Vol.41—No.7
1-12-76
PAGES
1737-1884

federal register

MONDAY, JANUARY 12, 1976

highlights

LEATHER HANDBAGS FROM BRAZIL
Treasury issues final determination 1741

TAX ADMINISTRATION
Administrative Conference of the United States issues rules for improved procedures 1867

DES
HEW/FDA proposes to withdraw all new applications for use in animals used for food for human consumption; comments by 2-11-76 1804

AIRPORT SECURITY
Transportation establishes advisory committee 1839

PUBLIC EDUCATION
HEW issues final rules on assistance for desegregation of elementary and secondary schools, and sets application closing date (2 documents) 1875, 1884

OCCUPATIONAL SAFETY
HEW issues new proposal on certification of personal protective devices; comments by 2-11-76 1757

EQUAL CREDIT
FRS proposes rules to prohibit discrimination on the basis of sex or marital status; comments by 2-2-76 1769

FEDERAL ELECTIONS
FEC issues advisory opinions and publishes lists of requests (3 documents) 1862, 1863, 1865

PRIVACY ACT OF 1974
NTSB proposes to amend notice of systems of records; comments by 2-11-76 1820

TOXIC POLLUTANTS
EPA proposes to amend public hearing requirements for establishing effluent standards; comments by 2-11-76 1765

HOUSEHOLD MOVERS
ICC excludes certain carriers from consumer reporting filing requirements; effective 1-12-76 1742

SUPPLEMENTAL FOOD PROGRAMS
USDA/Food and Nutrition Service issues interim rules for women, infants and children; effective 1-8-76 1743

TREASURY SECURITIES
Treasury announces auction of Series J-1978 and D-1981 notes (2 documents) 1798, 1799

CONTINUED INSIDE

reminders

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

Rules Going Into Effect Today

Treasury/CS—Entry of Merchandise Completion of entry papers.
57796; 12-12-75

List of Public Laws

NOTE: No acts approved by the President were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

ATTENTION: Questions, corrections, or requests for information regarding the contents of this issue only may be made by dialing 202-523-5286. For information on obtaining extra copies, please call 202-523-5240. To obtain advance information from recorded highlights of selected documents to appear in the next issue, dial 202-523-5022.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

EXCHANGES, BROKERS AND DEALERS
SEC proposes amendments to SECO rules; comments by 1-25-76 1771

MEETINGS—
Commodity Futures Trading Commission: Advisory Committee on Regulation of Commodity Futures Trading Professionals, 1-27-76 1816
FCC: PBX Technical Standards Subcommittee, 2-3 and 2-4-76 1788
Justice/LEAA: National Advisory Committee on Criminal Justice Standards and Goals; Disorders and Terrorism Task Force, 2-1 and 2-2-76 1801
HEW/HRA: National Committee on Vital and Health Statistics, 2-25 through 2-27-76 1808
HSA: Indian Health Advisory Committee, 2-10 and 2-11-76 1809
OE: National Council on Bilingual Education, 1-21 through 1-24-76 1809
National Science Foundation: Advisory Panel for Systematic Biology, 1-29 and 1-30-76 1820
State/AID: Research Advisory Committee, 1-15 and 1-16-76 1775
Legal Services Corporation: Board of Directors Committee on Regulations, 1-22 and 1-23-76 1819
Privacy Protection Study Commission, 1-22-76 1820

CANCELLED MEETING—
Commerce: Economic Advisory Board, 1-22-76 1803

contents

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES
Rules
Recommendations:
Internal Revenue Service Procedures 1867

AGENCY FOR INTERNATIONAL DEVELOPMENT
Notices
Meetings:
Research Advisory Committee 1775

AGRICULTURE DEPARTMENT
See also Animal and Plant Health Inspection Service; Food and Nutrition Service; Soil Conservation Service.
Rules
Procurement 1742

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Proposed Rules
Nitrates, nitrites and salt, extension of comment period 1773

ANTITRUST DIVISION, JUSTICE DEPARTMENT
Notices
Competitive impact statements and proposed consent judgments, U.S. versus listed companies:
Customs Brokers and Forwarders Association of Miami, Inc. 1800

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED
Proposed Rules
Shipping and packing; procurement requirements and procedures 1764
Notices
Procurement list, 1976, additions and deletions (2 documents) 1816

CIVIL AERONAUTICS BOARD
Proposed Rules
Classification and exemption of air taxi operators 1764
Notices
Hearings, etc.:
International Air Transport Association (3 documents) 1809, 1813, 1815

CIVIL SERVICE COMMISSION
Rules
Excepted service:
Commerce Department 1737
Defense Department 1737
Interior Department 1737
National Foundation on the Arts and the Humanities 1737

COMMERCE DEPARTMENT
See also Economic Development Administration.
Notices
Boundaries; modification; Coastal Plains Region 1803
Meetings:
Economic Advisory Board 1803

COMMODITY FUTURES TRADING COMMISSION
Notices
Meetings:
Advisory Committee on Regulation of Commodity Futures Trading Professionals 1816

CUSTOMS SERVICE
Rules
Countervailing duties:
Leather handbags from Brazil 1741

DEFENSE MANPOWER COMMISSION
Notices
Meeting cancellation 1816

ECONOMIC DEVELOPMENT ADMINISTRATION
Rules
Financial assistance:
Construction site signs 1738
Notices
Petition for determination; Mortensen Enterprises, Inc. 1803

EDUCATION OFFICE
Rules
Desegregation of public education; financial assistance 1875
Notices
Applications and proposals; closing dates:
Desegregation of Public Education 1884
Meetings:
National Council on Bilingual Education 1809

ENVIRONMENTAL PROTECTION AGENCY
Proposed Rules
Effluent standards for toxic pollutants; public hearings on 1765

FEDERAL AVIATION ADMINISTRATION
Rules
Airworthiness directives:
Bell (2 documents) 1738
Control zone 1739
Proposed Rules
Airworthiness directives:
Pratt & Whitney 1762
Control zones 1763

FEDERAL COMMUNICATIONS COMMISSION
Rules
Cable television systems:
Carriage of network news programs; correction 1742
Notices
Meetings:
FCC PBX Technical Standards Subcommittee 1788
Hearings, etc.:
Andy Valley Broadcasting System, Inc. and Great Down East Wireless Talking Machine Company, Inc. 1787
International Record Carriers 1775
Lorain Electronics Corp. 1788

FEDERAL ELECTION COMMISSION

Notices

Advisory opinion requests (3 documents) 1862, 1863, 1865

FEDERAL HIGHWAY ADMINISTRATION

Notices

Highway Safety Program; program approval policy revision 1838

FEDERAL INSURANCE ADMINISTRATION

Rules

National Flood Insurance Program:
- Areas eligible for sale of insurance (3 documents) 1751
- Special hazard areas 1751

FEDERAL POWER COMMISSION

Notices

Hearings, etc.:
- Continental Oil Co 1788
- Exxon Corp 1789
- Hondo Oil and Gas Co., et al 1790
- Hunter Company, Inc., et al 1791
- McCarter, John H., Jr., et al 1792
- Mobil Oil Corp., et al 1792
- Northern Natural Gas Co 1793
- Northern Natural Gas Producing Co., et al 1794
- PWG Partnership 1795
- Shell Oil Co., et al 1796
- Skelly Oil Co., et al 1797
- Sun Oil Co., et al 1797
- United Gas Pipe Line Co 1797

FEDERAL RESERVE SYSTEM

Rules

Authority delegations:
- Foreign applications 1737

Proposed Rules

Equal credit opportunity; miscellaneous amendments 1769

Notices

Applications, etc.:
- Alabama Bancorporation 1817
- Ancorp Bancshares, Inc 1817
- Citizens Bancshares, Inc 1818
- Glencoe Capital Corp 1818
- Northstream Investments, Inc 1819

FISH AND WILDLIFE SERVICE

Rules

Public access, use, and recreation:
- Parker River National Wildlife Refuge, Mass 1743

Notices

Endangered species permits; applications 1801

FOOD AND DRUG ADMINISTRATION

Notices

Animal drugs:
- Diethylstilbestrol 1804

Food additives; petitions filed or withdrawn:
- Monsanto Co 1804

Meetings:
- Antibiotics in Animal Feeds Subcommittee of the National Advisory Food and Drug Committee 1807

FOOD AND NUTRITION SERVICE

Rules

Child nutrition programs:
- Women, infants, and children, special supplemental program for 1743

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office, Food and Drug Administration; Health Resources Administration; Health Services Administration; Social Security Administration.

Proposed Rules

Personal protective devices 1757

Notices

Organization, functions, and authority delegations:
- Property Management Office 1809

HEALTH RESOURCES ADMINISTRATION

Notices

Meetings:
- United States National Committee on Vital and Health Statistics 1808

HEALTH SERVICES ADMINISTRATION

Notices

Meetings:
- Indian Health Advisory Committee 1809

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See Federal Insurance Administration.

INTERIOR DEPARTMENT

See Fish and Wildlife Service; Land Management Bureau.

INTERSTATE COMMERCE COMMISSION

Rules

Household goods, transportation; consumer protection 1742

Notices

Abandonment of railroad services:
- Chesapeake and Ohio Railway Co 1836
- Grand Truck Western Railroad Co 1837
- Missouri-Kansas-Texas Railroad Co 1837

Hearing assignments 1838

Motor carriers:
- Transfer proceedings (2 documents) 1837, 1838

JUSTICE DEPARTMENT

See Antitrust Division, Justice Department; Law Enforcement Assistance Administration.

LABOR DEPARTMENT

Notices

Adjustment assistance:
- A.M.F. Inc 1827
- Caliper Clothes, Inc 1827
- Clifton Clothing Co 1828
- Dynamic International Corp 1828
- Fashionbilt Clothes Division of Chips N Twigs, Inc 1829
- General Motors Corp., et al 1836
- Guy Lewis, Inc 1829
- Hughes Aircraft Co 1830
- International Hat Co 1830
- J. Maimon and Sons, Inc 1830
- Keystone Uniform Manufacturing Co., Inc 1831
- M. Ehrenberg Sons, Inc 1832
- Frank Saltz and Sons, Inc 1832
- Makress Inc. and Markess Lingerie, Inc 1832
- Michael, Inc 1833
- Modern Coat Co 1833
- Nick Ippoliti, Inc 1834
- Otto B. May Co 1834
- Oxford Tile Co 1835
- Penn State Clothing Corp 1835
- Production Molded Plastics, Inc 1836

LAND MANAGEMENT BUREAU

Notices

Outer Continental Shelf Official protraction diagrams; availability, etc.; correction 1801

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Notices

Meetings:
- National Advisory Committee on Criminal Justice Standards and Goals 1801

LEGAL SERVICES CORPORATION

Notices

Meetings:
- Board of Directors Committee on Regulations 1819

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notices

Japan Engineering Development Co.; intent to grant foreign exclusive patent license 1819

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Proposed Rules

Air brake systems; agricultural commodity trailers 1763

Notices

Highway Safety Program; program approval policy revision 1838

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
- Advisory Panel for Systematic Biology 1820

NATIONAL TRANSPORTATION SAFETY BOARD

Notices

Privacy Act of 1974 proposed amendment of notice of systems of records 1820

NUCLEAR REGULATORY COMMISSION

Notices

Advisory Committee on Reactor Safeguards; notice of proposed subcommittee and full committee meetings; correction 1820

Applications:
- Rochester Gas & Electric Corp 1820

PRIVACY PROTECTION STUDY COMMISSION

Notices

Meeting 1820

SECURITIES AND EXCHANGE COMMISSION
Rules
Organization; conduct and ethics:
Reports and Information Services Office 1739
Securities Exchange Act; temporary rule 1741
Proposed Rules
Securities Exchange Act:
Fees relating to brokers and dealers 1771
Notices
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc 1822
New York Stock Exchange, Inc 1825
Pacific Stock Exchange, Inc 1826
Hearings, etc.:
American Stock Exchange, Inc 1820
Berkley Land and Investment Corp 1821
Canadian Javelin, Ltd 1821
Candlewycke Inns, Ltd 1821
Continental Vending Machine Corp 1824
Equity Funding Corporation of America 1824
Generics Corporation of America 1824
Midwest Stock Exchange, Inc 1824
Puritan Fund, Inc. and UV Industries, Inc 1826

SOCIAL SECURITY ADMINISTRATION
Proposed Rules
Black lung benefits; attorney fees and establishing a time limitation on filing petition for approval of fees; correction 1762

SOIL CONSERVATION SERVICE
Proposed Rules
Equipment grants to conservation districts; revocation of part 1774

STATE DEPARTMENT
See Agency for International Development.

TRANSPORTATION DEPARTMENT
See also Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration.
Notices
Committees; establishments, renewals, etc.:
Advisory Committee on Airport Security 1839
Sanctions determinations; Utah, Illinois and California 1838

TREASURY DEPARTMENT
See also Customs Service.
Notices
Notes, Treasury:
Series J-1978 and D-1981 1798
Series J-1978 1799

list of cfr parts affected

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

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

1 CFR
305 1868

5 CFR
213 (4 documents) 1737

7 CFR
246 1743
PROPOSED RULES:
662 1774

9 CFR
PROPOSED RULES:
318 1773
381 1773

12 CFR
265 1737
PROPOSED RULES:
202 1769

13 CFR
309 1738

14 CFR
39 (2 documents) 1738
71 1739
PROPOSED RULES:
39 1762
71 1763
298 1764

17 CFR
200 1739
240 1741
PROPOSED RULES:
240 1771

19 CFR
159 1741

20 CFR
PROPOSED RULES:
410 1762

24 CFR
1914 (3 documents) 1751
1915 1751

40 CFR
PROPOSED RULES:
104 1765

41 CFR
4-1 1742
PROPOSED RULES:
51-5 1764

42 CFR
PROPOSED RULES:
83 1757

45 CFR
180 1876

47 CFR
76 1742

49 CFR
1056 1742
PROPOSED RULES:
571 1763

50 CFR
28 1743

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

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

1 CFR

Ch. 1 — 1
305 — 1868

3 CFR

PROCLAMATIONS:

3279 (Amended by Proc. 4412) — 1047
4210 (See Proc. 4412) — 1037
4335 (Revoked by Proc. 4410) — 749
4341 (See Proc. 4412) — 1037
4382 (See Proc. 4410) — 749
4410 — 749
4411 — 1037
4412 — 1037

EXECUTIVE ORDERS:

11531 (Superseded by EO 11895) — 1465
11647 (Amended by EO 11892) — 751
11717 (Superseded in part by EO 11893)
11731 (Amended by EO 11892) — 751
11846 (Amended by EO 11894) — 1041
11861 (Amended by EO 11893) — 1040
11867 (Superseded in part by EO 11893) — 1040
11892 — 751
11893 — 1040
11894 — 1041
11895 — 1465

5 CFR

213 — 1467, 1577, 1737

PROPOSED RULES:

2402 — 1400

7 CFR

246 — 1743
250 — 1487
271 — 1268, 1269
401 — 1577, 1578
722 — 1580
730 — 1043
907 — 1489
910 — 1, 1580
916 — 1043
1823 — 1490
1872 — 1490

PROPOSED RULES:

225 — 1078
662 — 1774
663 — 6
730 — 1078
907 — 1600
928 — 1077
1430 — 775
1701 — 775

9 CFR

78 — 753, 766
350 — 753
351 — 753
355 — 753

PROPOSED RULES:

303 — 1289
318 — 1773
381 — 1289, 1773

10 CFR

210 — 1486
211 — 1044, 1487
212 — 1267

PROPOSED RULES:

209 — 1291
210 — 1564
212 — 1295, 1564, 1680

12 CFR

208 — 1269
265 — 1737
613 — 1269

PROPOSED RULES:

202 — 1769
406 — 1086

13 CFR

309 — 1738

PROPOSED RULES:

115 — 1608

14 CFR

21 — 1060
29 — 1060
39 — 1046–1055, 1270, 1581, 1738
71 — 2, 300, 753, 1055, 1467, 1582, 1583, 1739
73 — 300, 1055, 1583
75 — 300
91 — 1060
95 — 1055
97 — 1270
288 — 1271
385 — 1060

PROPOSED RULES:

37 — 776
39 — 1762
71 — 1605, 1763
121 — 1085
129 — 1085
253 — 781
298 — 1764
399 — 781, 1500

15 CFR

3 — 1583

16 CFR

13 — 753
1512 — 1061
1615 — 1061
1616 — 1061
1630 — 1061

PROPOSED RULES:

450 — 1501
455 — 1089

17 CFR

200 — 1739
230 — 1272
240 — 1741

PROPOSED RULES:

230 — 10
240 — 1771

19 CFR

159 — 1273–1275, 1467, 1468, 1587, 1588, 1741

PROPOSED RULES:

12 — 1498

20 CFR

10 — 2
405 — 1491
903 — 1493

PROPOSED RULES:

405 — 1499
410 — 1762
422 — 1601
450 — 1603
602 — 776

21 CFR

1 — 1156
8 — 754
27 — 1469
102 — 1156
121 — 1061, 1276, 1469
123 — 1589
520 — 1276
558 — 1061, 1276, 1469
561 — 1589

PROPOSED RULES:

338 — 1498
339 — 1498
340 — 1498
1304 — 1498

24 CFR

82 — 1672
203 — 1277
213 — 1277
234 — 1277
235 — 1168
1909 — 1062
1912 — 1062
1914 — 1062, 1470, 1751
1915 — 1277, 1472, 1751
1916 — 1277–1280

PROPOSED RULES:

1905 — 1499
1912 — 1500

26 CFR

1 — 1063, 1280

PROPOSED RULES:

1 — 1289
41 — 768
48 — 768
142 — 768

27 CFR

4 — 1063

PROPOSED RULES:

5 — 1077

29 CFR

102 — 1478

31 CFR

PROPOSED RULES:

223 — 1077

32 CFR
505 ... 1286

33 CFR
157 ... 1479
PROPOSED RULES:
82 ... 10
117 ... 10, 754
127 ... 755

34 CFR
235 ... 755
PROPOSED RULES:
Ch. I ... 779

36 CFR
60 ... 1590
606 ... 1286
PROPOSED RULES:
7 ... 1600

37 CFR
1 ... 756
2 ... 756

40 CFR
180 ... 762, 763
414 ... 902
PROPOSED RULES:
52 ... 1605
104 ... 1765
414 ... 914

41 CFR
4-1 ... 1742
14-2 ... 763
14-18 ... 763
PROPOSED RULES:
51-5 ... 1764

42 CFR
PROPOSED RULES:
83 ... 1757

43 CFR
2090 ... 1598
2096 ... 1597
2610 ... 1597
2740 ... 1598

45 CFR
17 ... 2
100 ... 1395
100b ... 1395
117 ... 1395
121 ... 1395
130 ... 1395
141 ... 1395
173 ... 1395
180 ... 1876

46 CFR
42 ... 1470
146 ... 763
536 ... 765

47 CFR
1 ... 1286, 1372
76 ... 1063, 1742
87 ... 1598
97 ... 1482
PROPOSED RULES:
43 ... 1290
68 ... 778
73 ... 1088, 1089, 1291, 1500, 1501
76 ... 1606

49 CFR
1 ... 1288
571 ... 4, 765, 1066, 1483, 1598
575 ... 1066
1002 ... 1483
1033 ... 4
1045 ... 1484
1056 ... 1742
1100 ... 1485
1132 ... 1485
1133 ... 1486
1141 ... 1486
1151 ... 1486
PROPOSED RULES:
571 ... 1763
1043 ... 779
1056 ... 1607, 1608
1084 ... 779

50 CFR
28 ... 766, 1743
240 ... 1067
501 ... 4

FEDERAL REGISTER PAGES AND DATES—JANUARY

Pages	*Date*	*Pages*	*Date*
1–747	2	1267–1464	7
749–1034	5	1465–1575	8
1035–1266	6	1577–1735	9
		1737–1884	12

rules and regulations

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.

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that one position of Confidential Assistant and one position of Private Secretary to the Assistant Secretary for Administration are reestablished and that one position of Confidential Assistant to the Deputy Under Secretary for Field Programs is excepted under Schedule C.

Effective on January 12, 1976, §§ 213.3314(a) (8) and (15) are amended and § 213.3314(a) (20) is added as set out below.

§ 213.3314 Department of Commerce.

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

(8) Two Confidential Assistants to the Assistant Secretary for Administration.

* * * * *

(15) One Private Secretary to the Assistant Secretary for Administration.

* * * * *

(20) One position of Confidential Assistant to the Deputy Under Secretary for Field Programs.

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

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

[FR Doc.76–778 Filed 1–9–76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that one position of Private Secretary and one position of Personal Assistant to the Secretary of Defense are excepted under Schedule C.

Effective on January 12, 1976, § 213.3306(a) (1) is amended as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.*

(1) One Special Assistant, one Personal Assistant, and three Private Secretaries to the Secretary.

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

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

[FR Doc.76–779 Filed 1–9–76;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one additional position of Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks is excepted under Schedule C.

Effective on January 12, 1976, § 213.3312(a) (5) is amended as set out below:

§ 213.3312 Department of the Interior.

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

(5) Four Special Assistants to the Assistant Secretary for Fish and Wildlife and Parks and one Confidential Assistant (Adminstrative Assistant) to each of the four Assistant Secretaries for Energy and Minerals, Land and Water Resources, Fish and Wildlife and Parks, and Congressional and Legislative Affairs.

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

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

[FR Doc.76–780 Filed 1–9–76;8:45 am]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

Section 213.3182 is amended to show that one position of Humanist Administrator in the Division of Fellowships, National Endowment for the Humanities is excepted under Schedule A until June 30, 1976.

Effective on January 12, 1976 § 213.3182(b) (26) is added as set out below:

§ 213.3182 National Foundation on the Arts and the Humanities.

* * * * *

(b) *National Endowment for the Humanities.* * * *

(26) Until June 30, 1976, one Humanist Administrator, Division of Fellowships.

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

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

[FR Doc.76–781 Filed 1–9–76;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

Miscellaneous Amendments Relating to Foreign Applications

In order to expedite and facilitate the performance of certain of its functions under sections 25 and 25(a) of the Federal Reserve Act and section 4(c) (13) of the Bank Holding Company Act, the Board of Governors of the Federal Reserve System has amended its Rules Regarding Delegation of Authority pursuant to the provisions of section 11(k) of the Federal Reserve Act (12 U.S.C. 248 (k)) and section 4(c) (13) of the Bank Holding Company Act (12 U.S.C. 1843(c) (13)) to delegate (1) to the Secretary of the Board the authority to grant specific consent (a) to the acquisition by a bank holding company, member bank or corporation organized under section 25(a) of the Federal Reserve Act ("Edge" corporation), or operating under an agreement with the Board pursuant to section 25 of the Federal Reserve Act ("Agreement" corporation), of a controlling stock interest in a foreign company performing any type of services incidental to the activities of a foreign branch or affiliate of such bank or corporation or foreign subsidiary of such bank holding company, and (b) to the acquisition by a member bank, Edge or Agreement corporation of a controlling stock interest in a foreign company the stock of which is being sold to such member bank, Edge or Agreement corporation by its parent bank or bank holding company, or subsidiary Edge or Agreement corporation, as the case may be, and the stock of which such selling parent or subsidiary holds with the consent of the Board pursuant to Regulations K, M, or Y, and (2) to each Federal Reserve Bank the authority pursuant to section 213.4(a) of Regulation M to extend the time in which a member bank must divest itself of stock or other evidences of ownership in a foreign bank acquired in satisfaction of a debt previously contracted.

The provisions of 5 U.S.C. 553, relating to notice and public participation and deferred effective date are not followed in connection with the adoption of these amendments because the rules involved herein are procedural in nature and accordingly do not constitute a substantive rule subject to the requirements of such section.

In order to accomplish this delegation, effective December 31, 1975, 12 CFR Part

265 is amended by deleting the word "banking" preceding "services" in § 265.2 (a) (12) (iv), and by revising § 265.2(a) (9) (d) and adding a new § 265.2(f) (34) to read as follows:

§ 265.2 Specific Functions Delegated to Board Employees and to Federal Reserve Banks.

(a) The Secretary of the Board (or, in his absence, the Acting Secretary) is authorized:

(9) * * *

(d) such acquisition does not result, either directly or indirectly, in the acquisition by such bank or corporation of effective control of any such company except that this condition need not be met if (1) the company is to perform nominee, fiduciary, or other services incidental to the activities of a foreign branch or affiliate of such bank or corporation, or (2) the stock is being acquired by such bank or corporation from its parent bank or bank holding company, or subsidiary Edge or Agreement corporation, as the case may be, and such selling parent or subsidiary holds such stock with the consent of the Board pursuant to Parts 211, 213, or 225 of this chapter (Regulations K, M, and Y).

* * * * *

(f) Each Federal Reserve Bank is authorized, as to member banks or other indicated organizations headquartered in its district, or under subparagraph (25) of this paragraph as to its officers:

* * * * *

(34) Under § 213.4(a) of this chapter (Regulation M) to extend the time in which a member bank must divest itself of stock or other evidences of ownership in a foreign bank acquired in satisfaction of a debt previously contracted.

By order of the Board of Governors, December 31, 1975.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.76-806 Filed 1-9-76;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

Construction Site Signs

Pursuant to the authority vested in it by Section 701 of the Public Works and Economic Development Act of 1965, as amended, the Economic Development Administration hereby amends Part 309 of 13 CFR Chapter III, by deleting § 309.16 in its entirety.

Section 309.16 requires applicants for financial assistance involving construction to post EDA signs at the construction site. Because of the expense involved and the difficulty of ensuring that all applicants comply with the regulation, EDA will no longer impose this requirement upon applicants as a condition for financial assistance. Henceforth the construction signs will become the responsibility of the contractor and a provision detailing this obligation will be included in the Manual "Requirements for Approved Projects", which is provided to all Grantee/Borrowers and their potential bidders.

In that the material contained herein is a matter relating to the EDA grant and loan program and because this amendment is intended to relieve a restriction upon eligible applicants for assistance, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 533) requiring notice of the proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

Consideration has been given as to whether this amendment of the regulations constitutes a major proposal with an inflationary impact within the meaning of OMB Circular A-107 and the interpretative guidelines as issued by the Department of Commerce. It has been determined that this amendment does not constitute action requiring an inflationary impact statement.

In consideration of the foregoing, Part 309 is hereby amended.

§ 309.16 [Removed]

1. Section 309.16 is deleted in its entirety.

AUTHORITY: Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3121); Department of Commerce Organization Order 10-4, 40 FR 56702.

Effective date: This amendment becomes effective on January 12, 1976.

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

Dated: January 5, 1976.

WILMER D. MIZELL, *Assistant Secretary for Economic Development.*

[FR Doc.76-756 Filed 1-9-76;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 75-SW-82; Amdt. 39-2488]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Model 212 Helicopters

Pursuant to the authority delegated to me by the Administrator (31 FR 13697), an airworthiness directive was adopted on December 24, 1975, and made effective immediately as to all known United States operators of Bell Model 212 helicopters. The directive requires a daily inspection for cracks in the main rotor blades and a reduction in V_{NE} limits of the helicopter.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Bell Model 212 helicopters by individual letters dated December 24, 1975. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

BELL: Applies to Bell Model 212 helicopters certificated in all categories. Compliance required as indicated after receipt of this AD.

1. Prior to further flight, install a suitable placard in full view of the pilot and adjacent to the present airspeed placard to read as follows: V_{NE} reduced to 80% of the V_{NE} shown.

2. Before the first flight of each day, inspect for cracks in the leading edge, top and bottom, of each main rotor blade in accordance with the Model 212 maintenance manual, Section 5-20-01, page 2, items 1 and 2, or in accordance with an FAA approved equivalent procedure.

3. Blades with a crack must be removed before further flight.

This amendment is effective February 1, 1976, and was effective upon receipt for all recipients of the letter dated December 24, 1975, which contained this amendment.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Texas, on December 30, 1975.

HENRY L. NEWMAN, *Director, Southwest Region.*

[FR Doc.76-789 Filed 1-9-76;8:45 am]

[Airworthiness Docket No. 67-SW-68; Amdt. 39-2486]

PART 39—AIRWORTHINESS DIRECTIVES

Bell Models 47G-3, 47G-2A, 47G-3B, 47G-2A-1, 47G-3B-1, 47G-3B-2, 47G-4, 47G-4A, 47G-5, 47J-2, and 47J-2A Helicopters

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring removal of tail rotor blades, P/N 47-642-102, and installation of the tail rotor blades, P/N 47-642-117, on certain Bell Model 47 series helicopters within 300 hours' time in service was published in 40 FR 39896. In order to provide for additional time to allow thorough industry review and response following a request from the Helicopter Association of America (HAA), the closing date for comments on the proposal was changed from September 17, 1975, to October 19, 1975, by notice published in 40 FR 43919.

In response to the proposal, 26 letters or messages were received from operators and HAA objecting to the proposal. Twenty-five letters or messages were received from helicopter operators summarizing their satisfactory service history and individual company policy and their suggestions regarding tail rotor blades, P/N 47-642-102. These company policies and suggestions fell generally into the following categories: (1) do not use military surplus blades; (2) replace blades when a tail rotor strike is even suspected; (3) install strike tabs

on blades used on skid gear equipped helicopters in addition to the present requirement for strike tabs on blades of float equipped helicopters; (4) static and dynamic balancing of the blades; and (5) strict adherence to AD 70-10-8 inspections. HAA also included in their letter information from 15 accident reports or records they obtained from the National Transportation Safety Board. That letter noted a blade fails on the average every 250,000 flight hours. They believe the failures are not industry wide but limited to agricultural type operations and to other possible factors. These other factors include (1) using military surplus blades, (2) using blades after encountering strikes, and (3) noncompliance with a part of AD 70-10-8 since some pilots are allegedly not aware of the AD inspection requirements (that are delegated to them). HAA suggests AD 70-10-8 be revised to require strike tabs on all blades, P/N 47-642-102. They suggest a more detailed surveillance of Model 47 operators to ensure compliance with AD 70-10-8 and the manufacturers' recommendations.

The FAA appreciates receiving this information and these suggestions. The records clearly show that blade failures have occurred, even recently, on helicopters that have been used in normal operations as well as agricultural operations and blades have failed that were not even suspected of having experienced a blade strike. The agency will review AD 70-10-8, Amdt. 39-1063, with regard to preventing the use of used military surplus blades on Model 47 helicopters and to require use of strike tabs on all blades P/N 47-642-102. Of course, separate and appropriate rulemaking procedures will be used if AD 70-10-8 is revised.

The National Transportation Safety Board also submitted a letter in response to the proposal. The Board recommends the proposal be adopted without change and advised that a Model 47G-5 tail rotor blade, P/N 47-642-102, failed in fatigue after only 61 hours of operation since new. The HAA noted that the inspections required by AD 68-2-3 and AD 70-10-8 detected two cracked blades prior to their separation or failure. The inspections and frequent checks specified first in AD 68-2-3 and then in AD 70-10-8 have been unsuccessful in preventing the 15 accidents noted by the HAA and several other accidents in which tail rotor blade failures occurred.

One operator noted that the directional control system required changes whenever the blades, P/N 47-642-117, were installed. This was an oversight on the agency's part to clearly show that complete compliance with all applicable parts of Bell Service Instruction No. 428 was intended. However, the agency believes that complete compliance with the service instruction was recognized by the operators. Therefore, to preclude any confusion, the adopted rule will specify that tail rotor blades and associated airframe, drive system, and control system changes must be installed in accordance with Service Instruction No. 428.

The agency notes that AD 70-10-8 will still be applicable and effective for all Bell Model 47 series helicopters and the proposal required the installation of blades, P/N 47-642-117, on certain later vintage Model 47 helicopters. These later models constitute about one-half of the total Model 47 series fleet.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive.

BELL. Applies to Bell Model 47G-3, 47G-2A, 47G-3B, 47G-2A-1, 47G-3B-1, 47-3B-2, 47G-4, 47G-4A, 47G-5, 47J-2, and 47J-2A helicopters certificated in all categories.

Compliance is required within 300 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent possible failure of tail rotor blades, P/N 47-642-102, install tail rotor blades, P/N 47-642-117 and associated airframe, drive system, and control system changes as specified by and in accordance with Bell Helicopter Company's Service Instruction No. 428, issue date May 1, 1970, or later approved revision.

The manufacturer's specifications and procedures, identified and described in this directive, are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies upon request to the Service Manager, Bell Helicopter Company, P.O. Box 482, Fort Worth, Texas 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

This amendment becomes effective February 15, 1976.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))

Issued in Fort Worth, Texas, on December 30, 1975.

HENRY L. NEWMAN,
Director, Southwest Region.

The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.76-790 Filed 1-9-76;8:45 am]

[Airspace Docket No. 75-SW-56]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone Designation

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to provide designation of effective dates and times of the Laredo, Tex., control zone by Notice to Airmen.

On October 14, 1975, a final rule was published in the FEDERAL REGISTER (40 FR 48119) altering the Laredo, Tex., control zone. The provision to designate effective dates and times of the control zone by Notice to Airmen was inadvertently omitted.

Since the provision for designating effective dates and times of the control zone by Notice to Airmen was contained in the previous control zone designation and no further restrictions are imposed by the addition of this provision to Part 71 of the Federal Aviation Regulations, public comment is not considered necessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective on January 12, 1976, as hereinafter set forth.

In § 71.171 (41 FR 355), the Laredo, Tex., control zone is amended to read:

LAREDO, TEX.

Within a 5-mile radius of the Laredo Municipal Airport (latitude 27°32'40" N., longitude 99°27'40" W.); within 1.5 miles each side of the Laredo VORTAC 141° radial extending from the 5-mile-radius area to 1 mile southeast; within a 5-mile radius of the Laredo International Airport (latitude 27°36'56" N., longitude 99°31'12" W.); within 1.5 miles each side of the Laredo ILS localizer northwest course extending from the ILS localizer site (latitude 27°36'12.6" N., longitude 99°30'50.2" W.) to 7 miles northwest, excluding that portion outside the United States. This control zone will be effective during specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Fort Worth, Tex., on January 2, 1976.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.76-788 Filed 1-9-76;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5665, 34-11977, 35-19329, 39-425, IC-9114, IA-495]

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

Delegation of Authority to the Office of Reports and Information Services

The Securities and Exchange Commission hereby announces that the Office of Registrations and Reports and the Office of Records have been merged to form a new Office of Reports and Information Services. The consolidation of the two offices was effected to enhance uniform and full compliance by the Commission with its responsibilities under the Freedom of Information Act, as amended, 5 U.S.C. 552, and the Privacy Act of 1974, 5 U.S.C. 552a (Pub. L. 93-579, 88 Stat.

1896) The merger is also expected to result in greater efficiency and economies in the management of the Commission's records.

The Office of Registrations and Reports was responsible, among other things, for initially examining, extracting data from, and distributing formal filings and reports made with the headquarters office of the Commission. In addition, that office was responsible for responding to investor complaints, calculating filing fees, determining filing delinquencies, and substantively examining and determining effectiveness of certain reports which were filed by applicants and registrants. The Office of Records was responsible for receiving and docketing all material required to be filed with the Commission pursuant to the statutes it administers, maintaining records of all litigation and enforcement action, disposing of records as appropriate, and processing formal papers relating to administrative proceedings before the Commission.

In light of the aforementioned merger, appropriate changes are being made regarding functions and delegations in Part 200 of Title 17 of the Code of Federal Regulations relating to the statement of organization and program management.

The Commission finds that the foregoing action relates solely to agency organization procedure and practice and that notice and prior publication under U.S.C. 553 are not necessary. Accordingly, the foregoing action which was taken pursuant to Public Law 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2) becomes effective immediately.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

JANUARY 5, 1976.

17 CFR Part 200 is amended by revising §§ 200.20c and 200.30-11, to read as follows:

§ 200.20c Office of Reports and Information Services.

The Office of Reports and Information Services is responsible for the receipt and initial handling of all public documents filed at the Commission's headquarters office. The initial handling includes determining acceptability, extracting data for EDP input, calculating fees, conducting cursory and substantive examinations, assigning filings to branches and preparing deficiency correspondence. In addition, the Office is responsible for the custody and control of the Commission's official records; for the development of plans and implementation of the Commission's records management program; for authenticating all documents produced for administrative or judicial proceedings; for maintaining liaison with the National Archives and Records Service and other Government agencies with respect to the Commission's records and its records management program. Additionally, the Office is the definitive source of statistics for a wide variety of reports and prepares various data based publications, such as the Corporation Index and delinquency listings. This Office is also charged with processing general inquiries under the Freedom of Information Act (Pub. L. 90-23, 81 Stat. 54) and the Privacy Act (Pub. L. 93-579, 88 Stat. 1896).

(Sec. 4(b), 48 Stat. 885, sec. 1106(a), 63 Stat. 972, 15 U.S.C. 78d(b); secs. 1, 2, 76 Stat. 394, 395, 15 U.S.C. 78d-1, 78d-2; secs. 19, 48 Stat. 85, 908, 15 U.S.C. 77s; sec. 23(a), 48 Stat. 901, sec. 8, 49 Stat. 1379, 15 U.S.C. 78w(a); sec. 20, 49 Stat. 833, 15 U.S.C. 78t; sec. 319, 53 Stat. 1173, 15 U.S.C. 77sss; sec. 38, 54 Stat. 841, 15 U.S.C. 80a-37; sec. 211, 54 Stat. 855, sec. 14, 74 Stat. 888, 15 U.S.C. 80b-11; sec. 15B, 15 U.S.C. 78o-4(a); sec. 17A, 15 U.S.C. 78q-1 (c)(2)).

§ 200.30-11 Delegation of Authority to Director, Office of Reports and Information Services.

Pursuant to the provisions of Pub. L. 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2), the Securities and Exchange Commission hereby delegates the following functions to the Director of the Office of Reports and Information Services to be performed by him or under his direction by such person or persons as may be designated from time to time by the Chairman of the Commission:

(a) With respect to the Securities Exchange Act of 1934 (15 U.S.C. 78a, et seq.):

(1) Pursuant to section 15(b) of the Act (15 U.S.C. 78o(b)):

(i) To authorize the issuance of orders granting registration of brokers or dealers within forty-five days of the filing of an application for registration as a broker or dealer (or within such longer period as to which the applicant consents);

(ii) To authorize the issuance of orders cancelling registrations of brokers or dealers or pending applications for registration, if such brokers or dealers or applicants for registration are no longer in existence or have ceased to do business as brokers or dealers;

(iii) To determine whether notices of withdrawal from registration on Form BDW shall become effective sooner than the normal 60-day waiting period.

(2) Pursuant to section 15B(a) of the Act (15 U.S.C. 78o-4(a)), to authorize the issuance of orders granting registration of municipal securities dealers within 45 days of the filing of an application for registration as a municipal securities dealer (or within such longer period as to which the applicant consents).

(3) Pursuant to section 17A(c)(2) of the Act (15 U.S.C. 78q-1(c)(2)), to authorize the issuance of orders accelerating registration of transfer agents for which the Commission is the appropriate regulatory agency before the expiration of 30 days following the date on which applications for registration as a transfer agent are filed.

(b) With respect to the Investment Advisers Act of 1940 (15 U.S.C. 80b-1, et seq.).

(1) Pursuant to section 203(c) of the Acts (15 U.S.C. 80b-3(c)), to authorize the issuance of orders granting registration of investment advisers within 45 days of the filing of an application for registration as an investment adviser (or within such longer period as to which the applicant consents).

(i) To determine registration of investment advisers to be effective within shorter periods of time than 45 days after receipt by the Commission of applications for registration;

(ii) To authorize the issuance of orders declaring amendments filed with the Commission after an application has become effective to be effective within shorter periods of time than 30 days after the filing of such amendments.

(2) Pursuant to section 203(h) of the Act (15 U.S.C. 80b-3(i)):

(i) To authorize the issuance of orders cancelling registrations of investment advisers or applications for registration, if such investment advisers or applicants for registration are no longer in existence or are not engaged in business as investment advisers.

(ii) To determine whether notices of withdrawal from registration on Form ADV-W shall become effective sooner than the normal 60-day waiting period.

(c) With respect to the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.):

(1) To cause a written notice to be sent by registered or certified mail, upon receipt of a copy of a notice sent by or on behalf of the Securities Investor Protection Corporation that a broker or dealer has failed to timely file any report or information or to pay when due all or any part of an assessment as required under section 10(a) of this Act, to such delinquent member advising such member that it is unlawful for him or her under the provisions of such section of the Act to engage in business as a broker-dealer while in violation of such requirements of the Act and requesting an explanation in writing within ten days stating what he or she intends to do in order to cure such delinquency;

(2) To authorize formerly delinquent brokers or dealers, upon receipt of written confirmation from or on behalf of the Securities Investor Protection Corporation that the delinquencies referred to in paragraph (c)(1) of this section have been cured, and upon having been advised by the appropriate regional office of this Commission and the Division of Enforcement and Division of Market Regulation that there is no objection to such member being authorized to resume business, and upon there appearing to be no unusual or novel circumstances which would warrant direct consideration of the matter by this Commission, to resume business as registered broker-dealers as provided in section 10(a) of this Act.

(d) Notwithstanding anything in the foregoing, in any case in which the Director of the Office of Reports and Information Services believes it appropriate, he may submit the matter to the Commission.

(Sec. 1, 76 Stat. 394, 15 U.S.C. 78d-1; sec. 10(a), 84 Stat. 1655, 15 U.S.C. 78jjj(a); sec. 15B, 15 U.S.C. 78o-4(a); sec. 17A, 15 U.S.C. 78q-1(c)(2))

[FR Doc.76-775 Filed 1-9-76;8:45 am]

[Release No. 34-11967]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Adoption of Temporary Rule 23a-2(T)

The Securities and Exchange Commission today announced the adoption, effective immediately, of Securities Exchange Act Temporary Rule 23a-2(T), which exempts, until March 1, 1976, any broker or dealer who was required to register pursuant to Section 15 of the Securities Exchange Act of 1934 (the "Act") solely by reason of changes in that Act effected by the Securities Acts Amendments of 1975, Pub L. No. 94-29, (June 4, 1975) (the "1975 Amendments") from Securities Exchange Act Rules 15b8-1 through 15b10-11.

On December 1, 1975, as a result of amendments enacted by the 1975 Amendments to Section 3(a)(17) of the Act, which defines interstate commerce to include the intrastate use of any facility of a national securities exchange, and to Section 15(a)(1) of the Act, which relates to registration of brokers and dealers, a significant number of heretofore unregistered exchange members became registered with the Commission pursuant to Section 15(a) of the Act, and, as registered broker-dealers, those who do not elect to join the NASD become generally subject to the SECO rules. In order to preserve, for the time being, the present regulatory scheme of the SECO rules, whereby those rules are applicable to nonmember (of a national securities association) broker-dealers who are registered with the Commission pursuant to Section 15 of the Act, as that section was written prior to the 1975 Amendments, Temporary Rule 23a-2(T), which is effective immediately, exempts from all the SECO rules any broker or dealer who was required to register pursuant to Section 15 of the Act solely by reason of amendments to the Act effected by the 1975 Amendments. Temporary Rule 23a-2(T) expires on March 1, 1976. In the intervening period, the Commission will receive and consider comments on proposed amendments to the SECO rules.[1]

Statutory Basis. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, 15 U.S.C. 78a et seq., as amended by the Securities Act Amendments of 1975, Pub. L. No. 94-29 (June 4, 1975), and particularly Sections 15(b) and 23(a) thereof, hereby adopts Securities Exchange Act Temporary Rule 23a-2(T) effective immediately.

The Commission, for good cause, finds that notice and public procedure pursuant to 5 U.S.C. 553(b) on Temporary Rule 23a-2(T) are impracticable and contrary to the public interest because, as of December 1, 1975, a significant number of exchange members have become registered with the Commission under Section 15 of the Act and, absent appropriate exemptions, would be subject to the SECO rules. Further, because Temporary Rule 23a-2(T) grants an exemption from existing requirements, publication of the rule prior to its effective date, pursuant to 5 U.S.C. 553(d) is not required. Accordingly, Temporary Rule 23a-2(T) becomes effective immediately. The Commission finds that Temporary Rule 23a-2(T) will not impose any burden on competition.

Text of Temporary Rule 23a-2(T). Securities Exchange Act Temporary Rule 23a-2(T), as adopted, reads as follows:

§ 240.23a-2(T) Temporary exemption for certain registered brokers and dealers.

(a) The following rules of the Commission shall not apply to any broker or dealer who was required to register pursuant to Section 15 of the Act solely by reason of amendments to the Act effected by the Securities Acts Amendments of 1975, Pub. L. No. 94-29 (June 4, 1975):

Rules: 15b8-1, 15b8-2, 15b9-1, 15b9-2, 15b10-1, 15b10-2, 15b10-3, 15b10-4, 15b10-5, 15b10-6, 15b10-7, 15b10-8, 15b10-9, 15b10-10, 15b10-11.

(b) This temporary rule shall expire on March 1, 1976.

(Secs. 2, 3, 15, 23, 48 Stat. 881, 882, 895, 901, as amended by Secs. 2, 3, 11, 18, 89 Stat. 97, 97-104, 121-127, 155-156 (15 U.S.C. 78b, 78c, 78o, 78w, as amended by Pub. L. No. 94-29))

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

DECEMBER 31, 1975.

[FR Doc.76-762 Filed 1-9-76;8:45 am]

[1] In a separate document published in the Rules section of the FEDERAL REGSTER, the Commission has published for comment proposed amendments to Section 240.15b8-1, 240.15b8-2, 240.15b9-1, 240.15b9-2 and 240.15b10-7.

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 76-3]

PART 159—LIQUIDATION OF DUTIES

Countervailing Duties; Leather Handbags From Brazil

Notice of countervailing duties to be imposed under section 303, Tariff Act of 1930, as amended, by reason of the payment or bestowal of a bounty or grant upon the manufacture, production or exportation of leather handbags from Brazil.

On June 30, 1975, a "Notice of Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (40 FR 27499). The notice indicated that it had been determined tentatively that benefits from five programs were conferred by the Brazilian government upon the manufacture, production, or exportation of leather handbags, which constitute a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act"). Two programs were determined tentatively not to be bounties or grants within the meaning of the Act. All other allegations contained in the petition were found not to be applicable to the manufacturers/exporters of leather handbags from Brazil. The notice provided interested parties 30 days from the date of publication to submit relevant data, views, or arguments, in writing, with respect to the preliminary determination. The time period was later extended to September 3, 1975 (40 FR 34423).

After consideration of all information received, it is determined that exports of leather handbags from Brazil are subject to bounties or grants within the meaning of section 303 of the Act. One program concerning exemptions for certain imports from import duties which tentatively was found to be a bounty or grant is determined not to be applicable to Brazilian manufacturers/exporters of leather handbags. All other conclusions reached in the preliminary determination remain unchanged and are adopted in this final determination.

In accordance with section 303, of the Act, the net amount of the bounty or grant has been estimated and declared to be 14 percent of the f.o.b. or ex-works price to the United States of leather handbags from Brazil.

Effective on or after the date of publication of this notice in the FEDERAL REGISTER and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable leather handbags imported directly or indirectly from Brazil, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it has been or can be established to the satisfaction of the Commissioner of Customs that imports of leather handbags from Brazil manufactured by a particular firm are subject to a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected on imports of such handbags.

To be eligible to establish that a particular firm receives a bounty or grant smaller than that estimated in the above declaration, such firm must request, within thirty days from publication of this notice in the FEDERAL REGISTER, that liquidation of all entries for consumption or withdrawal from warehouse for consumption of such dutiable leather handbags from Brazil be suspended pending declarations of the net amounts of the bounties or grants paid. Only pursuant to such a request will liquidation be suspended.

Any merchandise subject to the terms of this order shall be deemed to have benefitted from a bounty or grant if such bounty or grant has been or will be, credited or bestowed, directly or indirectly, upon the manufacture, production, or exportation of leather handbags manufactured in Brazil.

§ 159.47 [Amended]

The table in § 159.47(f) of the Customs Regulations (19 C.F.R. 159.47(f)) is amended by inserting in the column headed "Commodity", the words "Leather Handbags" after the last entry for Brazil. The column headed "Treasury Decision" is amended by inserting the number of this Treasury Decision, and the column headed "Action" is amended by inserting the words "Bounty Declared—Rate".

(R. S. 251, secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2050; 19 U.S.C. 66, 1303, as amended, 1624).

VERNON D. ACREE,
Commissioner of Customs.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

DECEMBER 29, 1975.

[FR Doc.76-757 Filed 1-9-76;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 4—DEPARTMENT OF AGRICULTURE

PART 4-1—GENERAL

Procurement; Miscellaneous Amendments

This amendment involves matters relating to agency management and contracting and while not subject by law to the notice and public procedure requirements for rule making under 5 U.S.C. 553 is subject to the Secretary's Statement of Policy (36 FR 13804). The amendment corrects or clarifies existing policy. No useful purpose would be served by public participation, and it is found upon good cause, in accordance with the Secretary's Policy Statement, that notice and other public procedures with respect to the amendment are impracticable and unnecessary.

1. The Table of Contents of Part 4-1 is amended by adding the following sections to read as follows:

Sec.
4-1.703 Determination of status as a small business concern.
4-1.703-2 Protest regarding small business status.

2. Subpart 4-1.7, Small Business Concerns, is amended by adding the following Sections.

§ 4-1.703 Determination of status as a small business concern.

§ 4-1.703-2 Protest regarding small business size status.

Where award has been made prior to the receipt of a timely protest regarding the small business size status of the contractor, and where that protest is subsequently upheld, the contracting officer should give immediate and full consideration to the feasibility of terminating the contract for the convenience of the Government.

Effective Date: January 12, 1976

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

Done at Washington, D.C., this 6th day of January, 1976.

It is hereby certified that the economic and inflationary effects of this proposal have been carefully evaluated in accordance with Executive Order No. 11821.

GEORGE C. KNAPP,
Acting Director,
Office of Operations.

[FR Doc.76-776 Filed 1-9-76;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19859]

PART 76—CABLE TELEVISION SERVICES

Cable Television and Network News Programs; Correction

In the matter of amendment of Part 76 of the Commission's rules and regulations relative to cable television systems and the carriage of network news programs on cable television systems (41 FR 1063).

The Report and Order in the above-entitled proceeding (FCC 75-1431, Mimeograph No. 38707) adopted on December 22, 1975, and released on January 2, 1976, is corrected to show the FCC Number as "FCC 75-1434".

Released: January 6, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.76-795 Filed 1-9-76;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-19 (Sub-No. 19a)]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Practices of Motor Common Carriers of Household Goods (Consumer Protection—Kingpak Carriers)

● **Purpose: The Interstate Commerce Commission's goal, in its continuing oversight of the activities and services of interstate moving companies, is to achieve that regulatory balance which protects the inexperienced householder from unfair and improper carrier practices without unduly impairing the household goods movers ability to provide adequate, economical, and efficient service. To that end, the Commission has amended 49 CFR 1056.7(b) in order to exclude the so-called "Kingpak" and "pack and crate" carriers from its consumer reporting filing requirements.** ●

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D.C., on the 5th day of January 1976.

It is ordered, That based on the reasons set forth in the attached notice, Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, modified as set forth in the attached notice.

It is further ordered, That this order shall become effective on January 12, 1976.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Issued in Washington, D.C., January 5th, 1976.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

Under the above-cited section, household goods movers are required to file annual performance reports with the Commission. These reports must list the number of shipments the carrier has delivered and the percentages of these shipments on which there were overestimates, underestimates, late pickups and deliveries, and loss and damage claims. Copies of these reports have to be served on potential shippers in accordances with 49 CFR 1056.7(a).

As set forth in Ex Parte No. MC 19 (Sub-No. 19), *Practices of Motor Common Carriers of Household Goods,* 119 M.C.C. 585 (1974), the goal of the Commission in adopting this regulation was to provide potential household goods shippers with the data necessary to compare the services of competing carriers. It was anticipated that as a result consumers would be able to make a more informed selection of a carrier and carriers would improve the services being rendered to the public.

However, an examination of the reports filed for the 1974 calendar year reveals that the "Kingpak" carriers should be excluded from the coverage of § 1056.7(b) since these carriers do not deal directly with the shipping public. Generally, they pack or unpack, containerize or decontainerize used household goods and move the containerized shipments relatively short distances for tender to or to take delivery from line-haul rail, water, air, or other motor carriers. The local transportation service provided is a very minor part of the total service rendered by these carriers, and that service which is rendered is, at most, only a small portion of the total transportation service involved in the movement of this type of household goods shipments. Additionally much of the traffic in this area moves for the account of the Department of Defense, and most shipments are destined to or received from overseas points.

As a practical matter, then, it is difficult for these carriers to prepare meaningful reports and the goal of the regu-

lation is not furthered by requiring such carriers to file annual performance reports. Therefore in the interest of sound regulation, those carriers engaged in the transportation of household goods solely under authority which reads "used household goods, restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization or unpacking," will be excluded from the reporting requirements of § 1056.7(b).

Some further amendments have been made to § 1056.7 (b) (3) in order to clarify for the carriers the kind of information to be included in the reports and to make the information more comprehensible for consumers. Subsection (ix) has been reworded to make it consistent with the preceding subsections of § 1056.7(b) (3) and to make clear that the information sought is that percentage of shipments delivered on which claims were filed due to carrier delay, not that percentage of the total number of claims which represents the delay claims filed.

Section 1056.7(b) (3) (x) has been reworded to make clear that carriers must report the average number of consecutive days required to settle loss and damage claims. The phrase "average length of time to settle claims for loss and damage" was misinterpreted in the reports filed for 1974 and brought responses such as "60 to 90 days."

Finally, § 1056.7(b) (3) (xi) and (3) (xii) have been combined into paragraph (b) (3) (xi) and reworded. The figures sought in that paragraph—the percentage of claims (a) settled prior to the institution of judicial process, (b) settled prior to the completion of judicial process, and (c) carried to the completion of judicial process and the entering of a final decree—all relate to a common whole figure, those claims settled during the calendar year, and should total 100 percent. However, because of the way the prior subsections were constructed many carriers failed to realize this. The one subsection should make clear the figures sought relate to one common whole figure. Further, the legalistic phrases in the prior subsections have been reworded to make the reports more understandable to the average consumer.

The rule is issued under the authority of 49 U.S.C. 301, 302, 304, and 308, and 5 U.S.C. 553 and 559.

Accordingly, this action would revise 49 CFR 1056.7(b) so that it would read as follows:

§ 1056.7 Information for shippers.

(b) Each motor common carrier of household goods, *except* carriers engaged in the transportation of household goods solely under authority which reads: "Used household goods, restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with the packing, crating, and containerization or unpacking", shall on or before the 45th day following the termination of each calendar year (beginning with the calendar year in which this regulation becomes effective) cause to be filed with the Commission's Bureau of Operations, Washington, D.C., and each of the Commission's regional offices, a summary of its service record for the previous calendar year providing the following information:

(1) Name of motor carrier and domicile address.

(2) I.C.C. MC number.

(3) By type of account (c.o.d. shipper, Department of Defense, and national accounts and other Government traffic) specify the following:

(i) Number of shipments delivered and number of estimates on such shipments.

(ii) Percentage of shipments on which there occurred a 10 percent or greater overestimation of charges.

(iii) Percentage of shipments on which there occurred a 10 percent or greater underestimation of charges.

(iv) Percentage of shipments picked up more than 5 days later than specified in the order for service.

(v) Percentage of shipments picked up 1 to 5 days later than specified in the order for service.

(vi) Percentage of shipments delivered more than 5 days later than specified in the order for service.

(vii) Percentage of shipments delivered 1 to 5 days later than specified in the order for service.

(viii) Percentage of shipments on which a $50 or greater claim for loss or damages was filed.

(ix) Percentage of shipments delivered on which a claim was filed for damages or expenses resulting from carrier delay.

(x) Average number of consecutive days required to settle claims for loss and damage (for claims settled during the calendar year).

(xi) The percentage of claims settled during the calendar year which were settled:

(*a*) Prior to institution of a law suit by the shipper to recover damages.

(*b*) After the institution of a law suit by the shipper and prior to entering of a final judicial decree.

(*c*) Subsequent to the entering of a final judicial decree.

Copies of this report shall be served upon potential shippers as provided in paragraph (a) of this section. Carriers shall have available supporting documentation required for the compilation of such statistics and shall make such dicumentation available to this Commission's Bureau of Operations upon request. Subjective evaluations by the carrier of its performance may be appended to the objective statistics required above, but on separate pages so as not to obscure in any way the statistical data required by this section.

[FR Doc.76-835 Filed 1-9-76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 28—PUBLIC ACCESS, USE AND RECREATION

Parker River National Wildlife Refuge

Correction

In FR Doc. 75-33135 appearing on page 57460 in the issue of Wednesday, December 10, 1975, in the first column, the fourth line from the bottom, the word which presently reads "public" should read "pubic".

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Revision, Reorganization and Republication

The Special Supplemental Food Program authorized by section 17 of the Child Nutrition Act of 1966, as amended, was revised and extended through fiscal year 1978 by Pub. L. 94-105, enacted October 7, 1975. Interim regulations are hereby promulgated to implement the requirements of the new legislation.

The regulations are also revised in order to implement Federal Management Circular 74-7 (34 CFR Part 256) which prescribes uniform administrative requirements for Federal grants-in-aid to State and local governments, and to make changes to improve program effectiveness and efficiency.

During this interim period and until such time as final rules are issued, the Department will take under careful consideration issues which are of concern to the Department and to the general public. These issues include but are not limited to: establishing specific nutritional risk criteria for individual eligibility and continuance of eligibility for the Program; reviewing the remedial/preventive aspects of the Program; establishing income eligibility standards; establishing priorities for serving categories of recipients within the target population; reviewing all areas which relate to the special supplemental food packages; reviewing all aspects of reporting (format and frequency) and monitoring requirements imposed on State and local agencies; reviewing the responsibilities for Program operations at the Federal, State and local level; determining the need for evaluation of Program operations and effects of the Program at all levels; and establishing specific standards for local agency eligibility.

Since immediate action is required to implement the requirements of Pub. L. 94-105, notice and public procedures are impracticable and contrary to the public interest. Therefore, these interim regulations will become effective on the date specified. However, complying with the spirit of public rule-making, interested persons are invited to submit, in duplicate, writen comments, data, or objections to the Special Supplemental Food Program (WIC), Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, on or before March 1, 1976. Each person submitting comments should include his or her name and address, cite the section of the regulations referred to, and give reasons for any recommendations. Copies of all written submissions received pursuant to this notice will be made available for public inspection in Room 764, Food and Nutrition Service, 500 12th Street SW., Washington, D.C., during the regular business hours (8:30 a.m. to 5:00 p.m.). All comments, data, and objec-

tions will be considered and proposed rule making issued before final rules are published.

Revisions to Implement Pub. L. 94-105. The Special Supplemental Food Program for Women, Infants and Children (WIC Program) regulations are revised in the following areas to conform to the new legislative requirements.

1. The allowance for administrative expenses is increased from ten percent to twenty percent of the program funds provided to each State in each fiscal year. Thus, administrative expenses may not exceed twenty-five percent of the actual food costs. Clinic costs, nutrition education and startup costs are now allowable administrative expenses.

2. State agencies shall submit each year the State agency application (Form AD 623), or an amendment thereof, describing the manner in which administrative funds will be spent in the following fiscal year. The application or amendment must be approved by FNS as a prerequisite to the State agency's receipt of funds.

3. Eligibility for WIC Program benefits is extended to children until their fifth birthday, to all women for a period of six months postpartum, and to lactating women who are breast-feeding an infant from birth up to one year of age.

4. The WIC Program may not operate in the same geographic area as the Pilot Food Certificate Program (7 CFR Part 265) or Supplemental Food Program (7 CFR Part 250). The local agency shall adopt safeguards, or agree to use a State system of safeguards, to ensure that no recipient can receive benefits from more than one such program.

5. The State agency shall ensure that programs begin in those areas which are most in need of supplemental food.

6. The supplemental foods in the WIC food package are to be made available in such a manner as to provide flexibility, taking into account medical and nutritional objectives and cultural eating patterns. Modifications in the prescribed food packages are as follows:

a. An infant over six months of age may receive whole fluid milk as a substitute for all or part of his or her iron-fortified infant formula allowance. The infant's parent or guardian should be informed that the substitution will result in a reduction of the iron content in the infant food package.

b. Ready-to-feed infant formula may be substituted for the concentrated liquid or powdered formula when the competent professional authority determines and documents that there is an unsanitary or restricted water supply, that there is poor refrigeration, or that the person caring for the infant may have difficulty in correctly diluting concentrated liquid or powdered formula.

c. The milk allowance for women and children is reduced from 31 quarts per month to 28 quarts per month. In addition, fluid forms of cultured buttermilk and flavored milk may be substituted for whole fluid milk in the food package for women and children. As a health precaution, pasteurization is required for all fluid milk.

d. Monterey Jack and Colby cheeses are added to the list of acceptable cheeses.

e. For women and children, the number of acceptable cereals is expanded by lowering the required iron content of cereals from 30 milligrams of iron per 100 grams of dry cereal to 28 milligrams of iron per 100 grams of dry cereal. Additionally, the amount of cereal is increased from 32 ounces to 36 ounces per month, in order to accommodate common cereal package sizes.

7. Eligibility for the WIC Program is extended to the Trust Territory of the Pacific Islands.

Other Revisions. Revisions, deletions and additions which bring program operations into conformity with the requirements of FMC 74-7, or which improve program effectiveness and efficiency are as follows.

1. The requirement for an agreement between the State agency and FNS is deleted, since the application Form AD 623 and these regulations set out the grant provisions and assurances.

2. The State agency shall determine the eligibility of local agencies and shall submit to the appropriate FNS Regional Office a State agency application or amendment on Form AD 623 which contains the required data concerning each local agency.

3. The State agency application for participation in the Program must be approved by the State's Governor in the manner specified by Office of Management and Budget Circular A-95 (38 FR 32874). The State agency is responsible for assuring this requirement is met.

4. The State agency must establish a cut-off date for the redemption of all vouchers, coupons, checks or other instruments of food delivery systems which incur an obligation.

5. The State agency must schedule audits no less than once every two years. In addition, rules are stated in this part concerning the required frequency and procedures that State agencies must observe in monitoring and reporting program performance at the local level.

6. New provisions are added concerning State agency financial management standards, property management standards, procurements standards and grant closeout procedures.

7. A health, welfare or private nonprofit agency may contract with another such agency for medical or administrative services as long as the two agencies, in conjunction, meet the requirements for a local agency; that is, provide ongoing health services such as routine medical care, infant care, and prenatal and postpartum examinations. Nursing and physician services shall be available. A local agency may provide services in a mobile health facility.

8. Local agencies must provide the supplemental foods to all three categories of recipients—women, infants, and children—unless a local agency has not previously served all three categories, or the State agency determines that a local agency is unable to operate successfully if it is required to serve all categories.

9. Certification procedures for potential WIC Program recipients are clarified. Documentation is required for all certification and recertification procedures. To determine if a person is at nutritional risk due to inadequate nutrition, the certification procedure shall include a medical examination performed by a competent professional authority. A minimal amount of data must be collected and recorded on all recipients, including height, weight, and head circumference (for infants only) and a hematocrit or hemoglobin test if equipment is available. Data from a dietary history and a 24-hour recall may be used when determining nutritional risk; however, it is preferable that such data not be the sole determinant of nutritional risk. A recertification is required at scheduled intervals to reevaluate the recipient's nutritional status. These data may be of assistance for ongoing nutritional assessment of WIC recipients.

10. FNS reserves the right to use WIC Program data in statistical or summary form which does not identify any particular individual.

11. A new FNS Regional Office is added. As a result, the Northeast Regional Office is split into the Mid-Atlantic Regional Office and the New England Regional Office.

Part 246 is revised to read as follows:

Sec.
246.1 General purpose and scope.
246.2 Definitions.
246.3 State agency application and operation.
246.4 Participation of local agencies.
246.5 Contracting for health or administrative services.
246.6 Eligibility of persons.
246.7 Supplemental foods.
246.8 Nutrition education.
246.9 Reports and records.
246.10 Audits.
246.11 State agency monitoring and reporting of Program performance.
246.12 Nondiscrimination.
246.13 Fair hearing procedure.
246.14 Food costs.
246.15 Administrative costs.
246.16 Standards for State agency financial management systems.
246.17 Budget revision procedures.
246.18 Property management standards.
246.19 Procurement standards.
246.20 Grant closeout procedures.
246.21 Miscellaneous.

AUTHORITY: Sec. 10, Pub. L. 89-642, 80 Stat. 889 (42 U.S.C. 1779); sec. 14, Pub. L. 94-105, 89 Stat. 581 (42 U.S.C. 1786).

§ 246.1 General purpose and scope.

(a) This part announces the policies and prescribes the regulations for the Special Supplemental Food Program for Women, Infants and Children (WIC Program). The WIC Program is carried out by the U.S. Department of Agriculture (USDA) under section 17 of the Child Nutrition Act of 1966, as amended. The Food and Nutrition Service (FNS) acts on behalf of USDA in administering the WIC Program. Under the WIC Program, FNS provides cash grants to the health

departments or comparable agencies of States or to Indian tribes, bands, or groups recognized by the Department of the Interior; or to the Indian Health Service (IHS) of the U.S. Department of Health, Education and Welfare to enable such agencies through eligible local public or private nonprofit health or welfare agencies of such States, or Indian tribes, or the IHS Service Units to make specified nutritious foods available to infants, children and pregnant or lactating women who are individually determined to be at nutritional risk.

(b) Also, FNS may require the State or local agencies carrying out the WIC Program to supply medical data and other information and material collected under the Program which will enable the Secretary of Agriculture or the State agencies to evaluate the effect of food intervention upon individuals determined to be at nutritional risk. The analysis, appraisal and evaluation of any data collected at the request of FNS may be performed by FNS or its designee.

(c) FNS will continually evaluate WIC Program operations for administrative efficiency and effectiveness in accomplishing Program purposes.

§ 246.2 Definitions.

For the purposes of this part and of all contracts, instructions, forms and other documents related hereto, the term:

(a) "Administrative costs" means those direct and indirect costs, except food costs, which are necessary to support WIC Program operations, and which are authorized by FNS. Such expenses include costs for operation, monitoring, nutrition education, general administration, startup, clinic and administration of the State office.

(b) "Certification" means the use of FNS-prescribed criteria and procedures by a competent professional authority of the local agency to assess and document each person's medical, economic and residential eligibility for the WIC Program.

(c) "Children" means persons at least one year of age but less than five years of age.

(d) "Competent professional authority" means physicians, registered nurses, nutritionists, dietitians or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials as being competent professionally to evaluate nutritional risk and prescribe the food package.

(e) "FMC 74-4" means Federal Management Circular 74-4, the General Services Administration Circular which establishes cost principles applicable to grants and contracts with State and local governments (34 CFR Part 255).

(f) "FMC 74-7" means Federal Management Circular 74-7, the General Services Administration Circular which establishes uniform standards for administrative requirements in grants-in-aid to State and local governments (34 CFR Part 256).

