member of the news media, the approach in every case must be to strike the proper balance between the public's interest in the free dissemination of ideas and information and the public's interest in effective law enforcement and the fair administration of justice.

(b) All reasonable attempts should be made to obtain information from alternative sources before considering issuing a subpoena to a member of the news media, and similarly all reasonable alternative investigative steps should be taken before considering issuing a subpoena for telephone toll records of any member of the news media.

(c) Negotiations with the media shall be pursued in all cases in which a subpoena to a member of the news media is contemplated. These negotiations should attempt to accommodate the interests of the trial or grand jury with the interests of the media. Where the nature of the investigation permits, the government should make clear what its needs are in a particular case as well as its willingness to respond to particular problems of the media.

(d) Negotiations with the affected member of the news media shall be pursued in all cases in which a subpoena for the telephone toll records of any member of the news media is contemplated where the responsible Assistant Attorney General determines that such negotiations would not pose a substantial threat to the integrity of the investigation in connection with which the records are sought. Such determination shall be reviewed by the Attorney General when considering a subpoena authorized under paragraph (e) of this section.

(e) No subpoena may be issued to any member of the news media or for the telephone toll records of any member of the news media without the express authorization of the Attorney General: *Provided*, That, if a member of the news media with whom negotiations are conducted under paragraph (c) of this

section expressly agrees to provide the material sought, and if that material has already been published or broadcast, the United States Attorney or the responsible Assistant Attorney General, after having been personally satisfied that the requirements of this section have been met, may authorize issuance of the subpoena and shall thereafter submit to the Office of Public Affairs a report detailing the circumstances surrounding the issuance of the subpoena.

(f) In requesting the Attorney General's authorization for a subpoena to a member of the news media, the following principles will apply:

(1) In criminal cases, there should be reasonable grounds to believe, based on information obtained from nonmedia sources, that a crime has occurred, and that the information sought is essential to a successful investigation—particularly with reference to directly establishing guilt or innocence. The subpoena should not be used to obtain peripheral, nonessential, or speculative information.

(2) In civil cases there should be reasonable grounds, based on nonmedia sources, to believe that the information sought is essential to the successful completion of the litigation in a case of substantial importance. The subpoena should not be used to obtain peripheral, nonessential, or speculative information.

(3) The government should have unsuccessfully attempted to obtain the information from alternative nonmedia sources.

(4) The use of subpoenas to members of the news media should, except under exigent circumstances, be limited to the verification of published information and to such surrounding circumstances as relate to the accuracy of the published information.

(5) Even subpoena authorization requests for publicly disclosed information should be treated with care to avoid claims of harassment.

(6) Subpoenas should, wherever possible, be directed at material information regarding a limited subject matter, should cover a reasonably limited period of time, and should avoid requiring production of a large volume of unpublished material. They should give reasonable and timely notice of the demand for documents.

(g) In requesting the Attorney General's authorization for a subpoena for the telephone toll records of members of the news media, the following principles will apply:

(1) There should be reasonable ground to believe that a crime has been committed and that the information sought is essential to the successful

investigation of that crime. The subpoena should be as narrowly drawn as possible; it should be directed at relevant information regarding a limited subject matter and should cover a reasonably limited time period. In addition, prior to seeking the Attorney General's authorization, the government should have pursued all reasonable alternative investigation steps as required by paragraph (b) of this section.

(2) When there have been negotiations with a member of the news media whose telephone toll records are to be subpoenaed, the member shall be given reasonable and timely notice of the determination of the Attorney General to authorize the subpoena and that the government intends to issue it.

(3) When the telephone toll records of a member of the news media have been subpoenaed without the notice provided for in paragraph (e)(2) of this section, notification of the subpoena shall be given the member of the news media as soon thereafter as it is determined that such notification will no longer pose a clear and substantial threat to the integrity of the investigation. In any event, such notification shall occur within 45 days of any return made pursuant to the subpoena, except that the responsible Assistant Attorney General may authorize delay of notification for no more than an additional 45 days.

(4) Any information obtained as a result of a subpoena issued for telephone toll records shall be closely held so as to prevent disclosure of the information to unauthorized persons or for improper purposes.

(h) No member of the Department shall subject a member of the news media to questioning as to any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General: *Provided, however,* That where exigent circumstances preclude prior approval, the requirements of paragraph (l) of this section shall be observed.

(i) A member of the Department shall secure the express authority of the Attorney General before a warrant for an arrest is sought, and whenever possible before an arrest not requiring a warrant, of a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his

official duties as a member of the news media.

(j) No member of the Department shall present information to a grand jury seeking a bill of indictment, or file an information, against a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General.

(k) In requesting the Attorney General's authorization to question, to arrest or to seek an arrest warrant for, or to present information to a grand jury seeking a bill of indictment or to file an information against, a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media, a member of the Department shall state all facts necessary for determination of the issues by the Attorney General. A copy of the request shall be sent to the Director of Public Affairs.

(l) When an arrest or questioning of a member of the news media is necessary before prior authorization of the Attorney General can be obtained, notification of the arrest or questioning, the circumstances demonstrating that an exception to the requirement of prior authorization existed, and a statement containing the information that would have been given in requesting prior authorization, shall be communicated immediately to the Attorney General and to the Director of Public Affairs.

(m) In light of the intent of this Section to protect freedom of the press, news gathering functions, and news media sources, this policy statement does not apply to demands for purely commercial or financial information unrelated to the news gathering function.

(n) Failure to obtain the prior approval of the Attorney General may constitute grounds for an administrative reprimand or other appropriate disciplinary action. The principles set forth in this section are not intended to create or recognize any legally enforceable right in any person.

2. The section heading for § 50.10 in the table of contents of Part 50 of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

Sec.
50.10 Policy With Regard to the Issuance of Subpoenas to Members of the News

Media, Subpoenas for Telephone Toll Records of Members of the News Media, and the Interrogation, Indictment, or Arrest of, Members of the News Media.

Dated: November 5, 1980.

Benjamin R. Civiletti,
Attorney General.

[FR Doc. 80-36115 Filed 11-18-80; 8:45 am]
BILLING CODE 4410-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5-11 and 5A-11

Federal, State, and Local Taxes; Transfer Policies and Procedures

AGENCY: General Services
Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to transfer policies and procedures regarding Federal, State, and local taxes from Chapter 5A. This transfer is part of the action to incorporate appropriate material in Chapter 5A into Chapter 5. The intended effect is to have a single GSA-wide procurement regulation.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

CHAPTER 5—GENERAL SERVICES ADMINISTRATION PROCUREMENT REGULATIONS (APD 2800.2 CHGE 7)

1. The Table of Parts is amended by adding the following entry:

TABLE OF PARTS

Part

5-11 Federal, State, and local taxes.

2. The Table of Contents for Part 5-11 is added as follows:

PART 5-11—FEDERAL, STATE, AND LOCAL TAXES

Subpart 5-11.2—Exemptions From Federal Excise Taxes

Sec.

5-11.250 Supplies for export or shipment to a possession.

Subpart 5-11.4—Contract Clauses

5-11.401 Fixed-price type contracts.

5-11.401-50 Federal, State, and local taxes—small purchases.

5-11.401-51 Federal, State, and local taxes—Federal Supply Schedules.

5-11.401-52 Federal excise taxes—D.C. Government.

Subpart 5-11.5—Tax Exemption Forms

5-11.501-1 Certificate of export to a possession or Puerto Rico.

3. Part 5-11 Federal, State, and local taxes is added as follows:

PART 5-11 FEDERAL, STATE, AND LOCAL TAXES

Subpart 5-11.2 Exemptions From Federal Excise Taxes

§ 5-11.250 Supplies for export or shipment to a possession.

(a) Federal excise taxes are not imposed on purchases by the Government (see §§ 1-11.201(b) and 1-11.202(b)) of supplies for export, or for shipment to a possession of the United States, including Puerto Rico, where:

(1) The purchase is substantial;

(2) Exportation or shipment to a possession is intended to follow not more than 6 months after title to the supplies passes to the United States Government; and

(3) The supplies are in fact exported or shipped to a possession in due course.

(b) The term "substantial" in (a)(1), is defined as any transaction where the estimated Federal excise tax exceeds \$200.

(1) *Definite quantity contracts for nonstock items.* When the estimated Federal excise tax exceeds \$200, the clause set forth in § 1-11.401-3(b) shall be included in the solicitation appropriately amended as prescribed.

(2) *Requirements contracts.* (i) When the requirements contract sets forth the Federal excise tax(es) (e.g., in contracts for tires and tubes), the export delivery orders issued under the contract(s) shall exclude the excise tax, and the following statement shall be set forth on the order, "FOR EXPORT OR SHIPMENT TO A POSSESSION".

(ii) When the requirements contract does not expressly set forth the Federal excise tax, the delivery orders issued under the contract(s) may include the Federal excise tax(es), except when it is known or estimated that the Federal excise tax will exceed \$200. In the latter instance, the contracting officer or ordering office, as appropriate, shall determine the amount of the tax, shall exclude this tax and mark the order "FOR EXPORT OR SHIPMENT TO A POSSESSION".

(iii) In compliance with (a)(2), delivery orders for shipment to geographical locations within the United States for export or reshipment to a United States possession (including Puerto Rico), within 6 months from the date the title to supplies passes to the United States Government, shall be processed in the

same manner as set forth in (b)(2) (i) or (ii) above. The requisitioning documents on which the procurement action is based will bear an appropriate statement that the items are destined for export or shipment to a United States possession (including Puerto Rico) within 6 months from the date the title to the supplies to be ordered passes to the Government.

(c) The provisions of paragraphs (a) and (b) of this section do not apply to contracts made on behalf of the Agency for International Development (AID). The current edition of GSA Form 1246, entitled "GSA Supplemental Provisions" (AID Procurement), shall be incorporated by reference in each solicitation for offers under the AID buying program.

Subpart 5-11.4 Contract Clauses

§ 5-11.401 Fixed-price type contracts.

§ 5-11.401-50 Federal, State, and local taxes—small purchases.

The following clause shall be used in consummating small purchases negotiated pursuant to 41 U.S.C. 252(c)(3):

Federal, State, and Local Taxes

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

§ 5-11.401-51 Federal, State, and local taxes—Federal Supply Schedules.

The following clause shall be included in all multiple award Federal Supply Schedule solicitations and resultant schedules (including New Item Introductory Schedules):

State and Local Taxes

Notwithstanding the provisions of the clause entitled "Federal, State, and Local Taxes" (see § 1-11.401-1), the contract price excludes all State and local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. Taxes excluded from the contract price pursuant to the preceding sentence shall be separately stated on the Contractor's invoices and the Government agrees either to pay to the Contractor amounts covering such taxes or to provide evidence necessary to sustain an exemption therefrom.

§ 5-11.401-52 Federal excise taxes—DC Government.

The clause prescribed below shall be inserted in all formally advertised and negotiated contracts:

Federal Excise Taxes—DC Government

The District of Columbia is exempt from and will not pay Federal excise taxes. Contractors will bill shipments to the District of Columbia at prices exclusive of such excise tax and show the amount of such tax on the invoice. The Internal Revenue Tax Exemption Certificate Number will be shown on all District of Columbia Government purchase orders.

Subpart 5-11.5 Tax Exemption Forms

§ 5-11.501-1 Certificate of export to a possession or Puerto Rico.

Purchase orders for export or shipment to a possession or Puerto Rico are not subject to manufacturers excise taxes (see § 1-11.202) and, in certain cases, retailers excise taxes (see § 1-11.201). When requested by the contractor, proof of export or shipment to a possession or Puerto Rico shall be furnished in the form of a certificate similar to that in § 1-11.501-1. Certificates shall be signed by officials designated in the GSA Delegations of Authority manual, ADM P 5450.39A.

CHAPTER 5A—GENERAL SERVICES ADMINISTRATION PROCUREMENT REGULATIONS [APD 2800.3 CHGE 11]

1. The Table of Parts of GSPR 5A is amended to delete Part 5A-11—FEDERAL, STATE, AND LOCAL TAXES as follows:

Part 5A-11 [Deleted]

PART 5A-11 FEDERAL, STATE, AND LOCAL TAXES [DELETED]

2. Part 5A-11 is deleted in its entirety as set forth above.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: October 28, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-38044 Filed 11-18-80; 8:45 am]

BILLING CODE 6820-34-M

Proposed Rules

Federal Register

Vol. 45, No. 225

Wednesday, November 19, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1902

Supervised Bank Accounts; Loan and Grant Disbursement

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: Farmers Home Administration (FmHA) proposes to revise its regulations to permit borrowers to establish supervised accounts with savings and loan associations, and credit unions. The current regulation provides that supervised accounts be maintained only with banks. This action is needed in order to comply with Treasury Circular 176 to permit deposit of government funds in savings and loan associations, and credit unions. The intended effect of this action is to give borrowers greater opportunity in choosing a financial institution to deposit and disburse loan fund proceeds. The supervised accounts will be used only in rare instances because FmHA field offices can request loan checks on an as needed basis. The proposed regulation also recognizes the increase from \$40,000 to \$100,000 in the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union coverage on deposits. Minor editorial changes also are being made.

DATE: Comments must be received on or before January 19, 1981.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip A. Carter, Financial Support Division, Room 4118, South Agriculture

Building, 14th and Independence, SW., Washington, DC 20250. Phone: (202) 447-4871.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Mr. Joseph Linsley, Chief, Directives Management Branch, Room 6346, South Agriculture Building, 14th and Independence, SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". FmHA proposes to revise Subpart A of Part 1902, Chapter VIII, Title 7, Code of Federal Regulations. This instruction does not directly affect any programs or projects which are subject to A-95 Clearinghouse review. Accordingly, as proposed, Subpart A of Part 1902 is revised to read as follows:

PART 1902—SUPERVISED BANK ACCOUNTS

Subpart A—Loan and Grant Disbursement

Sec.

- 1902.1 General.
- 1902.2 Policies concerning disbursement of funds.
- 1902.3 Procedures to follow in fund disbursement.
- 1902.4-1902.5 [Reserved]
- 1902.6 Establishing supervised bank accounts.
- 1902.7 Pledging collateral for deposit of funds in supervised bank accounts.
- 1902.8 Authority to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions.
- 1902.9 Deposits.
- 1902.10 Withdrawals.
- 1902.11 District office and county office records.
- 1902.12-1902.13 [Reserved]
- 1902.14 Reconciliation of accounts.
- 1902.15 Closing accounts
- 1902.16 Request for withdrawals by State Director
- 1902.17-1902.50 [Reserved]
- Exhibit A—Designated Financial Institution—Collateral Pledge Memo.
- Exhibit B—Interest-Bearing Deposit Agreement.
- Exhibit C—Deposit Agreement.
- Exhibit D—Deposit Agreement (Non-FmHA Funds).

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; sec. 10 Pub. L. 93-357, 88 Stat. 392; Title II of the Emergency Agricultural Credit Adjustment Act of 1978, 92 Stat. 429; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

Subpart A—Loan and Grant Disbursement

§ 1902.1 General.

This Subpart prescribes the policies and procedures of the Farmers Home Administration (FmHA) for disbursement of funds under the Loan Disbursement System (LDS) and in establishing and using supervised bank accounts. The LDS system provides for disbursement of funds on an as needed basis to substantially reduce interest costs to FmHA borrowers, U.S. Treasury, and FmHA.

(a) The *Form FmHA 1940-1*, "Request for Obligation of Funds," provides for: (1) obligation only, (2) obligation and check request for the full amount of the loan or grant, and (3) obligation and check request for a partial amount of the loan or grant. The instructions on when and how to use this form are contained in the Forms Manual Insert (FMI) for this form.

(b) *Form FmHA 440-57*, "Acknowledgment of Obligated Funds/Check Request," provides for: (1) the initial loan amount check, (2) all subsequent loan checks, (3) making corrections on the data in the loan account as reflected on the form, (4) notifying the Finance Office of the loan closing date and the loan amortization effective date, and (5) providing requested information from the Finance Office. The instructions on when and how to use this form are contained in the FMI for this form.

(c) See *FmHA Instructions 102.1* (available in any FmHA office) for procedures to follow if checks are lost or destroyed.

(d) Borrowers as referred to in this Subpart include both loan and grant recipients. They are referred to as depositors in the deposit agreements hereinafter described. References herein and in deposit agreements to "other lenders" include lenders and grantors other than FmHA.

(e) Banks referred to in this Subpart are those in which deposits are insured by the Federal Deposit Insurance Corporation (FDIC).

(f) Savings and Loans referred to in this Subpart are those in which deposits are insured by the Federal Savings and Loan Insurance Corporation (FSLIC).

(g) Credit Unions referred to in this Subpart are those in which deposits are insured by the National Credit Union Administration (NCUA).

(h) Financial Institutions as referred to in this Subpart include banks, savings and loans, and credit unions which are covered by the proper insurance coverage cited in paragraphs (e), (f) and (g) of this section.

(i) Supervised bank accounts referred to in this Subpart are bank, savings and loan, or credit union accounts established through deposit agreements entered into between either (1) the borrower, the United States of America acting through the FmHA, and the bank on Form FmHA 402-1, "Deposit Agreement," or the savings and loan and credit union on "Deposit Agreement (Exhibit C)", or (2) the borrower, FmHA, other lenders, and the bank on Form FmHA 402-5, "Deposit Agreement (Non-FmHA Funds), or the savings and loan and credit union on "Deposit Agreement (Non-FmHA Funds)" (Exhibit D).

(j) Form FmHA 402-1 or Exhibit C provides for the deposit of funds in a supervised bank account as security for payment of the borrower's indebtedness to secure the performance of the borrower's obligation to FmHA in connection with a loan and grant.

(k) Form FmHA 402-5 or Exhibit D will be completed when deposits of funds advanced by other lenders as security for payments of the indebtedness to them and to assure the performance of the borrower's obligation to them in connection with a loan and grant are made in a separate supervised bank account.

(l) "Interest-Bearing Deposit Agreement" (Exhibit B), provides for the deposit of loan or grant funds that are not required for immediate disbursement in specified interest-bearing deposits, and it is executed in conjunction with Form FmHA 402-1 or Form FmHA 402-5.

§ 1902.2 Policies concerning disbursement of funds.

(a) The partial advance feature of the LDS will be utilized whenever possible in accordance with the specific program procedures, except where prohibited by State statutes. The capability to request Treasury checks on an as needed basis reduces the need for supervised bank accounts. *Therefore, supervised bank accounts will be used only in rare instances, e.g.:*

(1) When a construction loan is made and the construction is substantially

completed, but a small amount is being withheld pending completion of landscaping or some similar item, or a small loan closing. In this case, the amount of funds not disbursed when the predetermined amortization effective date occurs may be placed in a supervised bank account for future disbursement as appropriate.

(2) When a large number of checks will be issued in the construction of a dwelling or other development, as for example under the "borrower method" of construction or in Operating (OL) loans and Emergency (EM) loans. In such cases, installment checks will continue to be requested from the Finance Office as necessary and deposited in a supervised bank account and disbursed to suppliers, sub-contractors, etc. as necessary. When the construction process requires several checks to be issued at one time the LDS system can still be utilized. Those District and County Offices authorized to request checks by telephone may request more than one check at a time. If more than one check is required, a Form FmHA 440-57 will be prepared for each check.

(3) Supervised bank accounts will be used only when necessary to assure the correct expenditures of all or a part of loan and grant funds, borrower contributions, and borrower income. Such accounts will be limited in amount and duration to the extent feasible through the prudent disbursement of funds and the prompt termination of the interests of FmHA and other lenders when the accounts are no longer required.

(4) Income from the sale of security property of Economic Opportunity (EO) property or the proceeds from insurance on such property will be deposited in a supervised bank account under Form FmHA 402-1 or Exhibit C when the District Director or County Supervisor determines it is necessary to do so to assure that the funds will be available for replacement of the property.

(5) When a borrower has a clearly demonstrated inability to handle financial affairs, all or part of the income or other funds may be deposited in the supervised bank account under the appropriate Deposit Agreement if the District Director or County Supervisor determines that such an arrangement is necessary to provide guidance in major financial management practices essential to the borrower's success, subject to the following requirements:

(i) This supervisory technique will be used for a temporary period to help the borrower learn to properly manage financial affairs. Such a period will not

exceed one year unless extended by the District Director; and

(ii) The borrower is agreeable to such an arrangement.

(6) In exceptional cases when the unincorporated EO cooperative or grazing association borrower cannot obtain a position fidelity bond, its income may be deposited as provided for in § 1902.6 (and § 1902.2(f) of this Subpart if another lender is involved).

(b) For all construction loans, and those loans to be advanced in increments, only the actual amount to be disbursed at loan closing will be requested either through the initial submission of Form FmHA 1940-1 or through Form FmHA 440-57. Subsequent checks will be ordered as needed by submitting Form FmHA 440-57 to the Finance Office.

(c) Program instructions provide information as to the type of note to be utilized and the method of handling advances and the interest accrued thereon. For individual loan programs, interest will accrue from the loan closing date or date of check whichever is later. For association and organization type loans interest will accrue from the date the check is delivered to the borrower.

(d) For all loan accounts, when the total amount has not been advanced at the amortization effective date, as defined in the FMI for Form FmHA 1940-1, the Finance Office will forward the remaining balance to the District Director or County Supervisor for appropriate action, unless the District Director or County Supervisor notifies the Finance Office of other arrangements.

(e) When a check cannot be negotiated within 20 working days from the date of the check, the District Director or County Supervisor will return the check(s) with Form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation," in accordance with FmHA Instruction 102.1 (available in any FmHA Office).

(f) Funds provided to an FmHA borrower by another lender (through subordination agreements by the FmHA or under other arrangements between the borrower, FmHA, and the other lender) that are not used immediately after the loan and grant closing will be deposited in a supervised bank account under Form FmHA 402-5 or Exhibit D, provided:

(1) The District Director or County Supervisor determines such action is necessary to protect FmHA's interest and to assure that the funds will be used for the purposes planned.

(2) The other lender is unwilling to control the use of such funds, and

(3) The other lender is agreeable to the use of the FmHA supervised bank account.

(g) The debt instruments executed at the time of loan closing constitute an obligation on the part of the Government to disburse all funds at one time or in multiple advances provided the funds are for purposes authorized by the Government at the time of loan closing. This obligatory commitment takes priority over any intervening liens or advances by other creditors regardless of the provisions of the State laws involved.

§ 1902.3 Procedures to follow in fund disbursement.

(a) The District Director or County Supervisor will determine during loan approval the amount(s) of loan check(s)—full or partial—and forward such request to the Finance Office by complying with the FMI for Forms FmHA 1940-1 and FmHA 440-57.

(b) Counties using the telephone to request subsequent advances will call the designated telephone number provided by the Finance Office and request all subsequent checks by providing the information required on Form FmHa 440-57.

(c) When check(s) are delivered to the District Office or County Office, the District Director or County Supervisor will make sure that the name of the borrower and the amount(s) of check(s) coincide with the request on file. The District Director or County Supervisor should be sure that the check is properly endorsed to insure payment to the intended recipient. Examples of such restrictive endorsements are:

(1) "For Deposit Only to Account No. (Number of Construction Account) of (Name of Borrower) in (Name of Bank)".

(2) "Pay to the order of (3rd party payee)"—(Contractor, Developer, Sub-Contractor, Building Supply House, etc.) for the purpose of

(d) When necessary and only under the circumstances listed in § 1902.2 the District Director or County Supervisor will establish, or cause to be established, a supervised bank account.

§ 1902.4-1902.5 [Reserved]

§ 1902.6 Establishing supervised bank accounts.

(a) Each borrower will be given an opportunity to choose the financial institution in which the supervised bank account will be established, provided the bank is a member of the FDIC, the savings and loan is a member of the FSLIC, and the credit union is a member of the NCUA.

(b) When accounts are established, it should determined that:

(1) The financial institution is fully informed concerning the provisions of the applicable deposit agreement,

(2) Agreements are reached with respect to the services to be provided by the financial institution including the frequency and method of transmittal of checking account statements, and

(3) Agreement is reached with the financial institution regarding the place where the counter-signature will be on checks.

(c) When possible, District Directors or County Supervisors will make arrangements with financial institutions to waive service charges in connection with supervised bank accounts. However, there is no objection to the payment by the borrower of a reasonable charge for such service.

(d) If the amount of Community Facility, Water and Waste Disposal, Grazing Association, Irrigation and Drainage, Indian Land Acquisition, Watershed (WS), Organizational Rural Rental Housing (RRH), Resource Conservation and Development (RCD), EO loans to a Cooperative Association, Rural Cooperative Housing (RCH), or Organizational Labor Housing (LH) loan funds, and grant funds plus any borrower contributions and funds from other sources to be deposited in the supervised bank account will exceed \$100,000 the financial institution will be required to pledge collateral for the excess over \$100,000 before the deposit is made (see § 1902.7). In addition, a pledge of collateral may be required for other types of loans or grants in amounts in excess of the State Director's approval authority when determined necessary by the National Office on an individual case basis.

(e) Only one supervised bank account will be established for any borrower regardless of the amount or source of funds, except for RRH loans where separate accounts will be established for each project.

(f) When a supervised bank account is established, an original and two copies of the applicable Deposit Agreement and the Interest-Bearing Deposit Agreement (Exhibit B), when applicable, will be executed by the borrower, the financial institution, and a District or County Office employee. The original will be retained in the borrower's case file, one executed copy will be delivered to the financial institution and one executed copy to the borrower. An extra copy of the Interest-Bearing Deposit Agreement, when applicable will be prepared and attached to the certificate, passbook, or other evidence of deposit representing the interest-bearing deposit.

(1) If an agreement on the applicable Deposit Agreement has previously been executed and Form FmHA 402-6, "Termination of Interest in Supervised Bank Account," has not been executed with respect to it, a new agreement is not required when additional funds are to be deposited unless requested by the financial institution.

(2) When the note and security instrument are signed by two joint borrowers or by both husband and wife, a joint survivorship supervised bank account will be established from which either can withdraw funds if State laws permit such accounts. In such cases both parties will sign the Deposit Agreement(s).

§ 1902.7 Pledging collateral for deposit of funds in supervised bank accounts.

(a) Funds in excess of \$100,000 for borrowers referred to in § 1902.6(d), deposited in supervised bank accounts, must be secured by pledging acceptable collateral with the Federal Reserve Bank in an amount not less than the excess.

(b) As soon as it is determined that the loan will be approved and the applicant has selected or tentatively selected a financial institution for the supervised bank account, the District Director or County Supervisor will contact the financial institution to determine:

(1) That the financial institution selected is insured by the FDIC, (banks), FSLIC (savings and loans), or NCUA (credit unions).

(2) Whether the financial institution is willing to pledge collateral with the Federal Reserve Bank under Treasury Circular No. 176 to the extent necessary to secure the amount of funds being deposited in excess of \$100,000.

(3) If the financial institution is not a member of the Federal Reserve System it will be necessary for the financial institution to pledge the securities with a correspondent bank who is a member of the System. The correspondent bank should contact the Federal Reserve Bank informing them they are holding securities pledged for the supervised bank account under Treasury Circular 176.

(c) If the financial institution is agreeable to pledging collateral, the District Director or County Supervisor should complete a form letter (Exhibit A) in an original and two copies, the original for the National Office, the first copy for the State Office, and the second copy for the District or County Office. The form letter should be forwarded to the National Office at least 30 days before the date of loan closing.

(d) The National Office will arrange for the Treasury Department to have the

financial institution designated as a depository, unless already designated, and to have collateral pledged.

(e) If, two days before loan closing, the State Director has not received a copy of the Treasury Department's letter to the financial institution confirming that the pledge of collateral has been made, contact should be made with the depository bank to ascertain whether they have pledged collateral with their local Federal Reserve Bank in compliance with the provisions of Treasury Circular 176. If the bank has accomplished the pledge then contact the National Office, Financial Support Division.

(f) When the amount of the deposit in the supervised bank account has been reduced to a point where the financial institution desires part, or all of its collateral released, it should write to the Treasury Department, Domestic Banking Staff, Bureau of Government Operations, Washington, D.C. 20226. (ATTENTION: Collateral and Reports Branch) requesting the release and stating the balance in the supervised bank account.

§ 1902.8 Authority to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions.

District Directors or County Supervisors are authorized to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions and redelegate this authority to a person listed in Exhibit B of FmHA Instruction 1951-B, under their supervision who are considered capable of exercising such authority. State Directors will make written demand upon the bank for withdrawals as outlined in § 1902.16.

§ 1902.9 Deposits.

(a) Deposit by FmHA personnel.

(1) Checks made payable solely to the Federal Government, or any agency thereof, and a joint check when the Treasurer of the United States is a joint payee, may not be deposited in a supervised bank account.

(2) FmHA personnel will accept funds for deposit in a borrower's supervised bank account ONLY in the form of a check or money order endorsed by the borrower "For Deposit Only," or a check drawn to the order of the financial institution in which the funds are to be deposited, or a loan check drawn on the U.S. Treasury.

(i) A joint check that is payable to the borrower and FmHA will be endorsed

by the District Director or County Supervisor as provided in paragraph V E 4 of FmHA Instruction 1951-B.

(ii) Ordinarily, when deposits are made from funds which are received as the result of consent or subordination agreements or assignments of income, the check should be drawn to the order of the financial institution in which the supervised bank account is established or jointly to the order of the borrower and the FmHA. All such checks should be delivered or mailed to the District or County Office.

(3) If direct or insured loan funds (other than OL or EM, loan funds) or borrower contributions are to be deposited in a supervised bank account, such funds will be deposited on the date of loan closing *after it has been determined that the loan can be closed*. However, if it is impossible to deposit the funds on the day the loan is closed due to reasons such as distance from the financial institution or banking hours, the funds will be deposited on the first banking day following the date of loan closing.

(4) Grant funds will be deposited when such funds are delivered.

(5) When funds from any source are deposited by FmHA personnel in a supervised bank account, a deposit slip will be prepared in an original and two copies and distribution as follows: Original to the financial institution, one copy to the borrower, and one copy for the borrower's case folder. The names of the borrower, the sources of funds, and "Subject to FmHA Countersignature," and if applicable, the account number will be entered on each deposit slip.

(6) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account without endorsement by the borrower when it will facilitate delivery of the check and is acceptable to the financial institution. The borrower will be notified immediately of any deposit made and will be furnished a copy of the deposit slip. When a deposit of this nature is made, the following endorsement will be used:

"For deposit only in the supervised bank account of (name of borrower) in the (name of financial institution and address when necessary for identification) pursuant to Deposit Agreement dated _____."

(7) Accounts established through the use of Interest-Bearing Deposit Agreement will be in the name of the depositor and the Government.

(b) *Deposits by borrowers.* Funds in any form may be deposited in the supervised bank account by the borrower if authorized by FmHA provided the financial institution has agreed that when a deposit is made to

the account by other than FmHA personnel, the financial institution will promptly deliver or mail a copy of the deposit slip to the FmHA District or County Office.

(1) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account by a borrower, provided the following endorsement is used and is inserted thereon prior to delivery to the borrower for signature:

For deposit only in my supervised bank account in the (name of financial institution and address when necessary for identification) pursuant to Deposit Agreement dated _____.

(2) Funds other than loan or grant funds may be deposited by the borrower in those exceptional instances where an agreement is reached between the District Director or County Supervisor and the borrower, whereby the borrower will make deposits of income from any source directly into the supervised bank account. In such instances the borrower will be instructed to prepare the deposit slip in the manner described in § 1902.9(a)(5).

§ 1902.10 Withdrawals.

(a) The District Director or County Supervisor will not countersign checks on the supervised bank account for the use of funds unless the funds deposited by the borrower from other sources were cash deposits, or checks which the District Director or County Supervisor knows to be good, or until the deposit checks have cleared.

(b) Withdrawals of funds deposited under the applicable deposit agreement are permitted only by order of the borrower and countersignature of authorized FmHA personnel, or upon written demand on the financial institution by the State Director.

(c) Upon withdrawal or maturity of interest-bearing accounts established through the use of an Interest-Bearing Deposit Agreement, such funds will be credited to the supervised bank account established through the use of Form FmHA 402-1 or 402-5.

(d) The issuance of checks on the supervised bank account will be kept to the minimum possible without defeating the purpose of such accounts. When major items of capital goods are being purchased, or a limited number of relatively costly items of operating expenses are being paid, or when debts are being refinanced, the checks will be drawn to the vendors or creditors. If minor capital items are being purchased or numerous items of operating and family living expenses are involved as in connection with a monthly budget, a check may be drawn to the borrower to provide the funds to meet such costs.

(1) A check will be issued payable to the appropriate payee but will never be issued to "cash." The purpose of the expenditure will be clearly shown on Form FmHA 402-2, "Statement of Deposits and Withdrawals," and indicated on the face of the check. When checks are drawn in favor of the borrower to cover items too numerous to identify, the expenditure will be identified on the check, as "miscellaneous."

(2) Normally, OL and EM loan funds will not be withdrawn from the supervised bank account until the lien search has been made and a determination reached that the required security has been obtained. This applies also to withdrawal of funds in secured individual loan cases. However, in those instances when the applicant is unable to pay for the lien search and filing fees from personal funds, a check for this purpose may be drawn on the supervised bank account to meet these loan making requirements.

(3) Ordinarily, a check will be countersigned before it is delivered to the payee. However, in justifiable circumstances such as when excessive travel on the part of the borrower, District Director or County Supervisor would be involved, or purchase would be prevented, and the borrower can be relied upon to select goods and services in accordance with the plans, a check may be delivered to the payee by the borrower before being countersigned.

(i) When a check is to be delivered to the payee before being countersigned, the District Director or County Supervisor must make it clear to the borrower and to the payee, if possible, that the check will be countersigned only if the quantity and quality of items purchased are in accordance with approved plans.

(ii) Checks delivered to the payee before countersignature will bear the following legend in addition to the legend for countersignature: "Valid only upon countersignature of Farmers Home Administration."

(iii) The check must be presented by the payee or a representative to the District or County Office of the FmHA servicing the account for the required countersignature.

(iv) Such check must be accompanied by a bill of sale, invoice, or receipt signed by the borrower identifying the nature and cost of goods or services purchased or similar information must be indicated on the check.

(4) For real estate loans or grants, whether the check is delivered to the payee before or after countersignature, the number, and date of the check will be inserted on all bills of sale, invoices,

receipts, and itemized statements for materials, equipment, and services.

(5) Bills of sale, and so forth, may be returned to the borrower with the canceled check for the payment of the bill.

(6) Checks to be drawn on a supervised bank account will bear the legend:

Countersigned, not as co-maker or endorser.

(Title)
Farmers Home Administration

§ 1902.11 District Office and County Office records.

A record of funds deposited in a supervised bank account will be maintained on Form FmHA 402-2 in accordance with the FMI and Exhibit A of FmHA Instruction 2033-A, available in any FmHA office. The record of funds provided for operating purposes by another creditor or grantor will be on a separate Form FmHA 402-2 so that they can be clearly identified.

§ 1902.12-1902.13 [Reserved]

§ 1902.14 Reconciliation of accounts.

(a) A checking account statement will be obtained periodically in accordance with established practices in the area. If requested by the financial institution a supply of addressed, franked envelopes will be provided for use in mailing checking account statements and cancelled checks for supervised bank accounts to the District or County Office. Checking account statements will be reconciled promptly with District or County Office records. The persons making the reconciliation will initial the record and indicate the date of the action.

(b) All checking account statements and canceled checks will be forwarded immediately to the borrower when bank statements and District or County Office records are in agreement. If a transmittal is used, Form FmHA 140-4, "Transmittal of Documents," is prescribed for that purpose.

§ 1902.15 Closing accounts.

When FmHA loan or grant funds and those of any lender have all been properly expended or withdrawn, Form FmHA 402-6 may be used to give FmHA's consent (and of another lender, if involved) to close the supervised bank account in the following situations:

(a) When FmHA loan funds in the supervised bank account of a borrower have been reduced to \$100 or less, and a check for the unexpended balance has been issued to the borrower to be used for authorized purposes.

(b) For all loan accounts, except loans listed in § 1902.6(d), after completion of authorized loan fund expenditures, and after promptly refunding any remaining unexpended loan funds on the borrower's loan account with FmHA or another lender, as appropriate.

(c) For loan and grant accounts listed in § 1902.6(d), when the funds have been expended in accordance with the requirements of Part 1942 Subpart A and Part 1823, Subpart I (FmHA Instructions 1942-A and 442.9) the supervised bank account will be closed within 90 days following completion of development unless and extension of time is authorized in writing by the District Director. If the borrower will not agree to close the account, the District Director or County Supervisor will request the State Director to make demand upon the financial institution in accordance with § 1902.16.

(d) Promptly upon death of a borrower, except when the loan is being continued with a joint debtor, when a borrower is in default and it is determined that no further assistance will be given, or when a borrower is no longer classified as "active."

(1) Deceased borrowers.

(i) Ordinarily, upon notice of the death of a borrower, the District Director or the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit and apply all the balance after payment of any bank charges to the borrower's FmHA indebtedness. When the State Director approves continuation with a survivor, the supervised bank account of deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(A) The account is a joint survivorship supervised bank account, or

(B) If not a joint survivorship account, the financial institution will agree to permit the addition of the surviving joint debtor's name to the existing signature card and the appropriate Deposit Agreement and continue to disburse checks out of the existing account upon FmHA's countersignature and the joint debtor's signature in place of the deceased borrower, or

(C) The financial institution will permit the State Director to withdraw the balance from the existing supervised bank account with a check jointly payable to the FmHA and the surviving joint debtor and deposit the money in a new supervised bank account with a surviving joint debtor, and will disburse checks from this new account upon the signature of such survivor and the countersignature of an authorized FmHA official.

(ii) The State Director, before applying the balance remaining in the supervised bank account to the FmHA indebtedness, is authorized upon approval by the Office of the General Counsel (OGC) to refund any unobligated balances of funds from other lenders to the FmHA borrower for specific operating purposes in accordance with subordination agreements or other arrangements between the FmHA, the lender and the borrower.

(iii) The State Director, upon the recommendation of an authorized representative of the estate of the deceased borrower and the approval of the OGC, is authorized to approve the use of deposited funds for the payment of commitments for goods delivered or services performed in accordance with the deceased borrower's plans approved by FmHA.

(2) *Borrowers in default.* Whenever it is impossible or impractical to obtain a signed check from a borrower whose supervised bank account is to be closed, the District Director or County Supervisor will request the State Director to make demand upon the financial institution for the balance on deposit in the borrower's supervised bank account for application as appropriate:

(i) To the borrower's FmHA indebtedness, or

(ii) As refunds of any unobligated advance provided by other lenders which were deposited in the account, or

(iii) For the return of FmHA grant funds to the FmHA Finance Office, or

(iv) For the return of grant funds to other grantors.

(3) *Inactive borrowers.* An inactive borrower is one whose loan has not been paid in full, but is no longer classified as "inactive."

(4) *Paid up borrowers.* A paid-up borrower is one who has a balance remaining in the supervised bank account and has repaid the entire indebtedness to FmHA and has properly expended all funds advanced by other lenders. In such cases the District Director or County Supervisor will (i) notify the borrower in writing that the interests in the account of FmHA have been terminated, and (ii) inform the borrower of the balance remaining in the supervised bank account.

§ 1902.16 Request for withdrawals by State Director.

When the State Director is requested to make written demand upon the financial institution for the balance on deposit in the supervised bank account, or any part thereof, the request will be

accompanied by the following information.

(a) Name of borrower as it appears on the applicable Deposit Agreement.

(b) Name and location of financial institution.

(c) Amount to be withdrawn for refund to another lender of any balance that may remain of funds received by the borrower from such lender as a loan or grant, or under a subordination agreement or other arrangement between the FmHA, the other lender, and the borrower.

(d) Amount to be withdrawn, excluding any service charges, for a refund of FmHA's.

(e) Other pertinent information including reasons for the withdrawal.

§§ 1902.17-1902.50 [Reserved]

Exhibit A—Designated Financial Institution—Collateral Pledge Memo

Dates _____
District Office or County Office Location: (as applicable) _____
Telephone No.: (indicate FTS or provide area code) _____

To: Administrator, FmHA
Attn: Financial Support Division,
Washington, DC 20250

- Name of borrower or grantee (Please indicate if subsequent loan)
- Type of loan or grant funds
- Name and location of Financial Institution (excluding street address)

Location of Branch, _____

(If to be used for deposit of loan funds)

4. Proposed amount of FmHA: Loan
\$ _____ Grant \$ _____

5. Amount of any other funds to be deposited in addition to amount in item 4
\$ _____

6. Largest amount from all sources that will be on deposit at any one time \$ _____
(Amount should include FDIC, FSLIC, or NCUA coverage of \$100,000)

7. Estimated closing date _____

8. Name of other account(s) for which the financial institution has pledged collateral _____
Also indicate balance of FmHA loan and/or grant funds on deposit for these accounts or any future deposits which will be above the FDIC, FSLIC or NCUA coverage.
(Signature) _____

Exhibit B—Interest-Bearing Deposit Agreement

Whereas, Certain funds of _____ hereinafter referred to as the "Depositor," are now on deposit with the _____, hereinafter referred to as the "Bank," under a Deposit Agreement, dated _____, 19____, providing for supervision thereof by the United States of America, acting through the Farmers Home Administration, hereinafter referred to as the "Government," which Deposit Agreement grants to the Government security and/or other interests in the funds covered thereby; and,

Whereas, certain of said funds are not now required for immediate disbursement and it is

the desire of the Depositor to place the same in interest-bearing deposits with the Bank;

Now therefore, the Depositor and the Government hereby authorize and direct the Bank to place _____ Dollars (\$_____) of the funds subject to said Deposit Agreement in interest-bearing deposits as follows:

\$ _____ for a period _____ months at _____% interest

\$ _____ for a period _____ months at _____% interest

\$ _____ for a period _____ months at _____% interest

Said interest-bearing deposits and the income earned thereon at all times shall be considered a part of the account covered by said Deposit Agreement except that the right of the Depositor and the Government to jointly withdraw all or a portion of the funds in the account covered by the Deposit Agreement by an order of the Depositor countersigned by a representative of the Government, and the right of the Government to make written demand for the balance or any portion thereof, is modified by the above time deposit maturity schedule. The evidence of such time deposits shall be issued in the names of the Depositor and the Farmers Home Administration.

A copy of this Agreement shall be attached to and become a part of each certificate, passbook, or other evidence of deposit that may be issued to represent such interest-bearing deposits.

Executed this _____ day of _____,

United States of America

(Depositor) _____

By: _____

County Supervisor

Farmers Home Administration

U.S. Department of Agriculture

By: _____

Title: _____

Accepted on the foregoing terms and conditions this _____ day of _____, 19____

(Bank) _____

(Office or Branch) _____

By: _____

Title: _____

Exhibit C—Deposit Agreement

Name(s) of Depositor(s) _____
Social security or IRS tax No _____
Address (Including Zip Code) c/o Farmers Home Administration _____
Name and Address of savings and loan or credit union (Including Zip Code) _____
County of residence _____
Date of Agreement _____
Account Number (if used) _____

This agreement, made on the date indicated above, between the United States of America, acting through the Farmers Home Administration, herein called the "Government," the above-named Depositor(s), herein called the "Depositor" and the above named Savings and Loans or Credit Union herein called the "Depository" WITNESSETH:

In consideration of loans or other advance(s) of funds made or insured by the Government and the depositing in the Depository to the credit of the Depositor in the account established pursuant to this agreement, of moneys derived from such loans or other advance(s) of funds, of moneys otherwise obtained by the Depositor, it is agreed as follows:

1. The Depositor hereby assigns, transfers, and pledges to the Government the aforesaid account and deposit(s), heretofore or hereafter made, and conveys to the Government a security interest in all money deposited in said account, as security for the repayment of any and all indebtedness now or hereafter owing by the Depositor to or insured by the Government, and for the performance of the obligations and agreements of the Depositor in connection with such advance(s) or indebtedness.

2. No part of such deposit(s), account or money shall be withdrawn by the Depositor and no withdrawal shall be permitted by the Depositor except on the order of the Depositor and the counter signature of a duly authorized representative of the Government. Provided, however, that at any time upon written demand or order by the State Director of the Farmers Home Administration the Depositor shall pay over the balance then on hand, or any part thereof demanded, for application on said indebtedness or as a return of grant funds to the Government or for protection of the Government's lien or security to accomplish the purpose for which such advances were made: Provided, further, that the death, disability, or insolvency of the Depositor shall not impair the power of the State Director to demand or order such withdrawal.

3. The Depositor agrees that it will not assert any right of offset, except service charges, with respect to the funds deposited pursuant to this agreement by reason of any indebtedness or claim now or hereafter owing to or acquired by it.

4. The Depositor shall be under no obligation with respect to the expenditure of funds after their withdrawal from the Depositor in accordance with the provisions of this agreement. Upon making payment pursuant to an order or check duly executed by the Depositor and the countersigning officer, or pursuant to the written demand or order of the said State Director, the Depositor shall be discharged from all obligations with respect to the funds so released.

5. The Depositor agrees that, at the end of each _____ period, it will forward statements and cancelled checks to the Farmers Home Administration office at the above address shown above for review by that Agency.

In witness whereof, the parties hereto have executed this agreement as of the day and year first above written.

Depositor _____
 By _____
 Depositor _____
 Depositor _____
 United States of America
 By (Title) _____

Farmers Home Administration
 United States Department of Agriculture
 Note to depositor: Please return signed original and copy of this form, along with copy of deposit slip to the above FmHA Office address.

Exhibit D—Deposit Agreement (Non-FmHA Funds)

Name(s) of depositor(s) _____
 Name and address of savings and loan or credit union (Zip Code) _____

County of residence _____
 Address of Farmers Home Administration (Zip Code) _____
 Name and address of lender (Zip Code) (leave blank when lender and S&L or credit union are same) _____
 Date of agreement _____
 Account number (if used) _____

This agreement, made on the date indicated above, between the United States of America, acting through the Farmers Home Administration, herein called the "Depositor," and the above-named Savings and Loan or Credit Union herein called the "Depository" and the above-named lender or grantor, herein called the "Lender."

WITNESSETH:
 In consideration of loans or other advance(s) of funds made or insured by the Lender and by the Government and the depositing in the Depository, to the credit of the Depositor in the account established pursuant to this agreement, of moneys derived from the loans or other advance(s) of funds by the Lender, or moneys otherwise obtained by the Depositor, it is agreed as follows:

1. The Depositor hereby assigns, transfers, and pledges to the Government as trustee for the Lender the aforesaid account and deposit(s), heretofore, or hereafter made, and conveys to the Government as trustee for the Lender a security interest in all money deposited in said account, (a) as security for the repayment of any and all indebtedness now or hereafter owing by the Depositor to or insured by the Lender and (b) for the performance of obligations and agreements of the Depositor in connection with such advance(s).

2. No part of such deposit(s), account or money shall be withdrawn by the Depositor and no withdrawal shall be permitted by the Depositor except on the order of the Depositor and counter-signature of a duly authorized representative of the Government: Provided, however, that at any time upon written demand or order by the State Director of the Farmers Home Administration the Depositor shall pay over the balance then on hand, or any part thereof demanded, in accordance with the demand for use for the purposes for which the advance(s) were made or for return to the Lender for application on the indebtedness or as a return of grant funds: Provided, further, that the death, disability or insolvency of the Depositor shall not impair the power of the State Director to demand or order such withdrawal.

3. The Depositor agrees that it will not assert any right of offset, except service charges, with respect to the funds deposited pursuant to this agreement by reason of any indebtedness of claim now or hereafter owing to or acquired by it.

4. The Depositor and the Government shall be under no obligations with respect to the expenditure of funds after their withdrawal from the Depository in accordance with the provisions of this agreement. Upon making payment pursuant to an order or check duly executed by the Depositor and the countersigning officer, or pursuant to the written demand or order of the said State Director, the Depositor shall be discharged from all obligations with respect to the funds so released.

5. The Depositor further agrees that, at the end of each _____ period, it will forward statements and cancelled checks to the Farmers Home Administration office at the address shown above for review by that Agency.

In witness whereof, the parties hereto have executed this agreement as of the day and year first above written.

Depository _____

By _____
 Omit Lender's Signature when it is the same as the depository

Lender _____
 By _____
 (Official Title) _____
 United States of America

By _____
 (Official title Farmers Home Administration)
 Depositor _____
 Depositor _____

Note.—This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environment Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Dated: November 12, 1980.

James E. Thornton,
 Administrator, Farmers Home Administration.

[FR Doc. 80-36119 Filed 11-18-80; 8:45 am]
BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

NRC Action Plan; Request for Comments

AGENCY: Nuclear Regulatory Commission.

ACTION: Requests for comments.

SUMMARY: The Commission requested public comments on NUREG-0660, NRC Action Plan Developed as a Result of the TMI-2 Accident" (45 FR 50613). The public comment period is being extended 45 days.

DATES: Comment period expires December 12, 1980.

ADDRESSES: Written comments or suggestions for consideration in connection with the NRC Action Plan should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. Copies of the NRC Action Plan (NUREG-0660, "NRC Action Plan Developed as a Result of the TMI-2 Accident") are also available

for inspection at the same address and at all NRC local Public Document Rooms (LPDRs).

Copies are available upon request by persons who wish to comment, at no cost, from NRC's GPO Sales Program, Division of Technical Information and Document Control, ATTN: Sales Manager, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301-492-9530).

FOR FURTHER INFORMATION CONTACT: Mr. Warren Minners, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301-492-7581).

Dated at Bethesda, Maryland, this 13th day of November 1980.

For the Nuclear Regulatory Commission.

Frank Schroeder,

Acting Director for Safety Technology.

[FR Doc. 80-3085 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1031 and 1032

Voluntary Standards Activities; Modification of Policy

AGENCY: Consumer Product Safety Commission.

ACITON: Proposed revision of regulations.

SUMMARY: The Commission proposes minor modifications to its regulations concerning association with voluntary standards development groups. These modifications deal primarily with procedural matters such as staff reports and meetings with voluntary standards development groups as well as the terms used to describe these associations.

DATES: (1) Comments concerning these proposed revisions should be received on or before January 19, 1981. (2) Effective date: The Commission proposes that these modifications take effect 30 days after they are published in final form.

ADDRESSES: Written comments, preferably in 5 copies should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. Copies of materials relevant to this proposal may be seen in or obtained from the Office of the Secretary, third floor, 1111 18th St., N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Bert Simson, Director, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6554.

SUPPLEMENTARY INFORMATION:

Commission regulations concerning voluntary safety standards and involvement of Commission staff in helping voluntary standards groups develop such standards reflect Commission awareness that voluntary standards can contribute to the Commission's goal of reducing hazards associated with consumer products. Commission regulations at 16 CFR 1031, entitled Employee Membership and Participation in Voluntary Standards Organizations, set forth in detail the criteria for Commission staff involvement with voluntary standards development groups in order to ensure that such involvement presents no real or apparent conflict of interest with Commission staff members' duties and responsibilities to the Consumer Product Safety Commission.

Commission regulations at 16 CFR 1032 entitled, Commission Involvement in Voluntary Standards Activities, describe the extent and form of Commission involvement in these activities and how these may affect Commission programs.

From time to time experience may indicate that changes in these regulations would assist the efficient implementation of Commission programs. It is the Commission's view that staff involvement with voluntary standards development groups should be conducted in the context of all Commission consumer product safety programs. Toward this end, the internal organization of the Commission's Office of Program Management (OPM), which coordinates staff activities relating to regulation of consumer products, has been adjusted so that staff involvement with voluntary standards development activities will be based on program needs in accordance with Commission policy. In this way, such involvement becomes a part of any program dealing with hazards associated with consumer products. Formerly, a discrete staff unit dealt with voluntary standards development activities as such, rather than regarding such activities as integral parts of ongoing Commission programs in the hazard areas of: fire and thermal burns; acute chemical and environmental hazards; chronic chemical and environmental hazards; electrical hazards; mechanical hazards associated with children's and recreational products; mechanical hazards associated with powered equipment; and mechanical hazards associated with household structural products.

To assist integration of appropriate voluntary standards development

program into these program areas, the Commission proposes the following modifications of its regulations concerning staff involvement with voluntary standards development efforts: (1) program managers may occasionally attend meetings of voluntary standards development groups with which Commission staff may be involved for the purpose of providing guidance based on program needs; (2) to avoid confusion the descriptions of levels of Commission staff involvement with voluntary standards development groups is changed, although the extent of substantive involvement is unchanged; (3) preparation of staff reports to the Commission on staff involvement with voluntary standards development is changed from quarterly to semiannually because experience shows that semiannual reports would be sufficiently informative.

(1) *Occasional attendance of program managers at meetings*—At the present time, Commission regulations at 16 CFR 1031.5(b) provide that program managers in the Office of Program Management are among Commission employees who do not take part in the development of voluntary standards unless the Commission so permits on a case-by-case basis. The reasoning behind this provision is that such involvement could appear to involve a conflict of interest since program managers make recommendations to the Commission concerning evaluation of voluntary standards that may be considered for possible adoption as mandatory standards or as the possible basis for deferring mandatory action.

Experience has shown, however, that conflicts of interest have not materialized. In part this may be because the recommendations of a program manager are reviewed by the Director of the Office of Program Management and the Executive Director. Higher levels of review for recommendations of program managers have always existed in fact; they will now be specifically referred to in the regulations.

Experience indicates too, that the occasional presence of a program manager at meetings of a voluntary standards development group in which Commission technical staff members are involved, could help to focus the technical deliberations of the group and possibly help speed up the development process. Program managers by the nature of their work deal with multidisciplinary coordination of the staff's technical skills within current Commission projects. Thus, at critical

junctions in the development of voluntary standards, program managers are in the unique position of being able to communicate Commission policy on all aspects of a project involving a particular consumer product and to assess whether timely progress in the appropriate direction, within the context of Commission policy, is taking place.

Accordingly, the Commission proposes to modify § 1031.5(b)(4) by proposing that: "with advance approval by the Executive Director, to be provided on a case-by-case basis, program managers may occasionally, not regularly, attend meetings of voluntary standards development groups in order to provide the program context for the voluntary standards development efforts with which Commission technical employees may be involved". Further, the Commission proposes that § 1031.5(i), as set forth below, provide that any recommendations made by a program manager concerning voluntary standards are to be reviewed by higher-level Commission employees.

(2) *Terms to describe levels of CPSC staff involvement with voluntary standards development groups*—At the present time, Commission regulations at 16 CFR 1032.2(b) describe three levels of such activity; beginning with the least involvement, these are liaison, monitoring and participation. The definition of liaison now describes a minimal form of involvement that consists of making Commission materials available to voluntary standards groups and maintaining some contacts with them. The definition of monitoring now describes closer contacts by staff including more frequent attendance at meetings and staff review of meeting logs and draft voluntary standards. Participating involves regular attendance of CPSC staff, as nonvoting members of voluntary standards development groups and active involvement of staff in technical committee discussions. In certain circumstances, the Commission will authorize expenditure of resources for research, engineering support, or information and education programs for the purpose of supporting development and implementation of a voluntary standard effort.

Since activities involving participation are substantial and resource-intensive, participation in voluntary standards efforts must be approved by the Commission. Activities involving liaison and monitoring involve more limited use of resources and can be undertaken upon approval of the Executive Director. Experience has shown that liaison and

monitoring activities are closely related and tend to overlap. Thus the terms liaison and monitoring, by themselves, do not serve to clearly differentiate the extent of staff involvement. The needs of individual voluntary standards efforts, as determined by the Executive Director, affect the extent of any staff involvement short of participation. The Commission concludes that continuing the use of different terms, liaison and monitoring, for what is essentially a continuing process, can mislead the public as to the extent of CPSC staff involvement.

Accordingly, the Commission proposes to modify section 1032.2(b) as set forth below, to combine present descriptions of liaison and monitoring into one term, monitoring. The revised section provides that the term monitoring describes and degree of CPSC staff involvement approved by the Executive Director. The term participation is unchanged; participation must still be approved by the Commission because it can involve significant Commission resources.

(3) *Frequency of reports on voluntary standards activities*—At the present time, Commission regulations at 16 CFR 1032.3(c) provide that quarterly reports on voluntary standards activities are to be submitted to the Commission by the staff. Experience indicates that less frequent reports could provide an accurate picture of the proceedings of voluntary standards development groups and that quarterly reports are not needed for this purpose. It appears that quarterly reports have tended to be repetitive and provided little new or useful information. The Commission concludes that semiannual reports would provide the needed information.

Accordingly, the Commission proposes to revise section 1032.3(c) below to change the frequency of staff reports on voluntary standards from quarterly to semiannually. Although not specifically stated in the proposed revised section, any unusual voluntary standards activity or any activity of special interest that may occur in the period between semiannual reports would also be reported to the Commission.

Therefore, pursuant to the Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*, the Commission proposes to amend Part 1031 and Part 1032 of Title 16, Chapter II, Subchapter A, as follows:

1. Section 1031.5 is amended by revising paragraphs (b)(4) and (i) to read as follows:

§ 1031.5 Participation criteria.

- (a) * * *
- (b) * * *

(4) * * * Except that: with advance approval of the Executive Director, to be provided on a case-by-case basis, program managers may occasionally, not regularly, attend meetings of voluntary standards development groups in order to provide the program context for the voluntary standard development efforts with which Commission technical employees may be involved.