(g) "FNS" means the Food and Nutrition Service of the USDA.

(h) "Food costs" means the acquisition cost of the supplemental foods provided to recipients.

(i) "Health services" means ongoing medical services provided by the local agency such as routine medical care, infant care, and prenatal and postpartum examinations.

(j) "IHS" means the Indian Health Service of the U.S. Department of Health, Education and Welfare.

(k) "Infants" means persons under one year of age.

(l) "Lactating women" means women who are breast-feeding an infant from birth up to one year of age and also means all women for a period to six months postpartum.

(m) "Local agency" means a health or welfare agency or a private, nonprofit agency, which directly or through an agency with which it has contracted pursuant to § 246.5 of this part, operates a clinic or health service that provides ongoing health care to recipients. It also means an IHS Service Unit or an Indian tribe, band or group which is recognized by the Department of the Interior and operates a health clinic or is provided health services by an IHS Service Unit.

(n) "Nutritional risk" means one or more of the following:

(1) For a pregnant or lactating woman:

(i) Inadequate nutritional pattern;

(ii) Anemia;

(iii) History of premature births, miscarriages, or high risk pregnancies; or

(iv) Inadequate pattern of growth such as underweight, obesity or stunting.

(2) For an infant or child:

(i) Inadequate nutritional pattern;

(ii) Anemia; or

(iii) Inadequate pattern of growth such as underweight, obesity or stunting, including, for infants, a birth weight of 2500 grams or less.

(o) "Pregnant women" means women determined by a competent professional authority to have one or more fetuses in utero.

(p) "Recertification" means the use of FNS-prescribed criteria and procedures by a competent professional authority of the local agency to reassess and document a recipient's medical, economic and residential eligibility for the WIC Program.

(q) "Recipients" means pregnant women, lactating women, infants and children who are receiving WIC Program benefits.

(r) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Trust Territory of the Pacific Islands.

(s) "State agency" means the State health department or comparable agency of a State; or an Indian tribe, band or group recognized by the Department of the Interior; or the appropriate area office of the IHS of the Department of Health, Education, and Welfare.

(t) "Supplemental foods" means the foods authorized by FNS in this part to be made available under the WIC Program.

(u) "USDA" means the U.S. Department of Agriculture.

§ 246.3 State agency application and operation.

(a) The application process required for State agencies to participate in the WIC Program is as follows.

(1) The State agency shall apply for participation in the WIC Program by submitting Form AD 623 to the FNS Regional Office which serves its area of jurisdiction. The application shall list all local agencies which wish to participate in the WIC Program, and which are determined by the State agency to be capable of complying with FMC 74-4 and FMC 74-7, and with FNS regulations, instructions and guidelines.

(2) Each fiscal year, the State agency shall submit to FNS an amendment to the State agency application on Form AD 623. This amendment:

(i) Shall describe the manner in which the State agency intends to spend administrative funds. This description shall include, but not be limited to, a breakdown by Object Class Categories as specified in FMC 74-7; and a description of nutrition education services, audit and monitoring procedures, certification and recertification, and the approximate percent of administrative funds allocated to specific administrative functions. Approval of this amendment by FNS is a prerequisite to the receipt of WIC Program funds by the State agency.

(ii) Shall update the State agency application, include a forecast of cash needs for the upcoming fiscal year, and list all additional local agencies within the jurisdiction of the State agency which wish to participate in the WIC Program, and which are determined by the State agency to be capable of complying with FMC 74-4, FMC 74-7, and FNS regulations, instructions and guidelines. This amendment may contain a request for a change in authorized Federal funds for the following purposes: a budget increase, caseload increase, geographical expansion or withdrawal of a local agency.

(3) FNS shall notify each State agency in writing of the status of each State agency application and of each amendment to the State agency application within 30 days of its receipt by FNS.

(4) In accordance with the procedures required by Circular A-95 (38 FR 32874) issued by the Office of Management and Budget, September 13, 1973, the State agency shall give the Governor or his delegated agency the opportunity to comment on the relationship of the State agency WIC Program proposal to other State plans and programs. A period of 45 days from the date the Governor receives the proposed State agency application shall be afforded for such comments prior to submission of the State agency application to the FNS Regional Office. If the Governor makes no comment, a statement to that effect shall be attached to the application.

(5) The State agency shall ensure that programs begin in those areas which are

most in need of supplemental food. As funds become available, the State agency shall recommend new local agencies to FNS for approval, giving first consideration to areas which wish to terminate Supplemental Food Programs or Pilot Food Certificate Programs. Second consideration shall go to those areas which have the highest incidence of factors such as, but not limited to, infant mortality, low birth weight and low income. Such local agencies shall have been determined by the State agency to be eligible to participate in the WIC Program.

(b) The State agency is responsible for operation of the WIC Program within the area of its jurisdiction. In carrying out its responsibilities the State agency shall meet the following general obligations. Specific State agency obligations are addressed in later sections.

(1) The State agency shall assure that individual certification and recertification are performed and documented according to FNS regulations.

(2) The State agency shall account to FNS for all funds granted under the WIC Program.

(3) The State agency shall design a food delivery system or systems for use by local agencies in making the supplemental foods available to recipients, or may allow a local agency to design its own system, subject to the approval of the State agency. The system or systems shall include adequate safeguards against misuse of Federal funds. All food delivery systems shall be subject to approval by FNS. The State agency shall be responsible for the operation of the approved system or systems. FNS may, for a stated cause and by written notice, require a revision of the food delivery system and shall allow a reasonable time for the State or local agency to effect such a revision.

(4) The State agency shall be responsible for ensuring that a local agency is in fact eligible to participate in the WIC Program prior to the State agency including such local agency in any application submitted to FNS.

(5) A State agency may impose additional requirements for participation in the WIC Program only if they are deemed by FNS to be consistent with this part.

§ 246.4 Participation of local agencies.

(a) To be eligible to participate in the WIC Program, the local agency shall:

(1) Provide ongoing health services and have the competent professional authority, facilities and equipment necessary to perform the measurements and tests for determining the eligibility of persons and to collect the data and retain the records required by FNS. Nursing and physician services shall be available to recipients. The local agency may provide services in a mobile health facility.

(2) Have a system for giving persons health care free or at less than the full charge the local agency customarily makes for such services.

(3) Agree to implement a delivery system approved by FNS and the State agency for making the supplemental foods available to recipients.

(4) Provide health services to residents of areas, or members of populations, in which substantial numbers of infants, children, and pregnant or lactating women are at nutritional risk.

(5) Be exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954, if a private agency.

(6) Agree to provide the supplemental foods to all three categories of eligible recipients—infants, children and pregnant or lactating women, unless:

(i) The clinic or health service does not normally provide health services to one or more categories of recipients, or,

(ii) The State agency has determined and documented in its application the reasons that the local agency cannot operate successfully if it serves all three categories.

(7) Agree to serve only those recipients who reside within the geographical areas, as defined in the State agency application, and as approved by FNS.

(8) Agree to incorporate safeguards in its operations under the WIC Program, or agree to use a State system of safeguards, to ensure that no recipient receives foods from more than one such program. The WIC Program may not operate in the same geographic areas as the Pilot Food Certificate Program (7 CFR Part 265) or Supplemental Food Program (7 CFR Part 250).

(b) An eligible local agency that wishes to participate in the WIC Program shall make application to the State agency. The application shall be subject to approval by the State agency and FNS through the application process outlined in § 246.3(a). A local agency shall be approved by FNS for participation in the WIC Program, if funds are available, and if the local agency serves an area which has been determined by the State agency and FNS to be most in need of the supplemental foods.

§ 246.5 Contracting for health or administrative services.

(a) A health or welfare agency or private, nonprofit agency which desires to participate in the WIC Program but which is unable to provide all health or administrative services required under this part, and refers persons to another such agency for any of such services, may contract with such other agency for any of such services. Both agencies, in conjunction, shall meet all requirements set forth in § 246.4.

(b) The contract shall bind both agencies to follow the requirements of this part, shall be subject to approval by the State agency, and shall be available for FNS review.

(c) Both agencies shall be subject to audit and review.

§ 246.6 Eligibility of persons.

(a) To be eligible to receive the supplemental foods under the WIC Program, infants, children and pregnant or lactating women shall meet all of the following criteria:

(1) They are certified by a competent professional authority on the staff of the local agency to be a nutritional risk. All certifications shall be based upon the following procedures:

(i) A medical examination performed by a competent professional authority. Data from a dietary history and a 24-hour recall may be used when determining nutriitonal risk; however, it is preferable that such data not be used as the sole determinant of nutritional risk.

(ii) A hemoglobin or hematocrit test shall be performed if the necessary equipment is available.

(b) Recertification shall be performed as prescribed below to determine and document that the recipient is still at nutritional risk. After the initial certification visit, the schedule for recertification is as follows:

(1) Infants and children shall be examined for recertification at six-month intervals until they reach five years of age.

(2) Lactating women shall be examined for recertification within six weeks postpartum, and if breast-feeding, at six months postpartum.

(c) Certification and recertification data for each recipient shall be recorded on a form which is provided by, or approved by, the State agency. The form shall be maintained in local agency files and shall be available for an auditor's review. The certification and recertification data may be recorded on the same form or on separate forms, but the form shall contain the following minimum data:

(1) Recipient's name and address.

(2) Criteria for determining individual eligibility for free or reduced cost health care.

(3) Statement as to whether this is an initial, six month or postpartum visit.

(4) The specific nutritional risk factor or factors which qualify the recipient for the supplemental foods.

(5) Height (once only for women).

(6) Weight.

(7) Head circumference (for infants only).

(8) Hemoglobin or hematocrit test results if taken.

(9) Signature and title of the competent professional authority making the individual eligibility determination.

(d) The specific criteria (e.g., standards or conditions) used to determine individual nutritional risk shall also be on file at the local agency and available for an auditor's review.

(e) Infants born to WIC Program recipients shall within six weeks of birth, be individually certified to be at nutritional risk. They shall automatically be eligible to receive the supplemental food from birth until such certification occurs.

(f) After consideration of the preventative aspects of the WIC Program, a competent professional authority may remove from the Program any recipient whom he determines, and documents, to be no longer at nutritional risk.

(g) WIC Program recipients shall be offered all other health services provided by the local agency. However, a recipient need not participate in such other health services.

§ 246.7 Supplemental foods.

(a) The following foods, or any substitutes specified herein, shall be made available by each participating local agency.

(1) For infants:

(i) Iron-fortified formula which contains at least 10 milligrams of iron per liter of formula at standard dilution (which supplies 67 kilocalories per 100 milliliters, i.e., 20 kilocalories per fluid ounce). Concentrated liquid or powdered formula shall be provided, except that ready-to-feed formula may be authorized when the competent professional authority determines and documents that there is an unsanitary or restricted water supply, that there is poor refrigeration or that the person who is caring for an infant may have difficulty in correctly diluting concentrated liquid or powdered formula.

Substitutes. The following types of milk may be substituted for all or part of the iron-fortified formula for any infant over six months of age; however, the recipient's parent or guardian should be informed that the substitution will result in a reduction of the iron content in the infant food package: pasteurized whole fluid milk fortified with 400 International Units of vitamin D per quart; or evaporated milk fortified with 400 International Units of vitamin D per reconstituted quart; or, in Puerto Rico, the Virgin Islands and Alaska only, dry whole milk fortified with 400 Units of vitamin D per reconstituted quart.

(ii) Infant cereal which contains a minimum of 45 milligrams of iron per 100 grams of dry cereal.

(iii) Single strength fruit juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or concentrated fruit juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstituted juice; or infant juice.

(2) For children and pregnant or lactating women:

(i) Pasteurized whole fluid milk (from cow or goat) which is flavored or unflavored and which is fortified with 400 International Units of vitamin D per quart; or evaporated milk fortified with 400 International Units of vitamin D per reconstituted quart; or pasteurized skim or lowfat fluid milk (from cow or goat) which is flavored or unflavored and which is fortified with 400 International Units of vitamin D and at least 1500 International Units of vitamin A per fluid quart or the minimum amount required by the Food and Drug Administration, whichever is greater; or nonfat dry milk fortified with 400 International Units of vitamin D and at least 2000 International Units of vitamin A per reconstituted quart; or pasteurized cultured buttermilk which contains 400 International Units of vitamin D and at least 1500 International Units of vitamin A per fluid quart; or, in Puerto Rico, the Virgin Islands and Alaska only, dry whole milk fortified with 400 International Units of vitamin D per reconstituted quart; or domestic cheese (pasteurized process American, Monterey Jack, Colby, natural cheddar or Swiss).

(ii) Cereal (hot or cold) which contains a minimum of 28 milligrams of iron per 100 grams of dry cereal.

(iii) Single strength fruit juice or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or concentrated fruit or vegetable juice, or both, which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstituted juice.

(iv) Eggs, or dried egg mix.

(b) Supplemental foods shall be authorized by a competent professional authority in amounts up to the following maximum quantities in accordance with the individual needs of each recipient:

Maximum number of units per month

Foods	Infants	Children and pregnant or lactating women
Iron-fortified infant formula:		
Concentrated liquid.	403 fluid oz.	
Powdered formula.	May be substituted at the rate of 1 lb. per 53 fluid oz. of concentrated formula.	
Ready-to-feed formula.	May be substituted at the rate of 26 fluid oz. per 13 fluid oz of concentrated formula.	
Whole fluid milk	May be substituted for formula beginning at age 6 mo at the rate of 1 qt of whole fluid milk per 13 fluid oz of concentrated formula.	23 qts.
Evaporated milk	May be substituted for whole fluid milk at the rate of 13 fluid oz per quart of whole fluid milk.	
Skim or lowfat milk		May be substituted for whole fluid milk on a quart-for-quart basis.
Nonfat dry milk		May be substituted for whole fluid milk at the rate of 1 lb per 5 qts of whole fluid milk.
Cultured buttermilk		May be substituted for whole fluid milk on a quart-for-quart basis.
Whole dry milk	In Puerto Rico, the Virgin Islands, and Alaska only, may be substituted for whole fluid milk at the rate of 1 lb per 3 qt of whole fluid milk.	
Cheese		May be substituted for whole fluid milk at the rate of 1 lb per 3 qt of whole fluid milk.
Eggs		2¼ doz.
Dried egg mix		May be substituted at the rate of 2 pounds egg mix per 2½ doz fresh eggs.
Infant cereal	24 oz, dry	
Cereals (hot or cold)		36 oz, dry.
Juices:		
Single strength	92 fluid oz.	276 fluid oz.
Frozen, concentrated.	May be substituted as long as the reconstituted volume is no greater than the amount authorized for single strength juices.	
Infant juice	May be substituted at the rate of 63 fluid oz per 92 fluid oz of single strength juice.	

§ 246.8 Nutrition education.

(a) The State agency shall submit a description of the manner in which nutrition education services will be provided when completing Part IV, number 3 of AD 623, the State agency application, initially or as an amendment to the application. The specified format shall be consistent with WIC Program nutrition education guidelines. In developing nutrition education services for the WIC Program, the State agency shall take into consideration and coordinate with other State and Federal agencies providing such services to other programs.

(b) The State agency shall assure that nutrition education is available to all adult receipts, and to parents or guardians of child recipients, in each local agency participating in the WIC Program. Priority for nutrition education shall be given first to pregnant and lactating women, then to parents or guardians of child recipients. Where State agencies feel it is appropriate, nutrition education may be provided to child recipients.

(c) The nutrition education component of the WIC Program shall be based, at a minimum, on the following three broad goals:

(1) To assist the individual at nutritional risk, through maximum use of the supplemental foods and other nutritious foods, to obtain a positive change in dietary status resulting in improved nutritional status.

(2) To emphasize the relationship of proper nutrition to the total concept of good health with special emphasis on the nutritional needs of pregnant and lactating women, infants and children under five years of age.

(3) To maximize the effective use of the supplemental foods within the context of ethnic, cultural and geographical preferences and with consideration given to environmental limitations.

(d) The nutrition education component must include, at a minimum, the following:

(1) Reference to the special nutritional needs of WIC Program recipients and ways to provide them with adequate diets.

(2) An explanation of the WIC Program as a supplemental rather than a total food program.

(3) Information on the use of the supplemental foods and on the nutritional value of these foods.

(e) The State agency shall employ at least one professional person, on a full or part-time basis, who is trained as a nutritionist (Master of Science or Master of Public Health Degrees), or a dietitian (registered, or eligible for registration). This person shall have the responsibility to plan, direct and coordinate the nutri-

tion education component of the WIC Program. Such person shall also provide instructional and technical assistance to local agencies, and provide inservice training for the local agencies' staffs, in nutrition and nutrition instruction, where necessary.

§ 246.9 Reports and records.

(a) Each State agency and local agency participating in the WIC Program shall maintain full and complete records concerning Program operations.

(1) Records to be maintained shall include, but not be limited to, records of fiscal operations, food delivery systems, certification and recertification, racial and ethnic participation data and fair hearings.

(2) All records shall be retained for three years following the end of the Federal fiscal year to which they pertain (or following the end of the three month transition period July 1, 1976, through September 30, 1976). However, USDA may, by written notice, require longer retention of any records deemed by it to be necessary for resolution of an audit or of any litigation. If USDA deems any of the WIC Program records to be of historical interest, it may require the State or local agency to forward such records to USDA whenever either agency is disposing of them. All records shall be available during normal business hours for representatives of USDA and of the General Accounting Office of the United States to inspect, audit and copy, provided that medical case records of individual recipients shall remain confidential.

(b) The following reports shall be submitted by the State agency to FNS for the purpose of evaluating administrative performance and of determining the effect of food intervention upon recipients:

(1) A Report of Program Operations submitted quarterly on Form FMS 187, 30 days after the end of the quarter.

(2) A Racial/Ethnic Group Participation date report submitted quarterly on Form FNS 191, 20 days after the end of the quarter.

(3) A Financial Status Report submitted quarterly on Form AD 626, 30 days after the end of the quarter.

(4) A Report of Federal Cash Transactions submitted monthly on Form AD 627, 15 days after the close of the month.

(5) Other reports as required by FNS.

§ 246.10 Audits.

(a) Each State agency shall provide for audits of the funds and operations of the State and local agency WIC Programs. The audits shall be made with reasonable frequency, but not less frequently than once every two years. The audits shall determines the fiscal integrity of financial transactions and reports, and compliance with applicable laws and the provisions of this part.

(b) Audits may be made by State agency internal auditors, by State auditors general, by State controllers, by other comparable State audit groups, or by Certified Public Accountants or State licensed public accountants.

(c) Each State agency shall develop a plan for the conduct of audits which shall be specified when completing Part IV, number 3 of AD 623, the State agency application, initially or as an amendment to the application. The plan shall:

(1) State the frequency of audits of the State agency and local agencies and delineate the positive action to be taken to achieve audit frequency of not less than once every two years.

(2) Provide a description of the State agency in sufficient detail to demonstrate the independence of the audit organization, and give the name and address of the persons responsible for the audit of the State agency and all local agencies under its jurisdiction.

(3) Provide a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(d) While the USDA Office of Audit (OA) shall rely to the fullest extent feasible upon State sponsored audits, it shall, whenever considered necessary, make audits on a statewide basis, perform on-site test audits and review audit reports and related working papers on audits performed by or for State agencies.

(e) Use of audit guides which will be available from OA is encouraged. When these guides are utilized, OA will coordinate its audits with State sponsored audits to form a network of intergovernmental audit systems.

(f) Each State agency shall provide USDA with full opportunity to conduct management evaluations and audits of all operations of the State agency under this part. Each State and local agency shall make available its records, including records of the receipt and expenditure of funds under the WIC Program, upon a reasonable request by USDA.

(g) In making management evaluations or audits for any fiscal year, FNS or OA may disregard any overpayment which does not exceed $35 or, in the case of State agency administered programs, does not exceed the amount established under State law, regulations or procedure as a minimum amount for which claim will be made for State losses. However, no overpayment shall be disregarded where there are unpaid claims of the same fiscal year from which the overpayment can be deducted, or where there is substantial evidence of violation of criminal law or civil fraud statutes.

§ 246.11 State agency monitoring and reporting of Program performance.

(a) This section sets forth the procedures for State agency monitoring and reporting of WIC Program performance.

(b) Each State agency shall constantly monitor and periodicaly conduct a review of the performance of all phases of the WIC Program under its administration, including the civil rights aspect, to determine if the objectives are being achieved, as set forth in Part IV, number 3 of AD 623, the approved State agency application, initially or as an amendment to the application.

(c) The State agency shall inform FNS of any developments, such as problems, delays, or adverse conditions, which would materially affect the attainment of WIC Program objectives when such developments occur between any of the required quarterly WIC Program reporting dates. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation. Similarly, if favorable developments occur which enable the State or local agencies to meet time schedules and goals sooner than anticipated, these developments shall be reported as soon as they become known.

(d) If any of the WIC Program monitoring reports submitted by the State agency disclose the need for change in the budget estimates as cited in the State agency application (Form AD 623) in accordance with the criteria established in Attachment K to FMC 74-7, the State agency shall submit a budget revision as indicated by FMC 74-7 and FNS guidelines.

(e) As frequently as practicable, State and local agencies shall be visited by FNS in order to:

(1) Review WIC Program accomplishments and management control systems.

(2) Provide such technical assistance as may be required.

§ 246.12 Nondiscrimination.

(a) The State agency shall comply with the requirements of USDA regulation respecting nondiscrimination (7 CFR Part 15) issued pursuant to Title VI of the Civil Rights Act of 1964, including requirements of racial and ethnic participation data collection, public notification of the nondiscrimination policy and periodic reviews to ensure compliance with such policy, to the end that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the WIC Program.

(b) The State agency shall further assure that no person shall be subject to any discrimination under the WIC Program because of creed, political beliefs, or sex.

(c) Complaints of discrimination filed by applicants or recipients shall be referred to the Director, Special Supplemental Food Program (WIC), Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 246.13 Fair hearing procedure.

(a) Each potential WIC recipient shall be orally informed of his or her right to a fair hearing during the initial contact with the local agency.

(b) Each State agency participating in the WIC Program shall establish a hearing procedure under which a person, or his or her parent or guardian, can appeal from a decision made by a local agency respecting the eligibility of such person for the supplemental foods. Such hearing procedure shall provide:

(1) A simple, publicly announced method for a person to make an oral or written request for a hearing;

(2) An opportunity for the person to be assisted or represented by an attorney or other person;

(3) An opportunity to examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

(4) That the hearing be held within three weeks from the date of receipt of request, and be convenient to the person and that ten days written notice be given to the person as to the time and place of the hearing;

(5) An opportunity for the person to present oral or documentary evidence and arguments supporting his or her position in accordance with procedures established by the hearing official, and that such procedures shall not be unduly complex or legallistic, and shall take into consideration the recipient's background and education.

(6) An opportunity for the person to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(7) That the hearing be conducted and the decision made by a hearing official who did not participate in making the decision under appeal, or in any previously held conferences;

(8) That the decision of the hearing official be based on the oral and documentary evidence presented at the hearing and that such decision be made a part of the hearing record;

(9) That the person and any designated representative be notified in writing of the decision of the hearing official within 45 days from the date of the request for hearing;

(10) That a written record be prepared with respect to each hearing, which shall include the decision under appeal, any documentary evidence admitted and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the family concerned of the decision of the hearing official; and

(11) That such written record of each hearing be preserved for a period of three years and be available for examination by the person or his representative at any reasonable time and place during such period.

§ 246.14 Food costs.

The use of WIC Program funds for food costs shall be subject to the following conditions:

(a) The cost of the supplemental foods, provided either directly or by voucher, shall not exceed the vendor's customary price for such food delivered to the State agency, the local agency or the WIC recipient, whichever is the first to receive the foods.

(b) Supplemental foods shall be provided only for home consumption and shall not be distributed for use by institutions such as child or day care centers.

(c) In all voucher, coupon, check or other food delivery systems that incur an obligation, the State agency shall establish cut-off dates for use and redemption. For use by the recipient, this date shall not be later than 30 days from the date of issuance; for submission by the retailer to the State agency for redemption (payment), this date shall not be later than 30 days from the date of use by the recipient.

(d) All obligations and expenditures must be incurred and documented in accordance with FMC 74-4 and FMC 74-7.

§ 246.15 Administrative costs.

The use of WIC Program funds for administrative costs shall be subject to the following conditions:

(a) For any fiscal year, FNS shall not reimburse the State agency for administrative costs which exceed 25 percent of the actual food costs. Administrative costs in excess of those allowed by FNS may be funded from any source other than FNS.

(b) All obligations and expenditures must be incurred and documented in accordance with FMC 74-4 and FMC 74-7.

(c) Development of the formula, if any, for allocating allowable funds between the State agency and local agencies shall be the responsibility of the State agency.

(d) Nutrition education costs shall be limited to expenditures and obligations, including those for equipment, which are in accordance with the State agency nutrition education plan set forth in Part IV, number 3 of Form AD 623, the approved State agency application, initially or as an amendment to the application. Any deviation from this plan must be requested from the appropriate Regional Office with the State agency's justification for change.

(e) Equipment purchases for nutrition education where the individual item cost is in excess of $300 must be approved in advance of purchase by the appropriate FNS Regional Office.

(f) Medical certification and recertification expenditures (clinic costs) shall be limited to:

(1) The appropriate portion of the wages or salaries and personnel benefits of the competent professional authority certifying persons for the WIC Program.

(2) The appropriate portion of the wages or salaries and personnel benefits of employees who document and prepare data used for determining eligibility of persons for the WIC Program.

(3) The cost of expendable medical supplies such as those supplies which are discarded after a single usage, laboratory chemicals, and medical supplies which can be used only a limited number of times before being replaced. Such expendable medical supplies shall be used only in determining eligibility of persons for the WIC Program.

(g) Medical equipment shall not be an allowable expense for the WIC Program.

(h) Startup costs are includable as a portion of the 20 percent administrative allowance in order to successfully commence a new WIC Program during its first three months of operation, or until the Program reaches its projected caseload, whichever comes first.

(i) Indirect administrative costs claimed by State agencies shall be allowable in accordance with FMC 74-4, Attachments A and B, and must be documented in accordance with FMC 74-7, Attachment G.

(j) All WIC expenditures for which reimbursement is claimed from WIC Program funds must be supported by records which identify source and application of all such funds, including information pertaining to WIC Program grants and authorizations, obligations, unobligated balances, assets, liabilities, outlays and income. In addition, all costs shall be certified by the chief medical officer of the State agency as necessarily incurred in the administration of the WIC Program. The chief medical officer shall also certify that costs charged by the State agency against WIC Program funds are not allocable to or included as a cost of any other federally financed program in the current fiscal year or any other time period.

§ 246.16 Standards for State agency financial management systems.

(a) Each State agency shall receive a Letter of Credit from FNS. The State agency shall obtain needed funds (grants) through presentation, by designated officials, of a Request for Payment on Letter of Credit in accordance with procedures prescribed by FNS and approved by the U.S. Treasury Department.

(b) State agency withdrawals from (or advances against) the Letter of Credit shall be made only in amounts necessary to meet actual current disbusement needs as defined by Department of Treasury Circular 1075, 31 CFR Part 205, Subchapter A. The advanced funds shall be used without delay to pay currently approved costs.

(c) State agency financial management systems shall provide for:

(1) Accurate, current and complete disclosure of the financial results of each program conducted by a local agency in accordance with FMC 74-7 and Treasury Circular 1075. Reporting shall be on an accrual basis; if the State agency's accounting records are not kept on that basis, the State agency shall develop such information through an analysis of the documentation on hand or on the basis of best estimates.

(2) Records which identify adequately the source and application of funds for WIC Program activities. These records shall contain information pertaining to WIC Program grants and authorizations, obligations (encumbrances), unobligated balances, assets, liabilities, outlays and income.

(3) Effective control over, and accountability for, all funds, property and other assets. State agencies shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(4) Comparison of actual with budgeted amounts for each grant. Also, relation of financial information with performance or productivity data, including per recipient cost information whenever appropriate and required by FNS.

(5) Procedures to minimize the time elapsing between withdrawals from the Letter of Credit and disbursements of funds.

(6) Procedures for determining the allowability and allocability of costs in accordance with the provisions of FMC 74-4.

(7) Accounting records which are supported by source documentation.

(8) Audits of local agencies to be made by or at the direction of the State agency. Such audits shall determine, at a minimum, fiscal integrity of financial transactions and reports, and the compliance with laws, regulations and administrative requirements. The State agency shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years.

(9) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

(d) State agencies shall require local agencies to adopt all of the applicable standards in paragraph (c) of this section.

§ 246.17 Budget revision procedures.

(a) State agencies shall promptly request prior approval from FNS for budget revisions as required by FMC 74-7, Attachment K.

(b) When requesting FNS approval for budget revisions, State agencies shall use the budget forms in the State agency application (Form AD 623). However, the State agency may request approval, by letter, of the expenditures for cost items given in FMC 74-4, Attachment B, paragraph c.

(c) Within 30 days from the date of receipt of the request for budget revisions, FNS shall review the request and notify the State agency of the status of the request.

(d) If FNS determines, through review of State agency reports, monitoring or audit, that a State agency's or local agency's performance may be inadequate or that it may have failed to comply with section 17 of the Child Nutrition Act or the provisions of this part, or that funds are not needed where they were originally allocated, the Secretary may reallocate funds and caseload.

§ 246.18 Property management standards.

FMC 74-7 prescribes uniform standards governing the utilization and disposition of property furnished by a Federal agency or acquired in whole or in part with Federal funds by State and local governments. State agencies and local agencies shall observe these standards in the conduct of the WIC Program.

§ 246.19 Procurement standards.

(a) FMC 74-7 and FMC 74-4 provide standards for use by the State and local governments in establishing procedures for the procurement of supplies, equipment, construction and other services with Federal grant funds. These standards are adopted by FNS for the WIC Program to ensure that such materials and services are obtained for the WIC Program in an effective manner and in compliance with the provisions of applicable law and Executive Orders.

(b) The standards contained in FMC 74-7 and FMC 74-4 do not relieve the State agency or local agency of the contractual responsibilities arising under its contracts. The State agency or local agency is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into connection with the WIC Program. This includes but is not limited to: disputes, claims, protests of award, source evaluations, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

(c) The State agency or local agency may use its own procurement regulations which reflect applicable State and local law and rules and regulations, provided that procurements made with FNS funds adhere to the standards set forth in FMC 74-7 and FMC 74-4.

§ 246.20 Grant closeout procedures.

(a) Grant closeout procedures for this Program shall be in accordance with FMC 74-7.

(b) *Termination for cause.* FNS may terminate a State agency's participation in the WIC Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the WIC Program. FNS shall promptly notify the State agency in writing of the termination and the reasons for the termination, together with the effective date. A State agency shall terminate a local agency's participation in the WIC Program by written notice whenever it is determined by FNS or the State agency that the local agency has failed to comply with the conditions of the WIC Program. When a WIC Program has been terminated for cause, any payments made to the State agency or any recoveries by FNS from the State agency shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* FNS or the State agency may terminate the State agency's participation in the WIC Program in whole, or in part, when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations, properly incurred by the State agency prior to termination.

§ 246.21 Miscellaneous.

(a) The value of benefits or assistance available under the WIC Program shall not be considered as income or resources of recipients or their families for any purpose under Federal or State laws including, but not limited to, laws relating to taxation, welfare and public assistance programs.

(b) FNS reserves the right to use information obtained under the WIC Program in a summary, statistical or other form which does not identify particular individuals.

(c) Any person who wishes assistance, records or other public material shall address his request to the FNS Regional Office serving his or her State as listed below:

(1) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont: U.S. Department of Agriculture, FNS, New England Region, Northwest Park, 34 Third Avenue, Burlington, Massachusetts 01803.

(2) Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia: U.S. Department of Agriculture, FNS, Mid-Atlantic Region, 729 Alexander Road, Princeton, New Jersey 08540.

(3) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee: U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street NW., Atlanta, Georgia 30309.

(4) Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Illinois 60605.

(5) Arkansas, Colorado, Louisiana, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, Wyoming: U.S. Department of Agriculture, FNS, West-Central Region, 1100 Commerce Street, Room 5-D-22, Dallas, Texas 75202.

(6) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, Washington: U.S. Department of Agriculture, FNS, Western Region, 550 Kearney Street, Room 400, San Francisco, California 94108.

NOTE.—The reporting and/or record keeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance, Program No. 10.557, National Archives Reference Service)

Effective date: This part shall become effective on January 8, 1976.

Signed at Washington, D.C. on January 8, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-861 Filed 1-9-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-623]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Correction

The notice published on July 16, 1975, at 40 FR 29819 listing the Township of Brady, PA in Butler County with a Hazard Area Identified as Oct. 25, 1974, should be corrected to read the Township of Brady, PA in Huntingdon County with a Hazard Area Identified as January 24, 1975.

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

Issued: December 18, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-782 Filed 1-9-76;8:45 am]

[Docket No. FI-593]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Correction

The notice published on June 3, 1975, at 40 FR 23873 listing the Township of Towanda, PA (Bradford Co.) should be corrected to read the Borough of Towanda, PA (Bradford Co.)

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

34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.

Issued: December 18, 1975:

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-783 Filed 1-9-76;8:45 am]

[Docket No. FI-311]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Correction

The notice published on July 19, 1974, at 39 FR 26422 listing Fayette County, Alabama, as a participating Community should be corrected to read Fayette, City of, Alabama (Fayette Co.)

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

Issued: December 18, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-784 Filed 1-9-76;8:45 am]

[Docket No. FI-835]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The purpose of this notice is the identification of communities with areas of special flood or mudslide or erosion hazards in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128). The identification of such areas is to provide guidance so that communities may adopt appropriate flood plain management measures to minimize damage caused by flood losses and to guide future construction, where practicable, away from locations which are threatened by flood hazards.

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

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by a Federally regulated, insured, supervised or approved bank prior to March 1, 1976, to finance the acquisition of a previously occupied residential dwelling.

The effective date of identification shall be 30 days after the date of publication in the FEDERAL REGISTER, or the date which appears in this notice, whichever is later.

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

Where several dates appear in the column set forth below marked Effective Date of Identification, the first date is the date of initial identification, and all other dates represent modification by additions or deletions to identified areas with special hazards.

Accordingly, § 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas (FHBM's).

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazard
Alabama	Baldwin	Loxley, town of	H 010009A 01 through H 010009A 02	Alabama Development Office, Office of State Planning, State Office Bldg., 501 Dexter Ave., Montgomery, Ala. 36104. Alabama Insurance Department, Room 453, Administrative Bldg., Montgomery, Ala. 36104.	Mayor, P.O. Box 57, Loxley, Ala. 36551.	June 28, 1974. Dec. 19, 1975.
Do	Barbour	Eufaula, city of	H 010011A 01 through H 010011A 04	do	Mayor, P.O. Box 377, Eufaula, Ala. 36027.	Dec. 17, 1973. Dec. 19, 1975.
Do	Calhoun	Anniston, city of	H 010020A 01 through H 010020A 08	do	City Manager, P.O. Box 670, Anniston, Ala. 36201.	Dec. 17, 1973. Dec. 19, 1975.
Do	Chilton	Clanton, city of	H 010031A 01 through H 010031A 05	do	Mayor, P.O. Box 580, Clanton, Ala. 35045.	June 28, 1974. Dec. 19, 1975.
Do	Cullman	Hanceville, city of.	H 010059A 01	do	Mayor, Box 343, Hanceville, Ala. 35077.	Apr. 12, 1974. Dec. 19, 1975.
Do	Escambia	Atmore, city of	H 010071A 01 through H 010071A 04	do	Mayor, P.O. Drawer 6, Atmore, Ala. 36502.	Apr. 5, 1974. Dec. 19, 1975.
Do	do	East Brewton, city of.	H 010073A 01 through H 010073A 02	do	Mayor, P.O. Box 2010, East Brewton, Ala. 36426.	Nov. 23, 1973.
Do	Etowah	Altoona, town of	H 010078A 01 through H 010078A 02	do	Mayor, P.O. Box 275, Altoona, Ala. 35952.	May 17, 1974.
Do	do	Glencoe, city of	H 010081A 01 through H 010081A 06	do	Mayor, Box 119, Lonesome Ben Road, Glencoe, Ala. 35905.	May 17, 1974. Dec. 19, 1975.
Do	Fayette	Fayette, city of	H 010084A 01 through H 010084A 09	do	Mayor, 102 2d Ave., Southeast, Fayette, Ala. 35555.	May 3, 1974. Dec. 19, 1975.
Do	Houston	Cottonwood, town of.	H 010102A 01 through H 010102A 02	do	Mayor, P.O. Box 453, Cottonwood, Ala. 36320.	May 17, 1974.
Do	Jefferson	Brighton, city of	H 010117A 01 through H 010117A 02	do	Mayor, 3700 Main St., Brighton, Ala. 35020.	May 10, 1974. Dec. 19, 1975.
Do	do	Leeds, city of	H 010125A 01 through H 010125A 04	do	Mayor, P.O. Box 126, Leeds, Ala. 35094	June 7, 1974. Dec. 19, 1975.
Do	Marengo	Demopolis, city of.	H 010157A 01 through H 010157A 06	do	Mayor, P.O. Box 580, Demopolis, Ala. 36732.	June 7, 1974. Dec. 19, 1975.
Arizona	Maricopa	Tolleson, city of	H 040055A 01 through H 040055A 02	Arizona State Land Department, 1624 West Van Buren, Phoenix, Ariz. 85007. Arizona Department of Insurance, 1601 West Jefferson, Phoenix, Ariz. 85007.	Mayor, 9555 West Van Buren, City Hall, Tolleson, Ariz. 85353.	Apr. 12, 1974.
Do	Navajo	Winslow, city of	H 040072A 01 through H 040072A 07	do	City Engineer, 1st St. and Williamson Ave., City Hall, Winslow, Ariz. 86047.	July 19, 1974. Dec. 19, 1975.
Arkansas	Lafayette	Lewisville, city of	H 050116A 01 through H 050116A 02	Division of Soil and Water Resources, State Department of Commerce, 1200 Westpark Dr., Room 308, Little Rock, Ark. 72204. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.	Mayor, City Hall, Lewisville, Ark. 78145.	Oct. 12, 1973. Dec. 19, 1975.
Do	Lawrence	Portia, town of	H 050121A 01	do	Mayor, Town Hall, Portia, Ark. 72457.	Aug. 23, 1974. Dec. 19, 1975.
Do	Poinsett	Trumann, city of	H 050176A 01	do	Mayor, City Hall, Trumann, Ark. 72472.	Nov. 16, 1973. Dec. 19, 1975.
California	Fresno	Mendota, city of	H 060051A 01	Department of Water Resources, P.O. Box 388, Mendota, Calif. 93640. California Insurance Department, 600 South Commonwealth Ave., Los Angeles, Calif. 90005.	Mayor, City Hall, 1683 6th St., Mendota, Calif. 93640.	Mar. 29, 1974. Dec. 19, 1975.
Do	Kern	Shafter, City of	H 060082 01	do	Mayor, City Hall, 320 James St., Shafter, Calif. 93263.	Feb. 6, 1976.
Do	Kings	Lemoore, city of	H 060089 01 through H 060089 02	do	Mayor, 119 Fox St., Lemoore, Calif. 93245.	Do.
Do	Los Angeles	Montebello, city of.	H 060141A 01 through H 060141A 04	do	City Engineer, 1600 Beverly Blvd., Montebello, Calif. 90640.	June 28, 1974. Dec. 19, 1975.
Do	Monterey	Seaside, city of	H 060203A 01 through H 060203A 04	do	Mayor, 440 Harcourt Ave., City Hall, Seaside, Calif. 93955.	June 7, 1974. Dec. 19, 1975.
Do	San Benito	San Juan Bautista, city of.	H 060269A 01	do	Mayor, City Hall, 311 2d St., San Juan Bautista, Calif. 95045.	Feb. 8, 1974. Dec. 19, 1975.
Do	Ventura	Fillmore, city of	H 060415A 01	do	Mayor, City Hall, 524 Sespe Ave., Fillmore, Calif. 93015.	Jan. 23, 1974. Dec. 19, 1975.
Do	do	San Buenaventura, city of.	H 060419A 01 through H 060419A 16	do	Mayor, 625 East Santa Clara St., City Hall, San Buenaventura, Calif. 93001.	May 31, 1974. Dec. 19, 1975.
Colorado	Jefferson	Edgewater, city of.	H 080089A 01	Colorado Water Conservation Board, Room 102, 1845 Sherman St., Denver, Colo. 80203. Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80203.	Mayor, 5845 West 25th Ave., City Hall,	June 14, 1974. Dec. 19, 1975.
Do	Montrose	Olathe, town of	H 080128A 01	do	Mayor, Town Hall, P.O. Box 36, Olathe, Colo. 81425.	June 28, 1974.
Do	Routt	Oak Creek, town of.	H 080158A 01	do	Mayor, P.O. Box 128, Town Hall, Oak Creek, Colo. 80467.	May 17, 1974. Dec. 19, 1975.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Delaware	Kent	Cheswold, town of.	H 100004A 01	Delaware State Planning Office, Thomas Collins Bldg., 630 South Dupont Highway, Dover, Del. 19901; Delaware Insurance Department, 21 The Green, Dover, Del. 19901.	Mayor, P.O. Box 6, Cheswold, Del. 19936.	Aug. 9, 1974.
Do	do	Harrington, city of.	H 100010A 01	do	Mayor, 103 Fleming, Harrington, Del. 19952.	May 17, 1974. Dec. 19, 1975.
Do	New Castle	Delaware City, city of.	H 100022A 01	do	Mayor, Public Bldg., 10th and King, Delaware City, Del. 19801.	Apr. 5, 1974 Dec. 19, 1975.
Do	Sussex	Dagsboro, town of.	H 100033A 01	do	Mayor, P.O. Box 420, Dagsboro, Del. 19939.	June 28, 1974 Dec. 19, 1975
Do	do	Millsboro, town of.	H 10043A 01 through H 100043A 02	do	Mayor, P.O. Box 466, Millsboro, Del. 19966.	June 21, 1974.
Do	do	Seaford, city of	H 100048A 01	do	Mayor, Box 671, Seaford, Del. 19973 19973.	Do.
Florida	Bay	Lynn Haven, city of.	H 120009A 01 through H 120009A 02	Department of Community Affairs, 2571 Ex. Center Circle East, Howard Bldg., Tallahassee, Fla. 32301 State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304.	Mayor, 825 Ohio Ave., Lynn Haven, Fla. 32444.	Sept. 26, 1974. Dec. 19, 1975.
Do	Brevard	Malabar, city of	H 120024A 01 through H 120024A 04	do	Mayor, Box 245, Malabar, Fla. 32950	Mar. 1, 1974. Dec. 19, 1975.
Do	Palm Beach	North Palm Beach, village of.	H 120217A 01 through H 120217A 02	do	Village Manager, 501 U.S. No. 1, North Palm Beach, Fla. 33408.	Dec. 6, 1974. Dec. 19, 1975.
Do	Suwannee	Unincorporated areas.	H 120300 01 through H 120300 51	do	Chairman, Suwannee County Courthouse, Live Oak, Fla. 32060.	Feb. 13, 1976.
Georgia	Wayne	Odum, city of	H 130189A 01 through H 130189A 02	Department of Natural Resources, Office of Planning and Research, 270 Washington St. SW., Room 707, Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	Mayor Pro Tem, Box 838, Odum, Ga. 31555.	Jan. 3, 1975. Dec. 19, 1975.
Do	Carroll	Bowdon, city of	H 130244B 01 through H 130244B 02	do	Mayor, 135 City Hall Ave., Bowdon, Ga. 30108.	Nov. 15, 1974. Aug. 8, 1975.
Idaho	Bannock	Inkom, city of	H 160010A 01	Department of Water Administration, State House, Annex 2, Boise, Idaho 83707. Idaho Department of Insurance, Room 200, Statehouse, Boise, Idaho 83707.	Mayor, City Hall, P.O. Box 166	Sept. 13, 1974. Dec. 19, 1975.
Do	Bonner	Sandpoint, city of	H 160025A 01	do	Mayor, City Hall, Sandpoint, Idaho 83864.	June 21, 1974. Dec. 19, 1975.
Do	Idaho	Kooskia, city of	H 160070A 01	do	Mayor, City Hall, P.O. Box 126, Kooskia, Idaho 83539.	Nov. 20, 1973. Dec. 19, 1975.
Do	Kootenai	Harrison, city of	H 160080A 01	do	Mayor, City Hall, Box 73, Harrison, Idaho 83833.	Mar. 22, 1974. Dec. 19, 1975.
Do	Latah	Juliaetta, city of	H 160088A 01	do	Mayor, City Hall, Main St., Juliaetta, Idaho 83535.	Oct. 18, 1974. Dec. 19, 1975.
Do	Owyhee	Homedale, city of	H 160107A 01	do	Mayor, City Hall, Box 757, Homedale, Idaho 83628.	Feb. 1, 1974. Dec. 19, 1975.
Illinois	Christian	Taylorville, city of.	H 170038A 01 through H 170038A 06	Governor's Task Force on Flood Control, 300 North State St., Room 1010, P.O. Box 475, Chicago, Ill. 60610. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62702.	Mayor, 115 North Main, Taylorville, Ill. 62568.	Sept. 6, 1974. Dec. 19, 1975.
Indiana	Elkhart	Elkhart, city of	H 180057A 01 through H 180057A 06	Division of Water, Department of Natural Resources, 608 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department 509 State Office Bldg., Indianapolis, Ind. 46204.	Mayor, City Hall, Elkhart, Ind. 46514.	June 28, 1974. Dec. 19, 1975.
Iowa	Crawford	Dow City, city of	H 190097A 01	Iowa Natural Resources Council, James W. Grimes Bldg., Des Moines, Iowa 50319. Iowa Insurance Department, Lucas State Office Bldg., Des Moines, Iowa 50319.	Mayor, City Hall, Dow City, Iowa 51528.	May 31, 1974. Dec. 19, 1975.
Kansas	Barber	Medicine Lodge, city of.	H 200015A 01	Division of Water Resources, Kansas Department of Agriculture, 1720 South Topeka Ave., Topeka, Kans. 66612. Kansas Insurance Department, 1st Floor, Statehouse, Topeka, Kans. 66612.	Mayor, City Hall, 114 West First, Medicine Lodge, Kans. 67104.	July 26, 1974. Dec. 19, 1975.
Do	Cloud	Clyde, city of	H 200059A 01	do	Mayor, City Hall, Clyde, Kans. 66933	May 31, 1974. Dec. 19, 1975.
Do	Franklin	Ottawa, city of	H 200104A 01 through H 200104A 02	do	Mayor, City Hall, 4th and Walnut, Ottawa, Kans. 66067.	Jan. 9, 1974.
Do	Johnson	Edgerton, city of	H 200162A 01	do	Mayor, City Hall, 404 East Nelson St., Box 63, Edgerton, Kans. 66021.	Mar. 8, 1974. Dec. 19, 1975.
Do	do	Roeland Park, city of.	H 200176A 01	do	Mayor, City Hall, 4600 West 51st St., Roeland Park, Kans. 66205.	May 31, 1974. Dec. 19, 1975.
Do	do	Springhill, city of	H 200178 01	do	City Attorney for the City of Springhill, Court Square Bldg., 110 South Cherry, Olathe, Kans. 66061.	Feb. 6, 1976.
Do	do	Westwood Hills, city of.	H 200180A 01	do	Mayor, City Hall, 5008 State Line, Westwood Hills, Kans. 66205.	Oct. 25, 1974. Dec. 19, 1975.

State	County	Location	Map No.	State map repository	Local map repository	Effective date Effective date of identification of areas which have special flood hazards
Kentucky	Christian	Hopkinsville, city of.	H 210055A 01 through H 210055A 06	Division of Water, Kentucky Department of Natural Resources, Capitol Plaza Office Tower, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Mayor, P.O. Box 7070, Hopkinsville, Ky. 42240.	Feb. 1, 1974. Dec. 19, 1975.
Do	Union	Morganfield, city of.	H 210216A 01 through H 210216A 02	do	Mayor, 118 East Main, Morganfield, Ky. 42437.	May 17, 1974. Dec. 19, 1975.
Louisiana	Bienville Parish	Ringgold, town of.	H 220030A 01 through H 220030A 02	State Department of Public Works, P.O. Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, La. 70804.	Mayor, Town Hall, Ringgold, La. 71068.	May 3, 1974.
Do	Concordia	Clayton, village of.	H 220054A 01 through H 220054A 03	do	Mayor, Village Hall, Clayton, La. 71326.	Feb. 1, 1974. Dec. 19, 1975.
Do	St. Tammany Parish	Madisonville, town of.	H 220201 01	do	Mayor, Town Hall, Madisonville, La. 70447.	Feb. 6, 1976.
Do	Lafourche Parish	Lockport, town of.	H 220254A 01	do	Mayor, Town Hall, Lockport, La. 70374.	Jan. 10, 1975. Dec. 19, 1975.
Maryland	Allegheny	Barton, town of	H 240002 01	Department of Natural Resources, Water Resources Division, State Office Bldg., Annapolis, Md. 21401. Maryland Insurance Department, 301 West Preston St., Baltimore, Md. 21201.	Mayor, Box 153, Barton, Md. 21521	Feb. 13, 1976.
Do	Anne Arundel	Annapolis, city of.	H 240009A 01 through H 240009A 03	do	Mayor, P.O. Box 1688, Annapolis, Md. 21401.	June 28, 1974. Dec. 19, 1975.
Do	Cecil	Ceciliton, town of.	H 240020A 01	do	Mayor, Elkton County Courthouse, Town of Ceciliton, Elkton, Md. 21921.	June 28, 1974.
Do	do	Charlestown, town of.	H 240021A 01	do	Mayor, P.O. Box 65, Charlestown, Md. 21914.	Sept. 20, 1974. Dec. 19, 1975.
Do	do	Elkton, town of	H 240022A 01 through H 240022A 05	do	Mayor, Box 157, Elkton, Md. 21921	Feb. 15, 1974. Dec. 19, 1975.
Do	Harford	Bel Air, town of	H 240042A 01 through H 240042A 04	do	Mayor, 39 Hickory Ave., Bel Air, Md. 21014.	July 19, 1974. Dec. 19, 1975.
Do	Prince Georges	Laurel, city of	H 240053A 01 through H 240053A 03	do	Mayor, Office of Mayor, Laurel, Md. 20810.	Aug. 9, 1974. Dec. 19, 1975.
Do	Queen Annes	Church Hill, town of.	H 240057A 01	do	Mayor, Box 83, Church Hill, Md. 21623.	Aug. 16, 1974.
Do	Charles	Indian Head, city of.	H 240091A 01 through H 240091A 02	do	Mayor, 1170 Strauss Ave., Indian Head, Md. 20640.	July 26, 1974. Dec. 19, 1975.
Do	do	LaPlata, town of	H 240092 01 through H 240092 02	do	Mayor, P.O. Box 151, LaPlata, Md. 20646.	Feb. 13, 1976.
Do	Dorchester	Brookview, town of.	H 240097A 01	do	Mayor, Town Hall, Town of Brookview, Rhodesdale, Md. 21695.	Dec. 6, 1974.
Do	Caroline	Denton, town of	H 240104 01	do	Mayor, P.O. Box 246, Denton, Md. 21629.	Feb. 13, 1976.
Do	Washington	Hancock, town of.	H 240109A 01 through H 240109A 02	do	Mayor, 116 West High St., Hancock, Md. 21750.	Aug. 9, 1974. Dec. 19, 1975.
Minnesota	Cass	Hackensack, city of.	H 270061A 01	Division of Waters, Soils and Minerals, Department of Natural Resources, Centennial Office Bldg., St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.	Mayor, Hackensack, Minn. 56452	Sept. 20, 1974.
Do	Cass	Lake Shore, city of.	H 270062A 01 through H 270062A 08	do	Mayor, Route No. 6, City of Lake Shore, Brainerd, Minn. 56401.	Sept. 13, 1974. Dec. 19, 1975.
Do	Morrison	Motley, city of	H 270300A 01	do	Mayor, City Hall, Motley, Minn. 56466.	Aug. 2, 1974. Dec. 19, 1975.
Do	Wilkin	Wolverton, city of.	H 270524A 01	do	Mayor, City Hall, Wolverton, Minn. 56594.	Aug. 9, 1974. Dec. 19, 1975.
Mississippi	Clay	West Point, city of.	H 280037A 01 through H 280037A 02	Mississippi Research and Development Center, P.O. Drawer 2470, Jackson, Miss. 39205. Mississippi Insurance Department, 910 Woolfolk Bldg., P.O. Box 79, Jackson, Miss. 39205.	Mayor, P.O. Drawer 322, West Point, Miss. 39773.	June 21, 1974. Dec. 19, 1975.
Missouri	Bollinger	Lutesville, city of.	H 290031A 01 through H 290031A 02	Department of Natural Resources, Division of Program and Policy Development, State of Missouri, 308 East High St., Jefferson, Mo. 65101. Division of Insurance, P.O. Box 690, Jefferson City, Mo. 65101.	Mayor, City Hall, Lutesville, Mo. 63762.	May 10, 1974. Dec. 19, 1975.
Do	Cedar	El Dorado Springs, city of.	H 290072A 01 through H 290072A 04	do	Mayor, City Hall, El Dorado Springs, Mo. 64744.	Dec. 28, 1973. Dec. 19, 1975.
Do	Holt	Corning, village of.	H 290159 01	do	Chairman, Village Hall, Corning, Mo. 64435.	Feb. 6, 1976.
Do	Mississippi	Wyatt, city of	H 290236A 01	do	Mayor, City Hall, Wyatt, Mo. 63832	Mar. 29, 1974. Dec. 19, 1975.
Do	New Madrid	North Lilbourn, city of.	H 290257 01	do	Mayor, City Hall, North Lilbourn, Mo. 63362.	Feb. 6, 1976.
Do	Nodaway	Maryville, city of	H 290264A 01 through H 290264A 03	do	Mayor, City Hall, 415 North Market St., Maryville, Mo. 64468.	May 3, 1974. Dec. 19, 1975.
Do	St. Genevieve	St. Genevieve, city of.	H 290325 01 through H 290325 02	do	Mayor, City Hall, 145 Jefferson St., St. Genevieve, Mo. 63670.	Feb. 6, 1976.
Do	St. Louis	Cool Valley, village of.	H 290342A 01	do	Village Clerk, Village Hall, 1650 South Florissant, Cool Valley, Mo. 63121.	May 3, 1974. Dec. 19, 1975.
Do	Mercer	Mercer, city of	H 290567A 01	do	Mayor, City Hall, Mercer, Mo. 64661	Apr. 4, 1975.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Montana	Judith Basin	Stanford, town of	H 300037A 01	Montana Department of Natural Resources, and Conservation, Water Resources Division, 32 South Ewing St., Helena, Mont. 59601. Montana Insurance Department, Capitol Bldg., Helena, Mont. 59601.	Mayor, Town Hall, Stanford, Mont. 59479.	June 28, 1974.
Do	Roosevelt	Culbertson, town of.	H 300067A 01	do	Mayor, Town Hall, Culbertson, Mont. 59218.	Mar. 29, 1974. Dec. 19, 1975.
Do	Sanders	Plains, town of	H 300074A 01 through	do	Mayor, Town of Plains, Town Hall, Plains Mont. 59859.	Mar. 22, 1974. Dec. 19, 1975.
Do	Yellowstone	Laurel, city of	H 300080A 01	do	Mayor, City Hall, Laurel, Mont. 59044.	Mar. 29, 1974. Dec. 19, 1975.
Nebraska	Cass	Weeping Water, city of.	H 310030A 01	Nebraska Natural Resources Commission, 7th Floor, Terminal Bldg., Lincoln, Nebr. 68508. Nebraska Insurance Department, 1335 L St., Lincoln, Nebr. 68509.	Mayor, City Hall, Weeping Water, Nebr. 68463.	Jan. 9, 1974. Dec. 19, 1975.
Do	Chase	Wauneta, village of.	H 310037A 01	do	Chairman, City Hall, Wauneta, Nebr. 69045.	June 28, 1974. Dec. 19, 1975.
Do	Douglas	Waterloo, village of.	H 310079A 01	do	Chairman, Village Hall, Waterloo, Nebr. 68069.	Sept. 6, 1974.
Do	Lincoln	Sutherland, village of.	H 310144A 01	do	Chairman, Village Hall, Sutherland, Nebr. 69165.	May 17, 1974.
Do	Nuckolls	Nelson, city of	H 310158A 01	do	Mayor, City Hall, Nelson, Nebr. 68961.	June 28, 1974. Dec. 19, 1975.
Do	Sarpy	La Vista, city of	H 310192A 01 through H 310192A 02	do	Mayor, City Hall, La Vista, Nebr. 68128.	June 21, 1974. Dec. 19, 1975.
Do	Madison	Madison, city of	H 310240A 01	do	Mayor, City Hall, Madison, Nebr. 68748.	Sept. 6, 1974. Dec. 19, 1975.
New Jersey	Essex	East Orange, city of.	H 340181 01 through H 340181 02	Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Mayor, 44 City Hall Plaza, East Orange, N.Y. 07019.	Feb. 13, 1976.
Do	Ocean	Island Heights, borough of.	H 340374A 01 through H 340374A 02	do	Mayor, P.O. Box AH, Island Heights, N.J. 08732.	July 19, 1974. Dec. 19, 1975.
New Mexico	Colfax	Raton, city of	H 350008A 01 through H 350008A 03	State Engineer's Office, Bataan Memorial Bldg., Santa Fe, N. Mex. 87501. New Mexico Department of Insurance, P.O. Box 1269, Santa Fe, N. Mex. 87501.	Mayor, City Hall, P.O. Box 910, Raton, N. Mex. 87740.	June 28, 1974. Dec. 19, 1975.
Do	Lincoln	Ruidoso, village of.	H 350033A 01 through H 350033A 04	do	Mayor, Center, Winfield, P.O. Drawer 69, Village Hall, Ruidoso, N. Mex. 88345.	June 7, 1974. Dec. 19, 1975.
Do	San Juan	Farmington, city of.	H 350067A 01 through H 350067A 11	do	City Administrator, City of Farmington, City Hall, Farmington, N. Mex. 87401.	May 24, 1974. Dec. 19, 1975.
New York	Broome	Dickinson, town of.	H 360044B 01 through H 360044B 06	New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 2 World Trade Center, New York, N.Y. 10047.	Town Supervisor, 137 Elaine Dr., Binghamton, N.Y. 13905.	Mar. 8, 1974. Dec. 19, 1975.
Do	Jefferson	Wilna, town of	H 360357A 01 through H 360357A 07	do	Town Supervisor, 301 Church, Wilna, N.Y. 13619.	July 19, 1974. Dec. 19, 1975.
Do	Onondaga	Manlius, town of	H 360584A 01	do	Town Supervisor, 301 Brooklea Dr., Fayetteville, N.Y. 13066.	Feb. 22, 1974. Dec. 19, 1975.
Do	Orange	Washingtonville, village of.	H 360638A 01 through H 360638A 02	do	Mayor, c/o Clerk-Treasurer, 128 East Main St., Washingtonville, N.Y. 10992.	Dec. 28, 1973. Dec. 19, 1975.
Do	Orleans	Carlton, town of	H 360642A 01 through H 360642A 12	do	Town Supervisor, Town of Carlton, Waterport, N.Y. 14571.	Aug. 2, 1974. Dec. 19, 1975.
Do	Nassau	Roslyn Harbor, village of.	H 361035A 01	do	Mayor, 500 Mottscove Rd., Roslyn Harbor, N.Y. 11576.	June 28, 1974. Dec. 19, 1975.
Do	Jefferson	Cape Vincent, town of.	H 361062 01 through H 361062 06	do	Town Supervisor, Town Hall, Cape Vincent, N.Y. 13618.	Feb. 13, 1976.
Do	Chautauqua	Stockton, town of.	H 361081A 01 through H 361081A 04	do	Town Supervisor, 79 Maple Ave., Cassadaga, N.Y. 14718.	Nov. 1, 1974. Dec. 19, 1975.
Do	Dutchess	Pine Plains, town of.	H 361141A 01 through H 361141A 05	do	Town Supervisor, Pine Plains, N.Y. 12567.	Dec. 20, 1974. Dec. 19, 1975.
Do	Hamilton	Speculator, village of.	H 361517A 01 through H 361527A 07	do	Mayor, Village Office, Speculator, N.Y. 12164.	Dec. 6, 1974. Dec. 19, 1975.
North Dakota	Emmons	Linton, city of	H 380032A 01	State Water Commission, State Office Bldg., 900 East Blvd., Bismarck, N. Dak. 58501. North Dakota Insurance Department, State Capitol, Bismarck, N. Dak. 58501.	Mayor, P.O. Box 57, Linton, N. Dak. 58552.	June 28, 1974.
Do	McLean	Turtle Lake, city of.	H 380061A 01	do	President, P.O. Box No. 70, Turtle Lake, N. Dak. 58575.	Mar. 22, 1974.
Do	Oliver	Center, city of	H 380078A 01	do	Mayor, City Hall, Center, N. Dak. 58530.	Apr. 12, 1974. Dec. 19, 1975.
Do	Rolette	Rolla, city of	H 380105A 01	do	Mayor, P.O. Box 826, City Hall, Rolla, N. Dak. 58367.	June 14, 1974. Dec. 19, 1975.
Do	Traill	Portland, city of	H 380134A 01	do	Mayor, City Hall, Portland, N. Dak. 58274.	May 10, 1974. Dec. 19, 1975.
Do	Walsh	Grafton, city of	H 380137A 01 through H 380137A 02	do	Mayor, City Hall, P.O. Box 547, Grafton, N. Dak. 58237.	Jan. 23, 1974. Dec. 19, 1975.
Ohio	Lucas	Oregon, city of	H 390361A 01 through H 390361A 09	Ohio Department of Natural Resources, Fountain Sq., Flood Insurance Coord. Bldg., Columbus, Ohio 43224. Ohio Insurance Department, 447 East Broad St., Columbus, Ohio 43215.	Mayor, 5330 Seaman Rd., Oregon, Ohio 43616.	Aug. 1, 1975. Dec. 19, 1975.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Oklahoma	Caddo	Carnegie, town of	H 400021A 01	Oklahoma Water Resources Board, 5th Floor, Jim Thorpe Bldg., Oklahoma City, Okla. 73105. Oklahoma Insurance Department, Room 408, Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	President of the Board, Town Hall, 102 North Broadway, P.O. Box 1, Carnegie, Okla. 73015.	Dec. 7, 1973. Dec. 19, 1975.
Do	Logan	Crescent, city of	H 400098A 01	do	Mayor, City Hall, P.O. Box 561, Crescent, Okla. 73028.	May 10, 1974. Dec. 19, 1975.
Oregon	Clackamas	Sandy, city of	H 410023A 01	Executive Department, State of Oregon, Salem, Oreg. 97310. Oregon Insurance Division, Department of Commerce, 158 12th St. NE., Salem, Oreg. 97310.	Mayor, City Hall, Sandy, Oreg. 97055	Apr. 12, 1974.
Do	Clatsop	Gearhart, city of	H 410030A 01	do	Mayor, Town Hall, Gearhart, Oreg. 97138.	Dec. 7, 1973. Dec. 19, 1975.
Do	Columbia	Scappoose, city of	H 410039A 01	do	Mayor, City Hall, Scappoose, Oreg. 97056.	May 17, 1974. Dec. 19, 1975.
Do	Coos	Eastside, city of	H 410046A 01 through H 410046A 03	do	Mayor, City Hall, Eastside, Oreg. 97420.	June 28, 1974. Dec. 19, 1975.
Do	Linn	Brownsville, city of.	H 410138A 01 through H 410138A 02	do	Mayor, City Hall, Brownsville, Oreg. 97327.	Dec. 7, 1973. Dec. 19, 1975.
Do	Morrow	Heppner, city of	H 410175A 01	do	Mayor, City Hall, Heppner, Oreg. 97836.	Nov. 23, 1973. Dec. 19, 1975.
Do	Union	Elgin, city of	H 410218A 01	do	Mayor, City Hall, Elgin, Oreg. 97827	Nov. 30, 1973. Dec. 19, 1975.
Pennsylvania	Lycoming	Piatt, township of.	H 420553A 01 through H 420553A 04	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120.	Chairman Twp. Board of Supervisors, R.D. No. 1, Township of Piatt, Linden, Pa. 17744.	Jan. 23, 1974. Dec. 19, 1975.
Do	Westmoreland	Trafford, borough of.	H 420903A 01 through H 420903A 03	Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Mayor, Box 91, Trafford, Pa. 15085	Aug. 30, 1974. Dec. 19, 1975.
South Dakota	Codington	Watertown, city of.	H 460016A 01 through H 460016A 12	State Planning Bureau, Office of Executive Management, State Capitol Bldg., Pierre, S. Dak. 57501. South Dakota Department of Insurance, Insurance Bldg., Pierre, S. Dak. 57501.	City Engineer, City Hall, 2d St. NE., Watertown, S. Dak. 57201.	June 28, 1974. Dec. 19, 1975.
Do	Roberts	Sisseton, city of	H 460072A 01 through H 460072A 02	do	Mayor, P.O. Box 204, City Hall, Sisseton, S. Dak. 57262.	June 28, 1974. Dec. 19, 1975.
Tennessee	Lauderdale	Henning, town of	H 470259A 01	Tennessee State Planning Office, 660 Capitol Hill Bldg., Nashville, Tenn. 37219. Tennessee Department of Insurance and Banking, 114 State Office Bldg., Nashville, Tenn. 37219.	Mayor, City Hall, Henning, Tenn. 38041.	Jan. 3, 1975.
Texas	Bandera	Bandera, city of	H 480021A 01	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	Mayor, P.O. Box 986, City Hall, Bandera, Tex. 78003.	Apr. 12, 1974. Dec. 19, 1975.
Do	Ellis	Waxahachie, city of.	H 480211A 01 through H 480211A 10	do	Director, Community Development, 104 North Elm, P.O. Box 757, Waxahachie, Tex. 75165.	June 28, 1974. Dec. 19, 1975.
Do	Erath	Dublin, city of	H 480219A 01	do	Mayor, 213 East Black Jack St., City Hall, Dublin, Tex. 76446.	Aug. 30, 1974. Dec. 19, 1975.
Do	Morris	Omaha, city of	H 480495 01	do	Mayor, City Hall, Omaha, Tex. 75571	Feb. 6, 1976.
Do	Reagan	Big Lake, city of	H 480534A 01	do	Mayor, 203 Plaza, P.O. Box 300, Big Lake, Tex. 76932.	May 17, 1974. Dec. 19, 1975.
Do	Tarrant	Westover Hills, city of.	H 480615A 01	do	Mayor, 5824 Mercymount Rd., City of Westover Hills, Fort Worth, Tex. 76107.	Aug. 30, 1974. Dec. 19, 1975.
Utah	Beaver	Milford, city of	H 490003A 01	Department of Natural Resources, Division of Water Resources, State Capitol Bldg., Room 435, Salt Lake City, Utah 84114. Utah Insurance Department, 115 State Capitol, Salt Lake City, Utah 84114.	Mayor, City Hall, Milford, Utah 84751.	Aug. 9, 1974. Dec. 19, 1975.
Do	Cache	Hyde Park, town of.	H 490016A 01	do	Mayor, Town Hall, Hyde Park, Utah 84318.	Aug. 2, 1974. Dec. 19, 1975.
Do	do	Lewiston, city of	H 490018A 01 through H 490018A 07	do	Mayor, City Hall, Lewiston, Utah 84320.	Aug. 16, 1974. Dec. 19, 1975.
Do	Iron	Parowan, city of	H 490076A 01 through H 490076A 02	do	Mayor, City Hall, Parowan, Utah 84761.	Aug. 16, 1974. Dec. 19, 1975.
Do	Salt Lake	Murray, city of	H 490103A 01 through H 490103A 05	do	Mayor, City Hall, Murray, Utah 84107.	Mar. 29, 1974. Dec. 19, 1975.
Do	San Pete	Manti, city of	H 490116A 01	do	Mayor, City Hall, Manti, Utah 84642	Aug. 9, 1974. Dec. 19, 1975.
Washington	Grays Harbor	Oakville, town of	H 530064A 01	Department of Ecology, Olympia, Wash. 98501. Washington Insurance Department, Insurance Bldg., Olympia, Wash. 98501.	Clerk, Office of Town Clerk, Oakville, Wash. 98568.	Dec. 13, 1974. Dec. 19, 1975.
Do	Skagit	Lyman, town of	H 530157A 01	do	Town Clerk, Town of Lyman, Town Hall, P.O. Box 1248, Lyman, Wash. 98263.	Nov. 15, 1974.
Do	Yakima	Zillah, city of	H 530232A 01	do	Mayor, 111 7th St., City Hall, Zillah, Wash. 98953.	Jan. 16, 1974. Dec. 19, 1975.