- (c) * * *
- (d) * * *
- (e) * * *
- (f) * * *
- (g) * * *
- (h) * * *
- (i) * * *

Any evaluation or recommendation shall be reviewed by higher-level commission employees.

2. Section 1032.2(b) is amended by changing the word "three" to "two" in the third sentence, by revising and combining paragraphs (b)(1) and (b)(2) into paragraph (b)(1), and by renumbering paragraph (b)(3) to (b)(2) as follows:

§ 1032.2 Extent and form of Commission involvement in the development of voluntary standards.

(b) [Amended]

(1) *Monitoring.* Monitoring involves maintaining an awareness of the voluntary standards development process through oral or written inquiries, receiving and reviewing minutes of meetings and copies of draft standards, and attending meetings for the purpose of observing and commenting during the standards development process. For example, monitoring involves responding to requests from voluntary standards organizations, standards development committees, trade associations and consumer organizations, by providing information concerning the risks of injury associated with particular products, NEISS data, summaries and analyses of in-depth investigation reports; discussing Commission goals and objectives with regard to voluntary standards and improved consumer product safety; responding to requests for information concerning Commission programs; and initiating contacts with voluntary standards organizations to discuss cooperative voluntary standards activities.

(2) *Participating.* * * *

3. Section 1032.3 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1032.3 Determination of Commission involvement in voluntary standards activities; summary of activities.

(a) The Executive Director shall approve Commission activities that are within the definition of "monitoring".

(b) * * *

(c) The Office of Program Management is responsible for preparing a semiannual summary of such activities for the Commission.

* * * * *

Dated: November 13, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-36089 Filed 11-18-80; 8:45 am]

BILLING CODE 6355-01-M

SUPPLEMENTARY INFORMATION: Background

Section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499), provides that not less than one package of every 10 packages of imported merchandise shall be opened and examined. However, if the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that examination of a lesser proportion of packages will amply protect the revenue, by special regulation or instruction, the application of which may be restricted to one or more individual ports, one or more importations, or to one or more classes of merchandise, he may permit a lesser number of packages to be examined.

Section 151.2, Customs Regulations (19 CFR 151.2), implements 19 U.S.C. 1499 by providing that not less than one of every 10 packages of merchandise shall be examined unless a special regulation permits a lesser number of packages to be examined. Section 151.2 further provides that district directors are authorized specially to examine less than one of every 10 packages, but not less than one package of every invoice, in the case of any merchandise imported in packages (1) the contents and values of which are uniform, or (2) the contents of which are identical as to character although differing as to quantity and value per package.

A June 1978 General Accounting Office draft report to Congress entitled "Customs' Cargo Processing—Fewer But More Intensive Inspections Are In Order", recommended that a comprehensive cargo selective inspection system would be more efficient than Customs traditional inspection approach. To implement this recommendation, Customs has been testing a pilot automated selective examination system, the Accelerated Cargo Clearance and Entry Processing Test (ACCEPT), in several ports of entry. The results have been encouraging.

To allow for expanded use of the system on a servicewide basis to improve the effectiveness of Customs cargo inspections, it is proposed to amend paragraph (a) of § 151.2 to provide that at ports of entry specifically designated by the Commissioner of Customs, the district director would be authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure protection of the revenue and enforcement of Customs and other laws.

Section 151.1, Customs Regulations (19 CFR 151.1), provides that the district director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for other Customs purposes. It is proposed to amend § 151.1 to clarify that Customs officers may examine shipments to ensure compliance with any other laws enforced by the Customs Service, as well as with the Customs laws. For example, imported merchandise may be examined for the Department of Agriculture, the Environmental Protection Agency, and the Department of Health, Education and Welfare, among other agencies, to determine that it complies with the laws which are administered primarily by those agencies.

Authority

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), and sections 499, 624, 46 Stat. 728, as amended, 759, General Headnotes 11, 12, Tariff Schedules of the United States (19 U.S.C. 1202, 1499, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Applicability of Executive Order 12044

This document is subject to the Treasury Department directive published in the Federal Register on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", and was the subject of Work Plan #79-20, approved by the Department on July 31, 1979.

Regulation Determined To Be Nonsignificant

In the directive implementing Executive Order 12044, the Treasury Department stated that it considers each regulation published in the Federal Register and codified in the Code of Federal Regulations to be "significant". However, regulations which are nonsubstantive, essentially procedural, and do not impose substantial additional requirements or cost on, or substantially alter the legal rights or

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 151

Proposed Amendment to the Customs Regulations Relating to the Examination of Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide that at ports of entry specifically designated by the Commissioner of Customs, the district director of Customs would be authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure the protection of the revenue and enforcement of Customs and other laws.

Customs has been testing a pilot automated selective examination system at several ports of entry, and the results have been encouraging. The proposed amendments would allow for servicewide use of the system to improve the effectiveness of Customs cargo inspections.

DATE: Comments must be received on or before January 19, 1981.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, Room 2335, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: William Morandini, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5354).

obligations of, those affected, with Secretarial approval, may be determined not to be significant. Accordingly, it has been determined that this document does not meet the Treasury Department criteria in the directive for "significant" regulations.

Drafting Information

The principal author of this document was Laurie Strassberg Amster, Regulations and Research Division, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Proposed Amendments

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. It is proposed to amend § 151.1, Customs Regulations (19 CFR 151.1), to read as follows:

§ 151.1 Merchandise to be examined

The district director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for compliance with the Customs laws and any other laws enforced by the Customs Service.

2. It is proposed to amend paragraph (a) of § 151.2, Customs Regulations (19 CFR 151.2), to read as follows:

§ 151.2 Quantities to be examined.

(a)(1) *Minimum quantities.* Not less than one package of every 10 packages of merchandise shall be examined, unless a special regulation permits a lesser number of packages to be examined. District directors are specially authorized to examine less than one package of every 10 packages, but not less than one package of every invoice, in the case of any merchandise which is:

- (i) Imported in packages the contents and values of which are uniform, or
- (ii) Imported in packages the contents of which are identical as to character although differing as to quantity and value per package.

(2) *Exceptions to minimum quantities.* At ports of entry specifically designated by the Commissioner of Customs, the district director is authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure the protection of the revenue and compliance with the

Customs laws and any other laws enforced by the Customs Service.

* * * * *

R. E. Chasen,
Commissioner of Customs.

Approved: November 6, 1980.

Richard J. Davis,
Assistant Secretary of the Treasury.

[FR Doc. 80-36052 Filed 11-18-80; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Commissioner—Office of Assistant Secretary for Housing

24 CFR Part 200

[Docket No. R-80-888]

Project Selection Criteria

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional Waiver request under Section 7(o)(4) of the Department of HUD Act. This legislation permits the Secretary to request waiver of the legislation's requirements in appropriate instances. This Notice lists and briefly summarizes for public information a final rule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of the General Counsel, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuances of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both Congressional Banking Committees the final rule listed below. The purpose of the transmittal is to request waiver of both the 15-day prepublication review period, under Section 7(o)(2), and the 30-day delayed effective date for the final rule under Section 7(o)(3) of the Department of Housing and Urban Development Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

Final Rule—24 CFR Part 200, Subpart N—Project Selection Criteria

This final rule retroactively amends 24 CFR 200 Subpart N, in order to preclude conflict with the Public Housing Development regulation 24 CFR 841. The preamble to 24 CFR 841 stated that these conforming amendments would be made to 24 CFR 200 Subpart N, effective October 1, 1980, the effective date of the 24 CFR 841.

With the final rule at 24 CFR 841, effective October 1, 1980, each program regulation implementing the United States Housing Act of 1937 now sets forth the appropriate program site selection requirements. This conforming amendment (final rule), therefore, deletes from 24 CFR 200 Subpart N, all references to the United States Housing Act of 1937 and its programs.

(Sec. 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o); Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 6, 1980.

Moon Landrieu,
Secretary, Department of Housing and Urban Development.

[FR Doc. 80-36027 Filed 11-18-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-237-76]

Indirect Foreign Tax Credit for Domestic Corporations Required To Include Amounts in Gross Income With Respect to Certain Third-Tier Corporations Under Section 951

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the foreign tax credit for domestic corporate shareholders of certain foreign corporations. These regulations would amend the existing regulations to conform them to changes made to the applicable law by the Tax Reform Act of 1976. They would affect all domestic corporations required to include certain amounts in gross income with respect to third-tier controlled foreign corporations.

DATES: Written comments and requests for a public hearing must be delivered by January 19, 1981. The amendments are proposed to be effective for taxable years beginning after December 31, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR-237-76) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Diane L. Renfro of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free number.

SUPPLEMENTARY INFORMATION:**Background**

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 960 of the Internal Revenue Code (relating to special rules for foreign tax credit). These amendments are proposed to conform the regulations to section 1037 of the Tax Reform Act of 1976 (90 Stat. 1633) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Foreign Tax Credit Under Section 960

Section 960 of the Code provides that domestic corporations which are required to include amounts attributable to the earnings and profits of certain controlled foreign corporations in their gross incomes under section 951(a), shall be deemed to have paid a portion of the foreign taxes paid, accrued, or, in some instances, deemed paid by such controlled foreign corporations on or with respect to their earnings and profits.

1976 Act Changes To Section 960

Prior to amendment by the Tax Reform Act of 1976, the credit provisions of section 960 were applicable to first- and second-tier corporations only. Section 1037 of the Tax Reform Act of 1976 extended this credit to third-tier corporations. In addition, section 1037 changed the ownership requirement for qualification as a second-tier corporation from 50 percent to 10 percent.

Rules Unchanged

These proposed regulations would amend §§ 1.960-1, 1.960-2, 1.960-3 and 1.960-7 of the existing regulations by making conforming changes. The amendments would make those rules applicable to amounts included in the gross income of a domestic corporation under section 951 with respect to third-tier corporations. In order to so extend the existing rules, the proposed amendments revised the above mentioned sections and add several new examples relating to third-tier corporations.

Formulas Added

The proposed regulations would add a new paragraph (g) to § 1.960-2 which provides formulas for determining a domestic corporation's section 902 and 960 credits when amounts previously included in the domestic corporation's gross income under section 951 are distributed through a chain of ownership. These formulas were added

to further illustrate the principles of this section. Formulas have also been added to the new examples. Comments are sought as to whether these formulas are helpful.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the *Federal Register*.

Drafting Information

The principal author of these proposed regulations is Diane L. Renfro of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.960-1 (except for paragraph (c)(4), examples 1 and 2) is revised as set forth below.

§ 1.960-1 Foreign tax credit with respect to taxes paid on earnings and profits of controlled foreign corporations.

(a) *Scope of regulations under section 960.* This section prescribes rules for determining the foreign income taxes deemed paid under section 960(a)(1) by a domestic corporation which is required under section 951 to include in gross income an amount attributable to a first-, second-, or third-tier corporation's earnings and profits. Section 1.960-2 prescribes rules for applying section 902 to dividends paid by a third-, second-, or first-tier corporation from earnings and profits attributable to an amount which is, or has been, included in gross income under section 951. Section 1.960-3 provides special rules for the application of the gross-up provisions of section 78 where an amount is included in gross income under section 951. Section 1.960-4 prescribes rules for increasing the applicable foreign tax credit limitation under section 904(a) of the domestic corporation for the taxable year in which it receives a distribution of

earnings and profits in respect of which it was required under section 951 to include an amount in its gross income for a prior taxable year. Section 1.960-5 prescribes rules for disallowing a deduction for foreign income taxes for such taxable year of receipt where the domestic corporation received the benefits of the foreign tax credit for such previous taxable year of inclusion. Section 1.960-6 provides that the excess of such an increase in the applicable limitation under section 904(a) over the tax liability of the domestic corporation for such taxable year of receipt results in an overpayment of tax. Section 1.960-7 prescribes the effective dates for application of these rules.

(b) *Definitions.* For purposes of section 960 and §§ 1.960-1 through 1.960-7—

(1) *First-tier corporation.* The term "first-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by the domestic corporation described in paragraph (a) of this section.

(2) *Second-tier corporation.* In the case of amounts included in the gross income of the taxpayer under section 951—

(i) For taxable years beginning before January 1, 1977, the term "second-tier corporation" means a foreign corporation at least 50 percent of the voting stock of which is owned by such first-tier corporation.

(ii) For taxable years beginning after December 31, 1976, the term "second-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by such first-tier corporation.

(3) *Third-tier corporation.* In the case of amounts included in the gross income of a domestic shareholder under section 951 for taxable years beginning after December 31, 1976, the term "third-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by such second-tier corporation.

(4) *Immediately lower-tier corporation.* In the case of a first-tier corporation the term "immediately lower-tier corporation" means a second-tier corporation. In the case of a second-tier corporation, the term "immediately lower-tier corporation" means a third-tier corporation. In the case of a third-tier corporation, the term "immediately lower-tier corporation" means a fourth-tier corporation.

(5) *Foreign income taxes.* The term "foreign income taxes" means income, war profits, and excess profits taxes, and taxes included in the term "income, war profits, and excess profits taxes" by reason of section 903, imposed by a

foreign country or a possession of the United States.

(c) Amount of foreign income taxes deemed paid by domestic corporation in respect of earnings and profits of foreign corporation attributable to amount included in income under section 951—

(1) In general. For purposes of section 901—

(i) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a first- or second-tier corporation for any taxable year, the domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid, accrued, or deemed (in accordance with paragraph (b) of § 1.960-2) to be paid, by such foreign corporation on or with respect to its earnings and profits for its taxable year as the amount so included in the gross income of the domestic corporation under section 951 with respect to such foreign corporation bears to the total earnings and profits of such foreign corporation for its taxable year. This paragraph (c)(1)(i) shall not apply to amounts included in the gross income of the domestic corporation under section 951 with respect to the second-tier corporation unless the percentage-of-voting-stock requirement of section 902(b)(3)(A) is satisfied.

(ii) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a third-tier corporation for any taxable year, the domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid or accrued by such foreign corporation on or with respect to its earnings and profits for its taxable year as the amount so included in the gross income of the domestic corporation under section 951 with respect to such foreign corporation bears to the total earnings and profits of such foreign corporation. This paragraph (c)(1)(ii) shall not apply unless the percentage-of-voting-stock requirement of section 902(b)(3)(B) is satisfied.

(iii) In applying paragraph (c)(1)(i) of this section to a first- or second-tier corporation which for the taxable year has income excluded under section 959(b), paragraph (c)(3) of this section shall apply for purposes of excluding certain earnings and profits of such foreign corporation and foreign income taxes, if any, attributable to such excluded income.

(iv) This paragraph (c)(1) applies whether or not the first-, second-, or third-tier corporation makes a distribution for the taxable year of its

earnings and profits which are attributable to the amount included in the gross income of the domestic corporation under section 951.

(v) This paragraph (c)(1) does not apply to an increase in current earnings invested in United States property which, but for paragraph (e) of § 1.963-3 (applied as if section 963 had not been repealed by the Tax Reduction Act of 1975), would be included in the gross income of the domestic corporation under section 951(a)(1)(B) but which, pursuant to such paragraph, counts toward a minimum distribution for the taxable year.

(2) Taxes paid or accrued on or with respect to earnings and profits of foreign corporation. For purposes of paragraph (c)(1) of this section, the foreign income taxes paid or accrued by a first-, second-, or third-tier corporation on or with respect to its earnings and profits for its taxable year shall be the total amount of the foreign income taxes paid or accrued by such foreign corporation for such taxable year.

(3) Exclusion of earnings and profits and taxes of a first-, second-, or third-tier corporation having income excluded under section 959(b). If in the case of a first-, second-, or third-tier corporation to which paragraph (c)(1)(i) or (c)(1)(ii) of this section is applied—

(i) The earnings and profits of such foreign corporation for its taxable year consist of (A) earnings and profits attributable to dividends received from an immediately lower-tier corporation which are attributable to amounts included in the gross income of a domestic corporation under section 951 with respect to the immediately lower- or lower-tier corporations, and (B) other earnings and profits, and

(ii) The effective rate of foreign income taxes paid or accrued by such foreign corporation in respect to the dividends to which its earnings and profits described in paragraph (c)(3)(i)(A) of this section are attributable is higher or lower than the effective rate of foreign income taxes paid or accrued by such foreign corporation in respect to the income to which its earnings and profits described in paragraph (c)(3)(i)(B) of this section are attributable,

then, for purposes of applying paragraph (c)(1)(i) or (c)(1)(ii) of this section to the foreign income taxes paid, accrued, or deemed to be paid, by such foreign corporation on or with respect to its earnings and profits for such taxable year, the earnings and profits of such foreign corporation for such taxable year shall be considered not to include the earnings and profits described in

paragraph (c)(3)(1)(A) of this section and only the foreign income taxes paid, accrued, or deemed to be paid, by such foreign corporation in respect to the income to which its earnings and profits described in paragraph (c)(3)(ii)(B) of this section are attributable shall be taken into account. For purposes of applying this paragraph (c)(3), the effective rate of foreign income taxes paid or accrued in respect to income shall be determined consistently with the principles of paragraphs (b)(3)(iv) and (viii) and (c) of § 1.954-1. Thus, for example, the effective rate of foreign income taxes paid or accrued in respect to dividends received by such foreign corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

(4) Illustrations. * * *

Example (3). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B, which owns all the one class of stock of foreign corporation C. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required to include in gross income \$80 attributable to the earnings and profits of C Corporation for such year, \$45 attributable to the earnings and profits of B Corporation for such year and \$50 attributable to the earnings and profits of A Corporation for such year. Neither C Corporation nor B Corporation distributes any earnings and profits for 1978. The foreign income taxes which are deemed paid by N Corporation for such year under section 960(a)(1) are determined as follows upon the basis of the facts assumed:

C Corporation (third-tier corporation):	
Pretax earnings of C Corporation.....	\$150.00
Foreign income taxes (40%).....	60.00
Earnings and profits.....	90.00
Amounts required to be included in N Corporation's gross income under section 951.....	80.00
Dividends paid to B Corporation.....	0
Foreign income taxes paid on or with respect to earnings and profits of C Corporation.....	60.00
B Corporation (second-tier corporation):	
Pretax earnings of B Corporation.....	100.00
Foreign income taxes (40%).....	40.00
Earnings and profits.....	60.00
Amount required to be included in N Corporation's gross income under section 951.....	45.00
Dividends paid to A Corporation.....	0
Foreign income taxes paid on or with respect to earnings and profits of B Corporation.....	40.00
A Corporation (first-tier corporation):	
Pretax earnings and profits of A Corporation.....	100.00
Foreign income taxes (20%).....	20.00
Earnings and profits.....	80.00
Amount required to be included in N Corporation's gross income under section 951.....	50.00
Dividends paid to N Corporation.....	0
Foreign income taxes paid on or with respect to earnings and profits of A Corporation.....	20.00
N Corporation (domestic corporation):	
Foreign income taxes deemed paid by N Corporation under section 960(a)(1):	
Taxes of C Corporation \$80/\$90 × \$60.....	53.33
Taxes of B Corporation \$45/\$60 × \$40.....	30.00
Taxes of A Corporation \$50/\$80 × \$20.....	12.50
Total taxes deemed paid under section 960(a)(1).....	95.83

Example (4). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns 5 percent of the one class of stock of controlled foreign corporation B. N Corporation also directly owns 95 percent of the one class of stock of B Corporation. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income \$60 attributable to the earnings and profits of B Corporation and \$79.20 attributable to the earnings and profits of A Corporation. For 1978, B Corporation distributes \$19 to N Corporation and \$1 to A Corporation, but A Corporation makes no distribution to N Corporation. The foreign income taxes paid by N Corporation for such year under section 960(a)(1) are determined as follows upon the basis of the facts assumed:

B Corporation (first-tier corporation):	
Pretax earnings and profits	\$100.00
Foreign income taxes (40%)	40.00
Earnings and profits	60.00
Amount required to be included in N Corporation's gross income under section 951 with respect to B Corporation	60.00
A Corporation (first-tier corporation):	
Pretax earnings and profits (including \$1 dividend from B Corporation)	100.00
Foreign income taxes (20%)	20.00
Earnings and profits	80.00
Amount required to be included in N Corporation's gross income with respect to A Corporation (\$89 - [\$99 x 0.20])	79.20
N Corporation (domestic corporation):	
Foreign income taxes deemed paid by N Corporation under section 960(a)(1) with respect to—	
B Corporation (\$60 x 0.951/\$60 x \$40)	38.00
A Corporation (\$79.20/\$80 x \$20)	19.80
Total taxes deemed paid under section 960(a)(1)	57.80

Example (5). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income \$175 attributable to the earnings and profits of A Corporation for such year. For 1978, B Corporation has earnings and profits of \$225, on which it pays foreign income taxes of \$75. In 1978, B Corporation distributes \$150, which, under paragraph (b) of § 1.960-2, consists of \$100 to which section 902(b)(1) does not apply (from B Corporation's earnings and profits attributable to an amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation) and \$50 to which section 902(b)(1) applies (from B Corporation's other earnings and profits). The country under the laws of which A Corporation is incorporated imposes an income tax of 40 percent on all income but exempts from tax dividends received from a subsidiary corporation. A Corporation makes no distribution for 1978. Under paragraph (b) of § 1.960-2, A Corporation is deemed to have paid \$25 ($\$50/\$150 \times \75) of the \$75 foreign income taxes paid by B Corporation on its pretax earnings and profits of \$225. The foreign income taxes deemed paid by N Corporation for 1978 under section 960(a)(1) with respect to A Corporation are determined

as follows upon the basis of the following assumed facts:

Pretax earnings and profits of A Corporation:	
Dividends received from B Corporation	\$150.00
Other income	250.00
Total pretax earnings and profits	400.00
Foreign income taxes:	
On dividends received from B Corporation	0
On other income ($\$250 \times 0.40$)	100.00
Total foreign income taxes	100.00
Earnings and profits:	
Attributable to dividends received from B Corporation to which sec. 902(b) does not apply	100.00
Attributable to other income:	
Attributable to dividends received from B Corporation to which sec. 902(b)(1) applies	\$50.00
Attributable to other income ($\$250 - \100) [$\$250 \times 0.40$]	150.00 200.00
Total earnings and profits	300.00
Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1) with respect to A Corporation:	
Tax paid by A Corporation in respect to its income other than dividends received from B Corporation to which sec. 902(b)(1) does not apply ($\$175/\$200 \times \$100$)	87.50
Tax of B Corporation deemed paid by A Corporation under sec. 902(b)(1) in respect to such income ($\$175/\$200 \times \$25$)	21.88
Total foreign income taxes deemed paid by N Corporation under sec. 960(a)(1) with respect to A Corporation	109.38

(d) **Time for stock ownership—(1) In general.** For the purposes of applying paragraph (c) of this section, the stock ownership requirements referred to in paragraph (b) (1), (2), and (3) of this section must be satisfied on the last day in such taxable year of such first-, second-, or third-tier corporation, as the case may be, on which such foreign corporation is a controlled foreign corporation. For paragraph (c) to apply to a second-tier corporation the requirements of paragraph (b) (1) and (2) must be met on such date. In order for paragraph (c) to apply to a third-tier corporation the requirements of paragraph (b) (1), (2), and (3) must be met on such date.

(2) **Illustrations.** The application of this paragraph may be illustrated by the following examples:

Example (1). Domestic corporation N is required for its taxable year ending June 30, 1978, to include in gross income under section 951 an amount attributable to the earnings and profits of controlled foreign corporation A for 1977 and another amount attributable to the earnings and profits of controlled foreign corporation B for such year. Corporations A and B use the calendar year as the taxable year. Such amounts are required to be

included in N Corporation's gross income by reason of its ownership of stock in A Corporation and in turn by A Corporation's ownership of stock in B Corporation. Corporation A is a controlled foreign corporation throughout 1977, but B Corporation is a controlled foreign corporation only from January 1, 1977, through September 30, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by A Corporation for 1977, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on December 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by B Corporation for 1977, only if on September 30, 1977, N Corporation owns at least 10 percent of the voting stock of A Corporation and A Corporation owns at least 10 percent of the voting stock of B Corporation.

Example (2). The facts are the same as in example (1), except that A Corporation is a controlled foreign corporation only from January 1, 1977, through March 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by A Corporation for 1977, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on March 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by B Corporation for 1977, only if on September 30, 1977, N Corporation owns at least 10 percent of the voting stock of A Corporation and A Corporation owns at least 10 percent of the voting stock of B Corporation.

(e) **Information to be furnished.** If the credit for foreign income taxes claimed under section 901 includes taxes deemed paid under section 960(a)(1), the domestic corporation must furnish the same information with respect to the taxes so deemed paid or accrued by it and for which credit is claimed. See § 1.905-2. For other information required to be furnished by the domestic corporation for the annual accounting period of certain foreign corporations ending with or within such corporation's taxable year, see section 6038 and § 1.6038-2.

(f) **Reduction of foreign income taxes paid or deemed paid.** For reduction of the amount of foreign income taxes paid or deemed paid by a foreign corporation for purposes of section 960, see section 6038(b) and the regulations thereunder, relating to failure to furnish information with respect to certain foreign corporations.

(g) **Amounts under section 951 treated as distributions for purposes of applying effective dates.** For purposes of applying section 902 in determining the amount of credit allowed under section 960 (a)(1) and paragraph (c) of this section, the effective date provisions of the

regulations under section 902 shall apply, and for purposes of so applying the regulations under section 902, any amount attributable to the earnings and profits for the taxable year of a first-, second-, or third-tier corporation which is included in the gross income of a domestic corporation under section 951 shall be treated as a distribution received by such domestic corporation on the last day in such taxable year on which such foreign corporation is a controlled foreign corporation.

(h) *Source of income and country to which tax is deemed paid*—(1) *Source of income.* For purposes of section 904—

(i) The amount included in gross income of a domestic corporation under section 951 for the taxable year with respect to a first-, second-, or third-tier corporation, plus

(ii) Any section 78 dividend to which such section 951 amount gives rise by reason of taxes deemed paid by such domestic corporation under section 960 (a) (1),

shall be deemed to be derived from sources within the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation in the same chain of ownership as such second- or third-tier corporation, is created or organized.

(2) *Country to which taxes deemed paid.* For purposes of section 904, the foreign income taxes paid by the first-, second-, or third-tier corporation and deemed to be paid by the domestic corporation under section 960(a)(1) by reason of the inclusion of the amount described in paragraph (h)(1)(i) of this section in the gross income of such domestic corporation shall be deemed to be paid to the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation in the same chain of ownership as such second- or third-tier corporation, is created or organized.

(3) *Illustration.* The application of this paragraph may be illustrated by the following example:

Example. Domestic corporation N owns all the one class of stock of controlled foreign corporation A, incorporated under the laws of foreign country X, which owns all the one class of stock of controlled foreign corporation B, incorporated under the laws of foreign country Y. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income \$45 attributable to the earnings and profits of B Corporation for such year and \$50 attributable to the earnings and profits of A Corporation for such year. For 1978, because of the inclusion of such amounts in gross income, N Corporation is deemed under

section 960(a)(1) and paragraph (c) of this section to have paid \$15 of foreign income taxes paid by B Corporation for such year and \$10 of foreign income taxes paid by A Corporation for such year. For purposes of section 904, the amount (\$95) included in N Corporation's gross income under section 951 attributable to the earnings and profits of corporations A and B is deemed to be derived from sources within country X, and the section 78 dividend consisting of the foreign income taxes (\$25) deemed paid by N Corporation under section 960(a)(1) with respect to such \$95 is deemed to be derived from sources within country X. The \$25 of foreign income taxes so deemed paid by N Corporation are deemed to be paid to country X for purposes of section 904.

Par. 2. Examples (1)–(7) under § 1.960–2 (e) are recodified under § 1.960–2(f) and the rest of § 1.960–2 is revised to read as follows:

§ 1.960–2 Interrelation of section 902 and section 960 when dividends are paid by third-, second-, or first-tier corporation.

(a) *Scope of this section.* This section prescribes rules for the application of section 902 in a case where dividends are paid by a third-, second-, or first-tier corporation, as the case may be, from its earnings and profits for a taxable year when an amount attributable to such earnings and profits is included in the gross income of a domestic corporation under section 951, or when such earnings and profits are attributable to an amount excluded from the gross income of such foreign corporation under section 959(b) and § 1.959–2, with respect to the domestic corporation. In making determinations under this section, any portion of a distribution received from a first-tier corporation by the domestic corporation which is excluded from the domestic corporation's gross income under section 959(a) and § 1.959–1, or any portion of a distribution received from an immediately lower-tier corporation by the third-, second-, or first-tier corporation which is excluded from such foreign corporation's gross income under section 959(b) and § 1.959–2, shall be treated as a dividend for purposes of taking into account under section 902 any foreign income taxes paid by such third-, second-, or first-tier corporation which are not deemed paid by the domestic corporation under section 960(a)(1) and § 1.960–1.

(b) *Application of section 902(b) to dividends received from an immediately lower-tier corporation.* For purposes of paragraph (a) of this section and paragraph (c)(1)(i) of § 1.960–1, section 902(b) shall apply to all dividends received by the first- or second-tier corporation from the immediately lower-tier corporation other than dividends

attributable to earnings and profits of such immediately lower-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such immediately lower-tier corporation.

(c) *Application of section 902(a) to dividends received by domestic corporation from first-tier corporation.* For purposes of paragraph (a) of this section, section 902(a) shall apply to all dividends received by the domestic corporation for its taxable year from the first-tier corporation other than dividends attributable to earnings and profits of such first-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such first-tier corporation.

(d) *Allocation of earnings and profits of a first- or second-tier corporation having income excluded under section 959(b)—(1) First-tier corporations.* If the first-tier corporation for its taxable year receives from the second-tier corporation dividends to which, in accordance with paragraph (b) of this section, section 902(b)(1) or 902(b)(2) applies and other dividends to which such section does not apply, then in applying section 902(a) pursuant to this section and in applying section 960(a)(1) pursuant to § 1.960–1(c)(1)(i), with respect to the foreign income taxes paid and deemed paid by the second-tier corporation which are deemed paid by the first-tier corporation for such taxable year under section 902(b)(1)—

(i) The earnings and profits of the first-tier corporation for such taxable year shall be considered not to include its earnings and profits which are attributable to the dividends to which section 902(b)(1) does not apply (in determining the domestic corporation's credit for the taxes paid by the second-tier corporation) or which are attributable to the dividends to which sections 902(b)(1) and 902(b)(2) do not apply (in determining the domestic corporation's credit for taxes deemed paid by the second-tier corporation) and

(ii) For the purposes of so applying section 902(a), distributions to the domestic corporation from such earnings and profits which are attributable to the dividends to which section 902(b)(1) does not apply (in determining the domestic corporation's credit for taxes paid by the second-tier corporation) or which are attributable to the dividends to which sections 902(b)(1) and 902(b)(2) do not apply (in determining the domestic corporation's credit for taxes deemed paid by the second-tier

corporation) shall not be treated as a dividend.

(a) *Second-Tier corporations.* If the second-tier corporation for its taxable year receives dividends from the third-tier corporation to which, in accordance with paragraph (b) of this section, section 902(b)(2) applies and other dividends to which such section does not apply, then in applying section 902(b)(1) pursuant to this section, and in applying section 960(a)(1) pursuant to paragraph (c)(1)(i) of § 1.960-1, with respect to the foreign taxes deemed paid by the second-tier corporation for such taxable year under section 902(b)(2)—

(i) The earnings and profits of the second-tier corporation for such taxable year shall be considered not to include its earnings and profits which are attributable to such other dividends from the third-tier corporation, and

(ii) For the purposes of so applying section 902(b)(1), distributions to the first-tier corporation from such earnings and profits which are attributable to such other dividends from the third-tier corporation shall not be treated as a dividend.

(e) *Separate determinations under sections 902(a), 902(b)(1), and 902(b)(2) in the case of a first-, second-, or third-tier corporation having income excluded under section 959(b).* If in the case of a first-, second-, or third-tier corporation to which paragraph (b) or (c) of this section is applied—

(1) The earnings and profits of such foreign corporation for its taxable year consist of—

(i) Dividends received from an immediately lower-tier corporation which are attributable to amounts included in the gross income of a domestic corporation under section 951 with respect to the immediately lower- or lower-tier corporations, and

(ii) Other earnings and profits, and
(2) The effective rate of foreign income taxes paid or accrued by such foreign corporation on the dividends described in paragraph (e)(1)(i) of this section is higher or lower than the effective rate of foreign income taxes attributable to its earnings and profits described in paragraph (e)(1)(ii) of this section,

then, for purposes of applying paragraphs (b) or (c) of this section to dividends paid by such foreign corporation to the domestic corporation or the first- or second-tier corporation, sections 902(a), 902(b)(1), and 902(b)(2) shall be applied separately to the portion of the dividend which is attributable to the earnings and profits described in paragraph (e)(1)(i) of this section and separately to the portion of

the dividend which is attributable to the earnings and profits described in paragraph (e)(1)(ii) of this section. In making a separate determination with respect to the earnings and profits described in paragraph (e)(1)(i) or (e)(1)(ii) of this section, only the foreign income taxes paid or accrued (or, in the case of earnings and profits of a first- or second-tier corporation described in paragraph (e)(1)(ii) of this section, deemed to be paid) by such foreign corporation on the income attributable to such earnings and profits shall be taken into account. For purposes of applying this paragraph (e), no part of the foreign income taxes paid, accrued, or deemed to be paid which are attributable to the earnings and profits described in paragraph (e)(1)(ii) of this section shall be attributed to the dividend described in paragraph (e)(1)(ii) of this section; and no part of the foreign income taxes paid or accrued on the dividend described in paragraph (e)(1)(i) of this section shall be attributed to the earnings and profits described in paragraph (e)(1)(ii) of this section. Furthermore, the effective rate of foreign income taxes paid or accrued shall be determined consistently with the principles of paragraph (b)(3)(iv) and (viii) and (c) of § 1.954-1. Thus, for example, the effective rate of foreign income taxes on dividends received by such foreign corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

(f) *Illustrations.* The application of this section may be illustrated by the following examples. In all of the examples other than examples (6), (7), (9) and (10), it is assumed that the effective rate of foreign income taxes paid or accrued by the first- or second-tier corporation, as the case may be, in respect to dividends received from the immediately lower-tier corporation is the same as the effective rate of foreign income taxes paid or accrued by the first- or second-tier corporation with respect to its other income: * * *

Example (8). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B, which owns all the one class of stock of controlled foreign corporation C. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include \$50 attributable to the earnings and profits of C Corporation and \$15 attributable to the earnings and profits of B Corporation in its gross income. N Corporation is not required to include any amount in its gross income with respect to A Corporation under section 951 in 1978. For such year, C Corporation

distributes \$75 to B Corporation. B Corporation in turn distributes \$60 of its earnings and profits to A Corporation. A Corporation has no other earnings and profits for 1978 and distributes \$45 of its earnings and profits to N Corporation. The foreign income taxes deemed paid by N Corporation under section 960(a)(1) and section 902(a) are determined as follows on the basis of the facts assumed:

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C Corporation (third-tier corporation):

Pretax earnings and profits.....	\$150.00
Foreign taxes paid by C Corporation (30%).....	45.00
Earnings and profits.....	105.00
Amount required to be included in gross income of N Corporation under section 951 with respect to C Corporation.....	50.00
Dividend to B Corporation.....	75.00

Dividend from earnings and profits
to which section 902 (b) (2) does
not apply (attributable to
amounts included in N Corporation's
gross income under section 951 with respect to
C Corporation)..... \$50.00

Dividend from earnings and profits
to which section 902 (b) (2)
applies (attributable to
amounts not included in N
Corporation's gross income with
respect to C Corporation)..... 25.00

Amount of foreign income taxes of
C Corporation deemed paid by
B Corporation under section 902
(b) (2) and § 1.960-2 (b):

Dividend to B Corporation
less portion of dividend
from earnings included in
N Corporation's gross income
under section 951 with respect
to C Corporation

Earnings and profits of
C Corporation

X Taxes paid by
C Corporation

(\$25/\$105 X \$45)..... 10.71

B Corporation (second-tier corporation):

Pretax earnings and profits	
Dividend from C Corporation.....	75.00
Other earnings and profits	<u>225.00</u>
Total pretax earnings and profits.....	300.00

Foreign income taxes paid by
B Corporation (40%).....\$120.00
Earnings and profits..... 180.00

Earnings and profits attributable
to amounts to which sec-
tion 902 (b) (2) does not apply
(amounts included in N Corporation's
gross income under section 951 with
respect to
C Corporation) ($\$50 - (\$50 \times .40)$)... \$30.00

Other earnings and profits.....150.00

Earnings and profits of B Corporation
after exclusion for amounts to which
section 902 (b) (2) does not
apply (amounts attributable to
earnings and profits which are
included in N Corporation's gross
income under section 951 with respect
to C Corporation) ($\$180 - \30)..... 150.00

Amount to be included in gross income
under section 951 of N Corporation
with respect to B Corporation..... 15.00

Amount of dividend to A Corporation..... 60.00

Dividend from earnings and profits
to which section 902 (b) (2)
does not apply (attributable to
amounts included in N Corporation's gross
income under section 951 with
respect to C Corporation)..... 30.00

Dividend from earnings and profits
to which section 902 (b) (1)
does not apply (attributable to
amounts included in N Corporation's
gross income under section 951
with respect to B Corporation)..... 15.00

Dividend from other earnings and profits
(attributable to amounts not included
in N Corporation's gross income under
section 951 with respect to B
or C Corporation)..... \$15.00

Foreign income taxes of B Corporation deemed paid
by A Corporation under section 902 (b) (1):

Dividend to A Corporation
less portion of dividend from
earnings included in N Corporation's
gross income under section 951
with respect to B Corporation _____ X Taxes paid by
Earnings and profits of B Corporation
B Corporation
(\$45/\$180 X \$120).....\$30.00

Foreign income taxes (of C Corporation) deemed paid by
B Corporation deemed paid by A Corporation under
section 902 (b) (1):

Dividend to A Corporation
less portion of dividend
from earnings included in
N Corporation's gross income
under section 951 with respect
to B Corporation and C Corporation _____ X Taxes paid
Earnings and profits of B less earnings
and profits attributable to amounts
included in N Corporation's
gross income with respect to
C Corporation
(\$15/\$150 X \$10.71)..... 1.07
by C Corporation
which are deemed
paid by B
Corporation

A Corporation (first-tier corporation):

Pretax earnings and profits of A Corporation:

Dividend from B Corporation.....	60.00
Other earnings and profits.....	0
Total pretax earnings and profits.....	60.00

Foreign income taxes paid by A Corporation

10%.....	6.00
Earnings and profits.....	54.00

Earnings and profits attributable to amounts to which section 902 (b) (2) does not apply (attributable to amounts previously included in N Corporation's gross income under section 951 with respect to C Corporation) (\$30 - (\$30 X .10)).....	\$27.00
Earnings and profits attributable to amounts to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) (\$15 - (\$15 X .10)).....	13.50
Other earnings and profits (\$15 - (\$15 X .10)).....	13.50
Earnings and profits of A Corporation after exclusion for amounts to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) (\$54.00 - \$13.50).....	\$40.50
Earnings and profits of A Corporation after exclusion for amounts to which sections 902 (b) (1) and (2) do not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B or C Corporation) (\$40.50 - \$27.00).....	13.50
Dividend to N Corporation	45.00
Dividend from earnings and profits to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation).....	27.00
Dividend from earnings and profits to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation).....	13.50

§ 1.960-2 (f) Example (8)

Dividend from earnings and profits to which section 902 (a) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to A Corporation)..... 0

Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income under section 951 with respect to A, B, or C Corporation).....\$4.50

N Corporation (domestic corporation):

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to C Corporation

Amount included in N Corporation's gross income under section 951 with respect to C Corporation	X	Taxes paid by C Corporation
<u>Earnings and profits of C Corporation</u>		
(\$50/\$105 X \$45.00).....		\$21.43

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to B Corporation... 11.07

Taxes paid by B Corporation

Amount included in N Corporation's gross income under section 951 with respect to B Corporation	X	Taxes paid by B Corporation
<u>Earnings and profits of B Corporation</u>		
(\$15/\$180 X \$120).....	10.00	

Taxes deemed paid by B Corporation

Amount included in N Corporation's gross income under section 951 with respect to B Corporation	X	Taxes paid by C Corporation which are deemed paid by B Corporation
<u>Earnings and profits of B Corporation less earnings and profits attributable to amounts included in N Corporation's gross income with respect to C Corporation</u>		
(\$15/\$150 X \$10.71).....	1.07	

Total taxes deemed paid by N Corporation under section 960 (a) (1).....\$32.50

Foreign income taxes deemed paid by N Corporation under section 902 (a):

Taxes paid by A Corporation:

Dividend to N Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to A Corporation	X	Taxes paid by A Corporation
<u>Earnings and profits of A Corporation</u>		
(\$45/\$54 X \$6).....		\$5.00

Taxes paid by B Corporation deemed paid by A Corporation:

Dividend to N Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to A and B Corporations	X	Taxes paid by B Corporation which are deemed paid by A Corporation
<u>Earnings and profits of A Corporation less earnings and profits attributable to amounts included in N Corporation's gross income with respect to B Corporation</u>		
(\$31.50/\$40.50 X \$30.00).....		23.33

Taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation:

Dividend to N Corporation less portion of dividend from earnings and included in N Corporation's gross income under section 951 with respect to A, B, and C Corporations	X	Taxes deemed paid by B Corporation which are deemed paid by A Corporation
<u>Earnings and profits of A Corporation less earnings and profits attributable to amounts included in N Corporation's gross income with respect to B and C Corporation</u>		
(\$4.50/\$13.50 X \$1.07).....		<u>.36</u>

Total taxes deemed paid by N Corporation	
under section 902 (a).....	\$13.69
Total foreign income taxes deemed paid	
by N Corporation under section 901. . .	<u>\$61.19</u>

Example (9). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B which owns all the one class of stock of controlled foreign corporation C. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required to include in its gross income under section 951, \$50 attributable to the earnings and profits of C Corporation and \$100 attributable to the earnings and profits of B Corporation. N Corporation is not required to include any amount in its gross income under section 951 with respect to A Corporation. For such year, C Corporation distributes \$75 to B Corporation. The country under the laws of which B Corporation is incorporated imposes an income tax of 10 percent on dividends from subsidiaries and 40 percent on other earnings and profits. For 1978, B Corporation distributes \$175 of its earnings and profits to A Corporation. A Corporation has no other earnings and profits for such year and distributes \$130 of its earnings and profits to N Corporation. The foreign income taxes deemed paid by N Corporation under sections 960 (a) (1) and 902 (a) are determined as follows on the basis of the facts assumed:

C Corporation (third-tier corporation):

Pretax earnings and profits.....	\$150.00
Foreign income taxes paid by C Corporation (30%).....	45.00
Earnings and profits.....	105.00
Amount required to be included in gross income of N Corporation under section 951 with respect to C Corporation.....	50.00
Dividend to B Corporation.....	75.00
Dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation).....	\$50.00
Dividend to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation).....	25.00
Amount of foreign income taxes of C Corporation deemed paid by B Corporation under section 902 (b) (2) and § 1.960-2 (b) ($\$25/\$105 \times \$45$).....	10.71
(for formula see example (8))	

B Corporation (second-tier corporation):

Pretax earnings and profits	
Dividend from C Corporation.....	75.00
Other earnings and profits.....	<u>225.00</u>
Total pretax earnings and profits.....	300.00
Foreign income taxes paid by B Corporation.....	97.50
On dividends received from C Corporation to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) ($\$50 \times .10$).....	5.00

§ 1.960-2 (f) Example 9

On dividend from C Corporation
to which section 902 (b) (2)
applies (attributable to
amounts not included in N
Corporation's gross income
under section 951 with respect
to C Corporation) ($\$25 \times .10$).....\$ 2.50

On other income of B
Corporation ($\$225 \times .40$)..... 90.00

Earnings and profits.....\$202.50

Attributable to dividend to
which section 902 (b) (2)
does not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with respect
to C Corporation) ($\$50 - \5)..... 45.00

Attributable to dividend from
C Corporation to which section
902 (b) (2) applies (attributable
to amounts not included in N
Corporation's gross income under
section 951 with respect to
C Corporation) ($\$25 - \2.50)..... 22.50

Attributable to other income of
B Corporation ($\$225 - \90)..... 135.00

Earnings and profits after exclusion
of amounts attributable to dividend
to which section 902 (b) (2)
does not apply (attributable
to amounts included in
N Corporation's gross income
under section 951 with respect
to C Corporation) ($\$202.50 - \45)..... 157.50

Amount required to be included in
N Corporation's gross income
under section 951 with respect
to B Corporation..... 100.00

Dividend paid by B Corporation.....\$175.00

Dividend to which section
902 (b) (2) does not apply
(attributable to amounts
included in N Corporation's
gross income under section
951 with respect to C
Corporation).....\$45.00

Dividend to which section
902 (b) (1) does not apply
(attributable to amounts
included in N Corporation's
gross income under section
951 with respect to B
Corporation)..... 100.00

Dividend from other earnings
and profits (attributable to
amounts not included in
N Corporation's gross income
with respect to B or C
Corporation)..... 30.00

Foreign income taxes of B
Corporation deemed paid by
A Corporation under section
902 (b) (1) (separate tax rate
applicable to dividend received
by B Corporation);

Tax paid by B Corporation
on earnings previously
taxed with respect to C
Corporation or lower-tiers
which is deemed paid by
A Corporation:

Portion of dividend to
A Corporation from earn-
ings included in N Corporation's
gross income under section 951
with respect to C Corporation
or lower-tiers

Earnings and profits of
B Corporation included in
N Corporation's gross income
under section 951 with respect
to C Corporation or lower-
tiers

X Tax paid by B Corpo-
ration on dividend received
by B Corporation from
earnings included in
N Corporation's gross
income with respect to
C Corporation or lower-
tiers

(\$45/\$45 X \$5).....\$5.00

Tax paid by B Corporation
on earnings not previously
taxed with respect to
C Corporation or lower-
tiers which is deemed
paid by A Corporation:

Portion of dividend to
A Corporation which is
from earnings not included
in N Corporation's gross
income under section 951
with respect to B Corpo-
ration or lower-tiers

Earnings and profits of
B Corporation not included
in N Corporation's gross
income under section 951
with respect to C Corpo-
ration or lower-tiers

X Tax paid by B Corpo-
ration on earnings
not included in N
Corporation's gross
income with respect
C Corporation or lower-
t ers

(\$30/\$157.50 X \$92.50) 17.62

Foreign income taxes (of C Corporation)
deemed paid by B Corporation deemed paid by
A Corporation under section 201(b)(1)
(\$30/\$157.50 X \$10.71)..... 2.04
(for formula see example (8))

A Corporation (first-tier corporation):

Pretax earnings and profits
Dividend from B Corporation.....\$175.00
Other income..... 0
Total..... 175.00

Foreign income taxes paid by
A Corporation (20%)..... 35.00

Earnings and profits..... \$140.00

Attributable to dividend to
which section 902 (b) (2)
does not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with respect
to C Corporation) (\$45 - (\$45
X .20))\$36.00

Attributable to amounts
to which section 902 (b) (1)
does not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with respect
to B Corporation) (\$100 - (\$100 X
.20))..... 30.00

Attributable to other earnings
and profits (attributable to
amounts not included in N
Corporation's gross income with
respect to B or C Corporation)..... 24.00

Earnings and profits after
exclusion for amounts to
which section 902 (b) (1)
does not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with respect
to B Corporation) (\$140 -\$80).....60.00

Earnings and profits after
exclusion for amounts to which
sections 902 (b) (1) and 902
(b) (2) do not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with respect
to B or C Corporation) (\$60 -\$36).....24.00

Amount required to be included
in N Corporation's gross
income under section 951 with
respect to A Corporation.....None

Dividend to N Corporation..... \$130.00

Dividend to which section
902 (b) (2) does not apply
(attributable to amounts
included in N Corporation's
gross income under section
951 with respect to C
Corporation).....\$ 36.00

Dividend to which section
902 (b) (1) does not apply
(attributable to amounts
included in N Corporation's
gross income under section 951
with respect to B Corporation)....80.00

Dividend to which section 902
(a) does not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with
respect to A Corporation)..... 0

Dividend from other earnings
and profits (attributable
to amounts not included in
N Corporation's gross income
with respect to A, B, or C
Corporation)..... 14.00

N Corporation (domestic corporation):

Foreign income taxes deemed
paid by N Corporation under
section 960 (a) (1) with respect
to C Corporation ($\$50/\$105 \times \$45$)..... 21.43
(for formula see example (8))

Foreign income taxes deemed paid
by N Corporation under section
960 (a) (1) with respect to
B Corporation (allocation of
earnings and profits being made in
accordance with § 1.960-1
(c) (3) and paragraph (e) of
this section) (Separate tax rate
applicable to dividend received
by B Corporation)..... 65.53

§ 1.960-2 (f) Example (9)

Taxes paid by B Corporation:

Amount included in
N Corporation's gross
income under section 951
with respect to B Corpo-
ration

Earnings and profits of
B Corporation not included
in N Corporation's gross
income under section 951
with respect to C Corpo-
ration or lower tiers

X Tax paid by B Corpo-
ration on earnings not
included in N Corpo-
ration's gross income
with respect to C
Corporation or lower
tiers

(\$100/\$157.50 X \$92.50).....\$58.73

Taxes (of C Corporation) deemed paid by B Corporation
under section 902 (b) (2) which are deemed paid by
N Corporation under section 960 (a) (1) (\$100/\$157.50 X
\$10.71)..... 6.80
(for formula see example (8))

Total taxes deemed paid
by N Corporation under
section 960 (a) (1).....\$86.96

Foreign income taxes deemed paid by
N Corporation under section 902 (a):

Taxes paid by A Corporation
Corporation (\$130/\$140 X \$35)..... 32.50
(for formula see example (8))

Taxes paid by B Corporation
deemed paid by A Corporation
under section 902 (b) (1)
(Separate tax rate applicable to
dividend received by B Corporation):

Tax paid by B Corporation
on earnings previously
taxed with respect to
C Corporation or lower
tiers which is deemed
paid by N Corporation:

§ 1.960-2 (f) Example (9)

Portion of dividend to
N Corporation which is
from earnings included
in N Corporation's gross
income under section 951
with respect to C Corpo-
ration or lower tiers

Earnings and profits of
A Corporation included in
N Corporation's gross
income under section 951
with respect to C Corpo-
ration or lower tiers

X Tax paid by B Corpo-
ration on earnings pre-
viously taxed with respect
to C Corporation or lower
tiers which is deemed paid
by A Corporation

(\$36/\$36 X \$5).....\$5.00

Tax paid by B on earnings not previously
taxed with respect to C or lower tiers
which is deemed paid by N Corporation:

Portion of dividend to
N Corporation which is from
earnings not included in
N Corporation's gross
income under section 951
with respect to A Corporation
or lower tiers

Earnings and profits of
A Corporation not included
in N Corporation's gross
income under section 951
with respect to B Corporation
or lower tiers

X Tax paid by B Corporation
on earnings not pre-
viously taxed with
respect to C Corpo-
ration or lower tiers
which is deemed paid
by A Corporation

(\$14/\$24 X \$17.62)..... 10.50

Taxes (of C Corporation) deemed paid by B Corporation
deemed paid by A Corporation
under section 902 (b) (1)
(\$14/\$24 X \$2.04)..... 1.19
(for formula see example (8))

Total taxes deemed paid by N
Corporation under section 902
(a).....\$ 49.19

Total foreign income taxes deemed paid
by N Corporation under section 901\$136.15

Example (10) The facts are the same as in example (9) except that A Corporation has other earnings and profits of \$200 in 1978. The country under the laws of which A Corporation is incorporated imposes a tax of 20 percent on dividends received from subsidiaries and a tax of 50 percent on other earnings and profits. A Corporation distributes \$200 of its earnings and profits to N Corporation in 1978. The foreign income taxes paid by N Corporation under sections 960 (a) (1) and 902 (a) are determined as follows on the basis of the facts assumed.

C Corporation (third-tier corporation):

Pretax earnings and profits.....	\$150.00
Foreign income taxes paid by C Corporation (30%).....	45.00
Earnings and profits.....	105.00
Amount required to be included in gross income of N Corporation under section 951 with respect to C Corporation.....	50.00
Dividend to B Corporation.....	75.00
Dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation).....	\$50.00
Dividend to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation).....	25.00
Amount of foreign income taxes of C Corporation deemed paid by B Corporation under section 902 (b) (2) and § 1.960-2 (b) (\$25/\$105 X \$45).....	10.71
(for formula see example (8))	

B Corporation (second-tier corporation):

Pretax earnings and profits	
Dividend from C Corporation.....	75.00
Other earnings and profits.....	225.00
Total pretax earnings and profits.....	300.00
Foreign income taxes of B Corporation.....	97.50

On dividends received from C Corporation to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) (\$50 X .10).....\$ 5.00

On dividend from C Corporation to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) (\$25 X .10)..... 2.50

On other income of B Corporation (\$225 X .40)..... 90.00

Earnings and profits.....\$202.50

Attributable to dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) (\$50 - \$5)..... 45.00

Attributable to dividend from C Corporation to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) (\$25 - \$2.50)..... 22.50

Attributable to other income of B Corporation (\$225 - \$90)..... 135.00

Earnings and profits after exclusion of amounts attributable to dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) (\$202.50 - \$45)..... 157.50

Amount required to be included in N Corporation's gross income under section 951 with respect to B Corporation..... 100.00

Dividend paid by B Corporation.....	\$175.00
Dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation).....	\$45.00
Dividend to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation)	100.00
Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to B or C Corporation)	30.00
Foreign income taxes of B Corporation deemed paid by A Corporation under section 902 (b) (1) (\$45/\$45 X \$5).....	5.00
(\$30/\$157.50 X \$92.50)..... (for formula see example (9))	17.62
Foreign income taxes (of C Corporation) deemed paid by B Corporation deemed paid by A Corporation under section 902 (b) (1) (\$30/\$157.50 X \$10.71).....	2.04
(for formula see example (8))	

A Corporation first-tier corporation):

Pretax earnings and profits	
Dividend from B Corporation.....	\$175.00
Other earnings and profits.....	<u>200.00</u>
Total pretax earnings and profits.....	\$375.00
Foreign income taxes paid by A Corporation.....	135.00
On dividend received from B Corporation to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) (\$45 X .20).....	9.00
On dividend received from B Corporation to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) (\$100 X .20).....	20.00
On dividend from B Corporation attributable to B Corporation's other earnings and profits (attributable to amounts not included in N Corporation's gross income with respect to B or C Corporation) (\$30 X .20).....	6.00
On other income of A Corporation (\$200 X .50).....	100.00
Earnings and profits.....	240.00
Attributable to dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) (\$45 - \$9).....	36.00
Attributable to dividend to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income with respect to B Corporation) (\$100 - \$20).....	80.00

Attributable to other earnings and profits of A Corporation (attributable to amounts not included in N Corporation's gross income with respect to A, B, or C Corporation) $[(\$30 - \$6) + (\$200 - \$100)]$ \$124.00

Amount required to be included in N Corporation's gross income under section 951 with respect to A Corporation None

Earnings and profits after exclusion of amounts attributable to dividend to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) \$160.00

Earnings and profits after exclusion of amounts attributable to dividend to which sections 902 (b) (1) and 902 (b) (2) do not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B and C Corporation) 124.00

Dividend to N Corporation 200.00

Dividend attributable to amounts to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) 36.00

Dividend attributable to amounts to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income with respect to B Corporation) 80.00

Dividend attributable to amounts to which section 902 (a) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to A Corporation)..... 0

Dividend attributable to A Corporation's other earnings and profits (attributable to amounts not included in N Corporation's gross income under section 951 with respect to A, B, or C Corporation)..... \$84.00

N Corporation (domestic corporation)

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to C Corporation ($\$50/\$105 \times \$45$)..... \$21.43
(for formula see example (8))

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to B Corporation (allocation of earning and profits begin made in accordance with § 1.960-1 (c) (3) and paragraph (e) of this section).....65.53

Taxes paid by B Corporation ($\$100/\$157.50 \times \$92.50$)..... 58.73
(for formula see example (9))

Taxes deemed paid by B Corporation ($\$100/\$157.50 \times \$10.71$)..... 6.80
(for formula see example (9))

Total taxes deemed paid by N Corporation under section 960 (a) (1).....\$86.96

Foreign income taxes deemed paid by
N Corporation under section 902 (a)
(Separate tax rate applicable to
dividends received by A Corporation):

Tax paid by A Corporation on earnings
previously taxed with respect to
B Corporation or lower tiers which
is deemed paid by N Corporation:

Portion of dividend to N Corporation
which is from earnings included in
N Corporation's gross income under
section 951 with respect to
B Corporation or lower tiers X

Earnings and profits of
A Corporation included in
N Corporation's gross income
under section 951 with
respect to B Corporation or
lower tiers

Tax paid by
A Corporation on
dividends received
by A Corporation from
earnings included
in N Corporation's
gross income with
respect to B Corpo-
ration or lower tiers

(\$116/\$116 X \$29)..... \$29.00

Tax paid by A Corporation on earnings not
previously taxed with respect to B Corporation
or lower tiers which is deemed paid by
N Corporation:

Portion of dividend to
N Corporation which is from
earnings not included in
N Corporation's gross income
under section 951 with
respect to A Corporation or
lower tiers X

Earnings and profits of
A Corporation not included
in N Corporation's gross
income under section 951
with respect to B Corpo-
ration or lower tiers

Tax paid by A Corporation
on earnings not included
in N Corporation's
gross income with respect
to B Corporation or lower
tiers

(\$84/\$124 X \$106) 71.81

Taxes paid by B Corporation
deemed paid by A Corporation
under section 902

(b) (1):

$(\$36/\$36 \times \$5)$\$ 5.00

$(\$84/\$124 \times \$17.62)$ 11.94

(for formula see example (9) for separate tax
rate applicable on dividend received by
B Corporation)

Taxes (of C Corporation) deemed paid by B
Corporation deemed paid by A Corporation under
section 902 (b) (1)

$(\$84/\$124 \times \$2.04)$ 1.38

(for formula see example (8))

Total taxes deemed paid by
N Corporation under section 902

(a) credit.....\$119.13

Total foreign income taxes deemed
paid by N Corporation under

Section 901\$205.09

§ 1.960-2 (f) Example (10)

(g) Formulas. This paragraph contains formulas for determining a domestic corporation's section 902 and 960 credits when amounts distributed through chain of ownership have been included in whole or in part in the gross income of a domestic corporation under section 951 with respect to first-, second-, third-, or lower-tier corporations.