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

Issued: December 18, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.76-593 Filed 1-9-76;8:45 am]

proposed rules

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 HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[42 CFR Part 83]

PERSONAL PROTECTIVE DEVICES

Withdrawal of Notice of Proposed Rulemaking; Notice of Proposed Rulemaking

On April 1, 1974, a notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 11923) to amend Title 42, Code of Federal Regulations, by adding a new Part 83 to establish in the National Institute for Occupational Safety and Health (NIOSH) a program for the certification of personal occupational protective devices (hats, eye and face protective devices, shoes, and gloves). Procedures and requirements for certification were also proposed. A substantial number of written comments were received, and in addition, pursuant to a notice published in the FEDERAL REGISTER (39 FR 22276), a public hearing was held on July 18, 1974, at which time several persons made presentations concerning the testing and certification program proposed by the regulations.

The Institute has reviewed the written comments and the record of the public hearing which identified considerable problems in conducting the program as originally proposed, with the result that NIOSH will not proceed with the promulgation of the rules as proposed. Rather, in response to numerous suggestions that specific types of devices should be covered individually, the Institute proposes to establish a testing and certification program applicable to head protective devices separately. A number of other suggested changes, received in response to the original notice, have also been incorporated in this new proposal. Further, it is NIOSH's intention to issue future separate proposals on other personal protective devices as research results dictate the need.

Accordingly, the notice of proposed rulemaking published in the FEDERAL REGISTER on April 1, 1974 (39 FR 11923) relating to the establishment of the testing and certification program for personal occupational protective devices is hereby withdrawn and it is proposed to amend Title 42, Code of Federal Regulations by adding a new Part 83, as set forth below.

Written comments concerning the proposed regulations are invited from interested persons. Inquiries may be addressed and data, views, and arguments relating to the proposed regulations may be submitted in writing, in triplicate, to the Regulations Officer, National Institute for Occupational Safety and Health, Room 3-32, 5600 Fishers Lane, Rockville, MD 20852. All material received on or before February 11, 1976 will be considered before further action is taken on the proposal. All comments received in response to the proposal will be available for public inspection during normal business hours at the foregoing address.

It is therefore proposed to establish a new Part 83 and adopt the following regulations to be effective on January 12, 1976.

Dated: November 14, 1975.

THEODORE COOPER,
Assistant Secretary for Health.

Approved: January 2, 1976.

MARJORIE LYNCH,
Acting Secretary.

PART 83—CERTIFICATION OF HEAD PROTECTIVE DEVICES

Sec.

Subpart A—General Provisions

83.1 Purpose.
83.2 Lists of certified head protective devices.
83.3 Definitions.
83.4 Incorporation by reference.

Subpart B—Application for Certification

83.10 Application procedures.
83.11 Contents of application.
83.12 Delivery of devices by applicant; requirements.
83.13 Withdrawal of applications; refund of fees.

Subpart C—Fees

83.20 Examination, inspection, and testing of complete devices; fees.
83.21 Fee assessment; payment by applicant prior to certification.

Subpart D—Certificates

83.30 Issuance of certificates; scope.
83.31 Contents of certificates.
83.32 Notice of denial of certification.
83.33 Certification markings.
83.34 Withdrawal of certificates.
83.35 Changes after certification.
83.36 Delivery of certified devices.

Subpart E—Quality Assurance

83.40 Quality assurance plans; filing requirements.
83.41 Contents of quality assurance plans.
83.42 Quality assurance plans; approval by the Institute.
83.43 Quality assurance records; review by the Institute.

Subpart F—Classification of Certified Head Protective Devices

83.50 Types of devices to be certified; scope of certification.
83.51 Classification.

Subpart G—General Construction and Performance Requirements

83.60 General.
83.61 General construction requirements.
83.62 Component parts; minimum requirements.
83.63 Pretesting by applicant; approval of test methods by the Institute.
83.64 Conduct of examinations, inspections, and tests by the Institute.

Subpart H—General and Detailed Certification Requirements and Tests for Head Protective Devices

83.70 Test requirements; general.
83.71 Detailed requirements and tests for Classes A, C, and D devices.
83.72 Detailed requirements and tests for Class B devices.

AUTHORITY (Sec. 8(g), 84 Stat. 1600 (29 U.S.C. 657(g)).)

Subpart A—General Provisions

§ 83.1 Purpose.

The regulations in this part set forth the requirements and fees for the certification of head protective devices by the National Institute for Occupational Safety and Health.

§ 83.2 Lists of certified head protective devices.

The Institute will publish and otherwise make available lists of head protective devices that have been tested and certified as meeting the minimum requirements of this Part 83.

§ 83.3 Definitions.

As used in this part—

(a) "Applicant" means an individual, partnership, company, corporation, association, or other organization that seeks to obtain certification for a head protective device and that (1) designs, manufactures, assembles, or controls the assembly of the head protective device, or (2) that submits an application for certification of the head protective device made by another applicant and certified by the Institute, or (3) that submits an application for certification of the complete head protective device consisting of parts made by another individual, partnership, company, corporation, association, or other organization in cooperation with the applicant.

(b) "Approved" means regarded as satisfactory by the Institute.

(c) "Certification" means a certificate or formal document issued by the Institute stating that a sample of head protective devices has met the minimum requirements of this Part 83, and that the applicant is authorized to attach a label or marking to any device manufactured or assembled in conformance with the plans and specifications upon which the certification was based, as evidence of such certification.

(d) "Device" means industrial head protective device.

(e) "Final Inspection" means that activity carried out on a product by the applicant after all manufacturing and assembly operations are completed to insure completeness and adherence to specifications as contained in the applicant's approved quality assurance plan.

(f) "Head Protective Device" is a device designed to protect the user's head against specific industrial hazards.

(g) "Incoming Inspection" means the applicant's activity of receiving, examining, and accepting only those materials and parts whose quality conforms to specification requirements.

(h) "In Process Inspection" means the control of products at the source of production and at each step of the manufacturing process, so that departures from specifications can be corrected before defective components or materials are assembled into the finished product.

(i) "Institute" means the National Institute for Occupational Safety and Health, Center for Disease Control, Department of Health, Education, and Welfare.

(j) "Model" is the collective term used to identify a group of essentially identical head protective devices that are of the same basic design, produced by identical manufacturing and quality assurance procedures, and that are covered by the same certification.

(k) "Variant" is a group of identical devices that differ only in an insignificant feature from other devices of the same model. A difference is considered insignificant when it does not affect the performance or usability of the device.

(l) "Primary Variant" is the only variant of those comprising the model that is submitted to the Testing and Certification Laboratory for complete inspection and testing.

(m) "Secondary Variants" are all variants other than the primary variant. A secondary variant is only inspected or tested by the Testing and Certification Laboratory to verify that it differs only insignificantly from the primary variant. The nature of the difference from the primary variant will determine the extent of the tests conducted on a secondary variant by the Testing and Certification Laboratory.

(n) "Testing and Certification Laboratory" means the Testing and Certification Laboratory of the National Institute for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

§ 83.4 Incorporation by reference.

In accordance with 5 U.S.C. 552(a)(1), the technical publications to which reference is made in this Part 83 are hereby incorporated by reference and made a part hereof. The incorporated technical publications as specified in this part are available for examination at the Testing and Certification Laboratory, and the Regulations Office, National Institute for Occupational Safety and Health, Room 3-32, Park Building, 5600 Fishers Lane, Rockville, MD 20852. Incorporation by reference provisions approved by the Director of the Federal Register (*date to be inserted prior to final rulemaking*).

Subpart B—Application for Certification

§ 83.10 Application procedures.

(a) At appropriate times the Institute will publish notices in the FEDERAL REGISTER stating that, henceforth, applications for the certification of stated classes of devices will be accepted. The notice will identify a priority acceptance period. All applications for the certification of the stated classes of devices which are received during the priority acceptance period will be answered with a certificate or a notice of denial of certification on a single date, as described in Subpart D. Applications for the certification of the stated classes of devices which are received after the closing of the priority acceptance period will be dealt with in the order of receipt. The time between the publication of the notices and the first date of their respective priority acceptance periods will be at least 60 days. The priority acceptance periods will be at least 30 days long.

(b) Inspection, examination, and testing leading to certification of types of head protective devices classified in Subpart F of this part will be undertaken by the Institute only pursuant to a written application filed in accordance with the requirements of this subpart. Such applications shall be in the English language except as provided in § 83.11(b) below.

(c) The application and all related materials and correspondence concerning it shall be sent to the Testing and Certification Laboratory and shall be accompanied by a check, bank draft, or money order, in the amount specified in Subpart C of this part, made payable to the National Institute for Occupational Safety and Health.

(d) Except as provided in § 83.64, the examination, inspection, and testing of all head protective devices will be conducted by the Testing and Certification Laboratory.

(e) Applicants, manufacturers, or their representatives may visit or communicate with the Testing and Certification Laboratory in order to discuss the requirements for certification of any head protective device or proposed designs thereof. No charge shall be made for such consultation; no written report shall be issued to applicants, manufacturers, or their representatives by the Institute as a result of such consultation.

§ 83.11 Contents of application.

(a) Each application for certification shall contain a written description of the head protective device for which certification is requested together with drawings, specifications, and an index of the drawings and specifications showing full details of construction of the device and of the materials used. Drawings and specifications (and indices thereof) shall be submitted in triplicate.

(b) Drawings shall be titled, numbered, and dated; any revision shall be shown on the drawings, and the purpose of each revision shall be shown on the drawing or described on an attachment to the drawing to which it applies. Drawings may be dimensioned either in metric or English scales, however:

(1) Foreign language call-outs on drawings shall be translated either directly on the prints or on overlays.

(2) Drafting symbols not specified by the American National Standards Institute Y14 Drafting Manual shall be interpreted in the English language.

(c) Each application for certification shall contain a list of all secondary variants intended to be included in the model covered by the application along with a statement indicating how each secondary variant differs from the primary variant.

(d) Each application for certification shall contain one head protective device as an example of the primary variant. If secondary variants are to be included in the certification, additional devices shall also be included to indicate each difference, except for color, between the secondary and primary variants.

(e) Each application for certification shall contain a proposed plan for quality assurance which meets the minimum requirements set forth in Subpart E of this part.

(f) Each application shall (1) contain a statement that the device has been previously tested by the applicant as described in § 83.63, (2) describe the test methods employed and (3) include the results of such tests together with a statement that, based on the test results, the device meets the applicable requirements of this part.

(g) Each application shall contain a statement that the head protective device and component parts submitted for certification are either (1) prototypes, or (2) made on regular production tooling, with no operation included which will not be incorporated in regular production processing.

(h) In cases where the applicant is a distributor only, the application shall contain a statement by the party responsible for the final assembly of the device to the effect that the applicant has permission to apply for certification of the device.

§ 83.12 Delivery of devices by applicant; requirements.

(a) Each applicant shall, when an application is filed pursuant to § 83.10, be advised by the Institute of the total number of complete head protective devices and component parts required for testing, and the time allowed for delivery of those devices and component parts to the Testing and Certification Laboratory.

(b) The applicant shall deliver, at its own expense, the number of completely assembled devices and components required for testing, to the Testing and Certification Laboratory.

(c) Head protective devices and component parts submitted for certification shall be made from materials specified in the application.

(d) One specimen of each variant listed on a certification under the provi-

sions of this part may be retained by the Institute as a laboratory exhibit and record; the remaining devices may be returned to the applicant at its own expense, upon written request within 30 days after notice of certification. If no such request is made, the devices will be disposed of by the Institute in such manner as it deems appropriate.

(e) Where a head protective device fails to meet the requirements for certification set forth in this part, the applicant will be notified in writing and all devices and components delivered in accordance with this section may be returned to the applicant at its own expense, upon written request to the Testing and Certification Laboratory within 30 days after such notice. If no such request is made, the devices will be disposed of by the Institute in such manner as it deems appropriate.

§ 83.13 Withdrawal of applications; refund of fees.

(a) Any applicant may, upon a written request submitted to the Institute, withdraw any application for certification of any head protective device.

(b) Upon receipt of a written request for the withdrawal of an application, the Institute will determine the total man-days expended and the amount due for services already performed during the course of any examinations, inspections, or tests conducted pursuant to such application. The total amount due will be determined in accordance with the provisions of Subpart C and assessed against the fees submitted by the applicant. If the total amount assessed is less than the fees submitted, the Institute will refund the balance together with a statement of charges made for services rendered.

Subpart C—Fees

§ 83.20 Examination, inspection, and testing of complete devices; fees.

The following fees will be charged by the Institute for the examination, inspection, and testing of the primary variant of complete head protective devices:

(a) Class A, limited voltage protection	$175
(b) Class B, high voltage protection	200
(c) Class C, no voltage protection	150
(d) Class D. limited voltage protection, fire fighters' service	175

§ 83.21 Fee assessment; payment by applicant prior to certification.

(a) Fees charged for the examination, inspection, and testing of devices or components or variants thereof, after the primary variant, will be at the rate of $50.00 per day for each man-day required to be expended by the Institute. When the Institute advises the applicant of the total number of complete head protective devices and component parts to be supplied, as specified in § 83.12, the Institute will also advise the applicant of the upper limit for the fee to be charged to the applicant. In no case shall the total fee be in excess of four times the fee charged for testing the primary variant.

(b) Upon completion of all examinations, inspections, and tests of devices, components, or variants thereof, the Institute will advise the applicant in writing of the total cost assessed and the additional amount, if any, which shall be paid to the Institute; payment of the assessed fee shall be due before the issuance of any certificate.

Subpart D—Certificates

§ 83.30 Issuance of certificates; scope.

(a) The Institute will only issue certificates pursuant to the provisions of this subpart for individual, completely assembled head protective device models as described in § 83.3, which meet the requirements set forth in this part.

(b) A separate certificate will be issued for each model. Several variants may be included in one certificate.

(c) The Institute will not issue an informal notification of certification. However, if the application for certification, submitted in accordance with § 83.11 states that the submitted device and component parts are prototypes, the Institute will examine, inspect, and test such device and component parts in accordance with the provisions of this Part 83. If, upon completion of such examinations, inspections, and tests it is found that the prototype meets the minimum requirements set forth in this part, the Institute will inform the applicant, in writing, of the results of the examinations, inspections, and tests, and may require him to resubmit devices and component parts made on regular production tooling, with no operations included which will not be incorporated in regular production processing, for further examination, inspection, and testing, prior to issuance of a certificate.

(d) Applicants which have submitted prototypes and are required to resubmit devices and component parts made on regular production tooling shall be charged additional fees in accordance with Subpart C of this part.

(e) All certificates issued in accordance with paragraph (a) of this section which result from applications received during a priority acceptance period, as described in § 83.10(a), shall be issued on a single date. The date of issuance shall be established by the Institute after examining all applications received during the priority acceptance period. All applicants shall be notified of the issuance date at least 60 days in advance of the issuance date.

(f) Any certificates for devices which do not meet all applicable requirements specified in paragraph (e) of this section may be issued at a later date.

§ 83.31 Contents of certificates.

(a) The certificate will contain a classification and a description of the device for which it is issued.

(b) The certificate will specifically set forth any restrictions or limitations on the device's use in work places.

(c) Each certificate will be accompanied by an index of, or a reference to the index of, the drawings and specifications submitted by the applicant in accordance with § 83.11. The listed drawings and specifications shall be incorporated by reference in the certificate, and shall be maintained by the applicant. The drawings and specifications listed in each certificate shall set forth in detail the design and construction requirements which shall be met by the applicant during commercial production of the device.

(d) Each certificate will be accompanied by a reproduction of the certification markings to be employed by the applicant with each certified device, as provided in § 83.33.

(e) Each certificate will also reference the approved quality assurance plan as specified in § 83.42.

§ 83.32 Notice of denial of certification.

(a) If, upon completion of examinations, inspections, and tests required to be conducted in accordance with the provisions of this part, it is found that the head protective device does not meet the minimum requirements set forth in this part, the Institute shall issue a written notice so advising the applicant.

(b) Each such notice will be accompanied by all pertinent data or findings with respect to why the device fails to meet the applicable requirements.

§ 83.33 Certification markings.

(a) Each certified head protective device shall be marked with the manufacturer's name, the classification (as indicated in § 83.51), and a number consisting of the letters TC, the designation numeral 50, and a certificate serial number (for example, TC-50-XXX).

(b) The markings required in paragraph (a) of this section shall be applied in a permanent manner such that they cannot be readily defaced or removed without leaving evidence of their presence. The markings shall not in any way interfere with the protection afforded the user of the device.

(c) The Institute will, where necessary, notify the applicant when additional labels, markings, caution statements, or instructions are required.

(d) Certification markings shall be used only by the applicant to whom they are issued.

(e) Use of the Institute's certification markings obligates the applicant to whom they are issued to maintain or cause to be maintained the approved quality assurance sampling schedule and the acceptable quality level for each characteristic tested, and to assure that all head protective devices bearing the certification number are manufactured according to the drawings and specifications upon which such certification is based.

(f) Each certified head protective device, and, where necessary, components thereof, shall also be labeled to show the name, letters, or numbers or combination thereof, by which the device or component is designated for trade purposes and the lot number, serial number, or approximate date of manufacture of the device or component. Subject to the approval of the Institute, any or all of the markings

required by this section may be placed on the container of each device, and, where necessary, on containers of components of each device, instead of on the device or component itself.

(g) The certificate holder shall print or otherwise legibly reproduce a statement on each head protection device saying that any difficulty the user or purchaser experiences with the design, performance, or maintenance of the certified device, should be communicated to the National Institute for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, WV 26505, Attention: Testing and Certification Laboratory.

§ 83.34 Withdrawal of certificates.

(a) The Institute may, after giving the certificate holder reasonable notice in writing and an opportunity to present his views or evidence, withdraw, for cause, any certificate which the Institute has issued under the provisions of this part. Such causes for withdrawal include, but are not limited to, misuse of certification markings, misleading advertising, and failure to maintain the quality assurance requirements of the certificate.

(1) The views and evidence of the holder of the certificate shall be presented in writing unless the Director of the Institute determines that an oral presentation is desirable.

(2) Such views and evidence shall be confined to matters relevant to whether cause exists for the withdrawal of the certificate.

(b) Effective upon receipt by the certificate holder of the Institute's written notice of intent to withdraw certification, the certificate holder shall cease to manufacture, market, or distribute for sale head protective devices bearing the certification label for those devices for which notice of intent to withdraw certification has been given.

§ 83.35 Changes after certification.

Prior to changing any feature of a certified head protective device the applicant shall obtain approval of the Institute pursuant to the following procedures:

(a) Application may be made at any time as for an original certificate as specified by Subpart B. The application shall request that the existing certification be extended to encompass the proposed change.

(b) The application and accompanying material will be examined by the Institute to determine whether testing of the modified head protective device will be required. The Institute will inform the applicant whether such testing is required and, if so, when the modified devices may be submitted for testing.

(c) The Institute will inform the applicant of the fee required for any additional testing and the applicant will be charged for the cost of any examination, inspection, or test required, and such fees shall be submitted in accordance with the provisions of Subpart C of this part.

(d) If the proposed modification meets with the requirements of this part, an extended certificate will be issued and accompanied, where necessary, by a list of new and revised drawings and specifications covering the change(s) and any revised certification markings.

§ 83.36 Delivery of certified devices.

One of each device for which a certificate or modified certificate has been issued shall be delivered, if and when specified in the certificate, with proper markings, to the Testing and Certification Laboratory.

Subpart E—Quality Assurance

§ 83.40 Quality assurance plans; filing requirements.

A quality assurance plan shall be filed by the applicant in the English language as a part of each application for certification or modification of certification submitted pursuant to § 83.10. The plan shall be designed to assure the quality of protection provided by the head protective device for which certification is sought.

§ 83.41 Contents of quality assurance plans.

(a) Each quality assurance plan shall contain provisions for the management of quality, including: (1) requirements for the production of quality data and use of quality assurance records; (2) control of engineering drawings, documentations, and changes; (3) control and calibration of measuring and testing equipment; (4) control of purchased material to include incoming inspection; (5) lot identification, control of processes, manufacturing, fabrication, and assembly work conducted in the applicant's plant; (6) audit of final inspection of the completed product; and, (7) the organizational structure necessary to carry out these provisions.

(b) Each provision for incoming and final inspection in the quality assurance plan shall include a procedure for the selection of a sample of head protective devices and the components thereof for inspection, or testing, or both, in accordance with procedures set forth in Military Standard MIL-STD-105D, "Sampling Procedures and Tables for Inspection by Attributes", or Military Standard MIL-STD-414, "Sampling Procedures and Tables for Inspection by Variables for Percent Defective", or an Institute approved equivalent sampling procedures, or an Institute approved combination of sampling procedures. Incoming bulk raw material inspection or verification of specification, and in-process inspection shall be sufficient to ensure control of product quality through the manufacturing cycle. Reduced incoming sampling procedures can be accepted when the applicant has demonstrated by operating characteristic curves or by vendor certification, with test results, that the material has an acceptable quality level.

(c) The sampling procedure shall include a list of the characteristics to be inspected, or tested, or both, by the applicant or its agent.

(d) The characteristics listed in accordance with paragraph (c) of this section shall be classified according to the potential effect of such defect and grouped into the following classes:

(1) *Critical.* A defect that judgment and experience indicate is likely to result in a condition immediately hazardous to life, health, or safety for individuals using or depending upon the device;

(2) *Major A.* A defect, other than Critical, that is likely to result in failure to the degree that the device does not provide any protection or a defect that reduces protection and is not detectable by the user;

(3) *Major B.* A defect, other than Major A or Critical, that is likely to result in reduced protection, and is detectable by the user; and

(4) *Minor.* A defect that is not likely to materially reduce the usability of the device for its intended purpose, or a defect that is a departure from established standards and has little bearing on the effective use of the device.

(e) The quality assurance inspection test method to be used by the applicant or its agent for each characteristic required to be tested shall be described in detail.

(f) Each item manufactured shall be 100 percent inspected for defects in all critical characteristics except those requiring destructive tests, which may be sampled as specified in paragraph (i). When critical characteristics are destructively tested as specified in paragraph (i), the criteria for lot acceptance shall be zero defects and the criteria for lot rejection shall be one defect.

(g) The Acceptable Quality Level (AQL) for each major or minor defect so classified by the applicant shall be:

	Percent
(1) Major A	1.0
(2) Major B	2.5
(3) Minor	4.0

(h) Except as provided in paragraph (i) of this section, inspection level II described in MIL-STD-105D or inspection level IV as described in MIL-STD-414, shall be used for major and minor characteristics and 100 percent inspection shall be used for critical characteristics. Inspection levels higher than those specified will be acceptable.

(i) Subject to the approval of the Institute, the inspection may be conducted at a lower sample level than that specified in paragraphs (f) and (h) of this section. The approval level for destructive testing will be determined by the provision of the quality assurance plan for raw material, incoming, processing, and manufacturing inspection to insure adequate control of the finished product. The approved level for characteristics not requiring destructive testing will be determined by the test data on the characteristic and the applicants' records which must demonstrate acceptable quality levels through operating characteristic curves. However, when rejects are detected at the lower sampling level, the inspection must return to provisions of paragraph (h), or for destruc-

tive testing on critical characteristics, the sample level must be tightened.

§ 83.42 Quality assurance plans; approval by the Institute.

(a) Each quality assurance plan submitted in accordance with this subpart will be reviewed by the Institute to determine its effectiveness in insuring that the quality of the device is in conformance with the applicant's design and the applicable governing standard.

(b) If the Institute determines that the quality assurance plan submitted by the applicant is not adequate to insure quality assurance, the Institute will require the applicant to modify the procedures and testing requirements of the plan prior to approval of the plan and issuance of any certificate.

(c) Approved quality assurance plans shall constitute a part of, and be considered incorporated into, any certificate issued by the Institute, and compliance with such plans by the applicant shall be a condition of certification.

§ 83.43 Quality assurance records; review by the Institute.

(a) The applicant shall maintain quality assurance inspection records sufficient to carry out procedures required in MIL-STD-105D or MIL-STD-414, or an approved equivalent sampling procedure, for each batch or lot, for not less than 4 years following acceptance or rejection of the batch or lot.

(b) The Institute reserves the right, at reasonable times, to have its representatives enter the applicant's facilities to inspect the applicant's quality assurance system for compliance with the requirements of this part. The representative may interview any of the applicant's employees or agent(s) in regard to the quality assurance program.

Subpart F—Classification of Certified Head Protective Devices

§ 83.50 Types of devices to be certified; scope of certification.

Certificates shall be issued for the types of devices which have been classified pursuant to this subpart, have been inspected, examined, and tested by the Institute in accordance with the provisions of Subparts G and H and have been found to provide the protection specified in this part.

§ 83.51 Classification.

Head protective devices tested as described in Subpart H of this part shall be classified for use as follows:

(a) Class A: For protection against impact, penetration, and limited voltage.

(b) Class B: For protection against impact, penetration, and high voltage.

(c) Class C: For protection against impact and penetration, but no voltage protection.

(d) Class D: Limited voltage protection, fire fighters' service.

Subpart G—General Construction and Performance Requirements

§ 83.60 General.

In addition to the types of devices specified in § 83.51, the Institute may issue certificates for other head protective devices not specifically described in § 83.51 subject to such requirements as may be imposed in accordance with § 83.70.

§ 83.61 General construction requirements.

(a) Head protective devices will not be accepted for examination, inspection, and testing unless they have been determined by the applicant to be safe in function, design, and construction.

(b) Components which come in contact with the wearer's skin shall be made of nonirritating materials.

(c) Components replaced during or after use shall be constructed of materials which will not be damaged by normal handling.

(d) Components shall not be adversely affected by common cleaning procedures. Any materials with which the components may be expected to have contact and which will adversely affect any components shall be identified on the device or in the instructions for use of the device.

(e) The components of any head protective device which is certified by the Institute for use in mines where "permissibility" is required shall meet the requirements for electric permissibility and intrinsic safety set forth in Part 18 of Title 30 CFR (Mining Enforcement and Safety Administration Schedule 2G), as tested and approved by the Mining Enforcement and Safety Administration.

§ 83.62 Component parts; minimum requirements.

(a) The component parts of each device shall be:

(1) Designed, constructed, and fitted to insure against creation of any hazard to the wearer;

(2) Assembled to permit easy access to functional parts for inspection, repair, and maintenance.

(b) Replacement parts shall be designed and constructed to permit easy installation and to maintain the effectiveness of the device.

§ 83.63 Pretesting by applicant; approval of test methods by Institute.

(a) Prior to the filing of any application for certification, the applicant shall conduct, or cause to be conducted, examinations, inspections, and tests of performance which, in the judgment of the Director, Testing and Certification Laboratory, are equal to or exceed the severity of those prescribed in this part. Requests for approval to substitute test methods for those specified in Subpart H will be considered provided that satisfactory data correlation (including correlation coefficient calculations) can be shown comparing results of a required test method with those of a proposed substitute test method.

(b) Complete examination, inspection, and test data shall be retained on file by the applicant and be submitted upon request to the Institute.

(c) The Institute may, upon written request by the applicant, provide drawings and descriptions of its test equipment and otherwise render technical assistance to the applicant in establishing a test laboratory.

(d) The Institute will not issue a certificate to the applicant until it has validated the applicant's test results.

§ 83.64 Conduct of examinations, inspections, and tests by the Institute.

(a) All examinations, inspections, and tests conducted pursuant to Subpart H of this part will be under the sole direction and control of the Institute.

(b) The Institute may, as a condition of certification, require the assistance, in the form of labor or material or both, of the applicant or agents of the applicant during the assembly, disassembly, or preparation of any device or component prior to testing or in the operation of such device during testing.

(c) Only Institute personnel, persons requested by the Institute to be observers, persons assisting the Institute pursuant to paragraph (b) of this section, and such other persons as are requested by the applicant and approved by the Institute to be observers, shall be present during any examination, inspection, or test conducted prior to the issuance of a certificate by the Institute for the equipment under consideration.

(d) The Institute will not disclose confidential commercial or financial information submitted by the applicant, nor will it disclose trade secret information or patentable features of such equipment.

Subpart H—General and Detailed Certification Requirements and Tests for Head Protective Devices

§ 83.70 Test requirements; general.

Each device and component shall, when tested by the applicant and by the Institute, meet the applicable requirements set forth in this subpart and in Subpart G of this part.

(a) In addition to the minimum requirements set forth in this subpart and in Subpart G of this part, the Institute may require as further condition of certification of any unlisted head protective device, additional requirements deemed necessary to establish the quality, effectiveness, and safety of such device.

(b) Where it is determined after receipt of an application that additional requirements will be required for certification, the Institute will notify the applicant in writing of these additional requirements, and necessary examina-

tions, inspections, or tests, stating generally the reasons for such requirements, examinations, inspection, or tests.

§ 83.71 Detailed requirements and tests for Classes A, C, and D devices.

The requirements and tests pertinent to Classes A, C, and D industrial head protective devices shall be in accordance with the indicated sections of the American National Standard Safety Requirements for Industrial Head Protection, Z89.1—1969 (available from ANSI, 1430 Broadway, New York, New York 10018), or equivalent requirements and tests, as specified by the Institute.

(a) General requirements shall be as specified in Section 5, General Requirements, of Z89.1—1969.

(b) Detailed requirements shall be as specified in Section 6, Detailed Requirements, of Z89.1—1969.

(c) Test requirements shall be as specified in Section 7, Physical Requirements, of Z89.1—1969.

(d) Test procedures and test equipment shall be as specified in Section 8, Methods of Test, of Z89.1—1969.

(e) Each Class A, C, and D industrial head protective device shall be packaged with instructions describing procedures set forth in A1.1, A1.2, A1.3, A1.4, and A1.6 of the appendix to Z89.1—1969.

(f) The Institute shall not require the applicant to supply more than 60 devices for the primary variant and 30 devices for each additional variant for testing and evaluation. Unused devices will be returned in accordance with § 83.12.

(g) The Institute will evaluate the results of all appropriate tests using statistical techniques which provide an acceptable level of confidence in the device performance as determined by the Institute.

§ 83.72 Detailed requirements and tests for Class B devices.

The requirements and tests pertinent to Class B industrial head protective devices shall be in accordance with the indicated sections of American National Standard Safety Requirements for Industrial Protective Helmets for Electrical Workers, Class B, Z89.2—1971 (available from ANSI, 1430 Broadway, New York, New York, 10018), or equivalent requirements and tests, as specified by the Institute.

(a) General requirements shall be as specified in Section 5, General Requirements, of Z89.2—1971.

(b) Detailed requirements shall be as specified in Section 6, Detailed Requirements, of Z89.2—1971.

(c) Test requirements shall be as specified in Section 7, Physical Requirements, of Z89.2—1971.

(d) Test procedures and test equipment shall be as specified in Section 8, Methods of Test, of Z89.2—1971.

(e) Each Class B industrial head protective device shall be packaged with instructions describing the procedures set forth in the appendix to Z89.2—1971.

(f) The Institute will not require the applicant to supply more than 90 devices for the primary variant and 45 devices for each additional variant for testing and evaluation. Unused devices will be returned in accordance with § 83.12.

(g) The Institute will evaluate the results of all appropriate tests using statistical techniques which provide an acceptable level of confidence in the device performance, as determined by the Institute.

To: The Secretary, through: U—— ——.
From: Assistant Secretary for Health.
Subject: NIOSH Certification of Personal Protective Devices—ACTION.

AUGUST 6, 1975.

BACKGROUND

On April 1, 1974, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (39 F.R. 11923) to establish in the National Institute for Occupational Safety and Health (NIOSH) a program for the certification of personal occupational protective devices (hard hats, eye and face protective devices, safety-toe footwear, and rubber lineman's gloves). Public comments were accepted for a period of 60 days and a public hearing was held on July 18, 1974, concerning the establishment of the proposed program. The comments and testimony identified considerable problems in the administration of the certification program as proposed. In view of this, and the fact that industry's lack of cooperation would further hamper the objectives of the program, it was proposed on January 9, 1975, to withdraw the NPRM. You rejected the proposal withdrawal, however, asking that the program be revised if necessary to pursue its intended objectives.

CURRENT STATUS

In response to your request, NIOSH has further evaluated the need for such a program by testing commercially available products. Using existing standards and test methods prescribed by those standards, NIOSH's Testing and Certification Laboratory tested 21 randomly selected Class B industrial helmets. Of those tested, 20 were deficient in one or more respects. The results of these tests have precipitated meetings with trade associations, unions, and manufacturers with the outcome that all parties are encouraging the Institute to develop a certification procedure for hard hats. In addition, a NIOSH report issued in January 1975 shows that about one-third of the safety-toe footwear models tested failed to meet OSHA and advertised standards. NIOSH is continuing work toward development of regulations covering footwear.

In addition, the Institute is currently negotiating a written agreement with the Occupational Safety and Health Administration (OSHA) whereby OSHA will endorse the NIOSH certification program by revising the occupational safety and health standards to require the use of NIOSH certified equipment.

In view of these developments, NIOSH believes that its best course of action lies in simultaneously withdrawing the original proposal and reissuing an NPRM on the certification of industrial helmets alone, with the clarification that future separate proposals on personal protective devices will be issued as research results dictate the need. Such an action would solve the problem of defining models and variants for dissimilar items which was a major controversy in the original proposal, and at the same time, reassert the Department's intent to proceed with a certification program. It is anticipated that this proposed regulation on industrial helmets will be forwarded for signature by September 1, 1975.

THEODORE COOPER, M.D.

Prepared by: NIOSH, Hough, 153-36260, July, 30, 1975.

Dated August 8, 1975.

[FR Doc.76-643 Filed 1-9-76;8:45 am]

Social Security Administration

[20 CFR Part 410]

[Regulations No. 10]

FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, AS AMENDED

Representation of Parties, Time Limit for Petitioning for Approval of Attorney Fees

Correction

In FR Doc. 75-29749, appearing at page 51475 in the issue for Wednesday, November 5, 1975 make the following corrections:

1. Insert the following text between the seventh and eighth lines of § 410.686b (e): "within 30 days after the date of the notice of the fee determination. The party requesting the review shall send a copy of the request to the other party. An authorized official of the Social Social Security Administration".

2. In the nineteenth line of § 410.686c change the word "pastdue" to read "pastdue".

3. In § 410.68d(b)(1)(iii) change the word, "agree" to read "agreed".

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 75-NE-38]

PRATT AND WHITNEY JT8D AIRCRAFT ENGINES

Notice of Proposed Rule Making

Amendment 39-2099 (39 FR 7626), AD 75-05-06, requires operators of JT8D engines incorporating the "B" nut fuel manifold configuration to inspect daily for fuel leakage on engines with over 1000 hours time in service since the fuel manifold "B" nuts were torqued. The inspection requires looking into the engine tailpipe and fan duct as far forward as the diffuser case for residual fuel wetness or staining and inspecting the diffuser fan duct and combustion chamber fan duct flanges for dripping fuel. After issuing Amendment 39-2099, several undetected fuel leaks occurred which resulted in autoignition. Service experience on engines with quadruple torqued manifold "B" nuts has shown that this procedure will prevent fuel leakage for a minimum of 2000 hours operation. Therefore, the agency is considering amending Amendment 39-2099 to require quadruple torquing of the fuel manifold

"B" nuts within 1000 hours time in service and repetitive quadruple torquing at intervals of 2000 hours time in service. The daily inspection will continue to be required until the fuel manifold "B" nuts have been quadruple torqued.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803. All communications received on or before January 27, 1976, will be considered before taking action upon the proposed rule. The proposals contained in this notice may be changed in the will be available, both before and after the closing date for comments, in the Office of the Regional Counsel for examination by interested persons.

This amendment is proposed under the authority of Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423 and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2099, AD 75-05-06, by changing the compliance paragraph by:

A. Deleting the paragraph beginning with "To detect * * *" and ending with "* * * or later FAA approved revision;" and inserting the following: "To preclude possible fuel manifold leakage accomplish the following:

1. Torque the fuel manifold "B" nuts in accordance with Pratt and Whitney Aircraft Service Bulletin 4389, Revision 6, or later FAA approved revision or Section 72-37 of Pratt and Whitney Aircraft JT8D Engine Manual No. 481672, Revision 78, or later FAA approved revision within the next 1000 hours time in service after the effective date of this AD, unless already accomplished, and retorque thereafter at intervals not to exceed 2000 hours time in service.

2. Until the fuel manifold "B" nuts are torqued in accordance with Paragraph 1, accomplish the following inspection once a day on engines with over 1000 hours total in service since new:"

B. Delete the numbers "1" and "2" from the inspection paragraphs and insert the letters "a" and "b" respectively.

C. Add the words "and 2" to the end of Paragraph 3.

Issued in Burlington, Massachusetts, on December 29, 1975.

QUENTIN S. TAYLOR,
Director,
New England Region.

[FR Doc.76-786 Filed 1-9-76;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SW-81]

ALTERATION OF CONTROL ZONE

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Enid, Okla., control zone.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before February 11, 1976, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.171 (41 F.R. 355), the Enid, Okla., control zone is amended to read:

ENID, OKLA.

That airspace within a 5-statute-mile radius of Vance AFB (latitude 36°20'20" N., longitude 97°55'00" W.) and within 3 statute miles west and 3 statute miles east of the Vance VORTAC (latitude 36°20'43" N., longitude 97°55'04" W.) 178.5° radial extending from the 5-statute-mile-radius zone to the 7 DME fix; and within 4 statute miles west and 5 statute miles east of the Vance VORTAC 358.5° radial extending from the 5-statute-mile-radius zone to the 6 DME fix; and within a 5-statute-mile radius of Enid Woodring Municipal Airport (latitude 36° 22'45" N., longitude 97°47'30" W.) and within 2 statute miles each side of the Woodring VOR (latitude 36°22'26" N., longitude 97°47'17" W.) 354.5° radial, extending from the 5-statute-mile-radius zone to 8 statute miles north of the VOR; and within 2 statute miles east and 4 statute miles west of the Woodring VOR 184.5° radial, extending from the 5-statute-mile zone to 8 statute miles south of the VOR. This control zone is effective during the dates and times published in the Airman's Information Manual.

The revised designation provides additional airspace protection for aircraft making an instrument approach to Vance AFB and more explicitly defines the control zone boundary.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on January 2, 1976.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.76-787 Filed 1-9-76;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 75-5; Notice 04]

AIR BRAKE SYSTEMS

Agricultural Commodity Trailers

This notice proposes an amendment of Standard No. 121, Air Brake Systems, to extend until June 30, 1976, the period in which bulk agricultural commodity trailers designed with a high ground clearance and other special features for use with farm tractors during harvest can meet emergency and parking brake requirements other than those specified in S5.6 and S5.8 of the standard.

The NHTSA recently amended Standard No. 121, 49 CFR 571.121 (40 FR 56898, December 5, 1975) to permit this specialized agricultural trailer category the option, until March 1, 1976, of meeting the parking brake requirements of the standard (actuation by an energy source unaffected by air loss in the service brake system) or the air-actuated "breakaway" system that complies with Bureau of Motor Carrier Safety requirements (49 CFR § 393.43). The NHTSA has also proposed that the present parking brake requirements for all vehicles subject to the standard be broadened in a closely similar fashion to permit the use of a simpler air energy source than at present, as well as other energy sources for actuation of the parking brake (40 FR 56920, December 5, 1975).

Utility Trailer Manufacturing Company has requested that the present expiration date of March 1, 1976, for the "breakaway" option be extended until June 30, 1976, to permit completion of the bulk agricultural commodity trailers necessary for the 1976 harvest season. It is now clear that a decision on the outstanding proposal to broaden the permissible means of satisfying the parking brake requirement will not be reached in time to permit Utility to plan its production after March 1 of this year. The Utility request may therefore be justified.

In consideration of the foregoing, it is proposed that the last sentence of paragraph S5.6 and S5.8 of Standard No. 121 (49 CFR 571.121) be amended by changing the date "March 1, 1976" to "June 30, 1976".

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too

late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: February 11, 1976.

Proposed effective date: Date of publication of final rule in the FEDERAL REGISTER.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on January 7, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.76-977 Filed 1-9-76;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 298]

[EDR-292; Docket No. 27911]

CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Commuter Air Carrier Reports

JANUARY 6, 1976.

Notice is hereby given that the Civil Aeronautics Board has under consideration an amendment of Part 298 of its Economic Regulations (14 CFR Part 298) which would revise the CAB Form 298-C[1] report by adding two new data items on Schedule A-1.

The principal features of the proposed amendment are described in the Explanatory Statement and the proposed amendment is set forth in the Proposed Rule. The amendment is proposed under the authority of sections 204(a), 407, and 416 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766, and 771; 49 U.S.C. 1324, 1377, and 1386).

Interested persons may participate in the proposed rulemaking through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before February 11, 1976, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested parties in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue, N.W. Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

EXPLANATORY STATEMENT

The Commuter Airline Association (CAA), a division of the National Air Transportation Association, Inc., has filed a petition with the Board on behalf of 45 member carries seeking the institution of a rulemaking proceeding to amend Part 298 of the Board's Economic Regulations so as to require the reporting of statistics which would measure each commuter air carrier's reliability in performing its scheduled operations. Underlying the CAA's petition is their desire to persuade the Official Airline Guide (OAG) to publish schedules of commuter air carrier/certificated air carrier connecting flights. It is alleged that a major reason advanced by the OAG for its policy against publishing connecting schedules involving commuter air carriers is uncertainty as to the extent to which this class of carriers meets adequate standards of reliability. For that reason, the CAA has requested the Board to require each commuter air carrier to submit data, so that their reliability could be established by reference to reports filed at regular intervals with the Board.

The Board's Office of the Consumer Advocate has answered in support of the CAA's petition on the ground that the general public, which must rely on the OAG, ought to have the benefit of commuter air carriers' connecting schedules. No opposing answers have been filed.

Since an impressive number of the members of the class to be affected by the reporting requirement have joined in requesting its imposition, and no other members of that class have thus far filed objections thereto, we have determined to consider adoption of a reporting requirement, substantially identical to CAA's proposal,[1] which might be useful. Of course, we do so without in any way passing on the merits of CAA's charge against the OAG.

While CAA's petition seeks reporting of aircraft miles scheduled, the text of its suggested proposed rule would call for reporting of departures scheduled. Since the reporting of departures scheduled would provide a measure of reliability that is unaffected by trip length, we are proposing to require that they be reported for comparison with the number of scheduled departures completed, which we would also require to be reported.[2]

We specifically invite filed comments addressing the subsidiary issue as to whether the proposed requirement, if adopted, should be imposed only on one or more particular subclassifications of commuter carriers, e.g., those whose scheduled operations meet specified minimums of volume or frequency. Comments addressing this issue should suggest appropriate, precise criteria for such subclassifications.

PROPOSED RULE

It is proposed to amend Part 298 of the Economic Regulations (14 CFR Part 298) as follows:

Amend the reporting instructions for schedule A-1 of CAB Form 298-C as set forth in § 298.61 by adding paragraphs (d) (7) and (8) to read as follows:

§ 298.61 Reporting of scheduled operations by commuter air carriers.

* * * * *

(d) * * *

(7) Column (12) shall set forth the number of scheduled departures for the reporting quarter, which shall reflect the total number of takeoffs scheduled to be performed during the quarter as set forth in the published flight schedules.

(8) Column (13) shall set forth the number of scheduled departures completed for the reporting quarter, which shall reflect the total number of scheduled departures which were performed during the quarter pursuant to schedules excluding extra sections to scheduled departures. In determining whether a departure is performed as scheduled, only the originating point of the flight stage need be considered.

* * * * *

[FR Doc.76-832 Filed 1-9-76;8:45 am]

[1] CAB Form 298-C is filed as part of the original document and can be obtained from the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

[1] Part 298 was recently reissued, September 10, 1975, and the references herein are to the sections of the Part, as renumbered by the reissuance. ER-929, 40 F.R. 42855, September 17, 1975.

[2] It should be noted that the proposal to require reports of the number of "scheduled departures completed" is not to be confused with the present requirement that the number of "departures performed" must be reported. The present reported data includes departures which are not shown in published schedules—namely, extra sections and departures from the scheduled service pattern—and therefore would not provide a fair basis for measuring performance reliability.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

[41 CFR Part 51-5]

PROCUREMENT REQUIREMENTS AND PROCEDURES

Shipping and Packing

Paragraph (a) of § 51-5.4 of the Committee's Regulations provides that the shipment of all commodities on the Procurement List, except military resale commodities, shall be by Government bills of lading (GBL). In the case of small shipments, this requirement has sometimes resulted in unnecessary additional cost to the Government.

It is proposed to amend § 51-5.4(a) to permit ordering offices, for small shipments, to designate a method of transportation other than GBL and to provide for reimbursement to the workshop when the workshop pays the costs of transportation to destination.

Comments and views regarding this proposed change may be filed with the Committee not later than February 11, 1976. Communications should be addressed to the Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

It is proposed to revise paragraph (a) of § 51-5.4 to read as follows:

§ 51–5.4 Shipping and packing.

(a) For commodities, except for military resale commodities, delivery is accomplished when a shipment is placed aboard the vehicle of the initial carrier. Time of delivery is the date shipment is released to and accepted by the initial carrier. Method of transportation to destination shall normally be by Government bills of lading. However, for small shipments, the ordering office may designate another method of transportation on its order. When shipments are under Government bills of lading, the bills of lading may accompany orders or be otherwise furnished, but they shall be supplied promptly. Failure by an ordering office to furnish bills of lading promptly, or to designate a method of transportation, may result in an excusable cause for delay in delivery. When the workshop pays for transportation to destination, these costs shall be included as a separate item on the workshop's invoice and the workshop shall be reimbursed by the ordering office for these costs.

* * * * *

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.76–794 Filed 1–9–76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 477–5]

[40 CFR Part 104]

EFFLUENT STANDARDS FOR TOXIC POLLUTANTS

Notice of Proposed Rulemaking

Pursuant to the authority of Sections 307(a) and 501(a) of the Federal Water Pollution Control Act, as amended (the "Act") (33 U.S.C. Section 1251 et seq. Pub. L. 92–500, 86 Stat. 816), notice is hereby given that the Environmental Protection Agency proposes to amend the rules of practice applicable to public hearings required to be held in connection with the establishment of effluent standards for toxic pollutants.

On January 4, 1974 (39 FR 1027), the Environmental Protection Agency adopted a new Part 104, Title 40, Code of Federal Regulations setting forth rules of practice for the public hearings contemplated by Section 307(a) of the Act. This part was amended in two minor respects on March 5, 1974 (39 FR 8325). Since then extensive trial-type hearings have been held on proposed toxic pollutant effluent standards for nine substances listed by the Agency. Based on the experience of these hearings, it is believed that the modifications to the rules of practice hereinafter described and set forth will provide the necessary framework for more efficient and effective rulemaking proceedings.

(1) *Description of Principal Changes.* The provisions for the Notice of Hearing and the filing of objections to proposed effluent standards, previously set forth in Section 104.3 and Section 104.6, are now set forth in § 104.3 (a) and (b) respectively. It is provided that any party who has any objection to a proposed standard shall file such objection in triplicate with the hearing clerk within 20 days of publication of the proposed standard. The requirements for the contents of an objection have been somewhat streamlined while retaining the emphasis on maximum specificity in order to narrow the issues for the hearing itself.

A new § 104.3(c) has been added to clarify the status of public comments filed by persons who do not file formal objections to the standards pursuant to § 104.3 (a) and (b), and hence do not participate as parties at the hearing. The previous language of Section 104.5 included such comments as part of the record. Provision for submission of such comments and their consideration by the Agency in the development of its regulations is an important Agency policy, and is part of the "Declaration of Goals and Policy" of the Act as set forth in Section 101(e) thereof.

The Administrative Procedure Act, 5 U.S.C. § 556(e), provides that "The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision * * *" Section 307(a)(2) of the Act provides in pertinent part that following the hearing the proposed standards shall be promulgated "unless the Administrator finds, on the record, that a modification of such proposed standard (or prohibition) is justified based upon a preponderance of evidence adduced at such hearings, * * *" Because this language might be read to exclude public comments from the Administrators consideration unless they are actually placed in evidence at the hearing, § 104.5 was amended on March 5, 1974, to provide for their admission into evidence (39 FR 8325).

That amendment did not state when the comments are to be admitted in evidence, nor did it contain any cutoff date for their admission which would afford parties to the hearing a reasonable opportunity to review them and respond if necessary in the course of their own presentation. The proposed revisions in § 104.3(c) would fix a cutoff date for such comments of not later than the date set in the notice for the commencement of the hearing. The comments would then be admitted into evidence at the outset of the hearing. It is believed that this mechanism will provide the proper opportunity for public participation while at the same time allowing the parties a reasonable opportunity to review and respond to the comments, without undue delay or inconvenience to the presiding officer. It is also provided that in any consideration of such comments the Administrator may take into account the unavailability of cross-examination.

Several revisions are made to § 104.4 concerning the Agency's statement of basis and purpose. In addition to formal changes in language, a subsection has been added which requires statement of the purpose of the proposed standard. At the same time, the vague and burdensome requirement that the Agency set forth "any assumptions or calculations necessary" for derivation of a standard is eliminated in the light of the provisions of paragraphs (b), (c) and (d) which require the Agency to explain how the standard was derived, include scientific and technical data studies supporting the proposed standard, and furnish "such other information as may be reasonably required to set forth fully the basis of the standard." It is also made clear that where appropriate, scientific and technical data which is "published or otherwise readily available" may be referenced rather than physically incorporated. To the greatest extent possible the Agency will have copies of all materials which are referenced or cited in its statement of basis and purpose available for inspection and copying at the hearing and at any prehearing conference. However, the Agency should not be required in advance to respond to blanket requests for copies of all such materials which could amount in some instances to many thousands of pages.

Minor revisions have also been made to Section 104.5 describing the docket and record. It is specifically provided that the record includes documents or exhibits marked for identification even though they may not be received in evidence, and any other documents filed by any party in connection with the hearing, in order to preserve any appeal rights.

The provision for designation of a presiding officer in Section 104.6 (formerly Section 104.7) has been revised to provide for designation by the Chief Administrative Law Judge of the Agency or, in the event of unavailability of any administrative law judge within the Agency, by the Administrator.

The role of the prehearing conference, § 104.8, has been expanded in the interest of expediting the hearing proceedings, narrowing the issues, providing for exchange of documents and witness lists and related data, resolving where possible any objections to admission of evidence, scheduling, and the like, much along the lines currently in practice in the United States District Courts. It is further provided that any party may request a prehearing conference as of right within 20 days of the proposal of standards, and it is anticipated that such a prehearing conference would be held in virtually every instance of rule-making for which a hearing is scheduled. A new subsection (a)(7) authorizes designation of a lead counsel for objectors with common interests in order to avoid repetitious questioning of witnesses. This procedure has been recommended by the Administrative Conference of the United States and received judicial approval, *National Foods Ass'n.* v. *FDA*, 504 F. 2d 761, 795 (2nd Cir. 1974) (dictum), and has proven to be of great benefit in other hearing proceedings conducted by this Agency, e.g., *In re: Velsicol Chem-*

ical Corporation, et al, Suspension of Chlordane and Heptachlor, EPA FIFRA Docket No. 384 (Order of Chief Administrative Law Judge Perlman, August 11, 1975).

Minor revisions have been made in § 104.9 (formerly § 104.10) on admission of evidence. These include the provision that the Agency's statement of basis and purpose and supporting materials shall be received in evidence at the outset, and the provision in subsection (e) steamlining the offer of proof procedure including the marking for identification of any document or object excluded from evidence by the presiding officer.

Several additions have been made to the hearing procedures described in § 104.10 (formerly § 104.11). At the previous hearings some question was raised as to whether the Agency or objectors should proceed first with evidence. Paragraph (a) is amended to provide that the Agency has the right at the commencement of the hearing following the admission into evidence of its statement of basis and purpose and supporting materials to supplement that evidence or to introduce additional relevant evidence at that time. Thereafter each objector is afforded an opportunity to introduce evidence in support of its objection and any proposed modification.

Following the objectors' case, the Agency is entitled to "rebut or respond to the objectors' presentation, including at its option the introduction of evidence which tends to support a standard or standards other than as set forth in the Agency's own initially proposed standards." This latter modification allows the Agency, within the context of rebuttal, to respond to evidence introduced by any objector which might indicate the desirability of a standard other than that initially proposed by the Agency (though not necessarily the standard proposed by the objector), and to put into the record evidence of this nature which might not otherwise be admissible under a strict construction of the scope of rebuttal. The objectors would then have a similar opportunity to rebut or respond to any such new evidence. This provision is regarded as essential to insure that the record contains the necessary evidence upon which the Administrator may ultimately base a standard or standards for the substance in question, thereby providing a proper foundation for reasoned rulemaking. This feature is particularly significant in view of the fact that in setting a standard the Administrator is not limited solely to those standards proposed by the Agency or enumerated by objectors (c.f., § 104.15), and the exercise of his judgment in this rule-making area should not be constrained by a record which is deficient in relevant evidence as a result of an unduly narrow interpretation of the scope of rebuttal.

The provision regarding burden of proof with respect to a modification of a standard, § 104.10(b), in the proposed amendment, has been revised, to track more closely the language in Section 307(a)(2) of the Act. In addition, the provision formerly in § 104.11(d) that the transcript shall not include argument is deleted. Minor revisions are made to the sections dealing with briefs and findings of fact at the conclusion of the hearing, as well as certification of the record.

A new § 104.13 has been added providing for interlocutory and post-hearing review of rulings of the presiding officer. Interlocutory review is allowed under limited circumstances in which there is substantial ground for difference of opinion, and where either a subsequent reversal of the ruling would be likely to result in substantial delay or expense if left to the conclusion of the proceedings, or a ruling on the question by the Administrator would be of material assistance in expediting the hearing. Such interlocutory review is discretionary both with the presiding officer and the Administrator, though the failure to seek or obtain interlocutory review does not prejudice the right to such review at the conclusion of the hearing. It is further provided that unless otherwise ordered by the presiding officer or the Administrator, the hearings shall continue pending consideration by the Administrator of any ruling or request for interlocutory review. The provisions are substantially in accordance with Recommendation No. 71-1 of the Administrative Conference of the United States, 1, CFR § 305.71-1 (1975 Ed.), and are generally similar to the statutory procedure in the federal courts under 28 U.S.C. Section 1292(b).

Subsection (g) of § 104.13 sets forth the requirements for the timing and content of written motions. This is a new provision, and should be read together with § 104.16 dealing with filing and time of documents, and service of copies upon other parties or their representatives.

The provision for a tentative decision, § 104.14, is amended in several respects. While the alternative of designating a responsible employee of the Agency to prepare a recommended decision is deleted, the new provision expressly recognizes the fact that in reviewing the entire record and preparing a tentative decision within the extremely tight time constraints of Section 307(a), the Administrator will have to utilize staff assistance. This is routine practice in most federal administrative agencies, and is essential given the workloads and responsibilities of the officials at the top of such agencies. Publication of the tentative decision in the FEDERAL REGISTER is deleted in favor of the more expeditious service of a copy on each party. The provision for allowing parties to file exceptions to the tentative decision and briefs in support thereof is retained. This may be eliminated if time constraints do not allow for it, in which case the decision is filed as final. Section 104.14(c) expressly authorizes the taking of official notice by the Administrator of facts which could be judicially noticed in the United States District Courts.

Section 104.15 has been revised to provide that at the time of the Administrator's final decision he shall also promulgate final standards. As noted above, the section makes clear what was previously implicit, namely that in promulgating final standards the Administrator is not limited solely to standards proposed initially by the Agency or expressly prescribed in any modification proposed by an objecting party.

Finally, the former provision in § 104.16 with respect to ex parte discussions has been deleted as unnecessary. The statutory language together with the framework provided by these rules set forth the complete mechanism by which interested persons may submit evidence and material to the Agency on the record with respect to the Agency's proposed standards. The promulgated standards in turn are to be based solely on that record. Cf., Administrative Procedure Act, 5 U.S.C. Section 556(e). With respect to discussions between the Administrator and Agency staff involved in the presentation of evidence at the hearing, the rule requiring separation of functions which applies in cases of adjudication, 5 U.S.C. Section 554(b), is inapplicable to rulemaking. *Hoffman-LaRoche, Inc.* v. *Kleindienst,* 478 F. 2d 1 (3rd Cir. 1973); *Willapoint Oysters* v. *Ewing,* 174 F. 2d 676 (9th Cir. 1949), cert. den. 338 U.S. 860, 70 S. Ct. 101, rehearing den. 339 U.S. 945, 70 S. Ct. 793; *Wilson & Co.* vs. *United States,* 335 F. 2d 788 (7th Cir. 1964), remanded by stipulation on other grounds, 382 U.S. 454, 86 S. Ct. 643 (1966); *Davis, Administrative Law Treatise,* 1970 Supp., p. 443.

(2) *Submission of Comments.* Interested persons may submit written comments in triplicate to Ridgway M. Hall, Jr., Special Assistant to the General Counsel (A-131), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. All comments received not later than 30 days after publication of this notice will be considered.

Dated: December 29, 1975.

JOHN QUARLES,
Acting Administator.

Part 104 of Chapter I, Title 40, Code of Federal Regulations is amended to read as follows:

PART 104—PUBLIC HEARINGS ON EFFLUENT STANDARDS FOR TOXIC POLLUTANTS

Sec.
104.1 Applicability.
104.2 Definitions.
104.3 Notice of Hearing; Objections; Public comment.
104.4 Statement of Basis and Purpose.
104.5 Docket and Record.
104.6 Designation of Presiding Officer.
104.7 Powers of Presiding Officer.
104.8 Prehearing Conferences.
104.9 Admission of Evidence.
104.10 Hearing Procedures.
104.11 Briefs and Findings of Fact.
104.12 Certification of Record.
104.13 Interlocutory and post-hearing review of rulings of the presiding officer; Motions.
104.14 Tentative and final decision by Administrator.
104.15 Promulgation of standards.
104.16 Filing and Time.

AUTHORITY: Secs. 501 and 307(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 et seq., Pub. L. 92-500, 86 Stat. 816).

§ 104.1 Applicability.

This Part shall be applicable to hearings required by statute to be held in connection with the establishment of toxic pollutant effluent standards under section 307(a) of the Act.

§ 104.2 Definitions.

As used in this part, the term:

(a) "Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. section 1251 et seq. Pub. L. 92-500, 86 Stat. 816

(b) "Administrator" means the Administrator of the Environmental Protection Agency, or any employee of the Agency to whom the Administrator may by order delegate his authority to carry out his functions under section 307(a) of the Act, or any person who shall by operation of law be authorized to carry out such functions.

(c) "Agency" means the Environmental Protection Agency.

(d) "Hearing Clerk" means the Hearing Clerk, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

(e) "Party" means the Environmental Protection Agency as the proponent of an effluent standard or standards, and any person who files an objection pursuant to § 104.3 hereof.

(f) "Person" means an individual, corporation, partnership, association, state, municipality or other political subdivision of a state, or any interstate body.

(g) "Effluent standard" means any effluent standard or limitation, which may include a prohibition of any discharge, established or proposed to be established for any toxic pollutant under section 307(a) of the Act.

(h) "Presiding Officer" means the Chief Administrative Law Judge of the Agency or a person designated by the Chief Administrative Law Judge or by the Administrator to preside at a hearing under this part, in accordance with § 104.6 hereof.

§ 104.3 Notice of Hearing.

(a) Whenever the Administrator publishes any proposed effluent standard, he shall simultaneously publish a notice of a public hearing to be held within thirty days following the date of publication of the proposed standard. Any person who has any objection to a proposed standard may file with the hearing clerk a concise statement of any such objection. No person may participate in the hearing on the proposed toxic pollutant effluent standards unless the hearing clerk has received within 20 days of the publication of the notice of the proposed standards a statement of objection as herein described.

(b) *Objections.* Any objection to a proposed standard which is filed pursuant to subsection (a) hereof shall meet the following requirements:

(1) It shall be filed in triplicate with the hearing clerk within the time prescribed in paragraph (a) of this section;

(2) It shall state concisely and with particularity each portion of the proposed standard to which objection is taken, together with the basis for such objection;

(3) It shall (A) state specifically the objector's proposed modification to any such standard proposed by the Agency to which objection is taken, (B) set forth the reasons why such modification is sought, and (C) identify and describe the scientific or other basis for such proposed modification, including reference to any pertinent scientific data or authority in support thereof.

(c) *Public Comment.* The notice required under paragraph (a) of this section hereof shall also provide for the submission to the Agency of written comments on the proposed rulemaking by interested persons not filing objections pursuant to this section as hereinabove described, and hence not participating in the hearing as parties. The notice shall fix a time deadline for the submission of such comments which shall be not later than the date set for commencement of the hearing. Such comments shall be received in evidence at the commencement of the hearing. The Administrator in making any decision based upon the record may take into account the unavailability of cross-examination in determining the weight to be accorded such comments.

§ 104.4 Statement of basis and purpose.

Whenever the Administrator publishes a proposed effluent standard, the notice thereof published in the FEDERAL REGISTER shall include a statement of the basis and purpose of the standard or a summary thereof. This statement shall include:

(a) The purpose of the proposed standard;

(b) An explanation of how the proposed standard was derived;

(c) Scientific and technical data and studies supporting the proposed standard or references thereto if the materials are published or otherwise readily available; and

(d) Such other information as may be reasonably required to set forth fully the basis of the standard.

Where the notice of proposed rulemaking summarizes the full statement of basis and purpose, or incorporates documents by reference, the documents thus summarized or incorporated by reference shall thereupon be made available by the Agency for inspection and copying by any interested person.

§ 104.5 Docket and record.

Whenever the Administrator publishes a notice of hearing under this Part, the hearing clerk shall promptly establish a docket for the hearing. The docket shall include all written objections filed by any party, any public comments received pursuant to § 104.3(c), a verbatim transcript of the hearing, the statement of basis and purpose required by § 104.4, and any supporting documents referred to therein, and other documents or exhibits that may be received in evidence or marked for identification by or at the direction of the presiding officer, or filed by any party in connection with the hearing. Copies of documents in the docket shall be available to any person upon payment to the Agency of such charges as the Agency may prescribe to cover the costs of duplication. The materials contained in the docket shall constitute the record.

§ 104.6 Designation of presiding officer.

The Chief Administrative Law Judge of the Agency may preside personally at any hearing under this Part, or he may designate another Administrative Law Judge from within the Agency as presiding officer for the hearing. In the event of the unavailability of any such Administrative Law Judge, the Administrator may designate a presiding officer. No person who has any personal pecuniary interest in the outcome of a proceeding under this Part shall serve as presiding officer in such proceeding.

§ 104.7 Powers of presiding officer.

The presiding officer shall have the duty to conduct a fair hearing within the time constraints imposed by section 307(a) of the Act. He shall take all necessary action to avoid delay and to maintain order. He shall have all powers necessary to these ends, including but not limited to the power to:

(a) Rule upon motions and requests;

(b) Change the time and place of the hearing, and adjourn the hearing from time to time or from place to place;

(c) Examine and cross-examine witnesses;

(d) Admit or exclude evidence; and

(e) Require any part or all of the evidence to be submitted in writing and by a certain date.

§ 104.8 Prehearing conferences.

Prehearing conferences are encouraged for the purposes of simplification of issues, identification and scheduling of evidence and witnesses, the establishment of an orderly framework for the proceedings, the expediting of the hearing, and such other purposes of a similar nature as may be appropriate.

(a) The presiding officer on his own motion may, and at the request of any party made within 20 days of the proposal of standards hereunder shall, direct all parties to appear at a specified time and place for an initial hearing session in the nature of a prehearing conference. Matters taken up at the conference may include, without limitation:

(1) Consideration and simplification of any issues of law or fact;

(2) Identification, advance submission, marking for identification, consideration of any objections to admission, and admission of documentary evidence;

(3) Possible stipulations of fact;

(4) The identification of each witness expected to be called by each party, and the nature and substance of his expected testimony;

(5) Scheduling of witnesses where practicable, and limitation of the number of witnesses where appropriate in order to avoid delay or repetition;

(6) If desirable, the segregation of the hearing into separate segments for different provisions of the proposed effluent standards and the establishment of separate service lists;

(7) Appointment of lead counsel for objectors with common interests so as to avoid repetitious questioning of witnesses.

(b) The presiding officer may, following a prehearing conference, issue an order setting forth the agreements reached by the parties or representatives, the schedule of witnesses, and a statement of issues for the hearing. In addition such order may direct the parties to file and serve copies of documents or materials, file and serve lists of witnesses which may include a short summary of the expected testimony of each and, in the case of an expert witness, his curriculum vitae, and may contain such other directions as may be appropriate to facilitate the proceedings.

§ 104.9 Admission of evidence.

(a) Where the presiding officer has directed identification of witnesses and production of documentary evidence by a certain date, the presiding officer may exclude any such evidence, or refuse to allow any witness to testify, when the witness was not identified or the document was not served by the time set by the presiding officer. Any such direction with respect to a party's case in chief shall not preclude the use of such evidence or testimony on rebuttal or response, or upon a showing satisfactory to the presiding officer that good cause existed for failure to serve testimony or a document or identify a witness by the time required. The presiding officer may require direct testimony to be in writing under oath and served by a certain date, and may exclude testimony not so served.