(1) Determination of the section 902 credit on distributions to a U.S. corporation. (i) Section 902 (b) (2) credit. If the second-tier corporation receives a dividend from a third-tier corporation attributable in whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the third- or lower-tier corporations, the second-tier corporation's credit for taxes paid by the third-tier corporation under section 902 (b) (2) is determined as follows:

(A) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Dividend to second-tier corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to third-tier corporation	X	Taxes paid by third-tier corporation
<u>Earnings and profits of third-tier corporation</u>		

§ 1.960-2 (g) (1) (i) (A)

(B) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(1) Credit for tax paid by third-tier corporation on earnings included in domestic corporation's gross income with respect to fourth- or lower-tier corporations --

Portion of dividends to second-tier corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations
Earnings and profits of third-tier corporation included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations

X Tax paid by third-tier corporation on dividend received by third-tier corporation from earnings included in domestic corporation's gross income with respect to fourth- or lower-tier corporations

(2) Credit for tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations--

Portion of dividend to second-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations
Earnings and profits of third-tier corporation not included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations

X Tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations

(ii) Section 902 (b) (1) credit. If the first-tier corporation receives a dividend from a second-tier corporation attributable in a whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the second- or lower-tier corporations, the first-tier corporation's credit for taxes paid and deemed paid by the second-tier corporation under section 902 (b) (1) is determined as follows:

(A) Taxes paid by the second-tier corporation which are deemed paid by the first-tier corporation.

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits --

Dividend to first-tier corporation
less portion of dividend from
earnings included in domestic
corporation's gross income under
section 951 with respect to second-
tier corporation

Earnings and profits of second-
tier corporation

X Taxes paid by second-
tier corporation

(2) If the effective rate of tax on dividends received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(i) Credit for tax paid by second-tier corporation on earnings previously taxed with respect to third- or lower-tier corporations--

Portion of dividend to first-tier corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

Earnings and profits of second-tier corporation included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

X Tax paid by second-tier corporation on dividend received by second-tier corporation from earnings included in domestic corporation's gross income with respect to third- or lower-tier corporations

(ii) Credit for tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations--

Portion of dividend to first-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

X Tax paid by second-tier corporation on earnings not included in domestic corporation's gross income with respect to third- or lower-tier corporations

(B) Taxes deemed paid by the second-tier corporation which are deemed paid by the first-tier corporation.

(1) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Dividend to first-tier corporation
less portion of dividend from
earnings included in domestic
corporation's gross income under
section 951 with respect to second-
and third-tier
corporations

Earnings and profits of second-tier
corporation less earnings and profits
attributable to amounts included in
domestic corporation's gross income
under section 951 with respect to third-
tier corporation

X Taxes paid by third-
tier corporation
which are deemed paid
by second-tier
corporation

(2) If the effective rate of tax on dividends
received by the third-tier corporation is higher or
lower than the effective rate of tax on its other
earnings and profits--

(i) Credit for tax paid by third-tier corporation on
earnings previously taxed with respect to fourth- or
lower-tier corporations --

Portion of dividend to first-
tier corporation which is from
earnings included in domestic
corporation's gross income under
section 951 with respect to
fourth- or lower-tier
corporations

Earnings and profits of second-
tier corporations included in
domestic corporation's gross
income under section 951 with
respect to fourth- or lower-
tier corporations

X Tax paid by third-tier
corporation on earnings
previously taxed with
respect to fourth-
or lower-tier corporations
which is deemed paid
by second-tier corporation

(ii) Credit for tax paid by third-tier corporation on
earnings not previously taxed with respect to fourth- or
lower-tier corporations--

§ 1.960-2 (g) (1) (ii) (B) (2) (ii)

Portion of dividend to first-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

X Tax paid by third-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by second-tier corporation

(iii) Section 902 (a) credit. If the domestic corporation receives a dividend from a first-tier corporation attributable in whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the first- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the first-tier corporation under section 902 (a) is determined as follows:

(A) Taxes paid by the first-tier corporation which are deemed paid by domestic corporation.

(1) If the effective rate of tax on dividends received by the first-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Dividend to domestic corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to first-tier corporation

Earnings and profits of first-tier corporation

X Taxes paid by first-tier corporation

(2) If the effective rate of tax on dividends received by the first-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits --

(i) Credit for tax paid by first-tier corporation on earnings previously taxed with respect to second- or lower-tier corporations--

Portion of dividend to domestic corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

Earnings and profits of first-tier corporation included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax paid by first-tier corporation on dividends received by first-tier corporation from earnings included in domestic corporation's gross income with respect to second- or lower-tier corporations

(ii) Credit for tax paid by first-tier corporation on earnings not previously taxed with respect to second- or lower-tier corporations--

Portion of dividend to domestic corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to first- or lower-tier corporations

Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax paid by first-tier corporation on earnings not included in domestic corporation's gross income with respect to second- or lower-tier corporations

(B) Taxes (paid by second-tier corporation) deemed paid by first-tier corporation which are deemed paid by domestic corporation.

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as its tax rate on other earnings and profits--

Dividend to domestic corporation
less portion of dividend from earnings
included in domestic corporation's
gross income under section 951 with
respect to first- and second-tier
corporations
Earnings and profits of first-tier
corporation less earnings and profits
attributable to amounts included in
domestic corporation's gross income under
section 951 with respect to second-tier
corporation

X Taxes paid by
second-tier
corporation which
are deemed paid by
first-tier
corporation.

(2) If the effective rate of tax on dividends received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(i) Credit for tax paid by second-tier corporation on earnings previously taxed with respect to third-tier or lower-tier corporations--

Portion of dividend to domestic
corporation which is from
earnings included in domestic
corporation's gross income under
section 951 with respect to third-
or lower-tier corporations
Earnings and profits of first-tier
corporation included in domestic
corporation's gross income under
section 951 with respect to third-
or lower-tier corporations

X Tax paid by second-
tier corporation on
earnings previously
taxed with respect
to third- or
lower-tier corporations
which is deemed paid
by first-tier corpo-
ration

(ii) Credit for tax paid by second-tier

corporation on earnings not previously taxed with respect to third- or lower-tier corporations--

Portion of dividend to domestic corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to first- or lower-tier corporations

Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations which is deemed paid by first-tier corporation

(C) Taxes (of third-tier corporation) deemed

paid by first-tier corporation which are deemed paid by domestic corporation.

(1) If the effective rate of tax on dividends

received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Dividend to domestic corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to first-, second- and third-tier corporations

Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to second- and third-tier corporations

X Taxes deemed paid by second-tier corporation which are deemed paid by first-tier corporation

(2) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(i) Credit for tax (of third-tier corporation) deemed paid by second-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations --

Portion of dividend to domestic corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations

Earnings and profits of first-tier corporation included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations

X

Tax deemed paid by second-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by first-tier corporation

(ii) Credit for tax (of third-tier corporation) deemed paid by second-tier on earnings not previously taxed with respect to fourth- or lower-tier corporations

Portion of dividend to domestic corporations which is from earnings not included in domestic corporations' gross income under section 951 with respect to first- or lower-tier corporations

Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax deemed paid by second-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by first-tier corporation

(2) Determination of domestic corporation's section 960 credit for amounts included in its gross income with respect to a first-, second-, or third-tier corporation which has received a distribution previously included in the gross income of a domestic corporation under section 951. (i) Third-tier credit. If a domestic corporation is required to include an amount in its gross income under section 951 with respect to a third-tier corporation which has received a distribution from a fourth-tier corporation of amounts included in a domestic corporation's gross income under section 951 with respect to the fourth- or lower-tier corporations, the domestic corporation's credit for taxes paid by the third-tier corporation under section 960 (a) (1) is determined as follows:

(A) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to third-tier corporation
Earnings and profits of third-tier corporation

X Taxes paid by third-tier corporation

§ 1.960-2 (g) (2) (i) (A)

(B) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to third-tier corporation

Earnings and profits of third-tier corporation not included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations

X Tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations

(ii) Second-tier credit. If a domestic corporation is required to include an amount in its gross income under section 951 with respect to a second-tier corporation which has received a distribution from a third-tier corporation of amounts included in a domestic corporation's gross income under section 951 with respect to the third- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the second-tier corporation under section 960 (a) (1) is determined as follows:

(A) Credit for taxes paid by the second-tier corporation which are deemed paid by the domestic corporation.

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation

Earnings and profits of second-tier corporation

X Taxes paid by second-tier corporation

(2) If the effective rate of tax on dividends received by the second-tier is higher or lower than the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation

Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

X Tax paid by second-tier corporation on earnings not included in domestic corporation's gross income with respect to third- or lower-tier corporations

(B) Credit for taxes (of the third-tier corporation) deemed paid by the second-tier corporation under section 902 (b) (2).

(1) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation

Earnings and profits of second-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to third-tier corporation

X Taxes paid by third-tier corporation which are deemed paid by second-tier corporation

§ 1.960-2 (g) (2) (ii) (B) (1)

(2) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits --

Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation

Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

X Tax paid by third-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by second-tier corporation

(iii) First-tier credit. If a domestic corporation is required to include amounts in its gross income under section 951 with respect to a first-tier corporation which has received a distribution from a second-tier corporation of amounts included in a domestic corporation's gross income under section 951 with respect to the second- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the first-tier corporation under section 960 (a) (1) shall be determined as follows:

§ 1.960-2 (g) (2) (iii)

(A) Credit for taxes paid by the first-tier corporation.

(1) If the effective rate of tax on dividends received by the first-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation
Earnings and profits of first-tier corporation

X Taxes paid by first-tier corporation

(2) If the effective rate of tax on dividends received by the first-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation
Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax paid by first-tier corporation on earnings not included in domestic corporation's gross income with respect to second- or lower-tier corporations

(B) Credit for taxes paid by the second-tier corporation deemed paid by the first-tier corporation under section 902 (b) (1).

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation

Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income under section 951 with respect to second-tier corporation

X Taxes paid by second-tier corporation which are deemed paid by first-tier corporation

(2) If the effective rate of tax on dividends

received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation

Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations which is deemed paid by first-tier corporation

(C) Credit for taxes (of the third-tier corporation)

deemed paid by the second-tier corporation which are deemed paid by first-tier corporation under section 902 (b) (1).

(1) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits --

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation

Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to second- and third-tier corporation

X Taxes deemed paid by second-tier corporation which are deemed paid by first-tier corporation

(2) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits --

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation

Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporation

X Tax deemed paid by second-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by first-tier corporation

BILLING CODE 4830-01-C

§ 1.960-2 (g) (2) (iii) (C) (2)

Par. 3. Section 1.960-3, paragraph (b), is revised to read as follows:

§ 1.960-3 Gross-up of amounts included in income under section 951.

(b) *Certain taxes not included in income.* Any taxes deemed paid by a domestic corporation for the taxable year pursuant to section 902(a) or section 960(a)(1) shall not be included in the gross income of such corporation for such year as a dividend pursuant to section 78 and § 1.78-1 to the extent that such taxes are paid or accrued by the first-, second-, or third-tier corporation, as the case may be, on or with respect to an amount which is excluded from the gross income of such foreign corporation under section 959(b) and § 1.959-2 as distributions from the earnings and profits of another controlled foreign corporation attributable to an amount which is, or has been, required to be included in the gross income of the domestic corporation under section 951.

Par. 4. Section 1.960-7, paragraph (c), is revised to read as follows:

§ 1.960-7 Effective dates

(c) *Third-tier credit.* The rules contained in §§ 1.960-1—1.960-6 shall apply to amounts included in the gross income of a domestic corporation under section 951 with respect to the earnings and profits of third-tier corporations (as defined in § 1.960-1) in taxable years beginning after December 31, 1976.

William E. Williams,

Acting Commissioner of Internal Revenue.

[FR Doc. 80-36110 Filed 11-18-80; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 1674-8]

Proposed Revision of Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Virginia has submitted a proposed revision to the Virginia State Implementation Plan in the form of a letter from Maurice B. Row, Secretary of Commerce and Resources to Douglas M. Costle, Administrator of the Environmental Protection Agency. This revision consists of a variance from the Regulations for the Control and

Abatement of Air Pollution for preparing cars for overseas shipment at the Exchange Service Station on the Naval Base in Norfolk, Virginia. The Secretary is requesting that this variance be approved through December 31, 1982.

DATE: Comments must be submitted on or before December 19, 1980.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: Ms. Patricia Sheridan.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia 23219.

Attn: William Meyer, Executive Director.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460.

All comments on the proposed revision submitted on or before December 19, 1980 will be considered and should be directed to: Mr. Robert Blanco, Acting Chief, Air Programs Branch (AH023VA), Air, Toxics & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT: Charles Miesse (3AH12), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone number 215/597-8180.

SUPPLEMENTARY INFORMATION: On August 13, 1979, Maurice B. Rowe, Secretary of Commerce and Resources, submitted to EPA, Region III, a revision to amend the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution. The revision consists of a variance from Part IV, Rule EX-10, Sections 4.100(a) (1), (2), and (3) for preparing cars for overseas shipment at the Exchange Service Station on the Naval Base in Norfolk, Virginia. The Secretary is requesting that the variance be approved through December 31, 1982.

The amended rule would permit operation of motor vehicles, owned by Department of Defense personnel, without functioning catalytic converters, for a period of seven days before export and after import in order to prevent the poisoning of the catalyst by use of leaded gasoline overseas. EPA feels that there is no problem with allowing two days beyond the time (5 days) originally

approved by the EPA Office of Enforcement.

The variance order is consistent with the Import Control Program operated by the Department of Defense, which was previously approved by the EPA Office of Enforcement, pursuant to 40 CFR § 85.1509. This previous approval permits the operation of certain vehicles without properly installed required emission control equipment for a period of five days before turn-in at port and after pick-up from port. EPA believes that the proposed variance is advantageous both in terms of furnishing needed relief to Department of Defense personnel and providing reasonable assurance that emission requirements will be met.

The Commonwealth of Virginia submitted proof that a public hearing with respect to this amendment was held in Virginia Beach, Virginia, on June 14, 1979, in accordance with the requirements of 40 CFR § 51.4.

Based on the foregoing, it is the tentative decision of the Administrator to approve the proposed revision of the Virginia SIP.

The public is invited to submit to the address stated above comments on whether the amendments of the Commonwealth's regulations should be approved as a revision of the Virginia State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendment meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. §§ 7401-642)

Dated: October 31, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-36047 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 256

[SWH-FRL 1674-4]

Guidelines for Development and Implementation of State Solid Waste Management Plans**AGENCY:** Environmental Protection Agency.**ACTION:** Withdrawal of proposed rule.

SUMMARY: Inadvertently EPA published two versions of FRL-1619-4, proposed amendments to the Guidelines for the Development and Implementation of State Solid Waste Management Plans issued under Subtitle D of RCRA. The correct version of the proposed rule is the one published in the *Federal Register* on October 30, 1980 (45 FR 71818). EPA is hereby withdrawing the version of FRL-1619-4 which was published in the *Federal Register* on November 4, 1980 (45 FR 73440).

DATE: EPA will accept those public comments on the proposed modifications which are received on or before December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Susan Absher, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-9145.

Dated: November 13, 1980.

Steffen Plehn,*Deputy Assistant Administrator for Solid Waste.*

[FR Doc. 80-36049 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-30-M**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Public Health Service****42 CFR Part 36****Services at Indian Health; Proposed Revision of Regulations****AGENCY:** Public Health Service.**ACTION:** Proposed rule.

SUMMARY: The Public Health Service proposes to revise Subparts A and B of 42 CFR Part 36 (except for § 36.12 governing eligibility for services). Part 36 contains the regulations governing Indian Health. The revisions are being made in order to write the regulations in "Common Sense" language. Also, the regulations are updated by deleting obsolete provisions (Subpart D and § 36.13 governing charges for services rendered in Indian Health Service facilities. (IHS).

DATE: Comments must be received on or before January 5, 1981.

ADDRESS: Written comments on these proposed rules may be sent to the Director, Indian Health Service, Room 5A-39, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Richard J. McCloskey, Indian Health Service, 5600 Fishers Lane, Room 5A-39, Rockville, Maryland 20857, Telephone (301) 443-1116.

SUPPLEMENTARY INFORMATION: This proposed revision affecting Subparts A, B and D of 42 CFR Part 36 is part of the Department of Health and Human Services (HHS) response to Executive Order No. 12044, "Improving Government Regulations." The HHS program is known as "Operation Common Sense" and has the goal of improving the clarity of language used in regulations. A notice of intent to proposed changes in format was published in the *Federal Register* on February 7, 1980 (45 FR 8314). No substantive change in program benefits is made or intended.

In addition to "common sense" revisions in language, we propose revocation of certain provisions in the regulation which are no longer used:

1. Subpart D, "Contagious and Infectious Diseases" concerns involuntary commitment of tuberculosis patients. It was published in 1961 and no longer reflects current medical practice in the treatment of tuberculosis patients. Current techniques of treatment now render the disease non-communicable within 2 to 3 weeks, followed by a longer period (9 to 12 months) of therapy and surveillance to arrest the disease. Involuntary commitment is no longer necessary for treatment; nor is it part of the treatment process. We, therefore, propose to revoke Subpart D.

2. We also propose revocation of § 36.13 of Subpart B, "Charges to Indian beneficiaries for services provided in Public Health Service facilities or by Public Health Service personnel." This section is a carryover of a corresponding provision in regulations of the Bureau of Indian Affairs (BIA) in effect at the time of the transfer of the Indian health program to the Public Health Service in 1955. (42 U.S.C. 2001 et seq.). The BIA regulation was issued under the authority of a proviso in the Department of the Interior Appropriation Act of 1939 which was repeated in each subsequent appropriation act through 1946, but not thereafter.

Absent specific statutory authority to impose charges, § 36.13 has been interpreted as authorizing only requests for payment which do not create a legal indebtedness. Moreover, it has not been used. The Indian Health Service does

not charge Indians for care in its facilities, or otherwise establish a means test for receipt of services. We, therefore, propose to revoke § 36.13.

We note, however, that the IHS does bill Medicare and Medicaid for services rendered to Indian beneficiaries of those programs pursuant to Title IV of the Indian Health Care Improvement Act, Pub. L. 94-437. (42 U.S.C. 1395q; 42 U.S.C. 1396j). Consequently, § 36.13 will be reserved for future use should the need arise to issue regulations concerning the billing of third party payors.

The proposal would also update § 36.14 regarding rates charged ineligible individuals for emergency care at IHS facilities. Inpatient rates are no longer established by the Office of Management and Budget. Rather, rates for both inpatient and outpatient care developed by the Health Services Administration within HHS and approved by the Assistant Secretary for Health and Surgeon General are published annually in the *Federal Register*. (The rates for fiscal year 1980 were published on April 2, 1980, at 45 FR 21712). The regulation has been changed to reflect this.

The proposal does not affect § 36.12 of Subpart B, "Persons to whom services will be provided." A proposal to amend this section to make "common sense" revisions in format and to expand eligibility to certain non-Indians will be published separately.

Office of Management and Budget Circular A-95, Evaluation, Review, and Coordination of Federal and Federally Assisted Programs, is not applicable to this notice.

The Department of Health and Human Services proposes to revise Part 36 of Title 42, Code of Federal Regulations, by revising Subparts A, B, and D as set out below.

Dated: October 31, 1980.

Julius B. Richmond,*Assistant Secretary for Health.*

Approved: November 7, 1980.

Patricia Roberts Harris,
Secretary.

It is proposed to amend the table of contents of Part 36, Title 42 of the Code of Federal Regulations as follows:

PART 36—INDIAN HEALTH**Subpart A—Purpose and Definitions**

Sec.

- 36.1 Definitions.
- 36.2 Purpose of the regulations.
- 36.3 Administrative instructions.

Subpart B—What Services are Available and Who is Eligible for Care?

- 36.11 Services available.

36.12 Persons to whom services will be provided.

36.13 [Reserved]

36.14 Care and treatment of ineligible individuals.

Subpart C—Contract Health Services

* * * * *

Subpart D—[Reserved]

Subpart E—Preference in employment

* * * * *

It is proposed to revise Subpart A of Part 36, Title 42 of the Code of Federal Regulations as follows:

Subpart A—Purpose and Definitions

§ 36.1 Definitions.

When used in this part:
"Bureau of Indian Affairs" means the Bureau of Indian Affairs, Department of the Interior;

"Indian" includes Indians in the Continental United States, and Indians, Aleuts and Eskimos in Alaska;

"Indian health program" means the health services program for Indians administered by the Indian Health Service within the Department of Health and Human Services.

"Jurisdiction" has the same geographical meaning as in Bureau of Indian Affairs usage.

"Service" means the Indian Health Service.

§ 36.2 Purpose of the regulations.

These regulations establish general principles and program requirements for carrying out the Indian health program.

§ 36.3 Administrative instructions.

The Service periodically issues administrative instructions to its officers and employees which are primarily found in the Indian Health Service Manual and the Area Office and Program Office supplements. These instructions are operating procedures to assist officers and employees in carrying out their responsibilities, and are not regulations establishing program requirements which are binding upon members of the general public.

It is proposed to amend Subpart B of Part 36, Title 42 of the Code of Federal Regulations by revising §§ 36.11 and 36.14. Section 36.13 is removed and reserved as follows:

Subpart B—What Services are Available and Who is Eligible to Receive Care?

§ 36.11 Services available.

(a) *Type of services that may be available.* Services for the Indian community served by the local facilities and program may include hospital and medical care, dental care, public health

nursing and preventive care including immunizations, and health examination of special groups such as school children.

(b) *Where services are available.* Available services will be provided at hospitals and clinics of the Service, and at contract facilities (including tribal facilities under contract with the Service).

(c) *Determination of what services are available.* The Service does not provide the same health services in each area served. The services provided to any particular Indian community will depend upon the facilities and services available from sources other than the Service and the financial and personnel resources made available to the Service.

§ 36.12 Persons to whom services will be provided.

* * * * *

§ 36.13 [Reserved]

§ 36.14 Care and treatment of ineligible individuals.

(a) In case of emergency, as an act of humanity, individuals not eligible under § 36.12 may be provided temporary care and treatment in Service facilities.

(b) Charging ineligible individuals. Where the Service Unit Director determines that an ineligible individual is able to defray the cost of care and treatment, the individual shall be charged at rates approved by the Assistant Secretary for Health and Surgeon General published in the Federal Register. Reimbursement from third party payors may be arranged by the patient or by the Service on behalf of the patient.

It is proposed to remove and reserve Subpart D of Part 36, Title 42 of the Code of Federal Regulations as follows:

§§ 36.30—36.34 (Subpart D) [Reserved]

[FR Doc. 80-36111 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-94-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 80-632; FCC 80-585]

Overseas Communications Services

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice proposes to reexamine existing Commission policy which limits the international record carriers' provision of international voice services and AT&T's provision of

international record services. Commission tentatively concludes that removing barriers will improve services and lower prices. Comments are solicited as to the advisability of removing these current policy restrictions.

DATES: Comments are due on or before December 12, 1980. Replies are due on or before January 16, 1981.

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

FOR FURTHER INFORMATION CONTACT: Stuart Chiron, Common Carrier Bureau, 202-632-7265.

In the matter of Overseas Communications Services, C.C. Docket No. 80-632.

Adopted: October 9, 1980.

Released: October 28, 1980.

By the Commission: Commissioner Lee concurring in the result; Commissioner Jones absent.

1. On December 12, 1979, we adopted several orders affecting the provision of international communications services by various common carriers.¹ Our efforts to establish an improved international communications system with more choices for consumers, more diverse service offerings, and lower rates have been implemented through a series of market structure modifications. As another step in our efforts to foster innovation and efficiency by removing the policy proscriptions which bar or inhibit competition between potential competitors, and in view of the staff's findings in the Audit² that the overall rates of return of the international record carriers (IRCs) might be excessive, we believe that a second look at our policy which limits AT&T's international record offerings, including the 1964 TAT-4 decision³ which bars AT&T from offering alternate voice-record service, is now warranted. This Notice of Proposed Rulemaking will necessarily include discussions of the

¹ American Telephane and Telegraph Company (Dataphane), 75 F.C.C. 2d 682; Western Union International, Inc. et al (Datel), 76 F.C.C. 2d 168; International Record Carriers' Scope of Operations (Gateways), 76 F.C.C. 2d 115; Interface of the International Telex Service with the Domestic Telex and TWX services, 76 F.C.C. 2d 61.

² Preliminary Audit and Study of Operations of International Carriers and Their Communications Services Between the United States and Overseas and Foreign States, 75 F.C.C. 2d 726 (1980). The Audit indicates that in 1976 the three major IRCs had overall rates of return ranging from 13.3% to 24.4%. For telex, the rates of return of the three major IRCs range from 31.7% to 58.3%. The incompleteness and inconsistencies of the data presented to the Commission by the carriers require these figures to be interpreted as only indications or approximations of financial conditions.

³ 37 F.C.C. 1151 (1964) hereinafter referred to as TAT-4.

international voice/record relationship prior to the TAT-4 decision, the TAT-4 decision itself, post TAT-4 developments, current policy considerations and the Communications Act of 1934, as amended. The Notice of Proposed Rulemaking will also discuss current voice restrictions in the IRCs' authorizations.

Background

2. Historically, voice and record services, both within the United States and between the U.S. and foreign points, have been offered by different carriers over separate networks of facilities. This dichotomy between voice and record services initially arose from the acquisition of the patent rights to these two technologies by different entities, AT&T and Western Union. In a patent suit settlement agreement, AT&T and Western Union in 1879 agreed to preserve this dichotomy by not competing in each other's markets. Although AT&T acquired control of Western Union in 1909, the dichotomy was restored in 1913 when the Justice Department persuaded AT&T to divest itself of Western Union (the Kingsbury Commitment). Thereafter, the two companies consolidated their own market positions and directly competed only in the private line market. Even after AT&T's sale to Western Union of its teletypewriter exchange service (TWX) in 1971, AT&T has continued to play a major role in the private line record and data markets as the use of specialized terminal equipment adaptable to the telephone network has expanded rapidly.

3. International telegraph service by submarine cable was initiated between the United States and Europe in the second half of the nineteenth century. International telegraph service by high frequency radio across the Atlantic became commercially feasible in the early 1900's. By World War II the U.S. international telegraph industry had expanded substantially and had gone through a series of mergers and acquisitions. The leading carriers were Western Union, RCA and IT&T. The two latter carriers utilized high frequency radio facilities and also owned modest domestic networks primarily to feed into their international systems. In 1942 the Board of War Communications' Order Number 8 closed all domestic point to point radio telegraph circuits. In 1943, Section 222 was enacted to permit Western Union to acquire the nearly bankrupt Postal Telegraph and Cable Corporation. Western Union thus became the sole domestic telegraph carrier. Section 222 also required Western Union to divest its

international facilities. The international radiotelegraph carriers, stripped of their domestic networks and restricted to operating out of a handful of gateway cities by Order Number 8 and Section 222, became the sole providers of international telegraph (record) service. This domestic/international record dichotomy still exists although the international record carriers were authorized in the *Gateways* decision to expand the number of points from (and to) which they can provide direct international service.

4. AT&T, the dominant domestic telephone carrier, initiated transatlantic telephone message service in 1927 by high frequency radio. In 1956 AT&T developed a reliable underwater repeater and, together with the British government, laid the first transatlantic telephone cable (TAT-1). The TAT-1 submarine telephone cable could be used for transmission of international record communications; a voice-grade circuit could be subdivided into a number of telegraph-type circuits. A subdivided voice-grade circuit could be utilized for the provision of telegraph message service, telex, and leased telegraph circuits. An unsubdivided voice-grade circuit could be employed for the high speed transmission of facsimile and data. The state of the art of overseas communications was significantly enhanced by AT&T's development of deep water submarine telephone cables and reliable underwater repeaters. These technological breakthroughs set the stage for direct competition in the international record market between AT&T and the international record carriers.

5. Between completion of the TAT-1 cable and the 1964 TAT-4 the Commission faced the issue of international record carriage by AT&T on several occasions. An analysis of these decisions indicates that the Commission concluded the Act did not bar AT&T from providing international record service. It is also clear that the Commission decided each application on a case by case basis weighing a wide variety of public interest factors.

6. The Commission first authorized AT&T to enter the international record market in 1955 when it granted AT&T's application to construct and operate a cable between Point Arena, California (a domestic point), and Koko Head, Hawaii (an international point).⁴ The Commission, over the objections of the

IRC's, authorized AT&T to operate this cable (the First Mainland Cable System) without any limitation or restriction as to its use for either voice or record services. In issuing this authorization, the Commission emphasized that: (1) No provision or combination of provisions of the Act, including Section 222, barred AT&T as a matter of law from providing record service to an international point; (2) public interest considerations such as national defense needs were to be given substantial weight; and (3) the provision of the requested services would neither impair the IRC's economic ability to provide service between the mainland and Hawaii nor have a serious impact on their overall operations and structure. In 1963, the Commission authorized AT&T to construct and operate the Second Mainland Cable System between California and Hawaii. This order permitted AT&T and the Hawaiian Telephone Company "to provide any or all of the various types of communication services which the applicants are or may be authorized to furnish by means of the existing Mainland-Hawaii cable."⁵

7. The Commission initially barred AT&T from transmitting record services over its microwave relay facilities between the United States and the TAT-1 cablehead in Canada. However, in 1959 the Commission authorized AT&T to provide voice and nonvoice (teletypewriter, digital data, facsimile, etc.) communications services to the United States Air Force via its TAT-1 microwave relay facilities. In reaching this decision to allow AT&T to provide alternate or simultaneous voice-data to the U.S. government, the Commission: (1) Reiterated its belief that there was no specific statutory requirement that international voice and record communications be furnished by separate entities; (2) stated that clear distinguishable physical differences between voice and record carriers no longer existed; (3) listed several examples in which public interest factors had already led it to make several exceptions to the traditional voice/record dichotomy; and (4) found that this authorization would not economically impair the IRC's.⁶ This use of the U.S.-Canada microwave relay facilities for the provision of nonvoice service to the U.S. government over TAT-1 was thereafter extended to TAT-2. In 1961, AT&T was authorized to continue to provide alternate or simultaneous transmission of voice and

⁴ *American Telephone and Telegraph Company*, File No. P-C-3630, Mimeo No. 22618, adopted September 7, 1955, *recon. denied*, 44 F.C.C. 602 (1955).

⁵ *American Telephone and Telegraph Company*, File No. P-C-5332, Mimeo No. 34195, adopted May 1, 1963.

⁶ *American Telephone and Telegraph Company*, 27 F.C.C. 113, 120, 121 (1959).

nonvoice communications to the U.S. government in TAT-3 between New Jersey and the United Kingdom.⁷

8. In early 1960, the Commission authorized AT&T to provide alternate voice and nonvoice communication services between the U.S. mainland and Puerto Rico (an international point) over the existing U.S.-Puerto Rico Cable. The Commission found that this authorization, which was not limited to the provision of nonvoice services to U.S. defense agencies, was technically feasible, was needed by various users, and would not impair the financial stability and competitive status of the IRCs then providing service to Puerto Rico.⁸ Also in 1960 the Commission authorized AT&T to construct and operate (with Cable and Wireless) a cable between New Jersey and Bermuda. This authorization, for the provision of voice and nonvoice services to military and civilian users, was issued for reasons similar to those found to exist in the Puerto Rico cable decision.⁹

1964 TAT-4 Decision

9. In early 1964 the Commission considered AT&T's application to construct and operate the fourth transatlantic cable. In this application, AT&T requested authority to provide alternate voice-record communication services to all of its customers. This request extended to AT&T's microwave relay system connecting to TAT-1 and TAT-2, as well as its TAT-3 facilities. As indicated earlier, the previous TAT authorizations permitted AT&T to provide alternate voice-record services only to U.S. defense agencies. The IRCs strenuously opposed AT&T's request for expanded alternate voice-record service. They argued that they could not compete with AT&T in obtaining customers for this service and its authorization would result in severe economic injury to the IRCs. The IRCs emphasized their limited resources, small sales forces and current geographic confinement to gateway locations as the factors which would make direct competition with AT&T for civilian customers for this new service impossible.

10. On March 17, 1964, the Commission adopted its TAT-4 decision. The Commission acknowledged the importance of

alternate voice-record service to the economic well-being of the IRCs and noted the ability of the IRCs to competively offer alternative voice-record service through ownership or indefeasible right of user (IRU) interests in the transatlantic cables. In concluding that the public interest required the continued viability of the IRCs to provide overseas message telegraph service, the Commission adopted an "infant industry" policy and stated the following:

The use by customers of leased circuits for alternate voice-record use is, with the exception of the defense agencies, a new service. It is in its infancy, and we do not feel that we should jeopardize the opportunity of the record carriers to provide such services by also allowing AT&T, with its huge resources, as compared with those of the record carriers, to compete with such carriers in providing the service. A realistic appraisal of the relative capabilities of AT&T and the record carriers to secure and maintain such business leads us to conclude that AT&T's entry into this service would seriously jeopardize the ability of the record carriers to obtain a meaningful share of the business. In this connection we note that the total overall revenues of the Bell System for 1963 were some \$9.6 billion. Its revenues derived from its overseas services for that year were \$65.5 million, or much less than 1 percent of its total revenues. The amount of such overseas revenues derived from record services is a small portion of this latter amount. Loss of the revenue derived from these record services would have an inconsequential impact on the overall revenue picture of the Bell System. The provision of overseas telegraph services is, however, for the most part, 100 percent of the business of the international record carriers, and a significant loss in their participation in the telegraph business could have a serious effect on the viability of the international telegraph industry as a whole. This is a risk the record carriers should not be called upon to take, particularly in view of the fact that a substantial portion of this business will be diverted from existing overseas services. It is in the public interest that we assure the viability of the record carriers by protecting them from the losses they would inevitably suffer were AT&T permitted to provide this voice-record service. These losses could affect their ability to continue to provide the still important overseas message telegraph service at anything approximating current rates. We note that when we permitted AT&T and the record carriers to compete for the business of the defense agencies for leased circuits for alternate and simultaneous voice-record use, AT&T received all the leases despite the fact that it was then authorized to provide circuits to the international record carriers for their use in competing with it for this business * * *

Accordingly, for the reasons set forth above, we find and conclude that it is in the public interest that the international record carriers only, and not AT&T, should be authorized to provide leased circuits for

alternate voice-record use, and we shall grant the AT&T applications for modification of its existing authorizations so as to permit it to provide circuits to the international record carriers so that they may provide such service, but shall deny them in all other respects insofar as they relate to alternate voice-record use. 37 F.C.C. 1158-1160.

11. The Commission's decision, although based on an economic analysis of the IRCs' market position, does not present a plethora of economic data. However, by 1964, the widespread expansion of AT&T owned cables between North America (United States and Canada) and France, the United Kingdom, and various Caribbean points was perceived to present a threat to the economic health of the IRCs. This was due, in major part, to the technological superiority of cable over radio for the high volume transmission of both voice and record communications. The introduction of indefeasible right of user interests by the Commission in early 1964 eliminated the substantial rentals which the IRCs previously paid to lease cable circuits. IRU interests were considered to be the most efficient and economic means through which the IRCs could acquire cable facilities. IRU interests, a capital investment, increased a carrier's rate base while decreasing its expenses, thus creating a more competitive entity which could offer its services at lower charges. IRU interests acted to transform lessees into owners and financially strengthened the IRCs. It appears that barring AT&T from providing alternate voice-record service internationally was viewed as a reasonable expansion of this effort to protect and nurture the IRCs.

12. The TAT-4 decision barred AT&T from providing alternate voice-data service except in two instances. The first exception was between the U.S. mainland and Hawaii where AT&T was permitted to retain its authorization to provide those services which it was furnishing in the continental U.S.¹⁰ The second exception was for circuits leased by U.S. defense agencies. After the TAT-4 decision the international record carriers were authorized to provide telegraph message service; telex service; leased telegraph channel service; facsimile (including photo), data and program transmission services; including voice for cue and contact control; any other record service; leased circuits for alternate voice-record use; and leased circuits for alternate and simultaneous voice and nonvoice use by defense agencies of the U.S. Government. AT&T was authorized to

⁷ American Telephone and Telegraph Company, File Nos. P-C-4714 and S-C-L-22, Mimeo Nos. 584 and 583, (1961).

⁸ American Telephone and Telegraph Company, 28 F.C.C. 221 (1960).

⁹ American Telephone and Telegraph Company, File Nos. P-C-4612 and S-C-L-18, Mimeo Nos. 91693 and 91694, adopted July 27, 1960.

¹⁰ Consistent with this exception to the TAT-4 decision, AT&T was authorized to extend its Dataphone service to Hawaii in 1965. 38 F.C.C. 1222.

provide message telephone service; private line circuits for voice use only; and program transmission service.

1964 to 1980

13. Since 1964, the Commission has consistently protected the IRCs from competition by AT&T in the international record market. However, as early as 1972 the Commission noted the viability which the IRCs had achieved through the protection offered by the *TAT-4* decision and stated that a considerable amount of the rationale for the *TAT-4* decision had been dissipated by the passage of time.¹¹ Additionally, the *TAT-4* bar has not been absolute. Waivers have been issued under special circumstances such as NASA programs.¹² The major case between 1964 and 1980 concerning international record carriage is our 1980 *Dataphone* decision.¹³ While this recent decision expressly did not modify the *TAT-4* decision, it indicated that the present international voice/record dichotomy is based on policy, not law. In authorizing AT&T to employ its overseas MTS network for the transmission of facsimile, data and other record communications on a secondary basis, the Commission emphasized that such use was an efficient utilization of facilities, satisfied an unmet need, and gave added flexibility to AT&T's customers. We stated that additional competition in the international record market would stimulate the IRCs to innovate and provide services more efficiently at cost-based rates in order to compete effectively. We also found that the introduction of overseas dataphone service would not undermine the IRCs.

The IRCs

14. The restrictions contained in the IRCs' authorizations prior to our *Datel* decision on the provision of voice service stemmed from the Commission's perception of the international voice and record markets as two separate entities, rooted in different technologies. The Commission has traditionally viewed international voice carriage as best provided through a single entity and the IRCs have rarely offered voice services. However, voice and record transmissions now employ common facilities and record services are provided over fractions or multiples of

voice grade circuits. In *Datel* we found that the public interest would be served by the removal of the restrictions which limited voice-use *Datel* service related facilities to cueing, contact and/or control purposes. Our goal of establishing an improved international communications system with lower rates through market structure modifications which facilitate and encourage the entry of one or more new competitors lead us to conclude that the limitations placed on the IRCs in regard to providing international voice services may no longer best serve the public interest.

The Act

15. The Commission has consistently held that the Communications Act of 1934, as amended, does not prohibit it from authorizing AT&T to provide record services internationally. Additionally, the Act does not bar the IRCs from offering international voice services. In the *First Mainland Cable System* decision, the Commission in 1955 stated that Section 222 of the Act was directed at telegraph carriers and was not applicable to AT&T. The Commission found that the major portion of AT&T's traffic and revenues was not derived from telegraph operations and that therefore AT&T was not a telegraph carrier within the meaning of Section 222. The Commission further stated that no other section or combination of sections in the Act could be found to prohibit AT&T, as a matter of law, from providing international record service.¹⁴ The Commission, in its 1959 decision authorizing AT&T to provide alternate voice-data service to defense agencies of the U.S. government over its microwave relay facilities between the U.S. and the TAT-1 Canadian cablehead, stated that there was no specific statutory requirement that international record and voice communications be furnished by separate entities.¹⁵ The *TAT-4* decision itself lends further evidence that any prohibition or limitation on AT&T's provision of international record service is a matter of policy, not law. The Commission's *TAT-4* decision utilizes public interest considerations, not a statutory analysis, in reaching the conclusion that AT&T should be barred from providing alternate voice-data service internationally. Furthermore, the *TAT-4* decision is only a partial ban on the provision of alternate voice-data service by AT&T.

Discussion and Analysis

16. Market structure modifications which enhance competition in an expanding market produce substantial benefits to users. Better service, new service offerings, more efficient and innovative service, and lower prices may all result from additional competition. Expansion of competition to achieve these beneficial results is consistent with our public interest responsibilities. We tentatively conclude that an analysis of prior cases, the language of the Act, and the *TAT-4* decision itself indicate that the ban on AT&T providing international record services is one of policy, not law. We also tentatively find that the facts and circumstances which prompted us in 1964 to prohibit AT&T from providing alternate voice-record service no longer exist and that there is no justification for continuing the artificial division of the international market into voice and record segments. The IRCs are no longer struggling enterprises with dubious financial futures which must be kept afloat because they are the sole providers of a crucial service. The IRCs are now firmly established businesses with significant market shares, substantial rate bases, and impressive rates of return.¹⁶ Furthermore, the IRCs are no longer the only entities capable of providing overseas message telegram service, a service which has decreased in relative size and importance since 1964.¹⁷ We therefore tentatively conclude that the policy enunciated in our *TAT-4* decision barring AT&T from providing alternate voice-data service should be set aside and that AT&T should be permitted to provide this service. We also tentatively conclude that the public interest would be served by permitting AT&T to provide any nonvoice service on a primary, nonancillary basis.

17. Our conclusion that AT&T's entry into the international record market would be in the public interest is based on an analysis of the Act, past cases, our *TAT-4* decision, the present market structure, and the benefits which

¹⁶ IRC gross plant investment has grown from nearly \$200 million in 1964 to approximately \$700 million in 1978, a 12 percent growth rate in 1972 dollars. Statistics of Communications Common Carriers, p. 154, (1978). Revenues from message, telex and private line services have increased from \$89.9 million in 1964 to \$397.8 million in 1978, a 15.1 percent growth rate in 1972 dollars. Statistics of Communications Common Carriers, Table 25 (1978).

¹⁷ Public message telegram service provided \$58.0 million in revenues in 1964 but only \$37.1 million in 1978. This service provided 64 percent of the IRCs' revenues in 1964 but only 9 percent in 1978. Statistics of Communications Common Carriers, Table 25 (1978).

¹¹ *RCA Global Communications, Inc.*, 37 F.C.C. 2d 1043 (1972).

¹² *American Telephone and Telegraph Company*, 70 F.C.C. 2d 1048 (1978) and *American Telephone and Telegraph Company, et al*, File Nos. W-P-C-649-4 et al, Mimeo No. 34701, released August 14, 1980.

¹³ *American Telephone and Telegraph Company*, 75 F.C.C. 2d 682 (1980).

¹⁴ 44 F.C.C. at 605.

¹⁵ 27 F.C.C. at 120.

additional competition in an expanding market produce.

However, we have not made a detailed and complete economic analysis of the effects of AT&T entry into the international record market. We therefore invite comments not only on our analysis of the Act, prior cases, the *TAT-4* decision, the present market structure and the benefits of added competition, but particularly on the economic impact on the IRCs, on the market structure and on the ultimate consumers of telecommunications services if AT&T is authorized to expand into the international record market. Just as *Datel* provided symmetry to the *Dataphone* decision, we invite comments as to what voice services the IRCs should be authorized in order to create a downward pressure on AT&T's rates and increase consumer choice. Comments should particularly address short and long term effects on consumers as well as the economic impact on the IRCs and AT&T and the U.S. international communications market. As indicated in the *Procedures* section, comments should be as detailed as possible and indicate what international services (if any) AT&T and the IRCs should be permitted to provide and the individual and cumulative effects of each on the public, the IRCs, AT&T, and the international record market structure. Parties are also invited to comment on the relationship between the tentative conclusions and various technological advancements, including the institution of an integrated services digital network. We must emphasize, however, that our primary concern relates to the long and short term effects that the proposed market structure modifications will have on consumers.

Procedures

18. The central issues to be addressed in this rulemaking proceeding are whether, as a matter of policy, (1) AT&T should be authorized to provide international record services and (2) the IRCs should be authorized to provide international voice service. The primary purpose of this document is to elicit information which will enable the Commission to determine whether to alter its policy limiting (1) AT&T's participation in the international record market so as to stimulate competition in the provision of international record services and (2) the IRCs participation in the international voice market so as to complement AT&T's entry into the international record market and to stimulate competition in the offering of international voice services. In accordance with sound administrative practice and the Administrative

Procedure Act, we invite public participation by all interested parties in the form of written comments. Parties should clearly address their responses to the questions raised as well as any related matter they deem relevant. All submissions of economic and financial data should be substantiated by studies conducted in conformance with Section 1.363 of the Commission's Rules. Where no study has been undertaken, either because of unavailability of data or other reasons, an explanation of the difficulties should be attached. If loss of revenues or increase in costs is alleged, the identity of the specific service affected and best estimates of the impact on costs and revenues threatened should be included. We urge all interested parties to respond in a timely fashion to enable the Commission to render an expeditious clarification or modification of its existing policy. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a document indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

19. Accordingly, it is ordered that, pursuant to sections 4(i), 4(j), 201, 202, 204, 205, 214, and 403 of the Communications Act of 1934, as amended, and section 553(b) of the Administrative Procedure Act, a proposed rulemaking or formulation of general policy in this matter is instituted.

20. It is further ordered that interested parties shall file comments concerning the proposed change in policy on or before December 12, 1980. Replies shall be filed on or before January 16, 1981.

21. It is further ordered that, in accordance with the provisions of § 1.419 of the Commission's rules and regulations, all participants in the proceeding ordered herein shall file with the Commission an original and five (5) copies of all comments and reply comments. Copies of comments and reply comments filed in this proceeding shall be available for public inspection during regular business hours in the Commission's reference room at its headquarters at 1919 M Street, NW., Washington, D.C.

22. For purposes of this non-restricted informal rulemaking proceeding members of the public are advised the *ex parte* contacts are permitted from the time of issuance of a notice of proposed rulemaking until the time a draft order proposing a substantive disposition of

such proceeding is placed on the Commission's Sunshine Agenda. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and oral arguments) between a person outside the Commission and a Commissioner or a member of the Commissioner's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation discussed above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 80-36092 Filed 11-18-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1116

[Ex Parte No. 382]

Recordation of Documents; Retention Schedule for Documents Recorded with the Commission

AGENCY: Interstate Commerce Commission.

ACTION: Notice of withdrawal of proposed rule.

SUMMARY: On July 30, 1980, the Commission issued for public comment (45 FR 52186, August 6, 1980) a proposed retention schedule for documents recorded with the Commission under 49 U.S.C. 11303.

The Commission has reviewed the public comment and has concluded that it would not be in the best interest of the public to adopt the proposed measure. Accordingly, the rule will not be adopted and this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: James H. Bayne or Joseph Ross, (202) 275-7646, (202) 275-0993.

SUPPLEMENTARY INFORMATION: We have received and reviewed the public comment submitted about our proposed retention schedule to have been contained in 49 CFR 1116.5(a). Our original purpose was to deal with space problems caused by perpetual retention of the documents which are filed with the Commission under 49 U.S.C. 11303. The members of the public who commented on our proposal have raised serious legal and practical objections to our proposal. After considering the public comments, we are persuaded that our proposed regulation should be withdrawn and this proceeding should be terminated. The Office of the Secretary will continue to explore alternative solutions to our space problems. However, these alternatives will not involve destruction or removal of any of the documents filed under 49 U.S.C. 11303.

This is not a significant action adversely affecting the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 11303 and 5 U.S.C. 553)

Decided: November 12, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp absent and not participating in the proceeding.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36058 Filed 11-18-80; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 45, No. 225

Wednesday, November 19, 1980

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.

CIVIL AERONAUTICS BOARD

[Docket 38948]

Muse Air Corporation Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., November 13, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-38117 Filed 11-18-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38819]

Trans World Airlines, Inc., Civil Penalties for Violations of Part 250; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on December 9, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room A., Unversal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., November 12, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-38118 Filed 11-18-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Technical Information Service

New Standard Price Schedule Effective January 1, 1981

The National Technical Information Service (NTIS), and operating unit of the Department of Commerce, has adopted

a new Standard Price Schedule to become effective January 1, 1981.

Pursuant to 15 U.S.C. § 1151-1157, NTIS operates a clearinghouse for the collection and public sale of scientific, technical and other specialized reports prepared by Government agencies, their contractors and grantees, and by Special Technology Groups. 15 U.S.C. § 1153 authorizes NTIS to issue schedules of fees and requires the agency to sell its reports on a self-supporting basis so that "the general public shall not bear the cost of publications and other services which are for the special use and benefit of private groups and individuals."

NTIS has determined that, to continue recovering its full costs of collecting, printing, and disseminating paper copies of technical reports, a new Standard Price Schedule must be adopted effective January 1, 1981. The new schedule is as follows:

Standard Price Schedule

Page range	North American	Foreign
Microfiche:	\$3.50	\$7.00
001-025.....	5.00	10.00
026-050.....	6.50	13.00
051-075.....	8.00	16.00
076-100.....	9.50	19.00
101-125.....	11.00	22.00
126-150.....	12.50	25.00
151-175.....	14.00	28.00
176-200.....	15.50	31.00
201-225.....	17.00	34.00
226-250.....	18.50	37.00
251-275.....	20.00	40.00
276-300.....	21.50	43.00
301-325.....	23.00	46.00
326-350.....	24.50	49.00
351-375.....	26.00	52.00
376-400.....	27.50	55.00
401-425.....	29.00	58.00
426-450.....	30.50	61.00
451-475.....	32.00	64.00
476-500.....	33.50	67.00
501-525.....	35.00	70.00
526-550.....	36.50	73.00
551-575.....	38.00	76.00
576-600.....	39.50	79.00

Note: Add \$1.50 to the North American Price and \$3.00 to the Foreign Price for each 25-page increment (or portion thereof) by which a report exceeds 600 pages in length.

North American Prices are charged for orders shipped within the United States of America, including its territories and possessions, or to Canada or Mexico. Foreign Prices are charged for orders shipped elsewhere.

Certain NTIS products (including subscriptions, standing orders, SRIM, domestic microfiche, and the like), the costs to NTIS of which may be substantially higher or lower than typical technical reports, are specially priced as "exceptions" to the Standard Price Schedule. The prices of these

exception-priced products are no altered at this time. The prices of microfiche and subscription items are not affected by the notice.

Inquiries concerning the new Standard Price Schedule may be directed to Dr. Melvin J. Josephs, Chief, Product and Program Management Division, NTIS, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4734.

Melvin S. Day

Director.

[FR Doc. 80-36009 Filed 11-18-80; 8:45 am]

BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

Advisory Committee on State Jurisdiction and Responsibilities Under the Commodity Exchange Act; Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, § 10(a), that the Commodity Futures Trading Commission's Advisory Committee on State Jurisdiction and Responsibilities under the Commodity Exchange Act ("Advisory Committee on State Jurisdiction and Responsibilities" or "Advisory Committee") will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, D.C., headquarters located at Room 532, 2033 K Street NW., Washington, D.C. 20581, on December 4, 1980, beginning at 10:00 a.m. and lasting until 4:00 p.m. The proposed Commodity Pools Guidelines which have been distributed for public comment by the North American Securities Administrators Association will be the primary subject of the meeting.

The Advisory Committee on State Jurisdiction and Responsibilities is an advisory committee created by the Commission for the purpose of receiving advice and recommendations on such matters as state enforcement of the Commodity Exchange Act and enforcement of general state criminal and civil antifraud laws in the commodity area. The purposes and objectives of the Advisory Committee on State Jurisdiction and Responsibilities are more fully set forth at 45 FR 27972 (April 25, 1980).

The meeting is open to the public. The Chairman of the Advisory Committee on State Jurisdiction and Responsibilities,

John G. Gaine, General Counsel of the Commission, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the Advisory Committee on State Jurisdiction and Responsibilities, c/o William E. Gressman, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should inform William E. Gressman, telephone (202) 254-5529, at least five days before the meeting and reasonable provision will be made for their appearance, to the extent time permits, at the conclusion of the session on December 4, 1980, to present oral statements of no more than ten minutes each in duration.

Issued in Washington, D.C., November 14, 1980.

By the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-36058 Filed 11-18-80; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Product Safety Advisory Council; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council on Thursday, December 4, 1980, 12:00 Noon—6:00 p.m., and Friday, December 5, 1980, 8:30 a.m.—3:00 p.m. The meeting will be held at 1111 18th Street, NW, Washington, DC 20207, Third Floor Conference Room.

FOR FURTHER INFORMATION CONTACT: Barbara Rosenfeld, Director, Office of Public Participation, Office of the Secretary, Suite 300, 1111 18th Street, NW, Washington, DC 20207, 202/634-7700.

SUPPLEMENTARY INFORMATION: The Product Safety Advisory Council was established by Section 28 of the Consumer Product Safety Act, which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act.

The agenda for the meeting will include further discussion of recall

effectiveness; a briefing on the status of urea-formaldehyde foam insulation regulatory action, discussion of a proposed rule on findings under Section 9(c) of the CPSA, and a consideration of a possible role for the Council in relation to petitions and emerging hazards.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentation to the Product Safety Advisory Council should notify the Office of the Secretary (see address above) by November 26, 1980. The notification should list the name of the individual who will make the presentation, the person, the company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Council may be allowed by the presiding officer.

Dated: November 14, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-36144 Filed 11-18-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Anti-Tactical Missiles; Advisory Committee Meeting

The Defense Science Board Task Force on Anti-Tactical Missiles (ATM) will meet in closed session on 8-9 December 1980 in Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At its meeting on 8-9 December 1980 the Defense Science Board Task Force on ATM will review the potential enemy development of new ballistic and cruise missiles and propose and evaluate options for countering such threats.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that

accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer,
Washington Headquarters Services,
Department of Defense.

November 14, 1980.

[FR Doc. 80-36029 Filed 11-18-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Program of Research Grants on Organizational Processes in Education

AGENCY: Department of Education.

ACTION: Application Notice for New Projects Under the Program of Research Grants on Organizational Processes in Education (Elementary-Secondary Education Segment), National Institute of Education.

Applications are invited for new projects under the Program of Research Grants on Organizational Processes in Education (Elementary-Secondary Education Segment).

Authority for this program is contained in Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

Under this program the Director may award grants to institutions of higher education, State educational agencies, local educational agencies, public and private nonprofit or for-profit agencies and organizations, individuals, or combinations of these. Grants to for-profit organizations are subject to any special conditions that the Director may prescribe.

This notice announces one preapplication closing date and two application closing dates for new grants which are to be awarded in two cycles in Fiscal Year 1981. This notice also announces closing dates for transmittal of preapplications for review in late 1981 in anticipation of Fiscal Year 1982 closing dates and funding.

The purpose of the awards is to encourage and support research on organizational processes in, or related to, elementary and secondary schools and school districts.

Closing dates for transmittal of preapplications: Preapplications for major grants must be mailed or hand delivered by December 11, 1980, April 9, 1981, August 13, 1981, or December 10, 1981.

Closing dates for transmittal of applications: Applications for major grants and small grants must be mailed or hand delivered by December 11, 1980 or April 9, 1981.

Applications delivered by mail: An application sent by mail must be

addressed to the National Institute of Education, Proposal Clearinghouse, Mail Stop 1, 1200 19th Street, NW., Washington, D.C. 20208. The lower left hand corner of the package should display the words "Organizational Processes (Elementary-Secondary)," and the type of application, "Preapplication," "Major Grant," or "Small Grant."

Applications will be accepted for review in a particular cycle only if they are mailed on or before the closing date and proof of mailing is provided. The applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, neither of the following is acceptable to the Secretary as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should not that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should specifically request that a dated postmark be affixed by a local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that the application will not be considered in the current cycle, but will be held for consideration in the next review cycle, or returned upon request.

Applications delivered by hand: An application that is hand delivered must be taken to the National Institute of Education, Proposal Clearinghouse, Room 804, 1200 19th Street, NW., Washington, D.C.

The Proposal Clearinghouse will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted for review in the current cycle after 4:30 on the closing dates in this notice. A late hand delivered application will be held for consideration in the new review cycle, or returned upon request.

Preapplications: An applicant for a major grant must first submit a preapplication (formerly called a preliminary proposal), and may submit

an application only after receipt of NIE comments on the preapplication. Consideration of a preapplication is designed to strengthen a full application submitted later. No applicant who has submitted a preapplication will be denied the opportunity to present an application. An application may be submitted for review at any later closing date once the preapplication has been evaluated.

Preapplications are not required for small grants.

Program information: The program awards major grants and small grants. A major grant is for a project whose direct costs exceed \$15,000. A project supported by a major grant may take up to three years to complete. Initial funding in most cases will not exceed 12 months, with subsequent funding contingent upon satisfactory performance and availability of funds.

A small grant supports a project for a duration of up to 12 months with direct costs of no more than \$15,000.

The following two tables show the estimated schedule for completion of each stage of the review cycle for both types of grants.

Major Grants

Preapplications due	Comments returned	Full applications due	Decisions announced
Dec. 11, 1980.	Mar. 1981	Apr. 9, 1981	Aug. 1981.
Apr. 9, 1981..	June 1981.....	Dec. 10, 1981 ¹ .	Apr. 1982. ¹
Aug. 13, 1981.	Oct. 1981 ¹	Dec. 10, 1981 ¹ .	Apr. 1982. ¹
Dec. 10, 1981 ¹ .	Mar. 1982 ¹	Apr. 1982 ¹	Aug. 1982. ¹

¹Dates for these activities are tentative. Final deadline dates will be published later.

Small Grants

Applications due	Decisions announced in
Dec. 11, 1980.....	Apr. 1981.
Apr. 9, 1981.....	Aug. 1981.
Dec. 10, 1981 ¹	Apr. 1982. ¹

¹Dates for these activities are tentative. Final deadline dates will be published later.

Available funds: Approximately \$500,000 will be available for new awards of all kinds in the Program of Research Grants on Organizational Processes in Education (Elementary-Secondary Education Segment). (Additional funds are reserved for continuation awards of projects begun in earlier years.) These funds will support 2-4 major grants and 2-3 small grants in each of the two review cycles during the year. Annual costs of major awards average \$65,000, with a range from \$25,000 to \$110,000. The average

small grant award is \$14,000, with a range from \$11,000 to \$16,000.

These funding estimates do not bind the U.S. Department of Education to a specific number of grants nor to the awarding of grants for a specific amount. The total amount allocated to these awards may be increased or decreased by the Director, based on the merits of the applications received. Only projects of the highest quality will be supported, whether or not the resources of the program are exhausted.

Application instructions: A program announcement will be available for mailing in November 1980. The announcement gives further information on the program guidelines, award history and availability of funds, eligibility and review criteria, and application instructions. Applications must be prepared and submitted in accordance with the regulations and instructions included in the program announcement.

Persons who wish to receive a copy of the 1981 program announcement may do so by sending a self-addressed mailing label to the School Management and Organization Studies Team, EPO, Mail Stop 16, National Institute of Education, 1200 19th Street, NW., Washington, D.C. 20208. (A stamped envelope is not usable.)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Program of Research Grants on Organizational Processes in Education (45 CFR Part 1480) as published in the Federal Register on August 12, 1980, 45 FR 53782;

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Part 100a, Direct Grant Programs, and Part 100c, Definitions), as published in the Federal Register on April 3, 1980, 45 FR 22494; and

(c) The National Institute of Education General Provisions Regulations (45 CFR Parts 1400-1410), as amended and published in the Federal Register on April 3, 1980, 45 CFR 22543.

Further information: For further information, contact Gail MacColl, School Management and Organization Studies Team, National Institute of Education, OERI, located in Room 711-J, 1200 19th Street, NW., Washington, D.C. Telephone: 202-254-7930.

(20 U.S.C. 1221e)

(Catalog of Federal Domestic Assistance No. 84.117, Educational Research and Development; formerly 13.950)

Dated: November 13, 1980.

F. James Rutherford,
Assistant Secretary for Educational Research
and Improvement.

[FR Doc. 80-35994 Filed 11-18-80; 8:45 am]
BILLING CODE 4000-05-M

Guaranteed Student Loan Program; Special Allowance for Quarter Ending September 30, 1980

The Assistant Secretary for Postsecondary Education announces that for the three-month period ending September 30, 1980, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at an annual rate of 6 and three-eighths percent will be paid to holders of eligible loans in the Guaranteed Student Loan Program.

Using the statutory formula, the special allowance for this three-month period was computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (9.78 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (6.28) upward to the nearest one-eighth of 1 percent (6.375), and by dividing the resultant percent by four (1.59375 percent). Thus, the special allowance to be paid for this period will be 1.59375 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

(Catalog of Federal Domestic Assistance No. 13.460, Guaranteed Student Loan Program) (20 U.S.C. 1087-1(b))

Dated: November 14, 1980.

Albert H. Bowker,
Assistant Secretary for Postsecondary
Education.

[FR Doc. 80-36095 Filed 11-18-80; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Resource Applications, National Petroleum Council, Subcommittee on Unconventional Gas Sources; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Subcommittee on Unconventional Gas Sources of the National Petroleum Council.
Date and time: December 9, 1980—1:00 p.m.
Place: Madison Hotel, Dolley Madison Room, Fifteenth and M Streets NW., Washington, D.C.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of

Energy, 1000 Independence Avenue SW., Forrester Building, Room 8G087, Washington, D.C. 20585, Telephone: 202-252-5187.

Purpose of parent committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative agenda:

- Introductory remarks by the Chairman and Government Cochairman of the Subcommittee.
- Review and discuss drafts of the final two volumes of the report on Unconventional Gas Sources:
 - Executive Summary.
 - Tight Gas Reservoirs.
- Discussion of any other matters pertinent to the overall assignment of the Subcommittee on Unconventional Gas Sources.
- Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrester Building, 1000 Independence Avenue SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on November 14, 1980.

Georgia Hildreth,
Director, Advisory Committee Management.

[FR Doc. 80-36075 Filed 11-18-80; 8:45 am]
BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the sale of 660 kilograms of heavy water for use

as moderator and coolant in the JRR-2 and JRR-3 reactors at the Japan Atomic Energy Reactor Institute.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract Number S-JA-281 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 13, 1980.

Harold D. Bengelsdorf,
Director for Nuclear Affairs, Office of
International Nuclear and Technical
Programs.

[FR Doc. 80-36074 Filed 11-18-80; 8:45 am]
BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (ERUATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of the Federative Republic of Brazil Concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreements is the approval for the transfer of United States origin special nuclear materials from Belgium to Brazil. The materials consist of 100 milligrams of uranium enriched to 3 percent in U-235, and 0.5 milligrams of plutonium, which is to be utilized to determine the uncertainty of the analytical measurements of uranium and plutonium isotopes, for safeguards purposes.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer, designated as RTD/BR(EU)-4 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: November 7, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-36021 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of settlement.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the Office of Enforcement, ERA, and the firm listed below during the month of October 1980. The Consent Order represents resolution of an outstanding compliance investigation by the DOE and the firm and concerns overcharges in sales of propane during the period covered by the audit. This Consent Order is concerned exclusively with the firm's agreement to refund overcharges through price reduction on all customer purchases.

For further information regarding this Consent Order please contact James C. Easterday, District Manager of Enforcement, Southeast District, Economic Regulatory Administration, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, telephone number (404) 881-2396.

Firm name and address: General Development Utilities, Inc.

Settlement terms: Refund \$456,000.00, including interest, through price reduction on customer purchases, payment of \$4,000.00 penalty.

Period covered: November 1, 1973 through December 31, 1976.

Issued in Atlanta, Georgia, on the 4th day of November 1980.

James C. Easterday,

District Manager of Enforcement.

[FR Doc. 80-36022 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Reynolds Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and on potential claims against the refunds deposited in an escrow account

established pursuant to the Consent Order.

DATES: Effective date: October 28, 1980. Comments by: December 18, 1980.

ADDRESS: Send comments to: Kenneth E. Merica, District Manager of Enforcement, Economic Regulatory Administration, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80226.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Merica, District Manager of Enforcement, Economic Regulatory Administration, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226, (303) 234-3195.

SUPPLEMENTARY INFORMATION: On October 28, 1980, the Office of Enforcement executed a Consent Order with Reynolds Oil Company (ROC) of Kremmling, Colorado. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

ROC, with its home office located in Kremmling, Colorado, is a firm engaged in the business of purchasing covered products and reselling them to wholesale purchasers and ultimate consumers, without substantially changing their form and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211 and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of ROC, the Office of Enforcement of ERA and ROC entered into a Consent Order, the significant terms of which are as follows:

1. ERA alleged that ROC violated the gasoline price regulations contained in 10 CFR 212.93(a)(1) of the Mandatory Petroleum Price Regulations by exceeding its "maximum legal selling price" for the covered gasoline products sold to ROC's wholesale and retail customers, during the period July 1, 1979, through November 30, 1979 (audit period).

2. ROC has agreed to pay \$2,500 into a special fund administered by ERA in settlement of the alleged overcharges to its wholesale customers during that period.

3. ROC has agreed to refund alleged overcharges totaling \$798.58, plus interest, to its individual retail customers.

4. ROC has agreed to pay a civil penalty of \$500.00.

5. The provisions of 10 CFR 205.199J are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, ROC agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of ROC's sales to its wholesale customers during the audit period, the sum of \$2,500, on or before December 31, 1980. Refund of those overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the assistant administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have been passed through as higher prices to subsequent purchasers. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

Furthermore, ROC agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of its sales to its retail customers during the audit period, the sum of \$798.58 plus interest, on or before December 31, 1980. Refund of those overcharges shall be in the form of individual refund payments equal to the overcharge of each customer, plus applicable interest.

III. Submissions of Written Comments

A. *Potential claimant:* Interested persons who believe that they have a claim to all or a portion of the settlement amount specified in I.2., above, should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established.

Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspect of this Consent Order.

You should send your comments or written notifications of a claim to Kenneth E. Merica, District Manager of Enforcement Economic Regulatory Administration, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80226. You may obtain a free copy of this Consent Order, with proprietary information deleted, by writing to the same address or by calling (303) 234-3195.

You should identify your comments or written notification of a claim on the outside or your envelope and on the documents you submit with the designation, "Comments on Reynolds Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 18, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Lakewood, Colorado, on the 30th day of October, 1980.

Kenneth E. Merica,
District Manager, Rocky Mountain District,
Economic Regulatory Administration.

Concurrence by:

Charles F. Dewey,
Regional Counsel.

[FR Doc. 80-36023 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of action taken on consent orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement (ERA) and the firms listed below concerning failure to meet the filing requirements of Form ERA-69, Crude Oil Reseller's Self-Reporting Form, as set forth in the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart L. Pursuant to 10 CFR 205.203, each of the consenting firms has agreed to make payments, as specified below. The Consent Orders do not address or limit any liability with respect to the consenting firms except as related to the

requirement to file ERA-69 reports. The consenting firms generally agree to recognize and comply with the reporting requirements of 10 CFR 212.187 by filing (1) any overdue reports and (2) all future monthly reports on or before their due dates.

FOR FURTHER INFORMATION REGARDING THESE CONSENT ORDERS, PLEASE CONTACT: E. W. Dorcheus, Director, Crude Oil Programs Division, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street NW., Washington, D.C. 20461, Telephone Number (202) 653-3517.

Issued in Washington, D.C. on this 7th day of November, 1980.

James J. Fenton,

Acting Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Consent Orders Entered

Firm	Address	Consent order date	Payment pursuant to 10 CFR section 205.203
West Texas Marketing Corp. and J.T. Trading Co.	1150 Estates Drive, Abilene, TX 79604.	09/30/80	\$4,500.00
Bluebird Oil Co., Inc.	5540 Raytown Road, Raytown, MO 64133.	10/02/80	1,000.00
Laser Gathering Corp.	No. 1 Gallery Court, San Antonio, TX 78209.	10/02/80	500.00
Petrocal, Inc.	14113 Bronte Dr., Whittier, CA 90602.	10/07/80	10,700.00

[FR Doc. 80-36101 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-021A]

Arizona Public Service Co.; Application for Amendment to a Certification of the Use of Natural Gas to Displace Fuel Oil

On July 31, 1980, the Economic Regulatory Administration (ERA) issued to Arizona Public Service Company (Arizona Public) a certification (80-CERT-021, 45 FR 52198, August 6, 1980) of an eligible use of natural gas to displace fuel oil at Arizona Public's Ocotillo Plant, Tempe, Arizona; West Phoenix Plant, Phoenix, Arizona; Saguaro Plant, Red Rock, Arizona; and Yuma Plant, Yuma, Arizona, pursuant to 10 CFR Part 595 (44 FR 37920, August 16, 1979). Based upon information submitted in Arizona Public's application, the ERA certification issued listed Delhi Gas Pipeline Corporation and Bixco, Inc. as eligible sellers. The transporter of this

natural gas was indicated to be El Paso Natural Gas Company.

On October 22, 1980, Arizona Public filed a request with ERA to amend its certification to include the following additional eligible sellers: Consumers Power Company, 212 W. Michigan Ave., Jackson, Michigan 49201; and Gas Company of New Mexico, a division of Southern Union Company, Suite 1800, First National Building, Dallas, Texas 75270. Arizona Public also requested that the following additional interstate pipelines be added as transporters in order to accommodate gas purchases from these additional sellers: Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77001; Trunkline Pipe Line Company, P.O. Box 1642, Houston, Texas 77001; and Natural Gas Pipeline Company of America, 122 South Michigan Avenue, Chicago, Illinois 60603. More detailed information is contained in the application and the request for amendment, both of which are on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, 2000 M Street NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this request for an amendment to submit comments in writing to the Economic Regulatory Administration, Division of Natural Gas, Room 7108, RG-55, 2000 M Street NW., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before December 1, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this amendment may be requested by any interested person in writing on or before December 1, 1980. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Arizona Public and any persons filing comments and will be published in the Federal Register.

Issued in Washington, D.C., on November 13, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-36073 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-041]

Capco Pipe Co., Inc.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On December 28, 1979, Capco Pipe Company, Inc. (Capco), formerly Cement Asbestos Products Company, 1400 Twentieth Street, South, P.O. Box 3435, Birmingham, Alabama 35255, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 79-CERT-107). The certification involved the purchase of natural gas from Alabama Gas Corporation for use by Capco at its production facility located in Ragland, Alabama. The gas was transported by the Southern Natural Gas Company. The ERA certificate expires on December 27, 1980.

On November 4, 1980, Capco filed an application for recertification of an eligible use of natural gas to displace fuel oil at the Ragland facility pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, 2000 M Street NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, Capco states that the volume of natural gas for which it requests recertification is up to 575 Mcf per day. The use of this gas is estimated to displace the use of up to 4164 gallons (99 barrels) of No. 2 fuel oil (0.12 percent sulfur) per day at the Ragland facility.

The eligible seller of the natural gas is Alabama Gas Corporation, 1918 First Avenue, Birmingham, Alabama 35295. The gas will be transported by Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG-55, 2000

M Street NW., Washington, D.C. 20461, Attention: Albert F. Bass, on or before December 1, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or before December 1, 1980. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Capco and any persons filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C. on November 13, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-36078 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Crude Oil Buy/Sell Program; First Supplemental Notice for Allocation Period of October 1, 1980, Through March 31, 1981

The notice specified in 10 CFR 211.65(g)(1) of the crude oil allocation (buy/sell) program for the allocation period of October 1, 1980, through March 31, 1981, was issued September 17, 1980 (45 FR 63046, September 23, 1980). The ERA hereby issues a first supplemental buy/sell list for the allocation period of October 1, 1980, through March 31, 1981. This supplemental notice sets forth an allocation issued at the direction of DOE's Office of Hearings and Appeals (OHA), and an adjustment to a regular allocation. Additionally, refiner-sellers' obligations are herein adjusted to account for sales made during previous allocation periods, for which credit was not properly given.

The buy/sell list is set forth as an appendix to this notice. The list includes the names of the small refiners granted allocations and their eligible refineries, the quantity of crude oil each refiner is eligible to purchase, the fixed percentage share for each refiner-seller, and the revised and additional sales obligation of each refiner-seller for the allocations listed.

The allocations for the small refiners on the supplemental buy/sell list were determined in accordance with 10 CFR 211.65 (b) and (c)(2). Sales obligations

for refiner-sellers were determined in accordance with 10 CFR 211.65 (e) and (f). With respect to allocations under 10 CFR 211.65(b), for the allocation period of October 1, 1980, through March 31, 1981, each refiner-buyer shall be entitled to purchase, for each of its refineries that is determined by ERA not to have access to imported crude oil, an amount of crude oil equal to the difference between (1) the volume of crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery in the period October 1, 1979, through March 31, 1980, and (2) the volume of crude oil runs to stills (not including crude oil runs attributable to purchases under 10 CFR 211.65 or crude oil processed for other refiners) at the eligible refinery in the period April 1, 1980, through September 30, 1980 (calculated by using the level of the crude oil runs to stills at that refinery in the period April 1, 1980, through July 31, 1980 for the entire six-month period).

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to 10 CFR 211.65(f), each refiner-seller shall offer for sale during an allocation period, directly or through exchanges to refiner-buyers, a quantity of crude oil equal to that refiner-seller's sales obligation plus any volume that the ERA directs the refiner-seller to sell pursuant to 10 CFR 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telegram the details of each transaction under the buy/sell list within forty-eight hours of the completion of arrangements. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request that the ERA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of this supplemental buy/sell notice. Upon such request, the ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

Refiner-buyers making requests for directed sales must document their

inability to purchase crude oil from refiner-sellers by supplying the following information to ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions;

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oils that have historically been processed in each refinery;

(iii) Statement of any restrictions, limitations, or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries;

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the supplemental buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller;

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller;

(vi) Such other pertinent information as ERA may request.

Please note change of address. All reports and applications made under this notice should be addressed to: Robert G. Bidwell, Jr., Chief, Crude Oil Allocation and Production Branch, 2000 M Street, NW., Room 6318, Washington, D.C. 20461.

TWX's may be sent to 710-822-9454 (answer back EVFTJ WSH).

Also note that, the telephone number for the Crude Oil Allocation and Production Branch is 202-653-3420.

A copy of the decision and order issued by OHA granting exception relief that provides for the assignment of the allocation listed herein may be obtained from: Economic Regulatory Administration, Public Information Office, 2000 M Street, NW., Rm. B110, Washington, D.C. 20461, (202) 653-4055.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before December 19, 1980.

Issued in Washington, D.C. on November 13th, 1980.

Paul T. Burke,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

The buy/sell list for the period October 1, 1980, through March 31, 1981 is hereby amended to reflect an allocation made pursuant to a recent decision of the Office of Hearings and Appeals, an amendment to a regular allocation, and adjustments to refiner-sellers obligations. The amended lists sets forth the identity of each refiner-seller and refiner-buyer, the fixed percentage share of each refiner-seller, the additional volumes of crude oil that each refiner-seller is required to offer for sale to small refiners, and the volumes of crude oil that each refiner-buyer is eligible to purchase for each eligible refinery.

All refiner-sellers' percentage shares have been changed to reflect the Continental Oil Company and Exxon Company, U.S.A. Decision and Order issued by DOE's Office of Hearings and Appeals on March 20, 1979 (3 DOE Para. 82,551). While the refiner-sellers' percentage shares displayed are rounded to three decimal places, six decimal places have been utilized to establish actual sales obligations.

Also included in the appendix is a list of the names and addresses of the persons designated by refiner-sellers to receive service of copies of applications for emergency crude oil allocations.

Office of Hearings and Appeals Decision

On November 3, 1980, the Office of Hearings and Appeals issued an Interim Decision and Order (in Case Nos. BEE-0508, BSG-0009, and BEN-0508) in which OHA determined that Energy Cooperative, Inc. (ECI) should be designated as a refiner-buyer of 5,663,624 barrels of crude oil pursuant to the buy/sell notice for the October 1980 through March 1981 allocation period. OHA further determined that six refiner-sellers will be required to make one-half of this allocation available to ECI as specified below: 478,293 barrels by Exxon; 564,097 barrels by Amoco; 547,956 barrels by Chevron; 123,750 barrels by Marathon; 505,195 barrels by Mobil; and 612,521 barrels by Texaco.

Regular Buy/Sell Allocation

Based on recently submitted corrected runs data, ERA has adjusted the regular allocation of Caribou Four Corners, Inc. for its Woods Cross, Utah refinery from

zero barrels to 159,195 barrels for the present October 1980 through March 1981 period.

Refiner-Sellers Revised Basic Obligations October 1, 1980 Through March 31, 1981 Allocation Period

The following list corrects the regular buy/sell list for the period October 1, 1980, through March 31, 1981, which was issued on September 17, 1980 (45 FR 63046, September 23, 1980). The list credits refiner-sellers with sales under the program that were not correctly incorporated in the previous list.

Refiner-sellers	Share	Revised sales obligations (barrels) ¹
Amoco Oil Co.....	.105	1,301,747
Atlantic Richfield Co.....	.077	2,466,827
Chevron U.S.A., Inc.....	.102	780,760
Cities Service Co.....	.025	1,453,589
Continental Oil Co.....	.004	29,289
Exxon Co., U.S.A.....	.089	829,470
Getty Ref. & Marketing Co.....	.021	263,664
Gulf Ref. & Marketing Co.....	.091	1,522,277
Marathon Oil Co.....	.023	473,056
Mobil Oil Corp.....	.094	997,549
Phillips Petroleum Co.....	.041	900,049
Shell Oil Co.....	.114	2,783,156
Sun Co.....	.055	595,822
Texaco, Inc.....	.114	1,298,188
Union Oil Co. of Calif.....	.46	2,853,097
Total sales obligation.....		18,548,540

¹As is ERA's normal practice, this buy/sell list reflects differences between actual sales volumes in the October 1979-March 1980 allocation period, and the estimated sales volumes which were originally used to calculate the April-September 1980 allocation list (45 FR 21010, March 31, 1980). There were significant differences between the actual sales volumes and the original estimates of some refiner-sellers, and these unsold carryover amounts may have affected some refiner-sellers' sales obligations for the October 1980-March 1981 allocation period. Refiner-sellers who have questions concerning their October 1980-March 1981 sales obligations should contact the Crude Oil Allocation and Production Branch staff at their earliest convenience.

Refiner-Sellers' Additional Obligations October 1, 1980, Through March 31, 1981 Allocation Period

The following includes refiner-sellers' sales obligations for the October 1980, through March 1981 period as revised by the list set forth above and the obligations resulting from allocations listed in the notice.

Refiner-sellers	Share	Additional sales obligation (Bbls)	Total sales obligations (Bbls)
Amoco Oil Co.....	.105	609,634	1,911,641
Atlantic Richfield Co.....	.077	447,874	2,914,701
Chevron U.S.A., Inc.....	.102	591,400	1,372,160
Cities Service Co.....	.025	143,230	1,596,819
Continental Oil Co.....	.004	23,291	52,580
Exxon Co., U.S.A.....	.089	518,231	1,347,701
Getty Refining & Marketing Co.....	.021	123,531	387,195
Gulf Refining & Marketing Co.....	.091	530,529	2,052,806
Marathon Oil Co.....	.023	193,060	606,136
Mobil Oil Corp.....	.094	547,894	1,545,383
Phillips Petroleum Co.....	.041	240,919	1,140,968
Shell Oil Co.....	.114	661,577	3,444,733
Sun Co.....	.055	323,149	918,971

Refiner-sellers	Share	Additional sales obligation (Bbls)	Total sales obligations (Bbls)
Texaco, Inc.....	.114	662,119	1,960,327
Union Oil Co. of Calif.....	.048	266,161	3,119,258
Total sales obligations.....		5,822,819	24,371,359

Summary of Additional Allocations— October 1, 1980 Through March 31, 1981 Allocation Period

Energy cooperative OHA allocation.....	5,663,824
Caribou amended regular allocation.....	159,195
Total allocations.....	5,822,819

Contact List for Refiner-Sellers

Matthew J. Gallo, Amoco Oil Company, 200 E. Randolph Drive, P.O. Box 5910-A, Chicago, IL 60601

J. J. Hur, Atlantic Richfield Company, 515 South Flower Street, P.O. Box 2679, Los Angeles, CA 90071

Frank W. Bradley, Chevron U.S.A., Inc., 1700 K. Street, NW., Suite 1204, Washington, DC 20006

C. D. Head, Cities Service Company, P.O. Box 300, Tulsa, OK 74102

Mike McNeese, Conoco, Inc., P.O. Box 2197, Houston, TX 77001

Barbara Finney, Exxon Company, U.S.A., P.O. Box 2180, Houston, TX 77001

Eugene F. Gervino, Getty Refining & Marketing Company, P.O. Box 1650, Tulsa, OK 74102

L. G. Armel, Gulf Oil Corporation, Gulf Building, P.O. Box 2001, Houston, TX 77001

Victor Beghini, Vice President, Marathon Oil Company, 539 South Main Street, Findlay, OH 45840

W. L. Fanning, Jr., Mobil Oil Corporation, 3225 Gallows Road, Fairfax, VA 22037

A. L. Hobbs, Phillips Petroleum Company, Phillips Building, Bartlesville, OK 74004

G. G. Carnahan, Shell Oil Company, P.O. Box 2463, Houston, TX 77001

C. Steven LeBaron, Sun Petroleum Products Company, 9th Floor, Law Department, 1608 Walnut Street, Philadelphia, PA 19103

Paul D. McNaughton, Texaco, Inc., P.O. Box 52332, Houston, TX 77052

Howard Johnson, Texaco, Inc., c/o Legal Department, 2000 Westchester Avenue, White Plains, NY 10650

W. W. Fox, Union Oil Company of California, 1650 East Golf Road, Schaumburg, IL 60196

[FR Doc. 80-36100 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 65006-9095-22-22; Docket No. ERA-FC-80-021]

Modesto Irrigation District; Tentative Staff Analysis

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Availability of Tentative Staff Analysis.

SUMMARY: On May 13, 1980, Modesto Irrigation District (Modesto) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent peakload powerplant exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act) which prohibit the use of petroleum or natural gas in new powerplants.

Modesto plans to install a 49,900 KW oil/natural gas-fired combustion turbine unit to be known as McClure Station Unit 2 (McClure 2) in Stanislaus County, California. Modesto certifies that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

ERA accepted the petition on July 15, 1980, and published notice of its acceptance in the *Federal Register* on July 21, 1980 (45 FR 48692). Publication of the notice of acceptance commenced a 45 day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The comment period ended September 3, 1980. No comments were submitted. No hearing was requested.

ERA's staff has reviewed the information presently contained in the record of this proceeding. A Tentative Staff Analysis recommends that ERA issue an order which would grant the permanent peakload powerplant exemption to Modesto. A copy of the Tentative Staff Analysis is available from the Office of Public Information at the address listed below.

DATE: Written comments on the Tentative Staff Analysis and requests for a hearing are due on or before December 3, 1980..

ADDRESS: Fifteen copies of written comments, and any request for a public hearing shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Docket Number ERA-FC-80-021 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT: William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055.

Louis T. Krezanosky, New Powerplants Branch, Department of Energy, Room 3012B, 2000 M Street, NW., Washington, D.C. 20461, Phone (202) 653-4208.

Marx M. Elmer, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B-178, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: Modesto Irrigation District (Modesto) plans to install a 49,900 KW oil/natural gas-fired combustion turbine unit to be called McClure Station Unit 2 (McClure 2) at its McClure Generating Station site in Stanislaus County, California. Based upon estimates by Modesto, the proposed unit is expected to consume approximately 98,000 barrels of No. 2 fuel oil per year (268 bbl/day). McClure 2 is scheduled for commercial operation on May 15, 1981.

The Economic Regulatory Administration (ERA) published interim rules on May 15, and 17, 1979 (44 FR 28530, 28940) to implement provisions of Title II of the Act. The final rule, published on June 6, 1980 (45 FR 38276) became effective August 5, 1980.

FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption for such use has been granted.

Modesto submitted a sworn statement with the petition signed by Mr. M. N. Bennett, Chief Administrative Officer, of Modesto as required by 10 CFR Part 503.41(b)(1). In his statement, Mr. Bennett certifies that McClure 2 will be operated solely as a peakload powerplant only to meet peakload demand for the life of the plant. He also certified that the maximum design capacity of the unit is 49,900 KW and that the maximum generation that the unit will be allowed during any 12-month period is the design capacity times 1,500 hours or 74,850,000 Kwh.

Under the requirements of 10 CFR Part 503.41(b)(1)(ii), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, he must obtain a certification from the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency. This certification must state that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The

certification requirement is therefore waived with respect to this petition.

Tentative Staff Analysis

On the basis of Modesto's sworn statements and information provided, the staff recommends that ERA grant the requested peakload powerplant exemption.

Submitted with Modesto's petition is a letter from the Environmental Protection Agency Region IX (EPA), dated November 1, 1979. EPA has issued an approval to construct and operate McClure 2 subject to certain conditions.

Based upon the information provided by Modesto, ERA conducted an analysis which was reviewed by the DOE's Office of Environment, in consultation with the Office of General Counsel, and DOE has concluded that the granting of this exemption is not a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to include terms and conditions in any order granting an exemption. Based upon the information submitted by Modesto and upon the results of the staff analysis, the staff of ERA has tentatively determined and recommends that any order which would grant the requested permanent peakload powerplant exemption should, pursuant to Section 214 of the Act, be on the following terms and conditions:

A. Modesto shall not produce more than 74,850,000 Kwh during any 12-month period with McClure Unit 2. Modesto shall provide annual estimates of the expected periods (hours during specific months) of operation of McClure 2 for peakload purposes (e.g. 8:00-10:00 am and 3:00-6:00 pm during the June-September period, etc.). Estimates of the hours in which Modesto expects to operate McClure 2 during the first 12-month period shall be furnished within 30 days from the date of this order.

B. Modesto shall comply with the reporting requirements set forth in 10 CFR Part 503.41(e). In addition, whenever Modesto operates McClure 2 in non-specified peakload periods (periods not specified in condition A above) Modesto shall report annually the reason(s) for such operation.

C. The quality of any petroleum to be burned in the unit will be the lowest grade available which is technically feasible and capable of being burned

consistent with applicable environmental requirements.

D. Modesto shall comply with any terms and conditions which may be imposed pursuant to the environmental requirements set forth at 10 CFR Part 503.15(b).

Issued in Washington, D.C. on November 12, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-36099 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-035; ERA Case No. 52721-6135- 1 Through 20-22]

Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Exemption Petition

SUMMARY: On August 29, 1980, Southern California Edison Company (Edison) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy seeking twenty permanent peakload powerplant exemptions from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*). The Act prohibits the use of petroleum or natural gas in new powerplants. Criteria for petitioning for a permanent peakload powerplant exemption are published at 10 CFR 501.3 and 503.41.

Edison proposes to install twenty 64,500 kilowatt distillate oil-fired simple cycle combustion turbine units at its Lucerne Valley Project (Units CT-1 through CT-20), and certifies that for each unit it will be operated solely as a peakload powerplant and will be operated to meet peakload demand for the life of each unit.

ERA has accepted Edison's petition pursuant to 10 CFR 501.3 and 501.63. In accordance with the provisions of Sections 701(c) and (d) of FUA, and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATE: Written comments are due on or before January 5, 1981. A request for a public hearing may be made by any interested person within this same 45 day period.

ADDRESS: Fifteen copies of written comments, or a request for a public

hearing shall be submitted to: Department of Energy, Economic Regulatory Administration, Case Control Unit (FUA), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461

Docket No. ERA-FC-80-035 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT: William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055

Louis T. Krezanosky, New Powerplants Branch, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3012B, Washington, D.C. 20461, Phone (202) 653-4208

Marx Elmer, Office of General Counsel, Department of Energy, 6B-178 Forrestal Bldg., Washington D.C. 20461, Phone (202) 252-2967

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. Edison has filed a petition for twenty permanent peakload powerplant exemptions to use distillate oil as a primary energy source in Units CT-1 through CT-20 at its Lucerne Valley Project.

As part of its petition, Edison submitted a sworn statement by a duly authorized officer, Mr. A. Arenal, Vice President, Southern California Edison Company, as required by 10 CFR 503.41 (b)(1). In his statement, Mr. Arenal certified that each of the proposed distillate fuel oil-fired combustion turbines will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the unit.

Mr. Arenal also certified that the maximum design capacity of each of the powerplants is 64,500 kilowatts and that the maximum generation that will be allowed during any 12-month period is the design capacity times 1,500 hours or 96,750,000 kwh per unit.

ERA retains the right to request additional relevant information from Edison at any time during the pendency of these proceedings where circumstances or procedural requirements may require. The public file, containing documents on these proceedings and supporting materials, is available for inspection upon request at: ERA, Room B-110, 2000 M Street NW., Washington, D.C. 20461, Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C., on November 12, 1980.

Robert L. Davies,
Assistant Administrator, Office of Fuels
Conversion, Economic Regulatory
Administration.

[FR Doc. 80-38102 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[RD-FRL 1674-7]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for a Reference Method Determination

Notice is hereby given that on October 20, 1980, the Environmental Protection Agency received an application from Dasibi Environmental Corporation, Glendale, California, to determine if its Model 3003 Gas Filter Correlation CO Analyzer should be designated by the Administrator of the EPA as a reference method under 40 CFR Part 53 (40 FR 7044, 41 FR 11255). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the Federal Register.

Stephen Gage,
Assistant Administrator for Research and
Development.

[FR Doc. 80-36051 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-35-M

FEDERAL HOME LOAN BANK BOARD

[AC-103]

Carolina Federal Savings and Loan Association of Raleigh, Raleigh, N.C.; Approval of Post-Approval Amendment of Conversion Application (Notice of Final Action)

October 31, 1980.

Notice is hereby given that on October 15, 1980 the Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), through the exercise of delegated authority, approved an amendment to the application of Carolina Federal Savings and Loan Association of Raleigh, Raleigh, North Carolina ("Association"), providing that the aggregate price of the stock to be sold in the conversion of the Association shall be sold for not less than \$1,296,000 nor more than \$1,710,000. The conversion application of the Association was approved on June 6, 1980, by Board Resolution No. 80-357. Copies of the

application and amendments thereto are available for inspection at the Office of the Secretary of FSLIC, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of FSLIC at the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street NW., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.
Robert D. Linder,
Acting Secretary.

[FR Doc. 80-38097 Filed 11-18-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 9, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3932.

Filing Party: Antonio Zapater Cajigas, 50 Isabel Street, P.O. box 1350, Ponce, Puerto Rico 00731.

Summary: Agreement No. T-3932 between the Administrative Board of the Municipal Piers of Ponce (Administrative Board) and Luis A. Ayala Colon, Sucrs. Inc. and Empire

Company, Inc. (The Lessees), provides for the lease of facilities at the Port of Ponce. Luis A. Ayala Colon, Sucrs. Inc., shall lease office space, special load cage in warehouse No. 4, and a payments office in warehouse No. 5. Empire Company, Inc. shall lease a cage under warehouse No. 4, and two buildings for storage of heavy equipment. The term of the lease shall be for 2 years. Total rental for the leased premises shall be \$525 per month. The leased facilities will be utilized by the Lessees for the business of contracting, handling, receipt and shipping of cargo through the Port of Ponce.

Agreement No.: T-3933.

Filing Party: William E. Emick, Jr., Deputy, Harbor Branch Office, City of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No., T-3933, between the City of Long Beach (City) and Toyota Motor Sales, U.S.A., Inc. (Toyota) provides for the 3-year lease by City to Toyota of certain premises to be used, as a contract marine terminal. Toyota will observe the rates, rules and regulations of the Port's tariff in its operation on the premises and shall retain all revenues assessed through said tariff. As compensation for the use of the premises, Toyota will pay City rental commencing at \$176,475 per quarter and escalating to \$211,600 per quarter at the commencement of the agreement's ninth quarter. Rental is in lieu of all tariff charges otherwise assessable by the City except for dockage charges. Agreement No. T-3933 will terminate FMC Agreements Nos. T-2338, T-2338-1 and T-2892.

Dated: November 14, 1980.

By Order of the Federal Maritime
Commission

Francis C. Hurney,
Secretary.

[FR Doc. 80-36109 Filed 11-18-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-52; Agreements Nos. 10186, as Amended, 10332, as Amended, and 10371, as Amended, Agreement No. 10377, Agreements Nos. 10364 and 10329]

Availability of Energy Impact Statement

The Commission instituted this proceeding pursuant to sections 15 and 22 of the Shipping Act, 1916, to determine whether (1) Agreements Nos. 10186, 10186-4, 10332, 10332-1, 10371, 10371-1 and 10377 should be approved, disapproved or modified, and (2) whether Agreements Nos. 10364 and 10329 should be disapproved or modified. (Since the proceeding began Agreements Nos. 10377 and 10329 have been withdrawn.)

Pursuant to the Energy Policy and Conservation Act of 1975, 42 U.S.C. 6362, and the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, the Office of Environmental Analysis (OEA) has assessed the possible Commission

actions with regard to these agreements and determined that (1) Commission approval of Agreements Nos. 10186, 10332, 10371 and their amendments should promote greater energy efficiency, greater energy conservation and fewer environmental impacts than Commission disapproval or modification, and (2) no measurable impacts should result from any Commission actions taken with regard to Agreement No. 10364.

This Energy Impact Statement is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Interested parties may comment on the Statement on or before December 9, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street NW, Washington, D.C. 20573. If a party fails to comment within this period, it will be assumed that the party has no comment to make.

Francis C. Hurney,
Secretary.

[FR Doc. 80-36108 Filed 11-18-80; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the

evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 12, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *CITICORP*, New York, New York (underwriting/reinsurance activities; Arkansas, Connecticut, Delaware, District of Columbia, Illinois, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, New Jersey, North Dakota, Ohio, Pennsylvania, South Carolina, Tennessee, West Virginia, Wisconsin): to engage through its indirect subsidiary, Family Guardian Life Insurance Company, Phoenix, Arizona, in the activity of underwriting/reinsuring credit life and credit accident and health insurance which is related to extensions of credit by Citicorp's lending subsidiaries. These activities would be conducted in the 18 states and the District of Columbia listed in the caption of this notice.

2. *Manufacturers Hanover Corporation*, New York, New York (mortgage banking, loan servicing, and insurance activities; Arizona): to engage through its subsidiary, *Manufacturers Hanover Mortgage Corporation*, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company; servicing any such loans and other extensions of credit for any person; and acting as agent or broker through its subsidiary, *CMC Insurance Agency, Inc.*, for the sale of credit life insurance and credit accident and health insurance relating to such loans and other extensions of credit. These activities would be conducted from an office of *Manufacturers Hanover Mortgage Corporation* in Mesa, Arizona, serving the cities of Mesa and Tempe, Arizona, and surrounding communities, located in Maricopa County.

B. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23251:

Maryland National Corporation, Baltimore, Maryland (finance activities; southwestern United States): to engage, through its subsidiary, *Maryland*

National Industrial Finance Corporation, in commercial lending activities, including financing of accounts receivable, inventories, and other types of loans to commercial enterprises; servicing commercial loans; and acting as advisor or broker in commercial lending transactions. These activities would be conducted from an office in Dallas, Texas, serving Louisiana, Texas, Oklahoma, New Mexico, and Arizona.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Zions Utah Bancorporation, Salt Lake City, Utah, (banking, mortgage banking, industrial banking, leasing activities; Utah, Idaho, Colorado and Oregon): to engage through its proposed wholly-owned subsidiary *Pueblo 1st Industrial Bank* in operating an industrial bank as authorized by Colorado law, including the granting of credit to consumers and others; the sale on an optional basis of credit life, health and accident, property damage and liability insurance directly related to such loans; and the acceptance of time savings deposits in the form of passbook accounts and certificate accounts. These activities will be conducted at an office to be located in Pueblo, Colorado serving the states identified in the caption.

D. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, November 12, 1980.

Jefferson A. Walker,
Assistant Secretary of the Board.

[FR Doc. 80-36034 Filed 11-18-80; 8:45 am]
BILLING CODE 6210-01-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 accepted by the Regulatory Reports Review Staff, GAO, on November 13, 1980. 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 ICC 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 December 8, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group 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.

Interstate Commerce Commission

The ICC requests clearance of a new, voluntary Small Community Service Study Questionnaire, which ICC will use to gather information about the adequacy of truck service to small communities and how the Motor Carrier Act of 1980 has impacted that service. The questionnaire will be sent to shippers and receivers (businesses) in small communities throughout the contiguous states. The ICC will survey each shipper and receiver twice at 6-month intervals using the identical questionnaire both times. An identical questionnaire will also be sent to shippers in communities of all sizes throughout the State of Florida, in order to study the effects of that state's move to deregulate the intrastate trucking industry. The ICC estimates that respondents will number between 1200 and 1500 and that time to complete each questionnaire will average 20 minutes. John M. Lovelady,
Senior Group Director, Regulatory Reports Review.

[FR Doc. 80-36014 Filed 11-18-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Love Canal Epidemiology Work Group; Open Meeting

On November 24, 1980, an open meeting will be held of the Love Canal Epidemiology Work Group to discuss revised epidemiologic study protocols on health effects of chemical contamination of the Love Canal area. Clinicians, health and environmental scientists, and public health officials who are actively involved in the study, prevention, and control of human health consequences of toxic environmental contamination have been invited to participate in the work group. The meeting is open to the public, limited only by space available.

The meeting is scheduled to convene at 10:00 a.m., Room 131, Carey Hall,

University of New York At Buffalo, 3435 Main Street, Buffalo, New York.

All inquiries should be sent to: Renate Kimbrough, M.D., Research Medical Officer, Toxicology Branch, Bureau of Laboratories, Centers for Disease Control, Atlanta, Georgia 30333; Telephones: FTS: 236-4176, Commercial: 404/452-4176.

Dated: November 14, 1980.

William H. Foege, M.D.,

Director, Centers for Disease Control.

[FR Doc. 80-36237 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-96-M

Office of Human Development Services

White House Conference on Aging; Technical Committee on Employment; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Public Law 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Employment will hold its next meeting on Wednesday, December 3, 1980 from 1:00 p.m. until 5:00 p.m. and Thursday, December 4, 1980 from 9:00 a.m. until 4:00 p.m. in the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, in Room 337A-339A.

The purpose of the meeting will be to review progress report and agree upon findings and recommendations.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue SW., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: November 13, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-36036 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging; Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Public Law 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Family, Social Services and other Support Systems of the 1981 White House Conference on Aging will hold its next meeting on Friday, December 5, 1980 and on Saturday, December 6, 1980 from 9:30 a.m. until 5:00 p.m. The meeting will take place in the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C., 20201 in Room 403-425A.

The purpose of the meeting will be to review a draft of the policy paper and to review initial recommendations.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue SW., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: November 13, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-36035 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-92-M

Title VII of the Public Health Service Act, Health Research and Teaching Facilities and Training of Professional Health Personnel; Delegation of Authority

Notice is hereby given that on October 8, 1980, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health all the authority vested in the Secretary under Title VII of the Public Health Service Act (42 U.S.C. 292 *et seq.*), as amended, pertaining to health research and teaching facilities and training of professional health personnel, excluding the authority under Subpart I, Part C of Title VII pertaining to the Federal program of insured loans to graduate students in health professions schools, the authority to promulgate regulations,

the authority to establish advisory committees and councils, the authority to select members to advisory councils, and the authority to submit reports to Congress or to a congressional committee. The Assistant Secretary for Health may redelegate his authority under Title VII of the Public Health Service Act subject to Section 707 of the Public Health Service Act.

Previous delegations made to the Assistant Secretary for Health of authorities under Title VII of the Public Health Service Act have been superseded. Provision has been made for previous delegations and redelegations of authority under Title VII of the Public Health Service Act made to other officials in the Public Health Service to continue in effect, pending further redelegation provided they are consistent with the above cited delegation to the Assistant Secretary for Health.

Dated: October 28, 1980.

Frederick M. Bohlen,

Assistant Secretary for Management and Budget, Office of the Secretary.

[FR Doc. 80-36040 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-83-M

Title VIII of the Public Health Service Act, Nurse Training; Delegation of Authority

Notice is hereby given that on October 8, 1980, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health all the authority vested in the Secretary under Title VIII of the Public Health Service Act (42 U.S.C. 296 *et seq.*), as amended, pertaining to nurse training, excluding the authority under Section 851 to establish and to select members to the National Advisory Council on Nurse Training, the authority to promulgate regulations, the authority to establish advisory committees and councils, and the authority to select members to advisory councils. The Assistant Secretary for Health may redelegate his authority under Title VIII of the Public Health Service Act, subject to Section 856 of the Public Health Service Act. Exercise of these authorities are subject to Health and Human Services policy and requirements for administering Section 855 of the Public Health Service Act relating to the prohibition against discrimination by schools on the basis of sex.

Previous delegations made to the Assistant Secretary for Health of authorities under Title VIII of the Public Health Service Act have been superseded. Provision has been made for previous delegations and

redelegations of authority under Title VIII of the Public Health Service Act made to other officials in the Public Health Service to continue in effect, pending further redelegation provided they are consistent with the above cited delegation to the Assistant Secretary for Health.

Dated: October 28, 1980.

Frederick M. Bohlen,

Assistant Secretary for Management and Budget/OS.

[FR Doc. 80-36039 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-83-M

Study of Federal Financial Support for Nursing Education Programs; Delegation of Authority

Notice is hereby given that on October 8, 1980, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health, with authority to redelegate, all the authority vested in the Secretary under Title I, Section 113 of Public Law 96-76 (42 U.S.C. 296 note) providing for a study of Federal financial support for nursing education programs, excluding the authority to submit reports to Congress or to a congressional committee.

Dated: October 29, 1980.

Frederick M. Bohlen,

Assistant Secretary for Management and Budget/OS.

[FR Doc. 80-36041 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-83-M

Technical Assistance Demonstration Grants and Contracts Under Section 340A of the Public Health Service Act; Delegation of Authority

Notice is hereby given that on September 4, 1980 the Secretary of Health and Human Services delegated to the Assistant Secretary for Health, with authority to redelegate, all of the authorities vested in the Secretary under section 340A of the Public Health Service Act (42 U.S.C. 256a), as amended, concerning Technical Assistance Demonstration Grants and Contracts, excluding the authorities to (1) issue regulations, (2) establish the Primary Health Care Advisory Committee, and (3) appoint members to the Primary Health Care Advisory Committee.

Dated: November 6, 1980.

Alair Townsend,

Assistant Secretary for Management and Budget.

[FR Doc. 80-36037 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-84-M

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM (Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (38 FR 1654, January 11, 1974, as amended most recently at 45 FR 27528, April 23, 1980) is amended to reflect the establishment of the Office of Special Populations within the Office of the Administrator, ADAMHA, and the corresponding modification of the functional statements for the Office of the Administrator and the Division of Treatment within the Office of Program Planning and Coordination.

Section HM-B, Organization and Functions, is amended as follows:

1. Under *Office of the Administrator (HMA)*, delete item (4) of the functional statement and renumber item (5) to read item (4).

2. Under *Office of Program Planning and Coordination (HMA2)*, delete item (5) under its *Division of Treatment (HMA24)* and substitute the following:

(5) collaborates with Institutes, with Federal, State and local governments, and with professional organizations regarding treatment policy and programs for rural and urban health initiatives.

3. After the statement for the *Division of Treatment (HMA24)*, insert the following statement:

Office of Special Populations (HMA4)

(1) Identifies and highlights the needs, issues and concerns of unserved, underserved, and other special populations relative to alcohol, drug abuse, and mental health; (2) participates with the Office of Program Planning and Coordination (OPPC), other components of the Office of the Administrator and the Institutes in the development of program policy regarding special populations; (3) plans, develops and advocates specific agency strategies and program initiatives for these populations; (4) monitors the implementation of current and proposed agency strategies and/or programs and, in collaboration with OPPC and other offices, their effectiveness in meeting the alcohol, drug abuse, and mental health concerns of special populations; (5) in pursuit of the above functions, maintains liaison and communications with key constituency groups of the respective special populations; regional, State, and local governmental components; and professional, citizen and other various organizations with

common interests. Collaborates in similar liaison activities of the Institutes and other components of the Office of the Administrator; (6) coordinates the consumer affairs activities for ADAMHA.

Dated: November 4, 1980.

Patricia Roberts Harris,
Secretary.

[FR Doc. 80-38038 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended in pertinent part at 43 FR 16422, April 18, 1978) is amended to reflect a minor functional realignment within the Executive Director of Regional Operations (EDRO).

As presented in this notice, the Division of Field Science and Technology will be retitled as the Division of Field Science. The functional statements for the Division of Field Science are amended to redefine the division's role in automated laboratory operations as they relate to the overall EDRO ADP activity.

The affected portions of the functional statements for EDRO are revised to reflect changes cited above.

Section HF-B, Organization, is amended by deleting paragraph (x-3) *Division of Field Science and Technology (HFRH)* and replacing it with paragraph (x-3) *Division of Field Science (HFRH)* reading as follows:

(x-3) *Division of Field Science (HFRH)*. Advises the Executive Director concerning the management of FDA's overall field scientific resources (including national experts) to assure their coordinated, efficient, and effective use; provides coordination between field and bureau scientific programs.

Represents the Executive Director in top level scientific policy and program matters.

Identifies goals and objectives for field scientific activities; develops policies and procedures as they relate to these activities; coordinates and develops manuals on field laboratory operating and technical procedures.

Develops control procedures for field laboratory operations and evaluates the adequacy and effectiveness of field scientific activities through onsite visits.

Manages the field laboratory research programs; identifies the need for,

develops, tests, evaluates, and/or arranges for the adoption of new field equipment, techniques, and methodology.

Participates in the determination of long and short-range field scientific facility needs.

Coordinates research on the applicability of new, complex, scientific instruments for field analyses; designs instrument systems.

Participates in the formulation and evaluation of training and career development plans for field scientists.

Provides scientific and analytical expertise to EDRO related to laboratory automation, analysis, and process control and acquisition of automated data laboratory instruments.

Develops and maintains liaison with outstanding scientists to assure the most effective use of FDA field scientific resources.

Develops and/or reviews the scientific and technical aspects of environmental impact statements.

Coordinates the development and audits the implementation of safety programs in field laboratories.

Dated: November 4, 1980.

Patricia Roberts Harris,
Secretary.

[FR Doc. 80-38042 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-03-M

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 42 FR 55653, October 18, 1977) is amended to reflect a reorganization of the substructure within the Bureau of Biologics (BOB). This reorganization is part of the Bureau's efforts to keep pace with the constantly changing product lines of the biological industry. Recently, the media have widely publicized significant scientific discoveries in recombinant DNA research which are expected to result in new biological products. Realignment of certain functions will enhance the BOB efforts to maximize the efficiency and effectiveness of program scientists and high technology instrumentation. As presented in this notice, a new Division of Biochemistry and Biophysics will be established. Transferred to this division will be the electron microscopy functions from the Division of Pathology, the biochemistry functions from the

Division of Bacterial Products, and the analytical chemistry functions from the Division of Control Activities. The Division of Control Activities will be retitled as the Division of Product Quality Control. The division will retain the biological testing functions and protocol review functions with the pathobiology and primatology functions being transferred into this division from the Division of Pathology. The Division of Pathology is abolished; and the remaining functions of this division, the cellular physiology and experimental biology functions, are transferred to the Division of Bacterial Products. The affected portions of the functional statements for BOB are revised to reflect the changes cited above. Section HF-B, Organization is amended as follows:

1. Revise paragraph (r-5) *Division of Control Activities (HFBA)* by changing the title to *Division of Product Quality Control (HFBA)* and amending the functional statements to read as follows:

(r-5) *Division of Product Quality Control (HFBA)*. Plans and conducts a developmental testing program of biological products such as vaccines, cell-derived antiviral and antitumor substances, and various blood components to develop standards designed to insure the safety, purity, potency, and efficacy of such products and to improve the existing test procedures.

Plans and conducts sterility, general safety, pyrogen, and potency tests on biological products submitted for release or in support of license applications; and when required, performs safety, neurovirulence, and potency tests on biological products using nonhuman primates and certain other animals. Reviews manufacturers protocols with respect to such tests.

Removes various tissues from primates and other animals as required for control testing and research as well as for the preparation of cell cultures.

Administers the biological products release program. Coordinates processing of protocols submitted for licensing and for the release of lots of biologics manufactured under existing licenses. Receives, maintains, and distributes accompanying samples of biological products for testing within the Bureau. Reviews recommendations by laboratory divisions concerning compliance with regulatory requirements and issues notification of release or rejection.

Establishes and distributes control preparations and reference reagents to licensed manufacturers, health agencies, and other control groups.

Recommends criteria for acceptability pertaining to the development of

regulatory standards and reference reagents for new biological products.

Provides technical training for representatives of domestic and foreign biological establishments in relation to control testing procedures.

Inspects manufacturers of biological products and laboratories conducting nonclinical studies involving investigational new drugs.

Reviews scientific data included in license applications for new biological products and amendments for old products.

Serves as custodian for official complaint samples and coordinates testing and compilation of results.

Coordinates testing and reporting of tests performed as a WHO Reference Center.

Assists in collaborative research and management of contract-supported activities.

2. Delete paragraph (r-6) Division of Pathology (HFBD) in its entirety and insert the following new Division of Biochemistry and Biophysics (HFBJ):

(r-6) Division of Biochemistry and Biophysics (HFBJ). Plans and conducts research on (1) the chemistry and biology of vaccines and other biological products, impurities, and/or unsuspected components of new products; (2) the pathogenesis of infectious diseases caused by bacteria, rickettsia, viruses, and parasites; and (3) immunologic processes which may lead to morphologic alteration.

Develops biochemical and biophysical methodology and bioassays for application to the control of existing and newly developed biological products derived from DNA recombinant technology.

Reviews scientific data supporting license applications and amendments for biological products and provides staff having appropriate expertise for the product under consideration to serve on licensing committees.

Carries out control tests and reviews manufacturer's protocols to insure that specific requirements for release are satisfied.

Participates in the inspection of manufacturers of biological products.

Assists in collaborative research and management of contract supported activities.

3. Revise paragraph (r-7) Division of Bacterial Products (HFBE) to read as follows:

(r-7) Division of Bacterial Products (HFBE). Plans and conducts research on fundamental aspects of bacteriology and immunology relating to bacterial and allergic diseases of man to obtain data bearing on the continued or increased safety, purity, potency, and efficacy of

bacteriological, allergenic, and analogous biological products, including the development of new biological products and new or improved methods of control of old and new products.

Plans and conducts research on the interactions between cells in culture and single microorganisms or chemical agents. Develops techniques for studying *in vitro* functions of immunized cells.

Carries out control tests and reviews manufacturers protocols on selected products to insure that specific requirements for release are satisfied.

Participates in the inspection of manufacturers of biological products.

Provides staff having appropriate expertise for the product under consideration to serve on licensing committees.

Develops, reviews, and revises technical standards pertaining to the control of bacterial, allergenic, and analogous products.

Assists in collaborative research and management of contract-supported activities.

Dated: November 4, 1980.

Patricia Roberts Harris,
Secretary.

[FR Doc. 80-36043 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-03-M

Office of the Secretary

[OS 4110-12]

Secretary's Advisory Committee on the Rights and Responsibilities of Women; Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health and Human Services on the impact of the policies, programs and activities of the Department on the status of women will meet on Thursday, December 11, 1980, from 10:00 a.m. to 5:00 p.m., and on Friday, December 12, 1980, from 9:30 a.m. to 3:30 p.m. in Room 425-A, Hubert Humphrey Building, 200 Independence Ave. SW., Washington, D.C. The agenda will include general overview of women's health and social security issues.

Further information on the Committee may be obtained from: Cheryl Yamamoto, Executive Secretary, telephone: 202-245-8454. This meeting is open to the public.

Dated: November 10, 1980.

Cheryl Yamamoto,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 80-36096 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-12-M

National Environmental Policy Act and Other Related Acts; Procedures for Conducting Environmental Reviews

AGENCY: Office of the Secretary.

ACTION: Notice of Final HHS Implementing Procedures.

SUMMARY: On March 6, 1980, proposed HHS supplemental procedures for conducting environmental reviews were published in the Federal Register as required by regulations of the Council on Environmental Quality (CEQ) for implementing the National Environmental Policy Act, 43 FR 55978 (November 29, 1978) and other related acts. Final procedures were subsequently developed and transmitted to CEQ for review. The Council approved the procedures on October 2, 1980 and they are published below in Part 30 of the General Administration Manual.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Charles Custard, Director, Office of Environmental Affairs, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201, or telephone (202) 472-9740.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), as amended, and other related environmental laws, executive orders, and regulations, the Department of Health and Human Services has issued final procedures for conducting environmental reviews, preparing necessary documentation, and making program decisions to protect the quality of the environment. In addition to supplementing the CEQ regulations, the procedures employ a single comprehensive review process for meeting the provisions of both NEPA and related laws and regulations. These procedures will reduce the burden on members of the public having business with HHS by providing for the consolidation of requests for information needed for an environmental review. The conduct of environmental reviews by HHS personnel will be also facilitated. The procedures should assist the public and others in better understanding HHS policies since all applicable Federal

environmental review requirements are contained in a single document.