(b) At the first prehearing conference, or at another time before the beginning of the taking of oral testimony to be set by the presiding officer, the statement of basis and purpose and any other materials offered by the Agency staff in support of the proposed toxic pollutant effluent standards shall be received in evidence.

(c) The presiding officer may exclude evidence which is immaterial, irrelevant, unduly repetitious or cumulative, or would involve undue delay, or which, if hearsay, is not of the sort upon which responsible persons are accustomed to rely.

(d) If relevant and material evidence is contained in a report or document containing immaterial or irrelevant matter, such immaterial or irrelevant matter may be excluded.

(e) Whenever written testimony or a document or object is excluded from evidence by the presiding officer, it shall at the request of any party be marked for identification. Where oral testimony is permitted by the presiding officer, but the presiding officer excludes particular oral testimony, the party offering such testimony may make a brief offer of proof.

(f) Any relevant and material documentary evidence, including but not limited to affidavits, published articles, and official documents, regardless of the availability of the affiant or author for cross-examination, may be admitted in evidence, subject to the provisions of paragraph (a) of this section. The availability or nonavailability of cross-examination may be considered as affecting the weight to be accorded such evidence in any decision based upon the record.

§ 104.10 Hearing Procedures.

(a) Following the admission in evidence of the materials described in § 104.9(b), the Agency shall have the right at the commencement of the hearing to supplement that evidence or to introduce additional relevant evidence. Thereafter the evidence of each objector shall be presented in support of its objection and any proposed modification. The Agency staff shall then be given an opportunity to rebut or respond to the objectors' presentation, including at its option the introduction of evidence which tends to support a standard or standards other than as set forth in the Agency's own initially proposed standards. In the event that evidence which tends to support such other standard or standards is offered and received in evidence, then the objectors may thereafter rebut or respond to any such new evidence.

(b) The burden of proof as to any modification of any standard proposed by the Agency shall be upon the party who advocates such modification to show that the proposed modification is justified based upon a preponderance of the evidence.

(c) Where necessary in order to prevent undue prolongation of the hearing, or to comply with time limitations set forth in the Act, the presiding officer may limit the number of witnesses who may testify, and the scope and extent of cross-examination.

(d) A verbatim transcript of the hearing shall be maintained and shall constitute a part of the record.

(e) If a party objects to the admission or rejection of any evidence or to any other ruling of the presiding officer during the hearing, he shall state briefly the grounds of such objection. With respect to any ruling on evidence, it shall not be necessary for any party to claim an exception in order to preserve any right of subsequent review.

(f) Any party may at any time withdraw his objection to a proposed effluent standard.

§ 104.11 Briefs and findings of fact.

At the conclusion of the hearing, the presiding officer may set a schedule for the submission by the parties of briefs and proposed findings of fact and conclusions. In deciding whether to allow the filing of such briefs and proposed findings, the presiding officer shall consider the time constraints placed upon the parties and the Administrator by the statutory deadlines.

§ 104.12 Certification of record.

As soon as possible after the hearing, the presiding officer shall transmit to the hearing clerk the transcript of the testimony and exhibits introduced in the hearing. The presiding officer shall attach to the original transcript of testimony his certificate stating that, to the best of his knowledge and belief, the transcript is a true transcript given at the hearing except in such particulars as he shall specify, and that the exhibits transmitted are all the exhibits as introduced at the hearing with such exceptions as he shall specify.

§ 104.13 Interlocutory and post-hearing review of rulings of the presiding officer; motions.

(a) The presiding officer may certify a ruling for interlocutory review by the Administrator where a party so requests and the presiding officer concludes that (1) the ruling from which review is sought involves an important question as to which there is substantial ground for difference of opinion, and (2) either (A) a subsequent reversal of his ruling would be likely to result in substantial delay or expense if left to the conclusion of the proceedings, or (B) a ruling on the question by the Administrator would be of material assistance in expediting the hearing. The certificate shall be in writing and shall specify the material relevant to the ruling certified. If the Administrator determines that interlocutory review is not warranted, he may decline to consider the ruling which has been certified.

(b) Where the presiding officer declines to certify a ruling the party who had requested certification may apply to the Administrator for interlocutory review, or the Administrator may on his own motion direct that any matter be submitted to him for review. An application for review shall be in writing and shall briefly state the grounds relied on.

(c) Unless otherwise ordered by the presiding officer or the Administrator, the hearing shall continue pending consideration by the Administrator of any ruling or request for interlocutory review.

(d) Unless otherwise ordered by the presiding officer or the Administrator, briefs in response to any application for interlocutory review may be filed by any party within five days of the receipt of the application for review.

(e) Failure to request or obtain interlocutory review does not waive the rights of any party to complain of a ruling following completion of the hearing. Within five days following the close of a hearing under this Part, any party may apply to the Administrator for post-hearing review of any procedural ruling, or any ruling made by the presiding officer concerning the admission or exclusion of evidence to which timely objection was made. Within seven days following receipt of any such application any other party may file a brief in response thereto.

(f) If the Administrator on review under subsection (e) hereof determines that evidence was improperly excluded, he may order its admission without remand for further proceedings, or may remand with such instructions as he deems appropriate concerning cross-examination, or opportunity for any party to submit further evidence, with respect to such evidence as he directs should be admitted. In making his determination

whether to remand, the Administrator shall consider whether the statutory time restraints permit a remand, and whether it would be constructive to allow cross-examination or further evidence with respect to the newly admitted evidence. If evidence is admitted without cross-examination, the Administrator may consider the lack of opportunity for cross-examination in determining the weight to be given such evidence.

(g) Motions shall be brief, in writing and may be filed at any time following the first pre-hearing conference, unless otherwise ordered by the presiding officer or the Administrator. Unless otherwise ordered or provided in these rules, responses to motions may be filed within seven days of the receipt of the motion.

§ 104.14 Tentative and final decision by Administrator.

(a) As soon as practicable following the certification of the record and the filing by the parties of such briefs and proposed findings of fact and conclusions as allowed by the presiding officer under § 104.11, the Administrator, with such staff assistance as he deems necessary and appropriate, shall review the entire record and prepare and file a tentative decision based thereon. The tentative decision shall include findings of fact and conclusions, and shall be filed with the hearing clerk who shall at once transmit a copy thereof to each party who participated at the hearing, or his attorney or other representative.

(b) Upon filing of the tentative decision, the Administrator may allow a reasonable time for the parties to file with him any exceptions to the tentative decision, a brief in support of such exceptions containing appropriate references to the record, and any proposed changes in the tentative decision, if and to the extent that the statutory time for promulgation of a standard under section 307(a) of the Act, or timely compliance by the Administrator with any other provision of law, allows. Such materials shall, upon submission, become part of the record. If due to the aforesaid time constraints the Administrator does not allow the filing of exceptions, briefs, and proposed changes, then the decision described in paragraph (a) of this section shall be filed as a final decision. If the Administrator allows the filing of exceptions, briefs, and proposed changes, then as soon as practicable after the filing thereof the Administrator shall prepare and file a final decision, copies of which shall be transmitted to the parties or their representatives in the manner prescribed in paragraph (a) hereof.

(c) The Administrator may take official notice of facts which could be judicially noticed in the United States District Courts.

§ 104.15 Promulgation of Standards.

Upon consideration of the record, at the time of his final decision the Administrator shall determine whether the proposed effluent standard or standards should be promulgated as proposed, or whether any modification thereof is justified based upon a preponderance of the evidence adduced at the hearing, regardless of whether or not such modification was actually proposed by any objecting party. If he determines that a modification is not justified, he shall promulgate the standard or standards as proposed. If he determines that a modification is justified, he shall promulgate a standard or standards as so modified.

§ 104.16 Filing and time.

(a) All documents or papers required or authorized by the foregoing provisions of this Part including, but not limited to, motions, applications for review, and briefs, shall be filed in duplicate with the hearing clerk, except as otherwise expressly provided in these rules. Any document or paper so required or authorized to be filed with the hearing clerk, if it is filed during the course of the hearing, shall also be filed with the presiding officer. A copy of each document or paper filed by any party with the presiding officer, with the hearing clerk, or with the Administrator shall be served upon all other parties, except to the extent that the list of parties to be so served may be modified by order of the presiding officer, and each such document or paper shall be accompanied by a certificate of such service.

(b) A party may be represented in any proceeding under this Part by an attorney or other authorized representative. When any document or paper is required under these rules to be served upon a party such service may be made upon such attorney or other representative.

(c) Except where these rules or an order of the presiding officer require receipt of a document by a certain date, any document or paper required or authorized to be filed by this Part shall be deemed to be filed when postmarked, or in the case of papers delivered other than by mail, when received by the hearing clerk.

(d) Sundays and legal holidays shall be included in computing the time allowed for the filing of any document or paper, provided, that when such time expires on a Sunday or legal holiday, such period shall be extended to include the next following business day.

[FR Doc.76-845 Filed 1-9-76;8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 202]

[Reg. B]

EQUAL CREDIT OPPORTUNITY

Miscellaneous Amendments

On April 25, 1975, the Board of Governors of the Federal Reserve System published for comment (40 FR 18183) a proposed regulation to implement the Equal Credit Opportunity Act (Title V of Pub. L. 93-495). Section 703 directs the Board to prescribe regulations to carry out the purposes of the Act, which prohibits discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction. Numerous comments were received and public hearings were held on May 28 and 29, 1975. In response to comments received and views expressed at the public hearings, the Board published a revised proposal on September 10, 1975 (40 FR 42030). On October 22, 1975, the Board published the new regulation as adopted (40 FR 49298). In response to comments made both before and after the final adoption of Regulation B, the Board is proposing the following revisions to the regulation:

1. The word "each" has been deleted and the word "the" substituted in § 202.4 (d) (1), which requires that applicants be furnished with a notice regarding the Act, in order to clarify that a creditor need furnish only one notice in connection with each application, and that where two or more applicants have applied jointly for a single extension of credit, the notice need be furnished to only one of them. In determining which customer shall receive disclosures, however, a creditor may not select a customer who is secondarily liable, such as an endorser, co-maker (when designated as a surety), guarantor, or a similar party (this does not prohibit the creditor from also furnishing disclosures to such persons who are secondarily liable).

2. In section 202.5(d)(2), the words "under § 202.4(c)(3)" have been deleted as superfluous and possibly confusing.

3. Language has been added to § 202.6 (a)(2)(ii) to make it clear that in furnishing information under § 202.6 a creditor need furnish information only as to the spouse about whom the information is requested. A creditor may, however, report the fact that an account held by a spouse about whom information is requested is a joint account or is an account used by more than one spouse.

4. The requirement in § 202.9(a) that records be retained for 15 months after the date a creditor gives the applicant notice of action upon an application has been clarified to include an explicit requirement that such records shall include a copy of the notification of action taken on the application and, if applicable, a copy of the reasons for denial provided the applicant. Such a copy of the reasons for denial would include a copy of any written statement of reasons furnished to the applicant or of a notation or memorandum made by the creditor, if any, in connection with the oral furnishing of reasons.

5. Section 202.9(b) has been clarified to make it plain that an adverse change in the terms or conditions of an account includes a termination of the account; and to provide that records need not be retained under this section in the case of such events as (1) the applicant's (customer's) missing a certain number of payments as a result of which the computer automatically limits the applicant's credit line to zero, or (2) a change in the terms or conditions of all or a substantial portion of the accounts of a creditor resulting, for example, from changes in State law or in the creditor's business circumstances.

6. In paragraph 202.10(c), the requirement in §§ 202.5(m)(2) and 202.5(m)(3) that reasons for denial or termination of

credit be furnished to the applicant upon request has been eliminated in the case of credit in amounts over $100,000 because the burden and expense imposed by such a requirement is unlikely to be offset by a commensurate benefit. Additionally, the specific requirement that a creditor shall not, on the basis of sex or marital status, fail to act upon or reasonably delay a decision on an application for business credit has been deleted because it is unnecessary in view of the applicability of § 202.5(m)(1) to such credit. A provision has been added that credit extended to a business in the firm's name is not subject to the requirements of § 202.4(e) because that section would be superfluous, or to § 202.5(g) because it may be a relevant consideration in extending credit that the firm has a telephone listed in its own name and such listing would not be related to marital status.

7. A new paragraph (f) has been added to section 10 to provide relief in the case of applicants for credit under student loan programs administered by the Department of Health, Education and Welfare. Under applicable statutes and regulations, such credit may not be granted without determination being made of the applicant's need, based in part upon inquiring into the resources of the parents and spouse (if any) of the applicant. The inquiries and verification necessary for making such determination do not appear to the Board to involve the sort of discrimination in connection with a credit transaction that the Equal Credit Opportunity Act was intended to prevent. The Board solicits comments from interested persons as to whether any other loan programs exist where credit is extended on the basis of need and which might appropriately be entitled to similar relief.

8. The reference to § 202.5(d) has been deleted from § 202.14(b) and added to § 202.14(d) to change its effective date from November 30, 1975 to June 30, 1976 in order to correct an inadvertent inconsistency with the effective date of 202.4(c)(3).

Pursuant to the authority of section 703 of the Equal Credit Opportunity Act (Pub. L. 93-495), 15 U.S.C. § 1691 et seq., the Board hereby proposes that Regulation B, 12 CFR Part 202, be amended as follows:

1. Section 202.4(d) is proposed to read as follows:

§ 202.4 Applications.

* * * * *

(d) *Equal Credit Opportunity Act notice.* (1) Except where application is made by telephone, or orally for an amount of credit to exceed an existing limit on an applicant's open end account, the creditor shall provide the applicant with the following notice in writing:

* * * * *

2. Section 202.5(d)(2) is proposed to read as follows:

§ 202.5 Evaluation of applications.

* * * * *

(d) *Alimony, child support and maintenance income.* * * *

(2) Where an applicant chooses to disclose alimony, child support or maintenance payments, a creditor shall consider such payment as income * * *

* * * * *

3. Section 202.6(a) is proposed to read as follows:

§ 202.6 Furnishing of credit information.

(a) * * *

(2) When furnishing information to consumer reporting agencies or others concerning an account designated under this section, a creditor shall report the designation and furnish any information concerning the account:

* * * * *

(ii) to recipients other than such agencies, in the name of each spouse about whom such information is requested.

* * * * *

4. Section 202.9(a) is proposed to read as follows:

§ 202.9 Preservation of records.

(a) * * *

(1) Any application form and all other written or recorded information used in evaluating an application; and

(2) A copy of the following if furnished to the applicant in written form (or if furnished orally, a notation or memorandum with respect thereto, if any, made by the creditor);

(i) The notification of action taken, and;

(ii) If applicable, the reasons for denial provided to an applicant in accordance with § 202.5(m) and

(3) Any written statement submitted by the applicant alleging discrimination prohibited by the Act or this Part.

(b)(1) For a period ending 15 months after the date a creditor adversely changes the terms or conditions of credit for an account or terminates an account, the creditor shall retain as to each account, in original form or a copy thereof:

(i) Any written or recorded information concerning such change or termination; and

(ii) Any written statement submitted by the applicant alleging discrimination prohibited by the Act or this Part.

(2) For purposes of paragraph (1), an adverse change in the terms or conditions of credit for an account does not include:

(i) A reduction of the credit limit on an account taken after the applicant has failed to make payment as provided in the credit agreement; or

(ii) A change in the terms or conditions of credit affecting all or a substantial portion of the creditor's accounts.

* * * * *

5. Section 202.10(c) is proposed to read as follows:

§ 202.10 Certain specialized credit.

* * * * *

(c) *Business credit.* Business credit shall be subject to the provisions specified in §§ 202.10(a), 202.5, 202.7 and 202.9, except that §§ 202.5(m)(2), 202.5(m)(3) and 202.9 shall only apply in those transactions involving an application for credit in the amount of $100,000 or less where the applicant requests in writing that the creditor provide such reasons or retain such records and §§ 202.4(e) and 202.5(g) shall not apply to business credit extended in the name of a business firm. As used in this Part, business credit is credit granted for business, commercial or agricultural purposes.

* * * * *

* * * * *

(f) *Credit in connection with certain student loan programs.* Credit in connection with student loan programs administered by the Department of Health, Education and Welfare shall be subject to all the provisions of this Part except that to the extent necessary or appropriate to ascertain and/or verify the applicant's marital status and the financial resources of the applicant and the applicant's spouse, if the applicant is married, §§ 202.4(c), 202.5(b), and 202.7(a) shall not apply.

* * * * *

6. Section 202.14(b) and (d) is proposed to read as follows:

§ 202.14 Transition periods.

Except as provided in § 202.6 with respect to that section, the provisions of this Part shall take effect as follows:

* * * * *

(b) Sections 202.4(b), 202.4(e), 202.5(e), 202.5(f), 202.5(g), 202.9(a) and 202.9(b) shall take effect on November 30, 1975.

* * * * *

(d) Sections 202.4(c), 202.4(d), 202.5(b) and 202.5(d) shall take effect on June 30, 1976.

* * * * *

Interested persons are invited to submit relevant written data, views, and arguments concerning these proposals to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than February 2, 1976. Such material will be made available for public inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

This notice is published pursuant to section 553(b) of Title 5, United States Code, and § 262.2(a) of the Rules of Procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

By order of the Board of Governors, January 2, 1976.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.76-805 Filed 1-9-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 11967, File No. S7-608]

AMENDMENT OF SECO RULES

Proposed Rulemaking

As published at 41 FR 1741 (January 12, 1976), the Commission announced the adoption of § 240.23a-2(T), effective immediately upon publication, which suspends until March 1, 1976, the operation of certain Commission rules in order to prevent the application of those rules to certain brokers or dealers who were required to register pursuant to Section 15 of the Securities Exchange Act of 1934 (the "Act") solely by reason of amendments to that Act effected by the Securities Acts Amendments of 1975, Pub. L. No. 94-29 (June 4, 1975) (the "1975 Amendments") pending consideration of certain proposed amendments to existing rules discussed herein. The proposed amendments to rules discussed herein should, therefore, be read in conjunction with § 240.23a-2(T), as adopted.

The Commission hereby gives notice of proposed amendments to §§ 240.15b8-1, 240.15b8-2, 240.15b9-1, 240.15b9-2 and 240.15b10-7, and invites comments thereon.

BACKGROUND

Currently, Securities Exchange Act Rules 15b8-1 through 15b10-11 (the "SECO rules") prescribe a regulatory scheme for "nonmember" brokers or dealers. A nonmember broker or dealer is defined in the SECO rules as "any broker or dealer, including a sole proprietor, registered under Section 15 of the Act, who is not a member of a national securities association registered with the Commission under Section 15A of the Act." (emphasis added). Those rules were adopted pursuant to provisions of the Securities Acts Amendments of 1964, Pub. L. No. 88-467 (Aug. 20, 1964), which authorized the Commission to adopt rules prescribing qualifications for and otherwise regulating these brokers or dealers and their associated persons. At the time those rules were adopted, the Commission noted that the National Association of Securities Dealers, Inc. ("NASD"), the only registered securities association, and the various national securities exchanges required successful completion of a general securities examination as a prerequisite for entry by salesmen and others into the securities business and that the self-regulatory organizations also required their members to observe regulations concerning selling practices, just and equitable principles of trade and standards of high commercial honor and suitability.[1]

To avoid unnecessary duplication of regulation, the SECO rules were, in general, intended to apply only to those broker-dealers whose principal business activities were not subject to the regulations of the various self-regulatory bodies.[2] As contemplated by the 1964 Amendments, the SECO rules specifically apply to "non-members," thus excluding members of the NASD, who are regulated by that association with respect to their over-the-counter transactions. Exchange members who effect transactions exclusively on national securities exchanges were not heretofore required to be registered with the Commission under Section 15, and thus have been generally excluded from the SECO rules because those rules apply only to registered brokers or dealers. Those exchange members are regulated by the exchanges of which they are members.

Rule 15b8-1, which relates to qualifications, has applied only to non-NASD brokers or dealers effecting transactions "otherwise than on a national securities exchange." Furthermore, exchange members who did register because they did some over-the-counter business were specifically exempted, if they carried no accounts of customers and derived no more than $1,000 annual gross income from over-the-counter purchases and sales, from Rules 15b8-1, 15b9-2, which relates to annual fees, and 15b10-1 through 15b10-6, which relate to general business conduct, suitability, supervision of associated persons, discretionary authority and recordkeeping. Rules 15b10-8 and 15b10-9, which apply to public offerings of the securities of non-member broker-dealers or their affiliates, have not in practice been of concern to broker-dealers who do not effect over-the-counter transactions. Rule 15b10-10, which regulates certain practices of sellers of mutual funds and other investment company securities, is not relevant to broker-dealers who do no over-the-counter business. Rule 15b10-11 sets forth mandatory fidelity bonding requirements for nonmember broker-dealers which are members of the Securities Investor Protection Corporation. Members in good standing and subject to the fidelity bonding requirements of certain national securities exchanges having bonding requirements generally comparable to Rule 15b10-11 are exempt from that rule.[3]

EFFECTS OF 1975 AMENDMENTS

As a result of amendments enacted by the 1975 Amendments to Section 3(a)(17) of the Act, which defines interstate commerce to include the intrastate use of any facility of a national securities exchange, and to Section 15(a)(1) of the Act, which relates to registration of brokers or dealers who trade exclusively on national securities exchanges were required to register with the Commission as of December 1, 1975, the effective date of Section 15(a)(1), as amended. As a consequence of registering with the Commission, such brokers or dealers could become subject to the SECO rules, unless they satisfy the previously existing exemptions. Further, all newly registered broker-dealers who do not join the NASD would be required to comply with Rule 15b9-1, which does not contain an exemption for those newly registered "nonmember" firms, by filing Form SECO-5 and paying the filing fee within 45 days from registration.

The 1975 Amendments have also modified the sections of the Act pursuant to which the SECO rules were adopted. under new Section 15(b)(7) (formerly Section 15(b)(8)), the Commission is required, irrespective of organizational affiliation or market in which business is done, to establish standards of operational capability for all registered brokers and dealers, and minimum standards of training, experience, competence, and such other qualifications for registered brokers, dealers and all associated persons as the Commission finds necessary or appropriate in the public interest or for the protection of investors. In addition, under new Sections 15(b) (8) and (9), (formerly Sections 15(b) (9) and (10)), the Commission's SECO jurisdiction has been extended to transactions by non-NASD members on exchanges of which they are not members.

PROPOSED AMENDMENTS

The staff of the Commission is presently considering, in light of its broadened authority under new Section 15(b)(7), the question of what uniform minimum qualification standards should be applicable for the entire brokerage industry. Pending further consideration of the qualification standards used by the NASD and by all exchanges, the Commission will continue to accept NASD members (and their associated persons) as qualified to participate in the over-the-counter market and members of registered national securities exchanges (and their associated persons) as qualified to trade on the exchanges of which they are members. A broker-dealer whose business is limited to the particular market for which he has thus qualified should not also be subject to the SECO rules. Accordingly, in order to exempt from the SECO rules those exchange members whose securities business is in practical effect limited to effecting transactions on a national securities exchange of which they are members, the Commission is proposing revised exemptions from those rules for such exchange members.

Rules 15b8-1, 15b9-2 and 15b10-7 (which provides exemptions from Rules 15b10-1 through 15b10-6) have previously contained provisions which exempt broker-dealers who carry no accounts of customers and derive no more than $1000 annual gross income from transactions otherwise than on a national securities exchange. As the Commission explained when it adopted Rule 15b8-1,[4] the purpose of this exemption was to permit certain specialists and other floor members of national securities exchanges who introduce accounts to other members to receive a portion of the commissions paid on occasional over-the-counter transactions on these introduced accounts, without becoming subject to the SECO rules, so long as the income derived from those activities was nominal. The Commission proposes to revise the existing exemptions by substituting the phrase "otherwise than on a national securities exchange of which he is a member" for the phrase "otherwise than on a national securities exchange." The revision, which is being

See footnotes at end of document.

proposed to conform the scope of the SECO rules to the Commission's authority under new Sections 15(b)(8) and 15(b)(9), would subject broker-dealers who effect transactions on exchanges other than those of which they are members to the SECO rules.[5]

Further, the Commission is proposing to revise the existing SECO exemptions to exclude, from the limitation on gross income derived by a broker-dealer from transactions otherwise than on the exchange of which he is a member, income derived from transactions for the broker-dealer's own account which are effected with or through another broker or dealer who is a member of the exchange on which such transactions are effected or who, in the case of over-the-counter transactions, is a member of a registered securities association or is qualified pursuant to Rule 15b8-1.

The exemptions presently contained in Rules 15b8-1, 15b9-2 and 15b10-7 would each be revised as described above, and a similar exemption would be added to Rule 15b9-1. Rule 15b8-2, which provides that nonmember broker-dealers which have been expelled or suspended from a registered national securities exchange or association, and individuals barred or suspended from association with any member of such association or exchange, for conduct inconsistent with just and equitable principles of trade are unqualified to engage in securities activities pursuant to former Section 15(b)(8) of the Act, and prescribes procedures for obtaining from the Commission, upon an appropriate showing, relief from such disqualification, would not contain an exemption. The effect of this rule, prior to the 1975 Amendments, has been to prevent any person who has been expelled or suspended from, or barred from association with a member of, a securities association or exchange from being able to continue to engage in the over-the-counter securities business as a SECO broker-dealer. As a result of amendments to former Section 15(b)(8) (now Section 15(b)(7)),[6] which directs the Commission to set qualification standards for the entire industry, Rule 15b8-2 now effectively disqualifies a person who has been expelled or suspended from, or barred from association with a member of, a securities association or exchange from engaging in securities activities in any market. To reflect its broadened authority to set qualification standards, the Commission also proposes to amend Rule 15b8-2 to make it applicable to all registered broker-dealers and their associated persons rather than just nonmember (of a national securities association) broker-dealers and their associated persons.

A person who has been expelled or suspended from, or barred from association with a member of, a securities exchange or association may wish to remain or become a member, or become associated with a member, of another exchange or association and engage in securities activities in the market regulated by such organization. The Commission believes that the recommendation of such other exchange or association with respect to such person's qualifications to continue to engage in securities activities would be of assistance to the Commission in its review of an application for relief from disqualification made pursuant to paragraph (b) of Rule 15b8-2. The Commission proposes to amend paragraph (d) of that rule to permit the Commission to defer a determination as to whether to grant or deny an application made pursuant to paragraph (b) pending receipt of such recommendation; any such recommendation would also constitute the notice required to be given by exchanges or associations under Section 6(c)(2) or 15A(g)(2).

The Commission is also proposing to revise paragraph (b) of Rule 15b8-2 to clarify the provisions of that paragraph.

While generally exempting from the SECO rules broker-dealers who trade almost exclusively on an exchange of which they are members, the Commission believes that minimum qualifications should be prescribed for broker-dealers trading on exchanges of which they are not members. Accordingly, the Commission is proposing to delete the parenthetical "(otherwise than on a national securities exchange)" from paragraph (a) of Rule 15b8-1 so that that rule would be applicable to nonmember (of the NASD) broker-dealers trading on exchanges of which they are not members as well as over-the-counter.

In addition, the Commission proposes to substitute the phrase "otherwise than on a national securities exchange of which he is a member" for the phrase "otherwise than on a national securities exchange" in paragraph (d) of Rule 15b9-1 to reflect the language of new Sections 15(b)(8) and 15(b)(9), which now authorize the Commission to prescribe regulation and collect fees to defray the cost thereof with respect to transactions by a nonmember broker-dealer otherwise than on a national securities exchange of which it is a member.

The 1975 Amendments, in amending Section 15(b) of the Act, have changed the numbering of the various paragraphs of that Section. The Commission intends to redesignate the rules promulgated under the principal provisions of Section 15(b) at some time in the future, following the completion of textual revision of those rules.

STATUTORY BASIS

The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, 15 U.S.C. 78a et seq., as amended by the Securities Acts Amendments of 1975, Pub. L. No. 94-29 (June 4, 1975), and particularly Sections 15(b) and 23(a) thereof, hereby proposes amendments to Securities Exchange Act Rules 15b8-1, 15b8-2, 15b9-1, 15b9-2 and 15b10-7 (17 CFR 240.15b8-1, 15b8-2, 15b9-1, 15b9-2 and 15b10-7), as stated below.

TEXT OF RULES AS PROPOSED TO BE AMENDED

1. Securities Exchange Act Rule 15b8-1, 17 CFR 240.15b8-1, would be amended to read as follows (additions are *underscored;* deletions are [bracketed]):

§ 240.15b8-1 Qualifications and fees relating to brokers or dealers who are not members of a national securities association.

(a) No nonmember broker or dealer shall effect any transaction in, or induce the purchase or sale of, any security [(otherwise than on a national securities exchange)] unless such nonmember broker or dealer meets all of the following conditions:

(1) through (4) (no change).

(b) Any nonmember broker or dealer who is a member of a national securities exchange shall be exempt from this rule if (1) he carries no accounts of customers, and (2) his annual gross income derived from purchases and sales of securities otherwise than on a national securities exchange *of which he is a member* is in an amount no greater than $1,000, *provided however, that gross income derived from transactions otherwise than on such national securities exchange which are effected for his own account with or through a broker or dealer who is a member of the national securities exchange on which such transactions are effected or, in the case of transactions otherwise than on a national securities exchange, is a member of a registered securities association or is qualified under paragraph (a) of this rule shall not be subject to such limitation.*

(c) (no change).

2. Securities Exchange Act Rule 15b8-2, 17 CFR 240.15b8-2, would be amended to read as follows:

§ 240.15b8-2 Disqualification of nonmember brokers and dealers and their associated persons—association or exchange disciplinary actions.

(a) *No registered* [nonmember] broker or dealer or associated person of a *registered* [nonmember] broker or dealer shall be deemed qualified pursuant to section 15(b)(1)[(8)] of the Act, if, by action of a registered national securities association or exchange, such nonmember broker or dealer or associated person has been and is expelled or suspended from such association or exchange or has been and is barred or suspended from being associated with all members of such association or exchange for violation of any such association or exchange rule which prohibits any act or transaction constituting conduct inconsistent with just and equitable principles of trade or requires any act the omission of which constitutes conduct inconsistent with just and equitable principles of trade.

(b) Upon written application with respect to any person deemed unqualified to engage in securities activities pursuant to paragraph (a) of this section, the Commission may, [if it finds it appropriate in the public interest and for the protection of investors and to carry out the purposes of section 15(b)(8), after notice and opportunity for hearing and] subject to such terms and conditions as it may determine to be necessary or desirable, find that *the public interest and*

See footnotes at end of document.

protection of investors do not require that such person be deemed unqualified to engage in securities activities [notwithstanding such association or exchange action such person may engage in securities activities pursuant to such section]. The receipt by the Commission of such application shall operate as a stay of the disqualification provisions of paragraph (a) of this section pending the Commission's determination with respect to the merits of the application. [Such] *The application for a person who proposes to become associated with a registered broker or dealer* should ordinarily be made by the prospective employer of such person.

(c) (no change).

(d) Where it deems it appropriate to do so, the Commission may grant or deny an application or issue any other findings pursuant to paragraph (b) of this section on the basis of the papers filed without oral hearings. *The Commission may defer its determination to grant or deny an application or issue any other findings pursuant to paragraph (b) of this section pending receipt of the recommendation of any securities exchange or association of which such broker or dealer wishes to remain or become a member, or with respect to a member of which such person wishes to become associated, as to the qualifications of such broker, dealer or person to engage in securities activities as a member, or person associated with a member, of such exchange or association.*

(e) (No change).

Paragraph (f)(1) would be deleted and paragraph (f)(2) would be designated as paragraph (f).

3. Securities Exchange Act Rule 15b9-1, 17 CFR 240.15b9-1, would be amended to read as follows:

§ 240.15b9-1 Initial fees for registered brokers and dealers not members of a registered national securites association and their associated persons.

(a) Through (c) (no change).

(d) No nonmember broker or dealer shall effect any transaction in, or induce the purchase or sale of, any security, otherwise than on a national securities exchange *of which he is a member*, unless he has complied with the applicable provisions of this section. Paragraph (e) would be designated as paragraph (f) and a new paragraph (e) would be added as follows:

(e) *Any nonmember broker or dealer who is a member of a national securities exchange shall be exempt from this rule if (1) he carries no accounts of customers, and (2) his annual gross income derived from purchases and sales of securities otherwise than on a national securities exchange of which he is a member is in an amount no greater than $1,000, provided, however, that gross income derived from transactions otherwise than on such national securities exchange which are effected for his own account with or through a broker or dealer who is a member of the national securities exchange on which such transactions are effected or, in the case of transactions otherwise than on a national securities exchange, is a member of a registered securities association or is qualified pursuant to paragraph (a) of Rule 51b-8-1 (§ 340.15b8-1 of this chapter) shall not be subject to such limitation.*

4. Securities Exchange Act Rule 15b9-2, 17 CFR 240.15b9-2, would be amended to read as follows:

§ 240.15b9-2 Annual fees for registered brokers and dealers not members of a registered national securities association.

(a) Through (e) (no change).

(f) *Exemptions.* A broker or dealer shall *be exempt from* [not be required to pay the fees prescribed by] this section if:

(f)(1) and (f)(2) (no change).

(3)(i) He is a member of a national securities exchange, (ii) he carries no accounts for customers, and (iii) his annual gross income derived from purchases [,] *and* sales [and exchanges] of securities otherwise than on a national securities exchange *of which he is a member* is in an amount no greater than $1,000, *provided, however, that gross income derived from transactions otherwise than on such national securities exchange which are effected for his own account with or through a broker or dealer who is a member of the national securities exchange on which such transactions are effected or, in the case of transactions otherwise than on a national securities exchange, is a member of a registered securities association or is qualified pursuant to paragraph (a) of Rule 15b8-1 (§ 240.15b8-1 of this chapter) shall not be subject to such limitation.*

5. Securities Exchange Act Rule 15b10-7, 17 CFR 240.15b10-7, would be amended to read as follows:

§ 240.15b10-7 Exemption for certain exchange members.

Any nonmember broke or dealer who is a member of a national securities exchange shall be exempt from §§ 240.-15b10-1 through 240.15b10-6 if (1) he carries no accounts of customers, and (2) his annual gross income derived from purchases and sales of securities otherwise than on a national securities exchange *of which he is a member* is in an amount no greater than $1,000, *provided however, that gross income derived from transactions otherwise than on such national securities exchange which are effected for his own account with or through a broker or dealer who is a member of the national securities exchange on which such transactions are effected or, in the case of transactions otherwise than on a national securities exchange, is a member of a registered securities association or is qualified pursuant to paragraph (a) of Rule 15b8-1 (§ 240.15b8-1 of this chapter) shall not be subject to such limitation.*

Interested persons are invited to submit written data, views and arguments concerning the proposed amendment of Rules 15b8-1, 15b8-2, 15b9-1, 15b9-2 and 15b10-7 by January 25, 1976. Persons desiring to make written submissions should file six copies thereof with the should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. S7-608. All written coments wil be available at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

DECEMBER 31, 1975.

See footnotes at end of document.

FOOTNOTES

[1] See Securities Exchange Act Release Nos. 7697 (Sept. 7, 1965), 30 FR 11673 (Sept. 11, 1965); 8135 (July 27, 1967), 32 FR 11637 (Aug. 11, 1967); 8308 (May 8, 1968), 33 FR 7075 (May 11, 1968).

[2] See: e.g., Securities Exchange Act Release No. 8035 (July 27, 1967), 32 FR 11637 (Aug. 11, 1967).

[3] Members of the American, Boston, Midwest, New York, Pacific and PBW Stock Exchanges and the Chicago Board Options Exchange are currently exempt. The Commission is not, at this time, proposing to amend the exemption from Rule 15b10-11. The Commission is considering further revisions in Rule 15b10-11 and may amend the exemption from that rule sometime in the future.

[4] Securities Exchange Act Release No. 7697 (Sept. 7, 1965), 30 FR 11673 (Sept. 11, 1965).

[5] Under new Section 6(f) of the Act, the Commission may also require any broker or dealer not a member of a national securities exchange effecting transactions on such exchange on a regular basis to comply with such rules of such exchange as the Commission may specify.

[6] The reference to Section 15(b)(8) in paragraph (a) of Rule 15b8-2 would be changed to 15(b)(7) to reflect a change in numbering effected by the 1975 Amendments.

[FR Doc.76-761 Filed 1-9-76;8:45 am]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

[9 CFR Parts 318, 381]

NITRATES, NITRITES, AND SALT

Extension of Time for Comments

● Purpose: The purpose of this document is to extend the period of time for public comment on proposed amendments to the federal meat and poultry inspection regulations concerning modifications in the use of nitrates, nitrites, and salt in meat and poultry products. On November 11, 1975, there was published in the "Federal Register" (40 FR 52614-52616), a notice proposing to amend the meat and poultry inspection regulations (9 CFR 318 and 381), to provide for modifications in the use of nitrates, nitrites, and salt in meat and poultry products. Interested persons were given until January 12, 1976, to comment. ●

The Department has determined to extend the period of time within which written data, views, or arguments may be submitted, or oral views may be presented. A number of persons have requested an extension of time so that they

can consolidate and present their views and information.

Since the Department is interested in receiving meaningful comments, these circumstances are considered sufficient justification for an extension of time originally allotted for filing comments.

Accordingly, any person who wishes to submit written data, views, or arguments concerning the proposed amendments may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by January 31, 1976. Also, the period for oral presentation of views is extended to January 31, 1976. Persons desiring opportunity for oral presentation of views should address such requests to the Product Standards Staff, Scientific and Technical Services Division, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, so that arrangements may be made for presentation of such views by January 31, 1976.

In all other respects, the procedure specified in the proposal published on November 11, 1975, shall continue to apply in the rulemaking proceeding.

Done at Washington, D.C., on January 9, 1976.

FRED J. FULLERTON,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.76-1080 Filed 1-9-76;11:29 am]

Soil Conservation Service

[7 CFR Part 662]

EQUIPMENT GRANTS TO CONSERVATION DISTRICTS

Proposed Revocation of Equipment Grant Part

For a number of years the Soil Conservation Service (SCS) has been granting equipment and materials to soil, water and other conservation districts under certain conditions as set forth in 7 CFR Part 662. The purpose of the equipment grants has been to enable districts to install soil and water conservation measures where qualified contractors are either not available or are not interested in doing the work.

In view of the fact that there are now a sufficient number of contractors to carry out soil and water conservation work, it is apparent that equipment grant program is no longer necessary. It is therefore proposed that the equipment grant program be terminated by revocation of 7 CFR Part 662.

Interested persons may submit written data, views, or arguments on the proposed termination of the SCS equipment grant program. All communications received on or before May 11, 1976, will be considered before action is taken on the proposal. The proposal may be changed in light of comments received.

Dated: January 6, 1976.

R. M. DAVIS,
Administrator.

[FR Doc.76-799 Filed 1-9-76;8:45 am]

notices

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

STATE DEPARTMENT

Agency for International Development

RESEARCH ADVISORY COMMITTEE Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), P.L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on January 15-16, 1976, at the Pan American Health Organization Building, 23rd Street and Virginia Avenue, N.W., Conference Room "C", to review, appraise and make recommendations to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. central research funding in the field of food and nutrition. The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. each day. The meeting will be open to the public. Dr. Erven J. Long, Associate Assistant Administrator, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information contact Dr. Erven J. Long, 21st Street and Virginia Avenue, N.W., Washington, D.C. 20523, or call area code 202-632-3800.

Dated: December 1, 1975.

CURTIS FARRAR,
Assistant Administrator for Technical Assistance.

[FR Doc.76-777 Filed 1-9-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-1430; Docket No. 19660, RM-690]

INTERNATIONAL RECORD CARRIERS' SCOPE OF OPERATIONS

Report and Order and Notice

I. PRELIMINARY STATEMENT

In the Matter of International Record Carriers' Scope of Operations in the Continental United States, Including Possible Revisions to the Formula Prescribed under Section 222 of the Communications Act.

1. This investigation and rulemaking proceeding was instituted in 1973 to determine whether the Commission should modify the present international formula which was prescribed in 1943. That formula governs distribution by Western Union Telegraph Company (WU) among the international record carriers (IRCs) of outbound, unrouted international message telegraph traffic. Our reasons for instituting this proceeding are fully presented at 43 FCC 1174 (1973), (Designation Order). In a subsequent order, 47 FCC 2d 225 (1974), we modified our procedures because of a controversy among the parties concerning the reliability of information submitted by the International Quota Bureau (IQB).[1]

2. Pursuant to our orders, Statements of Fact and Memorandums of Law were filed on July 10, 1974 by Canadian National Railway (CNR), Canadian Pacific, Ltd. (CPL), ITT, RCA Global Communications, Inc. (RCA), TRT Telecommunications Corporation (TRT), Western Union International, Inc. (WUI), and WU.[2] In addition to these Statements, Comsat General Corp. on July 8, 1974 filed Comments and on August 30, 1974 a Reply, in which it raised the question whether the formula governing distribution of outbound message telegraph traffic destined to ships at sea (maritime formula) should be revised. On August 19, 1974, all respondents except CNR and CPL filed Responses to the initial Statements and, on September 6, 1974, Replies. During April, 1975, WU submitted to the parties and the Commission the results of its study of outbound message traffic. Based on the results of this study, the parties filed on August 1, 1975, Supplementary Comments and on August 28, 1975, Supplemental Replies. In addition to these formal pleadings, statistical data were submitted by the IQB. Not submitted for consideration in this inquiry, but incorporated by reference into the pleadings of RCA and ITT, was a document prepared by the Policy Support Division, Office of Telecommunications, United States Department of Commerce (OT) entitled Policy Research Estimate, Working Draft, The International Formula for the Distribution of Unrouted Telegraph Messages, dated June 2, 1975. To the extent useful in considering the arguments of the parties, we will take notice of this document. The foregoing items, plus the pleadings considered in the Designation Order, constitute the record for decision in this proceeding.

[1] The IQB is the professional staff of the International Formula Committee (IFC), a body composed of representatives of the IRCs entitled to traffic under the formula. Section XI of the formula places administration of its provisions with the IFC. In carrying out its function to instruct WU to which carriers it is to distribute traffic, the IQB maintains data on traffic volumes and distribution. The Designation Order made the IFC and IQB parties for the purpose of providing the respondents with data for their use in responding to the designated issues. 43 FCC 2d at 1182.

[2] The French Telegraph Cable Co. (FTC) and United States-Liberia Radio Corporation (U.S. Liberia) were also named as parties to this inquiry. Both carriers filed statements that they did not wish to participate in the inquiry, but stood ready to implement any decision of the Commission.

SUMMARY

3. After considering the views of the parties and other material before us, we have concluded that the present method of distribution embodied in the international formula is unjust, unreasonable, inequitable and not in the public interest; and that the formula should therefore be replaced as provided below. In reaching this conclusion we find that the present formula, under the circumstances prevailing today, fails to meet the statutory standard in Sections 222(e)(1) and 222(e)(3) either in concept or in operation. As we explain more fully below, the present formula, with its basic unit the quota system, represents a market-sharing device which is by definition antithetical to the free flow of competition which Congress sought to encourage and enhance. Whatever may have been the justification for this arrangement under the unique circumstances facing us in 1943, the present conditions in the industry and the economy generally indicate that such practices now work against the public interest. We have also found that the formula has not worked well in practice. Due to weaknesses in the formula structure and changes in the industry which the formula failed to predict or allow for, serious distortions have developed in the pattern of distribution which appear unlikely ever to correct themselves. These distortions have made the present formula inequitable as among the parties and have worked against the public's interest in a strong, efficient public message service. In these circumstances, we believe the formula has outlived its usefulness and should be repealed. In place of the present formula, we will place distribution of traffic on the choice of the customer. For reasons discussed fully below, however, we cannot move immediately to required customer routing. In the interim, we have prescribed a new formula which distributes unrouted traffic among the IRCs in the same proportions as each carrier handles routed traffic. In this way, the inequities of the present distribution will be eliminated and the carriers encouraged to seek specific routings from customers. In the material which follows we will set out (1) the historical background, (2) a summary of the contentions of the parties, (3) our findings with respect to the designated issues, (4) our conclusions with respect to the present formula, (5) the interim method of distributing outbound traffic, and (6) the measures we intend to take toward implementation of the all-routed method of distribution.

A. Historical Background. 4. The present international formula was prescribed

in 1943 pursuant to Section 222(e)(1) of the Act[3] in connection with our approval of the plan of merger submitted by WU and the Postal Telegraph Cable Company (Postal). Section 222 had been added to the Act to permit merger of the two remaining domestic telegraph companies with extensive nationwide public message services. Congress imposed on the permission to merge ancillary restrictions to control the power WU would achieve by its consequent *de facto* domestic monopoly. For present purposes, the two relevant restraints are the divestment requirement in Section 222 (c)(2) and the requirement of Section 222(e)(1) for a formula to govern distribution of traffic by WU among the IRCs. These requirements were occasioned by the fact that, prior to merger, WU operated an extensive international message telegraph network (WU Cables Division) in addition to its domestic network. As a condition of merger, WU was required to divest itself of its international facilities. However, because WU was subject to certain legal commitments, Congress believed that divestment might be delayed. For this reason, Congress did not make divestment a precondition of merger.[4] In the interim, Congress imposed a requirement for a formula to govern distribution of traffic which would prevent WU from using its domestic monopoly power to the detriment of its international competitors.

5. Prior to the merger, RCA was the only IRC which maintained public offices in the main international terminal cities of New York and San Francisco. The others relied largely on connections with WU and Postal for the intra-United States handling of their overseas traffic. WU exchanged traffic between its domestic operations and its Cables Division. The component companies of ITT had similar arrangements with Postal, which until 1940 had been affiliated with ITT. Various IRCs also had arrangements with WU (domestic) for exchange of traffic to and from hinterland points. In addition, RCA and Mackay Radio & Telegraph Company (a predecessor constituent of ITT) also operated a few domestic radio circuits linking major cities, which they used chiefly for domestic handling of their international traffic. However, with the disappearance of Postal after the merger, and the termination of the Mackay and RCA domestic circuits during World War II, the IRCs after merger were dependent on WU for the domestic handling of their traffic.

6. To accommodate their concerns, the parties developed a formula based on quotas for each carrier which, by freezing the carriers' pre-merger positions, would prevent WU from favoring itself.[5]

The formula divides international destination points into three "Areas"—"A" (Atlantic), "B" (Latin America), and "C" (Pacific)—grouped according to the facilities used to serve points within them and the carriers which then operated there. These Areas are broken down into a number of "Subareas." For the purpose of applying the quota system, the basic unit is the subarea. The formula also divided points of origin in the United States into two classes: (1) New York, San Francisco and Washington, D.C. (called "gateways") and (2) other United States points (called "hinterland"). Essentially, there are two separate formulas provided for—one for gateway-originated traffic and one for hinterland-originated traffic. Based on the above, the formula provides to named IRCs a quota for each category of traffic, for each subarea of destination, and for each recognized origin point.[6] A carrier's quota for each category of traffic is defined as the ratio of outbound traffic in that category handled by that carrier during 1942, to the total traffic handled that year by all carriers serving that point. Essentially, then, a carrier's quota represents its market share during the base period.[7] WU was directed to apply the quotas so that each eligible IRC received a porportion during the current period of "gross international tolls"[8] equal to its quota. There was, however, a problem inherent in the quota system arising from the fact that, irrespective of quotas, an IRC was to receive all traffic specifically routed by the sender via that carrier. Because of this feature, WU would be able to insert routings via WU Cables on any message and thereby divert traffic to its own facilities. To counter this, therefore, the formula provides a mechanism (balancing provision) designed to restore the general market shares. If a carrier exceeded its quota in any category solely from routed traffic, WU was to withhold from it an equivalent amount of unrouted traffic in other categories to balance the excess. If a carrier failed to receive its quota in a given month, the distribution was to be adjusted in later months to compensate it for the deficiency.

7. Beyond its basic features, the formula includes several special provisions aimed at particular problems or concerns of individual carriers. First, under the formula, RCA was entitled to receive specifically-routed traffic destined to Areas A and B; but received no unrouted traffic originating in the gateways (it does have quotas for hinterland traffic). Instead, Schedule B to the formula provided that RCA was to receive approximately 61.5% of WUI's quotas[9] for traffic destined to the subareas, Continental Europe and Beyond the Continent, of Area A. RCA and WU had entered into a contract in 1931 providing for a similar shift of a block of traffic, apparently to compensate RCA for the fact that it turned over to WU more inbound traffic than it recieved outbound traffic from WU. Second, in 1943 United States traffic to certain points in Australasia routed via cable was generally handled by transfer to CNR or CPL, since the only direct cables to those points ran from Canada. To preserve the status quo with respect to this traffic, and to protect the rights of CPL under its contracts with Postal, the formula therefore provided a special arrangement for traffic to points in Australiasia and the British West Indies. In general terms, the provision created a separate quota system applicable to these carriers designed to preserve their premerger position. Third, when we amended the formula in 1963 to reflect the creation of WUI, we added a special provision to designate particular WU public offices in New York, Washington, and San Francisco as WUI public offices, so that traffic filed in such offices would, absent a specific routing via another carrier, automatically be considered as specifically routed via WUI. This was done to spare WUI, in its early years, the expense of establishing its own offices and to put it in a position comparable to its competitors.

B. Contentions of the Parties.

---

[3] 47 U.S.C. § 222(e)(1) provides in pertinent part that: [I]n the case of any consolidation or merger of telegraph carriers pursuant to this section, the consolidated or merged carrier shall, * * * distribute among the international telegraph carriers, telegraph traffic by wire or radio destined to points without the continental United States, and divide the charges for such traffic, in accordance with such just, reasonable, and equitable formula in the public interest as the interested carriers shall agree upon and the Commission shall approve. * * *

[4] 47 U.S.C. § 222(c)(2) provides in pertinent part that: [a]ny proposed consolidation * * * shall provide for the divestment of the international telegraph operations theretofore carried on by [WU], within a reasonable time * * * as soon as the legal obligations * * * [of WU] will permit.

[5] Section 222(e)(1) provides that the Commission shall prescribe a formula only in the event the interested parties cannot agree upon one. After reaching agreement, the parties submitted their proposal to us for review. In our review, we found objectionable certain features of the carrier agreement and modified them. For this reason, we prescribed rather than approved, the present formula.

[6] Each IRC does not have a quota for every destination point. Generally, a carrier received a quota if that carrier operated to individual points within the appropriate subarea at the time of the merger.

[7] Because World War II had interrupted service in 1942 to certain points, the formula provided that upon reestablishment of service quotas should be calculated with reference to the last 12-month period in which communications were conducted before interruption.

[8] The term "gross international tolls" is defined in the formula as (1) tolls payable to or collectible by an IRC at the U.S. gateways as if all traffic had originated at the gateway, less WU's payment for its landline haul (if the message did originate in the gateway) or (2) rental income for a leased circuit used to transmit traffic. *See* International Formula, Section V. This provision was designed to compensate for the fact that individual messages in a given category might differ in length.

[9] In 1943 the provision applied to WU's Cable Division. In 1961, when WU was formed from WU's divested overseas facilities, WUI succeeded to WU's obligations under this provision.

8. ITT listed certain features of the present formula which it characterized as particular problems requiring correction. *See* 43 FCC 2d at 1176. In commenting on ITT's arguments. TRT supported ITT's request for revision and included some specific matters which it believes need correction. In summary, the following is a list of the items which the proponents advanced as defects in the formula:

(1) The anticompetitive market share quota system;

(2) The "balancing system" which deprives a carrier of unrouted traffic when it increases its proportion of routed traffic;

(3) Basing quotas for unrouted traffic on the amount of self-generated traffic (gateways);

(4) Denying a carrier a share of unrouted traffic to a given point because it did not serve that point in the base year (1942);

(5) The lack of a provision for adjusting quotas to meet changing circumstances;

(6) The cumbersome and complex structure (separate quotas for gateway and hinterland, separate quotas for each class of traffic, etc.);

(7) The accumulated overages and deficiencies;

(8) Schedule B of the formula—special arrangement for RCA;

(9) The special quotas for CNR and CPL (Appendix 1 to the formula); and

(10) The designation of certain WU offices as WUI public offices.

RCA and WUI generally opposed the request for formula revision. They contended that the present formula works well in practice and asserted that neither ITT nor TRT has shown any evidence that the public interest has been disserved. The opponents also challenged the assertion that the present formula stifles competition and noted that all carriers provide the highest quality service to the public.[10]

9. To remedy the alleged inequities of the present formula, ITT ,TRT and WU have advanced a number of specific proposals for a new distribution which they assert will better serve the public interest and simplify administration. Briefly, ITT recommended a distribution which ignores an IRC's self-originated traffic, directs WU to honor customer routings, and allocates unrouted traffic equally among all IRCs authorized to serve the destination point directly. TRT recommended a distribution of unrouted traffic based on each carrier's share of routed WU transfer traffic (ignoring self-originated routed traffic) to each destination point. *Id.* at 1179. WU, reflecting its desire to simplify or eliminate its role in administering the formula, advanced three alternative proposals. First, WU suggested replacement of a formula with a distribution based on a requirement for specific customer routings. Second, WU suggests that if a formula must be retained, then it should be permitted to transfer all unrouted traffic to the IQB or some other representative of the IRCs for distribution. Third, as a fallback position, WU requests that it be allowed to transfer all unrouted traffic to a given area to only one selected IRC. *Id.* at 1178.

10. In its Statement, ITT agreed that TRT's proposal might be a more logical and equitable basis for distribution of unrouted traffic; but only with certain modifications:

(1) The distribution should be based on a country-by-country basis according to the destinations a carrier is authorized to serve directly;

(2) Self-generated gateway traffic could be excluded, but WU pickups in the gateway as well as the hinterland should be included in determining traffic percentages; and

(3) calculation of proportionate shares should be based on an historical period, but should be updated every six months (with a six-month lag to allow for preparation of the calculations).

ITT also indicated that, in the interest of simplicity, the WU proposal to distribute all unrouted traffic to a given area to one IRC would be acceptable, so long as each carrier received its proportionate share overall. TRT reiterated its position that unrouted traffic to each destination should be distributed in the same proportions as routed, and suggested that eligibility be based on the points a carrier lists in its tariffs. TRT also indicated that ITT's original proposal to divide unrouted traffic to every destination equally among the carriers serving that point (again, based on its tariff) would also be a fair and simple method. TRT challenges ITT's proposal to base distribution on direct service on the grounds that all carriers compete for traffic to the points they serve irrespectively of whether those points are served directly or indirectly. In its Supplemental Response, ITT further modified its position to indicate that a distribution on a world-wide, rather than individual destinations, would be equitable; and would satisfy WU's desire for an easily-administered formula. Under this proposal, there would be a single world-wide distribution of unrouted traffic, regardless of class, based on each carrier's percentage share of routed WU transfers (both gateway and hinterland origins).

11. In general, RCA and WUI argue that the above proposals are no less arbitrary than the present formula and cannot be shown to serve the public interest any better. Further, since all the proposals are geared to increasing competition among the IRCs, they may actually be detrimental to that interest. In this connection, they note that one of the features of the present formula we specified in our order prescribing it was that, by reducing solicitation efforts, it would hold down carrier costs. In their view, the inevitable consequence of any of these proposals would be an increase in carrier solicitation efforts which would increase costs without improving service; and, since message would service traffic volume is static or declining, the increased costs result in increased usage charges.

12. *WUI Counterproposals.* In its Supplemental Comments, WUI included three proposals of its own for resolution of the formula, controversy. First, it suggested that the proposals for amendment of the formula be submitted to the IFC.[11] A pre-condition to this, however, would be equalization of the voting strength of the various members of the IFC. ITT has four votes (based on four constituent companies) and RCA has two (its own and that of Radiomarine Corp.), while the other carriers have only one vote each. If this situation were rectified, the matter could be submitted to the carriers for resolution, with the active participation of the Commission staff. Second, WUI suggests that, unrouted WU transfer traffic could be distributed in the ratio of unrouted traffic distributed during the period of the WU study. Routed transfers and self-originated traffic would be ignored. Third, WUI suggests that the separate gateway and hinterland quotas be replaced by one nationwide quota. In connection with the proposal, WUI would open its own public offices and abandon the designated WU offices, thereby placing all IRCs on an equal footing. The quotas would be calculated according to the number of messages, relying on random distribution to assure that all carriers get a fair mix of long and short messages. WUI also suggests that all classes of messages be treated as a unit, thus simplying application of quotas. Schedule B would also be eliminated to place all IRCs in the same position. Next, WUI suggests replacing areas A, B and C and all subareas with a distribution based on each destination country (the quota would be the same for each point as that of the subarea of which it presently is a part). Next, WUI would eliminate the quotas for CNR and CPL and remove their obligations for payment of the expenses associated with formula operation. Finally, WUI suggests that all RCA gateway traffic to areas A and B be counted in its quotas (RCA chose not to have gateway quotas to those points) to remove the disproportionate share of

[10] Since the formula is a rule within the meaning of Section 551(4) of the Administrative Procedure Act, 5 U.S.C. § 551 (4) (1971), ITT's request for amendment of the formula constitutes a Petition for Rulemaking. Accordingly, Section 553 requires that interested parties be given opportunity to present their views through written submissions, but does not require trial-type hearings. In the present case, all interested parties have been given opportunity to present their views and to challenge the views of other parties. There are no contested issues of fact; only the legal questions whether the present formula meets the statutory and, if it does not, what method of distribution will meet tha standard. Therefore, we conclude that no party has been prejudiced by our procedures in this case and that a trial-type evidentiary hearing, as requested by RCA and WUI, is neither required by the Communications Act and the APA nor necessary to the resolution of the question before us. *Cf.* Bell Telephone Company of Pennsylvania v. F.C.C., 503 F.2d 1250, 1265–6 (3d Cir. 1975). Accordingly, we will deny the request.

[11] Sections XI of the present formula provides that: [I]n the event there is disagreement among the members of the [IFC] with respect to any feature of the distribution of traffic under the formula, the disagreement shall be submitted to the interested carriers, including [WU]. . . .

hinterland-originated unrouted traffic it now gets.

13. TRT opposes all of the WUI proposals on the grounds that they permit WUI to continue to receive most of the undue benefits it enjoys under the present formula. RCA supports the first and second WUI proposals, but opposes the third. RCA agrees that if voting power were equalized (including loss of one of RCA's two present votes), the IFC could be an effective forum for discussion of formula revision. As to WUI's second proposal, RCA believes it merits serious consideration. RCA states that basing distribution of unrouted traffic on the ratios in the WU study would eliminate ITT's most serious objection—shifting unrouted traffic away from carriers who increase their routed traffic. The advantage RCA sees in this is that solicitation expenses, which undoubtedly would increase, would be held at a lower level than under ITT's proposal and the effect on other IRCs of traffic shifts would be gradual. RCA objects, however, to the provision in WUI's third proposal for abolishing Schedule B. RCA believes that this proposal affects it alone and is in derogation of its contractual and formula rights, and that any change would have to be based on RCA performance data relating to the base period (1942) which no longer exists.

14. Since WUI's proposals were presented outside the designated issues, we will treat them separately. After considering the proposals, we have concluded that none of them represents a suitable basis on which to resolve the formula inquiry. Essentially, they represent little or no change over the present formula, at least in the short run. We are of the opinion that WUI's first proposal, even with equalized voting power, would not lead to an early resolution of the dispute. The various party interests are strongly entrenched, so that if there is any conclusion it is likely to be a compromise which ignores the public interest we have been considering in this proceeding. We note that the present formula was the result of a compromise and that many of the problems we have seen in it have come from the cumbersome structure thus developed. We see no compelling reasons to delay further the resolution of the issues, especially since the result may be an equally arbitrary compromise. Turning to the second WUI proposal, and ignoring that the study results may not be representative of a whole year's performance, we believe that this proposal would perpetuate for the foreseeable future the distortions of the present distribution. We note that while WUI's proposal allows for shifts of traffic, it does so only as the pool of unrouted traffic shrinks. While we agree that WUI's third proposal would result in simplification of quota administration, we must note that basing distribution on current market shares will not change any of the basic infirmities we see in the present formula. Accordingly, we cannot adopt any of WUI's proposals as submitted.

II. Findings: The Present Formula

15. To ascertain what has happened after 30 years of formula operation, we will look at the distribution presently being made under the formula (Issue one). For the purpose of our analysis we will use, as did the parties, the results of the WU 13-week study, supplemented by calendar-year 1974 figures reported by the carriers pursuant to Section 43.61 of the Commission's Rules and Regulations. 47 CFR § 43.61 (1974). In 1974, a total of 8,640,411 telegraph messages (all classes) were sent outbound from the United States; which yielded revenues of $21,486,392. In this connection, we note that traffic volumes in recent years have fluctuated only slightly. Therefore, we will assume that figures for 1975 will not significantly differ from the 1974 figures.

16. Applying the results of the WU study (one quarter's actual results) to the 1974 figures, it appears that approximately 5.6 million messages of the total are routed (WU transfers plus IRC pickups) and 3.0 million unrouted; or roughly two-thirds and one-third, respectively. Further, of the total outbound traffic, 3.9 million messages were handled by WU and the balance directly by the IRCs. Of the traffic handled by WU, 76.5% is unrouted and 23.5% routed. It is to the approximately 3.0 million unrouted messages that the formula applies and for which we must provide an equitable method of distribution in the public interest. As is apparent from these figures, unrouted traffic continues to represent a substantial portion of outbound traffic and the equitable division thereof a matter of consequence to the IRCs.

17. Table 1 shows a summary of the results of the WU study broken down for each carrier plus the figures reported by the IRCs in their Supplemental Comments for traffic directly picked up by them.

Table 1.—*Number of Outbound Messages*

[WU study]

Carrier	FTC	ITT	RCA	TRT
WU transfers:				
Unrouted:				
Exclusive		20,552	252,152	3,686
Nonexclusive		58,204	79,332	5,852
Total		78,576	331,484	9,538
Routed	503	69,328	64,179	10,740
Total transfers	503	148,084	395,663	20,278
Direct pickups	(11,375)	363,272	361,216	60,639
Total traffic	11,878	511,356	756,879	80,917

Carrier	US-L	WUI	Other (CNR & CPL)	All
WU transfers:				
Unrouted:				
Exclusive	1,459	149,977		427,826
Nonexclusive		110,943	5,413	259,744
Total	1,459	260,920	5,413	687,570
Routed	29	65,774	0	210,553
Total transfers	1,488	326,694	5,413	898,123
Direct pickups	(737)	276,554	0	1,073,793
Total traffic	2,225	603,248	5,413	1,971,916

NOTES

WU reported combined unrouted nonexclusive traffic for all carriers. Allocation has been made on the basis of the relative distribution of traffic at the WU Minneapolis distribution office.

FTC and US-L did not supply information on their direct pickups. The bracketed figures shown for these carriers were calculated by applying the WU study results to the figures shown in their respective sec. 43.61 responses.

From the study, it can be seen that RCA receives more unrouted traffic (48.2%) under the formula than any other carrier, while overall it receives only 38.4% of total traffic and 30.5% of routed WU transfers. ITT, on the other hand, receives slightly more (32.9%) routed WU transfers; but receives only 11.4% of unrouted transfers. Additionally, ITT picks up slightly more traffic directly from the public than does any other IRC (33.8%). WUI receives 30.6% of total traffic and 25.2% of routed transfers; but receives the second largest amount of unrouted transfers (37.9%). The situation with respect to TRT is equally dramatic. TRT's share of routed transfers is 5.1% and its share of direct pickups 5.6%. Yet TRT receives only 1.4% of unrouted traffic. Thus, under the present formula, it is apparent that for all carriers there is no relation (either direct or inverse) between a given carrier's handling of routed traffic and its handling of unrouted traffic.

18. The significance of this, and the importance of unrouted traffic, can be seen by comparing the overall market shares of the IRCs with their shares of routed traffic only:

TABLE 2

	(1) Share of routed WU transfers	(2) Share of direct pickups	(3) Share of total routed (1+2)	(4) Share overall (percent)
Carrier:				
FTC	0.24	1.06	0.92	0.60
ITT	32.93	33.83	33.63	25.93
RCA	30.48	33.64	33.12	33.33
TRT	5.10	5.65	5.55	4.10
US-L	.01	.07	.06	.11
WUI	31.24	25.75	26.65	30.59
Other				.27

As can be seen by comparing columns 3 and 4, there is a substantial difference between a carrier's handling of routed traffic and its handling of traffic overall. The difference between column 4 (overall share) and column 3 (share of routed) is the inclusion of unrouted traffic. RCA and ITT handle roughly equivalent levels of routed WU transfers and direct pickups but, when unrouted traffic is included, RCA's overall share dramatically increases. A similar phenomenon exists as between WUI and ITT. Overall, WUI handles significantly more (30.6%) traffic than does ITT (25.9%); but if unrouted traffic is eliminated, the situation is reversed. ITT handles 33.7% of routed traffic while WUI handles only 26.6%. Another interesting phenomenon shown by Table 2 is that the carriers' relative shares of routed WU transfers (column 1) correspond closely with their shares of direct pickups (column 2); in both categories, ITT receives more routed traffic than does any other carrier. It is only when unrouted traffic is considered that the carriers' relative market positions change and ITT drops to third.[13]

19. The distortions in the present distribution may also be seen by the number of destinations to which one or another carrier receives all unrouted traffic (referred to as an exclusive point). From the data in Table 1, it appears that 62% of WU transfers and 25% of total outbound traffic falls into this category. Of the 52 destination subareas recognized by the formula, 46 are exclusive points for gateway-originated messages and 24 are exclusive points for hinterland messages. Since to most of these subareas some or all of the other IRCs handle routed traffic, these figures also indicate the lack of relationship between a carrier's handling of routed traffic and its handling of unrouted. Further, Table 1 also shows the extent to which RCA and WUI benefit from the existence of exclusive points. RCA receives 59% of all unrouted exclusive traffic, WUI receives 35%, while ITT receives less than 5%, and the other carriers each receive less than 1%. RCA receives virtually all unrouted traffic from both the gateways and hinterland to all subareas of Area C (Pacific). Additionally, RCA receives most unrouted traffic from the hinterland to subareas of Area A (RCA receives only routed traffic from the gateways to Areas A and B). WUI receives the bulk of gateway traffic to most areas of Area A, as well as some hinterland traffic and all unrouted to most points in South America. ITT receives most gateway traffic for Caribbean points and a few European points (including one high-volume point, France). TRT receives all unrouted only to the Bahamas, British Honduras, and Columbia. Proportioned distribution is in effect for only 15% of total traffic. If one considers that at its inception the present formula called for proportioned distribution of virtually all unrouted traffic, it is readily apparent that the present distribution has departed significantly from the drafters' intent.