There were only a few public comments received in response to the **Federal Register** notice containing the proposed procedures. The commentors suggested that the text of the procedures include additional reference citations to regulations of the Advisory Council on Historic Preservation and CEQ. The CEQ comments suggested that the procedures provide for certain specific requirements contained in their regulations. These included the need for a cover sheet in an EIS, circulation of EISs to State and local agencies responsible for environmental standards, consultation with CEQ in emergency situations, consideration of alternative uses of scarce resources and CEQ approval of NEPA categorical exemptions. The CEQ also provided suggestions for clarifying the relationships between Chapter 30-60, NEPA Review, and the other GAM chapters including definitions and categorical exclusions. All of the above recommendations are incorporated in the final version. Other changes made as a result of internal HHS reviews included: edition for clarity, adding examples to illustrate a procedure or term, and including various cross-references to different parts of the text to facilitate use of the procedures.

Dated: November 13, 1980.

Alair Townsend,

Assistant Secretary for Management and Budget.

General Administration Manual

Part 30 Environmental Protection

Contents

Chapter and Title

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Subject: Environmental Protection

30-00-00	Purpose
30-00-10	Chapter Organization and Content
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30-00-00	Purpose

Part 30 of the *General Administration Manual* establishes Departmental policy and procedures with respect to protection of the environment, and the preservation of historic properties and

other valuable national resources. Under Federal laws, regulations and Executive Orders, all Federal Departments and agencies must take into account the environmental consequences of their activities. Included are the activities of non-Federal organizations which operate under the authority or with the support of Federal Departments or agencies. The terminology in this Part differs in some respects from that associated with any particular environmental law due to the fact that this Part is intended to implement a number of laws with varying requirements.

30-00-10 Chapter Organization and Content

The chapters of Part 30 are organized as follows:

- Chapter 30-00 provides a summary of major procedural requirements, a list of Public Laws, Executive Orders, Federal regulations and other authorities covered by Part 30, and a list of definitions.

- Chapters 30-10 and 30-20 provide overall Departmental policy with respect to environmental protection and a summary of internal administrative procedures which Departmental components must implement.

- Chapter 30-30 provides a general summary of the environmental review process for Departmental activities under all the environmental acts covered by Part 30.

- Chapters 30-40, 30-50 and 30-60 provide detailed requirements for each of the different environmental acts covered by Part 30.

- Chapter 30-70 provides Departmental procedures for reviewing environmental documents prepared outside of the Department.

30-00-20 Summary Requirements for Departmental Components

The following is a summary of the principal requirements established by the Part.

A. *Administrative Requirements.* 1. POCs must review all their activities and determine: a. Those activities which normally *do not* cause an environmental effect (as defined by the environmental acts), and therefore can be categorically excluded from subsequent environmental review or documentation requirements;

b. Those activities which require and environmental review because they may cause a significant environmental effect under NEPA or may affect an asset; and

c. Those activities which normally *do* cause a significant environmental effect under NEPA or affect a cultural or natural asset and therefore require

preparation of an environmental document.

2. An activity may be categorically excluded from review and documentation requirements under one or more environmental acts, even though they may not be so excluded from all such acts. (See 30-20-30, -40.)

3. POCs shall adopt operating procedures for conducting environmental reviews of those proposed actions which have not been categorically excluded.

B. *Review Procedures for Individual Proposed Actions.* 1. *Environmental Reviews.* Prior to taking an action not categorically excluded from review requirements, conduct an environmental review to determine the probable environmental effects of the proposed action.

2. *Consultation.* Carry out the requirements for public involvement and intergovernmental consultation as prescribed in the applicable environmental acts.

3. *Documentation.* Prepare any required documentation depending on the applicable environmental act and the kind and degree of environmental effects caused by a proposed action. Finalize any draft documents on the basis of public comments and intergovernmental consultation, as appropriate.

4. *Decision-making.* Take environmental effects and values, discussed in the final statement, into account in decision-making. Prepare a public "record of decision" or other final documentation if required by an environmental act.

30-00-30 Public Laws, Executive Orders and Regulations Implemented by Part 30

The following list contains the various Public Laws, Executive Orders, Federal regulations and other authorities covered by Part 30:

A. *The National Environmental Policy Act (NEPA).* (1) establishes a comprehensive policy for protection and enhancement of the environment by the Federal government, (2) creates the Council on Environmental Quality (CEQ), and (3) directs Federal agencies to carry out the policies and procedures of the act.

B. *Executive Order 11514*, March 5, 1970, directs the heads of Federal agencies to monitor, evaluate and control their agencies' activities so as to protect and enhance the quality of the environment.

C. *Executive Order 11991*, May 24, 1977, directs CEQ to issue regulations to Federal agencies for the implementation of the procedural provisions of NEPA.

D. *Executive Order 12114*, January 4, 1979, directs Federal agencies to further the purpose of NEPA with respect to the environment outside the United States, its territories and possessions.

E. *Regulations of the Council on Environmental Quality*, November 29, 1978, require Federal agencies to adopt procedures to supplement CEQ regulations for implementing the provisions of NEPA.

F. *The Coastal Zone Management Act*, 16 U.S.C. 1456 et seq., directs Federal agencies to conduct activities consistent with an approved State coastal zone management program.

G. *The Wild and Scenic Rivers Act*, 16 U.S.C. 1278, directs Federal agencies to consider and preserve the values of wild and scenic areas in the use and development of water and land resources.

H. *Executive Order 11990*, May 24, 1977, directs heads of Federal agencies to avoid (1) the long- and short-term adverse impacts associated with the destruction or modification of wetlands and (2) direct or indirect support of new construction in wetlands whenever there is a practical alternative.

I. *Executive Order 11988*, May 24, 1977, directs Federal agencies to take action to avoid the occupancy or modification of floodplains and to avoid direct or indirect support of development in floodplain areas whenever there is a practical alternative.

J. *U.S. Water Resources Council Floodplain Management Guidelines*, February 10, 1978, provides guidance to Federal agencies for implementing Executive Order 11988.

K. *Marine Protection, Research and Sanctuaries Act*, 33 U.S.C. 1432f, provides for establishment of marine sanctuaries and directs Federal agencies to insure that their actions are consistent with the intended use of such areas.

L. *The Safe Drinking Water Act*, 42 U.S.C. 300f, et seq., authorizes EPA to determine if an action which will have an environmental effect on a sole or principal drinking water source would also constitute a significant hazard to a human population and, if so, to prohibit such an action.

M. *The Clean Air Act*, 42 U.S.C. 1857h-7, requires EPA to review and comment on a Federal agency action which would create a significant environmental impact.

N. *Executive Order 11987*, May 24, 1977, directs Federal agencies to prevent the introduction of exotic species into the natural ecosystems of the United States.

O. *The Endangered Species Act*, 16 U.S.C. 1536, directs Federal agencies to conserve endangered and threatened species and their critical habitats.

P. *Fish and Wildlife Coordination Act*, 16 U.S.C. 661-666c, directs Federal agencies to prevent loss and damage to, and provide for, development and improvement of wildlife resources.

Q. *The National Historic Preservation Act of 1966*, 16 U.S.C. 470 as amended, directs heads of Federal agencies to preserve cultural heritage, particularly with respect to sites on/or eligible for listing on the *National Register of Historic Places*.

R. *Executive Order 11593*, May 5, 1971, implements portions of the National Historic Preservation Act of 1966 and require Federal agencies to nominate eligible properties which it owns, leases or otherwise controls.

S. *Regulations of the Advisory Council on Historic Preservation* (36 CFR Part 800) establish procedures for the protection of historic and cultural properties.

T. *Regulations of the Department of the Interior* (36 CFR Parts 60 and 63) concern nominations to and determinations of eligibility for the *National Register of Historic Places*.

U. *The Archaeological and Historic Preservation Act*, 16 U.S.C. 469a-1 et seq., directs Federal agencies to preserve significant scientific, prehistorical, historical and archaeological data.

All components of the Department are responsible for complying with the specific requirements of each of the above environmental acts. The procedures which follow supplement and provide guidance toward meeting the requirements.

30-00-40 Definitions

A. Action—a signed decision by a responsible Department official resulting in: 1. approval, award, modification, cancellation, termination, use or commitment of Federal funds or property by means of a grant, contract, purchase, loan, guarantee, deed, lease, license or by any other means;

2. approval, amendment or revocation of any policy, procedures or regulations including the establishment or elimination of a Department program; or
3. submission to Congress of proposed legislation which, if enacted, the Department would administer.

B. Asset—an entity, group of entities or specific environment as defined in the individual related acts and which the individual related acts seek to protect or preserve. Assets include cultural assets (e.g., historic properties) and natural

assets (e.g., wild and scenic rivers, and endangered species);

C. Environmental acts—all authorities listed in Section 30-00-30;

D. Environmental effect—a change which a proposed action will cause either within the human environment (in accordance with NEPA) or to a cultural or natural asset (as defined in one or more of the related acts);

E. Environmental review*—the process, including necessary documentation, which a Departmental Component uses to determine whether a proposed action will cause an environmental effect, and whether to prepare a limited statement, full statement or no statement;

F. Environmental statement—either a limited statement or a full statement at either the draft or final stage (see G and H below);

G. Full statement*—a document which discusses a proposed action in terms of its purpose and environmental consequences and includes a discussion of alternatives to a proposed action;

H. Limited statement—a brief concise analysis which provides written evidence sufficient to meet the documentation requirements of the environmental acts or which supports a determination not to prepare a full statement;

I. POC—Principal Operating Component, e.g., Office of Human Development Services, Public Health Service;

J. Program review—a review by POCs of all their actions to determine: 1. those categories of actions which normally *do not* cause environmental effects sufficient to require environmental documentation and therefore may be categorically excluded from further environmental review; and

2. those categories of actions which require an environmental review because they may cause a significant environmental effect under NEPA or may affect an asset.

3. those categories of actions which normally *do* cause significant environmental effects under NEPA or *do* affect a cultural or natural asset and therefore require the preparation of an environmental document.

POCs should complete an initial program review as soon as practicable following publication of this Part and should undertake subsequent program reviews when deemed appropriate.

K. Related acts—All Public Laws, Executive Orders, Federal regulations

*Some environmental acts use different terms which are referenced in the section addressing such acts.

and other authorities listed in Section 30-00-30, but not including NEPA.

Subject: Policy

30-10-00 Policy

Most of the contents of Part 30 address procedural or documentation requirements specified in the environmental acts. These procedures and documents are necessary in order for HHS components, before proceeding with an action, to take into account the environmental consequences of that action.

HHS components must also give weight to preservation of the environment and protection of historic or cultural assets in reaching substantive program decisions. All HHS components shall assess environmental costs and benefits as well as program goals and objectives in determining a particular course of action. In conducting this assessment, HHS components should afford reasonable time, effort and resources to a deliberation of environmental risks associated with a program-related course of action.

Subject: Administrative Requirements

- 30-20-00 Background
 - 10 Responsibilities
 - 20 Approval Authority and Redelegations
 - 30 Process for Establishing Categorical Exclusions
 - 40 Categories of Exclusion
 - 50 Environmental Review Procedures

30-20-00 Background

This chapter establishes an administrative framework in the Department for environmentally-related activities. Specifically, this chapter (1) describes the assignment of relative responsibilities in the Department regarding environmental activities, (2) establishes procedures for program reviews and (3) establishes other on-going administrative requirements.

30-20-10 Responsibilities

A. *Office of the Secretary.* The Secretary shall designate an official as the Departmental Environmental Officer, who will be responsible for:

1. Preparing of Departmental guidelines and other policy documents for issuance by the Secretary or other appropriate Departmental official pertaining to environmental protection and preservation of natural or cultural assets;

2. Approving of lead agency agreements having Department-wide applicability;

3. Providing training to HHS program officials with respect to carrying out the requirements of the environmental acts;

4. Maintaining liaison with CEQ, EPA and other Federal agencies charged with direct responsibility for administering the environmental acts;

5. Coordinating the review of environmental statements originating from outside of HHS; and

6. Reviewing and making recommendations to the Assistant Secretary for Management and Budget with respect to determinations by POCs that certain activities are categorically excluded from environmental review.

B. *Principal Operating Components.* Heads of POCs are responsible for ensuring that organizational units under their authority comply with all provisions of the environmental acts and with the procedures of this Part. A POC head may designate a POC environmental officer, who may act in either a full-time capacity or in addition to other duties, to assist in fulfilling these responsibilities.

C. *Regional Offices.* Principal Regional Officials (PROs) are responsible for complying with the provisions of the environmental acts and the policies in this part for those specific program responsibilities delegated to them.

In addition, the PROs shall: 1. Serve as principal HHS regional liaison official with other Federal, State, and local agencies on matters pertaining to environmental preservation or protecting environmental, cultural or natural assets;

2. Coordinate the timely review by regional program personnel of environmental impact statements forwarded to HHS by other agencies; and

3. Periodically verify with the POCs that their regional program staff are aware of and are complying with the requirements of this Part.

30-20-20 Approval Authority and Redelegations

A. The POC head and PRO may redelegate all their environmental responsibilities to subordinate program managers except for approving the designation of actions as categorically excluded by the POC head. POC heads shall obtain concurrence from the Assistant Secretary for Management and Budget with respect to activities designated to be categorically excluded from environmental reviews.

B. The exclusion of material from environmental statements on the basis of national security and trade secrets requires approval by the HHS General Counsel. (See Section 30-30-40.)

C. Proposed actions which will have an effect on certain natural assets require concurrence or approval from other Federal agencies (see 30-50) prior to taking the action.

D. POC heads shall sign determinations pursuant to Executive Order 11988 on Floodplain Management and Executive Order 11990 on Wetlands except: 1. The Secretary shall approve proposed actions requiring full statements on projects affecting floodplains; and

2. The Secretary shall approve proposed actions requiring limited or full statements for new construction in wetlands.

30-20-30 Process for Establishing Categorical Exclusions

A. All HHS activities which can be defined as "actions" (see Definitions, Section 30-00-40) require an environmental review *unless* a POC has determined, through a program review, that the activity will not cause a significant environmental effect under NEPA or will not affect any of the assets protected by the related acts.

B. *Program Reviews.* In a program review, a POC evaluates actions it will be taking in order to determine the potential of these actions to cause an environmental effect under any of the environmental acts. POCs shall complete an initial program review of all their actions as soon as practicable following publication of this Part. POCs may undertake additional program reviews subsequently whenever they deem it appropriate.

As a result of program review, a POC shall divide each of its actions in one of three groups:

Group 1 (categorically excluded)—those actions which normally *do not* cause a significant environmental effect under NEPA or affect one or more of the assets protected by the related acts.

Group 2—Those actions which require an environmental review because they may cause a significant environmental effect under NEPA or may affect an asset.

Group 3—Those actions which normally *do* cause a significant environmental effect under NEPA or do affect one of the assets protected by the related acts.

An activity may be categorically excluded from review and documentation requirements under one or more environmental acts, even though they may not be so excluded from all such acts.

In grouping each of its actions, POCs shall use the exclusion categories described in Section 30-20-40. If action falls within one of these exclusion

categories, then it may be included in Group 1. Such actions do not require further environmental reviews. If action does not fall within one of these exclusion categories, then a POC must perform an environmental review prior to taking this action. Chapter 30-30 describes the procedures for conducting an environmental review.

Each POC shall maintain as part of its administrative issuance system lists of those actions which it has determined fall under Groups 1, 2 and 3. These lists shall supplement other internal directives or instructions relating to environment-related responsibilities.

C. *Approval.* A determination by a POC that an action falls within Group 1 (Categorically Excluded) is effective upon approval by the POC head. However, POCs must forward these determinations to the Assistant Secretary for Management and Budget for concurrence. Determination that an action falls within Group 1 (Categorically Excluded) is effective for the shorter of (1) five years or (2) until rendered inapplicable because of changes in the underlying program authority.

30-20-40 Categories of Exclusion

A. POCs may exclude a proposed action from the environmental review process if it determines that the proposed action falls within one of the four exclusion categories described in this Section. This determination may take place as the result of a program review of a POC's actions, in which case the action is listed in the POC's administrative issuance system as being categorically excluded from further environmental reviews.

B. *Categories of Actions Which May Be Excluded From Environmental Review.*—1. *Category No. 1—General Exclusions.* POCs do not need to perform environmental reviews in the following instances: a. When a law grants an exception;

b. When the courts have found that the action does not require environmental review (i.e., HHS is not required to prepare environmental statements concerning the termination of a hospital's status as a Medicare "provider" if termination is statutorily required because of a hospital's non-compliance with Federal fire safety regulations);

c. When an action implements actions outside the territorial jurisdiction of the United States and such actions are excluded from review by Executive Order 12114.

2. *Category No. 2—Functional Exclusions.* Actions associated with the following types of activities normally

are not subject to environmental review requirements:

a. Routine administrative and management support, including legal counsel, public affairs, program evaluation, monitoring and individual personnel actions;

b. Appellate reviews when HHS was the plaintiff in the lower court decision (e.g., a case involving failure by a nursing home to comply with fire and safety regulations);

c. Data processing and systems analysis;

d. Education and training grants and contracts (e.g., grants for remedial training programs or teacher training) except projects involving construction, renovation and/or changes in land use;

e. Grants for administrative overhead support (e.g., regional health or income maintenance program administration);

f. Grants for social services (e.g., support for Headstart, senior citizen programs or drug treatment programs) except projects involving construction, renovation and changes in land use;

g. Liaison functions (e.g., serving on task forces, ad hoc committees or representing HHS interests in specific functional areas in relationship with other governmental and non-governmental entities);

h. Maintenance (e.g., undertaking repairs necessary to ensure the functioning of an existing facility), except for properties on or eligible for listing on the National Register of Historic Places;

i. Statistics and information collection and dissemination (e.g., collection of health and demographic data and publication of compilations and summaries);

j. Technical assistance by HHS program personnel (e.g., providing assistance in methods for reducing error rates in State public assistance programs or in determining the cause of a disease outbreak); and

k. Adoption of regulations and guidelines pertaining to the above activities (except technical assistance and those resulting in population changes).

3. *Category #3—Program Exclusions.* These exclusions result from a substantive review and determination by a POC that certain programs or certain activities within a program will not normally (a) significantly affect the human environment (as defined in NEPA) or (b) affect an asset (as defined in the related acts) regardless of the location or magnitude of the action. For example, a POC, following its review, might determine that the following are unlikely to cause an environmental effect: assigning a member of the Health

Service Corps to a locality to supplement existing medical personnel or providing funds to support expansion of emergency medical services in existing hospitals.

4. *Category #4—Partial Exclusions.* a. A POC may determine that certain programs or elements may cause environmental effects with respect to some, but not all, of the environmental acts. For example, a POC may determine that actions associated with a particular program might affect historical properties (e.g., the renovation of an SSA district office in a historical district), but would never "significantly affect the quality of the human environment" (NEPA) or affect cultural and natural assets addressed by other related acts. The component may limit the environmental reviews to the provisions of the National Historic Preservation Act.

b. An environmental review conducted previously may be broad to satisfy environmental review requirements for future similar or related actions. For instance, a POC may conduct an environmental review with respect to a particular type of biological research, no matter where that research is conducted. Environmental reviews of future similar or related research activities are not necessary if the effects of this new research have been already addressed in the previous environmental review.

c. There are some programs which must take an action within thirty days in response to an emergency health situation or because a law requires a Department official to act within thirty days. Such circumstances must be identified in the Categorical Review process and appropriate measures provided to comply with the intent of the laws, including appropriate consultations as required by NEPA and the related environmental acts.

30-20-50 Environmental Review Procedures

A POC must conduct environmental reviews with respect to all proposed actions which do not fall under categorical exclusions #1, #2 or #3. Chapter 30-30 discusses the process for conducting an environmental review with respect to a specific proposed action and for fulfilling documentation and other requirements. Each POC shall ensure that its programs have appropriate procedures for conducting environmental reviews, for completing required documentation and for ensuring public involvement and intergovernmental consultation. These procedures must be in writing and be included in the internal administrative

issuance system. These procedures must, at a minimum, address the following:

A. A list of those actions which the POC has categorically excluded from further environmental review requirements.

B. A list of those actions which require an environmental review prior to taking the action.

C. Designation of officials responsible for environment-related activities including determinations as to whether to prepare a full statement or a limited statement, if one is required.

D. Procedures for preparing and circulating environmental statements (including data required by the applicable environmental act for the type of action covered).

E. Procedures for ensuring the coordination of environmental review with program decision-making, including concurrent development and circulation of environmental documents with program documents and the identification of key decisionmaking points.

F. Procedures for consulting with other Federal agencies responsible for the environmental acts, if necessary.

G. Procedures for developing lead agency agreements (as described in 30-30-20 B below).

H. A prohibition against precluding or prejudicing selection of alternatives in a full statement without regard to environmental risks.

I. Procedures for establishing a reviewable record, including making environmental statements and related decision-making materials part of the record of formal rulemaking and adjudicatory proceedings.

J. Provisions for early consultation and assistance to potential applicants and non-Federal entities in planning actions and developing information necessary for later Federal involvement (as described in 30-30-20 C below).

K. Descriptions of circumstances which preclude completion of environmental reviews within reasonable time frames because of public health and safety considerations and procedures for after-the-fact completion.

L. Provision for ensuring that applications and other materials from potential grantees or other recipients of Departmental funds, on a program-by-program basis, include information necessary to conduct an environmental review. Such information shall include the identification of any properties which may be eligible for listing on the National Register of Historic Places.

M. Provision for identifying cultural assets which a program controls through

leases or Federal ownership, and for nominating any eligible historical properties to the National Register of Historic Places.

Subject: General Review Procedures for All Environmental Acts

30-30-00	Overview
10	Summary Description
20	Environmental Review
30	Environmental Statements
40	Intergovernmental Consultation and Document Review
Exhibit 30-30-A	Requirements of NEPA and the Related Acts
Exhibit 30-30-B	Flow Chart-Environmental Review Procedures

30-30-00 Overview

The environmental acts require a review of proposed Federal actions whenever they will bring about environmental effects, either within a human environment (as defined under NEPA) or to a historic property, endangered species or other asset (as defined in the related acts).

The purpose of this Chapter is to describe overall the steps which Department officials must take in conducting environmental reviews of specific proposed actions. Within these general steps, the individual environmental acts differ significantly with respect to public involvement, intergovernmental consultation and documentation required. The Chapters at 30-40, 30-50 and 30-60 following (entitled Cultural Asset Review, Natural Asset Review and NEPA Review) discuss these specific requirements in greater detail. Exhibit 30-30-A summarizes these differences.

30-30-10 Summary Description

The following is a summary description of the general types and sequence of activities which Departmental officials should carry out in reviewing specific proposed actions under this Part. Exhibit 30-30-B summarizes these activities.

A. Determine that a proposed activity constitutes an action as defined under Section 30-00-40 (Definitions).

B. Determine whether the proposed action is categorically excluded from all environmental review requirements. If so, no further environmental review is necessary.

C. For proposed actions not categorically excluded, conduct an environmental review in accordance with applicable program environmental review procedures to determine whether the proposed action will cause an environmental effect under one or more of the environmental acts.

D. Determine whether it is necessary to prepare a draft statement and, if so,

circulate the statement among the public, Federal and non-Federal agencies and other interested parties, as appropriate.

E. Carry out the requirements for public involvement and intergovernmental consultation as required under the applicable environmental acts, including any necessary approvals.

F. Prepare a final statement and proceed with the program decision-making process.

3-30-20 Environmental Review

A. General. POCs must perform an environmental review for each proposed action not categorically excluded in accordance with the POCs environmental procedures. The purpose of an environmental review is to answer the following general questions. (Individual environmental acts differ with respect to the specific scope and methodology required in conducting an environmental review.):

1. Will a proposed action have an environmental effect under any of the environmental acts as defined in regulation or by court interpretation?

2. Which environmental acts apply to the proposed action.

3. do any previous environmental reviews exist on similar or related actions which could satisfy the review requirements of a particular proposed action?

4. Should the HHS component prepare a limited statement or a full statement given the environmental acts involved and the kinds and degree of environmental effects anticipated?

B. *Agreements with Other Agencies.* When two or more agencies are engaged in the same action, a lead agency agreement provides one agency with the authority to conduct the environmental review. These agreements determine the content and type of statement and specify which Federal agency will prepare it. The agreement includes a schedule for the preparation and circulation of the document, as well as an assignment of important tasks among the agencies involved. Lead agency agreements may be signed with other agencies for individual actions or for a particular type of action.

C. *Non-Federal Agencies.* Whenever an HHS program requests or permits a non-Federal agency to perform an environmental review, the program shall outline the type of information required, perform an independent evaluation and assume responsibility for the scope and content of the material.

30-30-30 Environmental Statements

A. On the basis of the environmental review, POCs shall determine whether to prepare a limited environmental statement or a full environmental statement.

The designations "limited statement" and "full statement" refer to categories of documents as defined earlier under 30-00-40 G and H. Each of the environmental acts specifies different documentation and public involvement and consultation requirements within these two general categories.

Full statements are prepared in two stages: draft and final. A final statement includes a consideration of comments submitted by persons or organizations reviewing the draft statement. Under some laws covered by this Part, a limited statement may also have to be prepared in draft for review and comment, before being finalized.

The Chapters at 30-40, 30-50, and 30-60 following (Natural Asset Review, Cultural Asset Review and NEPA Review) discuss these different requirements in greater detail and must be consulted to ascertain the specific requirements of NEPA and each of the related acts.

B. *Description.*—1. *Full Statements.* A full statement identifies the proposed action, its purpose and its associated environmental effects in comparison with no action by any organization to achieve the underlying purpose. It further compares no action with other alternative actions, including their environmental effects. Draft full statements shall not exhibit biases in favor of the proposed action. A final statement may include a recommendation with a rationale for a preferred action.

2. *Limited Statements.* A limited statement is generally a short concise document which describes the proposed action, identifies its environmental effects and lists any mitigating measures or safeguards that will lessen or prevent certain environmental changes from occurring. POCs generally can use a draft limited statement in order to satisfy any review, consultation and public notice requirements of the environmental acts and to otherwise

inform individuals and organizations who may be interested in or affected by the proposed action (see Chapter 30-60 for correct NEPA terminology).

C. *Validity.* Statements for continuing actions are valid for three years, unless a change occurs in carrying out the actions or pivotal new data concerning the effects of each action is identified.

Statements for an individual action are valid for a period of 18 months after the issuance of the documentation. Reviews for individual actions not initiated within 18 months require review and reissuance.

D. *Alternatives.* Full statements must explore and evaluate reasonable alternatives to the proposed action in terms of their environmental consequences, benefits and costs and contribution to the underlying purpose or goal. Discussion of alternatives must be sufficiently in-depth to permit a meaningful comparison of alternative courses of action.

Full statements shall consider the following categories of alternatives, as appropriate: 1. *No action by any organization.*—This alternative serves as a baseline against which to measure the environmental consequences, costs and benefits of the proposed action and other alternatives.

2. *Action Alternatives.*—One or more alternative courses of action directed at achieving the underlying purpose or goal. The full statement cannot automatically exclude actions.

- Outside of the expertise or jurisdiction of Departmental components, e.g., examining the possible use of other real properties other than that proposed for transfer by HHS; or
- Which only partially achieve an underlying goal or objective, e.g., funding a health care facility at a lower capacity for patient care.

However, action alternatives considered must be reasonably available, practicable and be related to the underlying purpose or goal. A full statement must include all reasonable alternatives.

3. *Alternative Safeguards.*—These are alternative actions which could mitigate the adverse environmental consequences of one or more of the action alternatives.

4. *Delayed Action Alternative.*—This alternative is to postpone or delay a proposed action in order to conduct more research or for other reasons.

5. *Alternative Uses.*—When a proposed action would affect a scarce or valuable resource (e.g., prime agricultural farmland), the potential alternative uses of the resource must be identified so that they may be compared with the value of the proposed action.

30-30-40 Intergovernmental Consultation and Document Review

POCs are responsible for meeting the various requirements under environmental acts for intergovernmental consultation and public involvement. These requirements differ significantly. POCs should refer to the more detailed descriptions in Chapters 30-40, 30-50, and 30-60 and should consult an environmental officer for guidance.

As required, POCs shall circulate draft statements for review and comment, and otherwise make them available to the public upon request. Statements should be circulated to the Federal Agency responsible for administering the applicable environmental act, involved non-Federal agencies at the State or local level, including A-95 clearinghouses, and interested public persons or groups within the geographic area of the environment affected. The review period is generally no less than 30 days for a draft limited statement and no less than 60 days for a draft full statement. Whenever a draft statement is significantly revised because of comments received or because the nature or scope of the proposed action changes significantly, POCs shall prepare a new draft statement for circulation. Circulation of certain portions of the document is not necessary when it involves the following: A. *National Security.* Circulation of classified sections of environmental documents are subject to regulations pertaining to matters of national security.

B. *Trade Secrets.* Circulation of sections of environmental documents that disclose a trade secret is limited to those who need to have access in order to take appropriate action.

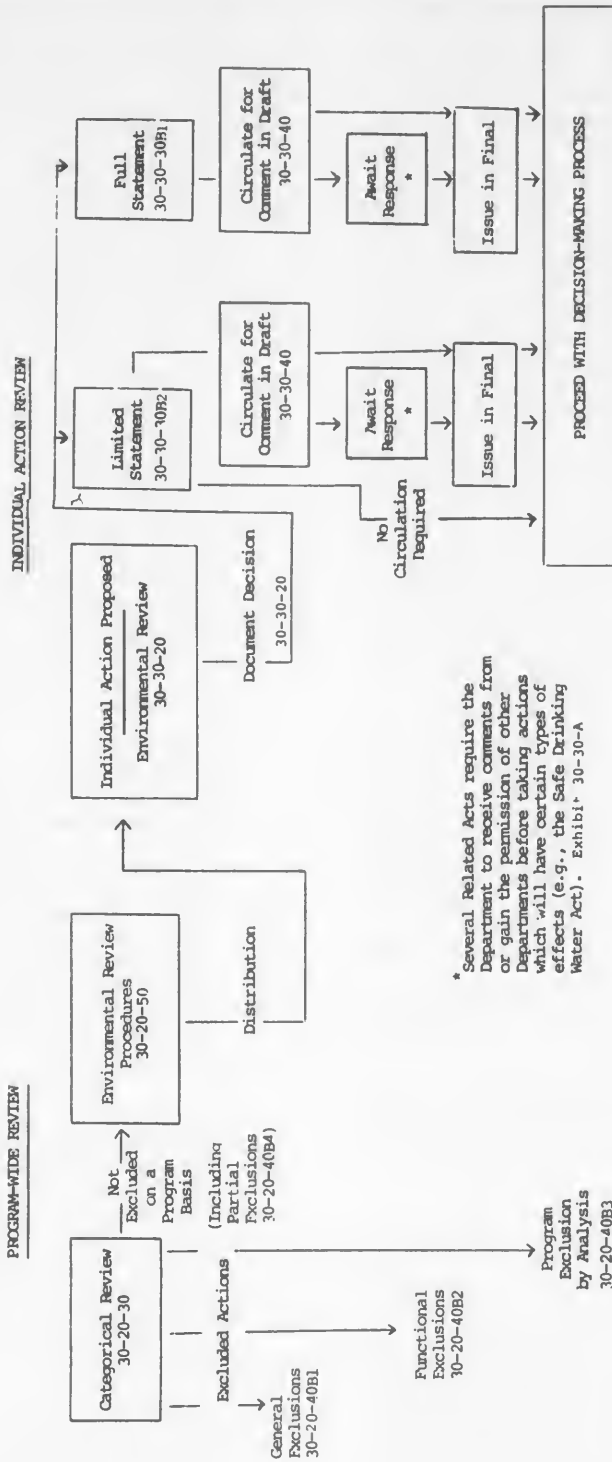
Requirements of NEPA and the Related Environmental Acts

[Exhibit 30-30-A—General Administration Manual]

Authority	Documentation and circulation			Type of response or permission required	
	No. 1 draft limited statement ¹	No. 2 final limited statement or draft final statement	No. 3 final full statement		
National Historic Preservation Act.	(a) Finding of effect (but not adverse). (b) Finding of adverse effect..	(Finalize—if council does not object). (Finalize—if council concurs with mitigation measures).	Preliminary case report (as requested by the council).	Case report.....	Yes. The council staff (or chairman must concur or the issue is brought to the full council at a quarterly meeting. The final decision belongs to the agency.
National Archeological Data Preservation Act.	Information provided to Secretary of Interior.	(Finalize).....			None, but delay is possible if the Secretary of the Interior wants to pay for recovery.
Coastal Zone Management Act.	To State CZM Agency; To Secretary of Commerce.	(Finalize).....	As requested by the Secretary of Commerce.		Yes. For certain projects no further action may be taken until the Secretary of Commerce determines that it is consistent with CZM or needed for national security.
Floodplains E.O. 11987			For review by the Secretary (of HEW).	(Finalize).....	Yes. By the secretary (of HEW) applies to capital improvements only
Endangered Species Act.....	To DOC or DOI.....	(Finalize).....			Yes. Response required from DOI and action prohibited if species endangered;by the project
Fish and Wildlife Act	To DOI.....	(Finalize).....			Yes. Response form DOI required before No. 2.
Wild and Scenic Rivers Act.....	To DOI.....	(Finalize).....			Yes. Prohibited without approval of Secretary of DOI.
Wetlands E.O. 11990	For POC review	(Finalize).....	For review by the Secretary (construction actions) and as requested by the POC.	(Finalize).....	Yes. By the Secretary (of HEW) if new construction. By POC for all others.
Safe Drinking Water Act (Aquifers).	To EPA	(Finalize).....			Yes. Administrator of EPA may prohibit the action if it will contaminate a sole source aquifer.
Marine Sanctuaries Act.....	To DOC.....	(Finalize).....			Yes. The Secretary of Commerce must certify that action is consistent with purposes of act.
National Environmental Policy Act.		Finding of no significant impact (publish notice when appropriate).	Draft environmental impact statement (program decision).	Final Environmental Impact statement.	Agency may make own decision after issuing final EIS except when another Federal agency request CEQ intervention.

¹ Several related acts require the department to receive comments from or gain the permission of other departments before taking actions which will have certain types of effects (e.g., the Safe Drinking Water Act). Exhibit 30-30-A.

Exhibit 30-30-B
General Administration Manual
FLOW CHART - ENVIRONMENTAL REVIEW PROCEDURES



* Several Related Acts require the Department to receive comments from or gain the permission of other Departments before taking actions which will have certain types of effects (e.g., the Safe Drinking Water Act). Exhibit 30-30-A

BILLING CODE 4110-12-C

Subject: Cultural Asset Review

- 30-40-00 Historic Preservation
 - 10 Applicability
 - 20 Identification of Historic Properties
 - 30 How a Property is Affected
 - 40 Limited Statement
 - 50 Full Statement
 - 60 Disagreement
 - 70 Archeological Data: Notification
 - 80 Archeological Data: Recovery

330-40-00 Historic Preservation

Section 106 of the National Historic Preservation Act states that the Advisory Council for Historic Preservation (ACHP) will have an opportunity to comment on any proposed Federal undertaking which will affect a historic property which is listed on or is eligible for listing in the National Register of Historic Places. The Archeological Data Preservation Act states that the Secretary of the Interior shall have an opportunity to recover significant historical or scientific data irrevocably lost through a Federal undertaking. In addition, the latter permits agencies to spend up to one percent of project funds for the recovery of data.

30-40-10 Applicability

Unless a categorical exclusion applies, each proposed HHS action must be reviewed in order to determine whether it will affect a property which is on or eligible for the National Register of Historic Places

30-40-20 Identification of Historic Properties

Each Federal agency has a responsibility for identifying potential properties for the National Register of Historic Places. It must nominate to the National Register of Historic Places, eligible properties which it owns or otherwise controls and seek eligibility determinations from the Secretary of the Interior for potentially eligible properties which it will affect by a proposed action. (See 35 CFR 60.6.) Implementation of a proposed action may not occur until the completion process, and any appropriate additional requirements, are met (e.g., consultation with the Advisory Council).

A. Eligible Properties. 1. Properties are districts, sites, buildings, structures or objects.

2. Properties may be eligible because of their association with significant historical events, or the lives of persons significant in our past; because of distinctive artistic characteristics; or because they are likely to yield important historical information.

B. Eligibility Determinations.

Departmental components, in consultation with the State Historic Preservation Officer (SHPO), shall apply the National Register Criteria for Eligibility to each property to determine which may be affected by a proposed action. If either party concludes that the property may be eligible, components shall submit a letter to the Department of the Interior requesting the Keeper of the National Register to make a decision concerning eligibility. The Keeper may request additional information. The action cannot be taken until the Keeper responds or until 45 days have passed, whichever occurs first. Consultation with the Advisory Council can be conducted simultaneously. If the Keeper finds the property eligible, Cultural Asset Review procedures apply. If the Keeper finds the property ineligible, the cultural identification process is complete.

C. Nominations. Each Federal agency is responsible for nominating to the National Register those eligible properties which it owns or otherwise controls. Each POC head shall develop and implement procedures for nominating all such eligible properties which it currently administers or controls.

30-40-30 How a Property Is Affected

An historical review is an examination and analysis of changes in an historic property which occur as a result of the proposed action. (See 36 CFR 800.3(a).) An historic property is affected whenever one or more of the following changes occurs:

- A. Altering or destroying its physical characteristics;
- B. Altering the physical setting (normally the boundary of a setting does not extend beyond a circle having a 500 yard radius);
- C. Moving the property;
- D. Altering the type or level of use; or
- E. Altering the type of level of activity occurring in the physical setting.

30-40-40 Limited Statement

If a proposed action will affect a property which is on or determined eligible for the Register by the Secretary of the Interior, POCs shall develop a draft limited statement and submit it to the appropriate State Historic Preservation Officer (SHPO). Following the receipt of comments from the SHPO (or after a period of 30 calendar days) the statement is then sent to the Advisory Council for comment. A cover letter shall state whether the program considers the effects to be adverse within the context of the historic value of the property (see 36 CFR 800.3(b)). If

the Advisory Council fails to respond within 30 days, the review is complete. The Council can request additional data from the program whenever it finds the statement incomplete. If the Council concurs that the proposed action will not adversely affect the property, the review is complete. The Chairman of the Council may choose to develop a Memorandum of Agreement for actions which will affect a property adversely in order to mitigate the effect. Such memoranda will specify the various mitigation measures (e.g., record data prior to destruction) that the various involved parties agree to follow.

30-40-50 Full Statement

The Advisory Council may request the POC to prepare a full statement (known as a draft case report) prior to discussing a Memorandum of Agreement. POCs shall submit a full statement, if required, to the SHPO and the Council. HHS or the Council may develop a Memorandum of Agreement after discussing the statement. Among the alternatives in a full statement which POCs must include are alternative uses of a historic property other than for the underlying purpose of the proposed action.

30-40-60 Disagreement

If the Council staff cannot find a common ground upon which to develop a Memorandum of Agreement or if one or more of the parties fail to sign the Memorandum, the proposal must go to the members of the full Council for their review during a public meeting. The review is complete when the Council provides its advice or it has been 15 days since the review by the Council members, whichever is less. HHS must respond to the Council's comments.

30-40-70 Archeological Data: Notification

If the proposed action will bring about the irretrievable loss of significant scientific, archeological, historic or prehistoric data, program personnel shall inform the Secretary of the Interior. If the Secretary does not respond within 60 days, the review is complete. If the Secretary offers to pay for the recovery of the data, he shall have a least six months to effect recovery.

30-40-80 Archeological Data: Recovery by HHS

If a proposed action involves a Federal construction project or a Federally-licensed project, and the action will result in the irretrievable loss of scientific, archeological, historic or prehistoric data, up to one percent of the

project costs may be used to recover the data.

Subject: NATURAL ASSET REVIEW

- 30-50-00 Natural Assets
 - 05 Applicability
 - 10 Coastal Zone Management Act (CZMA)
 - 20 Floodplain Management
 - 30 Endangered Species Act
 - 40 Fish and Wildlife Coordination Act
 - 50 Wild and Scenic Rivers Act
 - 60 Protection of Wetlands
 - 70 Safe Drinking Water Act (Sole Source Aquifers)
 - 80 Marine Sanctuaries Act

30-50-00 Natural Assets

The related acts require the consideration of the effects of a proposed action on specific types of places, on specific places and on specific species. Most of these acts prohibit further action until the agency responsible for administering the act provides advice or gives permission to proceed with the action. The species requiring consideration are listed by the Department of the Interior. The places requiring consideration are:

- A. Coastal Zones (as identified in a State CZM plan);
- B. Floodplains (as identified on HUD floodplain maps);
- C. Habitats of Endangered Species (as identified by the Department of the Interior);
- D. Streams and other bodies of water (in excess of 10 surface acres);
- E. Wild and Scenic Rivers (as identified by the Departments of the Interior and Agriculture);
- F. Wetlands (all);
- G. Sole Source Aquifers (as identified by the Environmental Protection Agency); and
- H. Marine Sanctuaries (as identified by the Secretary of Commerce).

30-50-05 Applicability

Unless a categorical exclusion applies, POCs are responsible for reviewing all proposed actions to determine whether they will affect places and species referenced above.

30-50-10 Coastal Zone Management Act (CZMA)

A. Purpose. The Coastal Zone Management Act of 1972 declares that it is the national policy "to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nations coastal zone." The term "coastal zone" means that area which is identified as such in a State CZM plan. In furtherance of this policy, the Act provides Federal assistance to States for developing and implementing coastal

zone management programs. The Act also requires that "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs." Federal agencies are specifically prohibited from undertaking or assisting certain activities without a determination by the State or local coastal management agency that the activity is consistent with the State management program. The CZM Act excludes from the definition of coastal zone lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agencies (e.g., nonterminated California Indian rancherías).

B. Responsibilities and Consultation Requirements. 1. If the proposed action will affect a place which is within or contains a geographical area that is part of an approved CZM plan, POCs shall forward a draft limited statement to the State CZM agency for comment and a determination as to whether the proposed action is consistent with the approved CZM plan. The review period is at least 30 days for a limited statement and 60 days for a full statement, except where an applicant for a Departmental license or permit submits a Certification of Compliance to the State CZM agency. In the latter case, the minimum period is the amount of time remaining on the six month review period, but no less than the 30 or 60 days referred to above.

2. If the CZM agency fails to respond within the appropriate time period, or states that the proposed action is consistent with the CZM plan, a program is in compliance with the review requirements of the Act: a. Unless the proposed action is an application for a license or permit to conduct an activity affecting land or water use that is not accompanied by an applicant's certification that it complies with the CZM plan; or

b. Unless the proposed action involves an application for Federal assistance from a State or local government agency which is not accompanied by the views of the CZM agency.

3. If the State CZM agency states that the proposed action is not consistent with the approved CZM plan and the proposed action involves one of the types of actions described in 2a or b above, POCs shall forward the draft limited statement to the Secretary of Commerce. The Secretary may request additional data in the form of a full statement. In any case, no further action will take place until and unless the

Secretary of Commerce finds that the proposed action is consistent with the purposes of the CZM Act or is necessary for national security.

4. If the State CZM agency states that the proposed action is not consistent with the approved CZM plan, and the proposed action does not involve one of the types of actions described in 2 above, the proposed action must have the approval of the responsible POC before proceeding.

5. The above requirements shall not apply to those types of actions which are specifically excluded by the approved CZM plan.

30-50-20 Floodplain Management

A. Purpose. Executive Order 11988 of May 24, 1977, directs each Department to avoid long- and short-term adverse impacts associated with the occupancy and modification of floodplains, including the direct and indirect support of floodplain development, whenever there is a practicable alternative. Floodplains are those areas identified as such according to a Department of Housing and Urban Development floodplain map. (See U.S. Water Resources Council Floodplain Management Guidelines for further information.)

B. Responsibilities and Circulation Requirements. 1. If a proposed action will result in a capital improvement occurring within a floodplain, the cost of which will exceed 50% of the estimated reconstruction costs of an entire facility or \$100,000, or clearly will provide direct or indirect support of subsequent floodplain development, POCs will prepare a draft full statement. (A limited statement is not acceptable in this instance.)

2. The draft full statement shall contain, in addition to identifying practicable alternatives to avoid affecting a floodplain, the following information: a. the reasons for locating the proposed action in a floodplain; and b. a statement indicating whether the action conforms to applicable State or local floodplain protection standards.

For those actions subject to OMB Circular A-95, the POC shall send the notice to the State and areawide clearinghouses for the geographical area affected and include a location map.

3. Circulation of draft full statements shall include the public and other interested individuals, including concerned Federal, non-Federal and private organizations. Interested parties shall have a period of 60 days for the review and comment on draft full statements.

4. No action shall take place without a finding by the Secretary that the only

practicable alternative requires siting in a floodplain and until 30 days after the issuance of the final statement which shall constitute a notice of finding as required by the WRC guidelines.

5. An action taken in a floodplain must incorporate design features consistent with the standards in the Flood Insurance Program of the Federal Insurance Administration to minimize substantial harm to the floodplain.

30-50-30 Endangered Species Act

The Endangered Species Act establishes a policy to conserve endangered and threatened species, both within the U.S. and elsewhere.

A. Purpose. Section 7 of the Endangered Species Act requires each Department to take "such action necessary to insure that their actions . . . do not jeopardize the continued existence of endangered or threatened species . . ." as listed in the Federal Register from time to time by the Secretaries of Commerce and Interior. Federal Departments shall, in consultation with these Secretaries, carry out the purpose of the Act.

B. Responsibilities and Consultation Requirements. 1. a. If the proposed action is a construction project which requires the preparation of an environmental impact statement (EIS) (see Chapter 30-60) program personnel shall contact the Office of Endangered Species (OES), Department of Interior, and provide a brief description, including the location of the proposed project. The OES will provide program personnel with a list of endangered species and critical habitats for the specific geographic area to use in determining whether the action will have an effect upon a member of an endangered or threatened species or an identified critical habitat. If it will, program personnel will prepare a draft limited statement.

b. If the proposed action is not a construction project, or a construction project not requiring an EIS, program personnel shall determine if the proposed action will have an effect upon species or habitats listed in the Federal Register and, if so, prepare a draft limited statement. (See appropriate environmental officer for Federal Register listings.)

2. All draft statements are sent, together with a request for consultation, to the Regional Director of the Fish and Wildlife Service or National Marine Fisheries Service as appropriate. No further action shall take place pending completion of the consultation process.

3. If the Service does not respond within 90 days, the Department may reach its own conclusion with respect to

whether the proposed action will jeopardize the continued existence of a species or result in the destruction or adverse modification of a critical habitat.

4. If the Service or the Department determines that the proposed action will jeopardize the continued existence of a species or result in the destruction or adverse modification of a critical habitat, program personnel may submit an exemption application to the Secretary of the Interior for consideration by the Endangered Species Committee (ESC). No action shall occur unless or until the ESC approves the exemption.

30-50-40 Fish and Wildlife Coordination Act

A. Purpose. The Fish and Wildlife Coordination Act provides for equal consideration of wildlife with other features of water resource development programs with a view toward conservation of wildlife resources.

B. Responsibilities and Consultation Requirements. 1. When the waters of any stream, or other body of water which exceeds 10 acres, will become impounded, diverted, deepened, or otherwise controlled or modified for any purpose, the department shall consult first with the U.S. Fish and Wildlife Service, Department of the Interior, and the State agency head responsible for administering wildlife resources.

2. Program personnel shall prepare a draft limited statement, describing the effects of an action which will result in effects described in 1 above and submit it to the Secretary of the Interior.

3. No further action shall take place pending receipt of a report from the Secretary of the Interior.

4. POCs shall consider the report of the Secretary of the Interior, together with its recommendations in developing the project plan. The plan shall include such justifiable means and measures as are necessary to obtain maximum overall project benefits.

5. All reports and recommendations of the Secretary of the Interior and State wildlife agencies constitute an integral part of any environmental report prepared pursuant to the action.

30-50-50 Wild and Scenic Rivers Act

A. Purpose. The purpose of the Act is to preserve selected free flowing rivers, along with their immediate environments, for the benefit of immediate and future generations. These include river components and potential components of the National Wild and Scenic River System and study areas designated by the Secretaries of Agriculture and Interior, (Environmental

officers keep a list of these rivers and related study areas.) Designations used to describe these components, or parts thereof, include the following: (1) wild, (2) scenic, and (3) recreational.

B. Responsibilities and Consultation Requirements. 1. When a proposed action will have an effect upon an environment within or including a portion of a component, potential component or study area, program personnel shall send a draft limited statement to the Heritage Conservation and Recreation Service (HCRS), Department of Interior for review.

The following are examples of circumstances which can affect a river component or study area:

a. Destruction or alteration of all or part of the free flowing nature of the river;

b. Introduction of visual, audible, or other sensory intrusions which are out of character with the river or alter its setting;

c. Deterioration of water quality; or

d. Transfer or sale of property adjacent to an inventoried river without adequate conditions or restrictions for protecting the river and its surrounding environment.

2. If HCRS does not respond within 30 calendar days or states that the proposed action will not directly or adversely affect the area, the Department is in compliance with the review requirements of the Act. However, in those instances where HCRS does not respond, programs shall take care to always avoid or mitigate adverse effects on river components and study areas.

3. If the HCRS determines that the proposed action will directly and adversely affect the area, no further action shall take place whenever the proposed action involves the construction of a water resources project.

4. The above requirements do not apply to types of actions excluded from the review process by appropriate Department of Interior or Agriculture regulations.

30-50-60 Protection of Wetlands

A. Purpose. Executive Order 11990 of May 24, 1977, directs each Department to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance such wetlands in carrying out their program responsibilities. Consideration must include a variety of factors, such as water supply, erosion and flood prevention, maintenance of natural systems and potential scientific benefits. Wetlands generally include swamps, marshes, bogs and similar areas inundated by water to a degree

which permits the support of aquatic life.

B. Responsibilities and Circulation Requirements. 1. If a proposed action will have an environmental effect upon a wetland, the draft limited statement shall contain a section which compares the purpose of the proposed action with the purposes of this Executive Order.

2. No further action shall take place until the POC makes a decision that the proposed action includes all reasonable measures to minimize harm to the wetlands as a result of the proposed action.

3. Draft limited statements and draft full statements for actions involving changes in title to wetlands or leases, easements or permits, shall contain, as mitigation measures, proposed restrictions and reservations developed pursuant to the purpose of the Executive Order.

4. Draft full statements are required for proposed actions involving new construction in or on wetlands. No further action shall take place until the Secretary of HHS determines that there is no practicable alternative to such construction and that the proposed action includes all practicable measures to minimize harm to the wetlands.

5. These requirements do not apply to the issuance to individuals of permits and licenses and the allocation of funds made to individuals.

30-50-70 Safe Drinking Water Act (Sole Source Aquifers)

A. Purpose. Section 1424(e), the Safe Drinking Water Act, provides for the protection of those aquifers which have been designated by the Administrator of the Environmental Protection Agency as the sole or principal source of drinking water for a community.

B. Responsibilities and Consultation Requirements. 1. A review shall determine if a proposed action will directly or indirectly affect a designated aquifer.

2. If the action will affect an aquifer, program personnel shall send a draft limited statement to the Regional Administrator, Environmental Protection Agency, who shall review the action in order to determine if it will create a public health hazard.

3. The action shall not proceed any further unless and until the Administrator of the Environmental Protection Agency determines that the proposed action will not contaminate the designated aquifer so as to create a hazard to public health.

30-50-80 Marine Sanctuaries Act

A. Purpose. Title III of the Marine Protection, Research and Sanctuaries

Act prohibits Federal Departments from taking actions which will affect a Marine Sanctuary unless the Secretary of Commerce certifies that the activity is consistent with the purposes of the Act. Listings of sanctuaries are designated by the Secretary of Commerce and maps of sanctuaries appear in the **Federal Register**.

B. Responsibilities and Consultation Requirements. 1. If the proposed action will create an environmental effect on a marine sanctuary, program personnel shall prepare a draft limited statement and forward it to the Secretary of Commerce.

2. No further action shall take place unless and until the Secretary certifies that the action is consistent with the purposes of the Act.

Subject: NEPA Review

- 30-60-00 Background
- 05 Applicability
- 10 Responsibilities
- 20 Determining Appropriate NEPA Documentation
- 30 Findings of No Significant Impact
- 40 Environmental Impact Statements
- 50 Contents of an EIS
- 60 Public Involvement and Circulation of NEPA Environmental Statements

30-60-00 Background

The National Environmental Policy Act of 1969 (Pub. L. 91-190), as amended, establishes policy and requirements governing all Federal Departments and agencies with respect to protecting the environment. This chapter supplements specific requirements established by NEPA and by the associated implementing regulations promulgated by the Council on Environmental Quality (CEQ). (40 CFR 1500-1508)

NEPA requires all Federal Departments and agencies to take into account all potential environmental consequences of their activities prior to initiation of these activities. Specifically, Section 102(2)(c) of NEPA requires all agencies of the Federal government to include an environmental statement "in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment." The purpose of this and other requirements is to ensure that environmental information is available to public officials and citizens before Federal agencies make decisions to take actions which could significantly affect the environment.

30-60-05 Applicability

Unless a categorical exclusion applies, POCs are responsible for reviewing all proposed actions. CEQ regulations require each Department to

establish criteria for determining categorical exclusions. A POC must determine that the action taken by a program would never significantly affect the quality of the human environment in accordance with the criteria discussed in 30-60-20.

20-60-10 Responsibilities

POCs shall review each of their programs to determine those which may be categorically excluded and provide the Office of Environmental Affairs with a list which shall be submitted to CEQ for approval pursuant to 40 CFR 1507.3(b)(2) and then published. The POCs shall develop procedures for each program not categorically excluded in order to determine the data needed for environmental assessments* and a system for acquiring such data. The POCs shall prepare an environmental assessment for each proposed action not categorically excluded and, as a result, prepare a Finding of No Significant Impact (FONSI)* or an Environmental Impact Statement (EIS).*

30-60-20 Determining Appropriate NEPA Documentation

A. General. In order to identify the required documentation, an environmental assessment must be performed. This assessment eventually will be used to prepare a FONSI or EIS. An action will result in a series of consequences. One or more of these consequences may change the manner in which an environment would function without the action. In preparing the assessment, it is necessary to clearly identify the consequences, the environments affected, and the changes that would occur if the action were taken.

B. criteria. In determining whether a proposed action will or will not "significantly affect the quality of the human environment," POCs should evaluate the expected environmental consequences of a proposed action by means of the following steps:

Step One—Identify those things that will happen as a result of the proposed action. An action normally produces a number of consequences. For example, a grant to construct a hospital . . . may terminate human services; will involve destruction and construction; will provide a service.

Step Two—Identify the "human environments" that the proposed action will affect. In accordance with Section 1508.27 pertaining to context, the human

*CEQ terminology is used in this chapter. For purposes of coordination with other previous sections, an "environmental assessment" is an "environmental review", a "FONSI" is a "limited statement" and an "EIS" is a "full statement."

environments affected by the action must be identified. These include terrestrial, aquatic, subterranean and aerial environments, such as islands, cities, rivers or parts thereof. However, a human environment must be of reasonable size in order to require an EIS. (Note that a mud puddle is an environment and that, if destroyed, it would be "significantly affected".) Therefore, the environmental assessment need not address the significance of effects pertaining to environments which are smaller than the following:

Type of environment	With clearly defined boundaries	Without clearly defined boundaries
Terrestrial space.....	1 acre.....	160 acres
Subterranean space.....	1,000 cubic yards.....	500,000 cubic yards
Aquatic space.....	5,000 cubic yards.....	50,000 cubic yards
Aerial space.....	1 cubic mile.....	10 cubic miles
Human settlements (density exceeding one person per acre).	160 acres.....	160 acres

A proposed action may affect both smaller and larger "human environments" (e.g., part of a city, the whole city, the metropolitan area, the State, the region). In determining the environmental consequences of a proposed action under NEPA, POCs should identify barriers (e.g., a river or a highway) which tend to give geographic definition to an environment (e.g., a superhighway or river may tend to separate one terrestrial ecosystem from another).

Step Three—Identify the kinds of effects that the proposed action will cause on these "human environments." A change occurs when a proposed action causes the "human environment" to be different in the future than it would have been absent the proposed action. These changes involve the introduction of various "resources" (including those often characterized as waste).

Example: an increase in a human or wild animal population; a decrease in the amount of soil entering a stream; the introduction of a new chemical compounds to natural environments.

In addition to organisms, substances, and compounds, the term "resources" include energy (in various forms), elements, structures, and systems (such as a trash collection service in a city). Time periods in both the near term and long term must be considered.

Example: a change in regulations permits the use of a new compound in small quantities. In the near term the compound does not affect any organisms. However, the

compound eventually becomes concentrated in specialized localities and does affect organisms.

Example: a hospital is renovated, requiring a detour in traffic through residential neighborhoods and an increase in the number of patients in other hospitals. However, following completion of the work, the traffic flow and patient loads resemble those that would have occurred without the renovation.

In identifying changes caused by the proposed action, POCs should identify the magnitude of the changes likely to be caused within smaller and larger "human environments" affected (e.g., part of a city, the whole city, the metropolitan area, etc.).

Example: the closure of a hospital in a neighborhood may not only affect that neighborhood but the delivery of health services to the city as a whole.