20. The serious distortions in distribution patterns noted above evolved over 30 years of formula operation and resulted from a structural weakness in the formula itself. This weakness is the interrelationship of the balancing provisions and the overall direction that a carrier receive all traffic specifically routed via it. Since the formula sought to keep market shares static, it provided that a carrier which increased its proportionate share through routed traffic had to give up an equivalent amount of unrouted traffic so as to restore overall balance. Conversely, if its share declined, it was to receive additional unrouted traffic. In theory, this mechanism would offset any fluctuations in the market. However, because a carrier is always to receive its routed traffic irrespective of its quota, it is apparent that the balancing provisions would work only so long as conditions in the industry did not deviate significantly from those in the base year. Experience under this formula early indicated, however, that conditions were not static and that the balancing provisions were inadequate to deal with the dynamics of the industry. The IRCs expanded their gateway operations, and self-generated traffic (by definition specifically routed) became a more important part of total traffic than it was during the base year. The rapid increase in gateway-originated traffic upset the delicate balance needed for the formula operation and caused a proportionate decline in the relative amount of unrouted traffic available to redress imbalances. This led to the emergence of the "overages" and "deficiencies" which have plagued formula administration since its inception and led to the effective demise of the proportionate distribution system.

21. An overage occurs when a carrier exceeds its quota solely through routed traffic. A deficiency occurs when a carrier receives insufficient routed traffic to satisfy its quota. Since a customer routing is inviolable, it is obvious that giving up unrouted traffic would not bring a carrier with an overage back to its quota. Conversely, unless routed traffic were taken away from such a carrier, the unrouted traffic pool would be insufficient to restore a deficient carrier to its quota. To deal with this dilemma, the IQB adopted two policies which it hoped would restore the overall balance. First, over the objections of ITT, the IQB set an overage (or deficiency) in a carrier's gateway quota for traffic to a particular subarea against a deficiency (or overage) in its hinterland quota for the same destination. Second, if this failed to restore balance, the IQB accumulated the resulting net overage or deficiency from year to year. This was apparently done in the hope that, over time, the imbalances would cancel each other. In practice, however, this resulted only in the accumulation of ever higher imbalances. The pleadings of the parties allege that at present RCA has accumulated deficiencies of $49.8 million while ITT has accumulated overages of $24.6 million and WUI overages of $24.8 million. From the history of formula operations it appears that absent an unforeseen change in market conditions, these imbalances will never correct themselves.

22. We find the accumulation of large overages and deficiencies as evidence that the formula failed to keep market shares static. As such, we do not accord them any independent legal significance. They are merely bookkeeping entries which document the shift in filing traffic from WU to IRC public offices. This is not to say, however, that these imbalances are without importance. They have played a key role in bringing about the distortions in the present distribution we noted above. It is one of the ironies of the formula that a deficiency, which on the surface appears to be a detriment, is in reality a benefit; while an overage is a detriment. RCA has accumulated substantial deficiencies during the operation of the formula; but the result has been not a decline in its relative market share. Rather, its overall share has increased due to the unrouted traffic it receives under the formula. RCA receives this traffic largely because of its accumulated deficiencies. ITT, on the other hand, has accumulated large overages overall and, consequently, receives little unrouted traffic. As deficiencies and overages appeared, the formula provided that the distribution be altered periodically to increase or decrease, respectively, a carrier's share of unrouted traffic. As this process continued, the ultimate effect was that the carrier with the largest

[13] We have focused here only on the three largest carriers, since the figures indicate that the relative positions of the smaller carriers are affected only slightly by the distribution of unrouted traffic. Under the formula, TRT does not receive unrouted traffic to many of its service points, since they were added after the formula was prescribed. FTC does not receive any unrouted traffic at all. U.S.-Liberia receives unrouted traffic to Liberia which is its only service point. Consequently, the unrouted traffic volumes of these carriers are too small to affect significantly the overall industry traffic statistics.

deficiency eventually came to receive all unrouted traffic to a given destination.

23. In its Supplemental Comments, WUI claimed that ITT's arguments concerning the formula's disincentive to competition were fallacious. ITT had argued that the balancing provisions discourage carriers from seeking to improve service. WUI, however, noted that only 226,674 messages out of a total outbound volume of 1,938,828 messages or 11.7%[13] are presently subject to the balancing provisions. Therefore, WUI argued that, the small volume subject to proportionate distribution, it is unrealistic to assume that service quality could be negatively affected by the possibility of lost unrouted traffic. This argument, while reasonable on its face, ignores the fact that the reason little traffic is subject to proportionate distribution is that for most destinations one carrier receives all unrouted traffic. However, at its inception, the formula was designed to preserve proportionate distribution to most, if not all, destinations. Thus, all WUI's figures really show is that distribution under the formula has become distorted.

24. In this connection, however, we wish to note that we are not concerned here whether or not a party can quantify negative impact of the formula. ITT did not claim that the formula has led to an impairment of service quality. At most, it argued that the distincentive discouraged improvements in quality. This is precisely what concerns us about the present pattern of distribution. We cannot ignore the possibility that quality of service could have been improved absent the inequities of the formula. In any event, by placing distribution of traffic on a rational and competitive basis, we can minimize this danger and maximize the possibility of future benefits. For this reason, we believe the distortions in distribution patterns in the present formula are injurious to the public interest and should be eliminated.

25. Besides the general problems which apply equally to all carriers, there are certain special formula provisions which confer benefits on particular carriers to the detriment of the others. These matters are Schedule B, Appendix 1, and the designation of WU offices as WUI public offices.

26. *Schedule B of the Formula.* This refers to an arbitrary compromise agreement between WU and RCA which while part of the formula, operates outside the quota system. Under this agreement, in addition to its own quotas under the formula, RCA receives a substantial extra block of traffic taken from WUI's quotas destined to certain subareas of Area A (Atlantic). This agreement derives from an earlier (1931) exchange-of-traffic contract between WU and RCA under which RCA transferred to WU all its inbound traffic destined to United States points beyond New York, Washington, San Francisco and Boston (where RCA operated its own offices). WU agreed in return to transfer to RCA all outbound traffic so that, overall, RCA received from WU two outbound messages for every nine inbound messages, it transferred to WU. This arrangement was designed to compensate RCA for the fact that it transferred to WU substantially more inbound messages than it received outbound messages.[14]

27. As we noted in our 1943 prescription order, *see* 10 FCC at 190, Schedule B was intended to redress the competitive disadvantage RCA suffered with respect to WU since, before the merger, it was the only international carrier without significant access to the hinterland market. However, whatever validity Schedule B may have had when promulgated, we can see no justification for its continuance under present conditions. While the provision does not directly affect the volume of traffic any other carrier receives, since the traffic in question comes from WUI's quotas, we believe that there is an indirect effect on those carriers which is against the public interest. Traffic exchange agreements with most foreign administrations operate on the basis of proportionate return. Proportionate return refers to the principle under which an entity carrying traffic into a country receives outbound traffic from that country in the same proportion as it handled the inbound traffic. Since there are competing circuits to virtually all the points affected by Schedule B, other carriers are competing with RCA for return traffic from those points. Therefore, RCA receives an undue benefit from Schedule B with respect to return traffic. More importantly, we cannot find any benefit to the public in the provisions of Schedule B. There is nothing in the record which indicates that Schedule B is likely to lead to improved service or lower rates; and, since we believe special treatment inconsistent with the public interest, we find that Schedule B should be eliminated from any new method of distribution.

28. After 30 years, we believe that any equities which justified granting RCA this special treatment have been extinguished. Since divestment, all the IRCs have equal access to WU's domestic landlines and all engage in substantial gateway operations. Conversely, WU has no better relationship with one carrier than another. With respect to any pre-merger benefits WU may have enjoyed, the benefits RCA has received under Schedule B since 1943 and WU's withdrawal from international message operations have adequately compensated RCA. The only other justification offered for the provisions of Schedule B—promotion of use of direct circuits wherever possible—has similarly been extinguished by changed circumstances. Today, since all IRCs operate both cable and satellite facilities, the putative advantage in RCA's being a radio carrier has disappeared. RCA is a strong competitor in the international message service and does not need special protection. It is in a position to compete with the other carriers for traffic on an equal footing. Therefore, we believe that Schedule B is inconsistent with the public interest in efficient communication service and should be eliminated from the new formula we are prescribing herein.

29. We do not agree with RCA that because Schedule B is a contract which is presently effective, we must recognize its rights thereunder in an amended distribution. Section 222(e)(3) provides that a new distribution must "be, so far as is consistent with the public interest, in accordance with the existing contractual rights of the carriers." 47 U.S.C. § 222(e)(3) (1971). The Act by its terms does not require us to recognize existing contracts which we find to be contrary to the public interest. Schedule B is merely another part of the formula and subject to our review in the same way, and under the same standards, as any other part. The fact that RCA denominates it a contract does not alter its status in this proceeding. The present formula as a whole is the result of an agreement of the parties in which each gave up certain rights and gained others and can, therefore, be said to constitute a contract between them. To characterize Schedule B, and by extension the whole formula, as RCA advocates would render Section 222(e)(3) meaningless, since a new formula would necessarily be inconsistent with "existing contractual rights of the carriers" and could never be changed. We do not believe Congress intended such an absurd result. Rather, to give effect to the apparent intent of Congress, Section 222(e)(3) must be regarded both as a protection for individual carriers, by requiring us to consider certain of their contractual rights if any amended formula, and as a delegation of authority to us to review those contracts in the public interest.

30. We also note that Schedule B was was not in existence before the merger and only became effective upon our prescription of the formula. As we have said, it is an arbitrary compromise and amounts to a reformation of, and replacement for, the 1931 WU/RCA traffic exchange contract. Thus, even if the contract language covers WU's prior contracts, it would not apply to Schedule B, since RCA chose to negotiate a new arrangement with WU to govern their relations after the merger rather than to rely on the protections afforded by the statute. Therefore, RCA cannot now rely on that provision to thwart amendment of the formula.

31. We also regard Section 222(e)(3) as conferring upon us specific power to

[13] WUI based its calculations on the results of the WU study and IQB figures. It took the total number of messages reported during the study period for nonexclusive destinations and compared them with the total volume reported for all destinations. These figures are broken down as follows:

Carrier:	World
ITT	94,080
RCA	78,414
TRT	2,200
WUI	52,380
Other	0
Total	226,674

[14] Since WU did not operate in Area C (Pacific), traffic destined to points in that Area were not covered by the 1931 contract, nor by the later Schedule B.

review contracts between the carriers and to determine whether they continue to serve the public interest. Unlike development of the original formula, amendment does not depend, even in the first instance, upon agreement of the carriers. Any party can invoke our jurisdiction to this end, or we can proceed on our own motion. Therefore, even where a provision takes the form of a "contract" between the parties, the express language of the statute requires that it serve the public interest. Where, as here, we find the provision inconsistent with that interest, Congress gave us in Section 222(e)(3) the power to prescribe a new distribution without regard to its provisions.

32. *Appendix One.* The concerns expressed above with respect to Schedule B apply equally to Appendix One to the formula. This provision sets forth a special arrangement respecting CNR and CPL and their handling of certain United States-originated traffic, pursuant to pre-merger contracts with Postal. Under this provision, CNR receives traffic to any point routed by the sender over cable facilities which transit Canada. In addition to such routed traffic, CPL also receives sufficient unrouted traffic destined to points in Areas B and C (i.e., the West Indies and Australasia) so that its proportionate share of such traffic before the merger would be maintained. This arrangement was designed to recognize CPL's rights under exchange-of-traffic contracts it had concluded with Postal and which were still in effect at the time of the merger. CPL stated that it believes it is entitled to receive raffic under this provision by virtue of the pre-merger contract and argues that the new formula should recognize those rights. CNR, however, has indicated it no longer wishes to participate in traffic distributed under this provision since it states that the revenues it receives thereunder are not sufficient to justify its continued participation in the costs of administering the formula. In view of our action herein, we will grant CNR's request to withdraw.

33. We believe that this special arrangement also should be terminated. The original justification for the provision was that the only direct cables serving the affected points landed in Canada. Accordingly, we acquiesced to the arrangement to respect a customer's choice to route his message via cable; even though that required intermediate relays and created a greater potential for delay, which could have been avoided by use of then-available direct radio circuits. The fact that we were then engaged in World War II was an important consideration in our approval of this arrangement. The availability of alternate routing through Canada for messages to Australasia was considered important to the war effort. *See* 10 FCC at 193. After the war ended, however, that consideration ceased to be a major factor. Moreover, today those points are served by cable and satellite facilities directly from the United States. Therefore, any operational justification for this circuitous routing has disappeared. In this situation, we believe that the public interest will be better served by placing all carriers on an equal footing with respect to this traffic. Traffic arbitrarily awarded under Appendix One could otherwise go to other carriers who have no less claim to it than the Canadian carriers. Therefore, we conclude that Appendix One disserves the public interest. Accordingly, we shall eliminate the arrangement from the new formula.

34. As we have noted, Appendix One was designed to recognize rights under CNR's prior contract with WU and CPL's prior contract with Postal. Therefore, under our analysis, this arrangement, at least insofar as it relates to CPL, is the type of contract Section 222(e)(3) was designed to protect. However, Appendix One, like Schedule B, is a reformation of those prior contracts. Appendix One provides by its own terms that, in the case of any conflict between its provisions and the prior contracts, Appendix One shall control. Accordingly, CNR and CPL must also be considered to have foregone the protections of Sections 222(e)(1) and 222(e)(3). In any event, Section 222(e)(3) expressly gives us the power to review Appendix One in this proceeding and, since we find it inconsistent with the public interest, to abrogate it in a new method of distribution.

35. Our action herein does not deprive either CNR or CPL of their rights to exchange traffic with WU to any point. These carriers will continue to receive all traffic specifically routed by the sender via their facilities. Further, to the extent that they handle routed traffic to any point, they will quality under the interim formula for their proportionate share of unrouted traffic. It is only with respect to unrouted traffic which was distributed on an arbitrary basis that our action has any effect. Thus, CNR and CPL are placed on the same basis as all other carriers and can compete with them for all traffic they receive. In this way, we believe that unrouted traffic may be distributed equitably, without undue benefit to any party.

36. As is apparent from our discussion of the interim formula, the right to receive traffic carries with it a consequent responsibility to share in the costs of distribution under it. With respect to CNR, we will grant its request to withdraw from participation in the distribution of traffic under the interim formula, unless and until, it notifies us that it wishes again to participate. Until such time, any traffic specifically routed via CNR will be considered unrouted for purposes of the interim formula. With respect to CPL, we will assume, unless otherwise notified, that it wishes to continue to participate in the distribution under the conditions we have set forth herein.

37. *WU/WUI Public Offices.* Under the 1963 amendments to the formula, we added a provision which permitted certain WU (domestic) public offices in New York, Washington and San Francisco[15] to be designated as WUI public offices, so that messages filed in those offices are automatically considered as specifically-routed via WUI. This was done to spare WUI the expense of establishing its own public offices so that it could compete strongly with the established IRCs. ITT and TRT have challenged this provision as unduly favorable to WUI since it thereby continues to be spared the expense of maintaining public offices which the other IRCs must incur. Further, ITT believes this arrangement, due to the similarity between the respective names of the two companies, also fosters confusion among the using public (and some WU employees) as to the routing of international messages. ITT asserts that WUI is now a viable, aggressive competitor and should be required to open its own public offices. In response, WUI denies that it receives an undue advantage from this arrangement. WUI notes that ITT and RCA have more offices (14 for RCA and 10 for ITT) in New York than the three WU/WUI offices (each carrier has one office in Washington and one in San Francisco) and that WUI is barred from opening its own offices by its agreement with WU. Further, WUI asserts that it must pay WU's landline haul charges for each message it receives through these offices, while the other IRCs do not pay WU for messages filed at their public offices.

38. We are not concerned precisely with the question whether WUI achieves a quantifiable competitive advantage by the arrangement. Whether or not the money WUI saves by not operating its own public offices is offset by the additional landline haul it pays to WU (although we are inclined to believe that it is not), the use of WU public offices as WUI offices is inconsistent with our new policies. The present arrangement was a carefully-drawn compromise which was intended to preserve each carrier's predivestment traffic shares in New York while not depriving WUI of former WU Cables traffic or forcing it into early outlays of cash for new offices of its own. *See* 30 FCC at 377–9. However, we specifically left open the question of future developments without opinion.[16] During

[15] Specifically, the formula designates as WUI offices (1) all WU public offices south of 60th Street in the Borough of Manhattan, New York (at present there are three), (2) the main and one branch WU office in Washington (at present there is only one designated office), and (3) the main and one branch WU office in San Francisco (now, only one office). WU Cables did not serve Pacific points, so there was no WU "gateway" in San Francisco as such. However, WU transferred Pacific-destined traffic to RCA in San Francisco. To allow WUI to begin operations on an equal footing with the other IRCs, we granted its request for a San Francisco gateway as part of the divestment proceeding. *See* 30 FCC 323, 371–82 (1961).

[16] Western Union Divestment, 30 FCC 323, 382 (1961): What will happen in the future will, of course, depend on the competitive efforts and the effectiveness of the carriers. That, however, will be the natural and proper result of operating in a competitive society.

the past 14 years, WUI has become a viable carrier and no longer needs special arrangements to protect its position. We are not persuaded by WUI's argument that it is blocked by its contract with WU from opening its own offices. In connection with its counter proposals, discussed above at paragraph 12, WUI Supplemental Comments at p. 8. We find it peculiar that in the one case WUI argues that it is legally unable to open offices; but under the other, it sees no such impediment. We are of the opinion that WUI is under no legal disability with respect to opening its own offices.

39. In reconsidering our approval of the WU divestment, 30 FCC 951 (1961) we stated that:

> So long as [WUI] desires to use the facilities of Western Union and have unrouted traffic filed at designated offices of that company considered specifically routed via [WUI], it should not be permitted to open additional competing offices of its own in the gateway cities. 30 FCC at 958.

We are not here talking about opening additional offices; but of replacing the designated WU offices entirely with its own offices. Therefore, neither our divestment order, nor the formula prevents WUI from following this course.

40. Further, we believe that there is at least one way in which WUI is presently deriving a competitive benefit from this arrangement. We note that in New York and San Francisco, WUI maintains its own network of customer tielines for international telex; and that it is in the process of reterminating its Washington tielines (as well as the intercity lines between Washington and New York) at its own operating center.[17] Telex tielines are direct connections between a customer terminal and the WUI telex switch and are essentially automated. Consequently, they require less human intervention than the manning of a public message counter such as those of the other IRCs. It appears, therefore, that WUI is operating its own competing telex network while relying on WU offices for the more labor-intensive message service. This we believe to be a substantial benefit—particularly since telex customers may also use their tielines to file overseas messages.[18] While this is not a violation of the formula, we believe the policy reasons discussed above for requiring WUI to choose between using WU offices or its own, but not a mixture of both, should apply here equally.

41. As to WUI's contractual obligation to WU, after 15 years we believe it bad policy for private parties to extend further a contract which is unnecessary and contrary to the public interest. In view of the small volume of message traffic filed through the designated offices, the impact on WU from the loss of its landline haul charges for this traffic will be minimal and will be outweighed by the benefits of increased competition. We note, however, that WU did not address in its pleadings the question of its contract with WUI. Therefore, we will not make any order respecting the disposition of the WUI public offices at this time. We note that under Section 214(d) of the Act, we have the power to require a carrier to open a public office or offices. While we are not now instituting such proceedings, we are prepared to do so if that becomes necessary. In connection with this matter, we have included in Section IV of the interim formula a provision labeled "special interim provision for WUI" continuing the essentials of the present WU/WUI arrangement. Upon the opening of new WUI offices, we shall amend the formula to remove the interim provision.

III. Summary and Conclusions

A. The Present Formula. 42. In determining whether the present distribution meets the statutory standard, Section 222 (e) (3) requires us to look both at private interests and at the public interest. It is clear that the various carriers have a legitimate and protected interest in assuring that their share of traffic under the formula be equitably determined. Since the formula governs relations between competitors, it is more difficult to measure its impact on the public. However, we believe that for purposes of this proceeding an appropriate general statement of the public's interest is the statutory requirement that we guarantee residents of the United States a rapid, efficient communications service with adequate facilities and reasonable charges. 47 U.S.C. § 151. We believe the market-sharing features of the present formula are ill-designed to advance this statutory goal. In the early days of international telegraphy, and particularly when cable carriers and radio carriers were separate entities, there was a vigorous competition which benefitted the public in the form of increased service coverage and substantially reduced rates. Today, in services such as telex and leased channel there is still a vigorous competition. The disappearance of radio/cable competition and the institution of the formula significantly blunted, although did not eliminate, competition in message service. The charges for message service have not increased substantially, but there has been no stimulus under the present formula to improve service or increase efficiency. In this situation, we believe that the public is ill served by a formula which stifles user choice.

43. In the designation order, we directed the parties to provide information concerning the effects on them, as well as the public, of any defects in the present formula (issue 3). From the responses to that issue, it is apparent that, like the effect on the public, the effects on the carriers of the matters we considered above are impossible of concrete quantification. The inequities we outlined above did not occur suddenly; but evolved over time and were the result of interacting forces. While this situation renders quantitative determination of the effects on individual carriers and the public exceedingly difficult, if not impossible, we believe the record before us as well as elementary logic clearly warrants the conclusion that both the individual carriers and the public have been harmed by the formula's denying a carrier unrouted traffic. The carriers so affected have seen their marketing efforts essentially nullified by the balancing provisions—ironically, the more successful those efforts have been, the more the carrier has been penalized. The formula's arbitrary disregard of the public's role has thwarted its expectations and may have resulted in an improper allocation of resources. Accordingly, we have concluded that those who have been injured are entitled to relief.

B. The New Method of Distribution. 44. In view of the foregoing, we have concluded that the present formula should be repealed. Since the special circumstances which prompted creation of the present formula more than thirty years ago no longer exist, we believe that traffic should be distributed on the basis of customer choice. In this way, the public interest will be best served, since the public will make its own decisions. WU and OT suggested that customers be required to specify the routings. While we agree in principle that we should proceed in this direction, we do not believe that the record presently before us is adequate to adopt this method at this time.

45. Although the parties were not notified that we would consider a requirement for specific routings, neither the proponents nor the opponents of this method addressed the legal or economic issues raised thereby. Consequently, we are unable at this point to determine the extent of the economic burden which would result from a requirement for specified routings, or the proper sharing of that burden between WU and the IRCs. The results of the WU study show that in 1974 approximately 3.0 million messages or some 35% of all outbound international traffic was unrouted. The study also indicates that a large number of customers either do not care to route their messages or that they are not familiar with the different IRCs, since three-fourths of WU transfers are unrouted. We believe that this is because the IRCs have not effectively sought to reach these users and that this failure may prevent the efficient operation of a customer-routing system at this time.

46. Because of the apparent unfamiliarity of users with the IRCs or their respective merits, required customer routings will require that such users be informed of their choices at the time of filing. For nearly half of all customers who file overseas messages, the only carrier with which they have contact is WU. Therefore, until IRC advertising can become effective, WU em-

[17] While WUI's tielines presently terminate at WU's Washington office, the concentrator to which they are attached is owned by WUI and maintained by WU pursuant to a contract.

[18] We are concerned by the requirement in the WU/WUI contract that WUI pay WU its specified landline haul charge whether or not WU picks up the message. We believe that WU is not entitled to landline haul charges where it has not performed any functions. *See* All America Cables and Radio, 15 FCC 293, 317 (1950).

ployees will be required to provide users with this information. Because of the number of customers involved, we believe this may place a substantial burden on WU. None of the parties considered the increase in WU's costs which would follow from this expanded role, or the effect of that increase on the users of both domestic and international service. To assure that no prejudice will result, we are of the opinion that suitable instructions and operating arrangements, agreeable to all concerned, are needed to guide WU in presenting the public a mandatory choice among IRCs. The information now before us, however, is insufficient to prescribe those instructions or operating arrangements.

47. To gather the information we need for decision, we will direct the interested parties to address the matters we have discussed above, as well as any matters they choose to raise, concerning the implications of the all-routed approach and the means to implement it in an expeditious and orderly fashion. In the interim, we will prescribe a distribution of outbound traffic on the basis of the formula in the Appendix hereto. While we are considering the carrier responses, the interim formula will provide an equitable means of distribution which will focus on customer selection and give the IRCs a chance to solicit routings. In this way, the eventual role of WU in the informational and operational process will be reduced; as will the potential for unfair advantage to any party from that role. We expect that the IRCs will use this period to expand their solicitation efforts, so that the customer routing system will work smoothly and efficiently. Further, we expect the parties during this period to work out mutually-agreeable procedures for implementation of the all-routed distribution system so that we can avoid later controversy on this point. Should the parties fail to agree on such procedures, however, we stand ready to prescribe them if that becomes necessary.

48. *Interim Formula.* In developing the interim formula, we have sought to eliminate complexities which have made the present formula difficult to administer and a source of controversy. For this reason, the interim formula treats all classes of messages as a whole, rather than individually as at present. For the same reason, we see no need to continue separate gateway and hinterland quotas. Rather, the interim formula recognizes only two categories of traffic—routed and unrouted. WU will continue to distribute specifically-routed traffic to the designated carrier. Unrouted traffic will be distributed pursuant to a simplified quota system for all traffic wherever it originates in the United States. Further, we are discarding the concept of "gross international tolls" as a basis for calculating a carrier's quota. Random distribution of messages as they are filed will, over the long run, insure that each carrier receives a fair share of revenues. We will also delete the balancing provisions, since there is no longer any need for them. This will also eliminate the chief cause of the distortions in the present distribtuion and prevent the future accumulation of overages and deficiencies. Under the new formula, any short-run imbalances which may occur due to traffic variations will correct themselves over time. One important feature of the interim formula is the provision for adjustment of the carriers' quotas. This will permit distribution to remain closely tied to changing conditons and assure that the present distortions do not recur.

49. Under the interim formula, a carrier is entitled to receive unrouted traffic to all points it is authorized to serve. ITT had proposed that unrouted traffic be distributed on a country-by-country basis among those IRCs authorized direct circuits to each such point. TRT, on the other hand, would base distribution on the points a carrier tariffs, whether served by direct circuit or through interconnection. We believe that ITT's proposal in this regard is not suited to our overall goal. Beyond the problem raised by RCA of defining a "direct circuit" (which ITT does not address), basing distribution solely on direct circuits would leave significant gaps in providing for the handling of traffic. This is because there are numerous destination points in the world which no carrier serves directly. Under the ITT proposal, there would be no provision for unrouted traffic to these points.

50. More fundamentally, however, we take exception to the philosophy underlying ITT's proposal. ITT, which has advocated competition throughout this proceeding, here seeks to limit competition. The effect of this proposal would be to deny small carriers, such as TRT or FTC, significant unrouted traffic, since those carriers serve a higher percentage of their service points through intermediate connections. We cannot find a justification in the public interest to so limit competition in this area. Since all carriers compete for traffic irrespective of routing, the only appropriate criteria are whether a carrier tariffs a destination point—since a carrier may tariff only those points it is authorized to serve—and whether a carrier handles routed traffic to a point. Therefore, eligibility for a quota will be based on the points each IRC lists in its tariff as of the release date of this order. If a carrier adds new service points, it will receive unrouted traffic to those points to the extent that it handles routed traffic. In this way, distribution can be updated to keep it in touch with changing circumstances. By limiting adjustments to six-month intervals, WU can be certain of its responsibilities and be spared the need for too-frequent changes in its distribution practices.

51. ITT and TRT also disagree on how to compute the volume of unrouted traffic to each destination an eligible carrier is to receive. ITT proposed that the volume be calculated on the basis of each eligible carrier's share of WU transfer traffic (gateway and hinterland). TRT, on the other hand, argued for distribution based solely on hinterland WU transfers in the belief that inclusion of gateway-originated traffic (including direct pickups) favors the New York carriers. We believe that the volumes should be based on *all* routed traffic, wherever originating in the United States. This includes direct pickups, direct access, and routed WU transfers. This is the most likely way to achieve the goal of distributing unrouted traffic on the same basis as routed. Direct pickups are by definition specifically routed and represent a significant portion of overall traffic. Therefore, to ignore such traffic would be unrealistic and contrary to our overall policy herein.

52. Looking beyond the features of the new formula, we will dispose of some remaining matters starting with WU's request that it be relieved of distributing traffic among the IRCs. While we are sympathetic to WU's desire to simplify its role, we cannot agree that it should be totally relieved of its responsibilities under the new formula. WU receives significant revenues from its participation in through international message service, so it cannot say that it has no interest in such traffic. Therefore, we have declined to accept its proposal to turn over all traffic to the IQB for distribution. Since WU receives the traffic from the public, it is in the position most expeditiously to effect distribution. Turning traffic over to the IQB would merely introduce an extra level of processing which would increase the risk of delays and increase distribution costs. The elimination of multiple categories, origin points, etc., outlined above will allow WU to streamline its operations and decrease its costs. We agree with WU that it should be reimbursed for the reasonable costs it incurs in effecting distribution; but do not believe it should receive a profit for its function. As we have noted, WU receives payment for its landline haul; we see no reason for it to receive a second payment from formula administration for the same traffic—beyond its out-of-pocket expenses. We anticipate that IRC solicitation of international traffic under the new formula will reduce the amount of unrouted traffic that WU must handle. Thus, its function will be further simplified as that process occurs. Finally, we see no reason why WU cannot automate the handling of traffic under the new formula if it believes that will be in its interest. Accordingly, we will continue to require WU to make the distribution of traffic under the new formula.

53. *Accumulated Overages and Deficiencies.* We turn now to a matter of particular contention among the parties—the disposition of the accumulated deficiencies and overages. RCA asserts that legally and as a matter of equity it must be compensated for its deficiencies. As we indicated above, however, we agree with the other parties that these are no more than statistical records which indicate the structural weakness of the present formula. RCA does not state why it believes that deficiencies represent a legal obligation in which it has a vested interest. Neither Section 222, nor the formula itself, directs the accumulation

of deficiencies or overages. In our order prescribing the formula we did not consider the question. RCA appears to be asserting that its quotas give it a claim to a guaranteed amount of traffic. The present formula does not guarantee any carrier that it will receive traffic. As more customers routed messages and the unrouted pool shrank, traffic available for distribution became inadequate to satisfy quotas. Such changes in the marketplace can hardly be said to have wronged RCA—particularly since its own increase in self-generated traffic and the benefits it received under Schedule B contributed to this process. Similarly without merit is RCA's contention that it has an equitable claim to compensation because it complied with the formula in good faith. The present formula is a legal obligation on the parties and compliance with its provisions is mandatory. Accordingly, we believe that the accumulated overages and deficiencies should be cancelled, without compensation, and that distribution under the new formula should be made without reference thereto.

54. *Administration.* The simplest method for handling the day-to-day administration of the interim formula will be to continue to rely on the IFC and the IQB. However, if the IFC is satisfactorily to perform its functions with respect to the interim formula, all interested carriers must be equally represented by it. Presently, FTC and CPL have no representation on the IFC. Since those carriers must be equally represenetd on it. formula they should be represented. Accordingly, we will expect that upon application FTC and CPL will be admitted to the Committee with the full rights and responsibilities of membership, including participation in the costs of the Committee and its functions.

55. As mentioned above, ITT presently has four votes on the IFC and RCA has two, while all others have one each. This situation resulted from the fact that these companies owned constituents which operated in different areas, employed different media, or provided different services. We must now recognize that those entities either no longer exist (having been merged into one company) or are under common ownership. To make the IFC a viable tool for supervising the interim formula's operations, we believe that we should recast it so that all interested members have one vote each. The parties in their response to WUI's proposal in this regard indicated no opposition to equalization. Under Section 222(e)(3), we have the power to repeal the present formula, which would terminate the IFC, and to prescribe a new formula and create a new committee with equal representation. We believe that we can legally accomplish the same result by restructuring the present committee. As before, all costs incurred by the IFC in administering the interim formula shall be borne by the members in the proportions they receive traffic under it.[19]

56. The interim formula shall become effective on February 1, 1976. The Initial quotas shall be determined by the IQB on the basis of the WU 13-week study and the information supplied by the IRCs in this proceeding.[20] Inasmuch as no party has raised any objection to this information, and all have agreed to its use, we believe it will represent an equitable basis on which the IQB can make the necessary calculations and issue the appropriate distribution instructions to WU. The IQB shall calculate the initial quotas of unrouted traffic for each country of destination by determining from the above information the number of routed messages (as defined in Section IV of the interim formula) to such destination handled by each IRC. The individual carrier figures will then be totaled for each destination and each carrier's figures compared to that total. The resulting ratios will represent each carrier's share of routed traffic for each destination point and, therefore, its quota of unrouted traffic under the inferim formula to that point. For purposes of these calculations, the IQB will employ the applicable destinations as shown in the WU 13-week study. WU will then begin distributing unrouted traffic on the basis of these percentages on February 1, 1976.

C. Canadian, Mexican, Newfoundland Formulas. 57. There is an additional matter which while not directly in issue in this proceeding, we believe appropriate to address. Section 222(e)(2) of the Act, requires a separate formula to govern distribution of outbound message traffic to Canada and Mexico. This was done to reflect the fact that under Section 222 Canada, Mexico, Newfoundland, and St. Pierre-Miquelon are considered domestic points. Pursuant to this requirement, formula for Canada and Mexico were agreed upon and prescribed by us, 10 FCC 184, 193–4 (1943). In addition to these, a separate formula was developed also for Newfoundland traffic. In its original request, ITT did not raise, and the respondents did not address, the question whether any change in these formulas is needed. However, we have decided to review these matters on our own motion.

58. The Canadian, Mexican and Newfoundland formulas do not present the same questions of arbitrary market division or special benefits we have examined above in connection with the international formula. The Canadian formula, for example, was designed primarily to preserve after merger, CPL's rights under its prior exchange-of-traffic contracts with Postal. (WU had exchanged traffic with CNR). The formula contained no cumbersome quota system and provided for periodic adjustment to keep its provisions in touch with developing circumstances. However, it now appears to us that this formula is unnecessary, since it appears that CNR and CPL no longer provide duplicating services. This being the case, there would be no opportunity or desire on the part of WU to discriminate between the two carriers. Therefore, we will repeal the Canadian formula.

59. It appears that a formula for Newfoundland traffic has similarly become unnecessary. The original reason for a separate formula for this point was to preserve to Commercial Cable Company (one of the predecessors and constituents of ITT) the pre-merger traffic which it handled to Newfoundland over its transatlantic cable and to preserve CPL's rights under its Postal contracts. Since then, however, that cable has been taken out of service and CPL no longer serves Newfoundland. Therefore, there appears no longer to be a need for this provision. Accordingly, we will repeal this provision as well.

60. The Mexican formula also appears to be unnecessary. The purpose of the formula was to accommodate two then-existing factors. First, WU turned over Mexico-bound traffic both to the Mexican administration and to the Mexican Telegraph Company. This latter company, a joint venture of WU and an ITT predecessor, operated both within Mexico and between Mexico and the United States. It was felt necessary to provide for dividing traffic between the two entities providing service to Mexico. However, the Mexican government nationalized the Mexican Telegraph Company in 1949 and has unified all telegraph operations in one entity. WU today turns all unrouted traffic over to that entity. Second, prior to the merger, TRT and RCA also operated circuits to Mexico (connecting with the Mexican government lines). The Mexican formula preserved these operations after the merger and directed WU to turn over all traffic specifically routed via these carriers. We believe there is no need to continue a separate arrangement for Mexico. Rather, we will require WU to continue honoring RCA and TRT specific routings. All unrouted traffic will be turned over to the Mexican entity. We wish to emphasize however, that our action does not relieve WU of its obligation to treat all carriers in an equitable and non-discriminatory manner in distribution of outbound traffic.

---

[19] A companion proceeding in this docket was instituted to consider a request by WU for increased payments for its domestic handling of overseas message telegrams (landline haul). By Memorandum Opinion and Order in this proceeding, 55 FCC 2d 96, *reconsideration granted in part and denied in part,* 55 FCC 2d 382 (1975) (Docket No. 19660), we approved as a basis for terminating that proceeding a settlement agreement entered into by the parties under which WU's landline haul divisions for full-rate messages were increased from 6.5¢ per word to 9.5¢ per word (with corresponding lesser increases for lower classes of service). Our order amended Schedule C of the present formula by substituting the new divisions. Our action herein does not affect this provision other than to change its designation to Schedule A to reflect the fact that the two preceding schedules have been replaced.

[20] As noted, FTC and US-Liberia did not provide information concerning their direct gateway pickups during the study period. Therefore, we will direct each of these carriers to file by January 10, 1976, with the other IRCs, the IQB, and the Commission data on all traffic it picked up directly during the period December, 1974 through March, 1975. These responses shall be presented in the same format as that in the WU 13-week study and in the other IRC reports.

D. Maritime Formula. 61. Comsat General has asserted that the present formula under which telegraph traffic between points in the United States and ships at sea is presently distributed will not be suitable upon introduction of maritime satellite facilities; and requests that a separate inquiry be initiated to consider the need for revision of the maritime formula as well as specific proposals for such revision. We note that ITT in its original petition did not address the maritime formula and that the inquiry herein was limited to the formula covering overseas telegraph messages. *See* 43 FCC 2d 1174. Consequently, the parties were not directed to address the merits of the maritime formula. However, we note that, like the formula under consideration, the present maritime formula is based on a quota system tied to market shares in a pre-merger base period (in this case, 1938). Therefore, the objections we have expressed with respect to market-sharing devices in the international formula may apply to the maritime formula as well. In this situation, we agree with the parties who have commented on the subject that it would be appropriate to examine the maritime formula and that this should be done in a separate proceeding. Accordingly, we will by separate order direct all interested persons to file comments on the continued reasonableness of the maritime formula.

62. In summary, we have concluded that the public interest in the provision of international telegraph services will be best served by relying primarily on consumer choice for the distribution of traffic among the several international record carriers. Due to certain unresolved questions concerning possible operational, economic and legal implications, we will not prescribe that all international telegraph traffic must be specifically routed by the customer. As an initial measure, we shall prescribe a formula which distributes unrouted traffic among the carriers in direct proportion to their share of routed traffic. By thus rewarding the successful competitor—rather than penalizing him as does the present formula—we expect a more aggressive marketing effort and a consequential reduction in unrouted traffic. Meanwhile, we are soliciting prompt comments concerning the operational, economic, and legal implications of an all-routed distribution in order that we may reach an early decision concerning whether the public interest would be served even better through this means.

63. Accordingly, it is ordered, Pursuant to Sections 1, 4(i), 4(j), 201, 222 (e)(1), 222(e)(3), and 403 of the Communications Act of 1934, as amended, that the formula prescribed by the Commission in 1943 pursuant to 47 U.S.C. § 222(e)(1) (1971) governing distribution by the Western Union Telegraph Company among the international record carriers of outbound, unrouted international message telegraph traffic, and all prior amendments thereof, is (with the exception of Appendix 2) hereby Repealed, effective March 1, 1976;

64. It is further ordered, Pursuant to Sections 4(i), 4(j), 201, 222(e)(3) and 403 of the Communications Act, that the parties to the formula inquiry are directed to file, and any interested person may file, on or before March 26, 1976, comments on the legal, economic and operational implications of distributing outbound, unrouted message telegraph traffic on the basis of required customer routings and the means by which transition to such a method may be efficiently made; replies to the above comments may be filed on or before April 23, 1976;

65. It is further ordered, That the interim formula set forth in the Appendix hereto is hereby Prescribed as the formula for distribution of such outbound traffic and shall be followed from March 1, 1976 until further order of the Commission;

66. It is further ordered, That distribution of traffic under the interim formula prescribed herein shall be based initially on the respective international record carriers' shares of such traffic derived from the information supplied by the carriers in this proceeding and the results of the study of outbound traffic conducted by The Western Union Telegraph Company; in this connection, French Telegraph Cable Company and United States-Liberia Radio Corporation shall file with the Commission and the International Formula Committee/International Quota Bureau on or before January 20, 1976, the number of outbound international telegraph messages picked up by them directly during the period of the Western Union study, broken down by destination according to the format used in that study;

67. It is further ordered, That the formulas prescribed by the Commission in 1943 pursuant to 47 U.S.C. § 222(e)(2) governing distribution of outbound, unrouted message telegraph traffic between the United States and Canada, Newfoundland, and Mexico, respectively, are hereby Repealed: The Western Union Telegraph Company shall distribute such traffic in a fair and non-discriminatory manner which will, to the extent possible, honor the choice of the customer in designating the carrier to which such traffic is to be transferred; and

68. It is further ordered, That the requests of RCA Global Communications, Inc. and Western Union International, Inc. for the convening of oral evidentiary hearings in this proceeding are hereby Denied.

Adopted: December 22, 1975.

Released: January 7, 1976.

FEDERAL COMMUNICATIONS COMMISSION,[21]
[SEAL] VINCENT J. MULLINS,
Secretary.

Formula, Pursuant to Section 222(e)(1) of the Communications Act, for the Distribution of Outbound International Message Telegraph Traffic Handled by the Western Union Telegraph Company, As Amended Through December 22, 1975.

This formula, pursuant to Section 222(e)(1) of the Communications Act of 1934, as amended, provides the method for distribution by The Western Union Telegraph Company (hereinafter referred to as Western Union) among international telegraph carriers of outbound international message telegraph traffic handled by it within the Continental United States, as that term is defined in Section 222(a)(10) of the Communications Act.

The traffic for which distribution is provided herein is all message telegraph traffic by wire or radio, specifically routed or unrouted, handled by Western Union originating in the continental United States, provided, however, that quotas established in Section V hereof shall not apply to the non-message or measured services offered by the carriers, nor to marine (shore to ship) traffic handled by Western Union with respect to the distribution of which a separate formula is annexed hereto as Schedule B.

II. Interested Carriers. The international carriers interested in the distribution of traffic provided for in this formula will be the following (unless and until other international carriers enter business):

Canadian Pacific, Ltd., French Telegraph Cable Company, ITT World Communications Inc., RCA Global Communications, Inc., TRT Telecommunications Corp., U.S.-Liberia Radio Corp., and Western Union International, Inc.

In general, an international carrier is interested in the distribution of traffic provided for herein whenever it handles routed traffic to a destination point under the conditions set forth in Section V, below.

III. Specifically-Routed Traffic. The right to receive a quota under this formula shall not purport in any manner whatsoever to limit or to restrict a carrier's scope of future operations; and a carrier shall always be entitled to receive its specifically-routed traffic to all destination areas, if it accepts such traffic in pursuance of its published tariffs and transmits it to an overseas point.

IV. Categories of Messages. For purposes of calculating the quotas specified in Section V, below, all categories or classes of traffic shall be considered in the aggregate with one quota covering all classes of message telegraph traffic.

Notwithstanding any provision in this formula to the contrary, Western Union and all international carriers shall respect specific routings of any messages handled by it, and shall transfer to another carrier any messages specifically routed via such other carrier. All international messages delivered by Western Union shall carry in the preamble the agreed upon "via" of the international carrier which transferred the message to Western Union. Messages shall not be considered specifically routed by virtue of the use of a particular carrier's telegraph blank. For purposes of, and wherever used in, this formula, a message shall be considered specifically-routed

[21] Concurring statement of Commissioner Hooks, filed as part of the Original document.

via a particular carrier in any of the following cases:

(a) Where messages are filed at an office established, operated, and maintained by an international carrier, whether filed in person, by messenger, by telephone or received over a tieline or other directly-connected facility terminating in such office, unless the customer specifically routes such messages via a carrier other than the carrier maintaining such office (direct gateway pickup);

(b) Where messages are filed directly with a particular international carrier at its gateway office by means of domestic communications networks such as domestic telex, TWX, telephone, or mail, or by messenger so long as the customer pays all charges incurred in connection with the use of such means for the purpose of filing international messages (direct access);

(c) Where messages are filed with an international carrier by a customer located outside that carrier's gateway city by means of a tieline or other directly-connected facility terminating in that carrier's gateway office, so long as the costs for establishing, operating and maintaining such facility are borne by the customer (hinterland tieline);

(d) Where messages are filed with Western Union at any of its offices (except those specified in (e) below) or by other means of filing provided for in the Western Union tariff, and transferred by Western Union to an international carrier over Western Union's landline system, so long as the following conditions are met:

(i) If, when filed in person, the specific routing is written in by the sender,

(ii) If, when filed by messenger, the message contains a specific routing which has been previously inserted by the sender (Messages shall not be considered specifically routed merely by virtue of the use of a particular carrier's telegraph blank),

(iii) If, when filed by telephone (whether to a Western Union office, an agency office, or to a Western Union Central Telephone Bureau), a specific routing is inserted by the receiving clerk at the unsolicited request of the sender, or

(iv) If, when filed over a tieline or other directly-connected facility, the specific routing has been transmitted by the sender; and

(e) (*Special interim provision for Western Union International, Inc.*). Messages shall be considered specifically-routed via Western Union International, Inc. when they are filed, without specific routing via another carrier having been designated by the sender, at all offices of Western Union located in the area south of 60th Street in the Borough of Manhattan, New York; the main office of Western Union in San Francisco, California; and the main office of Western Union in Washington, D.C. (all the above of which shall be considered as Western Union International public offices for purposes of this Section).

Traffic specifically routed by the sender via a particular carrier and destined to points not tariffed by that carrier shall be considered unrouted and shall be distributed in accordance with the provisions of Sections V and VI below.

But nothing in the foregoing shall be construed as requiring any international carrier to accept, over tieline facilities furnished to its customers by a particular carrier, messages which are routed by the sender via another international carrier.

V. Quotas. For outbound, unrouted international telegraph messages destined to particular international points, originating at points within the continental United States handled by Western Union, there shall be for each international carrier a quota of such traffic calculated without consideration either of the category[1] or length of the message. An international telegraph carrier is entitled to receive from Western Union unrouted traffic under this formula picked up by Western Union for each overseas destination point listed in that carrier's effective outbound message telegraph tariff as of the release date of the order prescribing this formula, whether that carrier serves such points directly or by interconnection; and, thereafter, a carrier shall be entitled to a quota for each additional destination point which that carrier is authorized by the Federal Communications Commission to serve directly. As determined in accordance with the preceding, an international carrier's quota shall be, for each eligible destination point, the ratio of the number of outbound routed messages to such destination point (as calculated pursuant to Section IV above) handled by such international carrier during the base period to the total number of routed messages destined to that point handled by all international carriers serving that point (whether picked up directly by the carrier or transferred to it by Western Union) during the same period. Upon the effective date of this formula, the initial quotas shall be calculated on a basis as the Federal Communications Commission shall by order prescribe. Thereafter, the quotas shall be recalculated at six-month intervals on the basis of traffic figures for the equivalent preceding six-month period, at which time any adjustments to the number of destination points served by international carriers which have occurred since the previous adjustment shall be communicated to the administrative body provided for in Section X below which shall communicate to Western Union the appropriate change to be made in its distribution of traffic. The above adjustment shall take place on dates to be determined by the interested parties.

VI. Distribution of Traffic in Accordance with Quotas. The quotas established by Section V hereof shall be applied by Western Union as follows:

(i) Specifically-routed traffic shall be transferred to the international carrier indicated by such routing; and

(ii) Unrouted message shall be distributed (without regard either to their length or classification of service) in the order of their arrival at the Western Union distribution office so that each international carrier will receive a volume of unrouted messages which will equal its quota. If the messages so distributed fail in any month to give the international carrier its quota, the distribution of messages shall be modified as soon as practicable after the ascertainment of such deficiency in such manner as to compensate for such deficiency and to assure to such carrier thereafter receives its quota. Inasmuch as the quota system set forth herein is designed to change automatically if traffic patterns change, the imbalance referred to above will be essentially self-correcting. However, in no event are deficiencies which may result in the short run to be considered legal obligations in which any carrier has a vested interest; and, accordingly, there shall be no accumulation of such deficiencies from year to year. Each international carrier entitled to share in such distribution shall furnish to the joint distribution office any information necessary to enable such distribution of unrouted messages to be effected in accordance with this formula. For purposes of the semi-annual adjustment to the quotas provided for in Section V above, all interested international carriers shall determine dates each year by which traffic data is to be supplied to the committee provided for in Section X below.

If any international carrier entitled to a quota reserves in any month a larger percentage of unrouted messages than its quota, Western Union shall transfer to the other international carriers interested therein a sufficient number of unrouted messages destined to the same point to balance the excess received by the particular international carrier. These overages shall not be considered legal obligations of the particular international carrier and shall not be accumulated from year to year.

VII. Distribution Offices. The Merged Company shall distribute traffic destined for transfer to an international carrier from a distribution office or offices selected by it and approved by the Commission.

Each international carrier entitled to share in the distribution of messages from distribution offices of the Merged Company shall have access to such distribution offices at any time to protect its interests in the method of making such distribution and transfer of messages to its operating rooms.

VIII. Transit Traffic. It is understood that this formula does not cover any telegraph traffic originating outside the United States and transiting the United States, and that all such traffic handled by Western Union shall be turned over to the international carrier which would have handled the same if the consolidation or merger of Western Union and Postal Telegraph, Inc., had not occurred or as may be specifically routed.

IX. Equality of Treatment of International Carriers and Division of Charges. Except as provided in Section IV of this

[1] The categories of service recognized by the parties to which this formula applies are those shown in Schedule A of this formula.

formula with respect to message traffic originating in certain gateway offices of Western Union, the services furnished by the Merged Company to the international carriers in connection with the handling of international traffic covered by this formula shall be uniform and non-discriminatory; and the division of charges for such outbound international traffic shall be such that Western Union shall retain or receive, for landline haul in connection with international traffic handled by it, or for pickup services, amounts which shall be prescribed from time to time by the Federal Communications Commission.

X. Administration. The supervision of the operations of this formula shall be by a committee of representatives of each of the interested international carriers, in which committee each carrier shall have equal representation, and the costs of which shall be equitably shared by the international carriers.

All costs involved in the maintenance by Western Union of distribution offices and in the distribution by it of traffic under this formula, including the cost of maintaining appropriate records as to the distribution, shall be equitably shared by the international carriers receiving traffic under this formula and reimbursed by them to Western Union; and all costs of distribution of traffic beyond the distribution offices of Western Union shall be borne by the international carriers. In the event there is disagreement among the members of the committee with respect to any feature of the distribution of traffic under this formula, the disagreement shall be submitted to the interested carriers, including Western Union. In the event the carriers are unable to agree among themselves, the matter shall be submitted to the Federal Communications Commission for a ruling.

XI. Effective Date of Formula. The provisions of this formula shall become effective and shall govern the distribution of traffic on February 1, 1976.

SCHEDULE A—DIVISION OF OUTBOUND CHARGES

The landline or pickup charges shown in the table below opposite each service classification under the caption "Divisions Per Word", and the number shown in the table below opposite each service classification under the caption "Minimum Number Chargeable Words Per Message," shall be respectively the charges per word (cable count), and the fewest number of words (cable count) per message which are to be charged by Western Union for handling outbound international message traffic in each classification handled by it regardless of the point or origin in the United States or the point of transfer to an international carrier in the United States, *provided, however,* that the merged company shall continue to pay to the Canadian carriers the same amounts per word which were being paid on July 1, 1958, with respect to that traffic exchanged with Canadian carriers destined to those points which are subject to the Telecommunications Agreement between the United States of America and British Commonwealth Governments (TIAS 2705, 1952).

Landline haul divisions

	Minimum number of chargeable words per message	Division per word (cents)
Full rate	7	9.5
Letter telegram	22	4.75
U.S. Government full rate (no discount)	7	9.5
U.S. Government full rate (at discount)[1]	7	4.75
U.S. Government letter telegram	22	4.75
Other Government full rate (no discount)	7	9.5
Other Government full rate (at discount)[1]	7	4.75
Other Government letter telegram	22	4.75
United Nations full rate (no discount)	7	9.5
United Nations full rate (at discount)[1]	7	4.75
United Nations letter telegram	22	4.75
Meterological	7	4.75
Urgent press	14	9.5
Ordinary press	14	3.1

[1] The "at discount" division shall apply if a discount of 50 pct applies to the through rates. As soon as the discount is eliminated with respect to any point, the charges applicable to "no discount" traffic shall automatically apply.

[FR Doc.76-633 Filed 1-9-76;8:45 am]

[Docket Nos. 20643, 20644; File Nos. BPH-7975, BPH-9437]

ANDY VALLEY BROADCASTING SYSTEM, INC. AND THE GREAT DOWN EAST WIRELESS TALKING MACHINE CO., INC.

Construction Permits; Designating Applications for Consolidated Hearing on Stated Issues

1. The Commission, by the Chief of the Broadcast Bureau, acting pursuant to delegated authority, has before it the two above-captioned applications which are mutually exclusive in that they seek the same channel in Auburn, Maine.

2. Andy Valley Broadcasting System, Inc. [Andy Valley], requests a waiver of § 73.240 of the rules, as the predicted 1 mV/m field strength contour of its proposed operation, as computed under the (now superseded) engineering standards at the time of tender, would overlap with that of commonly owned station WTOS (FM), Showhegan, Maine. In support of its request, Andy Valley states that the area of predicted overlap is sparsely settled and rural in nature. Review by the Commission's staff, however, when recomputing the pertinent field strength contours in light of the presently prevailing FM field strength curves, § 73.333 of the rules, indicates that no overlap of the 1 mV/m signals of these stations would obtain. Therefore, the request for waiver by Andy Valley will be dismissed as moot.

3. The Great Down East Wireless Talking Machine Company, Inc. [Down East], requests a waiver of § 73.315(a) of the rules, as its predicted 3.16 mV/m contour does not fully cover the city of Auburn. Down East asserts that the excluded area is rural, and constitutes but six percent of the total area of the city. Further, the most distant portion of Auburn from the proposed Down East transmitter site will receive a signal of 1.6 mV/m from the proposed facility. As Andy Valley's application does not request a similar waiver, and alternative locations are apparently available which would provide the requisite coverage of all of Auburn, an issue will be specified to determine whether the waiver of § 73.315(a) sought by Down East should be granted.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the proposal of Down East is in compliance with § 73.315(a) of the Commission's rules with respect to provision of a 3.16 mV/m signal over the entire community of license, and, if not, whether the public interest would be served by waiver of said section.

2. To determine which of the proposals would, on a comparative basis, better serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. It is further ordered, That the request for waiver of § 73.240 of the rules, by Andy Valley Broadcasting System, Inc., is dismissed as moot.

7. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

8. It is further ordered, That the applicants herein, shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by section 1.594 (g) of the rules.

Adopted: December 22, 1975.

Released: January 6, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-798 Filed 1-9-76;8:45 am]

LORAIN ELECTRONICS CORP.

Prototype Automated/Manual VHF Public Correspondence System; Great Lakes; Memorandum Opinion and Order Extending Time

1. We have under consideration a request by Lorain Electronics Corporation (Lorain) and the Lake Carriers Association (LCA) for an extension of rule waivers granted by the Commission to permit the establishment and operation of a prototype VHF maritime radiocommunication system to serve vessels on the Great Lakes. Those waivers expire on December 31, 1975.

2. Additionally, Lorain has requested extension of its authority to use channel 20 (161.6 MHz) in connection with the system. The grant of authority to use that frequency requires international and other coordination. We will, therefore, act on that request separately and later. In the meantime the frequency may still be used pending finalization of our coordination efforts, without prejudice to any action we may thereafter take on that request.

3. In support of its request for extension of the subject rule waivers, Lorain reports that its prototype system is fully operational on that part of the Lakes where it operates coast radio facilities. Also, Lorain states that it will provide us with a complete engineering and evaluation report in early 1976, upon which the Commission can base a decision as to the appropriate action to take on Lorain's pending petition for rule making to provide for the regular operation of the system.

4. In view of the favorable information furnished by Lorain, and other information before us, we find that the public interest, convenience and necessity would be served by the grant of Lorain's request for extension of the rule waivers needed for the continued operation of its prototype system.

5. Accordingly, it is ordered, That the Lorain and LCA request is granted pursuant to authority contained in Sections 4(i) and 303(g) of the Communications Act of 1934, as amended, and § 0.131 and 0.331 of the Commission's rules, and the rule waivers for Lorain operated stations, or for stations associated with the operation of the Lorain prototype Great Lakes maritime radiocommunication system, are extended to December 31, 1976, as follows:

(a) All MF-HF Public Coast and HF ship stations on the Great Lakes may continue use of DSB operations on a non-interference basis to stations operating in conformity with the rules.

(b) The six Public Coast stations (Duluth, Minn., WAS; Copper Harbor, Mich., KVY 602; Grand Marais, Mich., KVY 603; Sturgeon Bay, Wisc., KVY 604; Port Washington, Wisc., WAD; and Lorain, Ohio, WMI) participating in the program are permitted the emission, station identification and operational latitudes set forth in paragraph 7 of The Commission's Memorandum Opinion and Order re-released January 15, 1974 (FCC 74-885).

(c) The moratorium on applications for VHF Public Coast facilities on the Great Lakes established by the Commission in that Memorandum Opinion and Order, and extended until January 1, 1976, in the Commission's Memorandum Opinion and Order released February 14, 1975 (FCC 75-160) is further extended until December 31, 1976.

(d) Section 81.191(c)(2) of the Commission's rules is waived for brief periods under the circumstances described by Lorain, as that section applies to Lorain's prototype stations named herein.

6. It is further ordered, That a copy of this Memorandum Opinion and Order be posted with each authorization for a system station operated by Lorain, or for other stations participating in the Lorain system.

Adopted: December 22, 1975.

Released: December 24, 1975.

[SEAL] CHARLES A. HIGGINBOTHAM, *Chief, Safety and Special Radio Services Bureau.*

[FR Doc.76-796 Filed 1-9-76;8:45 am]

PBX TECHNICAL STANDARDS SUBCOMMITTEE TASK GROUPS

Notice of Meeting

JANUARY 7, 1976.

In accordance with Pub. L. 92-463, announcement is made of a public meeting of the PBX Technical Standards Subcommittee Task Groups to be held February 3-4, 1976 in Washington, D.C. The meeting on February 3 will commence at 10 a.m. and will be held in Room 752, 1919 M Street NW., and will be related to the work of the Glossary Task Group. The meeting on February 4 will commence at 10 a.m. and will be held in Room 752, 1919 M Street NW., and will be related to the work of the Interface Criteria Task Group.

1. *Purpose:* The purpose of this Subcommittee is to prepare recommended standards and procedures to permit the interconnection of customer-provided and maintained PBX equipment to the public switched network without the need for carrier-provided connecting arrangements.

2. *Activities:* As at prior meetings, Subcommittee members and observers present their suggestions and recommendations regarding the various technical criteria and standards that should be considered in respect to the interconnection of PBX equipment to the public telephone network.

3. *Agenda:* The agenda for the February 3rd Glossary Task Group will be as follows:

(a) Continue the review of the draft Glossary to eliminate duplicate definitions and those not specifically related to the fields of interconnection and PBX systems.

(b) Plan for completion of the Glossary.

The agenda for the February 4th Interface Criteria Task Group will be as follows:

(a) Review status of Interface Criteria for Message Registration and AIDO homework draft documents. (No further work is planned for Off-Premise Stations and Tie Trunks).

(b) Plan for completion of final draft.

4. *Public Participation:* The public is invited to attend this meeting. Any member of the public wishing to file a written statement with the Subcommittee may do so before or after the meeting.

For more information, contact the Common Carrier Bureau on (202) 632-6917.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.76-797 Filed 1-9-76;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RI76-99]

CONTINENTAL OIL CO.

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject To Refund[1]

DECEMBER 31, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these procedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* [4] Rate in effect	Cents per Mcf* [4] Proposed increased rate	Rate in effect subject to refund in dockets No.
RI76-99	Continental Oil Company	257	24	Southern Union Gathering Co. (New Mexico) (Rocky Mountain):	$33,765	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-115
	do		25	do	416	11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	287	17	Northwest Pipeline Corp. (New Mexico) (Rocky Mountain).	549	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		18	do		11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	309	15	do	4,316	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		16	do		11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI76-93
	do	408	23	do	2,222	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-639
	do	198	23	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	2,763	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		24	do		11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	199	16	do	650	11-20-75		6-1-76	27.7725	28.3279	RI75-93
	do	208	24	do	2,222	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do	221	21	do	344	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		22	do		11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	259	25	do	152	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		26	do		11-20-75		6-1-76	29.3311	[2] 29.8363	RI75-93
	do	266	17	do	20	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		18	do		11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	267	17	do	$200	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		18	do		11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	277	25	do	140	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		26	do	23	11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	279	17	do	12	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		18	do		11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	295	16	do	354	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		17	do		11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	296	31	do	4,814	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		32	do	13,362	11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	332	16	do	401	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		17	do		11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	334	16	do	145	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		17	do		11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	336	23	do	5,969	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		24	do		11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	339	21	do	1,439	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do	339	22	do	839	11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	340	16	do	270	11-20-75		6-1-76	[1] 27.7725	[1] 28.3279	RI75-93
	do		17	do	52	11-20-75		6-1-76	[2] 29.3311	[2] 29.8363	RI75-93
	do	389	9	do	270	11-20-75		6-1-76	27.5252	28.3279	RI75-93

*Unless otherwise stated, the pressure base is 15.025 lb/in [2]a.

[1] Applicable to wells completed prior to June 1, 1970.

[2] Applicable to wells completed after June 1, 1970.

[3] Applicable to acreage dedicated to basic contract prior to Oct. 1, 1968. (R/S also covers post-Oct. 1, 1968, dedications.)

[4] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.

The proposed rate increases of Continental Oil exceed the applicable area ceiling in Opinion No. 658 and they are suspended for five months.

[FR Doc.76-603 Filed 1-9-76;8:45 am]

[Docket Nos. RI75-76]

EXXON CORP.

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

DECEMBER 31, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix "A" hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* [3] Rate in effect	Cents per Mcf* [3] Proposed increased rate	Rate in effect subject to refund in dockets No.
RI75-76	Exxon Corp	357	45	Columbia Gas Transmission Corp. (South Louisiana) (onshore).	$210,722	11-28-75		(4)	[1] 59.53	[1] 60.55	
	do			do	38,719	11-28-75		(4)	[1 2] 53.55	[1 2] 54.57	

* Unless otherwise stated, the pressure base is 15.025 lb/in.²a.
[1] Includes 0.51¢/M ft.³ gathering allowance.
[2] Includes 1.02¢ transportation allowance for delivering offshore gas onshore.
[3] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.
[4] Accepted, subject to refund in docket No. RI75-76 as of Jan. 1, 1976.

The proposed rate increases are accepted subject to refund in Docket No. R175-76 as of January 1, 1976.

[FR Doc.76-604 Filed 1-9-76;8:45 am]

[Docket Nos. RI76-80 and RI76-81]

HONDO OIL AND GAS CO., ET AL.

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

DECEMBER 15, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* [1 4] Rate in effect	Cents per Mcf* [1 4] Proposed increased rate	Rate in effect subject to refund in docket No.
RI76-80	Hondo Oil & Gas Co	4	10	Northwest Pipeline Corp. (New Mexico) (Rocky Mountain).	$193	11-12-75		6-1-76	26.5452	27.3540	
RI76-81	Atlantic Richfield Co	178	16	do	552	11-21-75		6-1-76	26.5452	27.3540	
	do	179	16	do	1,639	11-12-75		6-1-76	26.5452	27.3540	
	do	180	20	Northwest Pipeline Corp. (Colorado) (Rocky Mountain).	3,483	11-12-75		6-1-76	25.796	26.290	
	do	281	[3] 18	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	16,935	11-12-75		6-1-76	26.5452	27.3540	
	do		[3] 19	do	794	11-12-75		6-1-76	29.3276	29.8368	RI75-58
	do	293	11	do	280	11-12-75		6-1-76	26.5452	27.3540	
	do	301	[3] 15	do	3,519	11-12-75		6-1-76	26.5452	27.3540	
	do		[3] 16	do	357	11-12-75		6-1-76	29.3276	29.8368	RI75-58
	do	306	9	do	432	11-12-75		6-1-76	26.5452	27.3540	
	do	512	12	do	0	11-12-75		6-1-76	26.5452	27.3540	
	do	513	13	do	1,254	11-12-75		6-1-76	26.5452	27.3540	
	do	552	17	do	1,593	11-12-75		6-1-76	26.5452	27.3540	
	do	580	10	Northwest Pipeline Corp. (New Mexico) (Rocky Mountain).	80	11-12-75		6-1-76	26.5452	27.3540	

*Unless otherwise stated, the pressure base is 15.025 lb/in²a.
[1] Subject to upward and downward British thermal unit adjustment from a base of 1,000 Btu.
[2] Applicable to gas from wells completed prior to June 1, 1970.
[3] Applicable to gas from wells completed on or after June 1, 1970, and prior to Jan. 1, 1973.
[4] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.

The proposed rate increases exceed the applicable area ceiling set forth in Opinion No. 658, and they are suspended for five months.

[FR Doc.76-599 Filed 1-9-76;8:45 am]

[Docket No. CS72-559, etc.]

THE HUNTER CO., INC., ET AL.