Step Four—Identify whether these changes are significant. Determining whether or not a proposed action will cause significant change in the human environment involves a subjective judgment. The following points should be considered in conjunction with 40 CFR 1508.8 (effects) and 40 CFR 1508.14 (human environment) in making a decision concerning significance:

- A change in the characterization of an environment is significant (e.g., from terrestrial to aquatic);
- The establishment of a species in or removal of a species from an environment is significant;
- The more dependent an environment becomes on external resources, the larger the magnitude of change (and the more likely to be significant);
- The larger the environment under consideration, the lower the amount of change needed before the change should be judged significant;
- Changes which do not produce direct, indirect, or cumulative effects which will last beyond one year would not be judged significant; and
- Changes which are remotely possible and involve a relatively small environment should not be judged significant.

Note.—The above criteria considers and supplements the CEQ definition of "significantly" at 40 CFR 1508.27, except for the following terms which shall follow requirements issued by CEQ pursuant to 40 CFR 1506.7:

1. "Affected interests" as used in 40 CFR 1508.27(a);
2. "Public health or safety" as used in 40 CFR 1508.27(b)(2);
3. "Highly controversial" as used in 40 CFR 1508.27(b)4;
4. Actions affecting cultural assets as described in 40 CFR 1508.27(b)(8) except as such changes may significantly affect the environment of the cultural resource; and

5. Applicable Federal, State or local laws or requirements in 40 CFR 1508.27(b)(10), except as listed in Subsection 30-10-20.

30-60-30 Finding of No Significant Impact—FONSI (Limited Statement)

For the purposes of NEPA, a FONSI is used to document, per section 1508.13, a POC judgment that a proposed action not categorically excluded from NEPA requirements (see 30-60-10A above) will not significantly affect the quality of the human environment. A FONSI should meet the criteria described in Chapter 30-30-30B2 and, in addition.

A. Include a list of agencies and persons consulted during its preparation;

B. Discuss why the proposed action will not significantly affect the human environment, including the environmental assessment or a summary thereof;

C. Discuss alternatives whenever an unresolved conflict exists with respect to alternative uses of available natural resources; and

D. Be made available to the public and other interested parties including, when appropriate, publication of a notice announcing its availability consistent with 40 CFR 1506.6(b) and 1501.4(e)(2).

30-60-40 Environmental Impact Statement—EIS (Full Statement)

A. *General.* A POC responsible for carrying out a specific action is responsible for preparation of an EIS, if one is required.

B. *Involvement of Other Federal Agencies.* In cases in which HHS participates with other Federal agencies in a proposed action, one agency will be the lead agency and will supervise preparation of an EIS if one is required. A Memorandum of Understanding among all involved agencies may be useful in summarizing the relative responsibilities of all involved agencies. Lead agency responsibility should be determined in accordance with Section 1501.5.

C. *Involvement of States.* In cases in which a POC participates with State and local governments in a proposed action, the POC is responsible for preparing an EIS except that a State agency may jointly prepare the statement if it has State-wide jurisdiction, and HHS participates in its preparation including soliciting the views of other State or Federal agencies affected by the statement.

D. *Notice of Intent.* Upon deciding to prepare an EIS, a POC shall publish a *Notice of Intent* in the *Federal Register* in accordance with Section 1508.22.

E. Draft and Final Statements. Except for proposals for legislation, POCs shall prepare EISs in two stages: draft and final.

Statements relating to proposals for legislation shall be submitted to Congress at the time the legislation is proposed to Congress or up to 30 days afterwards. Except under certain circumstances described in CEQ regulations (see 40 CFR 1506.8), draft statements shall accompany legislative proposals.

F. Supplements. POCs shall prepare supplements to either draft or final statements if there is substantial change in the proposed action or if significant new information becomes available or new circumstances occur. Preparation and circulation of supplements is the same as that for draft and final EISs.

30-60-50 Contents of an EIS

An EIS consists of three sections: a forward, main text and appendices. If a proposed action will also affect a cultural or natural asset (as defined in the related acts), the statement shall incorporate the material required by the applicable related acts.

A. Cover Sheet. This shall be one page and state whether the document is a draft or final, the title and location of the proposed action, the name of the agency responsible for the EIS, including the lead agency and any cooperating agencies, the name, address and telephone number of a knowledgeable agency contact, a one paragraph abstract, and the date by which comments must be received.

B. Summary. The summary summarizes the main text, lists the names of those who assisted in preparing the statement and lists the government and private agencies or organizations requested to comment on the draft statement.

C. Main Text. The main text describes the proposed action, its underlying purpose and need, alternatives considered to the proposed action and, in conjunction with these alternatives, the environments which would be affected. (See the discussion of alternatives at Chapter 30-30). It contains an analysis of the environmental, economic and social consequences of the proposed action and the alternative actions and a discussion of alternative safeguards which could mitigate these environmental consequences. If the proposed action involves using a scarce resource (e.g., prime agricultural land), the text will address alternative uses of that resource, including uses which may not contribute to the underlying purpose

of the proposed action. The text shall list the preparers.

The text of a draft and final statement are the same (with appropriate revisions and additions) except that a final statement:

1. Shall identify the preferred alternatives;
2. Shall identify alternatives which are environmentally preferable with a rationale; and
3. Shall respond to comments made by reviewers of the draft statement; all comments by Federal and other public agencies must appear in their entirety in the appendix.

D. Appendices. Appendices contain supporting documentation, if needed, and any scientific information that is too technical or detailed for complete presentation in the main text of the statement.

30-60-60 Public Involvement and Circulation of NEPA Environmental Statements

A. Public Notice. POCs must give public notice in the following instances:

1. Prior to preparing a draft statement in order to solicit public participation; and

2. Prior to any public hearings. EPA will publish in the Federal Register notice of the availability of HHS draft and final EISs.

Notice shall be made through direct mail, the Federal Register, local media or other means appropriate to the scope, issues and extent of public concern. Public notices shall include the name and location of a contact official through whom additional material may be obtained.

B. Public Hearings. HHS components shall hold public hearings as part of the NEPA environmental review process when hearings will assist substantially in forming environmental judgments and when hearings correspond with customary practice of the component.

C. Draft EISs. Copies of draft statements shall be provided to: Environmental Protection Agency; Council on Environmental Quality; Other Federal agencies having related special expertise or jurisdiction by law; Appropriate local and national organizations; including A-95 clearinghouses;

Appropriate State and local agencies, including those authorized to develop and enforce environmental standards; Indian tribes as appropriate; and Others requesting a copy of the draft statement.

There shall be a 45-day minimum comment period for draft statements after EPA publishes a notice of availability in the Federal Register.

If a draft statement is substantially revised, it must be recirculated as a draft statement. If revisions to a draft statement are minor, only the comments, responses and revisions need be recirculated.

D. Final EISs. Copies of final statements shall be provided in accordance with the above list and to all agencies, persons or organizations who submitted comments regarding the draft statement.

E. Record of Decision. When a POC reaches a decision on a proposed action after preparing an EIS, the POC shall prepare a public record of decision which includes:

- The decision;
- Alternatives considered;
- A discussion of factors which were involved in the decision;
- A discussion of steps to be taken to minimize potential environmental harm; and
- A public record of decision pursuant to 40 CFR 1502.2.

Subject: Reviewing External EISs

- 30-70-00 Reviewing External EISs
- 10 Jurisdiction by law
 - 20 Jurisdiction by Special Expertise
 - 30 Types of Comments

30-70-00 Reviewing external EISs

HHS has a responsibility under Section 102(2)(C) of the National Environmental Policy Act (NEPA) to review and comment on draft Environmental Impact Statements (EISs) developed by other Federal Departments. In accordance with CEQ regulations at 40 CFR 1503.2, HHS must comment on each EIS on issues for which it has "jurisdiction by law or special expertise."

30-70-10 Jurisdiction by Law

Jurisdiction by law reflects the Department's statutory responsibilities. An operating component reviewing a draft EIS should review each alternative action discussed in an EIS in terms of:

- A. Potential effects on the delivery or quality of health, social or welfare services.
- B. Potential effects associated with the manufacture, transportation, use and disposal of chemicals or other hazardous materials.
- C. Potential effects associated with the mining, milling, production, use, transportation, and disposal of radioactive materials.

D. Potential changes in plant or animal populations. This includes examination of the potential effects the proposed action may have on human health. Changes in natural predator populations may upset the ecological

balance to the extent that an increased incidence of morbidity or mortality will occur unless offsetting safeguards are instituted.

E. Potential changes in the physical environment that could affect human health or welfare (e.g., air pollution, change in land use). This shall also include an examination of the availability and quality of water, sewage and solid waste disposal facilities.

30-70-20 Jurisdiction by Special Expertise

Individuals reviewing EISs may comment, in addition, in areas beyond their immediate job responsibilities when they have special expertise which may be appropriate. For example, a veterinarian employed in a disease prevention program can comment on an EIS discussion about the effects of a forestry project on animal populations.

30-70-40 Types of Comments

A. A reviewer's comment on an external EIS can address one or more of the following:

1. That data are missing or inaccurate;
2. That the organization of the EIS precludes a valid review;
3. That the projections or descriptions of effects are not complete or are inaccurate;
4. That the reviewer does not concur with the projections (for states reasons);
5. That certain safeguards will lessen the extent of an effect and/or the magnitude of an impact;
6. State a preference for an action alternative (or no action); and
7. Object to an agency's preferred alternative (if one is identified in the draft EIS) and recommend adoption of new or existing alternatives. Such objections should be lodged on the basis of the direct or indirect effects on HHS programs and/or mission. (See B below concerning referral of such objections to CEQ.)

B. If a reviewing component objects to all or part of an agency's proposed action and, after consultation with the agency, is unable to resolve its differences, it shall determine if the proposed action meets the criteria for referral in § 1502.4 of the CEQ regulations. If the criteria are met, the component shall request the POC head to refer its objection to CEQ within 25 days of the date that the final EIS is made available to EPA in accordance with § 1504.3.

[FR Doc. 80-36112 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-80-1043]

Community Development Block Grant Program

AGENCY: Department of Housing and Urban Development, Assistant Secretary for Community Planning and Development.

ACTION: Notice.

SUMMARY: HUD is issuing a revision to the Notice of the dates for submission of preapplications to HUD Area Offices for the Small Cities Program under the Community Development Block Grant Program for Fiscal Year 1981.

FOR FURTHER INFORMATION CONTACT: Helen Duncan, Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: By Notice published in the Federal Register, Thursday, October 2, 1980, the Department of Housing and Urban Development (HUD) established dates for submission of preapplications for Small Cities Program Grants to be accepted by HUD for Fiscal Year 1981, as provided by 24 CFR 570.420(h)(2).

Because of unforeseen circumstances, it is necessary to extend the preapplication filing deadline date for the Pittsburgh, Pennsylvania HUD Area Office jurisdiction only. Therefore, the filing submission dates for the Pittsburgh, Pennsylvania HUD Area Office jurisdiction only is revised as indicated below. The Pittsburgh Area Office has taken every reasonable step to notify all potential applicants of this change.

Preapplications for funding under the Single Purpose and Comprehensive Grant provisions of the Small Cities Program will be accepted only during the designated time period. Preapplications received in the Area Office after the deadline must be postmarked no later than the applicable deadline submission date. Any preapplications postmarked after that date are unacceptable and will be returned.

Affected applicants are hereby advised to submit their preapplications for Single Purpose Grants pursuant to 24 CFR 570.429, or their preapplications for Comprehensive Grants pursuant to 24 CFR 570.425, to the HUD Area Office in Pittsburgh, Pennsylvania.

Final Date for Submission

Region/State	No earlier than	No later than
III		
Pennsylvania (Pittsburgh area office jurisdiction), West Virginia.	Oct. 6, 1980.....	Nov. 3, 1980.

Issued at Washington, D.C., November 10, 1980.

Robert C. Embry, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 80-36028 Filed 11-18-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Environmental Quality

[Docket No. NI-33]

Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Sierra Vista Subdivision, Sierra Vista City, Cochise County, Arizona; Robinson Ranch Planned Community, Orange County, California; Victoria Planned Community, Rancho Cucamonga, California; Isla Mar Housing Project, Humacao, Puerto Rico; the New Town of Maumelle, Pulaski County, Arkansas; and Greenwood Valley Subdivision, City of Allen, Texas. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., November 22, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

EIS on Sierra Vista Subdivision, Sierra Vista City, Cochise County, Arizona

The Los Angeles Area Office of the U.S. Department of Housing and Urban Development intends to issue an Environmental Impact Statement (EIS) for a primarily residential land development project identified as Sierra Vista Subdivision and located in and adjacent to the Sierra Vista City in Cochise County, Arizona. The purpose of this notice is to solicit from all interested persons, local, State and Federal agencies, recommendations or comments regarding any issue that should be addressed in the proposed environmental impact statement.

HUD's participation in this land development project is through its Federal mortgage insurance program which is intended to facilitate homeownership and the construction and financing of housing. By insuring commercial lenders against loss, HUD encourages such lenders to invest capital in the home mortgage market.

Description. The Sierra Vista planned residential community project is a proposed land development of approximately 6,000 acres. This planned development project will provide for an approximate 10,000 new dwelling units in a mixture of housing densities and types. Community recreation facilities, functional open space and certain supporting commercial uses will form the remaining land uses within the project.

The project site is located in and adjacent to Sierra Vista City, Arizona and is generally bounded as follows: Fort Huachuca Military Reservation to the west, Snyder Boulevard and Foothills Drive to the north, parts of Sections 9, 17 and 19 of Township 22 south, Range 22 east of the Gila and Salt River Meridian to the east and Choctaw Drive to the south.

Among the possible environmental effects of this project are: conversion of approximately 6,000 acres of Sonoran desert lands to urban and suburban uses; introduction of approximately 25,000 new residents in approximately 10,000 new dwelling units adjacent to Sierra Vista City (population 25,000) and Fort Huachuca Military Reservation over an estimated 7-10 year period; potential impact of a portion of a 100-year floodplain area; impact on natural desert vegetation and perhaps certain State protected vegetation; impact on

the local road system (due to added vehicles); impacts on natural drainage conditions; impacts on local community facilities and services; and potential impacts on archeological and cultural resources. Also, air-quality impacts may have significance to the Fort Huachuca Military Base communications mission as this geographic area is noted for its relatively free electromagnetic atmosphere.

Need. This office has determined that an environmental impact statement is necessary due to the size and scope of project activities proposed. This determination is made in response to Section 102(2)(c) of Public Law 91-190, The National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives perceived available to the Department of Housing and Urban Development which will be given consideration are: (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping. HUD will hold a pre-project "scoping" meeting in accordance with Section 1501.7 of the implementings of the 1969 National Environmental Policy Act. At this meeting, open to all persons, groups, organizations, Federal, State and local agencies, HUD wishes to identify all significant issues to be analyzed in the environmental impact statement. Time and place of this scoping meeting will be announced at a later date by notice in a local newspaper of general circulation and the mailing of a letter of invitation. The HUD mailing list covers most Federal, State and local public agencies and some private local organizations and groups.

Comments. Comments regarding this proposal should be sent within 21-days of publication of this Notice in the *Federal Register*, to: John J. Tuite, Area Manager, Attention: William Shortall, Environmental Protection Specialist, U.S. Department of Housing and Urban Development, 2500 Wilshire, Boulevard, Los Angeles, California 90057, or call (213) 688-5899 (FTS) 8-798-5899.

Appendix

EIS on Robinson Ranch Planned Community, Orange County, California

The Los Angeles Area Office of the U.S. Department of Housing and Urban Development intends to issue an Environmental Impact Statement (EIS) for a primarily residential land development project identified as Robinson Ranch Planned Community and located in eastern Orange County. The purpose of this notice is to solicit from all interested persons, local State and Federal agencies, recommendations

or comments regarding any issue that should be addressed in the proposed environmental impact statement.

Purpose of Federal action. HUD's participation in this land development project is partly through its Federal mortgage insurance program which is intended to facilitate homeownership and the construction and financing of housing. By insuring commercial lenders against loss, HUD encourages such lenders to invest capital in the home mortgage market. In addition, under its Title X program, HUD may provide loan insurance to commercial lenders to facilitate financing of project public improvements such as streets, street lights, water lines and storm drainage improvements.

Project description. The Robinson Ranch Planned Community planned residential community project is a proposed land development of approximately 827 acres with a present consideration of conserving approximately 415 acres in open space. This planned development project will provide for an approximate 941 new dwelling units in a mixture of housing densities and types. Community recreation facilities, functional open space and certain supporting commercial uses will form the remaining land uses within the project.

The project site is located in eastern Orange County and is adjacent to the Cleveland National Forest. More specifically the project is in an unincorporated area of Orange County east of Trabuco Canyon Road and Plano Trabuco Road. The project site is a portion of sections 13 and 14 in Township 6 south, Range 7 west and a portion of Section 7 in Range R west, Township 6 south.

Potential impacts may include, impact of a portion of a 100-year floodplain resource, natural "foothill" vegetation and perhaps certain State protected wildlife. Impacts on the local road system (due to added vehicles), and natural drainage conditions are expected. Demand will be created for new local community facilities and services. Potential impacts on archeological and cultural resources may occur along with impacts on a part of a regional "watershed" resource. The entire property serves as a foraging habitat for several raptor species including the red-gailed hawk, marsh hawk, kestrels and white-tailed kite.

Need. This office has determined that an environmental impact statement is necessary due to the size and scope of the project and activities proposed as well as due to impacts on several natural resources. This determination is made in response to Section 102(2)(c) of

Pub. L. 91-190, The National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives perceived available to the Department of Housing and Urban Development which will be given consideration are; (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping meeting. HUD does anticipate holding a pre-project "scoping" meeting in accord with Section 1501.7 of the regulations for implementing the National Environmental Policy Act of 1969. At this meeting, which shall be open to all persons, groups, organizations, Federal, State and local agencies, HUD will wish to assure that all significant environmental issues will be covered by the proposed EIS. Time and place of this scoping meeting will be announced at a later date by notice of a letter of invitation. The HUD mailing list covers most Federal, State and local public agencies and many local private organizations and groups.

Comments. Comments or recommendations regarding this EIS proposal should be sent on or before December 9, 1980 to John J. Tuite, Area Manager, Attention: Peter Severyn, Environmental Protection Specialist, Department of Housing and Urban Development, Room 604 Los Angeles Area Office, 2500 Wilshire Boulevard, Los Angeles, California 90057, or call (213) 688-5899, (FTS) 8-798-5899.

EIS on Victoria Planned Community, Rancho Cucamonga, California

The HUD Los Angeles Area Office intends to prepare an Environmental Impact Statement on a proposed Title X project described herein and solicits information and comments for consideration in the EIS.

Description. The Victoria Planned Community development project is a proposed land development of approximately 2,150 acres. The project will provide for an approximate 9,000 dwelling units in a mixture of housing densities and types. Community recreation uses, open space, certain supporting convenience commercial uses and employment commercial uses are anticipated in the development. The project is located in the City of Rancho Cucamonga, San Bernardino County, California. The boundaries of the project are generally as follows; Dear Creek on the east; Highland Park on the north, Etiwanda Avenue and Freeway 1-15 on the east, Baseline Road on the south. The proposed EIS will also address impacts associated with a Regional shopping center proposed for a location immediately south and adjacent to the project.

An "early start" segment may be considered for HUD processing prior to completion of the EIS. This "early start" segment is located in the southeast corner of the project near Etiwanda and Baseline Roads. The number of dwelling units shall not exceed two-hundred. A special Environmental Clearance action shall be completed by HUD prior to any approval.

HUD's participation in this land development project is partly through the Federal mortgage insurance program which is intended to facilitate homeownership and the construction and financing of housing. By insuring commercial lenders against loss, HUD encourages such lenders to invest capital in the home mortgage market. In addition, under its Title X program, HUD may provide loan insurance to commercial lenders to facilitate financing of project public improvements such as streets, water lines, sewer lines and storm drainage improvements.

Need. An EIS is proposed due to HUD threshold requirements in accordance with housing program regulations and certain perceived environmental impacts such as the following: impact on the 100-year base flood hazard area, prime agricultural land, water resources, energy resources, transportation, historic and cultural resources and community services and facilities.

This announcement and the EIS preparation and distribution process will form HUD's primary means of inviting public participation in the "eight-step" review process required by the implementing regulations of Executive Order 11988 and the required decision making process HUD will carry-out for this special Federal Environmental concern. This announcement is intended to satisfy Steps 1 and 2 of the "eight-step" review process.

Alternatives perceived. At this time the HUD alternatives include: no project; accept project as proposed and/or accept project with conditions or modification of the project or modification to the existing environment.

Scoping. HUD will hold a pre-project "scoping" meeting in accordance with Section 1501.7 of the implementing regulations of the 1969 National Environmental Policy Act. This meeting will be open to all persons, groups, organizations, Federal, State and local public agencies and some private local organizations and groups.

Comments. Comments regarding this proposal should be sent on or before December 9, 1980 to John J. Tuite, Area Manager, Attention: William Shortall,

Environmental Protection Specialist, U.S. Department of Housing and Urban Development, 2500 Wilshire Boulevard, Los Angeles, California 90057, or call (213) 688-5899 (FTS) 8-798-5899.

EIS on Isla Mar Housing Project, Humacao, Puerto Rico

The Department of Housing and Urban Development, Region II, Caribbean Area Office, intends to prepare an Environmental Impact Statement (EIS) on the project described below and solicits comments and information for consideration in the EIS.

Description. The project consists of 467 detached residential units to be constructed on 53.19 acres. Approximately 5.05 acres are to be allocated to community facilities.

The project is located in Humacao, Puerto Rico, Rio Abajo Ward, State Road No. 3, Km. 78.2. Project may be assisted under the following Federal Programs: 203(b), 235, and Section 8.

Need. It has been determined to prepare an Environmental Impact Statement due to the size of the development.

Isla Mar is the latest subdivision in this development. This development will total 963 units at the termination of Isla Mar. Subdivisions in this development constructed prior to Isla Mar were cleared through an Environmental Assessment.

Alternatives. Alternatives to be considered are the no project or changes to size and design.

Scoping. A scoping meeting with the participation of cooperating government agencies and general public will be held.

Comments. All interested parties comments should address the environmental impacts of the proposed project and all such comments will be considered when preparing the Draft and shall become part of the project's environmental file. Comments regarding this proposal should be sent on or before December 9, 1980. Jose R. Febres-Silva, Area Manager, U.S. Department of Housing and Urban Development, U.S. Courthouse and Federal Building, Carlos Cardon Avenue, Room 428, Hato Rey, Puerto Rico 00918.

EIS on The New Town Of Maumelle, Pulaski County, Arkansas

The Environmental Assessment Team in Atlanta, Georgia intends to prepare, for the New Communities Development Corporation, an EIS on the project described below. We are soliciting information and comment for consideration in the EIS.

Description. Maumelle is a 5,300 acre New Town sponsored by Maumelle Land Development, Inc., in Pulaski

County, northwest of Little Rock, Arkansas. The project includes the following land uses: open space (mainly along the Arkansas River), low, medium and high density residential, industrial, commercial and institutional development. Several lakes, a golf course, a riverside marina, school, church and a community center will be located on the site. Approximately 50,000-60,000 people are projected to reside in Maumelle, which was formerly used as an Army ordinance depot. The site is located adjacent to the north bank of the Arkansas River, southwest of Interstate 40, about 10 miles from downtown Little Rock. As originally planned, the development period will extend to 1991.

HUD's participation is through the New Communities development Corporation (NCDC), which guaranteed the initial construction financing for the proposed New Town. Additionally, HUD will make available FHA mortgage insurance to qualifying buyers within the development. The enabling legislation for the NCDC requires that continued participation be partially based on the findings of updated EIS's.

Need. An update of the original EIS prepared in 1972 is required. The new statement will assess land use changes since 1972 and will evaluate the proposal with respect to current environmental legislation.

Alternatives. At this time, the HUD alternatives are to continue participation as per previous commitments or to continue participation with development restrictions.

Scoping. HUD will hold a "scoping" meeting in accordance with Section 1501.7 of the regulations for implementing the National Environmental Policy Act. At this meeting, open to all individual persons, groups, Federal, State, and local agencies, HUD wishes to identify all significant issues to be addressed in the environmental impact statement.

Comments. Comments should be forwarded on or before December 9, 1980 to Dr. Richard Bailey, Department of Housing and Urban Development, RIEAT-Room 834, 75 Spring Street, SW, Atlanta, Georgia 30303 or call (404) 221-5151 or (FTS) 242-5151.

EIS on Greenwood Valley Subdivision, City of Allen, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement on a proposed subdivision which will be known as Greenwood Valley. The proposed subdivision is located in the

general vicinity of U.S. Highway 75 on Farm Road 2170. The site is one and one-half miles east of the Central Business District of the City of Allen, Collin County, Texas. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, state and Federal agencies regarding the issues to be addressed in the Environmental Impact Statement.

Description. The Fox and Jacobs, Incorporated, P.O. Box 934, Carrollton, Texas, proposes to develop a 196 acre tract into 704 single family lots. The developer has requested that the Department accept the Greenwood Valley Subdivision for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934. At full development, it is anticipated the subdivision will accommodate approximately 1,760 persons. The developer has requested an early-start on 196 lots of the proposed Greenwood Valley Subdivision.

Need: Due to the size and scope of the proposed development, the Dallas Area Office has determined that an Environmental Impact Statement will be prepared pursuant to Pub. L. 91-190, the National Environmental Policy Act of 1969.

Alternatives. The alternatives available to the Department are (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping. No formal scoping meeting is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the environmental impact statement. Any responses to this Notice will be used to help (1) determine significant environmental issues, and (2) identify data which the EIS should address.

Comments. Comments should be sent on or before December 9, 1980 to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number of this office is (214) 767-8347 and the FTS number is 729-8347.

[FR Doc. 80-36028 Filed 11-18-80; 8:45 am]
BILLING CODE 4210-01-M

**DEPARTMENT OF THE INTERIOR
Bureau of Land Management**

**Grand Junction District; Grazing
Advisory Board Meeting**

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Grand Junction District Grazing

Advisory Board will be held on Wednesday, December 10, 1980.

The meeting will begin at 9 a.m. in the third floor conference room of the Bureau of Land Management Office at 764 Horizon Drive, Grand Junction, Colorado.

The agenda for the meeting will include: (1) minutes of the previous meeting, (2) status report on the allotment management plan (AMP) implementation program, (3) discussion of the Sunnyside AMP, (4) discussion of the Light Hill prescribed burn, (5) status report on current range improvement projects, (6) proposed range improvement projects for future funding and (7) the arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:00 and 3:30 p.m., or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501, by December 5, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 243-6552.

Lee Carie,
Acting District Manager.

[FR Doc. 80-34887 Filed 11-18-80; 8:45 am]
BILLING CODE 4310-84-M

**National Park Service
[DES-80-70]**

**General Management Plan, Santa
Monica Mountains National Recreation
Area, Calif.; Availability of Draft
Environmental Impact Statement**

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service, U.S. Department of the Interior, has prepared a draft environmental impact statement for the proposed General Management Plan for Santa Monica Mountains National Recreation Area. The proposal involves a draft plan that would provide the general direction for management and a conceptual framework for visitor use.

The proposed action presents goals and objectives for management; a land

classification system that indicates management emphasis for all lands within the boundary; a land acquisition plan; concepts for management of resources and cooperation with agencies and landowners; programs for managing natural, scenic, and cultural resources; a related series of possible actions for activity sites, trails and camps, transportation, scenic roads, and management facilities; and strategies for future planning.

A present action alternative was considered which would continue land acquisition, cooperative planning, and visitor and resources management programs, but would not provide for development of structured recreational use. A no action alternative was also considered, which would preclude any additional National Park Service involvement in the area.

A limited number of copies are available upon request to:

Superintendent, Santa Monica Mountains National Recreation Area, 23018 Ventura Boulevard, Woodland Hills, California 91364 (Telephone: (213) 888-3772).

Public reading copies will be available for review at the following locations:

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240 (Telephone: (202) 343-6843).

Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102 (Telephone: (415) 556-4122).

Los Angeles Field Office, National Park Service, Room 2043, New Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012 (Telephone: (213) 688-2852).

Santa Monica Mountains National Recreation Area, 23018 Ventura Boulevard, Woodland Hills, California 91364 (Telephone: (213) 883-3772).

Comments on the Draft Environmental Impact Statement are invited from all interested parties and should be forwarded to the following official no later than February 28, 1981.

Ms. Nancy Fries, Project Manager, Santa Monica Mountains National Recreation Area, 2318 Ventura Boulevard, Woodland Hills, California 91364 (Telephone: (213) 888-8221).

Dated: October 15, 1980

John H. Davis,
Acting Regional Director.

[FR Doc. 80-36011 Filed 11-19-80; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

[Federal Lease No. C-078049]

Availability for Public Review of Major Modification of a Coal Mining and Reclamation Plan

AGENCY: Office of Surface Mine Reclamation and Enforcement, Department of the Interior.

ACTION: Availability for public review of proposed major modification to a coal mining and reclamation plan.

SUMMARY: Pursuant to § 211.5 of title 30 and § 1500.2 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining (OSM) has received an application from the GEX Colorado Incorporated to construct a permanent waste rock disposal pile. A brief description of the location follows:

Location of Lands to be Affected by Modification

Applicant: GEX Colorado Incorporated
Mine Name: Cameo #3 Underground Mine

State: Colorado
County: Mesa

Section, Township, Range: Southeast ¼ of Section 28, Range 98 West, Township 10 South

Office of Surface Mining, Identification No. CO-0020

The proposed modification to the mining plan involves disturbance of 23.8 acres associated with the proposed waste disposal pile. The existing permit area is 127 acres. The total acreage of the permit will not be increased by this modification. The proposed modification involves construction of a 1.5 million cubic yard coal processing waste & waste rock pile. The pile has a projected life of 24 months.

The mining and reclamation plan has been determined to be sufficiently complete to issue this notice to inform the public of the availability of the plan for review. The OSM will prepare a technical analysis (TA) to determine whether the proposed plan meets the requirements of the Surface Mine Control and Reclamation Act (SMCRA) and an environmental assessment (EA) which will evaluate the impacts of actions the Department of the Interior may take on the plan. During the analytical review it is possible that OSM will request additional information from the company. Any further information would be available for public review.

No action on the modified plan will be taken by the Department for a period of 30 days after publication on this Notice of Availability in the **Federal Register**.

Prior to making a final decision on this modification under the interim program, the OSM will issue a notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30 code of Federal Regulations.

The plan is available for public review at the office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, CO 80202. Comments on the proposed major modification may be addressed to the Regional Director, OSM at the above address.

FOR FURTHER INFORMATION CONTACT: Keith G. Kirk or John Hardaway at the above address.

Donald A. Crane,
Regional Director.

[FR Doc. 80-36012 11-19-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date of 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 ICC Regional 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

Notice No. F-73

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 152028 (Sub-II-1TA), filed November 6, 1980. Applicant: LEROY ALLEN TUCKING CO., Rt. 1, Box 288, Hopewell, VA 23860. Representative: Leroy Allen (same as applicant). Contract, irregular: *Barrels and tote bins of harmless surfactant chemicals*, from Norfolk, VA to Hopewell, VA; from Hopewell, VA to various locations in VA, NC, SC, GA, TN, MD and PA; from Hopewell, VA to Fairfield, NJ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Goldschmidt Chemical Corp., 920 Randolph Rd., Hopewell, VA 23860.

MC 151585 (Sub-II-2TA), filed November 6, 1980. Applicant: BEST TRUCKING CO., INC., 2913 Halstead Rd., Richmond, VA 23235. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Contract, irregular: (1) *Aluminum articles, cabinets, containers, foil, paper and paper articles, plastic articles, ribbons, baws, rasettes, tape and (2) materials, supplies and equipment used in the manufacture, distribution and sales of commodities in (1) above*, between points in DE, MD, NC, NJ, PA, SC, TN, VA, WV and DC for 270 days. Supporting shipper: United Paper Company, P.O. Box 26846, Richmond, VA 23261.

MC 115413 (Sub-II-9TA), filed November 6, 1980. Applicant: BLESSFIELD TRUCK LINES, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *New furniture, furniture parts, and materials, equipment and supplies used in the manufacture of new furniture (except commodities in bulk)*, between Swanton, OH, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA for 270 days. Supporting shipper: The Pilliod Cabinet Co., Woodlawn Avenue, Swanton, OH 43358.

MC 14252 (Sub-II-8TA), filed November 6, 1980. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same as applicant). Common, regular: *General commodities (except household goods as defined by the Commission, and*

classes A & B explosives), serving all points in Woodford County, KY as off route points in connection with carriers presently authorized regular route operations, for 270 days. Applicant intends to tack and interline. An underlying ETA seeks 120 days authority. Supporting shipper: Rand McNally Co. 8255 Central Park Ave., Skokie, IL 60076.

MC 147932 (Sub-II-2TA), filed November 6, 1980. Applicant: COWEN TRUCK LINE, INC., Rt. No. 2, Perrysville, OH 44864. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of passenger buses, except finished buses*, between Ashland & Delaware Counties, OH, on the one hand, and, on the other, pts. in the US, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Grumman Flexible, 970 Pittsburgh Dr., Delaware, OH 43015.

MC 152313 (Sub-II-1TA), filed November 5, 1980. Applicant: DON'S TRUCKING, INC., 1801 Coxendale Rd., Chester, VA 23831. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, D.C. 20036. Contract, Irregular: *Ocean containers with prior movement by water of automotive parts for assembly of vehicles* from Richmond, VA to New Stanton, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Volkswagen of America, INC., 27621 Parkview Blvd., Warren, MI 48092.

MC 147681 (Sub-II-14TA), filed October 31, 1980. Applicant: HOYA EXPRESS, INC., Rt. 18, West Middlesex, PA 16159. Representative: Michael P. Pitterich, P.O. Box 543, West Middlesex, PA 16159. *Plastic articles and/or cereal, NOI, and materials and supplies used in the production of the above named commodities*, between MA, CT, RI, NY, NJ, PA, OH, TN, MI, IN, MD, VA, KY, WV, DE and IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Van Brode Milling Co., Inc., 20 Cameron St., Clinton, MA 01510.

MC 144188 (Sub-II-8TA), filed November 5, 1980. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. (1) *Pet foods; and (2) materials, equipment and supplies used in the production, storage and distribution of the commodities described in (1) above*, between points in Columbia and Luzerne Counties, PA, on the one hand, and, on the other, points in the US for 270 days. Supporting shipper: Champion

Valley Farms, Inc., 6670 Low Street, Bloomsburg, PA 17815.

Doc. 140889 (Sub-II-4TA), filed November 5, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Biedler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114. Type of service: Contract, irregular; (1) *cleaning compounds, chemicals, solvents, cleaners and degreasers, except in bulk, and (2) supplies, equipment, and materials used in the manufacture of the above*; (1) between points in Cuyahoga County, OH, Los Angeles County, CA, and Middlesex County, NJ, on the one hand, and points in OH, CA, OR, WA, FL, GA, IL, and NJ, on the other hand; and (2) from Cook County, IL, Hartford County, CT, and Philadelphia County, PA, to the facilities of State Chemical Manufacturing Co., Inc. Location in Chuyahoga County, OH; under a continuing contract(s) with State Chemical Manufacturing Co., Inc. for 270 days. An underlying ETA seeks 90 days authority. Supporting Shipper: State Chemical Manufacturing Co., Inc., 3100 Hamilton Ave., Cleveland, OH 44114.

MC 127579 (Sub-II-8TA), filed November 5, 1980. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as applicant). *Printed Matter and materials and supplies used in the manufacture or distribution of printed matter (except commodities in bulk)* between the facilities of R. R. Donnelley and Sons Co., Crawfordsville, IN, on the one hand, and, on the other, points in the states of CT, MA, RI, NY, PA, NJ, DE, MD, VA, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): R. R. Donnelley & Sons Co., 1009 Sloan Street, Crawfordsville, IN 47933.

MC 145930 (Sub-II-3TA), filed November 5, 1980. Applicant: WILLIAM E. MOROG, d.b.a. JONICK & CO., 2815 E. Liberty Ave., Vermilion, OH 44089. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. (1) *Metal abrasives* from Cleveland, OH to points in CA, CO, CT, FL, GA, IL, IN, KY, MA, MI, MO, MN, NC, NJ, NV, NY, OK, PA, SC, TN, TX, WA, and WI; and (2) *return of materials, equipment and supplies used in the manufacture and distribution of metal abrasives*, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Metal Blast, Inc., 871 E. 67th St., Cleveland, OH 44103.

MC 143394 (Sub-II-17TA), filed November 3, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle

Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same as applicant). Contract: Irregular: *General Commodities (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*. Between Chicago, IL and points in the U.S. under continuing contract(s) with International Nu-Way Shippers, Inc., Chicago, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: International Nu-Way Shippers, Inc., 3333 South Iron Street, Chicago, IL 60608.

MC 124821 (Sub-II-25TA), filed November 3, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *General commodities (except household goods as defined by the Commission and classes A and B explosives)*, between Chicago, IL, on the one hand, and, on the other, Hazleton and North East, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Continental White Cap Company, Division of Continental Group, Inc., 1819 Major Ave., Chicago, IL 60639.

MC 107006 (Sub-II-3TA), filed November 3, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Paper, and paper products, and materials, equipment and supplies, used in the manufacture of paper and paper products, except commodities in bulk*, between Urbana and Dayton, OH, on the one hand, and, on the other, points in the U.S. except AK and HI. Supporting shipper: Howard Paper Mills, Inc., W. Church St., Urbana, OH 43078.

MC 142168 (Sub-II-1TA), filed November 7, 1980. Applicant: CARL'S BUTTON AND STITCH, INC., Route 613, Box 424, Payne, OH 45880. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between the facilities of Stanadyne, Inc., at or near Chicago, IL; Garrett, IN; and Elyria, OH, on the one hand, and, on the other, Los Angeles and San Francisco, CA; Las Vegas, NV; Portland, OR (and points in their respective commercial zones), for 270 days. An underlying ETA seeks up to 120 days authority.

Supporting shipper: Stanadyne, Inc., 301 N. Taylor Rd., Garrett, IN 48738.

MC 141878 (Sub-II-4TA), filed November 7, 1980. Applicant: DIRECT COURIER, INC., 800 N. Taylor St., Arlington, VA 22003. Representative: Gerald K. Gimmell, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Chemicals, pharmaceuticals, and materials, supplies and equipment used in the manufacture, distribution, and sale of chemicals and pharmaceuticals* between the facilities of Merck & Co., Inc., at or near Rahway, NJ, and Riverside, PA for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065.

MC 107012 (Sub-II-105TA), filed November 6, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *Hospital supplies*, from the facilities of Plasta-Medic, Division of Hadley Industries, Inc. at Carson, CA to points in CO, IL, IA, KS, MO and NE for 270 days. Supporting shipper: Plasta-Medic, Division of Hadley Industries, Inc., 1165 E. 230th St., Carson, CA 90745.

Note.—Common control may be involved.

MC 87103 (Sub-II-1TA), filed November 6, 1980. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. (1) *Air conditioning equipment, furnaces and parts thereof, and (2) equipment, materials and supplies used or useful in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk)* between Warren, Davidson and Rutherford Counties, TN on the one hand, and, on the other, points in and north of DE, MD and PA for 270 days. Supporting shipper: Carrier Air Conditioning Group, Divisions of Carrier Corp., P.O. Box 4808, Carrier Parkway, Syracuse, NY 13221.

MC 146015 (Sub-II-13TA), filed November 7, 1980. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. Contract; irregular: *Pet Food products*, from the facilities of Perk Foods Co., at Lower Allen Township, Cumberland County, PA, to points in NY for 270 days under continuing contract(s) with Perk Foods Co., Div. of C.H.B. Foods, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Perk Foods Co., Div. of C.H.B. Foods, Inc., 2410 Old Gettysburg Rd., Camp Hill, PA 17011.

MC 150339 (Sub-2-17TA), filed November 7, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). Contract; irregular: *General commodities, except household goods as defined by the Commission and Classes A & B explosives*, between Henderson, NC, on the one hand, and, on the other, points in the US (except AK and HI), under continuing contract(s) with Rose's Stores, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Rose's Stores, Inc., P.O. Drawer 947, Henderson, NC 27536.

MC 152580 (Sub-II-1TA), filed November 7, 1980. Applicant: H. R. PHILLIPS, INC., Cedar Beach Rd., P.O.B. 279, Milford, DE 19961. Representative: Chester A. Zyblutt, 366 Executive Bldg., 1030 15th St., NW., Washington, DC 20005. *Fiber and materials and supplies used in the processing and distribution of fibers (except commodities in bulk)*, between Milford, DE and Clover and S. Boston, VA, on the one hand, and, on the other, points in the MS, AL, GA, SC, NC, TN, LA, DE, MD, NJ, NY and PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Steiner & Co., Inc., P.O. Box 354, Milford, DE 19963.

MC 107012 (Sub-II-104TA), filed November 6, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). (1) *carpet*, from Libertyville, IL to points in AL, GA, MI, and NC and (2) *synthetic fibers*, from points in GA and SC to Libertyville, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ozite, 1755 Butterfield Rd., Libertyville, IL 60048.

Note.—Common control may be involved.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 146891 (Sub-3-1TA), filed November 4, 1980. Applicant: A & G CARTAGE, INC., 4807 Millbrooke Road, Albany, GA 31701. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Contract; irregular; *Agricultural chemicals, products and supplies used in the manufacture, sale and distribution thereof*, between points in the US. Supporting shipper: Helena Chemical Company, Suite 3200, 5100 Poplar Avenue, Memphis, TN 38137.

MC 118610 (Sub-3-1TA), filed November 3, 1980. Applicant: GEORGE PARR TRUCKING SERVICE, INC., P.O. Box 1308, Owensboro, KY 42301. Representative: George M. Catlett, Suite 708, McClure Building, Frankfort, NY 40601. *Commodities which because of size or weight require the use of special equipment*, between points in the state of WA on the one hand, and, on the other, points in the US (except AK & HI). Supporting shipper: State of WA, governor's Office, Legislative Building, Olympia, WA 98504 and Harry Claterbos Co., Rt. 1, Box 984, Astoria, OR 97103.

MC 152288 (Sub-3-1TA), filed November 3, 1980. Applicant: NEAL TRANSPORT, INC., 4481 Pineview Drive, P.O. Box 21, Powder Springs, GA 30073. Representative: Philip L. Martin, Attorney At Law, 2220 Parklake Drive, N.E., Suite 427, Atlanta, GA 30345. Contract Carrier: Irregular routes: *Insulated copper wire and raw copper wire in boxes and reels, copper rods, wire processing machinery and empty reels* between GA, AL, AR, AZ, CA, CO, CT, DE, DC, FL, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NM, NV, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VA, WA, WV, WI. Supporting shipper: Larcon Wire Corp. (Laribee Wire Insulated Products), 2148 American Industrial Way, Chamblee, GA 30341.

MC 148822 (Sub-3-6TA), filed November 3, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Ave., Fairfield, AL 35064. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Contract, irregular; Primary metal products, fabricated metal products, machinery, plastic pipe and fittings and materials, equipment and supplies used in the manufacture and distribution thereof* between points in the U.S. Supporting shipper: Consolidated Pipe & Supply Co., Inc., 1800 3rd Street West, Birmingham, AL 35201.

MC 111485 (Sub-3-4TA), filed November 3, 1980. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*, between points in Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall, and McCracken Counties, KY, on the one hand, and, on the other, points in the U.S. (except AL and HI) restricted to traffic originating at or

destined to points in the above named KY counties. Supporting shippers: There are eight statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 121598 (Sub-3-3TA), filed November 3, 1980. Applicant: SHELBYVILLE EXPRESS, INC., Old Railroad Ave., Shelbyville, TN 37160. Representative: James G. Caldwell (same address as applicant). *Common carrier, regular General commodities (with usual exceptions)* between Greenville, MS and Waskom, TX (a) over U.S. Hwy 82 to its junction with U.S. Hwy 165, thence over U.S. Hwy 165 to its junction with Interstate Hwy 20, thence over Interstate Hwy 20 to Waskom, TX and return, serving all intermediate points, (b) over U.S. Hwy 61 to its junction with Interstate Hwy 20, thence over Interstate Hwy 20 to Waskom, TX and return, serving all intermediate points and serving Sterlington, LA as an off-route point in connection with routes (a) and (b) above. There are 7 statements in support of this application, which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant intends to tack with existing authority and to interline at Greenville, MS, Monroe, LA, and Shreveport, LA.

MC 105457 (Sub-3-3TA), filed November 4, 1980. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Road, Charlotte, NC 28206. Representative: John V. Luckadoo (same as above). *Common carrier: regular: General Commodities, except household goods as defined by the Commission*, (1) Between Tupelo, MS and Jackson, MS, over US Hwy Alt. 45 to Junction US Hwy 82, then over US Hwy 82 to Junction MS Hwy 12, then over MS Hwy 12 to Junction US Hwy 51, then over US Hwy 51 to Jackson, and return over the same route, serving no intermediate points (2) Between Memphis, TN and Jackson, MS over Interstate Hwy 55, serving no intermediate points (3) Between Birmingham, AL and Jackson, MS, over Interstate Hwy 20, serving no intermediate points (4) Serving points in Copiah, Hinds, Lincoln, Madison, Rankin, Warren and Yazoo Counties, MS in connection with routes (1) through (3) above. Applicant intends to tack with existing authority and interchange with connecting carriers at Jackson, MS; Tupelo, MS; Memphis, TN; and Birmingham, AL. Supporting shippers: There are 96 supporting shippers whose statements can be viewed at the Regional Authority Center, Atlanta, GA.

MC 142835 (Sub-3-7TA), filed November 4, 1980. Applicant: CARSON

MOTOR LINES, INC., P.O. Box 337, Auburndale, FL 33823. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Drugs, medicine and toilet articles*, from Lynchburg, VA to points in the U.S. (except AK and HI). Supporting shipper: C. B. Fleet Co., Inc., P.O. Box 11349, Lynchburg, VA 24506.

MC 151839 (Sub-3-1TA), filed November 4, 1980. Applicant: P.B.M. COACHES, INC. 1010 6th Ave. South, Lake Worth, Florida 33460. Representative: G. R. Burress (same address as applicant). *Passengers and baggage in charter operations*, between Palm Beach County, FL, and points of interest in AL, GA, KY, LA, MS, NC, NY, SC, TN, VA, WV. Supporting shippers: Tippet Travel, 1772 South Congress Ave., West Palm Beach, FL 33406. Allure Travel, 14466 South Military Trail, Delray Beach, FL 33444. International Travel, 300 10th Street, Suite 2, Lake Park, FL 33402.

MC 149575 (Sub-3-1TA), filed November 4, 1980. Applicant: ADAMS CARTAGE COMPANY, INC., 4440 Mead Rd., P.O. Box 3043, Macon, GA 31205. Representative: Archie B. Culbreth, John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Roofing and roofing products*, and (2) *Materials, equipment and supplies used in the manufacture, distribution and installation of roofing and roofing products*, from the facilities of TAMKO Asphalt Products, Inc., at or near Tuscaloosa, AL to points in FL and GA. Supporting shipper: TAMKO Asphalt Products, Inc., 220 West Fourth St., Joplin, MO 64801.

MC 151592 (Sub-3-4TA), filed November 3, 1980. Applicant: D & L TRUCKING SERVICES, INC., 2080 South 9th Street, Louisville, KY 40208. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Contract carrier, irregular routes: (1) Chorrool briquettes, hickory chips, and fireplace logs*, from Burnside and Louisville, KY to Cleveland, Toledo, and Columbus, OH and to points in IL, IN, and WI, and (2) *coal*, from Reading, Treverton, and Gilberton, PA and Spadra and Centerville, AR to Belle, MO, Burnside, KY, and Parsons, WV, under contract with The Kingsford Company, of Louisville, KY. Supporting shipper: Kingsford Company, 1700 Commonwealth Building, Louisville, KY 40201.

MC 109638 (Sub-3-2TA), filed November 3, 1980. Applicant: EVERETT TRUCK LINE, INC., P.O. Box 1927, Washington, NC 27889. Representative: Cecil W. Bradley (same address as applicant). *Fabricated Metal Products—except Ordnance—and materials used*

in their manufacture or distribution between points in the contiguous 48 states—restricted to traffic originating at or destined to the facilities of Hamilton Beach Division of Scovill. Supporting shipper: Hamilton Beach Division, Scovill, P.O. Box 1158, Washington, NC 27889.

MC 135760 (Sub-3-1TA), filed November 4, 1980. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Ave., NW., Washington, DC 20006. *Foodstuffs* from the facilities of Globe Products Company, Inc. at or near Clifton, NJ to points in FL, GA, IL, IN, MI, NC, OH, and SC, under continuing contracts with Globe Products Company, Inc. Supporting shipper: Globe Products Company, Inc., P.O. Box 1927, Clifton, NJ 07015.

MC 109708 (Sub-3-13TA), filed November 4, 1980. Applicant: INDIAN RIVER TRANSPORT CO., P.O. Box AG, Dundee, FL 33838. Representative: John J. Harned (same address as above). *Grape Concentrate in Bulk in Tank Vehicles*, from Madero, CA, to MA, MD, OH, PA, NY. Supporting shipper: Food Brokers International, 5442 Jillson St., Los Angeles, California 90040.

MC 144399 (Sub-3-1TA), filed November 4, 1980. Applicant: CRAWFORD TRUCKING, INC., P.O. Box 532, Montrose, AL 36559. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. *Contract carrier: irregular routes: paper and paper products*, between points in Mobile County, AL, on the one hand, and, on the other, points in Muscogee, Chattahoochee, Marion, Schley, Dooly, Crisp, Turner, Tift, Colquitt, Brooks, Thomas, Grady, Decatur, Seminole, Miller, Early, Baker, Mitchell, Worth, Lee, Dougherty, Calhoun, Clay, Randolph, Terrell, Quitman, Stewart, Webster, and Sumter Counties, GA, under a continuing contract or contracts with Scott Paper Company, Philadelphia, PA. Supporting shipper: Scott Paper Company, Scott Plaza #1, Philadelphia, PA 19113.

MC 139822 (Sub-3-3TA), filed November 4, 1980. Applicant: FOOD CARRIER, INC., P.O. Box 2287, Savannah, GA 31402. Representative: Edward G. Villalón, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St., NW., Washington, D.C. 20004. (1) *Bakery Products, other than frozen*, from the facilities of Interbake Foods, Inc., at or near Richmond, VA, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN and TX; and (2) *equipment, materials and supplies used in the*

manufacture, sale and distribution of the commodities named in (1) above, on return. Supporting shipper: Interbake Foods, Inc., 900 Terminal Place, P.O. Box 27487, Richmond, VA 23261.

MC 146782 (Sub-3-6TA), filed November 4, 1980. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, Tennessee 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Building, Nashville, Tennessee 37201. *Iron and Steel Castings; Fittings and Pipe*, between the facilities of Central Foundry in Tuscaloosa County, AL on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Restricted to traffic originating at or destined to the above named facilities. Supporting shipper: Central Foundry, P.O. Box 108, Holt, Alabama 35401.

MC 121664 (Sub-3-27TA), filed November 4, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: William E. Grant, 1702 1st Avenue South, Birmingham, AL 35233. *Forest products, lumber or wood products, pulp, paper or allied products and materials, equipment and supplies used in the manufacture thereof* between the facilities of Scott Paper Company at or near Mobile and Mount Vernon, AL on the one hand, and, on the other, points in the states of TX, OK, MO, AR, LA, MS, TN, AL, GA, FL, SC, and NC. Supporting shipper: Scott Paper Company, Scott Plaza II, Philadelphia, PA 19113.

MC 152544 (Sub-3-1TA), filed November 5, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except household goods as defined by the Commission and classes A & B explosives) as described in Item 51 of the Standard Transportation Commodity Code Tariff, restricted to traffic originating or terminating at the facilities of Florida Wire & Cable Company*, between Jacksonville and Sanderson, FL, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Florida Wire & Cable Company, P.O. Box 6835, Jacksonville, FL 32205.

MC 118561 (Sub-3-1TA), filed November 5, 1980. Applicant: HERBERT B. FULLER, d.b.a. FULLER TRANSFER COMPANY, 212 East Street, Maryville, TN 37801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Malt beverages, containers and*

materials, and supplies used in the manufacture and distribution of malt beverages and containers between points in AL, GA, FL, NC, SC, TN, KY and VA. Supporting shipper: Beer Distributing Co., Inc.; 921 Cherokee; Nashville, TN 37207.

MC 135895 (Sub-3-17TA), filed November 5, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. (1) *Foodstuffs (except commodities in bulk) and (2) equipment, materials and supplies used in the manufacture, sale and distribution of foodstuffs (except commodities in bulk and those requiring special equipment)*. Between the facilities of Vlastic Foods, Inc., at Greenville, MS on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO and NM. Supporting shipper: Vlastic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48033.

MC 151551 (Sub-3-3TA), filed November 5, 1980. Applicant: GARDNER TRUCKING COMPANY, INC., 820 Avenue E, Pratt City, AL 35214. Representative: Alvin D. Gardner (address same). *Building materials*, between points in the U.S. in and east of MN, NE, KS, OK and TX. Restricted to shipments moving for the account of Builders Marts of America, Inc. Supporting shipper: Builders Marts of America, P.O. Box 47, Greenville, SC 29602.

MC 116254 (Sub-3-23TA), filed November 5, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Black liquor, in Tank Vehicles*, from Pine Bluff, AR to Courtland, AL. Supporting shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, OH 45020.

MC 136384 (Sub-3-5TA), filed November 5, 1980. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, GA 31402. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. (1) *Paper and paper products (2) Supplies, materials, and equipment used in the manufacture or distribution of paper and paper products*. (1) From the plantsites of Union Camp Corp. at or near Savannah and Tifton, GA to points in IN and IL. (2) From points in IN and IL to plantsites of Union Camp Corp. at or near Savannah and Tifton, GA. Supporting shipper: Union Camp Corp., P.O. Box 570, Savannah, GA 31402.

MC 148183 (Sub-3-11TA), filed November 3, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Mr. Jerry Gereghy (same address as applicant). (1.) *Motors, electric and (2.) Materials equipment and supplies used in the manufacture, sale and distribution of the commodities named in (1.) above (except in Bulk)*, between Hall County, GA and AL, NC, SC, FL, TX, TN, LA, IL, WI, MS, OH, IN, and MI. Supporting shipper: Leece-Neville Division Sheller Globe Corporation, 989 Athens Street, SE, Gainesville, GA 30501.

MC 152545 (Sub-3-1TA), filed November 5, 1980. Applicant: DAVID E. PROPST, d.b.a. PROPST DISTRIBUTING CO., Route 2, Box 795, Lincolnton, NC 28092. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. *Furniture (STCC 25)*, from pts. in Iredell and Catawba Counties NC, to pts. in OK, AR, and TX, under contract with Southern Furniture Co., of Conover, Inc. Supporting shipper: Southern Furniture Co., of Conover, Inc., P.O. Box 307, Conover, NC 28613.

MC 152541 (Sub-3-1TA), filed November 4, 1980. Applicant: MTC, 200 West Commerce St., Hartford, AL 36344. Representative: James N. Miller (same as above). *Contract carrier: irregular routes, Fertilizer and fertilizer materials, applicant does not seek authority to transport commodities in tank vehicles*, from Americus, GA to Hartford, AL and from Hartford, AL to counties in FL west of the Apalachicola River, for the account of International Minerals and Chemicals Corporation. Supporting shipper: International Minerals & Chemicals Corporation, 421 E. Hawley Street, Mundelein, IL 60060.

MC 141326 (Sub-3-8TA), filed November 4, 1980. Applicant: SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36027. Representative: Donald B. Sweeney, Jr., Esq., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Textile products*; (2) *rubber or miscellaneous plastic products*; (3) *leather or leather products*; and (4) *forming fabric*; and (5) *materials, equipment and supplies used in the manufacture of those commodities listed in parts (1), (2), (3), and (4) above*; between Montgomery County, AL, on the one hand, and, on the other, all points in the United States (except AK and HI). Supporting shipper: Appleton Wire Division of A. I., Montgomery, AL.

MC 119777 (Sub-3-23TA), filed November 4, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, KY 42431.

Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. *Scrap batteries, pig lead, alloys, and metal articles*, between the facilities of Price Metal Company at Kansas City, MO and points in PA, MI, IL, CO, TX, NE, OK, GA, IA, MA, OH, NY, NJ, AR, IN and KY. Supporting shipper: Price Metal Company, Guinotte and Flora Avenue, Kansas City, MO 64120.

MC 119777 (Sub-3-24TA), filed November 4, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. *Oilfield tubular goods*, from Lafayette, LA to points in TX and OK. Supporting shipper: Roger's Sales, Inc., 402 Martin Oaks Drive, Lafayette, LA 70501.

MC 152543 (Sub-3-1TA), filed November 4, 1980. Applicant: J & S TRANSPORTATION, INC., 1015 North Street, Conyers, GA 30207. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30207. *Liquid Chemicals, in bulk, in tank vehicles*, between points in Fulton, DeKalb, Cobb, Clayton, Gwinnett and Rockdale Counties, GA, on the one hand, and, on the other, points in AL, AR, DE, FL, IL, KY, LA, MS, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA and WV. Supporting witnesses: AZS Corporation, 762 Marietta Blvd., Atlanta Ga 30318, and Industrial Adhesives, Inc., 359 DeKalb Industrial Way, Decatur, GA 30030.