Notice of Applications for "Small Producer" Certificates [1]

DECEMBER 16, 1975.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 12, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearings.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS72-559	Oct. 20, 1975 [1]	The Hunter Co., Inc., 1100 Mid South Towers, Shreveport, La. 71161.
CS76-188	Oct. 14, 1975	Seneca Oil Co., 3013 Northwest 59th St., Oklahoma City, Okla. 73112.
CS76-189	do	David M. Underwood, 1053 Esperson Bldg., Houston, Tex. 77002.
CS76-190	do	John J. Lyon, 841 Marias, Shelby, Mont. 59474.
CS76-191	do	O. O. Cummings, Route 1, Box 115, Farmerville, La. 71241.
CS76-192	do	Michael L. Klein, 204 Midland National Bank Bldg., Midland, Tex. 79701.
CS76-193	do	Alvin Luskey, 101 North Houston St., Forth Worth, Tex. 76102.
CS76-194	do	O. G. Murry, P.O. Box 458, Kane, Pa. 16735.
CS76-195	Oct. 15, 1975	Neuhoff Oil & Gas Corp., 5543 Yale Blvd., Dallas, Tex. 75206.
CS76-196	do	William B. Macey, 1600 Broadway, Suite 1785, Denver, Colo. 80202.
CS76-197	do	Hillmac Production Co. 1600 Broadway, Suite 1785, Denver, Colo. 80202.
CS76-198	do	Howard L. Kennedy, 750 West Hampden Ave., Englewood, Colo. 80110.
CS76-199	do	Kennedy & Mitchell, Inc., 750 West Hampden Ave., Englewood, Colo. 80110.
CS76-200	do	John F. Mitchell, 750 West Hampden Ave., Englewood, Colo. 80110.
CS76-201	do	Geo. R. Shaw, 1001 Union Center Bldg., Wichita, Kans. 67202.
CS76-202	do	Paul M. Mershon, Jr., 789 Clarkson, Suite 904, Denver, Colo. 80218.
CS76-258	Oct. 31, 1975	Fletcher Adkins and Virgie Mae Adkins, P.O. Box 74, West Hamlin, W. Va. 25571
CS76-259	Nov. 3, 1975	William E. Jeffers, P.O. Box 65, Artesia, N. Mex. 88210.
CS76-260	do	D. E. Dunne, Jr., 250 North Rock Rd., Suite 140, Wichita, Kans. 67206.
CS76-261	do	Glenn M. Dunne, 200 West Douglas, Wichita, Kans. 67202.
CS76-262	do	C. F. Qualia, 112 Mid-America Bldg., Midland, Tex. 79701.
CS76-263	do	Poland McLean, 2321 Chicago, Kingman, Ariz. 86401.
CS76-264	do	Earl A. Latimer, Jr., 401 North Penn., Roswell, N. Mex. 88201.
CS76-265	do	Pico Drilling Co., P.O. Box 512, Breckenridge, Tex. 76024.
CS76-266	do	WES-TEX Drilling Co., P.O. Box 2305, Abilene, Tex. 79604.
CS76-267	do	John F. Sullivan, 1201 Bayside Dr., Corona del Mar, Calif. 92625.
CS76-268	Nov. 6, 1975	Clyde W. Alexander, P.O. Box 1141, Jackson, Miss. 39205.
CS76-269	do	Mrs. June K. Lazarde, 811 Hibernia Bank Bldg., New Orleans, La. 70112.
CS76-270	do	Mrs. Louise T. Kepper, 33 Park St., New Orleans, La. 70124.
CS76-271	Oct. 6, 1975	Rose L. Prieur, 749 First NBC Bldg., New Orleans, La. 70112.
CS76-272	Nov. 6, 1975	Paul Bordlee, 1440 Canal St., Suite 1620, New Orleans, La. 70112.
CS76-273	do	Chamberlain Family Group, Anna B. Chamberlain, Agent, 2800 South University Blvd., No. 67, Denver, Colo. 80210.
CS76-274	Nov. 7, 1975	W. G. Haun, 507 Union National Bldg., Wichita, Kans. 67202.
CS76-275	Nov. 10, 1975	Brookville Oil and Gas Co., 271 Main St., Brookville, Pa. 15825.
CS76-276	do	Vicki Mitzel, P.O. Box 2975, Tulsa, Okla. 74101. c/o Sam Mitzel.
CS76-277	do	Gary Dean Mitzel, P.O. Box 2975, Tulsa, Okla. 74101.
CS76-278	do	Thomas W. Ellison, 2202 Cimmaron Ave., Midland, Tex. 79701.
CS76-279	do	Edna L. Ellison, 1801 N. Midland Dr., #100, Midland, Tex. 79701.
CS76-280	Nov. 7, 1975	Richard King, Jr., P.O. Box 20143, Houston, Tex. 77025.
CS76-281	Nov. 10, 1975	Longview Oil Co., Box 1251, Kilgore, Tex. 75662.
CS76-282	Nov. 12, 1975	Peregrine Resources Corp., 1 Embarcadero Center, Ste. 2202, San Francisco, Calif. 94111.
CS76-283	do	Robert L. Wolff, P.O. Box 21, Metairie, La. 70004.
CS76-284	Nov. 13, 1975	Glynn D. Brile, 861 The Main Building Houston, Tex. 77025.
CS76-285	do	Guernsey Petroleum Corporation 633 Antone Street, N.W. Atlanta, Georgia 30318.
CS76-286	do	G. Phil Roberts, 861 The Main Bldg., Houston, Tex. 77025.
CS76-287	Nov. 14, 1975	H. C. Price Co., Baker & Botts, 3000 One Shell Plaza, Houston, Tex. 77002.
CS76-288	do	Alva J. Dixon, Route 2, Box 7F, Greenwood, La. 71033.
CS76-289	do	Charles C. Harlan, P.O. Box 5311, Midland, Tex. 79701.
CS76-290	Nov. 17, 1975	CCCo, 2723 Melbourne St., Salt Lake City, Utah 84106.
CS76-291	do	Dietrich Exploration Co., Inc., 602 Midland Savings Bldg., Denver, Colo. 80202.
CS76-292	Nov. 19, 1975	Virgil L. Stoabs, 221 Petroleum Center Bldg., Farmington, N. Mex. 87401.
CS76-293	do	Lobar Oil Co., Inc., 1310 Midland Center, Oklahoma City, Okla. 73102.
CS76-294	do	T. Joseph Leger, 1212 Main St., Houston, Tex. 77002.
CS76-295	Nov. 21, 1975	Vega Petroleum Corp., P.O. Box 2333, Midland, Tex. 79701.
CS76-296	do	Taiga Energy Inc., 718 17th St., Suite 630, Denver, Colo. 80202.
CS76-297	do	OKC Corp., P.O. Box 10426, Dallas, Tex. 75207.
CS76-298	Nov. 24, 1975	Barbara Y. Witten, 2505 East 36th Pl., Tulsa, Okla. 74015.
CS76-299	do	Robert C. Witten, 2505 East 36th Pl., Tulsa, Okla. 74105.
CS76-300	do	Robert C. Witten, Trustee, 2505 East 36th Pl., Tulsa, Okla. 74105.
CS76-301	do	Ann Fister, 2505 East 36th Pl., Tulsa, Okla. 74105.
CS76-302	do	W. L. Estis, P.O. Drawer 160, New Iberia, La. 70560.
CS76-303	Sept. 24, 1975	Henderson Gas Co., Patricia Joyce James, Owner, R.D. 1, Strattanville, Pa. 16258.
CS76-304	Nov. 17, 1975	Zenith Drilling Corp., Inc., Suite 600, 200 West Douglas, Wichita, Kans. 67202.
CS76-305	Nov. 20, 1975	R. M. Associates, 30 Rockefeller Plaza, Room 3026, New York, N.Y. 10020.
CS76-306	Nov. 24, 1975	John R. Anderson, P.O. Box 149, Farmington, N. Mex. 87401.
CS76-307	do	Ford Tool Co., P.O. Drawer B, Perryton, Tex. 79070.
CS76-308	do	Kenneth A. Ford, 1919 Eton Dr., Perryton, Tex. 79070.
CS76-309	do	Thomas M. Ford, Jr., 901 South Drake, Perryton, Tex. 79070.
CS76-310	do	FPF Investment Co., P.O Box P, Perryton, Tex. 79070.
CS76-311	do	Falcon Petroleum Co., P.O. Box P, Perryton, Tex. 79070.
CS76-312	do	Leonard S. Fowler, 2629 West Prairie Creek Dr., Richardson, Tex. 75080.
CS76-313	do	Charles H. Pride, 909 Northwestern, Perryton, Tex. 79070.
CS76-314	do	KCT Investment Co., P.O. Box B, Perryton, Tex. 79070.
CS76-315	Nov. 28, 1975	Coyote Oil & Gas Co., 116 South Broadway, Edmond, Okla. 73034.
CS76-316	do	Penn Drilling Co., 1 Darby Court, Bethesda, Md. 20034.
CS76-317	do	Purcellville Oil Co., 815 Connecticut Ave. NW., Washington, D.C. 20006. C/o Shearson Hayden Stone, Inc.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS76-318	do	Bill Forney, Inc., 1800 St. James Pl., Suite 204, Houston, Tex. 77027.
CS76-319	do	Pernie Bailey Drilling Co., P.O. Box 22775, Houston, Tex. 77027.
CS76-320	Dec. 5, 1975	Charles W. Hicks, 1314 North Richardson, Roswell, N. Mex. 88201.
CS76-321	Nov. 25, 1975	Gus Henson, et al., 6060 North Central Expressway, Suite 316, Dallas, Tex. 75206.
CS76-322	Dec. 1, 1975	Coquina 75-B Exploration Program, 200 Building of the Southwest, Midland, Tex. 79701.
CS76-323	do	Nautilus Venture V-B, 200 Building of the Southwest Midland, Tex. 79701.

[1] Applicant requests that the order issuing its small producer certificate be amended to include authorization to continue sales of natural gas heretofore authorized in Docket No. G-3239 to be made pursuant to applicant's FPC gas rate schedule No. 5.

[FR Doc.76-602 Filed 1-9-76;8:45 am]

[Docket No. CS76-142, etc.]

JOHN H. MCCARTER, JR., ET AL.

Notice of Applications for "Small Producer" Certificates [1]

DECEMBER 19, 1975.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 16, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS76-142	Nov. 12, 1975 [1]	John H. McCarter, Jr., 2012 University Ave., Monroe, La. 71201.
CS76-180	Dec. 4, 1975	Ronald H. Perkins, 7605 Dentcrest, Dallas, Tex. 75240.
CS76-324	Dec. 2, 1975	Robert F. Warren, T/A Penn-Cal Oil & Gas Co., Star Route, Kane, Pa. 16735.
CS76-325	Dec. 5, 1975	Bluebell Oil and Gas Co., 501 City National Bldg., Wichita Falls, Tex. 76301.
S76-326	do	Bobby J. Darnell, 904 Cravens Bldg., Oklahoma City, Okla. 73102.
S76-327	do	G. N. Furseth, 406 Oil & Gas Bldg., Oklahoma City, Okla. 73102.
CS76-328	do	GOC Corp., P.O. Box 1341, Corpus Christi, Tex. 78403.
CS76-329	do	Robert J. Sommerville, 905 Fox Ave., Harrisville, W. Va. 26362.
CS76-330	Dec. 8, 1975	Alsabrook & Edwards Oil Co., Energy Square, Suite 650, 4925 Greenville, Dallas, Tex. 75206.
CS76-331	do	Sands-American Corp., 5889 South Syracuse Circle, Suite 203, Englewood, Colo. 80110.
CS76-332	Dec. 4, 1975	Laclede Gas Co., 720 Olive St., St. Louis, Mo. 63101.
CS76-333	Dec. 9, 1975	Stephen B. Payne, 2190 Liberty Tower, Oklahoma City, Okla. 73102.
CS76-334	Dec. 10, 1975	Castle, Inc., 1407 Main St., Dallas, Tex. 76201.
CS76-335	Dec. 11, 1975	Philco Petroleum Corp., 3924 North University Ave., Peoria, Ill. 61614.
CS76-336	Dec. 8, 1975	William T. Payne, 2190 Liberty Tower, Oklahoma City, Okla. 73102.
CS76-337	Dec. 9, 1975	Redsco, Inc., P.O. Box 52173, Lafayette, La. 70501.
CS76-338	do	W. L. Douglas, P.O. Box 52173, Lafayette, La. 70501.
CS76-339	do	Carroll E. Pooler, Jr., 204 Lippi Blvd., Lafayette, La. 70501.
CS76-340	do	Lee F. Williamson, 109 Ashwood Dr., Lafayette, La. 70501.
CS76-341	do	David G. Casey, Jr., 608 Alonda Dr., Lafayette, La. 70501.
CS76-342	Dec. 11, 1975	Petro-Western Energy Corp., 1616 Park Harvey Center, Oklahoma City, Okla. 73102.
CS76-343	do	James Hutton Nobles Trust, Fulalie M. Nobles, Trustee, 205 Armstrong Bldg., El Dorado, Ark. 71730.
CS76-344	do	Adele K. MacFarlane, 205 Armstrong Bldg., El Dorado, Ark. 71730.
CS76-345	do	Thornton E. Anderson, Oil Producer, Suite 746, 300 West Douglas, Wichita, Kans. 67202.
CS76-346	do	Resource Exploration, Inc., 1600 Fairfield, Suite 400, Shreveport, La. 71101.
CS76-347	do	United Resources, Inc., 1651 Lincoln Ave., Evansville, Ind. 47714.
CS76-348	Dec. 12, 1975	W. H. Helmerich III, 1570 East 21st St., Tulsa, Okla. 74114.

[1] Applicant requests that the order issuing his small producer certificate be amended to include authorization for sales by him, doing business as D. J. Simmons & Co. of Louisiana and as Farrell & Company of Louisiana.

[FR Doc.76-601 Filed 1-9-76;8:45 am]

[Docket No. RI76-84]

MOBIL OIL CORP., ET AL.

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

DECEMBER 31, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* [4] Rate in effect	Cents per Mcf* [4] Proposed increased rate	Rate in effect subject to refund in docket No.
RI76-84	Mobile Oil Corp.	28	26	Northwest Pipeline Corp., (New Mexico) (Rocky Mountain).	$15,097	11-20-75		6-1-76	[1] [2] 27.4436	[1] [2] 27.9542	RI75-91
	do	199	13	El Paso Natural Gas Co., (New Mexico) (Rocky Mountain).	23	11-20-75		6-1-76	[1] [2] 27.4321	[1] [2] 27.9472	RI75-91
	do	200	17	do	62	11-20-75		6-1-76	[1] [2] 27.4321	[1] [2] 27.9472	RI75-91
	do	215	35	Northwest Pipeline Corp., (Wyoming) (Rocky Mountain).	101,202	11-24-75		6-1-76	[3] 54.2115	[3] 55.2745	RI75-108
	do	217	34	do	71,233	11-24-75		6-1-76	[3] 54.2115	[3] 55.2745	RI75-108
	do	313	19	El Paso Natural Gas Co., (Colorado) (Rocky Mountain).	571	11-20-75		6-1-76	[1] [2] 26.6721	[1] [2] 27.1721	RI75-91
	do	314	22	El Paso Natural Gas Co., (New Mexico) (Rocky Mountain).	947	11-20-75		6-1-76	27.4541	27.9693	RI75-91
	do	370	12	do	43	11-20-75		6-1-76	[1] [2] 27.4470	[1] [2] 27.9621	RI75-91
	do	422	11	Northwest Pipeline Corp., (New Mexico) (Rocky Mountain).	182	11-20-75		6-1-76	[1] [2] 27.4470	[1] [2] 27.9621	RI75-91
	do	427	23	do	553	11-20-75		6-1-76	[1] [2] 27.5071	[1] [2] 28.0223	RI75-91
	do	446	12	El Paso Natural Gas Co., (New Mexico) (Rocky Mountain).	63	11-20-75		6-1-76	[1] [2] 27.5173	[1] [2] 28.0325	RI75-91
	do	502	19	Northwest Pipeline Corp., (Colorado) (Rocky Mountain).	147	11-20-75		6-1-76	[1] [2] 26.6721	[1] [2] 27.1721	RI75-91
	do	503	22	Northwest Pipeline Corp., (New Mexico) (Rocky Mountain).	323	11-20-75		6-1-76	[1] [2] 27.4541	[1] [2] 27.9693	RI75-91
	do	504	12	do	746	11-20-75		6-1-76	[1] [2] 27.4470	[1] [2] 27.9621	RI75-91

* Unless otherwise stated, the pressure base is 15.025 lb/in²a.
[1] Applies to wells completed prior to June 1, 1970.
[2] Subject to upward and downward British thermal unit adjustment from a base of 1,000 Btu/ft².
[3] Applies to all gas except from wells commenced on or after Jan. 1, 1973.
[4] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.

The proposed rate increases of Mobil exceed the applicable area ceiling established in Opinion No. 658 and they are suspended for five months.

[FR Doc.76-605 Filed 1-9-76;8:45 am]

[Docket No. CP76-156]

NORTHERN NATURAL GAS CO.

Notice of Application

DECEMBER 30, 1975.

Take notice that on November 7, 1975, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP76-156 an application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the adjustment and realignment of volumes of natural gas authorized to be sold to certain utility customers for resale, upon their request, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that certain utility customers, Wisconsin Gas Company, Northern States Power Company, Northern States Power Company of Wisconsin, and Applicant's Peoples Natural Gas Division, have requested realignments of contract demand and winter period services for certain communities and adjustment of firm service for certain industrial customers. The proposed adjustments and realignments would not increase or decrease the presently authorized contract demand or winter period service of the utilities requesting the changes, it is stated. The proposed changes are as follows:

The proposed adjustments are said to include Northern States Power Company's requests for cancellation of 220 Mcf per day of contract demand assigned to Makins Fabricating Company and a decrease of 195 Mcf per day of contract demand assigned to Minnesota Mining & Manufacturing Company, from 420 Mcf to 225 Mcf per day, both located in St. Paul, Minnesota.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 13, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[Thousand cubic feet at 14.73/in²a]

Line No.	Utility group, rate zone, community	Adjustment: Contract demand	Adjustment: Seasonal service	Adjustment: Winter period service	Adjustment: Peaking service
1	Northern States Power Co.:				
2	Group EF:				
3	Rate Zone 3:				
4	Faribalt, Minn	(2,062)	(143)		(1,272)
5	Northfield, Minn	(2,017)	(113)		(623)
6	Red Wing, Minn	(2,611)	(109)		52
7	St. Paul, Minn	3,696	233		1,918
8	American Hoist	[1] 357			
9	Makens Fabricating Co	(220)			
10	Minnesota Mining & Manufacturing Co	(195)			
11	White Bear Lake, Minn	301	(3)		(398)
12	Total group EF-3	(2,741)	(135)		(323)
13	Group EF:				
14	Rate Zone B:				
15	Center City, Minn	521	26		80
16	Foley, Minn	(66)	(2)		15
17	Forest Lake, Minn	1,133	56		172
18	Hugo, Minn	150	7		23
19	Lake City, Minn	(403)	(25)		(178)
20	Lake Elmo, Minn	521	26		66
21	St. Cloud, Minn	(1,490)	(59)		69
22	St. Joseph, Minn	119	6		22
23	Sartell, Minn	626	6		74
24	Stacy, Minn	8			5
25	Stillwater, Minn	1,055	56		222
26	Wabasha, Minn	(182)	(7)		16
27	Winona, Minn	749	21		(263)
28	Total group EF-B	2,741	135		323
29	Northern States Power Co.: of Wisconsin:				
30	Group EF:				
31	Rate zone B:				
32	LaCrosse, Wis	(33[1])			
33	LaCrosse Rubber Mills	[1] 80			
34	UOP Norplex	[1] 250			
35	Wisconsin:				
36	Group D:				
37	Rate zone 3				
38	Group D:				
39	Rate zone B:				
40	Belleville, Wis		50		
41	Boscobel, Wis		50		
42	Richland Center, Wis		50		
43	Subtotal group D		150		
44	Group E-F:				
45	Rate zone B:				
46	Almena, Wis		(13)		
47	Amery, Wis		(70)		
48	Balsam Lake, Wis		(25)		
49	Barron, Wis		(25)		
50	Bloomer, Wis		(26)		
51	Bruce, Wis		(23)		
52	Cashton, Wis		(21)		
53	Centuria, Wis		(19)		
54	Chetek, Wis		(62)		
55	Frederic, Wis		(39)		
56	Ladysmith, Wis		(148)		
57	Luck, Wis		(36)		
58	Milltown, Wis		(14)		
59	New Auburn, Wis		(16)		
60	Osceola, Wis		(31)		
61	Osseo, Wis		(59)		
62	Plum City, Wis		(26)		
63	Rice Lake, Wis		879		
64	St. Croix Falls, Wis		(25)		
65	Sparta, Wis		(146)		
66	Spring Valley, Wis		(20)		
67	Star Prairie, Wis		(4)		
68	Taylor, Wis		(10)		
69	Tomah, Wis		(171)		
70	Total group E-F		(150)		
71	Peoples Natural Gas Division:				
72	Group A:				
73	Rate zone 1:				
74	Council Bluffs, Iowa	(2,500)			
75	Group B:				
76	Rate zone 3:				
77	Estherville, Iowa	(600)			
78	Spencer, Iowa	(400)			
79	Group D:				
80	Rate zone 3:				
81	Dubuque, Iowa	3,500			

[1] Pending Commission approval at Docket No. CP76-147.

[FR Doc.76-730 Filed 1-9-76;8:45 am]

[Docket Nos. RI76-90, etc.]

NORTHERN NATURAL GAS PRODUCING CO., ET AL.

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund[1]

DECEMBER 31, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in docket No.
RI76-90	Northern Natural Gas Producing Co.	25	23	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	$24	11-20-75		6-1-76	27.4769	27.9920	RI75-92
	do	26	27	do	372	11-20-75		6-1-76	27.4769	27.9920	RI75-92
	do	27	28	do	455	11-20-75		6-1-76	27.4769	27.9920	RI75-92
	do	30	14	do	149	11-20-75		6-1-76	27.447	27.9621	RI75-92
	do	32	9	Southern Union Gathering Corp. (New Mexico) (Rocky Mountain).	19	11-20-75		6-1-76	27.8961	28.4114	RI75-125
RI76-91	Koch Development Corp.	2	8	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	91	11-21-75		6-1-76	[4] 28.9065	[4] 29.4365	RI75-113
	do	3	8	do	205	11-21-75		6-1-76	27.2032	27.7044	RI75-113
RI76-92	Northwest Production Corp.	1	90	Northwest Pipeline Corp. (New Mexico) (Rocky Mountain).	91,182	11-18-75		6-1-76	[1] 27.4726	[1] 32.5333	RI75-88
	do			do	547	11-18-75		6-1-76	[2] 29.3173	[2] 34.7833	RI75-88
	do		91	Northwest Pipeline Corp. (Colorado) (Rocky Mountain).	7,601	11-18-75		6-1-76	[1] 26.7795	[1] 31.9206	RI75-88
	do			do		11-18-75		6-1-76	[2] 29.0	[2] 34.3370	RI75-88
	do	3	9	El Paso Natural Gas Co., (New Mexico) (Rocky Mountain).	828	11-18-75		6-1-76	27.2883	32.6040	RI75-88
	do	4	17	do	50	11-18-75		6-1-76	[1] 27.6799	[1] 32.2225	RI75-88
	do			do		11-18-75		6-1-76	[2] 29.3173	[2] 34.0991	RI75-88
	do	5	17	do	1,201	11-18-75		6-1-76	[1] 27.6799	[1] 32.9003	RI75-88
	do			do		11-18-75		6-1-76	[2] 29.3173	[2] 34.0991	RI75-88
RI76-93	Southern Union Production Co.	3	38	Southern Union Gathering Co. (New Mexico) (Rocky Mountain).	33,523	11-17-75		6-1-76	30.51	31.16	RI75-102
	do	10	13	do	16,748	11-17-75		6-1-76	[1] 31.01	[1] 31.64	RI75-100
	do			do	61	11-17-75		6-1-76	[2] 34.53	[2] 35.14	RI75-100
	do	15	18	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	1,473	11-19-75		6-1-76	[1] 32.27	[1] 32.93	RI75-105
	do			do		11-19-75		6-1-76	[2] 35.89	[2] 36.5	RI75-105
	do	21	7	Southern Union Gathering Co. (New Mexico) (Rocky Mountain).	11,238	11-17-75		6-1-76	31.39	31.92	RI75-105
	do	33	17	Northwest Pipeline Corp. (New Mexico) (Rocky Mountain).	2,001	11-19-75		6-1-76	[1] 32.27	[1] 32.93	RI75-100
	do			do		11-19-75		6-1-76	[2] 35.89	[2] 36.5	RI75-100
RI76-94	Northwest Production Corp.	6	17	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	939	11-18-75		6-1-76	[1] 27.6799	[1] 31.9112	RI75-88
	do			do		11-18-75		6-1-76	[2] 29.3173	[2] 34.1290	RI75-88

* Unless otherwise stated, the pressure base is 15.025 lb/in²a.
[1] Applicable to wells commenced prior to June 1, 1970.
[2] Applicable to wells commenced on or after June 1, 1970.
[3] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicabel British thermal unit adjustment and tax.
[4] The pressure base is 14.73 lb/in²a.

The proposed rate increases exceed the applicable ceiling rate established in Opinion No. 658, and they are suspended for five months.

[FR Doc.76-606 Filed 1-9-76;8:45 am]

[Docket No. RI76-105]

PWG PARTNERSHIP

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund[1]

DECEMBER 31, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix "A" hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18, CFR, Chapter I], and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* [9] Rate in effect	Cents per Mcf* [9] Proposed increased rate	Rate in effect subject to refund in dockets No.
RI76-105	PWG partnership	2	15	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	$13	11-20-75		6-1-76	26.7951	27.2951	RI75-94
do				do	7	11-20-75		6-1-76	29.3234	29.8234	RI75-94
do				do					(7 1)	(7 1)	RI75-123
do				do	50	11-20-75	1-1-76	(5)	62.7859	63.9359	
do		4	12	Northwest Pipeline Corp.[2] (New Mexico) (Rocky Mountain).	8	11-20-75		6-1-76	26.7951	27.2951	RI75-94
do				do	30	11-20-75		6-1-76	29.3234	29.8234	RI75-94
do				do					(7)	(7)	RI75-123
do				do	47	11-20-75	1-1-76	(5)	62.7859	63.9359	
do		5	18	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	792	11-20-75		(5)	26.7951	27.2951	RI75-94
do				do	480	11-20-75		(5)	29.3234	29.8234	RI75-94
do				do					(7)	(7)	RI75-123
do				do	1,225	11-20-75	1-1-76	(5)	62.7859	63.9359	
do		6	15	Northwest Pipeline Corp. (New Mexico) (Rocky Mountain).	660	1-2-75	6-21-74	(5)	[4 6 7] 28.5	[4 6] 50.0	
do				do	30	1-2-75	1-1-75	(5)	[4 6] 51.0	[4 6] 51.0	
do			16	do	77	11-20-75		(5)	[6] 25.0	[1] 27.2951	RI75-94
do				do	69	11-20-75		(5)	[1] 29.3234	[1] 29.8234	RI75-123
do				do	35	11-20-75	1-1-76	(5)	[6] 51.0	63.9359	

* Unless otherwise stated, the pressure base is 14.73 lb/in²a.
[1] Subject to upward and downward British thermal unit adjustment from a base of 1,000 Btu per cubic foot.
[2] Commission order issued July 29, 1975, in Docket No. RI75-94 incorrectly reflected El Paso Natural Gas Co. as the purchaser.
[3] Originally filed Jan. 2, 1975, and accepted as Supplement No. 14 to PWG Partnership's FPC Gas Rate Schedule No. 5 which covers sales to El Paso Natural Gas Co. This notice through inadvertence was not also accepted as a supplement to Rate Schedule No. 6.
[4] Applicable to all wells commenced subsequent to Jan. 1, 1973.
[5] Plus applicable tax and British thermal unit adjustment.
[6] The proposed rate increase is accepted as of Jan. 1, 1976 insofar as it relates to sales from the Rocky Mountain area under a contract dated on or after Oct. 1, 1963, from a well commenced prior to Jan. 1, 1973, in accordance with Opinion No. 699-H and is suspended until June 1, 1976 insofar as it relates to sales to which the ceiling rate in Opinion No. 658 is applicable.
[7] The pressure base is 15.025 lb/in²a.
[8] Accepted, to become effective as of the date set forth in the "Effective date unless suspended" column.
[9] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.

The proposed increases which do not exceed the applicable national ceiling under Opinion No. 699, as amended, or the applicable Rocky Mountain ceiling under Opinion No. 699-H are accepted as of the date set forth in the "Effective Date Unless Suspended" column.

The proposed rate increases which exceed the applicable area ceiling rate established in Opinion No. 658 are suspended for five months.

[FR Doc.76-607 Filed 1-9-76;8:45 am]

[Docket Nos. RI76-85, etc.]

SHELL OIL CO., ET AL.

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

DECEMBER 31, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* [3] Rate in effect	Cents per Mcf* [3] Proposed increased rate	Rate in effect subject to refund in dockets No.
RI76-85	Shell Oil Co. (operator (et al.	249	[2] 20	El Paso Natural Gas Co. (Texas) (Permian).	$9,001	10-10-75		6-1-76	26.363	27.352	RI75-60
RI76-86	Exxon Corp.	134	15	do	3,316	11-12-75		6-1-76	25.5756	26.5592	RI75-63
RI76-87	Exxon Corp. (operator) et al.	138	14	do	2,273	11-12-75		6-1-76	26.0975	27.1414	
do		523	[2] 9	do	1,291	11-12-75		6-1-76	37.5	39.0	
RI76-88	Mobil Oil Corp. (operator) et al.	241	27	do	48,631	11-20-75		6-1-76	30.0	31.0	RI75-85

* Unless otherwise stated, the pressure base is 14.65 lb/in²a.
[1] Applicable to production from original contract acreage only (excludes supp. Nos. 2, 4, and 10).
[2] Applicable to gas produced from all wells except Fort Chabourne Odom, lime unit wells, wells commenced on or after Jan. 1, 1973 and, recompletions in different reservoirs on and after Jan. 1, 1973.
[3] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.

The proposed rate increases exceed the applicable area ceiling established in Opinion No. 662 and they are suspended for five months.

[FR Doc.76-608 Filed 1-9-76;8:45 am]

[Docket Nos. RI76-76, etc.]

SKELLY OIL CO., ET AL.

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund[1]

DECEMBER 15, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Rsepondent shall comply with the refunding procedures required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets No.
RI76-76	Skelly Oil Co.	90	30	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	$37,329	11-24-75	1-1-76	(2)	[1] 54.5909	[1] 57.386	
	do			do	3,523	11-24-75		6-1-76	27.4368	27.9520	RI75-82
	do			do	3,914	11-24-75		6-1-76	29.3172	29.8320	RI75-82
	do	102	7	Mountain Fuel Supply Co. (Colorado) (Rocky Mountain).	340	11-24-75		6-1-76	25.5	26.52	RI75-106
	do	105	8	do	3,547	11-24-75		6-1-76	25.5	26.52	RI75-106
RI76-77	The Superior Oil Co.	20	20	El Paso Natural Gas Co. (New Mexico) (Rocky Mountain).	3,078	11-21-75		(2)	24.0	33.71275	
RI76-78	American Petrofina Co. of Texas.	16	28	do	2,583	11-21-75		6-1-76	34.30	34.891	RI75-59
RI76-79	Union Oil Co. of California	89	9	Northwest Pipeline Corp. (New Mexico) (Rocky Mountain).	499	11-14-75		6-1-76	29.0540	30.5548	RI75-78
	do	159	8	Southern Union Gathering Co. (New Mexico) (Rocky Mountain).	134	11-14-75		6-1-76	28.2600	31.5898	RI74-135
	do	170	8	Northwest Pipeline Corp. (New Mexico) (Rocky Mountain).	204	11-14-75		6-1-76	29.0444	30.5448	RI75-78

* Unless otherwise stated, the pressure base is 15.025 lb/in ² a.
[1] Subject to applicable British thermal unit adjustment.
[2] Accepted for filing as of the date set forth in the "Effective Date Unless Suspended" column.
[3] The proposed rate increase is accepted as of Dec. 22, 1975, insofar as it does not exceed the opinion No. 658 ceiling and is suspended until May 22, 1976, insofar as it exceeds the opinion No. 658 ceiling rate.
[4] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.

That portion of Skelly's proposed increase under its FPC Gas Rate Schedule No. 90 which covers production from wells subject to Opinion No. 699, as amended, is accepted to be effective on January 1, 1976. The other proposed increases under that rate schedule are suspended for five months.

Superior Oil's proposed rate increase is accepted insofar as it does not exceed the applicable ceiling established in Opinion No. 658 as of December 22, 1975 and suspended until May 22, 1976 insofar as it does exceed the Opinion No. 658 ceiling rate.

The remaining proposed rate increases exceed the applicable area ceiling established in Opinion No. 658 and they are suspended for five months.

[FR Doc. 600 Filed 1-9-76;8:45 am]

[Docket No. RP75-30]

UNITED GAS PIPE LINE CO.

Notice of Informal Conference

JANUARY 5, 1976.

Take notice that on February 10, 1976 an informal conference will be convened in this proceeding at 10:00 A.M. in the offices of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The purpose of the conference is to permit the parties and the Staff to consider the means by which the hearing in this proceeding may be facilitated and to discuss any other procedural matters in this docket.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.76-877 Filed 1-9-76;8:45 am]

[Rate Schedule Nos. 350, *et al.*]

SUN OIL CO., ET AL.

Rate Change Filings

DECEMBER 29, 1975.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable new gas national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 699-H, issued December 4, 1974. Pursuant to Opinion No. 699-H the rates, if accepted, will become effective as of the date of filing.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before January 12,

1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). A protest will not serve to make the protestant a party to the proceeding. Any party wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

Filing date	Producer	Rate schedule No.	Buyer	Area
Dec. 17, 1975	Sun Oil Co., Southland Center, P.O. Box 2880, Dallas, Tex. 75221.	350	El Paso Natural Gas Co.	Permian Basin.
Do	Union Texas Petroleum, a division of Allied Chemical Corp., P.O. Box 2110, Houston, Tex. 77001.	28	do	Do.
Dec. 10, 1975	McCulloch Oil Corp., 10880 Wilshire Blvd., Los Angeles, Calif. 90024.	23	do	Do.
Do	Cities Service Co., Box 300, Tulsa, Okla. 74102.	366	Texas Eastern Transmission Corp.	Other Southwest.

[FR Doc.76-760 Filed 1-9-76;8:45 am[

[Dept. Circular Public Debt Series No. 1-76]

DEPARTMENT OF THE TREASURY

Office of the Secretary

TREASURY NOTES OF SERIES D-1981

Dated and Bearing Interest From January 26, 1976; Due May 15, 1981

JANUARY 7, 1976.

I. INVITATION FOR TENDERS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders on a yield basis for $2,000,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series D-1981. The interest rate for the notes will be determined as set forth in Section III, paragraph 3, hereof. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Standard time, Tuesday, January 13, 1976, under competitive and noncompetitive bidding, as set forth in Section III hereof.

II. DESCRIPTION OF NOTES

1. The notes will be dated January 26, 1976, and will bear interest from that date, payable on a semiannual basis on May 15 and November 15, 1976, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature May 15, 1981, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-entry notes will be available to eligible bidders in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now and hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Standard time, Tuesday, January 13, 1976. Each tender must state the face amount of notes bid for, which must be $1,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 7.11. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established at the nearest ⅛ of 1 percent necessary to make the average accepted price 100.000 or less. That will be the rate of interest that will be paid on all of the notes. Based on such interest rate, the price on each competitive tender alloted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the bases of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept tenders for more or less than the $2,000,000,000 of notes offered, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated yield from any one bidder will be accepted in full at the average price (in three decimals) of accepted competitive tenders.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before January 26, 1976, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt. Payment must be in cash, in other funds immediately available to the Treasury by January 26, 1976, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Wednesday, January 21, 1976, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in case of the Treasury, or (2) Monday, January 19, 1976, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered

notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

STEPHEN S. GARDNER,
Acting Secretary of the Treasury.

[FR Doc.76-875 Filed 1-9-76;8:45 am]

[Dept.-Circular Public Dept Series No. 2-76]

TREASURY NOTES OF SERIES J-1978

Dated and Bearing Interest From February 2, 1976; Due January 31, 1978

JANUARY 7, 1976.

I. INVITATION FOR TENDERS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders on a yield basis for $2,500,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series J-1978. The interest rate for the notes will be determined as set forth in Section III, paragraph 3, hereof. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Standard time, Wednesday, January 14, 1976, under competitive and noncompetitive bidding, as set forth in Section III hereof.

II. DESCRIPTIONS OF NOTES

1. The notes will be dated February 2, 1976, and will bear interest from that date, payable on a semiannual basis, on July 31, 1976, January 31, 1977, July 31, 1977, and January 31, 1978. They will mature January 31, 1978, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be aceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000 and $1,000,000. Book-entry notes will be available to eligible bidders in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permited.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Standard time, Wednesday, January 14, 1976. Each tender must state the face amount of notes bid for, which must be $5,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 7.11. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own acount. Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established at the nearest ⅛ of one percent necessary to make the average accepted price 100.000 or less. That will be the rate of interest that will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept tenders for more or less than the $2,500,000,000 of notes offered, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated yield from any one bidder will be accepted in full at the average price (in three decimals) of accepted competitive tenders.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before February 2, 1976, at the Federal Reserve Bank or Branch or at the Bureau of the Public Dept., Washington, D.C. 20226. Payment must be in cash, in other funds immediately available to the Treasury by February 2, 1976, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Wednesday, January 28, 1976, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in the case of the Treasury, or (2) Monday, January 26, 1976, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

V. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

STEPHEN S. GARDNER,
Acting Secretary of the Treasury.

[FR Doc.76-876 Filed 1-9-76;8;45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. CUSTOMS BROKERS AND FORWARDERS ASSOCIATION OF MIAMI, INC.

Proposed Consent Judgment and Competitive Impact Statement

Notice is given pursuant to Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Southern District of Florida in Civil Action No. 75-3087-CIV.-PF, United States v. Customs Brokers and Forwarders Association of Miami, Inc. The complaint in this case was filed on November 21, 1974, and dismissed without prejudice on May 7, 1975. The complaint was re-filled on Dec. 29, 1975, along with the proposed consent judgment.

The complaint in this case alleges that the defendant, a Florida trade association composed of international freight forwarders and customs brokers (forwarder/brokers), engaged in a conspiracy with unnamed co-conspirators, including members of the association, to fix fees to be charged for the preparation of import and export documents. The proposed judgment enjoins the defendant from engaging in a conspiracy to fix the fees charged for any business services offered by forwarder/brokers.

Public comment is invited on or before March 12, 1976. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Donald A. Kinkaid, Chief, Atlanta Field Office, Antitrust Division, United States Department of Justice, Suite 420, 1776 Peachtree Street N.W., Atlanta, Georgia 30309.

Dated: December 29, 1975.

THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

Civil No. 75-3087-CIV.-PF

United States of America, Plaintiff, v. Customs Brokers and Forwarders Association of Miami, Inc., Defendant.

[Filed: December 29, 1975]

Stipulation

It is stipulated, by and between the undersigned parties, Plaintiff, United States of America, and Defendant, Customs Brokers and Forwarders Association of Miami, Inc., by their respective attorneys, that:

(1) The parties consent that the Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of either party, or upon the Court's own moton, at any time after compliance with requirements of the Antitrust Procedures and Penalties Act, Pub. L. No. 93-528 (December 21, 1974), and without further notice to either party or other proceedings, provided that Plaintiff has not withdrawn its consent.

(2) The Plaintiff may withdraw its consent hereto at any time before entry of the proposed Final Judgment by serving notice thereof upon the Defendant and by filing a notice with the Court.

(3) In the event Plantiff withdraws its consent hereto, the Stipulation shall be of no affect whatever in this or any other proceedings and the making of this Stipulation shall not in any manner prejudice any consenting party in any subsequent proceedings.

For the plaintiff: Thomas E. Kauper, *Assistant Attorney General;* Baddid J. Rashid, Charles F. B. McAleer, Donald A. Kinkaid, *Attorneys, United States Department of Justice.* Jack C. Williamson, *Attorney, United States Department of Justice.* Antitrust Division, 1776 Peaahtree Street, N.W., Suite 420, Atlanta, Georgia 30309. Telephone (404) 526-3828.

For the defendant: Lucius C. Proby, Jr., *Counsel for Customs Brokers and Forwarders Association of Miami, Inc.*

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

Civil No. 75-3087-CIV.-PF

United States of America, Plaintiff, v. Customs Brokers and Forwarders Association of Miami, Inc., Defendant.

[Filed: December 29, 1975]

Final judgment

Plaintiff, United States of America, having filed its complaint herein on December 29, 1975 and the Plaintiff and the Defendant, by their respective attorneys, having consented to entry of this Final Judgment, without trial or adjudication of any issue of fact or law herein, and without admission by any party with respect to any such issue, and without this Final Judgment constituting evidence or admission by any party with respect to any such issue;

Now therefore, before the taking of any testimony and without any adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby ordered, adjudged and decreed as follows:

I

This Court has jurisdiction over the subject matter herein and over the parties hereto. The Complaint states a claim against the Defendant upon which relief may be granted under Section 1 of the Act of Congress of July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," as amended, commonly known as the Sherman Act.

II

As used in this Final Judgment: (A) "Person" means any individual, association, cooperative, partnership, corporation, or other business or legal entity.

(B) "Forwarder/Broker" means a person conducting business in one or more of the following capacities: (1) Independent freight forwarder; (2) international air freight forwarder; or (3) customs broker.

III

The provisions of this Final Judgment applicable to the Defendant shall also apply to each of its officers, directors, members, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant is ordered and directed: (A) To forthwith adopt a by-law requiring the expulsion of any member who engages in activities prohibited in any of the paragraphs of Section V of this Final Judgment.

(B) To give to each new member a copy of this Final Judgment, and to specifically instruct each existing and each new member that continuation of membership in Defendant is dependent upon compliance with the terms of this Final Judgment.

V

Defendant is enjoined and restrained from, directly or indirectly: (A) Entering into, adhering to, maintaining, or furthering any contract, agreement, understanding, plan, or program to fix, determine, maintain, or stabilize fees charged for services performed by forwarder/brokers.

(B) Discussing, advocating, suggesting, urging, inducing, threatening, coercing, intimidating, or compelling any forwarder/broker to adopt, use, or adhere to any uniform or specific fee to be charged for the performance of any service.

VI

Defendant is ordered and directed to furnish, within ninety (90) days after date of entry of this Final Judgment, a copy thereof to each of its officers, directors, agents, and members, and to file with this Court and to serve upon the Plaintiff an affidavit as to the fact and manner of its compliance with this Section VI.

VII

For the purpose of determining or securing compliance with this Final Judgment, duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the Defendant, be permitted, subject to any legally recognized privilege:

(A) Access, during office hours of Defendant, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the Defendant relating to any matters contained in this Final Judgment.

(B) Subject to the reasonable convenience of the Defendant, and without restraint or interference from it, to interview officers, directors, employees, or agents of the Defendant, who may have counsel present, regarding any such matters.

Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, Defendant shall submit such reports in writing with respect to the matters contained in this Final Judgment as may, from time to time, be requested.

No information obtained by the means permitted in this Section VII shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the Plaintiff, except in the course of legal proceedings in which the United States of America is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment or for the modification of any of the provisions herein, and for the enforcement or compliance therewith and punishment of any violation of any of the provisions contained herein.

IX

The entry of this Final Judgment is in the public interest.

Dated this 9th day of January, 1976.

Jack C. Williamson, *United States District Judge.*

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

Civil No. 75-3087-CIV.-PF

United States of America, Plaintiff v. Customs Brokers and Forwarders Association of Miami, Inc., Defendant.

[Filed: December 29, 1975]

Proposed consent decree: Competitive impact statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (b)-(h)), the United States of America hereby files this Competitive Impact Statement relating to the proposed consent judgment submitted for entry in this civil antitrust proceeding.

On November 21, 1974, the Department of Justice filed a civil antitrust suit alleging that a trade association conspired with unnamed co-conspirators, including members of the trade association, to fix prices in violation of Section 1 of the Sherman Act. The civil case was dismissed without prejudice on May 7, 1975. On December 29, 1975 the Department of Justice re-filed the civil case. The trade association is the Customs Brokers and Forwarders Association of Miami, Inc., a Florida corporation. The regular membership of the defendant is composed of international freight forwarders and customs brokers (forwarder/brokers). International freight forwarders provide various services for customers wishing to ship goods out of the United States to foreign countries. Customs brokers offer similar services to customers shipping goods into the United States. Important among the services provided by forwarder/brokers is the preparation of import and export documents. A fee is charged for the preparation of these documents.

The civil action instituted against the trade association asked the Court to declare that the defendant, from at least as early as 1970, had engaged in a conspiracy to fix, establish, and maintain a schedule of minimum fees to be charged for the preparation of documents for goods entering and leaving the United States through Miami, Florida. The civil complaint further asked the Court to order the defendant to cease engaging in the conspiracy and grant such other relief as would prevent the recurrence of a similar conspiracy. The Government would have contended at trial that under the auspices of the defendant a suggested minimum fee schedule was formulated. Furthermore, this fee schedule was discussed at a regular meeting of the defendant and, at a subsequent regular meeting, was adopted by a majority vote of the members present. The adopted minimum fee schedule was then distributed to the membership.

The proposed consent judgment provides for all of the relief which would have been demanded by the plaintiff if this case had been tried. The proposed judgment prohibits the Association from entering into any agreements or engaging in any discussions with any forwarder/brokers to affect or manipulate the fees charged for any of their services. The Association is required to adopt a by-law requiring the expulsion of any member who enters into any such agreements or engages in any such discussions.

In order to assure compliance with the consent judgment, the defendant, upon written request of the plaintiff, is to allow attorneys of the plaintiff to inspect its business records and interview any of its officers, directors, employees, or agents. Also upon written request, the defendant is to submit written reports respecting matters contained in the judgment. Each officer, director, agent, and member, as well as any new member who joins the Association, is to be furnished a copy of this final judgment. Furthermore, each existing and each new member is to be specifically instructed that continuation of membership in the Association is dependent upon compliance with the terms of the final judgment.

Any potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies which they would have had, were the proposed consent decree not entered. However, this judgment may not be used as prima facie evidence in private litigation pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

The proposed final judgment is subject to a stipulation by and between the United States and the defendant, which provides that the United States may withdraw its consent to the proposed final judgment prior to entry of the proposed judgment by the Court. By its terms, the proposed judgment provides for retention of jurisdiction of this action in order, among other things, to permit either of the parties thereto to apply to the Court for such orders as may be necessary or appropriate for its modification.

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed judgment should be modified may for a sixty (60) day period submit written comments to Donald A. Kinkaid, United States Department of Justice, Antitrust Division, 1776 Peachtree Street N.W., Suite 420, Atlanta, Georgia 30309, who will file with the Court and publish in the Federal Register such comments and responses to such comments. The Department of Justice will thereafter evaluate any and all such comments to determine whether there is any reason for withdrawal of its consent to the proposed final judgment.

There are no materials or documents which were determinative in formulating the proposal for a consent judgment; consequently, none are being filed by the plaintiff pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(b)).

Dated: December 29, 1975.

Jack C. Williamson, Attorney, U.S. Dept. of Justice. Antitrust Division, Suite 420, 1776 Peachtree St., NW., Atlanta, Georgia 30309. Tel. (404) 526-3820.

[FR Doc.76-749 Filed 1-9-76;8:45 am]

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Meeting

This is to provide notice of meeting of the Disorders and Terrorism Task Force of the National Advisory Committee on Criminal Justice Standards and Goals.

The Disorders and Terrorism Task Force will be meeting at the American University Law Institute, 3rd Floor Conference Room, 4900 Massachusetts Avenue NW., Washington, D.C., on February 1 and 2, 1976. The meeting will be open to the public.

The agenda is as follows:

I. Review Minutes of November Meeting

II. Status Report on Work to Date

III. Review of Revised Chapter Four (Police)

IV. Review of Revised Chapter Six

V. Review Draft of Specific Standards for Chapters Five, Seven, Eight, Nine, and Ten

VI. Presentation of BDM Corp. Proposal

VII. Other Task Force Matters

VIII. Scheduling of Future Meetings

IX. Adjournment

Meeting Times: February 1—11 a.m. to 6 p.m., February 2—9 a.m. to 8 p.m.

For further information, contact William T. Archey, Director, Policy Analysis Division, Office of Planning and Management, 633 Indiana Avenue NW., Washington, D.C.

JAY A. BROZOST,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.76-807 Filed 1-9-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAMS

Notice of Approval

Correction

In FR Doc. 75-33659, appearing at page 58159, in the issue for Monday, December 15, 1975, insert the letters "NO" in front of every description number in the table.

Fish and Wildlife Service

LITTLE ROCK ZOOLOGICAL GARDEN

Endangered Species Permit; Notice of Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Little Rock Zoological Gardens, Little Rock, Arkansas 72205. Charles G. Wilson, Director.

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
[ ] IMPORT OR EXPORT LICENSE [X] PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
Purchase a pair of U.S. captive born orangutans to establish a breeding group and for public display and education.

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
Little Rock Zoological Gardens
1 Jonesboro Street
Little Rock, Arkansas 72205

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
[ ] MR. [ ] MRS. [ ] MISS [ ] MS.
HEIGHT / WEIGHT
DATE OF BIRTH / COLOR HAIR / COLOR EYES
PHONE NUMBER WHERE EMPLOYED / SOCIAL SECURITY NUMBER
OCCUPATION
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
Municipal zoo
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. (501) 663-4733
Charles G. Wilson, Director
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED
N/A

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Little Rock Zoological Gardens
1 Jonesboro Street
Little Rock, Arkansas 72205

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT [ ] YES [ ] NO
(If yes, list license or permit number)
USDA license # 71-C-1

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? [ ] YES [ ] NO
(If yes, list jurisdictions and type of documents)
Not applicable

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
N/A per 50 CFR 13.11(d)

10. DESIRED EFFECTIVE DATE
10 Nov 75

11. DURATION NEEDED
one year

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.
Attachment # 1 (per 50 CFR 17.23)

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (Name of applicant) Charles G. Wilson
DATE 2 Oct 75

3-200 (5/74) Charles G. Wilson

OCTOBER 9, 1975.

DIRECTOR, UNITED STATES FISHERY AND WILDLIFE SERVICES,
Washington, D.C. 20240.
(Attention Permits).

DEAR SIR: Enclosed are two copies of a Permit Application Per 50 CFR 17 for the purchase of a male and female captive born Orangutan presently in the United States. In addition are two copies of Attachment No. 1 Per 50 CFR 17.23.

On the attachment I have indicated the probable source for the Orangutans. There are other Orangutans that have been born in captivity that could become available. I have received tentative confirmation from the Oklahoma City Zoo and Philadelphia Zoo that should we secure a permit we would be able to purchase these animals.

Please feel free to contact me if I may be of further assistance in this matter.

Sincerely,

CHARLES G. WILSON,
Director, Little Rock Zoological Gardens.

APPLICATION ATTACHMENT—PER 50 CFR 17.23

1. Common name: Orangutan. Scientific name: Pongo pygmaeus. Number: Two. Sex: 1 Male and 1 Female. Age: 1 to 3 years.

2. No importation.

3. These Orangutans are wanted for the establishment of a breeding program of this species and for the public education and recreation as they will be on public display. Both of these animals have been born in captivity and in order to insure the captive propagation of this species, more Zoos must establish breeding facilities and programs for the offspring in order to maintain a continuing, viable, reproducing captive population.

4. These animals will be kept at the Little Rock Zoological Gardens, No. 1 Jonesboro Street, Little Rock, Arkansas 72205.

5. At the time of this application both animals have been born in captiviy. (See below for additional information).

6. Not applicable. These animals were born in captivity.

7. Not applicable: Animals born in captivity.

Additional information: (See accompanying letter also.)

The male Orangutan was born 26 May 1975 at Oklahoma City Zoo. Route 1, Box 478, Oklahoma City, Oklahoma 73111. The female Orangutan was born 30 July 1975 at Philadelphia Zoo, 34th Street & Girard Avenue, Philadelphia, Pennsylvania 19104.

DECEMBER 9, 1975.

Mr. LEN SIMS,
Fish and Wildlife Services, Division of Law Enforcement/Permits, P.O. Box 19183, Washington, D.C. 20036.

DEAR MR. SIMS: Reference your phone call 8 December 1975 on my permit application submitted 9 October 1975.

1. The Orangutan from Philadelphia will be transported by commercial air or a private plane and accompanied at all times by myself. The Orangutan from Oklahoma City was transported here *on loan* in my personal vehicle. These animals are of such an age that other than personal transport/accompany is not acceptable.

2. Drawings of the facilities are enclosed. Until these animals are old enough to eat on their own and take care of themselves, they will be kept in my home in the evenings. During the day they will be kept in the Zoo "Orangutan nursery", as befits a primate of this caliber.

3. The primate staff at the Little Rock Zoo presently maintains a chimpanzee colony of 1 male and 4 females, and 20 other species of primates. My personal qualifications include 3 years as Zoological Curator at Oklahoma City Zoo where I supervised the care of five Orangutans, eight Gorillas and several hundred other species of mammals, birds, reptiles, amphibians, fish and invertebrates. The Orangutans will be under the medical care of a local pediatrician (L. K. Austin, M.D.) and the Zoo Veterinarian (D. E. Wood, DVM). Their personal qualifications and corroborating letters may be requested if needed or required.

I certainly hope this information is what is required and will facilitate a rapid decision (hopefully favorable) for our permit request. Please feel free to contact me if I may be of further assistance.

Sincerely,

CHARLES G. WILSON,
Director, Little Rock Zoological Gardens.

Mailing Address: Little Rock Zoo, No. 1 Jonesboro Street, Little Rock, Arkansas 72205

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before February 11, 1976, will be considered.

Dated: January 7, 1976.

C. R. BAVIN,
Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.76-846 Filed 1-9-76;8:45 am]

DEPARTMENT OF COMMERCE

Economic Development Administration

MORTENSEN ENTERPRISES, INC.

Notice of Petition

A petition by Mortensen Enterprises, Inc., and affiliates, Rt. 2, Box 210A, Blythe, California 92225, producers and processors of cattle feed, grains and other crops, was accepted for filing on January 6, 1976, under Section 251 of the Trade Act of 1974 (Pub. L. 93-618). Consequently, the United States Department of Commerce has instituted an investigation to determine whether increased imports into the United States of articles like or directly competitve with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business January 22, 1976.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76-843 Filed 1-9-76;8:45 am]

Office of the Secretary

COASTAL PLAINS ECONOMIC DEVELOPMENT REGION

Modification of Boundaries

Pursuant to the provisions of section 501(a) of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3181(a)), and having examined pertinent data, I have determined that the Coastal Plains Economic Development Region, composed of parts of the States of Georgia, Florida, North Carolina, South Carolina, and Virginia, meets requirements for enlargement to include certain additional counties in the States of Georgia and South Carolina. Accordingly, in response to a unanimous request from the State Members of the Coastal Plains Regional Commission I have today, December 31, 1975, modified the boundaries of the Coastal Plains Region so that it now includes the following in the five States.

GEORGIA

Appling	Camden
Atkinson	Candler
Bacon	Charlton
Baker	Chatham
Baldwin	Chattahoochee
Ben Hill	Clarke
Berrien	Clay
Bibb	Clayton
Bleckley	Clinch
Brantley	Cobb
Brooks	Coffee
Bryan	Colquitt
Bulloch	Columbia
Burke	Cook
Butts	Coweta
Calhoun	Crawford

GEORGIA—Continued

Crisp	Montgomery
Decatur	Morgan
DeKalb	Muscogee
Dodge	Newton
Dooly	Oconee
Dougherty	Oglethorpe
Early	Peach
Echols	Pierce
Effingham	Pike
Elbert	Pulaski
Emanuel	Putnam
Evans	Quitman
Fayette	Randolph
Fulton	Richmond
Glascock	Rockdale
Glynn	Schley
Grady	Screven
Greene	Seminole
Hancock	Spalding
Harris	Stewart
Hart	Sumter
Henry	Talbot
Houston	Taliaferro
Irwin	Tattnall
Jasper	Taylor
Jeff Davis	Telfair
Jefferson	Terrell
Jenkins	Thomas
Johnson	Tift
Jones	Toombs
Lamar	Treutlen
Lanier	Troup
Laurens	Turner
Lee	Twiggs
Liberty	Upson
Lincoln	Walton
Long	Ware
Lowndes	Warren
McDuffie	Washington
McIntosh	Wayne
Macon	Webster
Marion	Wheeler
Meriwether	Wilcox
Miller	Wilkes
Mitchell	Wilkinson
Monroe	Worth

FLORIDA

Alachua	Jefferson
Baker	Lafayette
Bay	Leon
Bradford	Levy
Calhoun	Liberty
Citrus	Madison
Clay	Marion
Columbia	Nassau
Dixie	Okaloosa
Duval	Putnam
Escambia	St. Johns
Flagler	Santa Rosa
Franklin	Sumter
Gadsden	Suwannee
Gilchrist	Taylor
Gulf	Union
Hamilton	Wakulla
Hernando	Walton
Holmes	Washington
Jackson	

NORTH CAROLINA

Beaufort	Hoke
Bertie	Hyde
Bladen	Johnston
Brunswick	Jones
Camden	Lenoir
Carteret	Martin
Chowan	Nash
Columbus	New Hanover
Craven	Northampton
Cumberland	Onslow
Currituck	Pamlico
Dare	Pasquotank
Duplin	Pender
Edgecombe	Perquimans
Franklin	Pitt
Gates	Halifax
Greene	Sampson
Harnett	Scotland
Hertford	Tyrrell

NORTH CAROLINA—Continued

Vance	Washington
Wake	Wayne
Robeson	Wilson
Warren	

SOUTH CAROLINA

Abbeville	Greenwood
Aiken	Hampton
Allendale	Horry
Bamberg	Jasper
Barnwell	Kershaw
Beaufort	Lancaster
Berkeley	Laurens
Calhoun	Lee
Charleston	Lexington
Chester	Marion
Chesterfield	Marlboro
Clarendon	McCormick
Colleton	Newberry
Darlington	Orangeburg
Dillon	Richland
Dorchester	Saluda
Edgefield	Sumter
Fairfield	Union
Florence	Williamsburg
Georgetown	York

VIRGINIA (COUNTIES)

Accomack	King George
Amelia	King William
Brunswick	Lancaster
Buckingham	Mathews
Caroline	Mecklenburg
Charles City	Middlesex
Charlotte	New Kent
Chesterfield	Northampton
Cumberland	Northumberland
Dinwiddie	Nottoway
Essex	Powhatan
Gloucester	Prince Edward
Goochland	Prince George
Greensville	Richmond
Halifax	Southampton
Hanover	Spotsylvania
Henrico	Stafford
Isle of Wight	Surry
Lunenburg	Sussex
James City	Westmoreland
King and Queen	York

VIRGINIA (INDEPENDENT CITIES)

Chesapeake	Norfolk
Colonial Heights	Petersburg
Emporia	Portsmouth
Franklin	Richmond
Fredericksburg	South Boston
Hampton	Suffolk
Hopewell	Virginia Beach
Newport News	Williamsburg

Inquiries relating to this modification should be addressed to the Special Assistant to the Secretary for Regional Economic Coordination, Room 2092, Main Commerce Building, Washington, D.C. 20230.

JAMES A. BAKER, III,
Acting Secretary of Commerce.

[FR Doc.76-844 Filed 1-9-76;8:45 am]

ECONOMIC ADVISORY BOARD

Cancellation of Meeting

The meeting of the Economic Advisory Board, previously scheduled for Thursday, January 22, 1976, at 9:30 a.m. in Room 4832 of the Main Commerce Building, has been postponed temporarily. The date of the next meeting will be announced in a future issue of the FEDERAL REGISTER.

Dated: January 7, 1976.

JAMES L. PATE,
Assistant Secretary for Economic Affairs.

[FR Doc.76-808 Filed 1-9-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 75F-0303]

MONSANTO CO.

Filing of Petition for Food Additive

Correction

In FR Doc. 75-30109, appearing at page 52427, in the issue for Monday, November 10, 1975, change the seventh line of the second paragraph to read as follows: "sidered in a draft environmental impact".

[Docket No. 76N-0002]

ELANCO PRODUCTS CO. ET AL.

Diethylstilbestrol; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Animal Drug Applications

The Food and Drug Administration (FDA) is proposing to withdraw approval of all outstanding new animal drug applications for use of diethylstilbestrol in animals used for food for human consumption on the ground that use of the drug results in residues that have not been shown to be safe within the meaning of the act and that render continued approval of the drug unlawful under the Delaney anticancer clause of the Federal Food, Drug, and Cosmetic Act. Holders of approved applications have until February 11, 1976 to submit requests for hearing in accordance with § 514.200 (21 CFR 514.200). Such requests should be identified with the Hearing Clerk docket number found in brackets in the heading of this notice.

BACKGROUND

Diethylstilbestrol (DES), a synthetic estrogen used by feeders of cattle and sheep as a growth promotant, has been shown to cause a statistically significant increase of cancer in female C_3H mice at the lowest levels at which it was tested, i.e., 6.25 parts per billion (ppb). In humans, a statistically significant relationship has been identified between the administration of DES to pregnant women and the appearance in daughters born of these pregnancies of a rare type of cancer—adenocarcinoma of the vagina.

Since 1938, any new drug for use in animals, just as any new drug for human use, has been required to be shown to be safe for its intended uses. Even before the enactment of the Food Additives Amendment of 1958 (sec. 409, Pub. L. 85-929, September 6, 1958, 72 Stat. 1785-1788 (21 U.S.C. 348)), FDA had interpreted this basic safety requirement as demanding proof that drugs intended for use in animals used for human food would not cause harm if ingested by humans.

DES was first approved for use in cattle feed in November 1954. A new drug application (NDA) for the drug was permitted to become effective on the basis of data demonstrating that, using the so-called mouse-uterine assay test, no residues could be detected in edible tissue 48 hours after withdrawal of DES. NDA's for DES implants in cattle became effective in December 1955, again on the basis of mouse-uterine assay data demonstrating "no residue" under the permitted conditions of use. Applications became effective for DES in feed for sheep and as implants for sheep in 1957 and 1959.

The current standards for approval of new animal drugs, set forth in section 512 of the act as added by Pub. L. 90-399, July 13, 1968, 82 Stat. 343-351 (21 U.S.C. 360b), include several criteria. In addition to requiring substantial evidence of efficacy, section 512(d) makes very clear that the sponsor of any animal drug has the burden of demonstrating that the drug is safe for humans if encountered in food produced from the animal, and causes no adverse effect to the animal. Section 512(d)(1)(H) imposes additional restrictions on the approval of animal drugs that have been shown to cause cancer. That provision requires that FDA shall refuse to approve a drug if the Commissioner finds that "such drug induces cancer when ingested by man or animal or, after tests which are appropriate for the evaluation of the safety of such drug, induces cancer in man or animal * * *." This language is the codification in section 512 of the Delaney anticancer clause that was added to the act by the Food Additives Amendment of 1958.

In 1962, Congress enacted an exception to the anticancer clause. The focus of Congress at that time was so clearly on DES that this exception has ever since been known as the "DES clause." This exception, now also part of section 512(d)(1)(H) of the act, permits approval of the use of a carcinogen as a drug in animals only if the Secretary (by delegation under § 2.120 (21 CFR 2.120), the Commissioner of Food and Drugs) finds that:

> * * * under the conditions of use specified in proposed labeling and reasonably certain to be followed in practice (i) such drug will not adversely affect the animals for which it is intended, and (ii) no residue of such drug will be found (by methods of examination prescribed or approved by the Secretary by regulations, which regulations shall not be subject to subsections (c), (d), and (h)) (of this section), in any edible portion of such animals after slaughter or in any food yielded by or derived from the living animals.

In accordance with the foregoing provision, FDA in 1963 approved methods for the measurement and identification of DES residues: the mouse-uterine method, which measures total estrogenic activity at 2 ppb, and the so-called "paper chromatography" method, which is incapable of differentiating DES from other estrogens at levels below 10 ppb. Originally codified under §§ 135g.26 (b) and (c) and 121.241 (e) and (f) (21 CFR 135g.26 (b), (c) and 121.241 (e), (f)), the approved methods published in Part 135 were recodified under Part 556 without substantive change by a regulation published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802). These methods have remained in effect since 1963, although significant improvements in sensitivity and reliability of other analytical methods have occurred in the intervening years.

Since publication of the detection methods in 1963, numerous new animal drug applications (NADA's) for the use of DES have been approved by FDA. In each instance, the agency concluded that if, when used in accordance with the conditions of use prescribed in the labeling. DES residues could not be detected in edible tissue by the approved methods, the requirements of the law were satisfied. Experience with the use of DES and advances in detection methodology have demonstrated that this conclusion is no longer supportable.

Since their original approval, no data have been submitted by the holders of approved NADA's for DES that cast doubt on the finding that the drug causes cancer in test animals. Furthermore, radioactive tracer research studies using ^{14}C-labeled DES, conducted by the United States Department of Agriculture (USDA), have shown that radioactive residues attributable to the use of DES can result even when the prescribed conditions of use are strictly followed; i.e., withdrawal 7 days prior to slaughter for DES in feed or implantation of DES 120 days prior of slaughter. See T. S. Rumsey et al., "Depletion Patterns of Radioactivity and Tissue Residues in Beef Cattle after the Withdrawal of Oral ^{14}C-Diethylstilbestrol," *Journal of Animal Science*, 40(3): 539-549, 1975, and T. S. Rumsey et al., "Fate of Radiocarbon in Beef Steers Implanted With ^{14}C-Diethylstilbestrol," *Journal of Animal Science*, 40(3): 550-560, 1975 (available for public examination at the office of the Hearing Clerk, Food and Drug Administration). These radioactive residues were at levels that are below the sensitivity of the previously approved methods and that have not been shown to be safe within the meaning of the act.

In 1972 and 1973, the FDA, acting on these reports (then unpublished) of residues discovered by the USDA in radioactive tracer studies, withdrew all approvals of DES for use in animals used for human food. These actions were challenged by sponsors of NADA's for DES and ultimately vacated by the United States Court of Appeals for the District of Columbia Circuit in Hess & Clark v. Food and Drug Administration, 495 F. 2d 975 (1974), and chemetron v. Department of Health, Education, and Welfare, 495 F. 2d 995 (1974) on the ground that the notice of withdrawal of approval issued by FDA had not afforded the sponsors adequate opportunity to demonstrate the need for a hearing, as required by 21 U.S.C. 360b(e)(1).

Since the resumption of the use of DES following the Court of Appeals' reinstatement of the NADA's, residues have been found in samples of edible tissues (livers) taken from cattle presented for

slaughter. In a USDA objective sampling program of cattle slaughtered throughout the country, 11 residues were detected in 2,654 samples in 1974 using gas liquid chromatographic (GLC) methods. During the first 3 quarters of 1975, 25 residues were detected in 1,717 samples, indicating an increase in the percentage of samples containing DES residues from 0.41 percent to 1.46 percent. Two additional residues detected by USDA during the fourth quarter of 1975 in edible tissues of beef cattle are not include in the percentage calculation because the fourth quarter sample size is not yet known.

These calculations likewise do not include 17 additional DES residues found during 1974 and the first 3 quarters of 1975 in the USDA selective sampling program. This program samples on a nonrandom basis both animals presented for slaughter by raisers who have previously presented residue-carrying animals as well as animals that are suspected, on some other basis, of containing DES residues. In the selective sampling program, as would be expected, the incidence of residues is considerably higher.

Only 1 of the 36 residues detected in the USDA objective sampling program was at a level (greater than 10 ppb) that could have been both detected and identified as DES if the currently approved mouse-uterine and paper chromatography methods had been used. Furthermore, although FDA investigation of the causes of these residues indicates that several may have resulted from DES contamination of withdrawal feed or failure to follow the prescribed conditions of use of DES, a substantial number of the residues cannot be attributed to misuse.

In the face of these findings, it is clear that the central assumption underlying the previous approvals by FDA of DES for use in animals used for human food, i.e., that no residues would be detected when the drug was used in accordance with the currently approved conditions of use, is no longer valid. The currently approved methods for DES have been shown to be inadequate to detect significant residues. Residues being detected by other methods have not been shown to be safe within the meaning of the act. This showing was not previously required of the applicants since a common premise of all previous DES approvals was that no residues would occur. Moreover, since no level of DES residues has been proven to be safe within the meaning of the act, the Commissioner concludes that no new method for the detection of DES can now be approved pursuant to the 1962 exception to the anticancer clause.

INADEQUACY OF APPROVED METHODS

The Commissioner issued, in the FEDERAL REGISTER of March 27, 1974 (39 FR 11299), a proposal to revoke the approved methods for identification and measurement of residues of DES, and invited interested persons to comment within 30 days (extended 10 days to the close of business of May 6, 1974 by a notice published in the FEDERAL REGISTER of April 25, 1974 (39 FR 14611)).

Sixteen comments were received on the proposal within the extended comment period: Six from manufacturers of DES, four from individuals, two from cattle industry organizations, two from cattle feeders, and one each from a citizens' association, and a scientific society. Eight additional comments were received after the comment period closed. Several comments supported the proposed revocation of the detection methods and urged the Commissioner to act to terminate the use of DES in food-producing animals, while other comments objected to the Commissioner's proposed action. None of the comments received supplied data or studies adequate to support the approval of any new analytical method(s), much less data or studies to demonstrate that the methods previously approved are adequate to detect residues of DES now known to occur.

All the comments may be seen at the office of the Hearing Clerk, Food and Drug Administration.

The comments received and the Commissioner's responses are discussed below.

1. Nine comments suggested that the official methodology might be an issue for a hearing rather than the subject of a revocation before a hearing.

The Commissioner notes that the designation of officially approved methodology does not independently require a hearing under the act. However, opportunity for hearing is required on the proposal to withdraw approval of the NADA's for DES, and any hearing held could include the issue of whether a practicable analytical method exists that is adequate to detect DES residues.

2. Eight comments stated that the use of DES was important to the revenue of cattle raisers and to the reduction of the cost of cattle production. Two comments stated that the revocation of DES approvals could affect consumer prices for beef.

The Commissioner notes that the economic importance of diethylstilbestrol to a particular industry or even its effect on consumer beef prices is not relevant to or determinative of the acceptability of detection methods offered to justify exception of the drug from the anticancer clause, nor is it relevant to the safety of residues resulting from the use of the drug.

3. Two comments stated that the present approved test methods for DES are adequately sensitive. One of these comments limited its claim of adequacy to the use of the drug in implant form. The other stated that the sensitivity of the present methods is sufficient because the radioactive tracer studies that showed residues below the limits of the mouse-uterine test were discredited in court proceedings arising out of the agency's previous efforts to withdraw approval of these NADA's.

The Commissioner concludes that neither the scientific data cited in the proposal nor any information provided by this comment establishes any difference between feed and implant uses of DES with respect to the adequacy of detection methodology. The Commissioner further observes that, whatever the deficiencies of other detection methods, there has been no showing that the approved methods are adequate to justify continued approval of DES. Neither comment submitted or referred to data that show that levels of DES below the sensitivity of the approved methods are safe within the meaning of the act.

4. Two comments stated that final action on the revocation of methods proposal should await resolution of the proposal on sensitivity of the method published in the FEDERAL REGISTER of July 19, 1973 (38 FR 19226).

The Commissioner notes that despite continuing efforts of FDA since that proposal to determine appropriate criteria for levels of sensitivity, the complexity and scope of the scientific and legal issues have combined to prevent completion of a final regulation to resolve the issues of methodology. No final regulation based on the Mantel-Bryan procedure is anticipated within the next 6 months. The Commissioner has concluded that the public and FDA should no longer await final action on that proposal before resolving the status of DES.

5. One comment contended that the GLC method, coupled with mass spectrometry identification, was superior to the present procedures, but the comment did not state that these procedures would be adequate to detect DES residues or provide data to support their adequacy. Another comment, while opposing any action to revoke existing methodologies, urged that if present methods were revoked they should be replaced with the GLC method as the official method and claimed that this method is sensitive to 0.5 ppb. This comment did not provide any information or data to demonstrate that levels of DES below 0.5 ppb are safe within the meaning of the act. Another comment stated that the GLC method reliably detects residues of DES as low as 1 ppb and noted that information describing this method had previously been submitted with an NADA. This comment, too, failed to provide data showing that a sensitivity of 1 ppb is sufficient to meet the requirements of the act or to show that residues of DES below 1 ppb are safe within the meaning of the act.

The Commissioner acknowledges that the results of USDA's GLC sampling program supply part of the basis on which he is proposing to withdraw approval of outstanding NADA's for DES. These results clearly demonstrate that the currently approved methods for DES, i.e., the mouse-uterine method and the paper chromatography method, are inadequate. The Commissioner concludes, however, that no showing has been made that the GLC method, whether used alone or in conjunction with mass spectrometry, may be approved in their place.

6. One comment stated that the burden of proof to demonstrate the safety of

DES should rest with those who wish to market the drug.

The Commissioner concurs with this comment and notes that Congress has placed the burden on the applicant to demonstrate the safety of any animal drug (21 U.S.C. 360b).

7. Three comments referred specifically to the Gass study cited in the proposal to revoke the methods for DES: Gass, Coats, and Graham, "Carcinogenic Dose-Response Curve to Oral Diethylstilbestrol," *Journal of the National Cancer Institute*, 33:971–977, 1964 (available for public examination at the office of the Hearing Clerk, Food and Drug Administration). The Gass study found that 6.25 ppb DES caused cancer in test animals (C_3H mice). Two of these comments claimed that this finding was a "false positive," one of them suggesting that another test animal should have been used instead of the mice that were used. Neither of these two comments provided data to demonstrate that DES does not cause cancer at levels of 6.25 ppb. The third comment questioned whether the Gass study was statistically sound and quoted two scientists who drew from that study widely divergent conclusions as to the lowest levels of DES capable of causing cancer. This comment concluded that this disparity of scientific opinion means that the present data are inadequate to determine safe levels and supports a request for additional funds to conduct more studies.

The Commissioner is of the opinion that, in the absence of convincing scientific evidence that the Gass study was in error or that there is some level at which DES is not carcinogenic, the determination that DES is carcinogenic in C_3H mice at 6.25 ppb cannot be ignored. The Commissioner agrees that data are not adequate to establish the lowest level at which DES causes cancer in test animals. The Commissioner is aware of no evidence that a level of DES that does not cause cancer in test animals can necessarily be assumed otherwise to be safe within the meaning of the act. On the basis of data currently available, the Commissioner questions whether any of the available analytical methods for the detection of DES residues affords adequate assurance that residues below the level of detection are safe within the meaning of the act.

8. One comment stated that one possible solution to the method suitability issue that should be explored would be to discard the livers of animals treated with DES.

The Commissioner is of the opinion that whether or not specific edible tissues may be discarded is not material to determining the adequacy of a method to detect DES residues in those or other edible tissues. It has not been demonstrated, for example, that DES residues in the liver may not serve as an indicator of resdues present, albeit at lower levels, in other edible tissues.

9. Two comments suggested that the basic question of whether DES represented a public health threat as a carcinogen remained unanswered.

The Commissioner notes that the carcinogenicity of DES has long been recognized by scientists, and concludes that FDA need not await demonstration of a danger to public health before enforcing the act's requirements that animal drugs be shown to be safe and that any cancer-causing drug be demonstrated to leave no detectable residues.

10. Other comments, which opposed the administration of DES to cattle or its presence in any foods, pointed out that the Canadian Government had excluded United States beef failing to bear USDA certification that the animal had never received DES, and expressed hope that FDA would move expeditiously to remove DES from the food supply.

Although these comments are not directly relevant to the adequacy of the previously approved DES detection methods, they do support the agency's issuing of this notice of opportunity for hearing on the withdrawal of approval of NADA's for DES.

11. One comment suggested that in enacting section 512(d)(1)(H), Congress intended that carcinogens could be used in food animals and obliged the Secretary of Health, Education, and Welfare to establish some method of analysis.

The Commissioner disagrees. Section 512(d)(1)(H) of the act prohibits the use of any carcinogenic animal drug unless the Secretary makes certain affirmative findings, including a finding that no residue of the drug will be found in edible tissue by officially designated methods. Congress did not intend the Secretary to designate a method when no adequate method was available. Rather, the act requires that an animal drug not be approved unless an adequate detection method can be designated. To be approvable a detection method must be both practicable, in the sense that it must be adaptable for use as a regulatory tool, and it must be sufficiently sensitive. The Commissioner concludes that any method approved in accordance with section 512(d)(1)(H) must at least be capable of detecting residues at a level that has been shown to be safe within the meaning of the act. Because no such showing has been made with respect to residues of DES well below the combined sensitivity of the currently approved methods, the Commissioner maintains that those methods can no longer serve as the basis for approval of the use of DES in animals used for human food.

The Commissioner intends to revoke these methods at the time of final action based upon this notice of opportunity for hearing. If no hearing on the proposal to withdraw approvals for the use of DES is required, either because FDA recieves no request(s) for hearing or because any request(s) for hearing fails to demonstrate a genuine and substantial issue of fact requiring a hearing, the approved methods will be revoked simultaneously with the announcement of that fact. If a hearing is held, the currently approved method will be revoked, and any replacement method(s) demonstrated to be adequate will be designated at the time the Commissioner issues a final order based upon the hearing record and the decision of the Administrative Law Judge.

PROPOSED ACTION

On the basis of the comments received in response to the proposal to revoke the detection methods for DES, the data cited in the March 1974 proposal, and evidence that DES residues continue to be found in edible tissues of animals slaughtered for human food, the Commissioner concludes that:

1. DES has been shown to cause cancer in test animals and has been associated with the occurrence of cancer in humans.

2. Residues of DES have been and are being detected in the edible tissue of animals at levels that have not been shown to be safe within the meaning of the act.

3. The authority conferred by section 512(d)(1)(H) of the act to approve methods of examination allows, but does not require, the Commissioner to designate a method.

4. Any method designated by the Commissioner pursuant to section 512(d)(1)(H) must be practicable and capable of detecting drug residues regardless of the route of administration used for a drug.

5. The approved methods for detection of DES residues in edible tissue are not adequate to demonstrate that, within the meaning of the act, no residues will be found when the drug is used according to the approved conditions of use.

6. Data are lacking to justify the approval of any other analytical method(s) for detection of DES residues because no currently available method is capable of detecting residues at levels that have been shown to be safe within the meaning of the act.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e)(1), 21 U.S.C. 360b(e)(1)), the Commissioner proposes to withdraw approval of all existing NADA's providing for the use of DES in animals used for human food on the following grounds:

1. Information and data available since these applications were approved, together with earlier data reevaluated in the light of current scientific knowledge, demonstrate that DES is not shown to be safe for use as approved.

2. The anticancer clause in section 512(d)(1)(H) of the act is applicable.

This notice applies to all outstanding NADA's for the use of diethylstilbestrol in animals used for food for human consumption. All such applications now known to FDA are listed below by NADA number and by each applicant's name and last known address in FDA records. Copies of this notice are being forwarded by registered or certified mail to each of these known applicants. Notice to other applicants or holders of such NADA's whose identity is not known to FDA is given by this publication.

NADA No.	Name and address
5925	Elanco Products Co., P.O. Box 1750, Indianapolis, Ind. 46206.
9757	Pfizer, Inc., 235 East 42d St., New York, N.Y. 10017.
9770	See NADA 9757.
9783	See NADA 9757.
10132	Walnut Grove Products, 201 Linn St., Division of W. R. Grace Co., Atlantic, Iowa 50022.
10258	American Cyanamid Co., P.O. Box 400, Princeton, N.J. 08540.
10261	Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, N.J. 07065.
10421	Dawes Laboratories, 450 State St., Chicago Heights, Ill. 60411.
10566	Simonsen Manufacturing Co., Quimby, Iowa 51049.
10964	Vineland Laboratories, Inc., Subsidiary of Damon, 2285 East Landis Ave., Vineland, N.J. 08360.
11090	See NADA 9525.
11295	Hess & Clark, Division of Rhodia, Inc., 7th and Orange St., Ashland, Ohio 44805.
11356	See NADA 9757.
11365	E. R. Squibb & Sons., Inc., P.O. Box 4000, Princeton, N.J. 08540.
11485	See NADA 10421.
12553	See NADA 11295.
14773	Peter Hand Foundation, Inc., 2 E. Madison St., Waukegan, Ill. 60085.
15274	O. M. Franklin Serum Co., P.O. Box 22335, Denver, Colo. 80222.
31446	Fort Dodge Laboratories, Fort Dodge, Iowa 50501.
34735	Standard Chemical Manufacturing Co., 701 S. 42d St., Omaha, Nebr. 68103.
34916	See NADA 10421.
35017	Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City, Kans. 66106.
35019	See NADA 35017.
36313	Feed Additives, Inc., Fremont, Nebr. 68025.
36479	S. B. Penick Co., 100 Church St., New York, N.Y. 10008.
36554	Dale Alley Co., P.O. Box 444, St. Joseph, Mo. 64502.
36671	See NADA 36554.
36976	See NADA 34735.
37148	National Oats Co., 1931 Baugh Ave., East St. Louis, Ill. 62205.
37541	See NADA 37148.
37869	See NADA 36313.
38507	Texas Nutrition & Service Co., P.O. Box 5375, Fort Worth, Tex. 76108.
38509	See NADA 38507.
38510	See NADA 38507.
38682	Ultra Life Laboratories, Inc., No. 1 Ultra Way Drive, Highland, Ill. 62249.
39161	Square Deal Fortification Co., Kouts, Ind. 46347.
39491	Bresley-Koeling, Inc., Ord, Nebr. 68862.
39715	Feed Products, Inc., 1000 West 47th Ave., Denver, Colo. 80211.
39716	See NADA 39715.
39717	See NADA 39715.
39718	See NADA 39715.
39772	See NADA 10261.
40014	Western Feed Supplements, Ellensburg, Wash. 98926.
42162	See NADA 9525.
42355	Chemetron Corp., Chicago, Ill. 60611.
42702	Farmland Industries, Kansas City, Mo. 64116.
42840	See NADA 10261.
44344	See NADA 11295.
44526	Western Farmers Association, Seattle, Wash. 98111.
44795	Falstaff Brewing Corp., 5050 Oakland Ave., St. Louis, Mo. 63166.
45981	See NADA 11295.
45982	See NADA 11295.

Any holder of an approved application that elects to avail itself of the opportunity for hearing pursuant to section 512(e)(1) (21 U.S.C. 360b(e)(1)) and § 514.200 (21 CFR 514.200) must file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, a written appearance requesting such hearing by February 11, 1976, giving the reasons why approval of the application should not be withdrawn, and providing a well-organized and full-factual analysis of the scientific and other investigational data such holder is prepared to prove in support of its opposition to the Commissioner's proposal. A request for hearing may not rest upon mere allegations or denials, but must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. Responses to this notice may be seen in the office of the Hearing Clerk during regular business hours, Monday through Friday.

If a hearing is requested and is justified by any holder's response to the notice of opportunity for a hearing, the issues will be defined, an Administrative Law Judge will be assigned, and a written notice of the time and place at which the hearing will commence will be issued as soon as practicable.

Any hearing on the withdrawal of approval of the foregoing NADA's will be open to the public. If, however, the Commissioner finds that portions of the applications that serve as a basis for such a hearing contain information concerning a method or proces that is entitled to protection as a trade secret, the part of the hearing involving such portions will not be public, unless the respondent so specifies.

The Commissioner has carefully considered the inflation impact of this proposed action and a major inflation impact has been found, as defined in Executive Order 11821, OMB Circular A-107, and interim guidelines issued by the Department of Health, Education, and Welfare. Copies of the inflation impact statement are on file with the Hearing Clerk, Food and Drug Administration. The major conclusions found in the inflation impact statement are:

1. There are no satisfactory alternatives to the agency's proposed action that are consistent with the legal constraints imposed by the Federal Food, Drug, and Cosmetic Act, as amended.

2. Operating expenses to feed lot producers of cattle for feed and other items are estimated to increase by $156 million during the first year following a DES ban. These increased costs are expected to fall substantially over the long term as substitutes to DES become available in greater quantitives.

3. Retail prices of beef are estimated to rise by about 2 cents per pound, meaning the per capita cost of beef to consumers at current levels of consumption would increase approximately $2 to $3 annually. The aggregate consumer impact is estimated at $503 million.

4. A ban on DES would not cause major inflation impacts, as defined by the HEW/OMB criteria, in the areas of competition, productivity, supply of materials, or use of energy.

5. The benefits from implementing the proposed action will be the elimination of any risk of cancer associated with the consumption, via the edible tissues of food-producing animals, of residues attributable to DES.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 as amended (21 U.S.C. 360(b)), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: January 7, 1976.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.76-869 Filed 1-9-76;8:45 am]

ADVISORY COMMITTEE

Notice of Meeting

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration. It also sets out a summary of the procedures governing the committee meeting and the methods by which interested persons may participate in the open public hearing conducted by the committee. The notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)). The following advisory committee meeting is announced:

Committee name	Date, time, place	Type of meeting and contact person
Antibiotics in Animal Feeds Subcommittee of the National Advisory Food and Drug Committee.	Jan. 29 and 30, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open committee discussion Jan. 29, 9 a.m. to 3 p.m.; open public hearing Jan. 29, 3 p.m. to 4:30 p.m.; open committee discussion Jan. 30, 9 a.m. until discussion of trade secret data; closed committee deliberations Jan. 30, discussion of trade secret data to adjournment; William V. Whitehorn, M.D. (HFG-1), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-1547.

General function of the committee. Reviews and evaluates agency programs and advises on policy matters of national significance as they relate to the statutory mission in the areas of foods, drugs, cosmetics, medical devices, and biological and electronic products. Reviews and makes recommendations on applications for grants-in-aid for research projects relevant to the mission of the Food and Drug Administration as required by law.

Agenda—Open committee discussion. Efficacy and safety considerations on the use of sulfaquinoxaline, penicillin, and penicillin/streptomycin in animal feeds.

Open public hearing. During this portion any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Closed committee deliberations. During this portion of the meeting the subcommittee will consider in depth data submitted by drug sponsors on the drug products listed as agenda items for the open portion of the meeting. These data were received in response to 21 CFR 558.15. Under this section, data submitted by drug sponsors are proprietary in nature. This portion of the meeting will be closed to permit discussion of trade secret (proprietary) data (5 U.S.C. 552 (b)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committee shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. Both the Federal Advisory Committee Act and 5 U.S.C. 552(b) permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed shall, however, be closed for the shortest time possible consistent with the intent of the cited statutes.

Generally, FDA advisory committees will be closed because the subject matter is exempt from public disclosure under 5 U.S.C. 552(b) (4), (5), (6), or (7), although on occasion the other exemptions listed in 5 U.S.C. 552(b) may also apply. Thus, a portion of a meeting may be closed where the matter involves a trade secret; commercial or financial information that is privileged or confidential; personnel, medical, and similar files, disclosure of which could be an unwarranted invasion of personal privacy; and investigatory files compiled for law enforcement purposes. A portion of a meeting may also be closed if the Commissioner determines: (1) That it involves inter-agency or intra-agency memoranda or discussion and deliberations of matters that, if in writing would constitute such memoranda, and which would, therefore, be exempt from public disclosure; and (2) that it is essential to close such portion of a meeting to protect the free exchange of internal views and to avoid undue interference with agency or committee operations.

Examples of matters to be considered at closed portions are those related to the review, discussion, evaluation or ranking of grant applications; the review, discussion, and evaluation of specific drugs or devices; the deliberation and voting relative to the formation of specific regulatory recommendations (general discussion, however, will generally be done during the open committee discussion portion of the meeting); review of trade secrets or confidential data; consideration of matters involving FDA investigatory files; and review of medical records of individuals.

Examples of matters that ordinarily will be considered at open meetings are those related to the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices, consideration of labeling requirements for a class of marketed drugs and devices, review of data and information on specific investigational or marketed drugs and devices that have previously been made public, and presentation of any other data or information that is not exempt from public disclosure.

Dated: January 7, 1976.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.76-864 Filed 1-9-76;8:45 am]

NATIONAL COMMITTEE ON VITAL AND HEALTH STATISTICS

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to assembly during the month of February 1976:

Name: United States National Committee on Vital and Health Statistics.
Date and time: February 25-27, 1976, 9:30 a.m.
Place: Stouffer's National Center Inn, 2399 S. Jefferson Davis Highway, Arlington, Virginia 22202.
Open for entire session.

Purpose: The United States National Committee on Vital and Health Statistics assists and advises on the collection, analysis, and dissemination of national health statistics on vital events and health activities, including the physical, mental, and physiological characteristics of the population, illness, injury, impairment, the supply and utilization of health facilities and manpower, the operation of the health services system, health economic expenditures, and changes in the health status of people.

Agenda: Agenda items include progress reports on statistics needed for determining health effects on environmental conditions, data policies related to fertility, report on ICD-9th Revision Conference and implementation plans, progress in designation of an office for promulgation of uniform data sets, uniform hospital discharge data sets, ambulatory care data sets, and data for sub-national populations. Discussion items include: (1) description and designation of State health statistics and information centers; (2) activities of Health Data Policy Committee and review of report to congress on status of the Nation's Health; (3) coordination of statistical activities for health planning, and (4) international health statistical activities of the PHS and the World Population plan, and report of PHS activities in Drug monitoring and surveillance.

New business brought before the Committee will include: geocoding and geopolitical boundaries; progress on Hauser Committee recommendations; National Death Index; confidentiality, progress on ambulatory care symptom classification; problems of coding housing and living arrangements; and long-term care data set.

The meeting is open to the public for observation and participation. Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. James A. Smith, Room 8-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, Telephone (301) 443-1470.

Agenda items are subject to change as priorities dictate.

Dated: January 6, 1976.

JAMES A. WALSH,
Associate Administration for Operations and Management.

[FR Doc.76-754 Filed 1-9-76;8:45 am]

Health Services Administration

INDIAN HEALTH ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to assemble during the month of February 1976:

Name: Indian Health Advisory Committee.
Date and time: February 10-11, 1976, 9 a.m.
Place: Conference Room K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.
Open for entire session.

Purpose: The Committee advises the Secretary; Assistant Secretary for Health; Administrator, Health Services Administration; and Director, Indian Health Service on health and other related matters that have a bearing on the conduct of the Indian health program, as well as current and proposed regulations and policies.

Agenda: The Committee will discuss the current total Indian health administrative program operations, more specifically, the impact of the Indian Self-Determination Act on the delivery of services, pertinent pending legislation having a potential definite impact on the Indian health program, and other specific items of departmental interest and concern regarding Indian health endeavors.

The meeting is open to the public for observation and participation. Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. Mose E. Parris, Room 5A-43, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, Telephone (301) 443-1104.

Agenda items are subject to change as priorities dictate.

Dated: January 5, 1976.

WILLIAM H. ASPDEN, Jr.,
Acting Associate Administrator for Management.

[FR Doc.76-755 Filed 1-9-76;8:45 am]

Office of Education

NATIONAL COUNCIL ON BILINGUAL EDUCATION

Correction of Notice of Public Meeting

Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463) that a meeting of the National Advisory Council on Bilingual Education will be held on January 21-24, 1976. The Council will meet in Plaza del Sol, 600 N. 2nd Street, N.W., Albuquerque, New Mexico.

The National Advisory Council on Bilingual Education is established pursuant to Section 732(a) of the Bilingual Education Act (20 U.S.C. 880b) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

The Council sessions shall be opened to the public. The Council will meet each day from 9:00 a.m. to 4:00 p.m. except on January 24, when the Council will hold subcommittee meetings between 2:00 p.m. and 4:00 p.m. only.

The proposed agenda for the Council meetings is:

A. January 21-22—Public hearings.
B. January 23—Regular business meeting.
C. January 24—Meeting of the budget and hearings sub-committee.

The following procedures shall be observed during the public hearings:

1. Witnesses shall limit their appearances to twenty-five minutes, ten to fifteen minutes of formal presentation followed by ten to fifteen minutes of questioning from Council members;
2. Two or more persons from the same organization shall designate one person to speak for the group;
3. Witnesses should present a written synopsis of their oral presentation. Witnesses who do not provide such a synopsis shall be placed last on the agenda;
4. The written synopsis must be in English, although any witness may address the Council in his native language if he so desires;
5. All testimony will be tape-recorded.

Records shall be kept of all meetings of the Council and shall be available for public inspection in Room 421, Reporter's Building, 300 7th Street, S.W., Washington, D.C. 20202.

Signed at Washington, D.C. on January 5, 1976.

JOHN C. MOLINA,
Acting Director, Office of Bilingual Education.

[FR Doc.76-747 Filed 1-9-76;8:45 am]

Office of the Secretary

HEALTH SERVICES ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3, Health Services Administration, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare, is amended to revise the statement for the Office of Property Management (3AA911) (39 FR 10463, March 20, 1974, as amended) to reflect minor revisions of functional responsibility in regard to energy conservation and safety management.

Sec. 3-B Organization and Functions is amended by replacing the current statement for the Office of Property Management (3AA911) with the following:

Office of Property Management (3AA 911). (1) Plans, directs, and coordinates property management programs (including personal and real property) covering Headquarters and Field activities; (2) provides advice on matters relating to the development and execution of property management policies and programs; (3) develops procedures and provides training for property management operations; (4) interprets regulatory issuances and provides guidance and technical assistance in property management areas; (5) evaluates Health Services Administration property management programs, and activities (including on-site review); (6) administers a Health Services Administration program for energy conservation; (7) administers the Perry Point Supply Service Center; and (8) maintains necessary liaison with other organizations concerned with property management activities.

Dated: December 30, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.76-811 Filed 1-9-76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 27573, etc.; Order 76-1-17]

INTERNATIONAL AIR TRANSPORT ASSOCIATION AND TRANS WORLD AIRLINES, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 5th day of January, 1976.

In the matter of agreements adopted by the Traffic Conferences of the International Air Transport Association relating to North Atlantic and composite cargo rate matters (Docket 27573, Agreement C.A.B. 25202, R-10; Agreement C.A.B. 25280, R-1 through R-8, R-10 through R-19, R-21); and container reloading, repacking and unloading charges proposed by: Trans World Airlines, Inc. (Docket 28469).

By Order 75-7-126, dated July 25, 1975, the Board established procedural dates for receipt of justification, comments, and replies concerning Agreement C.A.B. 25280, adopted at the 1975 Composite Cargo Conference held during May-June at Nice, establishing certain cargo procedures, rates and ancillary charges for worldwide application through September 30, 1977. This order will act upon: (1) Agreement C.A.B. 25280; (2) a complaint by Pan American World Airways, Inc. (Pan American) in Docket 28469 against container reloading, repacking and unloading charges proposed by Trans World Airlines, Inc. (TWA); and (3) that portion of Agreement C.A.B. 25202 on which action was deferred in Order 75-12-147, dated December 30, 1975.

Agreement 25280. The agreement would revalidate without numerous resolutions governing such matters as charges for ancillary services, live animal rates, and general rules for construction of cargo rates.[1] In addition, excess valuation and C.O.D. charges would remain essentially unchanged with respect to traffic to/from the United States. Other changes are mostly of a technical or procedural nature and include revised rates of exchange (Resolution 021b) reflecting

[1] The Board has acted on R-9 of the agreement, which relates to cargo charters, in Order 75-10-5, dated October 1, 1975.

the decreased value of the U.S. dollar vis-a-vis the Australian dollar and related currencies, revisions to Unit Load Device Board voting procedures, reduction from $50 to $25 per day in demurrage charges for unit load devices held over 48 hours by shippers/consignees, amalgamation of existing area resolutions setting forth procedures and general rules for use of unit load devices into a single worldwide resolution, and provisions for a special meeting before March 30, 1976 to discuss carrier problems relating to unrestricted trucking of international air freight within the United States at air freight rates.[2]

Justification or statements of support have been received from Braniff International (Braniff); The Flying Tiger Line Inc. (Tiger); National Airlines, Inc. (National); Pan American World Airways, Inc. (Pan American); and Trans World Airlines, Inc. (TWA). Objections to the live animal rates and related rules have been filed on behalf of twenty-eight retail and wholesale live animal merchants, hereinafter referred to as the Pet Industry Parties (PIP) and by the Zoological Action Committee, Inc. (ZooAct). Finally, Tiger and TWA have filed consolidated replies, portions of which are in answer to the submissions of PIP and ZooAct.

Excess Valuation Charges—IATA Resolution 503. Only two carriers, Tiger and TWA, have submitted data in support of the excess valuation charge.[3] While acknowledging a $17,151 profit from present excess valuation charges for the year ended June 1975, Tiger attributes this profit to its low claims ratio and contends that the excess valuation charge of 0.40 percent (40 cents per $100) is warranted since its low claims experience is not shared by many other IATA carriers; that the shipper has practical alternatives to paying the IATA charge offered by independent third parties or indirect carriers not bound by the agreement; and that in the absence of demonstrated harm to the shipper from assessment of the charge, the Board should not disapprove the charge simply because Tiger profited from the charges over a period of time. TWA relies on a past justification which claimed a $3,036.80 shortfall further aggravated by the January 1974 change in Warsaw Convention liability from $18.00 to $20.00 per kilogram. The carrier claims that in view of Board acceptance of this justification, initially submitted in early 1974 in a unilateral tariff filing to justify a similar charge, no further action appears necessary on its part.

Live Animal Rates—IATA Resolution 511. Only TWA has submitted any detailed cost data in support of the premium live animal rates, set at 125 and 150 percent of the applicable general rate for cold- and warm-blooded animals, respectively. Braniff and Tiger state they are unable to provide any cost data since most of their international live animal traffic moves under specific commodity rates. Pan American states it is not possible for it to undertake the extensive study needed to cost-justify the rates.

In general, the carriers maintain that the premium rates are justified by the value of service provided in the additional documentation, handling procedures and aircraft space compared with the less demanding requirements for international general cargo and domestic live animal shipments. Tiger and Pan American contend that while the rates have been in effect for over a year, no shipper or consignee has demonstrated irreparable or serious damage from the premium rates or, as Tiger contends, even complained about the premium rates. Pan American maintains that live animal traffic possibly downgrades overall service standards and increases costs since most carriers now use automated systems and unit load devices for freight shipments while live animal traffic, which cannot move in unit load devices, must be handled exceptionally on an individual basis; and that disapproval of the rates may cause carriers to reevaluate their live animal policies with view to minimizing expense with resultant possible risks to the well-being of the animals.

TWA contends there are significant differences which distinguish international live animal service from domestic service such as the longer length of haul[4] and greater in-flight times that engender greater air space requirements and lead to different conclusions from those found by the Board in its domestic *Live Animals Investigation.*[5] The carrier states its regulations for loading and stowing of warm-blooded animal shipments require maintenance of a minimum 6 inches of air space around each live animal box as well as additional varying amounts of extra air space in the cargo compartment itself. TWA asserts that the 6-inch separation alone justifies a 150 percent premium rate on warm-blooded shipments and, in support, submits data computing the capacity costs attributable to the additional space required for a shipment of a dog or cat, claimed to be typical of its warm-blooded live animal traffic. TWA uses the multielement pricing structure developed in the *Domestic Air Freight Rate Investigation*[6] to establish its noncapacity costs, adjusted to reflect the additional man-minutes believed necessary to document international live animal shipments and for 1975 costs. The carrier compares the revenues derived from such shipments with the total capacity and noncapacity costs involved and contends that the premium rates are warranted when costs for the required 6-inch separation are included in the final cost and more than warranted when capacity costs for the extra compartment air space, instead of the 6-inch separation, are considered.

PIP and ZooAct oppose the live animal rates and PIP requests the agreement as it pertains to live animal rates be disapproved.[7] PIP contends that the present premium rates result from a shipper compromise to give carriers a one-year period to generate cost data on live animal carriage; that the Board's Nice policy statement indicated that continuation of the premium rates in question must be supported by adequate cost data; that the responding carriers have provided scant cost justification or have admitted an inability to provide such data; and opposes the narrow definition given "cold-blooded" animals,[8] favoring the more liberal definition used in the domestic *Live Animals Investigation.* PIP also states that the IATA carriers offer a number of specific commodity rates (SCR's) at substantial discounts from the general commodity rates for a variety of live animal types in various world markets and questions why the carriers subject live animal traffic to/from the U.S. to high premium rates and offer lower SCR's elsewhere if, in fact, live animal shipments entail extra carrier costs.

Both PIP and ZooAct contend that the statements made by the carriers in support of the premium rates are unsubstantiated; that the carriers rationale based on value of service and much of TWA's costing methodology is inconsistent with the Board's previous findings in the *Live Animals Investigation* and *DAFRI;* and that, if any additional costs for ground handling or documentation peculiar to international live animal shipments and not already performed by the shipper or his agent can be identified, they should

[2] IATA Resolution 507b, relating to use of surface transportation and incorporated in the instant agreement as R-20, was withdrawn by IATA after it determined there was in fact no unanimous agreement for the TC1 (Western Hemisphere), JT12 (Transatlantic), JT31 (Transpacific) and JT123 areas after September 30, 1975 and that Resolution 507b would be "open" in those areas on October 1, 1975. Because of a tie-in provision in 507b, Resolution 512b (specifying certain services carriers may perform for shippers) also became "open" in these areas on that date. However, there is carrier agreement on Resolution 507b for the remaining world areas embodied in R-21 of the agreement. The Board will expect this matter to be resolved promptly and would note that to the extent any revalidated resolution permits trucking between U.S. points not authorized by the carrier's certificate or permit, such practice is unlawful. We further refer the carriers to the Board's opinion in Docket 19797, *Substitution of Other Services for Air Transportation Rule Proceeding,* Order 75-3-37, decided March 12, 1975.

[3] Braniff states it abstained on Resolution 503 in order to facilitate agreement and National contends its revenues from the charge are minimal and that it has no method to cost-justify the charge.

[4] TWA states its length of haul averages 4,246 miles for its international system vs. 1,433 miles for its domestic system.

[5] *Investigation of Premium Rates for Live Animals and Birds,* Docket 21474 decided June 26, 1973, hereinafter referred to as *Live Animals Investigation.*

[6] Docket 22859, Initial Decision served April 15, 1975, hereinafter referred to as *DAFRI.*

[7] In a letter, filed in Docket 22859, Bronson Tropical Bird Aviaries of New York likewise opposes the premium live animal rates.

[8] Defined in the IATA agreement as "fish, frogs, iguanas, insects, reptiles, turtles, and worms."

be levied as an accessorial charge and should not be incorporated as part of a premium rate.

PIP further maintains that TWA's multielement costing of noncapacity expense for international live animal shipments is deficient, and asserts that in *DAFRI*, with the revisions as set forth in the Initial Decision, rates for live animals were actually below those for regular freight.

Both Tiger and TWA have responded to the comments of PIP and ZooAct and contend that the availability of SCR's for live animals in other world markets is irrelevant to the validity of the premium rates in question. Tiger also states that the various animal shippers do not contend that value of service in and of itself is not sufficient justification of the rates; that, in view of the extensive resources needed to detail the appropriateness of the premium rates, the current economic state of the air industry and the fact that only 0.6 percent of its 1974 freight revenues came from live animal traffic, it could not afford the added expense to fully cost-justify the premium rates; and that the Board should focus upon the obvious facts and value of service performed for live animal shipments. TWA contends the live animal shippers have misunderstood its costing methodology, reiterates the process, and contends it has been as conservative as possible in arriving at final costs since it did not include costs for accessorial services provided or for the extra compartment air space.

Unit Load Devices—IATA Resolutions 520, 520a, 634a.[9] In general, the carriers believe the changes in these resolutions will have limited impact upon the shipping public, will improve the functioning of the Unit Load Devices Board and will standardize and rationalize on a worldwide basis the general rules applicable to unit load devices.

However, by tariff revisions filed November 1, 1975 effective December 1, 1975, TWA has proposed charges, ranging from $6 to $18, for reloading, repacking and unloading of containers, moving over its North Atlantic routes, which represent discounts of up to 82 percent from present IATA-agreed levels as set forth in Attachment C of Resolution 534a. In addition, shipments at Heathrow Airport would be exempted from such charges altogether.[10] However, TWA's unloading charges of containers for purpose of customs inspection remains at IATA levels. In support, TWA contends that the present IATA levels are unrealistic resulting in many carriers failing to assess the charges; that the proposed charges, set at domestic levels, remove the anomaly of providing identical services to domestic and international shippers at different prices, especially since the carrier believes the cost of providing the two services is the same; that the changes will produce $700,000 additional revenue primarily from recovery from other carriers of revenues presently lost; and that exemption for Heathrow is based primarily on a U.K. government reservation on the IATA resolution. The carrier recognizes that the charges are not at levels agreed within IATA; however, it contends the North Atlantic area is presently open pending implementation of a new IATA structure, and believes its action is necessitated by present competitive practices.

In a complaint, filed November 6, 1975, Pan American requests rejection, or failing that, suspension and investigation of the charges on the grounds that it believes the carriers are properly assessing the higher IATA charges; that allegations of carriers' failing to collect, if true, are insufficient justification; that TWA has provided no economic justification for its proposal; that the initial decision of *DAFRI* concluded that TWA's domestic charges are too low, hence TWA should not be permitted to apply uneconomic domestic level charges to higher-cost international shipments. In answer to Pan American, TWA contends it has submitted justification and concedes that while implementation of *DAFRI* would result in higher domestic charges, such charges would be considerably lower than the present IATA charges. The carrier holds that since the time involved reloading and unloading containers is essentially the same for domestic and international shipments, domestic and international charges should be equated. Finally, TWA states Pan American has provided no evidence to support the higher international charge.

Circuitous Routing Control. Several carriers have submitted comments directed towards the Board's expressed concern that the instant agreement contains no provisions for routing control to prevent undue erosion of carrier yields resulting from circuitous routing of freight via higher-rated intermediate points at the direct route level, largely by carriers wishing to be competitive in markets they are not certificated to serve directly. In general, the responding carriers contend that absence of routing controls is clearly justified by cost considerations in that the present situation allows carriers flexibility in choice of the most efficient routing and use of capacity in any given market and that routing controls are unnecessary since shippers generally select the better service that a direct routing offers. Nevertheless, TWA does hold that this flexibility should be restricted solely to those carriers certificated to provide direct service; however, it feels it is not possible nor appropriate for the Board to impose routing controls by condition to the appropriate IATA resolutions nor realistic to expect the carriers to impose controls themselves. Rather, TWA believes the best course is for the Board to use other means, such as direct intergovernmental consultations, to deal with carriers' using circuitous routings to match rates over more direct routings they are not authorized to service.

Findings. Upon consideration of the carrier submissions, the comments and replies, Pan American's complaint and TWA's response, the Board has determined to disapprove the excess valuation charge the live animal rates and the container loading and unloading charges set forth in Attachment C to Resolution 534a; approve the remaining resolutions with conditions; and dismiss Pan American's complaint.

The level of excess value charges has been a continuing issue before the Board. For almost two years the carriers have been instructed to cost-justify an excess valuation charge of 0.40 percent on that portion of the shipper's declared value which exceeds the basic $20.00 per kilogram Warsaw Convention liability. Of the eight major U.S. international carriers, who are members of IATA, only two, TWA and Tiger, have filed any data in support of the proposed charge. No foreign carrier has submitted any justification. TWA's submission is essentially the same as the Board previously found inadequate (Order 74-8-68) while Tiger's submission shows that its operating profits from excess valuation charges amount to some 65 percent of the total excess value revenues collected. In view of the above, we are unable to conclude that the proposed excess valuation charge itself is reasonable and equated with the actual additional risks involved.

However, in response to the Board's request for clarification of the intent of the excess value resolution as it pertains to assessment of the charge, four of the five responding carriers have stated that the charge would be assessed only upon that amount by which a shipment's value exceeds the amount of the carrier's basic liability as specified in the Warsaw Convention.[11] Accordingly, while we will disapprove the 0.40 percent charge itself, we will approve the remaining portion of the resolution relating to the method of assessment. Our approval is based upon the interpretation of the four carriers that the intent is to assess the charge on that portion of the value in excess of the basic Warsaw liability which is consistent with the Board's long-held policy.

Turning to the live animal rates, the Board made it clear in the August 1974 order approving the premium rates and again in its May 1975 Nice Policy Statement that continuation of the rates beyond September 1975 was contingent upon adequate cost justification based upon carrier experience for the one-year

[9] While Resolution 534a comprises part of the overall North Atlantic cargo rates structure disposed of by Order 75-12-147 of December 30, 1975, that order deferred action on Attachment C to that resolution which specifies container loading and unloading charges.

[10] Trans World Airlines, Inc. (C.A.B. No. 214, 8th Revised Page 8-A). In a subsequent filing, not included in Pan American's complaint, TWA also reduced its demurrage charge for containers from $50 to $10. The IATA-agreed leved for such charges, set forth in Resolution 520a, is $25, a reduction from the precious $50 level.

[11] National states that it adheres to its tariff which provides that the charge be assessed on the total amount of the declared value.

period in which the rates were in effect. However, the carriers have not presented any such convincing data to prove their allegations that the particular circumstances of international carriage justify higher premium rates than those found lawful in U.S. domestic service. Of all the carriers, only TWA has made any attempt to cost-justify the premium rates, and TWA's attempt is deficient and unpersuasive. For example, in pricing its capacity costs applicable to a "typical" warm-blooded live animal shipment, TWA charges for air space not actually occupied by the animal but claimed by the carrier to be allocated to and necessary for the animal's survival. This argument has been thoroughly reviewed in the past in the domestic *Live Animal Investigation*, and more recently in the initial decision in *DAFRI*, and in each case was rejected. In the *Live Animal Investigation*, the Board found that ample access to free air space was provided by stowage next to otherwise unusable space adjacent to compartment doors, placement next to broken stowage space caused by aircraft compartment curvature, and by the shape of the containers creating broken stowage. TWA and the other carriers have made no showing that this is not also the case with international live animal traffic. Further, in its multielement pricing of noncapacity costs for warm-blooded shipments, TWA has adjusted upwards the base 1972 per shipment terminal handling time by 24.651 man-minutes, based upon the results of an in-house study, with a resultant four-fold increase at 1972 cost levels in per shipment terminal handling costs. However, TWA provides no supporting data relating to how this in-house study was conducted. In view of the above, the Board is unable to conclude that the premium rates set at 125 and 150 percent of the applicable general cargo rates for shipments of cold-blooded and warm-blooded animals, respectively, is warranted.

In considering Pan American's complaint against TWA's reloading, repacking and unloading charges, we have given much weight to TWA's argument that the costs of providing such services for international air transportation approximate the costs of such services for domestic air transportation. The IATA carriers have made no showing that the costs of providing the service internationally justify the much higher charges which range from $50 to $450 depending upon the container type and the actual service performed. While a final decision in *DAFRI* might result in charges that are higher than those currently applicable in domestic transportation, we find merit in TWA's argument and, at this time, see no reason not to permit TWA's proposal to stand as filed. Accordingly, we will disapprove the charges specified in Attachment C to Resolution 534a and deny the relief sought by Pan American. Finally, while TWA's demurrage charges are not reached by Pan American's complaint and while TWA's charge is lower than the IATA-proposed $25 demurrage charge, we will approve the proposed $25 charge since it represents a considerable reduction from the present $50 charge. However, we will expect full cost justification for the $25 charge in any agreement seeking extension beyond its present September 30, 1977 expiry date.

Lastly, while the carriers have expressed their opinions regarding the need for routing controls, we continue to be concerned that circuitous routings at the direct routing rate level for competitive reasons erodes carrier yields and generates pressure for added revenues through rate increases. Accordingly, we will condition our approval of the general construction rules for cargo rates contained in IATA Resolution 014b to preclude carriers' filing of rates in tariffs between U.S. and foreign points at the direct level when their operating authority would require actual routing through a higher-rated intermediate point. Rates will not be permitted to be filed at a level lower than the rates for the intermediate point through which the carrier is required to operate.

The Board, acting pursuant to sections 102, 204(a) and 412 of the Act makes the following findings:

1. It is not found that the following resolutions, incorporated in Agreement C.A.B. 25280 as indicated, are adverse to the public interest or in violation of the Act provided that approval is subject to conditions previously imposed, where applicable, or imposed herein by the Board:

Agreement CAB	IATA No.	Title	Application
25280:			
R-1	001j	2 Year Effectiveness Escape—Cargo (Revalidating and Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-2	001x	Review of Cargo Rates (Revalidating and Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-3	001	Standard Revalidation Resolution (Except insofar as it would revalidate Resolution 511, Rates for Live Animals).	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-4	012b	Definition of Middle East (Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-5	021b	Rates of Exchange (Amending)	1; 2; 3.
R-6	023b	Rounding Off Cargo Rates (Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-7	023c	Rounding Unit for Billing in Japan (New)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-8	024	Kilogram Rate Basis (Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-10	200c	Transporation of Human Eyes and Dehydrated Corneas (Amending).	1/2.
R-11	503	Charges in Relation to Value (Revalidating and Amending) (Except insofar as it would establish a charge of 0.40 percent of the declared value for carriage subject to a one dollar minimum charge).	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-12	512a	C.O.D. Procedures (Revalidating and Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-13	520	Unit Load Devices Board (Revalidating and Amending)	1; 2; 3; 1/2; 1/3; 3/1; 1/2/3.
R-14	520a	General Rules for the Use of Unit Load Devices (New)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-15	521	Charges for the Use of Unit Load Devices (Revalidating and Amending).	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-16	521b	Packaging Service (Revalidating and Amending)	2; 1/2.
R-17	596	Newspapers and Periodicals (Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-18	598	Baggage Shipped as Cargo (Amending)	2; 3; 2/3.
R-19	680	Diplomatic Bags (Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-21	507b	Use of Surface Transportation (Revalidating and Amending)	2; 3; 2/3.

NOTE.—Provided with respect to Resolution 014b revalidated therein: No carrier shall be permitted to file rates between United States points, on the one hand, and foreign points, on the other hand, at the direct level when their operating authority would require routing through a higher-rated intermediate point. Rates will not be permitted to be filed in such instances at a level lower than the rates for the intermediate point through which the carrier is required to operate.

2. It is found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest and in violation of the Act:

Agreement CAB	IATA No.	Title	Application
25202:			
R-10	534a	Charges for Bulk Unitization—North Atlantic (Attachment C) (Revalidating and Amending).	1/2.
25280:			
R-3	002	Standard Revalidation Resolution (Insofar as it would revalidate Resolution 511, Rates for Live Animals).	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-11	503	Charges in Relation to Value (Revalidating and Amending) (Insofar as it would establish a charge of 0.4 percent of the declared value for carriage subject to a one dollar minimum charge).	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.

Accordingly, *It is ordered* That:

1. Those portions of Agreement C.A.B. 25280 described in finding paragraph one above be and hereby are approved subject to conditions previously imposed, where applicable, or imposed therein by the Board;

2. Those portions of Agreements C.A.B. 25202 and C.A.B. 25280 described in finding paragraph two above be and hereby are disapproved; and

3. The complaint of Pan American World Airways, Inc. in Docket 28469 be and hereby is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary*.

[FR Doc.76-655 Filed 1-9-76;8:45 am]

[Docket No. 27573 Agreement C.A.B. 25220 R-1 through R-5; Order No. 76-1-16]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Western Hemisphere Cargo Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 5th day of January, 1976.

By Order 75-7-88, July 17, 1975, the Board established procedural dates for the receipt of carrier justifications, comments and/or objections by interested persons, and reply comments, pertaining to an agreement of the carrier members of the International Air Transport Association (IATA), which would establish TC1 (Western Hemisphere) cargo rates for effect October 1975 through September 1977.

The agreement would increase general commodity rates by approximately 8 percent in the U.S.-Mexico/Central America/Caribbean markets, 5 percent in the U.S.-Venezuela market, and 10 percent on northbound shipments from South America, with southbound rates remaining at their current levels. The 100 kg. weightbreak would be canceled for all of the Western Hemisphere and the 300 kg. weightbreak would be canceled for U.S.-Mexico traffic. Certain specific commodity rates would be canceled in selected markets and those remaining would be increased approximately 10 percent. In addition, minimum charges for any consignment would, in general, be increased $2, except in certain cases in the U.S.-Mexico/Caribbean markets where the increase would be $1, and certain long-haul markets where the minimum charge would remain at present levels. Rates and charges for various types of containers would be introduced in certain markets, particularly in the U.S.-Mexico market, and certain rates would be canceled in those markets where no carrier has firm requirements for a container program. Container rates and charges in the U.S.-Mexico/Caribbean markets, as well as southbound long-haul container charges, would generally remain at present levels. Southbound long-haul over-pivot rates would be increased 10 percent, with specific increases to northbound container rates and charges. Finally, the agreement includes a new resolution specifically directed to meeting non-IATA cargo rates and practices.

Statements of justification and supporting data have been submitted by American Airlines, Inc. (American), Braniff Airways, Inc. (Braniff), Eastern Air Lines, Inc. (Eastern), and Pan American World Airways, Inc. (Pan American). No comments in opposition have been received.

U.S.-Mexico. In U.S.-Mexico scheduled cargo operations for the year ending September 30, 1976, the U.S. carriers anticipate a $1.5 million improvement in operating revenues and an overall return on investment (ROI) of 6 percent under the proposed rates. The following table summarizes the justifications of the individual carriers:

Carrier, type of operation	Revenue gain under proposed rates	Percent	Return on investment (percent)	
			Present rates	Proposed rates
American: Combination	$293,000	7.1	−9.0	−5.4
Braniff: Combination	13,000	8.1	−69.8	−69.4
Eastern: Combination	139,000	8.1	−2.2	1.8
Pan American:[1]				
Combination	921,000	7.9	52.5	60.6
All cargo	193,000	8.2	−65.7	−60.5
Total	1,119,000	7.2	22.4	29.8
Total U.S. carriers	1,474,000	7.3	.7	6.0
Excluding Braniff[2]	1,461,000	7.3	19.8	16.8

[1] Includes central American operations. Pan American claims that some of its central American traffic flows over its U.S.-Mexico sectors and that separation of these 2 markets would therefore cause distortions in the data.
[2] On the basis of $160,000 operating revenues under the existing rates, Braniff forecasts a $1,185,000 negative return on a $1,697,000 investment allocated to this service. Such an allocation appears unreasonable on its face. Moreover, considering its minimal revenues, Braniff cannot be considered a viable competitor in this market. Accordingly, Braniff's operations will not be considered in determining the carriers' revenue need in the U.S.-Mexico market.

U.S.-Caribbean. The following table summarizes the carriers' justifications of the agreement in terms of their U.S.-Caribbean services for the year ending September 30, 1976. Of the total $5.8 million freight revenue American expects during the period, $3.3 million is expected to come from the new Caribbean points it serves starting September 8, 1975 as a result of its route exchange with Pan American. Pan American did not identify the effect of the exchange on its revenues.

Carrier, type of operation	Revenue gain under proposed rates	Percent	Return on investment (percent)	
			Present rates	Proposed rates
American:				
Combination	$105,000	2.8	−25.3	−23.3
All-cargo	53,000	2.8	6.9	9.9
Total	158,000	2.8	−17.4	−55.2
Eastern: Combination	200,000	8.5	−29.6	−21.7
Pan American:				
Combination	202,000	9.3	13.1	18.8
All-cargo	365,000	8.7	−33.1	−25.9
Total	577,000	8.9	−13.5	−7.0
Total U.S. carriers	935,000	8.5	−17.4	−12.4

U.S.-South America. The following table summarizes the economic justification presented by the two U.S. carriers operating in the South America market for the year ending September 30, 1976.

Carrier, type of operation	Revenue gain under proposed rates	Percent	Return on investment (percent)	
			Present rates	Proposed rates
Braniff: Combination	$821,000	8.0	−23.8	−19.0
Pan American:				
Combination	591,000	4.6	25.3	28.9
All cargo	1,737,000	5.4	19.6	24.6
Total	2,323,000	5.2	21.4	26.0
Total U.S. carriers	3,149,000	5.7	9.3	13.9

Findings. Generally the Board has considered both all-cargo and combination operations in its disposition of IATA rate agreements, but places greater emphasis on all-cargo operations.[1] In Western Hemisphere cargo operations, Pan American is the principal U.S. all-cargo carrier; American's all-cargo operations in the Caribbean represent a relatively small percentage of total cargo operations in the area. However, in the U.S.-Mexico/Central America market, Pan American's all-cargo operations account for less than twelve percent of total U.S. carrier cargo revenues in that market and the preponderance of Pan American's cargo revenues are generated in its combination services, which show a large profit according to Pan American's submission. Accordingly, it would be unreasonable to place heavy emphasis on operations which have such a limited share of the market. Disposition of the agreement in this market is therefore based on the revenue need for both combination and all-cargo operations.

Based on the forecast data for the year ending September 30, 1976, which

[1] The differences in profitability between Pan American's combination services and the combination services of the other carriers in these markets is perplexing. It is difficult to understand how Pan American can operate highly profitable combination services in these markets while the other carriers cannot. It is equally difficult to understand why Pan American sustains heavy losses in its all-cargo operations in these markets while American earns a modest profit.

was broken down into geographical market areas as directed in the procedural order (Order 75-7-88, July 17, 1975), the extra revenue anticipated from the proposed new rates will leave the carriers' return on investment (ROI) well below the 12 percent Board standard in the U.S.-Mexico/Central America market. However, the anticipated 6 percent ROI for total cargo operations in this market resulting from the proposed new rates is heavily influenced by Braniff's huge losses (relative to revenue) in combination services in this market.[2] Excluding Braniff's operations, the forecast overall ROI in the market is 10.8 and 16.8 percent under the existing and proposed rates, respectively. It is therefore found that no significant revenue need has been demonstrated in the U.S.-Mexico/Central America market which would warrant approval of the proposed rate increases, and they will therefore be disapproved as they apply to this market.

Pan American's forecast of U.S.-Caribbean all-cargo operations under the proposed rates for the year ending September 30, 1976, anticipates an operating loss and a negative return on investment. The operating loss is expected to be approximately $1.3 milion, with a return on investment of —25.9 percent. On the other hand, South American all-cargo operations are expected to generate a $7.2 million operating profit and 24.6 percent return on investment for the carrier. However, in both of these market areas, Pan American forecasts a significant decline in all-cargo load factors between the year ended March 31, 1975, and that ending September 30, 1976. The carrier expects historical load factors of 62.1 and 72.0 percent in the Caribbean and South America markets to drop to 48.1 and 54.9 percent, respectively, as a result of sizeable increases in capacity in the face of only moderately increasing or decreasing traffic. Although the capacity offered in a market is a matter of managerial discretion, no justification has been submitted for these capacity increases and, under these circumstances, we find it necessary, consistent with past action (see Order 75-12-147) to adjust the carriers' forecast to historical load factor levels. As noted below, however, this adjustment does not change our disposition of the agreements (See Appendix A). Our adjustment reduces Pan American's operating loss for all-cargo operations in the Caribbean market from $1.3 milion to $0.7 million and improves the return on investment to —15.0 percent. In the South America market, the load-factor adjustment increases the carrier's anticipated operating profit in all-cargo operations from $7.2 million to $13.6 million and improves the return or investment to 44.9 percent.[3] The agreement will be evaluated on the basis of these revisions in Pan American's forecast.

Although Braniff's losses in combination service are anticipated by the carrier to continue even under the proposed rates in the South America market, the problems associated with cost allocation of combination services make it more appropriate to evaluate revenue need based on the results of all-cargo operations. Pan American, the only U.S. all-cargo carrier in the market, would experience a sizeable operating profit with or without the proposed rate increase. While, under the proposed new rates, Pan American would have a $13.6 million operating profit and a 44.9 percent return on investment on all-cargo operations in this market, the carrier would also experience a $5.6 million operating profit and a 19.6 return on investment under the present rate structure during the forecast period. In these circumstances, the Board is unable to find any requirement for additional revenues in this market, and will therefore disapprove that portion of the agreement which would increase rates and charges in the U.S.-South America market.

In the Caribbean market, both Pan American and American provide all-cargo services. Under the proposed rates, American anticipates a $53,000 increase in revenues and a 9.9 percent return on investment in its all-cargo operations in the market. As noted above, Pan American will experience an operating loss and a —15.0 percent return on investment in its all-cargo operations. Thus, on the basis of these data for all-cargo operations, there is a need for increased cargo revenues in this market.

In order to improve their cargo revenues in the U.S.-Mexico/Caribbean markets, the carriers are proposing to increase general commodity rates approximately 8 percent and specific commodity rates by approximately 10 percent. Given the difference in level between general and specific commodity rates, these increases, on an average, will widen rather than narrow the dollar spread between the two categories of rates, particularly in view of the cancellation of the 100 kg. general rate for all of the Western Hemisphere. In its May 6, 1975, policy statement[4] to the carriers prior to the Nice traffic conferences, the Board indicated that it expected the carriers to pursue a policy aimed at major revisions to the overall rate structure, and that absent any "meaningful progress" in this regard, the Board would not accept increases in the General commodity rate levels. The Board further stated that if a need for revenue increases could be demonstrated in selected market areas, the increased revenues should be realized from increases in specific commodity rates—not from increases in general commodity rates.[5] However, as noted above, the agreement before us does not comport to any significant extent with the policy statement. On the other hand, the carriers' justification statements clearly indicate a need for increased revenues in the U.S.-Caribbean market. We will therefore approve the portion of the agreement which increases specific commodity rates in this market but will disapprove that portion which increases general commodity rates. We will also approve those resolutions which would increase minimum charges and introduce rates and charges for various types of containers in this market. Although there will be some revenue improvement as a result of implementing the resolutions we are herein approving, the carriers will nevertheless remain in a week profit position in this market. The carriers may wish to review the agreement in light of their financial requirements, the Board's policy statement and the action taken herein.

The resolution governing the meeting of non-IATA rates and practices will be approved inasmuch as it merely amends the previous resolution on this subject which covered both passenger and cargo matters to one which relates to cargo matters only.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolution, incorporated in Agreement C.A.B. 25220 as indicated, is adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

Agreement CAB	IATA No.	Title	Application
25220:			
R-1	115	Meeting Rates and Practices Cargo (new)	1.

2. It is not found that the following resolutions, to the extent they would establish rates and charges between points in the U.S., on the one hand, and points in the Caribbean, on the other hand, and which are incorporated in Agreement C.A.B. 25220 as indicated, are adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

[2] See footnote 2.

[3] Absent the load-factor adjustment Pan American still forecasts a 19.6 percent rate of return at present rates and 24.6 percent at the proposed rates.

[4] Statement of the Civil Aeronautics Board on Cargo Rates Matters to be negotiated at the IATA Worldwide Traffic Conference in Nice, May 1975. Issued: May 6, 1975.

[5] The carriers in their justification generally did not address these issues.

Agreement CAB	IATA No.	Title	Application
25220:			
R-2	501	Minimum Charges for Cargo (Revalidating and Amendming)	1.
R-3	531	Charges for Bulk Unitization TC1 (Revalidating and Amending)	1.
R-5	590	Specific Commodity Rates Board (Revalidating and Amending)	1.

3. It is found that the following resolution, incorporated in the agreement indicated, is adverse to the public interest and in violation of the Act:

Agreement CAB	IATA No.	Title	Application
25220:			
R-4	551	TC1 General Cargo Rates	1.

4. It is found that the following resolutions, to the extent they would establish rates and charges between points in the U.S., on the one hand and points in Mexico, Central America and "long haul" South America as defined in IATA Resolution 012f, on the other hand, and which are incorporated in the agreement indicated, are adverse to the public interest and in violation of the Act:

Agreement CAB	IATA No.	Title	Application
25220:			
R-2	501	Minimum Charges for Cargo (Revalidating and Amending)	1.
R-3	531	Charges for Bulk Unitization—TC1 (Revalidating and Amending)	1.
R-5	590	Specific Commodity Rates Board (Revalidating and Amending)	1.

Accordingly, *It is ordered*, That:

1. Those portions of Agreement C.A.B. 25220 specified in finding paragraphs 1 and 2 above be and hereby are approved, subject, where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreement C.A.B. 25220 specified in finding paragraphs 3 and 4 above be and hereby are disapproved;

3. The carriers are hereby authorized to file tariffs implementing the approved IATA resolutions on not less than one day's notice for effectiveness not earlier than 15 days after service of this order. The authority granted in this paragraph expires 30 days after service of this order; and

4. Tariffs implementing those portions of Agreements C.A.B. 25220 specified in finding paragraphs 1 and 2 above shall be marked to expire not later than September 30, 1977.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

APPENDIX A

U.S. Carrier Western Hemisphere (TC 1) scheduled all-cargo service forecast, year ending Sept. 30, 1976[1]

	U.S.-Caribbean						U.S.-South America, Pan American	
	Present rates			Proposed rates				
	American[2]	Pan American[2]	Composite	American[2]	Pan American[3]	Composite	Present rates[2]	Proposed rates[3]
Operating revenues	$1,914	$4,200	$6,114	$1,997	$5,825	$7,822	$32,175	$44,291
Operating expenses	1,817	5,895	7,622	1,817	6,673	8,490	26,616	30,644
Operating profit (loss)	97	(1,605)	(1,508)	180	(778)	(628)	5,559	13,647
Nonoperating income and expense, net	(14)	[4] (106)	(120)	(14)	[4] (106)	(120)	[4] (741)	[4] (741)
Net income before tax	83	(1,711)	(1,628)	166	(884)	(748)	4,818	12,906
Income tax (Cr.) at 48 percent	40	(821)	(781)	65	(424)	(359)	2,313	6,195
Net income after tax	43	(890)	(847)	71	(460)	(389)	2,505	6,711
Add: interest expense	20	106	126	20	106	126	741	741
Return element	63	(784)	(721)	91	(354)	(263)	3,246	7,452
Investment	916	2,367	3,283	916	2,367	3,283	16,602	16,602
Return on investment (percent)	6.9	(33.1)	(22.0)	9.9	(15.0)	(8.0)	19.6	44.9

[1] All dollar figures in thousands.
[2] As submitted by the carrier.
[3] Traffic and revenue adjusted to reflect Pan American's historical load factor; traffic-related expenses adjusted accordingly.
[4] Interest expense.

[FR Doc.76-654 Filed 1-9-76;8:45 am]

[Docket 27573; Agreement C.A.B. 25387, 25432, R-1; C.A.B. 25433, R-1 through R-4; C.A.B. 25437, R-1 and R-2; C.A.B. 25547, R-1 and R-2; C.A.B. 25552, 25595, R-1 and R-2; Order 76-1-18]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Relating to Specific Commodity Rates; Order

Issued under delegated authority January 6, 1976.

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreements, adopted pursuant to the provisions of the Specific Commodity Rates Board (Resolution 590) or by mail vote, have been assigned the above C.A.B. agreement numbers.

Most of the agreements establish additional specific commodity rates for application between U.S. points and points in Europe, Africa, the Middle East and Asia over the North Atlantic as listed in the attached Appendix.[1] In addition, Agreement C.A.B. 25387, which has indirect application in air transportation, establishes an add-on over New York for traffic moving to/from Toronto in Type 2 containers over the North Atlantic in response to Air Canada's placing its CF 747 aircraft into service out of Toronto. Finally, Agreemnt C.A.B. 25433, R-4 cancels numerous specific commodity rates in various North Atlantic markets where application of the 5 cents per kilogram increase, effective January 1, 1976, results in levels which are equal to or exceed the general commodity rate level at the same weight-breaks in the markets concerned. We will approve the agreements consistent with our actions in Order 75-12-147 of December 30, 1975 dealing with the overall North Atlantic cargo rates structure.

Pursuant to authority duly delegated by the Board in the Board's Regulations 14 CFR 385.14:

1. It is not found that Agreements C.A.B. 25432, R-1; C.A.B. 25433, R-1 through R-4; C.A.B. 25437, R-1 and R-2; C.A.B. 25547, R-1 and R-2; C.A.B. 25552; and C.A.B. 25595, R-1 and R-2 are adverse to the public interest or in violation of the Act, provided that approval shall not constitute approval of the spec-

[1] Appendix filed as part of the original document.

ific commodity descriptions contained therein for purposes of tariff publication:

2. It is not found that Resolution JT12(Mail 876)534a, incorporated in Agreement C.A.B. 25387 and which has indirect application in air transportation as defined by the Act, is adverse to the public interest or in violation of the Act:

Accordingly, *it is ordered,* That:

Agreements C.A.B. 25387; C.A.B. 25432, R-1; C.A.B. 25433, R-1 through R-4; C.A.B. 25437, R-1 and R-2; C.A.B. 25547, R-1 and R-2; C.A.B. 25552; and C.A.B. 25595; R-1 and R-2 be and hereby are approved subject, where applicable, to the condition imposed in finding paragraph one above.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.76-833 Filed 1-9-76;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1976

Amendment

Notice of Additions to Procurement List 1976, November 25, 1975 (40 FR 54742) published in the FEDERAL REGISTER on December 30, 1975 (40 FR 59774), pertaining to the following item is amended to read as follows:

CLASS 7530

Tape, Paper, Computing Machine (IB) GSA Regions 2, 3, 4, (Duluth, Georgia only), 5 and 6.

	Price/roll
7530-00-286-9052	$0.121
7530-00-222-3455	.134
7530-00-286-9053	.139
7530-00-286-9054	.152
7530-00-238-8352	.178
7530-00-222-3456	.195
7530-00-286-9055	.215

By the Committee.

C. W. FLETCHER, *Executive Director.*

[FR Doc.76-792 Filed 1-9-76;8:45 am]

PROCUREMENT LIST 1976

Addition to Procurement List

Notice of proposed addition to Procurement List 1976, November 25, 1975 (40 FR 54742) was published in the FEDERAL REGISTER on August 8, 1975 (40 FR 33484).

Pursuant to the above notice the following service is added to the Procurement List:

INDUSTRIAL CLASS 7641

Metal Furniture Rehabilitation:[1]
All Federal Agencies:
Olympia, Washington, plus 13-mile radius (SH)
Tacoma, Washington, plus 13-mile radius (Including McChord Air Force Base and Ft. Lewis) (SH)
Seattle, Washington, plus 13-mile radius (SH)
Bremerton, Washington, plus 13-mile radius (SH)

By the Committee.

C. W. FLETCHER, *Executive Director.*

[FR Doc.76-793 Filed 1-9-76;8:45 am]

[1] Price list available from GSA, PRD, Region 10.

COMMODITY FUTURES TRADING COMMISSION

ADVISORY COMMITTEE ON REGULATION OF COMMODITY FUTURES TRADING PROFESSIONALS

Advisory Committee Meeting

Notice is hereby given, 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 Advisory Committee on Regulation of Commodity Futures Training Professionals ("Advisory Committee on Commodity Futures Trading Professionals") will conduct a public meeting on January 27, 1976, at the Union League Club, 65 West Jackson Boulevard, Chicago, Illinois, beginning at 10:00 a.m. The objectives and scope of activities of the Advisory Committee on Commodity Futures Trading Professionals will be to consider and submit reports and recommendations to the Commission on the following subjects:

(1) Regulation of non-member futures commission merchants.

(2) Customer/Investor protection.

The summarized agenda for the meeting is as follows:

Discussion: What are the most effective methods available to the Commodity Futures Trading Commission for regulating the activities of futures commission merchants that are not members of any organized exchange?

Discussion: Is the possibility of an FCM subsequent liquidation of sufficient magnitude to justify the establishment of a commodity futures investors insurance program? In connection with this discussion, the following questions will be considered:

1. Should the establishment of a commodity futures investors insurance program be similar to the one administered by the Securities Investor Protection Corporation (SIPC) for security investors be considered?
2. If so, would it be capable of providing similar protection for commodity investors?
3. How should it be funded?
4. Who should be its custodian?