MC 150101 (Sub-3-6TA), filed November 5, 1980. Applicant: BLAZER EXPRESS, INC., Route 2, Pelham Road; Greenville, SC 29607. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Contract: Irregular: (1) *Adhesive; liquid cements; washing compounds; and liquid latex (except in bulk)*; and, (2) *materials, and supplies used in the manufacture and distribution of the above named commodities*, (1) from Simpsonville, SC and Philadelphia, PA to all pts. in the U.S.; and, (2) from all pts. in the U.S. to Simpsonville, SC and Philadelphia, PA. Supporting shipper: Para-Chem Southern, Inc., P.O. Box 127, Simpsonville, SC 29681.

MC 150395 (Sub-3-1TA), filed November 5, 1980. Applicant: JACKIE B. LOVETT TRUCKING CO., INC., Route 2, Waynesboro, GA 30830. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Basic Slag (Fertilizer)*, From the facilities of United States Steel Corp. in and near Birmingham, AL to all points in GA. Supporting shipper: Gold Kist, Inc., 244 Perimeter Center Parkway, NE., Atlanta, GA 30346.

MC 141326 (Sub-3-9TA), filed November 4, 1980. Applicant: SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36027. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Chemicals or allied products (except in bulk and in tank vehicles)*; and (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) between Memphis, TN, on the one hand, and, on the other, all points in and east of a line extending from ND, SD, KS, CO, and NM*. Supporting shipper: Drexel Chemical Co., 2487 Pennsylvania Avenue, Memphis, TN.

MC 141326 (Sub-3-7TA), filed November 4, 1980. Applicant: SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36027. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Fabricated metal products*; (2) *machinery and supplies*; (3) *transportation equipment*; (4) *trailer axles, parts and springs*; (5) *materials, equipment and supplies used in the manufacture and distribution of those commodities listed in parts (1), (2), (3) and (4) above from Montgomery County, AL to all points in the United States (except AK and HI)*. Supporting shipper: Dana Corporation—C & M Axles, 2250 Selma Highway, Montgomery, AL 35108.

MC 121811 (Sub-3-2TA), filed November 5, 1980. Applicant: McCLELLAN'S ENTERPRISES, INC., Highway 41 South, Tifton, GA 31794. Representative: Arthur L. McClellan (same as above). *Particleboard*, between Cook Cy, GA, on the one hand, and, on the other, points in AL, FL, NC, SC, and TN. Supporting shipper: Weyerhaeuser Co., P.O. Box 547, Adel, GA 31620.

MC 116254 (Sub-3-22TA), filed November 5, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Forest and Lumber Products*, from points in AL, GA, FL, MS, and AR, to points in AL, TN, KY, IL, IN, OH, MI, WI, PA, TX, MO, FL, AR, KS, OK, LA, and MS. Supporting shipper: Sherman Wholesale Lumber Company, P.O. Box 267, Killen, AL 35645.

MC 143059 (Sub-3-25TA), filed November 5, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35601, Louisville, KY 40232. Representative: Janice K. Taylor (same as applicant). *Iron and steel articles*, between Trumbull County, OH and points in the U.S. (except AK and HI). Supporting shipper: Shenango Steel

Company, Inc., P.O. Box 256, Wheatland, PA 16161.

MC 142181 (Sub-3-4TA), filed November 4, 1980. Applicant: LIBERTY CONTRACT CARRIER, INC., 214 Hermitage Avenue, Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract Carrier*: Irregular routes: (1) *Such merchandise as is dealt in by catalogue showroom stores* and (2) *materials, equipment, fixtures and supplies used in the business of a catalogue showroom company* between points in the U.S. and in and west of MT, WY, CO, and NM, except AK and HI on the one hand, and, on the other, points in the U.S., under a continuing contract or contracts with Service Merchandise Company, Inc. of Nashville, TN. Supporting shipper: Service Merchandise Company, Inc., 2968 Foster Creighton Drive, Nashville, TN 37204.

MC 138157 (Sub-3-36TA), filed November 4, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *Computers, computer parts and accessories, and materials, equipment, and supplies used in the manufacture, production, and distribution of computers and computer parts and accessories* between Sunnyvale, Cupertino, San Jose, Thousand Oaks, Costa Mesa, and Irvine, CA and the Los Angeles, CA commercial zone; Carrollton and Richardson, TX; Charlotte, NC; Sudbury and Boston, MA; Minneapolis, MN; and Chicago, IL. Restricted against the transportation of commodities in bulk and further restricted to traffic originating at or destined to the facilities of Apple Computer, Inc. Supporting shipper: Apple Computer, Inc., 10455 Bandley Drive, Cupertino, CA 95014.

MC 144225 (Sub-3-2TA), filed November 4, 1980. Applicant: JADEEL TRUCKING, INC., 8333 W. McNab Road, Tamarac, FL 33321. Representative: Raymond P. Keigher, Esquire, 401 E. Jefferson St., Suite 102, Rockville, MD 20850. *Contract*: Irregular: *lumber, lumber products, wood lathe, fence posting, landscape ties, and fire logs*, between points in the U.S. in and east of WI, IL, KY, TN and AL, under continuing contract(s) with Sam Cyr Enterprises, Ltd., for 270 days. Supporting shipper: Sam Cyr Enterprises, Ltd., P.O. Box 480, St. Basile, New Brunswick, Canada E0L 1H0.

MC 152542 (Sub-3-1TA), filed November 4, 1980. Applicant: DAVID W. TAYLOR, 8265 Shallowford Road, Lewisville, NC 27023. Representative: David W. Taylor (same as above). *Contract Carrier*: Irregular route: *New furniture*, from NC, to: VA, DC, MD, PA, OH, GA, SC, TN, KY, WA, CT, NJ, IN, IL, DE, & FL. Supporting B Home Furnishing, 1930 Healy Drive, Winston-Salem, NC 27103.

MC 135812 (Sub-3-2TA), filed November 5, 1980. Applicant: PROFESSIONAL DRIVE SERVICES, INC., 1631 Lebanon Road; Nashville, TN 37210. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Used trucks, in driveway service*, from Louisville, KY and Nashville, TN to Ontario, CA and its Commercial Zone. Supporting shipper: Mack Trucks, Inc., P.O. Box 4160, Richmond, VA 23224.

MC 148442 (Sub-3-2TA), filed November 7, 1980. Applicant: SOUTHEASTERN FOOD DISTRIBUTORS, INC., d.b.a. SOUTHEASTERN TRANSPORT COMPANY, 607 10th Avenue North, Nashville, TN 37202. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Foodstuffs, (except commodities in bulk)* from the facilities utilized by Adams Packing Association, Inc. at or near Memphis, TN to points in the U.S. (except AK and HI). Supporting shipper: Adams Packing Association, Inc., P.O. Box 37, Auburndale, Florida 33823.

MC 143059 (Sub-3-24TA), filed November 4, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Kentucky 40232. Representative: Janice K. Taylor (same address as applicant). *Building materials (except in bulk, in tank vehicles)*, between Elbert County, GA, and ND, SD, MT, WY, CO, ID, UT, WA, OR and NV. Supporting shipper: Martins Fireproofing Co., P.O. Box 768, Elberton, GA 30635.

MC 152486 (Sub-3-1TA), filed November 3, 1980. Applicant: EUGENE DIXON d.b.a. EUGENE DIXON TRUCKING, Rt. 1, Crandall, GA 30711. Representative: Eugene Dixon (same address as applicant). *Contract carrier*, irregular routes: *Limestone rock*, from Chattanooga, TN to Dalton and Chatsworth, GA. Supporting shippers: Georgia Talc Company, P.O. Box 370, Chatsworth, GA 30705; Latex Filler & Chem. Co., Inc., P.O. Box 1546, Dalton, GA 30720; and H&S Industries, Inc., P.O. Box 601, Dalton, GA 30720.

MC 107515 (Sub-3-83TA), filed November 3, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA

30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Imported wine, spirits and beverages (except in bulk) having a prior movement by water, in vehicles equipped with mechanical refrigeration* from ports of entry to the US on the Gulf of Mexico to CO, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, WI, IL, IN, MI, KY, TN, AL and GA. Supporting shipper: Lykes Bros. Steamship Co., Inc., Lykes Center, 300 Poydras St., New Orleans, LA 70130.

MC 121654 (Sub-3-25TA), filed November 5, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Bruce E. Mitchell, Alan E. Serby, 3390 Peachtree Rd., NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Steel trusses*, from facilities of East Coast Steel, Eastover, SC to points in RI, CT, MA, NY, NJ, PA, MD, DE, NC, FL, GA, AL, MS and LA. Supporting shipper: East Coast Steel, P.O. Box 276, Eastover, SC 29044.

MC 108676 (Sub-3-5TA), filed November 4, 1980. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Representative: Michael S. Teets (same address as applicant). *Glass, glass products, and commodities used in the manufacture and distribution thereof*, between San Joaquin County, CA, on the one hand, and, on the other, points in the US in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). Supporting shipper: Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695.

MC 149228 (Sub-3-8TA), filed November 4, 1980. Applicant: MARINE TRANSPORT COMPANY, P.O. Box 2142, Wilmington, NC 28202. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *General commodities (except those of unusual value, commodities in bulk, Classes A and B explosives, commodities requiring special equipment and household goods as defined by the Commission)*, between the facilities of Singer Company, Coil Div., located at or near Wilmington, NC, Red Bud, IL, and Albany, NY, on the one hand, and, on the other, points in the US, except AK and HI. Supporting shipper: Singer Co., Coil Div., 602 Sunnyvale Dr., Wilmington, NC.

MC 150403 (Sub-3-1TA), filed November 4, 1980. Applicant: CROWN EXPRESS, INC., P.O. Box 21396, Columbia, SC 29221. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Fiber, yarn, materials, equipment and supplies used in manufacture and*

distribution of fiber and yarn (except commodities in bulk) between the facilities of Allied Chemical Corporation at or near Irmo and Columbia, SC, on the one hand, and, on the other, AL, AR, CA, FL, GA, LA, MS, MD, NC, NJ, OK, PA, SC, TN, TX, VA and WV. Supporting shipper: Allied Chemical Corporation, P.O. Box 1788, Columbia, SC 29202.

MC 141652 (Sub-3-5TA), filed November 4, 1980. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 39208. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. *Power tools, power tool stands, electric motors, industrial vacuum cleaners and hardware (parts/accessories)* from Memphis, TN to Reno and Sparks, NV. Restricted to the transportation of traffic originating at the facilities of Rockwell International. Supporting shipper: Rockwell International Corp., 4290 Raines Road, Memphis, TN 38228.

MC 144083 (Sub-3-1TA), filed November 3, 1980. Applicant: RALPH WALKER, INC., P.O. Box 3222, Jackson, MS 39207. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Portable household appliances (1) from the facilities of National Presto Industries, Inc., Canton, Mississippi, to points in AZ, CA, ID, NM, NV, OR and WA. (2) from Alamogordo, NM to the facilities of National Presto Industries, Inc., at Canton, Mississippi.* Supporting shipper: National Presto Industries, Inc., 3925 North Hastings Way, Eau Claire, WI 54701.

MC 144011 (Sub-3-3TA), filed November 3, 1980. Applicant: HALL SYSTEMS, INC., 214 So. 10th St., Birmingham, AL 35233. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. *Common carrier: Regular General Commodities (with usual exceptions) moving in interstate or foreign commerce, between New Orleans and Baton Rouge, LA, from New Orleans over US Hwys Interstate 10 and US Hwy 61 to Baton Rouge, serving no intermediate points and serving all points in the commercial zone of Baton Rouge, LA.* Applicant intends to tack with authority held in MC-144011 at New Orleans, LA, and to interline at New Orleans and Baton Rouge, LA. There are eleven (11) supporting shipper statements in support to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 107515 (Sub-3-84TA), filed November 5, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby,

Esq., 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Such merchandise as is dealt in or used by food business houses (except commodities in bulk)* between points in the US, restricted to traffic originating at or destined to the facilities used by Jen's, Inc. Supporting shipper: Jen's, Inc., 525 Lake Avenue South, Duluth, MN 55802.

MC 151526 (Sub-3-2TA), filed November 4, 1980. Applicant: TRIAD TRANSPORTATION SERVICES, INC., P.O. Box 20714, Greensboro, NC 27420. Representative: Jerald A. Honeycutt (same as above). *Plastics and plastic articles, resins, and materials, equipment and supplies used in the manufacture, sale, distribution and installation of plastics and plastic articles, between points in Guilford, Davidson, Rockingham and Randolph Counties, NC, on the one hand, and, on the other, points in the US, except AK and HI.* Supporting shipper: There are five statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 146451 (Sub-3-25TA), filed November 5, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, N.E., Dothan, AL 36302. Representative: William K. Martin, P.O. Box 2069, Montgomery, AL 36197. *Power transmission machinery, and related parts, attachments, accessories and supplies (except those commodities which because of size or weight require the use of special equipment), from Chambersburg, PA, to Chicago, IL, Dallas, TX, Atlanta, GA, San Leandro, CA, and Trenton, TN, and from Trenton, TN, to Chicago, IL, Dallas, TX, Atlanta, GA, San Leandro, CA, and Chambersburg, PA.* Supporting shipper: T. B. Woods Sons Company, 440 North Fifth Avenue, Chambersburg, PA 17201.

MC 144827 (Sub-3-19), filed November 5, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *General commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which at the time are moving on Bills of Lading of freight forwarders from Cranston, RI; Milford, CT; Secaucus, NJ; Boston, MA; Philadelphia, PA; Baltimore, MD; and Cincinnati, OH to Laredo, TX; New Orleans, LA; and El Paso, TX.* Supporting shipper: Florida-Texas Freight, Inc., P.O. Box 1173, Secaucus, NJ 07094

MC 134105 (Sub-3-6TA), filed November 5, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossville Ave., Chattanooga, TN 37408. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Groceries, provisions and supplies sold and used in retail grocery stores (except commodities in bulk), between points in the United States in and east of ND, SD, NE, CO, OK and TX restricted to the transportation of traffic either originating at or destined to the facilities of the Kroger Company.* Supporting shipper: The Kroger Company, 1240 State Avenue, Cincinnati, OH 45204.

MC 138157 (Sub-3-35TA), filed November 4, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *Fans, heaters, and stands and materials, equipment, and supplies used in the manufacture, production, and distribution of fans, heaters, and stands between Ft. Worth, TX; Franklin, TN; and West Chester and Columbia, PA on the one hand, and, on the other, points in U.S. Restricted against the transportation of commodities in bulk and further restricted to traffic originating at or destined to the facilities of Lasko Metal Products.* Supporting shipper: Lasko Metal Products, 820 Lincoln Avenue, West Chester, PA 19380.

MC 147511 (Sub-3-2TA), filed November 5, 1980. Applicant: DELMAR RAY IPOCK, d.b.a. EAST CAROLINA CARTAGE CO., P.O. Box 1245, Kinston, NC 28501. Representative: Ralph McDonald, Attorney at Law, P.O. Box 2246, Raleigh, NC 27602. *Synthetic fiber waste from points in Berkeley County, SC to the facilities of E. I. Du Pont de Nemours and Company in Lenoir County, NC.* Supporting shipper(s): E. I. Du Pont de Nemours and Company, Wilmington, DE 19898.

MC 148423 (Sub-3-6TA), filed November 5, 1980. Applicant: AVANT TRUCKING CO., INC., P.O. Box 216, Gray, GA 31032. Representative: R. Napier Murphy, 700 Home Federal Building, Macon, GA 31201. *Road building materials and aggregates from points in GA to points in SC and from points in SC to points in GA.* Supporting shippers: J & B Slurry Seal Co., Route 4, Box 203B, Rockingham, NC 28379; Clarke Block Company, Tremont and Ogeechee Roads, Savannah, GA 31405; Stone & Sand, Inc., 5601 Ogeechee Road, Savannah GA 31405; and Pre-Cast

Concrete Products, 2820 Tremont Road, Savannah, GA 31405.

MC 124117 (Sub-3-4TA), filed November 5, 1980. Applicant: EARL FREEMAN and MARIE FREEMAN, d.b.a. MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tennessee 37219. *Molt beverages and brewery supplies*, between LaCrosse, WI (and its commercial zone) on the one hand, and on the other, points in AL, GA and TN. Supporting shipper: G. Heileman Brewing Company, Inc., 100 Harborview Plaza, LaCrosse, WI 54601.

MC 115311 (Sub-3-12TA), filed November 5, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. *Fibrous gloss products, insulating products and materials, equipment and supplies used in the manufacture, distribution and instolotion of some from the facilities of Johns-Manville Sales Corporation at Winder, GA to points in AL, FL, LA, MS, NC, SC, TN and VA.* Supporting shipper: Johns-Manville Sales Corporation, P.O. Box 105545, Atlanta, GA 30348.

MC 148773 (Sub-3-2TA), filed November 4, 1980. Applicant: A. F. L. TRUCK LINES, INC., 3361 W. Blue Heron Blvd., Riviera Beach, FL 33404. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. *Contract carrier: irregular: Fiberglass structural components, tanks and vessels from Miamitown, OH to points in Dade County, FL under a contract or continuing contracts with R. L. Industries, Inc.* Supporting shipper: R. L. Industries, Inc. 5885 State Route 128, Miamitown, OH 45041.

MC 125368 (Sub-3-13TA), filed November 3, 1980. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Nonexempt foods or kindred products for H. J. Heinz Company, between Allegheny County, PA, Sandusky County, OH and Ottawa County, MI on the one hand, and, on the other, points in FL, SC, and TX.* Supporting shipper: H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 152530 (Sub-3-1TA), filed November 4, 1980. Applicant: WINDER'S WRECKER SERVICE CO., 5315 Knight Arnold Road, Memphis, TN 38118. Representative: Robert L. White, Suite 1031, 100 North Main, Memphis, TN 38103. *Wrecked, disabled and*

replacement vehicles in truck owoy or tow owoy service, between Memphis, TN and its commercial zone on the one hand, and, on the other, points in AL, AR, IL, KY, LA, MO, and MS. Supporting shipper: There are 9 appendix of support which may be reviewed at the Atlanta, GA Regional Office.

MC 152532 (Sub-3-1TA), filed November 5, 1980. Applicant: G & W PAVING, INC., Highway 31 South, P.O. Box 237, Garden City, AL 35070. Representative: D. E. Wood (same address as applicant). *Contract, irregular: Dry fertilizer and fertilizer raw materiols*, between points in the states of AL and GA. Supporting shipper: Gold Kist, Inc., 244 Perimeter Center Parkway, Atlanta, GA 30346.

MC 121644 (Sub-3-3TA) filed November 4, 1980. Applicant: S & W FREIGHT LINES, INC., 1136 Haley Road, P.O. Box 667, Murfreesboro, TN 37130. Representative: Robert L. Baker, Sixth Floor, United American Bank Bldg., Nashville, TN 37219. *Common corrier: regular routes: General Commodities (except household goods as defined by the Commission and closses A and B explosives)* between Atlanta, GA, and Bristol, VA (1) From Atlanta over I-85 to junction with I-26, then over I-26 to junction with I-40, then over I-40 to junction with I-81, then over I-81 to Bristol and return over the same route, serving all intermediate points and serving all points in Hawkins, Sullivan, Cocke, Hamblen, Jefferson, Greene, Washington, Knox and Carter Counties, TN, Harrison County, VA, and Anderson, Greeneville and Spartanburg Counties, SC, Buncombe County, NC, and Dade, Walker, Catoosa, Fulton, Dekalb, Cobb, Clayton, Douglas, Henry, Rockdale, Fayette and Gwinnett Counties, GA, as off-route points and serving the commercial zones of all authorized service points. (2) From Atlanta, GA, over I-75 to junction with I-40, then over I-40 to junction with I-81 then over I-81 to Bristol and return over the same route serving the intermediate points Chattanooga and Knoxville, TN, and serving all other points in Cocke, Hamblen, Jefferson, Greene, Washington, Knox, and Carter Counties, TN, and Fulton, Dekalb, Cobb, Clayton, Douglas, Henry, Rockdale, Fayette and Gwinnett Counties, GA, as off-route points; and serving the commercial zones of all authorized service points. Applicant proposes to interline at Atlanta, GA, Greeneville and Spartanburg, SC, Asheville, NC, Bristol, Johnson City and Kingsport, TN and Bristol, VA, and proposes to tack with existing authority in MC-121644. Supporting Shippers: There are 37

statements of support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 61264 (Sub-3-4TA), filed November 5, 1980. Applicant: PILOT FREIGHT CARRIERS, INC., a North Carolina corporation, P.O. Box 615, Winston-Salem, NC 27102. Representative: Mrs. Pansy Beroth, Pilot Freight Carriers, Inc., P.O. Box 615, Winston-Salem, NC 27102. *Common carrier, regular routes, General Commodities (except those of unusual volume, Classes A and B explosives, household goods os defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious and contaminating to other lading)*, (1) Between Tallahassee, FL and Alachua, FL: From Tallahassee over US Highway 27 to junction US Highway 441, then over US Highway 441 to Alachua, and return over the same route; (2) between Tallahassee, FL and Jacksonville, FL: From Tallahassee over US Highway 90 (also over Interstate Highway 10) to Jacksonville, and return over the same route; (3) between Tallahassee, FL and Boston, MA: From Tallahassee over US Highway 27 to Chattanooga, TN, then over Interstate Highway 24 to junction Interstate Highway 65, then over Interstate Highway 65 to junction Interstate Highway 71, then over Interstate Highway 71 (also over US Highway 42) to junction Interstate Highway 90, then over Interstate Highway 90 to Boston, and return over the same route; (4) Between Capps, FL and Pittsfield, MA: From Capps over US Highway 19 to junction US Highway 23, then over US Highway 23 to junction US Highway 19, then over US Highway 19 to Erie, PA, the over US Highway 20 to Pittsfield, and return over the same route; (5) between Phenix City, AL and Jacksonville, FL: From Phenix City over US Highway 280 to Richland, GA, then over GA Highway 55 to Dawson, GA, then over US Highway 82 to junction US Highway 1, then over US Highway 1 to Jacksonville, and return over the same route; (6) between Georgetown, GA and Dawson, GA: From Georgetown over US Highway 82 to Dawson, and return over the same route; (7) between Bainbridge, GA and Savannah, GA: From Bainbridge over US Highway 84 to Waycross, GA, then over US Highway 82 to junction US Highway 17, then over US Highway 17 to Savannah, and return over the same route; (8) between Macon, GA and Lake City, FL: From Macon over Interstate Highway 75 (also over US Highway 41) to Lake City, and return over the same route; (9) Between Macon, GA and Cincinnati, OH: From Macon over

Interstate Highway 75 to Cincinnati, and return over the same route; (10) between Macon, GA and Phenix City, AL: From Macon over US Highway 80 to Phenix City, and return over the same route; (11) between Macon, GA and Jacksonville, FL: From Macon over US Highway 23 to junction US Highway 341, then over US Highway 341 to Brunswick, GA, then over US Highway 17 to Jacksonville, and return over the same route; (12) between Cincinnati, OH and Portsmouth, OH: From Cincinnati over US Highway 52 to Portsmouth, and return over the same route; (13) between Valdosta, GA and Augusta, GA: From Valdosta over US Highway 84 to junction US Highway 1, then over US Highway 1 to Augusta, and return over the same route; (14) between junction Interstate Highway 287 and Interstate Highway 80 and junction Interstate Highway 80 and US Highway 42: From junction Interstate Highway 287 over Interstate Highway 80 to junction US Highway 42, and return over the same route; (15) between junction Interstate Highway 295 and US Highway 30 and junction US Highway 30 and US Highway 42: From junction Interstate Highway 295 over US Highway 30 to junction US Highway 42, and return over the same route; (16) between Buffalo, NY and Bedford, PA: From Buffalo over NY Highway 16 to junction PA Highway 646, then over PA Highway 646 to junction US Highway 219, then over US Highway 219 to Johnsonburg, PA, then over PA Highway 255 to Penfield, PA, then over PA Highway 153 to Clearfield, PA, then over US Highway 322 to Philipsburg, PA, then over PA Highway 350 to Bald Eagle, PA, then over US Highway 220 to Bedford, and return over the same route; (17) between junction US Highway 50 and MD Highway 404 and Milford, DE: From junction US Highway 50 over MD Highway 404 to junction MD Highway 313, then over MD Highway 313 to junction MD Highway 317, then over MD Highway 317 to junction DE Highway 14, then over DE Highway 14 to Milford, and return over the same route; (18) between Wheeling, WV and Columbus, OH: From Wheeling over US Highway 40 to Columbus, and return over the same route; (19) between Cleveland, OH and junction Interstate Highway 77 and Interstate Highway 81: From Cleveland over Interstate Highway 77 to junction Interstate Highway 81, and return over the same route; (20) between Delaware, OH and Asheville, NC, serving all intermediate points, but serving intermediate points in North Carolina for joinder only: From Delaware over US Highway 23 to Asheville, and return

over the same route; (21) between Xenia, OH and Charleston, WV: From Xenia over US Highway 35 to junction US Highway 60, then over US Highway 60 to Charleston, and return over the same route; (22) between junction US Highway 42 and US Highway 33 and junction US Highway 50 and Interstate Highway 77: From junction US Highway 42 over US Highway 33 to Athens, OH, then over US Highway 50 to junction Interstate Highway 77, and return over the same route; (23) between junction New Jersey Turnpike and New Jersey Highway 42 and Bedford, PA: From junction NJ Turnpike over NJ Highway 42 to junction Interstate Highway 76, then over Interstate Highway 76 to Bedford, and return over the same route; (24) between Medina, OH and Akron, OH: From Medina over OH Highway 18 to Akron, and return over the same route; (25) between Charleston, WV and Lexington, KY: From Charleston over US Highway 60 to Lexington, and return over the same route; (26) between Rouses Point, NY and Chattanooga, TN, serving all intermediate points, but serving intermediate points in Virginia for joinder only: From Rouses Point over US Highway 11 to US Highway 11W, then over US Highway 11W (also over US Highway 11E) to junction US Highway 11, then over US Highway 11 to Chattanooga, and return over the same route; (27) between junction Interstate Highway 75 and Interstate Highway 40 and Asheville, NC, serving all intermediate points, but serving intermediate points in North Carolina for joinder only: From junction Interstate Highway 75 over Interstate Highway 40 to Asheville, and return over the same route; (28) between Erie, PA and Charleston, WV: From Erie over Interstate Highway 79 to Charleston, and return over the same route; (29) between Niagara Falls, NY and Bellaire, OH: From Niagara Falls over US Highway 62 to junction OH Highway 7, then over OH Highway 7 to Bellaire, and return over the same route; (30) between Watertown, NY and Malone, NY: From Watertown over NY Highway 37 to Malone, and return over the same route; (31) between Binghamton, NY and Troy, NY: From Binghamton over NY Highway 7 (and also over completed portions of Interstate Highway 88) to Troy, and return over the same route; (32) between Rochester, NY and Lucketts, VA: From Rochester over NY Highway 15 (also over Highway 15A) to junction Interstate Highway 390, then over Interstate Highway 390 to junction NY Highway 17, then over NY Highway 17 to junction US Highway 15, then over US Highway 15 to Lucketts, and return

over the same route; (33) between Binghamton, NY and Alexandria Bay, NY: From Binghamton over NY Highway 12 to Alexandria Bay, and return over the same route; (34) between New York, NY and Champlain, NY: From New York over Interstate Highway 87 to Albany, NY, then over Interstate Highway 87 (also over US Highway 9) to Champlain, and return over the same route; (35) between Alexandria Bay, NY and Chattanooga, TN: From Alexandria Bay over NY Highway 12 to junction Interstate Highway 81, then over Interstate Highway 81 to junction Interstate Highway 75, then over Interstate Highway 75 to Chattanooga, and return over the same route; (36) between Westfield, NY and Newark, NJ: From Westfield over NY Highway 17 to junction NJ Highway 17, then over NJ Highway 17 to Newark, and return over the same route; (37) between junction Interstate Highways 76 and 276 and junction Interstate Highway 276 and New Jersey Turnpike: From junction Interstate Highway 76 over Interstate Highway 276 to junction NJ Turnpike, and return over the same route; (38) between junction Interstate Highway 81 and Interstate Highway 78 and New York, NY: From junction Interstate Highway 81 over Interstate Highway 78 to junction Interstate Highway 287, then over Interstate Highway 287 to junction US Highway 22, then over US Highway 22 to junction Interstate Highway 78, then over Interstate Highway 78 to New York, and return over the same route; (39) between junction Interstate Highway 87 and US Highway 202 and Perth Amboy, NJ: From junction Interstate Highway 87 over US Highway 202 to junction Interstate Highway 287, then over Interstate Highway 287 to Perth Amboy, and return over the same route; (40) between Eatonton, GA and Tifton, GA: From Eatonton over US Highway 441 to Jacksonville, GA, then over US Highway 319 to Tifton, and return over the same route; (41) between Harrisburg, PA and junction MD Highway 3 and US Highway 50/301: From Harrisburg over Interstate Highway 83 to Baltimore, MD, then over MD Highway 3 to junction US Highway 50/301, and return over the same route; (42) between Winchester, VA and Frederick, MD: From Winchester over VA Highway 7 to junction US Highway 340, then over US Highway 340 to Frederick, and return over the same route; (43) between Enfield, CT and Springfield, MA: From Enfield over US Highway 5 to Springfield, and return over the same route; (44) between Hartford, CT and junction Interstate Highway 86 and Interstate Highway 90

at interchange #9 in MA: From Hartford over Interstate Highway 86 to junction Interstate Highway 90, and return over the same route; (45) between Scranton, PA and Port Jervis, NY: From Scranton over Interstate Highway 84 to Port Jervis, and return over the same route; (46) between Trenton, NJ and junction US Highways 13 and 301S: From Trenton over US Highway 1 to junction US Highway 13, then over US Highway 13 to junction US Highway 301S, and return over the same route; (47) between junction PA Highway 3 and US Highway 202 and junction US Highway 13 and US Highway 40: From junction PA Highway 3 over US Highway 202 to Wilmington, DE, then over DE Highway 141 to junction US Highway 13, then over US Highway 13 to junction US Highway 40, and return over the same route; (48) between junction US Highway 301 and MD Highway 300 and Dover, DE: From junction US Highway 301 over MD-DE Highway 300 to junction DE Highway 44, then over DE Highway 44 to junction DE Highway 8, then over DE Highway 8 to Dover, and return over the same route; (49) between Wilmington, DE and Waverly, NY: From Wilmington over US Highway 13 to Philadelphia, PA, then over PA Highway 611 to junction PA Highway 309, then over PA Highway 309 to Tunkhannock, PA, then over US Highway 6 to Towanda, PA, then over US Highway 220 to Waverly, and return over the same route; (50) between Murphy, NC and Chattanooga, TN: From Murphy over US Highway 64 to Chattanooga, and return over the same route; (51) between Ocoee, TN and Chatsworth, GA: From Ocoee over US Highway 411 to Chatsworth, and return over the same route; (52) between Trout Run, PA and Horseheads, NY: From Trout Run over PA Highway 14 to junction NY Highway 14, then over NY Highway 14 to Horseheads, and return over the same route; (53) between Havre de Grace, MD and Lancaster, PA: From Havre de Grace over US Highway 222 to Lancaster, and return over the same route; (54) between Port Jervis, NY and Philadelphia, PA: From Port Jervis over US Highway 209 to junction PA Highway 611, then over PA Highway 611 to Philadelphia, and return over the same route.

Serving all intermediate points and Commercial Zones thereof on the above routes and serving as off-route points all points in Georgia on and south of US Highway 80 and on and west of US Highway 41, and all points in Florida east of the Apalachicola River and in and west of Leon and Wakulla Counties. Applicant has also filed an underlying ETA seeking 120 days of operating

authority. Supporting shipper(s): There are approximately 35 statements of support attached to the application which may be examined at the Interstate Commerce Commission, Regional Complaint and Authority Center, P.O. Box 7520, Atlanta, GA 30309. Send protests to: Interstate Commerce Commission, Regional Complaint Center, P.O. Box 7520, Atlanta, GA 30309.

Note.—Applicant intends to tack the above with its existing authorities under MC 61264 and Subs and to interline with other carriers.

MC 146331 (Sub-3-1-TA), filed November 6, 1980. Applicant: CLIFF GILL, d.b.a. GILL ENTERPRISES, Rt. 1, Box 297-B, P.O. Box 851, Semmes, AL 36575. Representative: Cliff Gill (same as applicant). *Contract Carrier*, irregular routes, *Hazardous and non-hazardous waste* between points in AL, AR, LA, MS, NV, OK, FL and TX, under continuing contract(s) with Environmental Pollution Control, Inc. Supporting shipper: Environmental Pollution Control, Inc., P.O. Box 9336, Mobile, AL 36691.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 144879 (Sub-4-1TA), filed November 7, 1980. Applicant: D AND J TRANSFER COMPANY, INC., Highway 4 North, Sherburn, MN 56171. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described by the Commission (except in bulk), from the facilities of Landy Packing Co., at or near St. Cloud, MN to points in the states of IL, IN, IA, KS, KY, MI, MO, NE, ND, SD, OH, and WI. Supporting shipper: Landy Packing Co., P.O. Box 670, First Avenue and 16th Street South, St. Cloud, MN 56301. An underlying ETA seeks 120 days authority.

MC 145371 (Sub-4-2TA), filed November 6, 1980. Applicant: MFCH, INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Automotive chemicals (except in bulk) and packaging materials* from the facilities of Konalrad Products, Inc. at Columbus Grove and Pandora, OH to Murray and Salt Lake City, UT and points in CA, CO, IA, IL, KS, MN, MO, NC, NE, NJ, NY, OK, OR, PA, SC, TX, VA, WA and WI. Supporting shipper: Konalrad Products, Inc., 501 South Basinger Road, Pandora, OH 45877.

MC 126276 (Sub-4-10TA), filed November 6, 1980. Applicant: FAST

MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. *Contract carrier*, irregular routes: *Waste paper and newsprint, and materials and supplies used or useful in the manufacture and distribution of the above items*, between Alsip, IL, on the one hand, and, on the other, points in the United States, under a continuing contract or contracts with FSC Paper Corporation, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: FSC Paper Corporation, Inc., 13101 South Pulaski Road, Alsip, IL 60658.

MC 152516 (Sub-4-1TA), filed November 5, 1980. Applicant: A & E ASSOCIATES, INC., 3047 South Cicero, Chicago, IL 60650. Representative: D. L. Bertelle, 221 North LaSalle St., Rm. 1164, Chicago, IL 60601. *Contract*; irregular; *general commodities*, except for articles of unusual value, household goods as defined by the Commission, Class A and B explosives, commodities in bulk, and those requiring special equipment; between points in the contiguous forty-eight States (not including Hawaii or Alaska), under a continuing contract with Transportation Service, Inc., Chicago, IL. Supporting shipper: Transportation Service, Inc., 3047 South Cicero, Chicago, IL 60650.

MC 150860 (Sub-4-1TA), filed November 6, 1980. Applicant: CAL BETTEN TRUCKING, 4212 44th St. SW., Grandville, MI 49418. Representative: D. Richard Black, Jr., Cottonwood Drive, Jenison, MI 49428. *Contract*—irregular, *Health and beauty aids, drugs and toilet articles* between Allegan, MI and North Little Rock, AR; Glendale, AZ; Phoenix, AZ and commercial zones; Tempe, AZ and commercial zones; Los Angeles, CA and commercial zones; Sacramento, CA; San Francisco, CA and commercial zones; North Hampton, CT; Fort Lauderdale, FL; Largo, FL; Melbourne, FL; Orlando, FL; Atlanta, GA; East Point, GA; Newnan, GA; Shenandoah, GA; Chicago, IL; Indianapolis, IN; Kansas City, KS; Auburn, MA; Detroit, MI; Hazelwood, MO; St. Louis, MO; Charlotte, NC; Henderson, NC; Berkeley Heights, NJ; Clifton, NJ; Fairless Hills, NJ and surrounding area; Patterson, NJ and surrounding area; Reno, NV; Sparks, NV; Brooklyn, NY and surrounding area; Norwich, NY; Cleveland, OH; Port Clinton, OH; Oklahoma City, OK and commercial zones; Portland, OR; Harrisburg, PA; Morrisville, PA; Somerset, PA; North Augusta, SC; Knoxville, TN; Memphis, TN; Nashville, TN; Dallas, TX; Houston, TX; Tamina, TX; Salt Lake City, UT and commercial

zones; Salem, VA; Charleston, WV; Washington, DC. Supporting shipper: L. Perrigo, Inc., 117 Water Street, Allegan, MI.

MC 118202 (Sub-4-13TA), filed November 6, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by-products and articles distributed by meat packing houses*, from the facilities of Landy, Inc., at St. Cloud, MN to points in CT, DE, IL, IN, IA, KS, KY, ME, MO, MA, MI, MD, NE, NH, NJ, NY, ND, OH, PA, RI, SD, VT, VA, WV, WI and DC. Supporting shipper: Landy Packing Company, P.O. Box 670, St. Cloud, MN 56301.

MC 128652 (Sub-4-8), filed November 6, 1980. Applicant: LARSON TRANSFER & STORAGE CO., INC., 10700 Lyndale Avenue South, P.O. Box 877 Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st St., P.O. Box 155, South Sioux City, NE 68776. *Contract, irregular; Clothing, and materials, equipment and supplies used in the manufacture and sale of clothing*, between Hamilton, AL; Burlington, NJ; and Crossville, TN; on the one hand, and on the other, Minneapolis, MN under continuing contract(s) with Munsingwear, Inc. Supporting shipper: Munsingwear, Inc., 718 Glenwood Avenue, Minneapolis, MN 55405.

MC 118202 (Sub-4-12TA), filed November 6, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, from Rochelle, IL to points in Florida. An underlying ETA seeks 120 days authority. Supporting shipper: Swift Independent Packing Co., a division of Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604.

MC 152515 (Sub-4-1TA), filed November 6, 1980. Applicant: WILLIAM J. TURNER, d.b.a. SUPREME PARCEL SERVICE, 1815 Ogden Ave., Lisle, IL. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Electronic and plastic products and parts, and materials, equipment and supplies used in the manufacture, assembly, sale and distribution of electronic and plastic products (except in bulk)*, between Lisle, IL, on the one hand, and, on the other, Niles, MI, South Bend, IN, and Milwaukee and West Bend, WI. Supporting shippers: Molex, Inc., Lisle, IL, and Bruck Plastics, Broadview, IL.

MC 119974 (Sub-4-2TA), filed November 6, 1980. Applicant: L. C. L. TRANSIT COMPANY, 949 Advance Street, Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. *Lard and Animal Oil, in tank vehicles*, between Sioux Falls and Huron, SD on the one hand and the states of IL, IA, MN, NE and WI on the other. An underlying ETA seeks 120 days authority. Supporting shipper: Armour & Company, Greyhound Tower, Phoenix, AZ 85077.

MC 59124 (Sub-4-2TA), filed November 6, 1980. Applicant: MAIERS MOTOR FREIGHT COMPANY, 875 E. Huron Ave., Vassar, MI 48764. Representative: Wayne D. Fox (same as applicant). *Castings and materials, equipment and supplies used in the manufacture and distribution of castings* between the facilities of Eaton Corporation at Vassar, MI, on the one hand, and, on the other, points in AL, IA, IL, IN, MI, MN, MO, OH and WI. Supporting shipper: Eaton Corporation, General Products Division, 700 E. Huron Ave., Vassar, MI 48768.

MC 95876 (Sub-4-7TA), filed November 3, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave., No., St. Cloud, MN 56301. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Irrigation systems, equipment, and parts therefor*, from Douglas County, GA, to points in the U.S. (including AK but excluding HI). Supporting shipper: Irrifrance U.S.A., P.O. Box 939, Villapack, GA 30180.

MC 124078 (Sub-4-44TA), filed November 3, 1980. Applicant: SCHWERMANN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevete, P.O. Box 1601, Milwaukee, WI 53201. *Isopropanol Alcohol (Flammable Liquid) in liquid bulk tank trucks*, from Deer Park, TX and Baton Rouge, LA to Augusta, GA. An underlying ETA seeks 120 days authority. Supporting shipper: The Kendall Company P.O. Box 157, Bethune, S.C. 29009.

MC 145748 (Sub-4-2TA), filed November 5, 1980. Applicant: MEYERS TRANSFER, INC., Rt. 64, East, Mt. Morris, IL 61054. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. Transporting (a) *Buildings, structures, KD, prefabricated, precut, or otherwise, and components thereof; Materials, supplies, equipment and appliances built into or used in such buildings or structures; and (b) Equipment, materials, and supplies used or useful in the manufacture, sale or distribution of the commodities described in (a) above*, between points

in the U.S. Supporting shipper: Cedar Forest Products Co., 107 West Coloan, Polo, IL 61064.

MC 152489 (Sub-4-1TA), filed November 5, 1980. Applicant: ART KOHLER TRUCKING, INC., P.O. Box 68, Audubon, MN 56511. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Ceramic tile*, from Lexington, NC to Minneapolis, MN commercial zone. Supporting shipper: KATE-LO, Inc., 6750 West Broadway, Minneapolis, MN 55428. An underlying ETA seeks 120 days authority.

MC 152389 (Sub-4-1TA), filed November 5, 1980. Applicant: JIM'S HOT SHOT SERVICE, INC., Box 212, Mandan, ND 58554. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Equipment, materials, parts and supplies (excluding drilling rigs and liquid commodities in bulk) used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products*, between points in ND on and west of U.S. Hwy. 83, on the one hand, and, on the other, points in MT, WY, UT, CO, SD, NE, KS, NM, LA, OK and TX. An underlying ETA seeks 120 days authority. Supporting shippers: There are 10 statements of support attached.

MC 152516 (Sub-4-1TA), filed November 5, 1980. Applicant: A & E ASSOCIATES, INC., 3047 South Cicero, Chicago, IL 60650. Representative: D. L. Bertelle, 221 North LaSalle Street, Rm. 1164, Chicago, IL 60601. *Contract; irregular; general commodities*, except for particles of unusual value, household goods as defined by the Commission, Class A and B explosives, commodities in bulk, and those requiring special equipment; between points in the contiguous forty-eight States (not including Hawaii or Alaska), under a continuing contract with Transportation Service, Inc., Chicago, IL. Supporting shipper: Transportation Service, Inc., 3047 South Cicero, Chicago, IL 60650.

MC 152513 (Sub-4-1TA), filed November 6, 1980. Applicant: LARRY JACOBSON, Rural Route No. 2, Williston, ND 58501. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Dry ground corn starch*, from the facilities of Hubinger Company at or near Keokuk, IA to points in ND on and west of U.S. Hwy 83 and to points in MT in and east of Valley, Garfield, Rosebud, and Powder River Counties, MT. Supporting shipper: Hubinger Company, 601 Main St., Keokuk, IA 52632. An

underlying ETA seeks 120 days authority.

MC 54591 (Sub-4-1TA), filed October 21, 1980. Applicant: SOUTHEASTERN TRAILWAYS, INC., P.O. Box 1207, 1820 West 16th Street, Indianapolis, IN 46206. Representative: J. E. Morley, P.O. Box 1207, 1820 West 16th St., Indianapolis, IN 46206. *Common, Regular Passengers and their baggage, and express and newspapers in the same vehicle with passengers*, between Indianapolis, IN and Louisville, KY via interstate Hwy 65, serving all intermediate points. Applicant proposes to tack the authority sought here at Indianapolis, IN with its existing authority and to interline at Indianapolis and Louisville, KY. Supporting shippers: There are 13 statements in support to this application.

MC 112801 (Sub-4-2TA), filed November 5, 1980. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: Michael D. Bromley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. *Common; irregular, Liquid caustic soda, in bulk*, from the facilities of Diamond Shamrock Corporation, at or near St. Louis, MO, to points in IL. Supporting shipper: Diamond Shamrock Corporation, 1100 Superior Avenue, Cleveland, OH 44114.

MC 152514 (Sub-4-1TA), filed November 6, 1980. Applicant: MOTOR ACTIVITIES, LTD., 860 Skokie Highway, Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Such commodities as are sold by retail and wholesale food and drug outlets*, between Racine and Waxdale, WI, on the one hand, and, on the other, points in the U.S. on and east of the Mississippi River. Supporting shipper: S. C. Johnson & Son, Inc., Racine, WI 53403.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 49387 (Sub-5-3), filed November 5, 1980. Applicant: ORSCHELN BROS. TRUCK LINES, INC., U.S. Hwy 24 East, P.O.B. 658, Moberly, MO 65270. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. *Common, regular General commodities, except Classes A and B explosives and household goods as defined by the Commission*, between St. Louis, MO and its commercial zone, and Nashville, TN and its commercial zone, (1) from St. Louis over Interstate Hwy 64 to junction of Interstate Hwy 64 and U.S. Hwy 41, then over U.S. Hwy 41 to Nashville, and return over the same

route; and (2) from St. Louis, MO over Interstate Hwy 64 to junction of Interstate Hwy 64 and Interstate Hwy 57, then over Interstate Hwy 57 to junction of Interstate Hwy 57 and Interstate Hwy 24, then over Interstate Hwy 24 to Nashville, TN, and return over the same route. Applicant intends to tack and interline. There is no supporting shipper.

MC 49387 (Sub-5-4), filed November 5, 1980. Applicant: ORSCHELN BROS. TRUCK LINES, INC., U.S. Hwy 24 East, P.O.B. 658, Moberly, MO 65270. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. *Brass, bronze and copper products*, between Kenosha, WI on the one hand, and, on the other, Trenton, Joplin and Jefferson City, MO and Logansport, IN, and their respective commercial zones. Supporting shipper: Anaconda Industries, 1420 63rd St., Kenosha, WI 53410.

MC 53965 (Sub-5-6), filed November 5, 1980. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio Avenue, Post Office Drawer 1387, Salina, KS 67401. Representative: William J. Bather, Executive Vice President, (same address as above), 913-827-0471. *Common, regular. General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment*, (1) Between Houston, TX and New Orleans, LA and their commercial zones over Interstate Hwy 10, serving all intermediate points and their commercial zones; and (2) Between Baton Rouge, LA and Dallas, TX and their commercial zones, from Dallas, over Interstate Hwy 20 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy 190, then over U.S. Hwy 190 to Baton Rouge and return over the same route, serving all intermediate points, and their commercial zones and serving Tyler and Kilgore, TX and their commercial zones as offroute points. (Applicant intends to tack and interline). Supporting shippers: 247.

MC 67234 (Sub-5-11), filed November 5, 1980. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, No. 314-727-0777. *Computer Frames* from Pennsauken, NJ to Bristol, TN. Supporting shipper(s): Sperry Univac Corporation, Plant Traffic Manager, Univac Drive, Bristol, TN 37620.

MC 102567 (Sub-5-14TA), filed November 5, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA

71111. Representative: Mr. Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. *Sodium Hydrosulfide, in bulk, in tank vehicles*, from Big Lake, TX, to points in the states of AL, AR, LA, MS, and TN. Supporting shipper: T & T Chemicals, Inc., P.O. Box 782, El Dorado, AR 71730.

MC 105566 (Sub-5-16TA), filed November 5, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincoln Rd., Alexandria, VA 22312. *General Commodities, except commodities in bulk, household goods as defined by the Commission and Classes A and B explosives*, between the facilities utilized by Rohm and Haas Company and its subsidiaries, on the one hand, and, on the other, points in the US, except AK and HI. Supporting shipper: Rohm and Haas Company, Independence Mall West (6th and Market), Philadelphia, PA 19105.

MC 123993 (Sub-5-27TA), filed November 5, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA. 70526. Representative: Byron Fogleman (same as applicant). (1) *Non-alcoholic beverages (except in bulk); (2) Materials and supplies used in the manufacture, distribution or sale of (1) (except in bulk)* between Jefferson County, TX on the one hand, and, on the other, St. Landry Parish, LA. Supporting shipper: Seven Up R-C Bottling Company, 3375 Port Arthur Road, Beaumont, TX 77701.

MC 133194 (Sub-5-5), filed November 5, 1980. Applicant: WOODLINE MOTOR FREIGHT, INC., Airport Road, P.O. Box 1047, Russellville, AR 72801. Representative: Scotty D. Douthit, Sr., Airport Road, P.O. Box 1047, Russellville, AR 72801. *Common; Regular. (1) Cloth, dry goods or fabrics and; Clothing; (2) New and used plant equipment used in the manufacturing of clothes*, (1) From the facility of Garan, Inc. at Ozark, AR over U.S. Hwy 64 to Peebe, AR, then over U.S. Hwy 67 to Poplar Bluff, MO, then over U.S. Hwy 60 to Cairo, KY, then over U.S. Hwy 51 to the facility of Garan, Inc. at Clinton, KY and return from the facility of Garan, Inc. at Clinton, KY, over the same above route to Garan, Inc. at Ozark, AR, serving no intermediate points. (2) From Memphis, TN over U.S. Hwy 51 to Garan, Inc. at Clinton, KY, then from Garan, Inc. at Clinton, KY, over U.S. Hwy 51 to Memphis, TN, serving no intermediate points.

MC 140665 (Sub-5-45), filed November 4, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804.

Representative: Ann Holcombe, P.O. Box 786, Ravenna, OH 44266. *Chemicals, plastics, and such commodities as are used, dealt or distributed by Rohm and Haas Company (except commodities in bulk)*, between the facilities utilized by Rohm and Haas Company at points in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Rohm and Haas Company, Independence Mall West (6th and Market), Philadelphia, PA 19105.

MC 145154 (Sub-5-1TA), filed November 5, 1980. Applicant: YOUNG'S TRANSPORTATION CO., 1616 Bevis Street, Houston, TX 77008.

Representative: Eric Meierhoefer and Joseph L. Steinfeld, Jr., Suite 423, 1511 K Street, NW., Washington, DC 20005. *Floor covering, materials, and supplies used in the distribution and sale thereof*, from Lancaster County, PA, to points in TX. Supporting shipper: Reader's Wholesale Distributors, Inc., 1201 Naylor, Houston, TX 77002.

MC 146055 (Sub-5-6TA), filed November 4, 1980. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby, James F. Crosby & Associates, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114. *Meats and packinghouse products*, from Omaha, NE to Sioux City, IA (and points in their respective commercial zones). Supporting shipper: Dubuque Packing Co., 4003 Dahlman Avenue, Omaha, NE 68107.

MC 149568 (Sub-5-1TA), filed November 5, 1980. Applicant: TRUCK SERVICE COMPANY, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Meat and Meat By-Products*, between points in the US. Supporting shipper: Vernon Calhoun Packing Company, Palestine, TX 75801.

MC 150425 (Sub-5-10TA), filed November 5, 1980. Applicant: TRANSCONTINENTAL EXPRESS, INC., P.O., Box D, Clarksville, TX 75426. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Malt beverages*, from the facilities of Miller Brewing Co., at or near Ft. Worth, TX to Jefferson County, AR. Supporting shipper: Southeastern Distributing Co., Inc., P.O. Box 8868, Pine Bluff, AR 71611.

MC 150783 (Sub-5-15TA), filed November 4, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same as applicant). *Knocked down furniture, set-up furniture, bookcases, and copier cabinets*. From Conway, AR to the 48

continental states. Supporting shipper: Tiffany Stand and Furniture Co., N. Salem Rd., Conway, Arkansas 72032.

MC 152490 (Sub-5-1TA), filed November 5, 1980. Applicant: SABINE TRUCKING, INC., 322 Freeman St., Mineola, TX 75773. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Contract; irregular: *such commodities as are dealt in or used by retail, wholesale, and chain grocery stores, and food business houses, and materials, supplies and equipment used in connection with or incidental to the sale, manufacture, or distribution of such commodities*, between points in the U.S. under continuing contract(s) with Benham & Co., Inc., Phoenix Industries, Inc., Consolidated Mills, Inc., Texas Citrus Exchange, and Texsun Corp. Supporting shippers: Benham & Co., Inc., P.O. Box 29, Mineola, TX 75773; Phoenix Industries, Inc., P.O. Box 29, Mineola, TX 75773; Consolidated Mills, Inc., P.O. Box 3666, Houston, TX 77001; Texas Citrus Exchange, P.O. Box 793, Mission, TX 78572; and Texsun Corp., P.O. Box 327, Weslaco, TX 78596.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36060 Filed 11-18-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 80-30346 appearing on page 65058 in the issue for Wednesday, October 1, 1980, make the following correction:

On page 65061, first column, under MC 123872 (Sub-3-5TA) for W & L MOTOR LINES, INC., in line 15, ". . . ME . . ." should have read ". . . NE . . .".

BILLING CODE: 1505-01-M

[Ex Parte No. 394]

Cost Ratio for Recyclables; 1980 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of proceeding.

SUMMARY: Section 204 of the Staggers Rail Act of 1980, Pub. L. 96-448, requires rail carriers to maintain rates for the transportation of recyclable materials, other than scrap iron and steel, at revenue-to-variable cost ratio levels equal to or less than a described average revenue-to-variable cost ratio. The Commission has calculated this average cost ratio to be 150%.

DATES: Comments should be filed by December 9, 1980.

ADDRESSES: An original and 15 copies, if possible, of any comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: Section 204 of the Staggers Act of 1980 requires rail carriers to reduce and maintain rates for the transportation of recyclable materials, other than recyclable or recycled iron or steel, at revenue-to-variable cost ratio levels that are equal to or less than the average revenue-to-variable cost ratio that rail carriers would be required to realize, under honest, economical, and efficient management, in order to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business sufficient to attract and retain capital in amounts adequate to provide a sound transportation system in the United States. The carriers are required to take all necessary actions within 90 days of October 1, 1980, the effective date of the Staggers Act.

Although section 204 does not specifically direct the Commission to develop this average ratio, it does state that the Commission shall have jurisdiction to issue all orders necessary to enforce the requirements of the section. The legislative history also indicates that Congress intended the Commission to establish the standard, H.R. Rep. No. 96-1430, 96th Cong. 2d Sess. 96 (1980); S. Rep. No. 96-470, 96th Cong., 1st Sess. 18-19, 33-34, 51, 61-62 (1979). We anticipate periodic recalculations of the average ratio.

As discussed in detail below, we have developed the ratio using regional applications of Rail Form A for the year 1977. We expect the base future average ratios upon the Unified Rail Costing System. However, after considering the short time period available for the calculation of this first ratio, and the fact that the new accounting system is not yet fully operational, we have used Rail Form A applications for the latest year available.

Calculation of the Average Ratio

The proposed revenue-to-variable cost ratio was developed in the following manner. Using regional applications of Rail Form A for the year 1977, the total fully allocated costs, that is, total variable costs plus total constant costs including the allowance for cost of capital at the embedded debt rate, were

added to produce the total costs for the United States. The allowance for cost of capital at the embedded debt rate was removed to produce total operations expenses, rents, and taxes.

The current cost of capital was calculated by applying, to the net investment in transportation property, the composite cost of capital rate of 11.22 percent increased to a pre-tax figure of 18.12 percent using the statutory tax rate. The 11.22 percent rate was developed in Ex Parte No. 381, *Adequacy of Railroad Revenue (1980 Determination)*, decision served.

The current cost of capital was added to the total operating expenses, rents, and taxes to produce the total freight revenues which, after deducting operating expenses, rents, taxes, and federal income taxes would provide the included railroads with the proper cost of capital or fair return as found by the Commission in Ex Parte No. 381. The total freight revenues were then divided by the total variable costs, including the cost of capital at the embedded debt rate, to determine the average revenue-cost ratio which all traffic must produce to provide the proper cost of capital or fair return for the railroads.

Rate Reductions under Section 204

We also request comments concerning rate reduction requirements under the Staggers Act. Section 204 requires the railroads, within 90 days, to take all actions necessary to "reduce and thereafter maintain" rates for recyclables, other than scrap iron and steel, at cost rate levels equal to or less than the defined average ratio. This wording implies that the carriers are to reduce immediately any above average recyclable rates.

However, section 204 goes on to state that as long as a rate exceeds the average cost ratio, the rate cannot be increased. This suggests that rates do not have to be decreased immediately. This interpretation is supported by the Joint Explanatory Statement of the Committee of Conference, which states the bill would prohibit increases for rates which are currently above the threshold until such time as the rate falls below the average revenue-to-variable cost threshold.

Because of the legislative history, we are inclined toward the interpretation that immediate reductions are not required. However, we invite the public to comment upon the question.

We do not expect that the proceeding will significantly affect either the quality of the human environment or conservation of energy resources.

However, comments on these issues are welcome.

Authority: 49 U.S.C. 10731(e).

Dated: November 10, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Chairman Gaskins concurring with a separate expression. Commissioner Gilliam dissenting in part with a separate expression. Commissioner Clapp rejecting and dissenting with a separate expression.

Agatha L. Mergenovich,
Secretary.

Chairman Gaskins, concurring:

Section 10731(e) is internally inconsistent and cannot be reconciled to give all of its provisions a fair meaning. At the same time, it speaks of rate reductions, it speaks of rates continuing to exceed the average revenue-to-variable cost ratio level. The Conference Report strongly supports the majority position that railroads can avoid enormous burden of making reductions on all their recyclable rates in excess of the prescribed ratio level. Given the level of inflation, moreover, this question will quickly become moot. Any suggestion that our action "clearly violates" Congressional intent is without foundation.

Commissioner Gilliam, dissenting in part:

I find no Congressional intent to support the suggestion of the majority that railroads need to take no action to reduce rates on recyclables. The statute clearly states that necessary reductions must be made within 90 days. I do, however, agree with Commissioner Clapp that Congress allowed flexibility in making individual rate reductions for practical reasons. The railroads are still required to make the necessary reductions on an average basis within 90 days.

Commissioner Clapp, dissenting:

The suggestion that the railroads need take no action to reduce rates on recyclables clearly violates Congressional intent. I believe that the language which the majority claims is inconsistent merely evinces an awareness that railroads initially may have to make full rate reductions on an average commodity basis. If all carriers were to try to determine individual revenue to variable cost relationships on each and every particular rate, the physical burden would be enormous. Congress seems to contemplate a more practical two part approach. The railroads are to make any needed reductions on an average basis within 90 days. This may mean that some rates will exceed the average; these individual rates can only be increased thereafter to the extent that our revenue to variable cost threshold percentage exceeds the actual relationship for a particular movement.

[FR Doc. 80-36057 Filed 11-18-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the Fortieth meeting of the Board for International Food and Agricultural Development (BIFAD) on December 5, 1980.

The purpose of the meeting is to receive and discuss the report of the Internal Staff Work Group on AID-University Relations; receive and discuss staff recommendations on Women in Development; receive and discuss reports of the Joint Research Committee (JRC); receive and discuss reports of the Joint Committee for Agricultural Development (JCAD); and meet with the BIFAD/Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:15 p.m. and will be held in Room 1107 New State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meeting with the BIFAD/Support Staff will begin at 1:30 p.m. and adjourn at 3:00 p.m. This meeting will be held in Room 2248 New State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Coordinator Title XII Strengthening Grants and University Relations, Development Support, Agency for International Development (AID), is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: November 13, 1980.

Dr. Erven J. Long,

A.I.D. Advisory Committee Rep., Board for International Food and Agricultural Development.

[FR Doc. 80-38013 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 303-TA-14 (Final)]

Plastic Animal Identification Tags From New Zealand

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: As a result of the affirmative preliminary determination on October 28, 1980, by the United States Department of Commerce that there is a reasonable basis to believe or suspect that benefits are granted by the Government of New Zealand with respect to the manufacture, production, or exportation of plastic animal identification tags which constitute a subsidy within the meaning of the countervailing duty law, the United States International Trade Commission (hereinafter "the Commission") hereby gives notice of the institution of investigation No. 303-TA-14 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Since New Zealand is not a "country under the Agreement," within the meaning of section 701(b) of the Tariff Act of 1930 (hereinafter "the Act"), the Commission's investigation is being conducted pursuant to section 303 of the Act, as amended by section 103 of the Trade Agreements Act of 1979. For purposes of this investigation, the term "plastic animal identification tags" means plastic animal identification tags, provided for in item 666.00 of the Tariff Schedules of the United States (TSUS). This investigation will be conducted according to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457).

EFFECTIVE DATE: October 28, 1980.

FOR FURTHER INFORMATION CONTACT:

Ms. Judith Case, Staff Investigator, Office of Investigations, U.S. International Trade Commission, Room 350, 701 E Street NW., Washington, D.C. 20436; telephone (202) 523-0339.

SUPPLEMENTARY INFORMATION: On September 15, 1980, the Commission

unanimously determined, on the basis of the information developed during the course of investigation No. 303-TA-14 (Preliminary), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of plastic animal identification tags from New Zealand, provided for in item 666.00 of the TSUS, upon which a subsidy is allegedly provided. As a result of the Commission's determination, the Department of Commerce (the administering authority) continued its investigation into the question of subsidized sales. Unless the investigation is extended, the final determination by the Department of Commerce of whether subsidies are being provided by the Government of New Zealand will be made not later than January 8, 1981.

WRITTEN SUBMISSIONS: Any person may submit to the Commission a written statement of information pertinent to the subject of this investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, on or before January 27, 1981. All written submissions, except for confidential business data, will be available for public inspection.

Any submission of business information for which confidential treatment is desired shall be submitted separately from other documents. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A staff report containing preliminary findings of fact will be available to all interested parties on January 12, 1981.

PUBLIC HEARING: The Commission will hold a public hearing in connection with this investigation on January 30, 1981, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.), January 12, 1981. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10:00 a.m., e.s.t., on January 14, 1981, in Room 117 at the U.S.

International Trade Commission Building. Prehearing statements must be filed on or before January 27, 1981. For further information concerning the conduct of the investigation, hearing procedures, and rules of general applications, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR 207), and Part 201, Subparts A through E (19 CFR 201).

The Commission has waived Commission rule 201.12(d) as amended, "Submission of prepared statements," in connection with this investigation. This rule stated that "Copies of witnesses' prepared statements should be filed with the Office of the Secretary of the Commission not later than 3 business days prior to the hearing and submission of such statements shall comply with sections 201.6 and 201.8 of this subpart." It is nevertheless the Commission's request that parties submit copies of witnesses' prepared testimony as early as practicable before the hearing in order to permit Commission review.

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76458).

Issued: November 7, 1980.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-38105 Filed 11-18-80; 8:45 am]

BILLING CODE 7020-02-M

[Termination of Investigations Nos. 701-TA-65, 66, and 67 (Preliminary)]

Leather Wearing Apparel from Brazil, Korea, and Taiwan

AGENCY: U.S. International Trade Commission.

ACTION: Termination of preliminary countervailing duty investigations.

EFFECTIVE DATE: November 6, 1980.

FOR FURTHER INFORMATION CONTACT: Vera Libeau, Office of Investigations, (202) 523-0368.

SUPPLEMENTARY INFORMATION: On October 15, 1980, following receipt of a petition filed by Ralph Edwards Sportswear, Inc., the Commission instituted preliminary countervailing duty investigations Nos. 701-TA-65, 66, 67, and 68, Leather Wearing Apparel from Brazil, Korea, Taiwan, and Uruguay. The purpose of the investigations was to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by

reason of allegedly subsidized imports from Brazil, Korea, Taiwan, and Uruguay of leather wearing apparel, provided for in item 791.76 of the Tariff Schedules of the United States. On November 6, 1980, the Commission received advice from the Department of Commerce that it was initiating an investigation solely with regard to Uruguay. Because Commerce had not initiated an investigation on Brazil, Korea, and Taiwan within the prescribed time limits and because of the request of the petitioner to withdraw that portion of its petition applying to those three countries, the Commission's investigations concerning leather wearing apparel from Brazil, Korea, and Taiwan are hereby terminated pursuant to its authority under section 207.13 of the Commission's Rules of Practice and Procedure.

Issued: November 10, 1980.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-36104 Filed 11-18-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Proposed Consent Decree in Action To Enjoin Violations of an NPDES Permit by American Cyanamid Company at its Chemical Facility in Louisiana

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on November 7, 1980, a proposed consent decree in *United States v. American Cyanamid Company*, (E.D. La. No. 80-4409A(5)), was lodged with the United States District Court for the Eastern District of Louisiana. The proposed consent decree requires the defendant to meet specific effluent limitations and to construct at its Westwego, Louisiana facility a wastewater treatment system (or its equivalent) in compliance with a construction schedule as set forth in the consent decree. In addition, it provides for the payment of civil penalties to the United States ranging from \$200 to \$3,500 a day for each calendar day after the effective date of this decree that it fails to comply with this consent decree.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Deputy Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should

refer to *United States v. American Cyanamid Company*, (E.D. La. No. 80-4409A(5)).

The proposed consent decree may be examined at the Clerk's office, U.S. Courthouse, 500 Camp Street, New Orleans, Louisiana 70130; and at the Environmental Enforcement Section, Land and Natural Resources Division of the United States Department of Justice, Room 12E4, Ninth and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the United States Department of Justice.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-36106 Filed 11-18-80; 8:45 am]

BILLING CODE 4410-01-M

Immigration and Naturalization Service

Federal Advisory Committee on Immigration and Naturalization; Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

SUMMARY: This notice announces the meeting of the Federal Advisory Committee on Immigration and Naturalization to be held in New Orleans, Louisiana on December 11-12, 1980.

FOR FURTHER INFORMATION CONTACT:

Verne Jervis, Public Information Officer of the Immigration and Naturalization Service, Room 7056, 425 "I" Street, N.W., Washington, D.C. 20536, telephone 202/633-2648.

SUPPLEMENTARY INFORMATION AND MEETING AGENDA:

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. I) notice is hereby given of a meeting of the Federal Advisory Committee on Immigration and Naturalization. The meeting will start at 9:00 a.m. on Thursday, December 11, 1980 at the Postal Services Building, 701 Loyola Avenue, New Orleans, LA, conference room 9028. At 1:00 p.m. on Thursday, December 11 the meeting will be moved to conference room 14035 in the same building, and all additional sessions will be held in that room. The meeting will adjourn at 3:00 p.m. on December 11 and reconvene at 9:00 a.m. on December 12, continuing to approximately 1:00 p.m. (All Subcommittees will have work sessions

on December 11 from 3:00 p.m. to 5:00 p.m.)

Federal Advisory Committee Agenda

FAC Meeting—December 11, 1980: 9:00 a.m. to 3:00 p.m.

Call to Order and Roll Call: 9:00 a.m.

Opening remarks by Acting Commissioner David Crosland and introduction of New Orleans District Director Edwin Chauvin, Jr.: 9:30 a.m.

Review of Agenda Topics: 10:30 a.m.

Reading of Minutes: 10:45 a.m.

Staff Presentations: 11:00 a.m.

(Presentations will cover the following: Study of INS by the President's Management Improvement Council, operation of the INS Office of Professional Responsibility, employment of minorities at INS, and INS Outreach program.)

Subcommittee Meetings: 3:00 p.m.

Friday, December 12, 1980:

Meeting reconvenes: 9:00 a.m.

Subcommittee reports: 9:15 a.m.

Public Commentary: 10:15 a.m.

Formal Recommendations to the

Commissioner: 11:15 a.m.

Meeting Adjourns: 1:00 p.m.

Attendance is open to the interested public on a space available basis only. Persons or groups wishing to attend the meeting or to make public commentary should address a letter to Mr. Verne Jervis at the address below: U.S. Immigration and Naturalization Service, 425 I Street, N.W., Room 7056, Washington, DC 20536.

Dated: November 3, 1980.

David Dixon,

Acting Commissioner.

[FR Doc. 80-36010 Filed 11-18-80; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

November 13, 1980.

Pursuant to Sec. 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2 day meeting on Monday and Tuesday, December 1-2, 1980. The meetings will be held in Room 416, Page Building 1, 2001 Wisconsin Ave., NW., Washington, DC 20235. The meetings will commence at 9:00 a.m. on Monday and 9:30 a.m. on Tuesday.

The Committee, consisting of 18 non-Federal members, appointed by the President from academia, business and industry, State and local government, and public interest groups, was established by Congress by Public Law 95-63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a

selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce on the carrying out the programs of the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The tentative meeting schedule follows:

December 1, 1980.

Plenary Session

9:00 a.m.—9:30 a.m.

- Opening Remarks—Chairman

9:30 a.m.—10:30 a.m.

- Federal Ocean Program

Speaker: Martin Belsky, Assistant Administrator for Policy and Planning, National Oceanic and Atmospheric Administration

10:30 a.m.—Noon

- Law of the Sea

Speaker: Ambassador Elliot Richardson

Noon—1:30 p.m.

Lunch

1:00 p.m.—4:00 p.m.

Panel Meetings

- Support for Atmospheric Research Facilities, Louis J. Battan, Chairman

Topic: Computer Facilities

Invited Participants: Dr. Walter Macintyre, National Center for Atmospheric Research; Dr. Fred Mosher, Space Science and Engineering Center, University of Wisconsin-Madison; Dr. James O'Brien, Florida State University; Dr. Joseph Smagorinsky, Director, Geophysical Fluid Dynamics Laboratory, National Oceanic and Atmospheric Administration

1:00 p.m.—4:00 p.m.

- Fisheries—Activity Planning Jay G. Lanzillo & George Tapper, Co-Chairmen, Room B-100

4:00 p.m.—5:00 p.m.

Plenary Session

- National Oceanic Satellite System (NOSS)

5:00 p.m.

Adjourn

December 2, 1980

8:30 a.m.—9:30 a.m.

Closed Session (Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409)

9:30 a.m.—10:30 a.m.

- Steering Committee Meeting

10:30 a.m.—Noon

Panel Meetings

- Waste Management Report—John Knauss, Chairman

Noon—1:00 p.m.

Lunch

Plenary Session

1:00 p.m.—1:30 p.m.

- Hydrological Services Project Proposal—Paul Bock

1:30 p.m.—2:00 p.m.

- Underutilized Species—George Tapper

2:00 p.m.—3:00 p.m.

- Panel Reports

3:00 p.m.

Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., (Room 436, Page Building #1), Washington, DC 20235. The telephone number is (202) 653-7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-36930 Filed 11-18-80; 8:45 am]

BILLING CODE 3510-12-M

Meeting

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the Independent Areas Task Force Subgroup on Ocean Operations and Services of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Thursday and Friday, December 4-5, 1980. The Committee will meet in room B-100, Page Building Number 1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The Thursday session will convene at 9:00 a.m. and the Friday session at 8:30 a.m. All sessions will be open to the public and will adjourn at 4:30 p.m. each day.

NACOA has initiated a study to formulate national goals and objectives for the oceans in the decade of the 1980's and beyond. To support the conduct of this study, the Secretary of Commerce has established an Independent Areas Task Force (IATF) for NACOA. The IATF, with its subgroups, will be responsible for the preparation of preliminary recommendations in the area of energy, fisheries, marine transportation, ocean minerals, ocean operations and services, pollution, and waste management.

This final meeting of the IATF Subgroup on Ocean Operations and Services will be for the purpose of reviewing the first draft of the subgroup's final report. This report details the findings of the subgroup which are based on previous meetings and makes recommendations for national goals and objectives for ocean operations and services during the next decade and beyond.

Ocean services are defined as the informational services provided by government and private industries including navigational and bathymetric maps and charts, navigational aids, advisory services, weather services, tide, current, and other oceanic information.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Subgroup on Ocean Operations and Services, Dr. Robert M. White, in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or CDR Carl A. Moritz, Staff Director for the Operations and Services Subgroup. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 438, Page Building #1), Washington, DC 20235. The telephone number is (202) 653-7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-36031 Filed 11-18-80; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL COMMISSION ON SOCIAL SECURITY

Meeting

November 13, 1980.

The National Commission on Social Security will hold a public meeting at the Capital Hilton, at 16th and K Streets, N.W., Washington, D.C. on December 4, 5 and 6, 1980. The meeting on December 4 and 5 will be in the Caucus I Room, the meeting on December 6 will be in the Continental Room. The purpose of the meeting is to discuss drafts for the final report of the Commission.

The meeting will begin each day at 9:00 a.m. and continue until the Commission business is completed, but no later than 5:00 p.m. The meeting will be open to the public, in accordance

with the Federal Advisory Committee Act.

Additional information about the meeting may be obtained from the Commission office: Room 125—Pension Building, 440 G Street, N.W., Washington, D.C. 20218, Phone: (202) 376-2622.

Francis J. Crowley,
Executive Director.

[FR Doc. 80-36025 Filed 11-18-80; 8:45 am]

BILLING CODE 6820-AC-M

NATIONAL SCIENCE FOUNDATION

Subcommittee on Metallurgy, Polymers, and Ceramics of the Materials Research Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Metallurgy, Polymers, and Ceramics of the Materials Research Advisory Committee.

Date: December 8 and 9, 1980.

Time: 9:00 am-5:00 pm each day.

Place: Room 543, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Open, December 8, 9:00 am-3:00 pm. Closed, December 8, 3:00 pm-5:00 pm. Open, December 9, All day.

Contact Person: Dr. Ben A. Wilcox, Metallurgy, Polymers, and Ceramics Section, Room 411, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 357-9789.

Purpose of Subcommittee: To provide advice and recommendations concerning support of research in Metallurgy, Polymers, and Ceramics.

Agenda: December 8, 1980

9:00 AM: Introductory remarks, comments about the Mathematical and Physical Sciences Directorate, the Division of Materials Research and the Metallurgy, Polymers, and Ceramics Section.

10:00 AM: Report by NSF staff on issues discussed at previous meeting.

Report and discussion of the Polymers Program Oversight.

12:00 PM: Lunch.

1:00 PM: Polymers Program Oversight, continued.

3:00 PM: Optional Closed Session. This session is tentatively scheduled to be closed only if (and is limited to) the Committee wishes to discuss specific grants and declinations. Otherwise, the session will be open or not held at all.

5:00 PM: Adjourn.

Agenda: December 9, 1980

9:00 AM: Discussion of Research Trends and Opportunities in Metallurgy, Polymers, and Ceramics.

12:00 PM: Lunch.

1:00 PM: Research Trends and Opportunities, continued.

2:00 PM: Discussion of Instrumentation Needs in Metallurgy, Polymers, and Ceramics.

3:30 PM: Other business, information items.

5:00 PM: Adjourn.

Reason for Closing: The Subcommittee will be reviewing grants and/or declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session 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: 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 Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

November 14, 1980

[FR Doc. 80-36090 Filed 11-18-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on the NRC Reactor Safety Research Program; Meeting

The ACRS Subcommittee on the NRC Reactor Safety Research Program will hold a meeting on December 3, 1980 in Room 1046, 1717 H St., NW, Washington, DC to discuss new developments in the NRC Reactor Safety Research Program since the issuance of the ACRS Report to NRC (NUREG-0699); NRC's long-range Reactor Safety Research Program plans; preliminary draft chapters or sections of the ACRS Annual Report to Congress on NRC's FY-82 Reactor Safety Research Program Budget; the Department of Energy's (DOE) Light-Water Reactor Safety Technology Program and the associated budget. Notice of this meeting was published October 24.

In accordance with the procedures outlined in the Federal Register on October 7, 1980, (45 FR 66535), 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 entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss the ACRS Annual Report to Congress on the NRC Reactor Safety Research Program Budget. One or more closed sessions may be necessary to discuss such information (SUNSHINE ACT EXEMPTION (9)(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, December 3, 1980, 8:30 a.m. until the conclusion of business:

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC and DOE Staffs, their consultants, and other interested persons.

Further information about 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 cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634-3267) between 8:15 and 5:00 p.m., EST.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC Reactor Safety Research Program and Budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities. The authority for such closure is 5 U.S.C. 552b(c)(9)(B).

Dated: November 14, 1980.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 80-36067 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, RS 709-4 (which should be mentioned in all correspondence concerning this draft guide), is a proposed revision to Regulatory Guide 1.80 and is entitled "Preoperational Testing of Instrument and Control Air Systems." This guide is being developed to describe a method acceptable to the NRC staff for complying with the Commission's regulations with respect to verifying by preoperational testing the proper operation of instrument and control air systems, as well as certain compressed gas systems, and the proper operation of loads supplied by such systems during operation at normal system pressures and to ensure the operability of functions important to safety in the event that system pressure is lost or reduced below normal operating level.

When the active version of this guide is issued following public comment, it will be designated 1.68.23 and added to the 1.68 subseries of guides that provide detailed guidance in the conduct of initial test programs for specific systems important to safety in water-cooled reactor power plants.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft

value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by January 12, 1981.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 12th day of November 1980.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 80-36068 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 OL & 50-339 OL]

Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding to consist of the following members:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Dr. Lawrence R. Quarles

Dated: November 12, 1980.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 80-36068 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409-SC; Prov. Op. Lic. DPR-45]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Prehearing Conference and Evidentiary Hearing

(November 12, 1980.)

Notice is hereby given that, in accordance with the Licensing Board's Memorandum and Order dated November 12, 1980, a prehearing conference in this show-cause proceeding will be held on December 16, 1980, commencing at 9:30 a.m. at Hall of the Presidents, Cartwright Center, University of Wisconsin at La Crosse, La Crosse Wisconsin 54601. The conference is being convened to discuss any motions for summary disposition which may be filed, the manner in which the parties propose to respond to questions which are to be posed by the Licensing Board, and further scheduling for the proceeding.

Notice is also given that the evidentiary hearing in this proceeding will commence immediately following the prehearing conference, on December 16, 1980, at the Hall of the Presidents. The evidentiary hearing will continue on December 17, from 9:00 a.m. until 12:00 noon, at the same location. To the extent necessary, further sessions will be held on December 17, from 1:00 p.m. until 5:00 p.m., and on December 18, beginning at 9:00 a.m., at Room 303, Cartwright Center, University of Wisconsin at La Crosse. The hearing will be conducted by an Atomic Safety and Licensing Board consisting of Dr. George C. Anderson, Mr. Ralph S. Decker, and Mr. Charles Bechhoefer, Chairman.

A Notice of Opportunity for Hearing in this proceeding was published on March 3, 1980 (45 FR 13850). Petitions for leave to intervene filed by Anne K. Morse on behalf of the Coulee Region Energy Coalition (CREC), and by Frederick M. Olsen III were subsequently granted, those intervenors were consolidated, and a Notice of Hearing was published on October 7, 1980 (45 FR 66537).

The sole issue to be considered by the Licensing Board at the evidentiary hearing commencing on December 16, 1980, is the risk to the public health and safety of extending *pendente lite* the February 25, 1981 date by which a site dewatering system is currently required to be designed and installed (as further described in the Licensing Board's Memorandum and Order dated November 12, 1980). Direct testimony on that issue must be filed by December 5, 1980.

Any person who has not been admitted as a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715(a). A person making a limited appearance may make an oral or written statement on the record. He or she does not become a party but may state a position and raise questions which he or she would like to have answered, to the extent that the questions are within the purview of matters which may be considered in this show-cause proceeding. Limited appearances will be permitted at the commencement of the evidentiary hearing on December 16 and (if necessary) beginning at 9:00 a.m. on December 17, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

Dated at Bethesda, Maryland, this 12th day of November 1980.

For the Atomic Safety and Licensing Board.
Charles Bechhoefer,
Chairman

[FR Doc. 80-35999 Filed 11-18-80; 8:45 am]
 BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21785 (70-6363)]

Appalachian Power Co.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper

November 13, 1980.

Notice is hereby given that Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24009, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission a post-effective amendment to its application in this proceeding pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder regarding the proposed transactions. All interested persons are referred to the amended application, which is summarized below, for a complete description of the proposed transactions.

By orders in this proceeding dated December 21, 1979, February 21, 1980, and May 30, 1980 (HCAR Nos. 21353, 21445, and 21599), Appalachian was authorized to issue and sell, from time to time prior to January 1, 1981, short-term

notes to a group of banks and commercial paper to a dealer in an amount of up to \$200,000,000 outstanding at any one time, such notes and commercial paper maturing no later than June 30, 1981.

It is now proposed that such notes to banks and commercial paper be issued and sold from time to time prior to January 1, 1982, with a maturity no later than June 30, 1982. Appalachian has credit arrangements totaling \$463,770,000 with 94 banks. This represents an increase of \$25,000,000 in lines of credit shared with affiliates, including Columbus and Southern Ohio Electric Company. Fees and balances for shared lines of credit are borne by Appalachian and participating affiliates in proportion to their respective projected maximum need for such credit facilities. Although the shared lines of credit have been increased, the participation by Columbus and Southern Ohio Electric Company will have the effect of reducing the fees and balances to be borne by Appalachian.

The proceeds of the notes to banks and commercial paper will be used to pay the general obligations of Appalachian, including expenses incurred in its various construction projects. The estimated cost of its construction program for 1981 is approximately \$215,000,000.

The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed \$500. It is stated that the State Corporation Commission of Virginia has jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 10, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be

granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-38061 Filed 11-18-80; 8:45 am]
 BILLING CODE 8010-01-M

[Release No. 21787 (70-6511)]

Kentucky Power Co.; Proposed Issuance and Sale of Short-Term Notes to Banks

November 13, 1980.

Notice is hereby given that Kentucky Power Company ("Kentucky"), 1701 Central Avenue, Ashland, Kentucky 41101, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete description of the proposed transactions.

Kentucky proposes to issue and sell short-term notes to a group of banks in an aggregate amount not to exceed \$50,000,000 outstanding at any one time. As a September 18, 1980, Kentucky had \$13,250,000 aggregate principal amount of short-term debt outstanding. It is proposed that the notes to banks be issued from time to time and be renewed from time to time prior to January 1, 1982, as funds may be required, provided that none of such notes shall mature later than June 30, 1982.

Kentucky has established lines of credit with 20 banks under which it may borrow an aggregate amount not to exceed \$371,900,000 outstanding at any one time. The fees and balances for these lines of credit are borne by Kentucky and participating affiliates of Kentucky in proportion to their respective projected maximum need for such credit facilities. The addition of

Columbus and Southern Ohio Electric Company, an affiliate of Kentucky, to this participation has the effect of reducing the relative amount of such fees and balances to be borne by Kentucky.

Each note will be prepayable by Kentucky at any time without premium or penalty. It is stated that the effective cost of money to Kentucky under any of its arrangements with the various banks, assuming full use of the line of credit, would not exceed 125% of the prime commercial rate in effect from time to time, or not more than 17.5% on the basis of a prime commercial rate of 14%.

The proceeds of the short-term notes will be added to the general funds of Kentucky and used to pay the general obligations of Kentucky, including expenses incurred in its various construction projects and for other corporate purposes. The estimated cost of its construction program for the year 1981 is approximately \$47,000,000.

Kentucky requests that the certificates of notification under Rule 24 with respect to issuance by Kentucky of the notes to banks be filed quarterly.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at \$2,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested persons may, not later than December 10, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the

hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-36062 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17289 (SR-NASD-79-5)]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

November 13, 1980.

On May 14, 1979, the National Association of Securities Dealers, Inc. ("NASD") 1735 K Street N.W., Washington, D.C. 20006, 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 that adds a new Section 37 to Article III of the NASD's Rules of Fair Practice concerning standards and filing requirements for member advertising and sales literature. The proposal eliminates the requirement that advertisements be submitted for review within five days of use and adopts a routine "spot check" procedure for advertisements and sales literature. However, members who have not filed advertisements with the NASD for a period of at least one year are required to file with the NASD at least ten days prior to use for a period of one year. In addition, sales literature and advertisements relating to investment companies are required to be filed with the NASD within ten days of use. The proposed rule change also codifies in Section 37 the NASD's Advertising Interpretation under Article III Section I of the Rules of Fair Practice.

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. 15891, June 1, 1979) and by publication in the Federal Register (44 FR 33206, June 8, 1979). The first amendment to the proposal was submitted on August 21, 1980. Notice of the amendment was given by publication of a Commission Release (Securities Exchange Act Release No. 17098, August 28, 1980) and by publication in the Federal Register (45 FR 58994, September 5, 1980). The NASD submitted a second amendment to the proposal on October 7, 1980 which provided notice of final action on the prior amendment by the NASD Board of Governors.

All written statements with respect to the proposed rule change that 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 the NASD, and in particular, the requirements of Section 15A, 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. 80-36078 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21786; (70-6519)]

System Fuels, Inc., et al.; Proposal To Make Short-Term Bank Borrowings Pursuant to a Loan Agreement; Guarantee of Such Borrowings by Parent Companies

November 13, 1980.

In the matter of System Fuels, Inc., Noro Plaza, 666 Poydras, New Orleans, Louisiana 70130, Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, Electric Building, Jackson Mississippi 39205, and New Orleans Public Service, Inc., 317 Baronne Street, New Orleans, Louisiana 70112; (70-6519).

Notice is hereby given that System Fuels, Inc. ("SFI"), a fuel procurement subsidiary of Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company and New Orleans Public Service, Inc. (collectively, the "operating companies"), each a public utility subsidiary of Middle South Utilities, Inc. a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(b) of the Act and Rules 45 and 50(a)(2)

promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated August 1, 1979 (HCAR No. 21171) SFI was authorized to make unsecured borrowings through December 8, 1980 of up to \$75,000,000 at any one time outstanding under a line of credit with Hibernia National Bank in New Orleans ("Hibernia"). As of August 31, 1980, SFI's borrowings under this line of credit aggregated \$3,900,000 in principal amount, and it is anticipated that at maturity on December 8, 1980, such borrowings will aggregate approximately \$45,000,000 in principal amount. In order to provide SFI funds with which to (a) repay its borrowings from Hibernia at maturity, (b) finance a portion of SFI's fuel oil inventory, (c) finance SFI's acquisition of natural gas and (d) finance other expenditures in connection with its fuel supply program, and to meet SFI's commitment to endeavor to obtain funds for its corporate expenditures from external sources under advantageous arrangements in lieu of making borrowings from its parent companies, SFI proposes to enter into a Loan Agreement ("loan agreement") with Citibank, N.A. ("bank").

Pursuant to and subject to the limitations set forth in the loan agreement, SFI will be entitled to borrow and reborrow from the bank, and the bank will commit itself to lend to SFI, during the period commencing on the effective date of the loan agreement ("effective date") and terminating on December 31, 1982 ("termination date"), up to an aggregate principal amount at any one time outstanding not to exceed \$60,000,000 ("commitment"); provided that at no time shall the bank be obligated to make loans to SFI under the loan agreement in an aggregate principal amount at any one time outstanding in excess of the borrowings base. As used in the loan agreement, the borrowing base is defined to mean an amount equal to 85 percent of the net book value of the assets from time to time owned by SFI exclusive of leasehold improvements and construction work in progress ("collateral").

The proposed borrowings will be in addition to other borrowing arrangements currently maintained by SFI for the purpose of securing funds from external sources to finance its fuel supply business and which have previously been authorized by this Commission.

Borrowings by SFI from the bank pursuant to the loan agreement will be

evidenced by a single master note of SFI ("note"), representing the obligation of SFI to pay the amount of the commitment or, if less, the aggregate unpaid principal amount of all loans made by the bank thereunder, plus accrued interest. The date and amount of each loan made by the bank, and the date and amount of each payment by SFI of principal of the loans under the loan agreement, will be recorded by the bank on a schedule annexed to the note. The note will be payable to the order of the bank, be dated the effective date, be stated to mature on the termination date, and bear interest on the unpaid principal amount thereof at a rate per annum equal to the rate of interest announced publicly by the bank in New York, New York from time to time as the bank's base rate. Based on the commitment fee of $\frac{1}{2}$ of 1% per annum on the average daily unused portion of the commitment (estimated solely for purposes of the following computation at \$24,000,000), and based upon the bank's base rate of 15 $\frac{1}{2}$ % per annum in effect on November 10, 1980, SFI estimates that its cost of money in respect of the proposed borrowings as of that date would be 15.8% per annum.

The loan agreement will provide that SFI may at any time, without premium or penalty, prepay the note, in whole or in part, and that if at any time the unpaid principal amount of the note then outstanding exceeds the borrowing base, SFI will be required, without premium or penalty, to prepay an amount not less than the amount by which such unpaid principal amount of the note then exceeds the borrowing base.

For the bank's commitment under the loan agreement, SFI will pay to the bank a commitment fee for the period from the effective date to the termination date or earlier termination of the commitment, computed at the rate of one-half of one percent per annum on the average daily unused portion of the commitment. The loan agreement will also provide that SFI may, at its option, terminate early, or reduce, from time to time, the commitment.

Pursuant to the terms of the loan agreement, SFI will covenant and agree to keep the collateral free and clear of all liens and encumbrances, except certain permitted encumbrances specified therein, and will further covenant and agree, but only upon receipt of 60 days' prior written notice from the bank, to grant to the bank, to the extent permitted by applicable laws, a first priority, perfected security interest (or other analogous security device) in the collateral, subject to prior

permitted encumbrances, to secure the performance by SFI of its obligations to the bank under the loan agreement and the note.

In addition, and as an inducement to the bank to enter into these financing arrangements with SFI, the operating companies proposed to join with SFI as parties to the loan agreement and to covenant and agree with the bank, severally in accordance with their present respective shares of ownership of the common stock of SFI, that they will take any and all action as, from time to time, may be necessary to keep SFI in a sound financial condition and to place SFI in a position to discharge, and to cause SFI to discharge, its obligations to the bank pursuant to the loan agreement and the note. The operating companies will further covenant and agree that they will, unless otherwise consented to in writing by the bank, maintain their respective shares of ownership of the common stock of SFI, for the period during which any portion of the principal amount of the note remains unpaid, in approximately the same proportions as currently held by them.

The terms of the loan agreement will not require that SFI maintain compensating balances with the bank. It is expected, however, that, over the term of the loan agreement, SFI will maintain working balances with the bank, although fluctuations in these balances will not reflect or depend upon fluctuations in the amount of loans to SFI outstanding.

A statement of the fees, commission and expenses to be incurred in connection with the proposed transaction. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 5, 1980 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration as filed or as it may be amended, may be permitted to become effective as provided in Rule 23

of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-38083 Filed 11-18-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-17285; File No. SR-NYSE-80-35]

Proposed Rule Change by New York Stock Exchange, Inc.

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 September 29, 1980, 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 clarifies the authority of the Exchange to impose the sanctions contained in this rule upon a member organization that has been restricted without waiting for the 15 consecutive business day requirement to elapse.

The text of the proposed rule change is attached as Exhibit I-A.

Purpose of Proposed Rule Change

The purpose of the proposed rule change is to clarify the intent of the Exchange in originally adopting the Rule on July 15, 1971. Specifically, the rule change would clarify that rule 326 (a) and (b) requires a member organization that carries customer accounts to cease expansion of or reduce business if certain specific conditions relating to their financial responsibilities (326(a)(1)-(4) and (b)(1)-(4)) have existed for more than 15 consecutive business days. One such condition enumerated in the Rule (Rule 326(a)(5) and (b)(5)) is when the Exchange restricts the member organization. The intent of this provision was that the cessation/restriction sanctions under the Rule would become effective for a member organization that has been so

restricted without having to wait for 15 days to elapse. The other specifically enumerated financial responsibility criteria (326(a)(1)-(4) and (b)(1)-(4)) are subject to daily fluctuation, so that the 15-day requirement would prevent a member organization from being sanctioned for temporary non-compliance.

Since adoption, the rule has been interpreted to reflect this.

Basis Under the Act

(i) Inapplicable
(ii) Inapplicable
(iii) Inapplicable
(iv) Inapplicable
(v) The proposed rule change is consistent with Section 6(b)(5) in that it protects investors and the public interest by insuring that member organizations which carry customer accounts comply with certain minimum financial standards or be required to cease expansion of or reduce their business.

(vi) Inapplicable
(vii) Inapplicable
(viii) Inapplicable
The proposed amendments are consistent with Section 6(c)(3)(A) which permit a national securities exchange to condition the membership of a broker or dealer that does not meet such standards of financial responsibility as are prescribed by the rules of the Exchange.

Comments Received from Members, Participants or Others

No comments were solicited or received on the proposed rule change.

Burden on Competition

None.
On or before December 24, 1980, or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be

available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 10, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.
November 12, 1980.

Exhibit I-A.—*New language in italics*—
Deleted language in brackets [].

Growth Capital Requirement

Rule 326(a). A member organization which carries customer accounts shall not expand its business during any period in which:

(1) any of the following conditions continue to exist, [which period will commence as soon as such condition has existed] for more than 15 consecutive business days provided that such condition has been known to the Exchange for at least five (5) consecutive business days: [1] *a* Its net capital is less than 150 percent of its net capital minimum dollar amount requirement or [some] *such* greater percentage *thereof* as may, from time to time be designated by the Exchange, or,

[2] *b* If subject to [this] *the aggregate indebtedness requirement under SEC Rule 15c3-1*, its aggregate indebtedness is more than 1,000 per centum of its net capital, or

[3] *c* If in lieu of [(2)] *b* above, the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers under SEC Rule 15c3-3 (the alternative net capital requirement) is applicable, its net capital is less than 7 percent of the aggregate debit items thereunder, or

[4] *d* *The deduction of capital withdrawals including maturities scheduled during the next six months and/or the special deduction from net capital set forth in Rule 431 (c)(8)(C)(iii) would result in any one of the conditions described in 1a, [2]1b or [3]1c [above.] of Section (a) of this Rule, or*

[5] (2) The Exchange restricts the member organization.

Business Reduction Capital Requirement

Rule 326(b). A member organization which carries customer accounts shall forthwith reduce its business;

(1) to a point enabling its available capital to meet the standards set forth in 1a, 1b or 1c of Rule 326(a) [whenever] if any of the following conditions continue to exist for more than fifteen (15) consecutive business days provided that such condition has been known to the Exchange for at least five (5) consecutive business days: [1] a Its net capital is less than 125 percent of its net capital minimum dollar amount requirement or [some] such greater percentage thereof as may from time to time be designated by the Exchange, or

[2] b If subject to [this] the aggregate indebtedness requirement under SEC Rule 15c3-1, its aggregate indebtedness is more than 1,200 per centum of its net capital, or

[3] c If in lieu of [(2)] b above, the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers, under SEC Rule 15c3-3 (the alternative net capital requirement) is applicable, its net capital is less than 6 percent of the aggregate debit items thereunder, or

[4] d If the deduction of capital withdrawals including maturities scheduled during the next six months and/or the special deduction from net capital set forth in Rule 431 (c)(8)(C)(iii) would result in any one of the conditions described in 1a, [2]1b or [3]1c [above] of Section (b) of this Rule or

[5] (2) When the Exchange restricts the member organization.

[FR Doc. 80-36079 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1925; Amendment #1]

Oklahoma; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 69331) is hereby amended by including the following language as reason for the disaster declaration:

77 counties and adjacent counties in the State of Oklahoma constitute a disaster area because of drought and extreme heat causing damage to agriculture, livestock, and products . . .

All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business March 24, 1981, and for filing applications for economic injury is close of business on June 24, 1981.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 7, 1980.

A. Vernon Weaver,
Administrator.

[FR Doc. 80-36084 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0417]

Cornwall Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Cornwall Capital Corporation (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of Delaware, and it will commence operations with a capitalization of \$1,000,000.

The Applicant will have its place of business at 237 Mamaroneck Avenue, White Plains, New York 10605, and it intends to conduct operations primarily in the Westchester County area of the State of New York. Applicant expects to broad financing policy spread between equity and loans to concerns. The officers, directors, and ten percent (10%) or more stockholders of the Applicant will be:

Kenneth R. Corn, 11 LeGrande Ave., Greenwich, NY 12834 (Chairman of the Board, Secretary and 10% Stockholder)
Robert A. Wall, 26 Farragut Rd., Scarsdale, NY 10583 (President, Treasurer, Director and 10% Stockholder)
Barry J. Gordon, 63 Karol Place, Muttontown, NY 11753 (Director)

It is anticipated that there will be no more than 35 shareholders, none of which (other than Messrs. Corn and Wall) will own 10% or more of the securities of the Applicant.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than December 4, 1980, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36015 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 02/02-0421]

Intercontinental Capital Funding Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Intercontinental Capital Funding Corporation (Applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Jane Y. Mallare, 66, 4th St., New Manila, Quezon City, Manila, Philippines (Director)
James S. Yu, 103 Birch Rd., Briarcliff Manor, NY 10519 (President/Treasurer, Director and General Manager)
Chris Wu, 69-01 35th Ave., Jackson Heights, NY 11372 (Vice President and Director)

The Applicant, a New York corporation, with its principal place of business at 80 Mott Street, New York, New York 10013, will begin operations with \$520,000 of paid-in capital and paid-in surplus derived from the sale of 250 shares of common stock.

The Applicant will conduct its activities principally in the State of New York. Applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and

character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,
Acting Associate Administrator for Investment.

[FR Doc. 80-36018 Filed 11-18-80; 8:45 am]
BILLING CODE 8025-01-M

[License No. 02/02-0416]

Kwiat Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Kwiat Capital Corporation (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New York, and it will commence operations with a capitalization of \$510,000.

The Applicant will have its place of business at 576 Fifth Avenue, New York, New York 10036, and it intends to conduct operations primarily in the State of New York. Applicant expects to emphasize equity investments with particular attention to growth situations. The officers, directors, and ten percent (10%) or more stockholders of the Applicant will be:

David Solomon Kwiat, 369 Everit Ave.,
Hewlett Harbour, NY 11557 (President and Director)

Lowell Marc Kwiat, 1365 York Ave., New York, NY 10021 (Executive Vice President, General Manager, Director and 33 1/3%)
Sheldon Frank Kwiat, 15 Cypress Ave., Kings Point, NY 11024 (Secretary and 33 1/3%)
Carol Susan Greene, 8 Meryl Lane, Great Neck, NY 11024 (Director and 33 1/3%)
Jeffrey Marc Greene, 8 Meryl Lane, Great Neck, NY 11024 (Director)

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice in the Federal Register, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,
Acting Associate Administrator for Investment.

[FR Doc. 80-36017 Filed 11-18-80; 8:45 am]
BILLING CODE 8025-01-M

[License No. 09/09-5268]

Lucky Star Investment Co.; Issuance of a License To Operate as a Small Business Investment Company

On August 1, 1980, a notice was published in the Federal Register (45 FR 51328), stating that Lucky Star Investment Company, located at 667 Grant Avenue, San Francisco, California 94108, has filed an application with the Small Business Administration (SBA), pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested persons were given until the close of business on August 16, 1980, to submit written comments on the application to the SBA.

Notice is hereby given that no written comments were received and, having considered the application and all other pertinent information, the SBA approved the issuance of License No. 09/09-5268 on October 23, 1980, to Lucky Star Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,
Acting Associate Administrator for Investment.

[FR Doc. 80-36018 Filed 11-18-80; 8:45 am]
BILLING CODE 8025-01-M

[Proposed License No. 09/09-0275]

Oxford Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1980)), by Oxford Capital Corporation, 3700 Wilshire Boulevard, Los Angeles, California 90010, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*)

The proposed officers, directors and stockholders are:

Name and address	Title	Per- cent of own- ership
Joseph N. Mitchell, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Chairman of the Board.....	
Richard Lorenz, 3700 Wilshire Blvd., Los Angeles, CA 90010.	President, General Manager and Director.	
Marcus Loow, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Vice President, Treasurer and Director.	
Dennis D. Mendel, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Secretary and Director	
Dele Madoff, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Assistant Secretary	
R. T. McNamar, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Director	
Beneficial Standard Corp., 3700 Wilshire Bld., Los Angeles, CA 90010.	100

Beneficial Standard Corporation is a holding company whose subsidiaries are engaged primarily in the life insurance (including accident and health) and property-casualty insurance businesses.

The Applicant (a Delaware corporation) proposes to begin operations with a capitalization of \$1 million. They propose to concentrate their investments in insurance related activities, low technology firms and real estate build-and-sell operations.

Matters involved in SBA's consideration of the application include the general business reputation and

character of the proposed owner and management, and the probability of successful operations of the new company under this management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36019 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/345]

Secretary of State's Advisory Committee on Private International Law, Study Group on International Child Abduction; Meeting

There will be a meeting of the Study Group on International Child Abduction, a study group of the subject Advisory Committee, at 9:30 a.m. on Saturday, December 6, 1980 in Room 219, Hastings College of Law, 198 McAllister Street, San Francisco, California. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The purpose of the meeting will be to review the final text of the Convention on the Civil Aspects of International Child Abduction adopted by the Fourteenth Session of the Hague Conference on Private International Law and to consider in that connection questions of possible United States adherence to that convention.

In order to facilitate arrangements concerning attendance at this meeting, it would be appreciated if members of the public planning to attend would contact Ms. Rochelle Renna, Office of the Assistant Legal Adviser for Private

International Law, Department of State, (telephone: (202) 632-8134).

Peter H. Pfund,

Assistant Legal Adviser for Private International Law and Vice-Chairman, Advisory Committee on Private International Law.

November 12, 1980

[FR Doc. 80-36054 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-08-M

[Public Notice CM-8/344]

Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on December 10, 1980 at 9:30 a.m. in the Forum Room, National Telecommunications and Information Administration, Department of Commerce, 1325 G Street, NW, Washington, D.C.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting will be to consider documents for submission to the international meeting in 1981 and preparation of U.S. input to Interim Working Party 1/3 on the review of Study Group 1 activities.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520; telephone (202) 632-2592.

Dated: November 6, 1980.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 80-36053 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/346]

Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on December 17, 1980 at 10:00 a.m. in the Theater on the first floor of the

Communications Satellite Corporation Building, 950 L'Enfant Plaza, SW., Washington, D.C.

Study Group 4 deals with matters relating to systems of radiocommunications for the fixed service using satellites. The purpose of the meetings is to review results of the international meeting of Study Group 4 (October-November) and establish a program of work in preparation for the next international meeting in 1981.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: November 13, 1980.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 80-36055 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-07-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 225

Wednesday, November 19, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-299 (1 amendment), Nov. 10, 1980]

CIVIL AERONAUTICS BOARD.

Addition and deletion of item's to the November 13, 1980 Board meeting.

TIME AND DATE: 9 a.m., November 13, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Deleted: 4. Docket 29044, Amendments to the Board's smoking rule, Part 252. (BCP, BDA, OGC)

Added: 26. Docket 38605, Application of Air Europe Limited for an initial foreign air carrier permit to engage in charter foreign air transportation of persons, property and mail between the United States and the United Kingdom. (BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-2104-80 Filed 11-14-80; 5:44 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, November 28, 1980.

PLACE: 2033 K Street NW., Washington, D.C. eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE

INFORMATION: Jane Stuckey, 254-6314.

[S-2107-80 Filed 11-17-80; 1:10 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., November 25, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Status report on Investigation.

CONTACT PERSON FOR MORE

INFORMATION: Jane Stuckey, 254-6314.

[S-2110-80 Filed 11-17-80; 3:55 pm]

BILLING CODE 6351-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, November 18, 1980, starting at 9:30 A.M., in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item Number, and Subject

General—1—*Title:* Order in Gen. Docket 79-263, amendment of search fee provision of the Freedom of Information rules (§ 0.466). *Summary:* The Commission will consider adoption of rules it proposed on October 24, 1979 (44 FR 62304). The proposed rules provide for a recalculation of the FOIA search fee based on hourly labor costs for agency employees and require advance payment in appropriate circumstances.

General—2—*Memorandum Opinion and Order* amending Section 15.309(b) of the Commission's Rules relating to the operation field disturbance sensors.

Private Radio—1—*Title:* Notice of Proposed Rulemaking to revise Part 97, the Amateur Radio Service Rules, into "plain language." *Summary:* The FCC will consider whether to adopt a proposal to revise the Amateur Radio Services Rules into "plain language." The existing Amateur Radio Services Rules are unnecessarily complex and difficult to understand. The purpose of this proposed revision is to make these rules less complex and more understandable by those persons they affect.

Private Radio—2—*Title:* Tactile Paging. *Summary:* The Commission will consider adoption of a Report and Order making two frequencies, 35.02 and 43.64 MHz, available for paging and response techniques, by persons having hearing deficiencies, visual impairments, or other physical handicaps.

Common Carrier—1—*Further Notice of Rulemaking* in Docket No. 79-35 requesting public comment on whether the Communications Satellite Corporation (Comsat) should be permitted to include,

for rate setting purposes, the net expenses and assets of its INMARSAT investment in the revenue requirements for its INTELSAT services.

Assignment and Transfer—1—*Title:*

Unrelated requests for issuance of tax certificates in connection with: (1) the assignment of license of AM station KZON, Santa Maria, California from Leonard Kesselman to De Oro Broadcasting Company, Inc. (2) the assignment of license of AM station KIQI, San Francisco, California from San Francisco Wireless Talking Machine Company, Incorporated to Oro Spanish Broadcasting, Inc. *Summary:* The Chief, Broadcast Bureau, pursuant to delegated authority, granted the applications to assign the licenses for AM stations KZON and KIQI on April 21, 1980 and September 5, 1980, respectively. The assignors have requested tax certificates pursuant to the Commission's *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Assignment and Transfer—2—*Title:* Request for a tax certificate in connection with the sale of FM station WTWF, Moncks Corner, South Carolina, from Double R Broadcasting, Inc. to Nuance Corporation. *Summary:* On October 20, 1980, the Chief, Broadcast Bureau, pursuant to delegated authority, granted the application for the voluntary assignment of license of FM station WTWF, Moncks Corner, South Carolina. The Commission will consider whether to issue a tax certificate requested by the assignor, Double R Broadcasting, Inc., pursuant to the Commission's *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Assignment and Transfer—3—*Title:* Application (File No. BTCC-800227KF) for Commission consent to the voluntary transfer of control of Suburban Broadcasting Corporation, licensee of Station WSNL-TV, Channel 67, Smithtown, New York, from Robert Rosen, et al., to Wometco-Long Island, Inc. *Summary:* Wometco Enterprises, Inc., which owns and holds a subscription television ("STV") franchise for WWHT(TV), Channel 68, Newark, New Jersey, seeks to acquire WSNL-TV, Channel 67 Smithtown, (Long Island), New York and operate it as a satellite of WWHT(TV). There is Grade B overlap between the two stations, which together cover much of the New York City market. The Commission will consider whether the circumstances in this case justify a grant of the application under the satellite exception to the TV multiple ownership rule (§ 73.636, Note 9).

Renewal—1—*Title:* Application for renewal of license of Station WNMB, North Myrtle Beach, South Carolina. *Summary:* Commission considers the short-term license renewal application of Station

WNMB filed by North Myrtle Beach Broadcasting Corporation.

Renewals—2—Title: License renewal applications of Mission Central Company, as supplemented, for Station KONO, San Antonio, Texas. **Summary:** The Commission considers the employment practices of Station KONO during the 1971 to 1974 license term and its imposition of employment reporting conditions, pursuant to instructions from the Court of Appeals in *Bilingual Bicultural Coalition on Mass Media v. F.C.C.*, 193 U.S. App. D.C. 236, 595 F. 2d 621 (1978).

Renewals—3—Title: 1977 Renewal Application of Faith Center, Inc. for WHCT-TV, Hartford, Connecticut. **Summary:** The Commission considers the designation for hearing of Faith Center, Inc.'s renewal application for Station WHCT-TV, Hartford, Connecticut.

Renewals—4—Title: Petition of the Mississippi Authority for Educational Television for Partial Reconsideration of the Commission's July 24, 1980 Order granting license renewals. **Subject:** The Commission reviews a petition for partial reconsideration filed by the Mississippi Authority for Educational Television in which it challenges the requirement that it submit employment data with its next renewal applications.

Aural—1—Title: Applications by the Far East Broadcasting Company, Inc. to license AM Station KSAI, Susupe, Saipan and H. Scott Killgore d/b/a Micronesian Broadcasting Corporation to license Stations WSZE(AM), WSZE-FM, and WSZE-TV, Navy Hill (Rapagan), Saipan. **Summary:** The Commission will consider applications to license broadcast facilities in the Northern Mariana Islands Commonwealth.

Aural—2—Title: Application by Oakdale Broadcasting Company, Inc. for additional time to complete construction of new FM Station WIXO, McComb, Mississippi (File No. BMPH-790712AG). **Summary:** The Commission will consider an informal objection to this application by Donald G. Manuel.

Aural—3—Title: In re Applications of Allegan County Broadcasters, Inc. and Charles Hedstrom and Ralph Trieger, d/b/a Pinehurst Broadcasting, for a new FM station at Otsego or Plainwell, Michigan, respectively. **Summary:** The Commission considers the above application by the applicant for Otsego, and a drop-out agreement by the applicants concerning the Plainwell application.

Aural—4—Title: Memorandum Opinion and Order in re application of Bay Cities Communications Corp. for nighttime authority for daytime AM station WTJZ, Newport News, Virginia; request for waiver of Section 73.24(j) of rules filed by applicant; and petition to deny application filed by Hampton Roads Broadcasting Corp., licensee of AM station WGH, Newport News, Virginia. **Summary:** The Commission considers the above matters, which relate primarily to the proposal's failure to provide interference-free service to all of Newport News.

Broadcast—1—Title: Request by NBC for waiver of the "prime time access rule" in

connection with its telecast of the NFL championship Super Bowl game on Sunday, Jan. 25, 1981. **Summary:** The Commission considers the question of whether to grant NBC's request for waiver of the prime time access rule so as to permit prime time on Sunday evening, Jan. 25, to be devoted entirely to NBC programs—the Super Bowl, a post-game show, and another entertainment program.

Broadcast—2—Title: Consideration of Policy questions affecting the regulation of international broadcasting. **Summary:** This item involves consideration of policies governing (1) the licensing of international broadcast stations and (2) participation in international meeting assigning frequency hours to international broadcast stations.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[S-2106-80 Filed 11-17-80; 11:39 am]
BILLING CODE 6712-01-M

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FEDERAL COMMUNICATIONS COMMISSION.

The Commission will hold a Closed Meeting on the subjects listed below on Tuesday, November 18, 1980, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item Number, and Subject

Hearing—1—Petition for reconsideration filed by Walton Broadcasting, Inc., in the Tucson, Arizona, KIKX renewal proceeding (Docket No. 20287).

Hearing—2—Application for Review of the Hearing Designation Order (Mimeo Number BC-34025, released July 29, 1980) in the West Salem, Wisconsin, comparative FM proceeding (BC Docket Nos. 80-413 and 80-414).

Hearing—3—Motion for Stay, Motions to Strike, and Petition for Reconsideration of the Commission's Memorandum Opinion and Order in the Harriman, Tennessee, FM proceeding (Docket No. 19812).

Hearing—4—Petitions to reopen the record, motion to delete issue, and Petition to intervene in the Mt. Holly, New Jersey, AM comparative renewal proceeding. (Docket Nos. 20738-9).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: November 14, 1980.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[S-2106-80 Filed 11-17-80; 11:39 am]
BILLING CODE 6712-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, November 24, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed consolidation of Fidelity National Bank of Pa., Williamsport, Pennsylvania, and Commonwealth Bank and Trust Company, Muncy, Pennsylvania.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Memorandum and Resolution re: Amendments to FDIC's Regulations Governing Applications—Public Access to Application Files.

Memorandum re: Proposed Revision to FDIC Employee Grievance Procedures.

Reports of committees and officers: Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors. Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 17, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-2108-80 Filed 11-17-80; 3:34 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, November 24, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

The Bank of Prescott, a proposed new bank, to be located at 1040 Willow Creek Road, Prescott, Arizona.

Wilshire State Bank, a proposed new bank, to be located at 699 South Vermont Avenue, Los Angeles, California.

Morgan County Community Bank, a proposed new bank, to be located at 1342 South Main Street, Jacksonville, Illinois.

First American State Bank, a proposed new bank, to be located at the intersection of Harrison Avenue and Belmont Street, Centralia, Washington.

Fairhaven Savings Bank, Fairhaven, Massachusetts, an operating noninsured mutual savings bank.

New Bedford Five Cents Savings Bank, New Bedford, Massachusetts, an operating noninsured mutual savings bank.

Watertown Savings Bank, Watertown, Massachusetts, an operating noninsured mutual savings bank.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee or an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Request for rescission of conditions imposed in granting consent to change location:

First City Bank of Lewisville, Lewisville, Texas.

Notice of Acquisition of Control:

Richfield State Bank, Richfield, Wisconsin.

Applications for consent to merge an establish branches:

Central Carolina Bank & Trust Company, Durham, North Carolina, an insured State

nonmember bank, for consent to merge, under its charter and title, with Burlington National Bank, Burlington, North Carolina, and for consent to establish the three offices of Burlington National Bank as branches of the resultant bank.

The Merchants Bank, Burlington, Vermont, an insured State nonmember bank, for consent to merge, under its charter and title, with Catamount Bank, North Bennington, Vermont, and for consent to establish the seven offices of Catamount Bank as branches of the resultant bank.

Application for consent to purchase assets and assume liabilities and establish a branch:

Bank of Pennsylvania, Reading, Pennsylvania, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in The First National Bank of Honey Brook, Honey Brook, Pennsylvania, and for consent to establish the sole full-service office of The First National Bank of Honey Brook as a branch of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,468-L—Franklin National Bank, New York, New York.

Case No. 44, 532-SR—American Bank & Trust Company, New York, New York.

Case No. 44,554-L—Fidelity Bank, Utica, Mississippi.

Case No. 44,556-L—American City Bank and Trust Company, National Association, Milwaukee, Wisconsin.

Case No. 44,558-L—Northern Ohio Bank, Cleveland, Ohio.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Reports of committees and officers:

Report of actions taken by the Division of Liquidation under delegated authority—Releases of Collateral for Fair Market Value.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 17, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-2108-80 Filed 11-17-80; 3:34 pm]

BILLING CODE 6714-01-M

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FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11:30 a.m., Friday, November 14, 1980. The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involved individual Federal Reserve System employees.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 14, 1980.

Theodore E. Allison,
Secretary of the Board.

[S-2101-80 Filed 11-14-80; 5:01 pm]

BILLING CODE 6210-01-M

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FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Notice forwarded to Federal Register on Monday, November 10, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, November 19, 1980.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda:

Proposed revision of Regulation Z (Truth in Lending) in connection with the passage of the Truth in Lending Simplification and Reform Act. (Proposed earlier for public comment; Docket No. R-0288).

This matter will be rescheduled for an open meeting on Wednesday, November 26, 1980.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 14, 1980.

Theodore E. Allison,
Secretary of the Board.

[S-2102-80 Filed 11-14-80; 5:01 pm]

BILLING CODE 6210-01-M

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FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Monday, November 24, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Appointment of new members to the Consumer Advisory Council.
2. Personnel actions (appointment, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any Agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 14, 1980.

Theodore E. Allison,
Secretary of the Board.

[S-2103-80 Filed 11-14-80; 5:01 pm]

BILLING CODE 6210-01-M