Other questions to be addressed during consideration of customer/investor protection are as follows:

1. Have the contract market grievance procedures proven to be fair and equitable procedures for the settlement of customers' claims and grievances against exchange members?
2. Is there a need for rules dealing with the supervision of persons handling customer accounts?
3. What, if any, additional rules should be established for the handling of discretionary or managed accounts?

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public that wishes to file a written statement with the Committee should mail a copy of the statement to Mrs. Harrison, The Advisory Committee on Commodity Futures Trading Professionals, Commodity Futures Trading Commission, 1120 Connecticut Avenue, N.W., Washington, D.C. 20036, at least five days before the meeting. Members of the public that wish to make oral statements should inform Margaret Harrison, telephone (202) 254-8955, at least five days before the meeting, and reasonable provision will be made for their appearance on the agenda.

The Commission is maintaining a list of persons interested in the operations of this advisory committee and will mail notice of the meetings of this committee to those persons. Interested persons may have their names placed on this list by writing DeVan L. Shumway, Director, Office of Public Information, Commodity Futures Trading Commission, 1120 Connecticut Avenue, N.W., Washington, D.C. 20036.

Dated: January 6, 1976.

WILLIAM T. BAGLEY, *Chairman, Commodity Futures Trading Commission.*

[FR Doc.76-746 Filed 1-9-76;8:45 am]

DEFENSE MANPOWER COMMISSION

MEETING CANCELLATION

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the meeting scheduled for January 15, 1976, in the Conference Center, lower lobby (LL), of the Gelman Building, 2120 L Street NW., Washington, D.C. 20036, has been cancelled.

The next meeting of the Commissioners will be held on January 29, 1976 at the same location stated above. The purpose of the meeting will be to conduct a review of the Optimum Total Force Mix and the AVF Total Force Mobilization Costs. The above issues are subject to change dependent upon staff progress, and other subjects may be substituted.

The meeting will be open to the public. Because of limited space, interested persons wishing to attend should telephone (202) 254-7803 prior to each meeting.

Dated: January 8, 1976.

BRUCE PALMER, Jr., *General, USA (Ret.), Executive Director.*

[FR Doc.76-963 Filed 1-9-76;8:45 am]

FEDERAL RESERVE SYSTEM

ALABAMA BANCORPORATION

Order Approving Acquisition of Bank

Alabama Bancorporation, Birmingham, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares), of the successor by merger to the Peoples Bank of Tuscaloosa, Tuscaloosa, Alabama ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Alabama, controls thirteen banks with aggregate deposits of $1.3 billion, representing approximately 15.4 per cent of total commercial bank deposits in the State.[1] Acquisition of Bank ($5.8 million in deposits) would not significantly increase deposit concentration nor Applicant's share of total commercial bank deposits in Alabama.

Bank is the smallest of four banking organizations competing in the Tuscaloosa County banking market[2] (the relevant banking market), and controls approximately 2.5 per cent of total deposits in commercial banks in the market. Since Applicant is not presently represented in the market, and its closest banking subsidiary is located approximately 45 miles away from Bank in a separate banking market, no meaningful amount of existing competition between Bank and Applicant's subsidiary banks would be eliminated as a result of the proposed acquisition. Furthermore, it does not appear likely that such competition would develop in the future due to the distances separating the banks, the number of intervening banks, and Alabama's restrictive branching law. Although Applicant could enter the market de novo, such entry appears unlikely as a fifth bank is being established in the market by another bank holding company. Moreover, in view of Bank's relative size and its market position, the Board views the proposed acquisition as a foothold entry by Applicant. Regarding Applicant's nonbank subsidiaries, the facts of record indicate no significant existing or potential competition would be eliminated by consummation of this acquisition. Therefore, on the basis of the facts of record, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competition in any relevant area, and that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are regarded as generally satisfactory and consistent with approval of the application. Affiliation with Applicant should enable Bank to expand and improve the banking services it presently offers. Accordingly, considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[3]

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.76-800 Filed 1-9-76;8:45 am]

[1] All banking data are as of June 30, 1975, and reflect bank holding company formations and acquisitions approved by the Board as of November 30, 1975.

[2] The Tuscaloosa County banking market is approximated by Tuscaloosa County.

[3] Voting for this action: Vice Chairman Mitchell and Governors Holland, Wallich, Coldwell and Jackson. Absent and not voting: Chairman Burns.

[4] Board action was taken before Governor Partee became a Board Member.

ANCORP BANCSHARES, INC.

Order Approving Acquisition of Ancorp Insurance Company

Ancorp Bancshares, Inc., Chattanooga, Tennessee ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Ancorp Insurance Company, Phoenix, Arizona "(Company"), a company that will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit to consumers by Applicant's lending subsidiaries.[1]

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (40 FR 51239 (1975)). The time for filing comments and views has expired, and the Board has considered the application in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the eighth largest banking organization in Tennessee, controls one bank with aggregate deposits of approximately $392 million, representing 3.1 per cent of the total deposits in commercial banks in the State.[2]

Company will be formed under the laws of Arizona. As company will be qualified to underwrite insurance directly only in Arizona, its activities will be limited to acting as reinsurer of credit life and credit accident and health insurance policies directly related to extensions of credit by Applicant's lending subsidiaries. Such insurance will be directly underwritten by an unaffiliated insurance company qualified to do business in Tennessee and will thereafter be assigned or ceded to Company under a reinsurance agreement. Since this proposal involves a de novo acquisition, consummation of the transaction would not have any adverse effects on existing or potential competition in any relevant market.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with the addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

> To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally, such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR § 225.4(a)(10)n.7)

Applicant has stated that, following consummation of the acquisition, Company will offer several types of credit insurance policies at premiums below those currently charged by the independent underwriter used by Applicant's lending subsidiaries. Company will offer reducing term single life credit insurance at a premium rate 6.7 per cent below the Tennessee statutory maximum and reducing term single accident and health credit insurance at a premium rate 5 per cent below the permissible maximum. In connection with single payment loans, Company will provide level term single life credit insurance at a premium rate 6.5 per cent lower than the statutory maximum. Reducing term joint life credit insurance, which Applicant's subsidiaries do not currently provide, will

[1] It is Applicant's intention initially to limit Company's reinsurance to extensions of credit to consumers who may, from time to time, become indebted to Applicant's subsidiary bank, American National Bank and Trust Company of Chattanooga. At some indefinite date in the future, Company would expand its reinsurance to extensions of credit to customers of Ancorp Finance Company, Chattanooga, Tennessee, Applicant's consumer finance subsidiary.

[2] All banking data are as of June 30, 1975.

be offered by Company at a premium rate 6.7 per cent below the allowable maximum.

Applicant's banking subsidiary offers its customers an overdraft-loan arrangement on checking accounts. In conjunction with such loans, customers may obtain credit life insurance on the outstanding balance of the loan at a premium rate 22 per cent below the statutory maximum. Company will continue to offer this significantly lower rate in the future

Based upon the foregoing and other conditions reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to ensure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The acquisition shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta, pursuant to authority herby delegated.

By order of the Board of Governors,[3] effective January 2, 1976.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.76-801 Filed 1-9-76;8:45 am]

CITIZENS BANCSHARES, INC.

Order Approving Acquisition of Bank

Citizens Bancshares, Inc., Crosbyton, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of First State Bank, Petersburg, Texas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant presently controls one bank, Citizens National Bank, Crosbyton, Texas, with deposits of approximately $6.8 million, representing .02 percent of the total commercial bank deposits in Texas.[1] Acquistion of Bank ($3.8 million in deposits) would increase Applicant's share of commercial bank deposits only slightly and would not result in any significant increase in the concentration of banking resources in Texas.

Bank is the smallest of the six banks in the relevant banking market (which is approximated by Hale County) and controls 3.4 percent of the total commercial bank deposits in the market. Applicant's subsidiary bank is located 35 miles southeast of Bank in another banking market. No significant competition presently exists between Bank and Applicant's subsidiary bank nor does it appear likely that any significant competition would develop between them in the future in view of the distance involved and Texas' branching laws. Furthermore, it appears unlikely that Applicant would enter the market de novo since the market's ratio of population to banking office and per capita deposits are below Statewide averages. Accordingly, consummation of the proposal would not have a significantly adverse effect on existing or potential competition in any relevant area and competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiary, and Bank are regarded as reasonably satisfactory, and consistent with approval of the application, especially in light of Applicant's commitment to pay no dividends during the period it is amortizing the debt it will incur in acquiring Bank. Applicant proposes to expand existing services and implement new services, such as offering passbook savings accounts and certificates of deposit of all maturities, as well as making residential and commercial real estate loans, and SBA loans. Applicant also intends to offer credit card services and to extend banking hours and provide drive-in service, none of which services were previously offered by Bank. Therefore, convenience and needs considerations lend weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order nor (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governor,[2] effective December 31, 1975.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.76-802 Filed 1-9-76;8:45 am]

[3] Voting for this action: Chairman Burns and Governors Mitchell, Holland, and Wallich. Absent and not voting: Governors Bucher, Coldwell and Jackson.

[1] All banking data are as of June 30, 1975.

[2] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Holland, Wallich and Jackson. Absent and not voting: Chairman Burns and Governor Coldwell.

GLENCOE CAPITAL CORP.

Order Approving Formation of Bank Holding Company

The Glencoe Capital Corporation, Glencoe, Illinois ("Applicant"), has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through the acquisition of 90.07 percent of the voting shares of Glencoe National Bank, Glencoe, Illinois ("Bank").

Notice of the application, affording opportunity for intersted persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating corporation formed for the express purpose of becoming a bank holding company through the acquisition of Bank. The proposed transaction involves the transfer of control of Bank from individuals to a corporation owned by the same individuals. Upon acquisition of Bank, Applicant would control 0.03 percent of the total deposits in commercial banks in Illinois.

Bank holds deposits of $20.0 million,[1] representing 0.05 percent of the total deposits in the Chicago banking market,[2] and ranks as the 206th largest of 286 commercial banks operating therein. Certain principal shareholders of Applicant are also principal shareholders of two other one-bank holding companies, one of which is located within the relevant market. However, since the subject proposal is essentially a reorganization of Bank's present ownership with no immediate change in Bank's operations, and in view of the relative size of Bank and the number of banking alternatives available, it appears that consummation of the proposal would not eliminate any significant existing or potential competition, increase the concentration of banking resources, or have any adverse effects on any other banks in any relevant area. Therefore, the competitive considerations are consistent with approval of the application.

The future prospects of Applicant are primarily dependent upon the financial resources of Bank. In this regard, Applicant has committed itself to inject $600,000 of equity capital into Bank within nine months of the date of this Order. Applicant also proposes to reduce its acquisition debt by $400,000 through the sale of common stock and to service the remaining debt it will assume incident to this proposal over a 12-year

[1] All banking data are as of December 31, 1974.

[2] The Chicago banking market, the relevant geographic market for purposes of analyzing the competitive effects of the proposed transaction, is approximated by Cook County, DuPage County, and portions of Lake County, Illinois.

period through dividends from Bank. In light of Bank's past earnings and its anticipated growth, the projected earnings of Bank appear to provide Applicant with the necessary financial flexibility to meet its annual debt servicing requirements while strengthening the capital position of Bank. Moreover, the managerial resources of Applicant and Bank are considered satisfactory and the future prospects of each appear favorable. Thus, the considerations relating to the banking factors are consistent with approval of the application.

Although consummation of the proposal would effect no changes in the services offered by Bank, the considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Therefore, the Board concludes that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective January 2, 1976.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.76-803 Filed 1-9-76;8:45 am]

NORTHSTREAM INVESTMENTS, INC.

Order Approving Formation of Bank Holding Company

Northstream Investments, Inc., Geddes, South Dakota ("Applicant"), has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 88.3 per cent of the voting shares of Security State Bank, Geddes, South Dakota ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842).

Applicant, a nonoperating corporation with no subsidiaries, was recently organized for the purpose of becoming a bank holding company through the acquisition of Bank. Upon acquisition of Bank, Applicant would control the 113th largest banking organization in South Dakota with total deposits of approximately $4.4 million, representing 0.16 percent of total deposits held by commercial banks in the State.[1] Bank is the fifth largest of six banks in the relevant market,[2] holding 6.1 per cent of total deposits in commercial banks therein. Since the purpose of the proposed transaction is to effect a transfer of the ownership of Bank from an individual to a corporation owned by the same individual, consummation of the proposal would have no adverse effect on existing or potential competition or the concentration of banking resources in any relevant area. Accordingly, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant are dependent upon those of Bank, which are considered to be satisfactory. Applicant proposes to service the debt it will incur as a result of this proposal over a 12-year period through dividends of Bank. Based on Bank's past earnings and projected income, it appears that Applicant will be able to meet its annual debt-servicing requirements and maintain Bank's favorable capital position. Thus, considerations relating to banking factors are consistent with approval of the application. Although there will be no immediate change or increase in the services offered by Bank upon consummation of the proposal, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[3] effective January 2, 1976.

[SEAL] THEODORE E. ALLISON, *Secretary of the Board.*

[FR Doc.76-804 Filed 1-9-76;8:45 am]

[2] Voting for this action: Chairman Burns and Governors Mitchell, Holland, and Wallich. Absent and not voting: Governors Bucher, Coldwell, and Jackson.

[1] All banking data are as of June 30, 1975.

[2] The relevant market is approximated by the western two-thirds of Charles Mix County and small portions of Brule, Aurora and Douglas Counties.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Holland and Wallich. Absent and not voting: Governors Bucher, Coldwell and Jackson.

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS, COMMITTEE ON REGULATIONS

Meeting

JANUARY 8, 1976.

The next meeting of the Board of Directors of the Legal Services Corporation will be held on Thursday and Friday, January 22-23, 1976 in the Joe C. Thompson Conference Center, Austin, Texas.

The meeting will begin with a brief session at 7:30 p.m. on January 22, to approve the agenda. A meeting of the Committee on Regulations will follow.

The Board meeting will continue at 2:00 p.m. on January 23. Reports will be made by the president of the Corporation and the chairmen of the Committee on Provision of Legal Services, the Committee on Regulations, and the Committee on Appropriations and Audit.

Meetings are open to the public.

ROGER C. CRAMTON, *Chairman.*

[FR Doc.76-1015 Filed 1-9-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-2]

JAPAN ENGINEERING DEVELOPMENT CO.

Notice of Intent To Grant Foreign Exclusive Patent License

In accordance with the NASA Foreign Licensing Regulations, 14 C.F.R. 1245.405 (e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Development Company, Tokyo, Japan, exclusive patent licenses in Japan for the four NASA owned inventions covered by the Japanese counterparts of: (1) U.S. Patent No. 3,795,819 for "Optical Radiation Frequency Converter and Method", issued March 5, 1974; (2) U.S. Patent No. 3,891,848 for "Fluorescence Detector for Monitoring Atmospheric Pollutants", issued to NASA on June 24, 1975; (3) U.S. Patent No. 3,632,242 for "Apparatus for Making Diamonds", issued to NASA on January 4, 1972 and (4) U.S. Patent No. 3,894,677 for "Method of Preparing Graphite Reinforced Aluminum Composite", issued to NASA on July 15, 1975. Copies of the above identified U.S. Patents can be purchased from the U.S. Patent Office, Department of Commerce, Washington, D.C., 20231 for $.50 a copy. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code-GP, National Aeronautics and Space Administration, Washington, D.C., 20546.

Dated: January 6, 1976.

S. NEIL HOSENBALL, *General Counsel.*

[FR Doc.76-751 Filed 1-9-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR SYSTEMATIC BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Systematic Biology.
Date: January 29 and 30, 1976.
Time: 9 a.m. each day.
Place: Rm. 338, National Science Foundation, 1800 G Street, NW., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. William B. Heed, Program Director for Systematic Biology, Rm. 336, National Science Foundation, Washington, D.C. 20550, telephone 202/632-5846.
Purpose of advisory panel: To provide advice and recommendations concerning support for research in systematic biology.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b), (4), (5) and (6).
Authority to close meeting: The determination made on February 21, 1975, by the Director of the National Science Foundation pursuant to provisions of Section 10(d) of Public Law 92-463.

GAIL A. MCHENRY,
Acting Committee Management Officer.

JANUARY 7, 1976.

[FR Doc.76-791 Filed 1-9-76;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

IMPLEMENTATION OF PRIVACY ACT OF 1974

Proposed Amendment of Notice of Systems of Records

The National Transportation Safety Board proposes that the following routine use be added to all of its notices of systems of records:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Accordingly, disclosures may be made as provided under subsection (b)(3) of the Act without the written consent of the individual to whom the record pertains where the individual requests assistance of a congressional office which would entail disclosure of information from a system of records pertaining to that individual.

Consideration will be given to comments which are submitted in writing on or before February 11, 1976.

Comments should be addressed to the General Counsel, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

FRITZ L. PULS,
General Counsel.

JANUARY 7, 1976.

[FR Doc.76-759 Filed 1-9-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Notice of Proposed Subcommittee and Full Committee Meetings

Correction

In FR Doc. 75-33889, appearing at page 58185, in the issue of Monday, December 15, 1975, under the list of subcommittee meetings, change the date appearing in the sixth line of the fifth paragraph (General Electric Water Reactors) from "Decmber 20" to "December 30".

[Docket No. STN 50-485]

ROCHESTER GAS AND ELECTRIC CORP.

Order Canceling Second Prehearing Conference

In the matter of Rochester Gas and Electric Corporation (Sterling Power Project Nuclear Unit 1).

Counsel for the U.S. Nuclear Regulatory Commission Staff, Rochester Gas and Electric Corporation (Applicant), and Ecology Action, and Sharon Morey (Joint Intervenors) have entered into a stipulation dated January 5, 1976, regarding the form and scope of contentions to be asserted by the Joint Intervenors in the above-entitled matter.

Pending an evaluation by the Board of these proposed stipulated contentions, the Second Special Prehearing Conference scheduled for January 13, 1976, at Oswego, New York, is hereby canceled.

Dated this 8th day of January 1976 at Bethesda, Maryland.

By order of the Atomic Safety and Licensing Board.

JOHN M. FRYSIAK,
Chairman.

[FR Doc.76-1034 Filed 1-9-76;10:14 am]

PRIVACY PROTECTION STUDY COMMISSION

MEETING

The Privacy Protection Study Commission will hold an open meeting on January 22, 1976, in Room 2358, Rayburn House Office Building, Washington, D.C., from 10:00 a.m. to 12:30 p.m. Presentations will be made to the Commission from press groups concerning their views of the privacy issue.

The Commission will hold a closed meeting for the purpose of internal deliberations and discussion with staff on January 22, 1973, in the afternoon, and on January 23, 1976 in Room 2358, Rayburn House Office Building, Washington, D.C.

It has been determined in writing by the Director of the Office of Management and Budget, James T. Lynn, that this meeting may be closed under Section 10(d) of the Federal Advisory Committee Act and under exemption 5 of the Freedom of Information Act, 5 U.S.C. 552(b)(5).

For further information, contact John Barker, Public Affairs Director, at (202) 634-1477.

CAROLE W. PARSONS,
Executive Director, Privacy Protection Study Commission.

[FR Doc.76-1064 Filed 1-9-76;10:30 am]

[Rel. No. 11978; (SR-Amex-75-6)]

SECURITIES AND EXCHANGE COMMISSION

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JANUARY 6, 1976.

In the matter of American Stock Exchange, Inc. 86 Trinity Place New York, New York 10006.

On October 31, 1975, the American Stock Exchange, Inc. (the "Amex") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change would amend certain guidelines adopted by the Amex pursuant to Rule 915(b) of the Amex Rules which are applicable to the trading of option contracts. Such guidelines provide for standards to be considered by the Amex in evaluating underlying stocks for Amex options transactions.

Currently, the Amex's standards for the selection of underlying securities incorporate the Commission's requirements for the registration of securities on Form S-7 under the Securities Act of 1933 as well as providing additional standards. The Commission has recently proposed modifications relaxing the requirements for the use of Form S-7 and has indicated that, pending a decision by the Commission to adopt the proposed modifications, the Commission and the staff would not object if Form S-7 is used to register securities of an issuer that meets the proposed requirements as to the use of that form (Securities Act of 1933 Release No. 5613 (Sept. 11, 1975); 40 FR 44584 (Sept. 29, 1975)). The amendment of the guidelines adopted pursuant to Amex Rule 915(b) would conform the rules of the Amex to the proposed modifications relaxing the re-

quirements for the use of Form S-7. The effect of the change will be to make eligible certain securities the issuers of which did not meet earlier S-7 standards. Similar rule changes by the Chicago Board Options Exchange (Securities Exchange Act Release No. 11674 (Sept. 24, 1975); 40 FR 44905 (Sept. 30, 1975)) and by the PBW Stock Exchange (Securities Exchange Act Release No. 11710 (Oct. 3, 1975); 40 FR 47548 (Oct. 9, 1975)) have already become effective.

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. 11794, (Nov. 4, 1975)) and by publication in the FEDERAL REGISTER (40 FR 52673 (Nov. 11, 1975)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and Section 9(b).

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, effective January 5, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-763 Filed 1-9-76;8:45 am]

[Administrative Proceeding File No. 3-4837]

BERKLEY LAND AND INVESTMENT CORP.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor and Notice of Opportunity for Hearing

DECEMBER 30, 1975.

I

Berkley Land and Investment Corporation ("Berkley"), of 7138 Carol Lane, Falls Church, Virginia, 22042 incorporated in the Commonwealth of Virginia on May 1, 1973, filed with the Commission on July 17, 1974, a Notification on Form 1-A and an Offering Circular relating to an offering of: (a) 500 units, each consisting of five 8 percent $100 subordinated debenture notes and 20 shares of common stock at an offering price of $800 per unit; and (b) 5,000 shares of of common stock at an offering price of $18 per share. On March 27, 1975, an amended offering circular was filed reducing the proposed offering to 450 units and deleting the 5,000 shares of common stock for an aggregate offering price of $360,000. The filing was made for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, pursuant to the provisions of Section 3(b) thereof and Regulation A promulgated thereunder. The offering was to be sold by the officers and directors without compensation. The offering has not yet commenced.

II

Based upon information reported by the staff, the Commission has reason to believe that:

A. The offering circular filed by the issuer omits to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to:

1. Whether the cost and markups on services performed and to be performed for Berkley by an affiliate would be comparable to those of an unaffiliated entity performing the same services;

2. The actual profit made by the president of Berkley in dealings with Berkley;

3. The locations and description of Berkley's land holdings;

4. Berkley's selling practices including its terms of sale and whether its land is suitable for the purpose for which it is being marketed;

5. The intended use of proceeds; and

6. The substantial dilution to be incurred by purchasers of the offering.

B. The terms and conditions of Regulation A have not been complied with in that, among other things:

1. A Statement of Profit and Loss showing the operations of Berkley's predecessors for the period from May 1, 1972, to April 30, 1973, was not furnished;

2. A Statement of Changes in Financial Position was not furnished either for Berkley's fiscal year ended April 30, 1974, or for Berkley's predecessors' fiscal year ended April 30, 1973.

3. No allowance for doubtful accounts was provided in the financial statements and no explanation for the lack of such an allowance was given;

4. The financial statements were over 10 months old at the time Berkley filed its amended Offering Circular.

C. The issuer has failed to cooperate with the staff in that: Its President, Nathaniel S. Fulford, has continued to refuse to permit a reasonably unencumbered examination of its books and records pursuant to an informal investigation by the staff to determine the accuracy and adequacy of disclosure in its Notification and Offering Circular.

D. The offering, if made, would be in violation of Section 17 of the Securities Act of 1933, as amended.

III

It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a) of the General Rules and Regulation under the Securities Act of 1933, that the exemption of Berkley Land and Investment Corporation under Regulation A be and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's Rules of Practice, that the issuer file an answer to the allegations contained in this order within thirty (30) days of the entry thereof.

Notice is hereby given, That any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty (30) days after the entry of this order; that within twenty (20) days after the receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place of said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-764 Filed 1-9-76;8:45 am]

[File No. 500-1]

CANADIAN JAVELIN, LTD.

Suspension of Trading

JANUARY 2, 1976.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from January 4, 1976 through January 13, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-765 Filed 1-9-76;8:45 am]

[File No. 24SF-3822, Administrative Proceeding File No. 3-4851]

CANDLEWYCKE INNS, LTD.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

DECEMBER 30, 1975.

I

Candlewycke Inns, Ltd., 1131 Tropicana Avenue, Las Vegas, Nevada, ("Candlewycke") was incorporated under the laws of the State of Nevada on January 12, 1971. Its articles of incorporation au-

thorized the issuance of 7,500,000 shares of common stock, par value $.01, and stated that its principal offices were located at 1688 Twain Avenue, Las Vegas, Nevada. Although never reflected by amendment to its articles of incorporation, this address was later changed to 1131 Tropicana Avenue, Las Vegas, Nevada.

On November 3, 1971, Candlewycke filed a Regulation A Notification and Offering Circular with the San Francisco Branch Office. The company intended to offer 250,000 shares of $.01 par value common stock, at $1.00 per share, for an aggregate offering price of $250,000. On February 18, 1972, subsequent to a request for acceleration, the San Francisco Office authorized the commencement of the offering. To this date. Candlewycke has not reported any shares as having been sold.

The assistance of an underwriter was initially not contemplated, but on July 6, 1972, the company amended its Offering Circular to name the Las Vegas firm of Priestley & Pace Securities, Inc. as underwriter for the offering. On March 1, 1974, the Nevada Secretary of State revoked Candlewycke's articles of incorporation for failure to file a list of its officers and directors.

II

The Commission, on the basis of information provided by its staff, has reason to believe that:

A. The Notification and Offering Circular of Candlewycke contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in light of the circumstance under which they are made, not misleading, particularly with respect to:

1. The failure to disclose that on March 1, 1974, the Nevada Secretary of State revoked the articles of incorporation of Candlewycke;

2. The failure to disclose that the assets of Candlewycke were subject to a Sheriff's sale in December, 1972;

3. The failure to disclose that Candlewycke is no longer doing business;

4. The failure to disclose that Priestley & Pace Securities, Inc. is no longer associated as underwriter for the offering and that the underwriter withdrew its registration as a Broker/Dealer effective July 11, 1975; and

5. The failure to disclose the existence of tax liens in the amount of $14,544.30 levied by the United States Internal Revenue Service on Candlewycke.

B. Candlewycke failed to comply with the terms and conditions of Regulation A in that it failed to file a Form 2-A sales report as required by Rule 260 under Regulation A.

C. Candlewycke failed to cooperate with the Commission in that Candlewycke and its principal officers resisted numerous attempts by the Commission's staff to assist Candlewycke in complying with the requirements of Regulation A in that, inter alia, Candlewycke and its principal officers:

1. Failed to respond to comment letters dated July 19, 1972 and November 24, 1972;

2. Failed to respond to numerous requests by the staff for the voluntary withdrawal or termination of Candlewycke's Regulation A filing.

D. The offering, if permitted to continue, would be in violation of Section 17 of the Securities Act of 1933, as amended.

III

It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of Candlewycke under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a) of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption of Candlewycke under Regulation A be, and it is hereby, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's Rules of Practice, that Candlewycke file an answer to the allegations contained in the order within thirty (30) days of the entry thereof.

Notice is hereby given, That any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty (30) days after entry of this order; that within twenty (20) days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for such hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-766 Filed 1-9-76;8:45 am]

[Release No. 34-11972; File No. SR-COBE-75-7]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1), as amended by Pub. L. No. 94-29, § 16 (June 4, 1975), notice is hereby given that on December 16, 1975 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 is intended to permit the trading of put option contracts on CBOE on much the same basis as applies to the trading of call option contracts. In this connection, the proposed rule change reflects amendments to CBOE rules covering certain definitions, position limits, certain restrictions, floor procedures, matters relating to customer accounts, exercise of options and margin rules, so that these rules, which today relate only to call options, may apply equally to put options. (For the text of the proposed rule change, see Commission File SR-CBOE-75-7)

CBOE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The general purpose of the proposed rule changes is to provide the self-regulatory framework for the trading of put options on CBOE. In addition, in a few instances, certain clarifying amendments are proposed with respect to existing rules applicable to call options. On a chapter by chapter basis, the proposed rule changes are as follows:

CHAPTER I. DEFINITIONS

Rule 1.1(y). The principal purpose of this amendment is to define the term "covered" with respect to a short position in a put option to mean the situation where the writer of a put option holds on a share-for-share basis in the same account as the short put position a long position in a put option of the same class having an exercise price equal to or greater than the exercise price of the short put position. In addition, in the interest of clarity, it is proposed to add to the definition of a covered short position in a call option the situation where the obligation of the writer of the call is covered on a share-for-share basis with a long position in a call option contract of the same class having an exercise price equal to or less than the exercise price of the short call position. The latter proposed amendment is consistent with the present provisions of Rules 4.11 and 4.17, and appropriate changes are proposed in those rules so that there will be no change in their application.

CHAPTER VI. BUSINESS CONDUCT

Rule 4.11. Position Limits. No change to this rule is needed in order to provide for put options the same position limits presently applicable to call options. The change which is proposed is designed to reflect the clarification of the definition of "covered" referred to above.

Rule 4.17. Restrictions of Out-of-the-Money Options. Rule 4.17 is proposed to be amended to provide limitations on the trading of out-of-the-money put options identical to the preesnt limitations available to the trading of out-of-the-money call options. In addition, the rule is proposed to be amended to reflect the proposed clarification of the definition of "covered" discussed above. The deletion of Interpretation 4.17.01 and the amendment of Interpretation 4.17.03 reflect the proposed changes in the rule itself.

CHAPTER VI. DOING BUSINESS ON THE EXCHANGE FLOOR

Rule 6.2 Trading Rotation. Interpretation 6.2.01 is proposed to be amended by providing in respect of both opening rotations and closing rotations that when series of put and call option contracts covering the same underlying securities are traded, the Board Broker shall determine the order in which such series of options should be opened or closed in light of current market conditions.

Rule 6.45. Priority of Bids and Offers. The proposed amendment to Interpretation

6.45.01 provides for straddle orders (as defined in proposed Rule 6.53(g), (below) the same priority as presently is provided for spread orders. This interpretation means that where a straddle order may be executed on the basis of bids or offers in the trading crowd, but may not be executed within the bids or offers displayed in the Board Broker's book, the order may be filled in the trading crowd notwithstanding that one side, but not both sides, of the order touches a bid or an offer in the Board Broker's book. Thus, if a Floor Broker has an order to buy an XYZ July 50 straddle for a total price of 10, and the Board Broker is offering an XYZ July 50 call at 5⅜ and an XYZ July 50 put at 4¾, the order may be filled on the basis of a total offer in the crowd of 10 for the straddle, reflecting an offer of 5¼ for the call and 4¾ for the put.

Rule 6.51. Reporting Duties. Interpretation 6.51.01 is proposed to be amended to provide that the card or ticket on which a transaction on the floor is reported shall include, in addition to the information presently set forth, the "type" of option contract that is the subject of the transaction (i.e., whether it is a put or call).

Rule 6.53. Certain Types of Orders Defined. It is proposed to add to Rule 6.53 the definition of "straddle order." This definition is relevant only for the purpose of Rule 6.45, and it conforms to existing interpretations of the Internal Revenue Service which provide special tax treatment for orders to buy or to sell the same number of options of each type (put or call) with respect to the same underlying security and having the same exercise price and expiration date. In addition, the definition of "spread order" is proposed to be amended to mean an order to buy a stated number of option contracts and sell the same number of option contracts of the same class (i.e., a spread order may pertain to puts or to calls, but not to both puts and calls, with respect to the same underlying security.)

Rule 6.73. Responsibilities of Floor Brokers. The proposed amendment to paragraph (c) of Rule 6.73 would replace the word "spread" with the word "combination." This change reflects the fact that with the advent of put trading there will be multiple option orders in addition to spread orders (e.g., straddle orders) for which a Floor Broker may not be held responsible during a rotation, when options are traded one series at a time.

CHAPTER VIII. MARKET-MAKERS AND BLOCK POSITIONERS

Rule 8.8 Restriction on Acting as Market-Maker and Floor Broker. The proposed change to delete the phrase "same class" in Rule 8.8 and to substitute therefor the phrase "covering the same underlying security" reflects that the restriction of this Rule applied to both puts and calls, which are separate "classes" of options.

Rule 8.10. Financial Arrangements of Market-Makers. The proposed amendment to Rule 8.10 reflects that Market-Makers appointed to both puts and calls in the same underlying security are appointed to separate classes of options. Accordingly, the amendment would require Market-Makers to report all of their financial arrangements as Market-Makers.

CHAPTER IX. DOING BUSINESS WITH THE PUBLIC

Rule 9.9. Suitability of Recommendations. The proposed amendment to Rule 9.9 would apply the same suitability standard presently applied to recommendations of uncovered call option writing transactions to recommendations of all put option writing, whether or not the short put position is "covered." Although analytically only the put writer who is also short the underlying security is subject to risks comparable to those of an uncovered call writer, CBOE has determined to follow the more conservative approach of applying the special suitability standards of the second paragraph of Rule 9.9 to all recommended put writing transactions.

Rule 9.11. Confirmation to Customers. The proposed amendment to Rule 9.11 provides that confirmations to customers must show, in addition to the information presently prescribed by the Rule, whether the option is a put or call.

CHAPTER XI. EXERCISES AND DELIVERIES

Rule 11.2. The proposed amendment makes clear that the provision of Rule 11.2 which authorizes the Clearing Corporation to direct the allocation of an exercise notice to a customer who has made a specific deposit of an underlying security applies only to call option contracts.

Rule 11.3. The proposed amendment to Rule 11.3 reflects that as between a call option and a put option, the respective roles of the holder and writer are reversed with respect to delivery and payment following exercise.

CHAPTER XII. MARGINS

Rule 12.3. Margin Requirements. Rule 12.3 (a)(5). The proposed amendment to paragraph (5) of part (a) of Rule 12.3, dealing with margin when both a put and a call are short in an account, strengthens the existing rule by providing that in addition to maintaining margin on the put or the call, whichever is greater, there shall also be maintained the amount of any unrealized loss on the other option. The existing rule provides that the margin shall not be less than the combined unrealized loss of both the put and the call. The effect of the amendment can be illustrated by the following example. Assume an account is short an XYZ 55 put and an XYZ 40 call at a time when the market price of XYZ stock is 50. The margin on the call is $2,500 (30% of $5,000+$1,000), which is greater than the margin on the put of $2,000 (30% of $5,000+$500). Accordingly, the base margin is $2,500. The combined unrealized loss on the put and the call equals $1,500. Since this combined unrealized loss is less than $2,500, under the present rule no additional margin is required. Under the amended rule, in addition to the base margin of $2,500, additional margin of $500 is required, representing the unrealized loss on the put.

Rule 12.3(b)(1)(C)(ii). It is also proposed to amend subparagraph (C) of Rule 12.3(b)(1) by adding a new Clause (ii), which will provide for puts equivalent treatment to that provided for calls in existing subparagraph (C).

The present Rule 12.3(b)(1)(C) provides that where an account reflects a so-called "spread" position between a short position in a call option and a long position in a call or other security convertible or exchangeable into the underlying security subject to the short call option, the minimum margin required on such positions shall be the amount by which any money payable upon such exchange or conversion exceeds the exercise price of the short call option.

The proposed amendment would add a comparable provision applicable to a spread position in put options, providing that when an account is short a put option and is at the same time long a put option covering the same number of units of the same underlying security, and the long put does not expire prior to the expiration of the short put, the minimum margin shall be the amount by which the exercise price of the short put exceeds the exercise price of the long put.

Rule 12.3(b)(1)(D). The proposed addition of new subparagraph (D) to Rule 12.3 (b)(1) would provide reduced margin for long positions in an underlying security when there is in the same account a long put position covering equivalent units of the underlying security. In this situation, the minimum margin need not exceed the greater of (i) the amount by which the market value of the underlying security exceeds the exercise price of the put option, or (ii) $2.50 per share. This reduced margin reflects that the risk of a long securities position is limited by the exercise price of a put option applicable to such a long position.

Rule 12.3(b)(4). Finally, it is proposed to add new paragraph (4) to Rule 12.3(b). This paragraph would permit a member to accept, in lieu of the margin otherwise required in respect of a short position in a put option, a letter of guarantee issued by an approved bank certifying that the bank holds for the account of the writer of the option the full amount of cash necessary to satisfy the writer's obligation on the option, and that the bank will pay this amount to the member against delivery of the underlying security. This provision is intended to facilitate put option writing by those customers who would not be able to maintain cash in a margin account with a broker, but who could deposit cash with a bank under the terms of a letter of guarantee. In this respect, the rule reflects established practice in the over-the-counter put option market.

CBOE'S STATEMENT AS TO WHY IT SHOULD BE PERMITTED TO TRADE PUTS

CBOE believes it is consistent with the protection of investors and the public interest to provide a central, regulated market for the trading of put options comparable to the market presently provided by CBOE for the trading of call options. CBOE's exchange market in call options has provided investors with new investment opportunities and greater flexibility in managing investments in common stocks. The basic economic function of a put option, as with a call option, is to permit the separation of the risks and opportunities of investing in securities, and their redistribution between the holder and the writer of the option. Therefore, just as a liquid trading market and other improvements developed by CBOE have enabled calls to realize their full risk limiting potential, put options will be similarly enhanced by being traded in CBOE's exchange market.

There are many economic functions of put options, alone or in combination with calls or underlying securities, which will benefit investors. For example, the addition of put option trading will permit increased possibilities for the hedging of positions in common stocks by investors. The only manner in which listed options may be used to hedge long stock positions at the present time is by writing call options against such positions. This strategy serves the need of investors who are willing to sell stock at the exercise price but it only protects against a downside movement in the stock price which is no greater than the amount of the premium and further requires the investor to forego the opportunity for gain if the stock price should move above the exercise price by more than the amount of the premium. On the other hand, for the cost of the option, a put provides complete protection against loss no matter how far the price of the stock may decline below the exercise price and the investor does not give up the opportunity to participate in increases in the stock price.

In addition, the commencement of put trading on CBOE will give investors the opportunity to purchase puts as a risk limiting alternative to a short sale of common stock. Put options will also permit leveraged participation in stock price declines by purchasing puts covering a greater number of

shares than might have been sold short directly by the investor. In addition, as with call options, puts may be written on a covered or uncovered basis to generate income for the writer.

Put options may also be used by investors who would not be adverse to acquiring a particular stock at a price less than the current market price. By writing a put option, such investors will be in a position to accomplish their objective and purchase the stock at a predetermined price, if the stock declines in price. Should the stock not decline, the writer will still benefit by the amount of premium income generated in the writing transaction.

While the uses of put options discussed above may be theoretically available in the over-the-counter options market, it is the secondary market that enables the risk limiting uses of options to achieve their full potential, since only in an exchange market may the investor establish and liquidate options positions in coordination with the establishment and liquidation of stock positions.

With respect to safeguards, CBOE believes that the risks of put trading, both from an economic point of view and from the point of view of market regulation, are no different in kind or degree from the risks of call trading and are susceptible to the same types of controls. Since its existing regulatory rules and procedures have worked well for call options, CBOE sees no reasons why put options will require a different kind of safeguards. Accordingly, CBOE proposes to extend the safeguards presently applicable to calls to puts as well.

CBOE's position and exercise limit rules will apply to put options, just as they presently apply to call options. CBOE's suitability rule will be applied to recommended transactions in put options, and special suitability standards will apply to all recommended writing transactions in puts in the same manner that they presently apply to recommendations for the writing of uncovered call options. CBOE's prospectus delivery requirement will apply equally to put and call options and CBOE understands that The Options Clearing Corporation is preparing a single prospectus for both types of options.

CBOE has furnished to all of its members and Registered Options Principals a memorandum describing its proposal to introduce trading in put options. Although comments were not formally solicited from these persons, many of them have expressed their views to CBOE, and all comments received were in strong support of the introduction of put trading.

CBOE believes the proposed rule changes will impose no burden on competition.

Within 90 days of the date of publication of this notice in the FEDERAL REGISTER (April 12, 1976), or within such longer period as to which the above-mentioned self-regulatory organization consents, the Commission will: (A) by order approve such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 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 February 26, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

JANUARY 2, 1976.

[FR Doc.76-772 Filed 1-9-76;8:45 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Suspension of Trading

JANUARY 2, 1976.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from January 5, 1976 through January 14, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-767 Filed 1-9-76;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORPORATION OF AMERICA

Suspension of Trading

DECEMBER 31, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants to purchase the stock, 9½% debentures due 1990, 5½% convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from January 2, 1976 through January 11, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-768 Filed 1-9-76;8:45 am]

[File No. 500-1]

GENERICS CORPORATION OF AMERICA

Suspension of Trading

JANUARY 6, 1976.

The common stock of Generics Corporation of America being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934, the 6% convertible subordinated debentures due July 1983 and all other securities of Generics Corporation of America being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from January 7, 1976 through January 16, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-769 Filed 1-9-76;8:45 am]

[Rel. No. 11979; (SR-MSE-75-5)]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JANUARY 6, 1976.

On November 24, 1975, the Midwest Stock Exchange, Inc., 120 S. LaSalle Street, Chicago, Illinois 60603, ("MSE") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change.

The proposed rule change reduces to six months from one year the time period within which a member must pay any debt, fine, due or charge, after which the President of the Exchange may sell the membership of the member.

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. 11868, November 26, 1975) and by publication in the FEDERAL REGISTER (56507 FR, December 3, 1975).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on November 24, 1975, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-770 Filed 1-9-76;8:45 am]

[Release No. 34-11975; File No. SR NYSE-75-23]

NEW YORK STOCK EXCHANGE, INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 26, 1975 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change. The proposed rule change, including revisions to the filing received at the Commission on December 23, 1975, reads as follows: New York Stock Exchange's Statement of the Terms of Substance of the Proposed Rule Changes.

We are submitting herewith a proposed revision to the original listing standards and continued listing criteria relative to aggregate market value of publicly held shares.

The recommended change is the utilization of the New York Stock Exchange Composite Index to add flexibility to the original listing standard and the continued listing criterion applicable to the aggregate market value of publicly held shares. The impact of this change is significant in that it will allow companies to be listed on the Exchange which would otherwise be deprived of the benefits of an Exchange listing due to market conditions, a factor over which there is no direct control. Also affected by the aforementioned changes is the continued listing status of certain companies which, while otherwise acceptable for continued listing, are adversely affected by the market value of their publicly held shares.

The present minimum criteria for aggregate market value of publicly held shares for original and continued listing are as follows:

Original Listing—aggregate market value of publicly held shares—$16 million

Continued Listing—aggregate market value of publicly held shares—$5 million

These values would now be subject to adjustment using New York Stock Exchange Composite Index. Starting with the base year July 15, 1971, the date on which the present aggregate market value for the original listing standard and the continued listing criterion became effective, will be revalued effective January 15 and July 15 of each year. The adjustment will be made only when the Exchange Index has a value below 55.06, thereby reflecting lower market prices than the base year. In addition, the amount of the adjustment will be limited so as not to exceed 50 percent of the aggregate market value criterion regardless of the extent of decline in the Index. If the Index was implemented, the aggregate market value on July 15, 1975, and the minimum allowable level due to adjustment would be as follows:

Aggregate market value

[Millions of dollars]

	Base value	Value as of July 15, 1975	Maximum adjusted value
Original listing	16	14.0	8.0
Continued listing	5	4.7	2.5

PURPOSE OF PROPOSED RULE CHANGE

The New York Stock Exchange states that the purpose and basis of the foregoing proposed rule changes is as follows:

The purpose of these modifications would be to reduce the impact of changing market conditions over which the management of a company has no direct control which may have the effect of (1) disqualifying the type of companies that would otherwise be eligible for listing on the Exchange, and (2) raising unnecessary questions and concerns as to the continued listing status of already listed companies.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

4(a)v(E) The adoption of the proposed changes regarding the periodic adjustment to both the original listing standard and continued listing criterion applicable to the aggregate market value of publicly held shares will protect present and future investors and positivey affect the public interest.

It is generally recognized that factors such as economic developments, national policy, etc., affect market prices or securities—either within industry category or across the broad spectrum of "the market." These movements in market prices—gauged by such indicators as, among others, the New York Stock Exchange Composite Index—are not directly within the control of corporate management.

The adoption of these changes would reduce the impact of changing market conditions for unlisted companies desiring to be listed on the Exchange by permitting listing on a reduced aggregate market value of publicly held shares standard—decision-making factor over which management—as representative of shareholders—has no control. The listing decision may be made in a more timely and orderly fashion, thus benefiting both present and future shareholders, and, thereby working in the public interest.

The adoption of these changes would cushion the impact of enforcing Exchange policy regarding the continued listing of listed companies with respect to the aggregate market value of publicly held shares criterion by permitting reasonable flexibility in this decision-making process. Companies otherwise delistable may remain listed under this adjustment feature, a desirable effect from the standpoint of both present and future investors.

We propose, therefore, that removal of an arbitrary factor in the decision-making process of companies desiring Exchange listing and the Exchange enforcing its continued listing criteria, over which neither party has direct control, will both protect present and future investors who have an interest in these decisions and also be in the public interest.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

Comments were not solicited from members, participants or others. An unsolicited letter dated November 10, 1975, was received from Mr. Sam Skurnick. That letter, including Mr. Skurnick's letters of June 16, 1971, and January 31, 1974, which were attached, are included as Exhibit II in this Form 19b-4A filing.

BURDEN ON COMPETITION

The New York Stock Exchange states that the proposed rule changes do not constitute a burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 11, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

JANUARY 5, 1976.

[FR Doc.76-773 Filed 1-9-76;8:45 am]

[Release No. 34-11793; File No. SR-PSE-75-11]

PACIFIC STOCK EXCHANGE INC.

Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 22, 1975, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

A. TEXT OF PROPOSED RULE CHANGE

The Pacific Stock Exchange, Inc. ("PSE") proposes to add a new section 7(h) to Rule II, and a new Section 3(c) to Rule III of the PSE Rules. The text of the proposed rule change is as follows:

RULE II

SPECIALISTS

* * * * *

Sec. 7(h). No specialist shall make a transaction for his own account in a stock in which he is registered that would result in putting into effect any stop order he may have on his book; provided, however, a specialist may be party to the election of a stop order when (a) his bid or offer, made with the approval of a Floor Official, has the effect of bettering the market, and (b) he guarantees that the stop order will be executed at the same price as the electing sale.

* * * * *

RULE III

MEMBERS TRADING

* * * * *

Miscellaneous Prohibitions

Sec. 3(c). No member, member firm or any participant therein shall:

(1) Directly or indirectly participate in or have any interest in the profits of a manipulative operation, or knowingly manage or finance a manipulative operation.

For the purpose of this paragraph, (A) any pool, syndicate or joint account, whether in corporate form or otherwise, organized or used intentionally for the purpose of unfairly influencing the market price of any security, by means of options or otherwise, and for the purpose of making a profit thereby, shall be deemed to be a manipulative operation; (B) the soliciting of subscriptions to any such pool, syndicate or joint account, or the accepting of discretionary orders from any such pool, syndicate or joint account, shall be deemed to be managing a manipulative operation; and (C) the carrying on margin of either a "long" or a "short" position in securities for, or the advancing of credit through loans of money or securities to, any such pool, syndicate or joint account, shall be deemed to be financing a manipulative operation.

(2) Offer publicly on the Floor:

(A) To buy or sell securities "at the close";

(B) To buy or sell dividends; or

(C) To bet upon the course of the market.

(3) Participate in a prearranged trade. An offer to sell coupled with an offer to buy back at the same or at an advanced price, or the reverse, is a prearranged trade and is prohibited. This provision applies both to transactions in the unit of trading and in lesser or greater amounts."

B. PSE'S STATEMENT OF BASIS AND PURPOSE

1. PURPOSE OF PROPOSED RULE CHANGE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change adopts the anti-manipulative rules recommended by the Securities and Exchange Commission and the participants in the consolidated transaction reporting system. The proposed rules are designed to provide prophylactic provisions to minimize the extent to which the consolidated transaction reporting system might be misleading or conducive to market manipulation. In addition, the proposed rules are intended to satisfy, in principle, the recommendations of the Commission's Advisory Committee on a Central Market System in its Interim Report to the Commission dated October 11, 1972.

2. BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The proposed rule change, by prohibiting certain anti-manipulative acts and practices, relates to (a) the prevention of fraudulent and manipulative acts and practices, and (b) the protection of investors and the public interest.

3. COMMENTS RECEIVED ON THE PROPOSED RULE CHANGE

Comments on the proposed rule change have not been solicited from Exchange members.

4. BURDEN ON COMPETITION

The proposed rule change would not impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, 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 in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection 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 February 11, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

JANUARY 2, 1976.

[FR Doc.76-774 Filed 1-9-76;8:45 am]

[Rel. No. 9113; (812-3886)]

PURITAN FUND, INC. AND UV INDUSTRIES, INC.

Notice of Filing of Application

JANUARY 5, 1976.

In the matter of Puritan Fund, Inc., 35 Congress Street, Boston, Massachusetts 02109, and UV Industries, Inc., 437 Madison Avenue, New York, New York 10022.

Notice is hereby given that Puritan Fund, Inc. ("Fund"), an open-end diversified management investment company registered under the Investment Company Act of 1940 ("Act"), and UV Industries, Inc. ("UV"), (collectively referred to as "Applicants"), filed an application on December 15, 1975, and an amendment thereto on December 30, 1975, pursuant to Section 17(b) of the Act for an order exempting from Section 17(a) of the Act the purchase by UV of $2,200,000 face amount of its 5¾% convertible subordinated debentures due February 1, 1993 (the "Debentures") from the Fund. The purchase will be at a net price of $73.00 per $100 face amount, with interest adjusted. All interested persons are referred to the application on file with the Commission for a statement of the Applicants' representations which are summarized below.

UV is a Maine corporation and it and its subsidiaries are principally engaged in the business of: (a) the design, manufacture and sale of electrical distribution and control equipment and electronic components through its wholly-owned subsidiary Federal Pacific Electric Company; (b) the fabrication of metal products consisting primarily of copper and brass, through its wholly-owned subsidiary Mueller Brass Co.; and (c) the mining and milling of ores that contain principally copper, the mining of placer gold and the acquisition, exploration, and development of leasehold mineral and royalty properties for the production of oil and gas. Both the Debentures and UV's Common Stock are listed on the New York Stock Exchange. The Fund presently owns 300,000 shares or approximately 6.3% of UV's outstanding voting securities. In addition, the Fund beneficially owns $4,000,000 face amount of Debentures convertible into 89,106 shares of UV common stock. In addition, three other investment companies which receive their advice from Fidelity Management & Research Company, the Fund's investment adviser, own approximately 1.4% of UV common. There is no affiliation between UV and the Fund other than the described stock ownership.

On November 24, 1975, in response to an inquiry from UV, the Fund agreed, conditioned upon obtaining the requsite exemptive order under the Act, to sell to UV $2,200,000 face amount of UV's Debentures at a price of $73.00 per $100 of face amount plus interest. UV will use the Debentures to be purchased from the Fund, together with $1,133,000 of Debentures already acquired at an average price of $67.95 per $100 face amount, to satisfy sinking fund payments which it would otherwise be required to satisfy, under the terms of the Indenture dated as of February 1, 1968, between UV and the Chase Manhattan Bank, N.A., as Trustee, by the redemption of 3,333,000 of the Debentures at face.

Section 2(a)(3) of the Act includes within the definition of an affiliated person of another person any person owning 5% or more of the outstanding voting securities of such other person and any person 5% or more of whose outstanding voting securities are owned by such other person. Under this definition, the Fund and UV are affiliated persons of each other.

Section 17(a) of the Act provides, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company acting as principal, knowingly to purchase from such registered company any security or other property. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and the proposed transaction is consistent with the policy of each investment company concerned and with the general purposes of the Act.

Applicants assert that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the Fund and with the general purposes of the Act. In support of this assertion, Applicants state that the purchase price of $73.00 per $100 of face amount with interest at which the Fund will be able to dispose of a large block of Debentures is a price in excess of the current market price. On November 24, 1975, the closing sales price of the Debentures on the New York Stock Exchange was 68⅛. In addition, there will be no charges or fees associated with the proposed transaction other than applicable transfer fees and legal fees to be borne by each party. Applicants state that in view of the limited market for the UV Debentures, the proposed purchase offers both parties an opportunity to effect a transaction at a price which is advantageous to each of them because a transaction involving such a large block of UV Debentures might not have been accomplished in the market at $73.00 per $100 face amount. Finally, Applicants state that the transaction was negotiated at arm's length between two persons who are "affiliated persons" of each other solely because the Fund owns approximately 6.3% of UV's outstanding voting securities.

The proceeds of the sale will be added to the Fund's cash account and, together with cash from other sources, will be used to purchase securities for the Fund's portfolio. The Fund represents that the proposed purchase will be consistent with its policy as recited in its registration statement and reports filed under the Act and both Applicants believe that the transaction is consistent with the general purposes of the Act.

Notice is further given that any interested person may, not later than January 27, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.76-771 Filed 1-9-76;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-524]

A. M. F. INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 19, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of York, Pennsylvania division of A. M. F. Incorporated, White Plains, New York (TA-W-524). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with motorcycles produced by A. M. F. Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of December 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-822 Filed 1-9-76;8:45 am]

[TA-W-240]

CALIPER CLOTHES, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-240: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 14, 1975 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of workers formerly producing men's suit coats at Caliper Clothes, Inc., Philadelphia, Pennsylvania.

The notice of investigation was published in the Federal Register (40 FR 50162) on October 28, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Caliper Clothes Inc., its customers, industry analysts, the U.S. Department of Commerce, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.
(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.
(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers at Caliper declined 21 percent in the first two months of 1975 compared to the like period in 1974. All production-related employment at Caliper was terminated by the end of February 1975.

Sales or Production, or Both, Have Decreased Absolutely. Caliper Clothes produced men's suit coats on a contractual basis exclusively for a men's suit manufacturer in Philadelphia. Production at Caliper declined 24 percent in January 1975 compared to the same period in 1974. Production at Caliper was terminated entirely by the end of February 1975.

Increased Imports Contributed Importantly. Imports of men's and boys' suits have increased relative to domestic consumption and production in each year from 1971 to 1973. While imports of men's and boys' suits fell slightly in 1974 compared to 1973, the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9 percent respectively were well above the 1971–1973 average of 8.6 percent and 7.8 percent respectively. In the first seven months of 1975 imports of men's and boys' suits increased 131 percent compared to the first seven months of 1974. The ratio of imports to domestic production increased from 7.7 percent in the first seven months of 1974 to 22.1 percent in the first seven months of 1975.

Customers of the manufacturer for which Caliper performed all of its contract operations indicated that they reduced purchases from that manufacturer while increasing purchases of suits produced offshore. The resultant decline in orders by that manufacturer for Caliper caused Caliper to reduce production to such a degree that the firm could not produce at a profitable level. The cutback in orders from its manufacturer/customer caused Caliper to cease all production operations in February 1975.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suit coats produced by Caliper Clothes, Inc. contributed importantly to the total or partial separation of the workers of that firm. Separations of workers at Caliper began in January 1975. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All hourly, piecework, and salaried employees of Caliper Clothes, Inc., Philadelphia, Pennsylvania who became totally or partially separated from employment on or after December 28, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31 day of December 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-812 Filed 1-9-76;8:45 am]

[TA-W-520]

CLIFTON CLOTHING CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 19, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America on behalf of the workers and former workers of Clifton Clothing Company, Wallington, New Jersey (TA-W-520). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's jackets and sportcoats produced by Clifton Clothing Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of December 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-823 Filed 1-9-76;8:45 am]

[TA-W-528]

DYNAMIC INTERNATIONAL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 31, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Dynamic International Corporation, Lajas, Puerto Rico (TA-W-528). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with electric current reducer (AC adapter) produced by Dynamic International Corporation, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 31st day of December 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-824 Filed 1-9-76;8:45 am]

[TA-W-230]

FASHIONBILT CLOTHES DIVISION OF CHIPS N TWIGS, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-230; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 14, 1975 in response to a worker petition received on October 14, 1975 which was filed by the Amalgamated Clothing Workers of America on behalf of workers formerly producing men's suits and sport coats at the Philadelphia, Pennsylvania plant of the Fashionbilt Clothes Division of Chips N Twigs, Inc.

The notice of investigation was published in the FEDERAL REGISTER on October 28, 1975 (40 FR 50163). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fashionbilt Clothes, its customers, the U.S. Department of Commerce, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers employed at Fashionbilt declined 3.2 percent from 1973 to 1974 and decline 7.8 percent in the first nine months of 1975 compared to the like period in 1974. Average weekly hours worked by production workers fell 5.9 percent from 1973 to 1974 and fell 3.7 percent in the first nine months of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Fashionbilt sales of suits, sportcoats and pants declined 1.4 percent in value from 1973 to 1974 and fell 15.8 percent in value in the first nine months of 1975, compared to the like period in 1974.

Production at Fashionbilt declined 5.4 percent in quantity from 1973 to 1974 and fell 31.5 percent in quantity in the first nine months of 1975 compared to the like period of 1974.

Increased Imports Contributed Importantly. Imports of men's and boys' tailored suits have increased relative to domestic consumption and production in each year from 1971 to 1973. While imports of men's and boys' suits fell slightly in 1974 compared to 1973 the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9.0 percent, respectively, were well above the 1971-1973 average of 8.6 percent and 7.8 percent, respectively. In the first seven months of 1975 imports of men's and boys' tailored suits increased 131 percent compared to the first seven months of 1974. The ratio of imports to domestic production increased from 7.7 percent in the first seven months of 1974 to 22.1 percent in the first seven months of 1975.

Imports of mens' and boys' tailored sport coats increased their share of the domestic market each year from 1972 to 1974. The ratios of imports to domestic production and consumption increased from 17.1 percent and 14.6 percent, respectively, in 1972 to 22.3 percent and 18.2, respectively, in 1974. The ratio of imports to domestic production increased from 24.5 percent in the first seven months of 1974 to 36.7 percent in the first seven months of 1975.

Imports of men's and boys' tailored trousers decreased their relative share of domestic production and consumption from 25.7 percent and 20.5 percent, respectively, in 1972 to 19.7 percent and 16.4 percent, respectively in 1974. In the first seven months of 1975 imports of men's and boys' tailored trousers increased 29 percent compared to the first seven months of 1974.

Declines in sales, production and employment at Fashionbilt Clothes in the first nine months of 1975 were the result of decreased domestic demand for men's tailored suits and sport coats. In the first nine months of 1975, Fashionbilt's sales declined 15.8 percent in value from the level of the comparable period in 1974. In the first seven months of 1975, U.S. consumption of men's tailored suits and sport coats, articles which comprise 95 percent of Fashionbilt's production, declined 23.1 percent in quantity compared to the like period in 1974. Major customers of Fashionbilt Clothes who reduced orders from the firm in 1975 did so primarily because of decreased demand for men's tailored suits and sport coats associated with the recession. None of Fashionbilt's largest customers purchased imports in significant quantities.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's tailored suits, sport coats, and pants produced by Fashionbilt Clothes did not contribute importantly to the total or partial separation of the workers of such firm or subdivision.

Signed at Washington, D.C. this 31st day of December 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-815 Filed 1-9-76;8:45 am]

[TA-W-220]

GUY LEWIS, INC.

Certification Regarding Eligibility To Apply for Workers Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-220; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 3, 1975 in response to a worker petition received on October 3, 1975 which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing sportcoats, leisure suit jackets, and suit coats at Guy Lewis, Inc., Boston, Massachusetts.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 48415) on October 15, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Guy Lewis, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers declined 18.9 percent in 1974 compared to 1973. The average number of workers increased 1.3 percent in the first half of 1975 compared to the like period in 1974, and the plant closed down as of June 30, 1975. Average weekly hours decreased 13.9 percent in 1974 compared to 1973 and prior to the shutdown the number increased 3 percent in the first half of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Production and sales at Guy Lewis, Inc. declined 34.6 percent in 1974 compared with 1973. They increased 25.9 percent in the first half of 1975 compared to the first half of 1974. The increase represents the rush processing of the final orders prior to the closing of the plant on June 30, 1975.

Increased Imports Contributed Importantly. Imports of men's and boys' sportcoats increased their share of the domestic market each year from 1972 to 1974. The ratio of imports to domestic production and consumption increased from 17.1 percent and 14.6 percent respectively in 1972 to 22.3 percent and 18.2 percent respectively in 1974. The ratio of imports to domestic production increased from 24.5 percent in the first seven months of 1974 to 36.7 percent in the first seven months of 1975.

The evidence developed in the Department's investigation of Guy Lewis Inc., reveals that the separation of workers was due to the curtailment of orders from their only customer, and that customers no longer contracted business with Guy Lewis, Inc., due to loss of business to imports. Guy Lewis' sales of jackets dropped 34.6 percent from 1973 to 1974. They increased 25.9 percent in the first half of 1975 compared with the same period in 1974 as the final set of orders was rushed through prior to the firm's closing on June 30, 1975 due to cessation of orders. Guy Lewis' former customer indicated that they could no longer contract orders to Guy Lewis because price competition from imports rendered them unable to compete for the market.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with sportcoats, leisure suit jackets, and suit coats produced at Guy Lewis, Inc., Boston, Massachusetts contributed importantly to the total or partial separation of the workers of that plant.

In accordance with the provisions of the Act, I make the following certification:

All hourly, piecework, and salaried workers engaged in employment related to the production of sportcoats, leisure suit jackets, and suit coats at the Boston, Massachusetts plant of Guy Lewis, Inc. who became totally or partially separated from employment on or after October 3, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of December 1975.

JAMES F. TAYLOR,
Director, Planning and Evaluation Staff.

[FR Doc.76-813 Filed 1-9-76;8:45 am]

[TA-W-527]

HUGHES AIRCRAFT CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 19, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of El Segundo, California plant of Hughes Aircraft Company, Culver City, California (TA-W-527). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with space and communications equipment (satellites) produced by Hughes Aircraft Company, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of December 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-827 Filed 1-9-76;8:45 am]

[TA-W-526]

INTERNATIONAL HAT CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 19, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Oran, Missouri division of International Hat Company, St. Louis, Missouri (TA-W-526). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with hat caps, tennis hats, mode hats, & roll hats produced by International Hat Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of December 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-828 Filed 1-9-76;8:45 am]

[TA-W-242]

J. MAIMON & SONS, INCORPORATED

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-242; investigation regarding cer-

tification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 14, 1975 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's suits and sportcoats at J. Maimon & Sons, Inc., Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on October 30, 1975 (40 FR 50586). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of J. Maimon & Sons, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Employment of production workers at J. Maimon declined 11 percent in 1974 from 1973 and declined 35 percent in the first three quarters of 1975 compared to the same period in 1974. Average weekly hours for production workers at Maimon declined 20 percent in the first three quarters of 1975 compared to the first three quarters of 1974.

Sales or Production, or Both, Have Decreased Absolutely. Sales of suits, sportscoats, and trousers by J. Maimon & Sons declined 26 percent in quantity and 23 percent in value in 1974 from 1973. Sales declined 51 percent in quantity and 44 percent in value the first three quarters of 1975 compared to the same quarter of the prior year.

Increased Imports Contributed Importantly. Imports of men's and boys' suits have increased relative to domestic consumption and production in each year from 1971 to 1973. While imports of men's and boys' suits fell slightly in 1974 compared to 1973, the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9.0 percent respectively were well above the 1971–1973 average of 8.6 percent and 7.8 percent, respectively. In the first seven months of 1975 imports of men's and boys' suits increased 131 percent compared to the first seven months of 1974. The ratio of imports to domestic production increased from 7.7 percent in the first seven months of 1974 to 22.1 percent in the first seven months of 1975.

Imports of men's and boys' sportcoats increased their share of the domestic market each year from 1972 to 1974. The ratio of imports to domestic production and consumption increased from 17.1 percent and 14.6 respectively in 1972 to 22.3 percent and 18.2 percent respectively in 1974. The ratio of imports to domestic production increased from 24.5 percent in the first seven months of 1974 to 36.7 percent in the first seven months of 1975.

Imports of men's and boys' tailored trousers decreased their relative share of domestic production and consumption from 25.7 percent and 20.5 percent in 1972 to 19.7 percent and 16.4 percent in 1974. In the first seven months of 1975 imports of men's and boys' tailored trousers increased 29 percent compared to the first seven months of 1974.

The evidence developed in the Department's investigation of J. Maimon & Sons, Inc. indicates that customers of Maimon increased their purchases of imported suits while reducing purchases of suits and sportcoats produced by Maimon.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits and sportcoats produced by J. Maimon and Sons, Inc. contributed importantly to the total or partial separation of the workers of that firm. Workers at Maimon began experiencing reduced hours as a result of sales declines in November 1974. After due consideration I make the following certification:

All hourly, piecework, and salaried employees of J. Maimon & Sons, Inc., Philadelphia, Pennsylvania, who became totally or partially separated from employment on or after October 26, 1974 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of December 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-814 Filed 1-9-76;8:45 am]

[TA-W-265]

KEYSTONE UNIFORM MANUFACTURING COMPANY, INCORPORATED

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-265: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 24, 1975 in response to a worker petition received on that date which was filed by The Amalgamated Clothing Workers of America on behalf of workers and former workers producing uniforms at Keystone Uniform Manufacturing Company, Inc., Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on November 5, 1975 (40 FR 51522). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Keystone Uniform Manufacturing Company, its customers, industry analysts, the U.S. Department of Commerce, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Employment at Keystone increased five percent in the first ten months of 1975 compared to the same period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Sales of uniforms by Keystone increased six percent in value in the first nine months of 1975 compared to the same period in 1974. Production of uniforms equalled sales.

Increased Imports Contributed Importantly. The investigation of Keystone Uniform Manufacturing Company reveals that the firm produces uniforms used primarily by police departments and school bands. Uniform imports enter the United States under the same TSUSA numbers as men's and boys' tailored suits. Consequently, the quantity of uniforms entering the United States is indeterminate. Industry experts indicate that such imports are negligible. Customers of Keystone indicate that they have not purchased uniforms from foreign sources and that imports do not influence their decisions whether to buy uniforms from Keystone.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with uniforms pro-

duced by Keystone Uniform Manufacturing Company, Inc. did not contribute importantly to the total or partial separations of workers of that firm.

Signed at Washington, D.C. this 31st day of December 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary, for Trade and Adjustment Police.

[FR Doc.76-816 Filed 1-9-76;8:45 am]

[TA-W-522]

M. EHRENBERG SONS, INC. AND VICTOR ROBERTS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 19, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America on behalf of the workers and former workers of M. Ehrenberg Sons, Incorporated and Victor Roberts, Incorporated, Passaic, New Jersey (TA-W-522). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's suit jackets and sport jackets produced by M. Ehrenberg Sons, Incroporated and Victor Roberts, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number/or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of December 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-825 Filed 1-9-76;8:45 am]

[TA-W-521]

FRANK SALTZ AND SONS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 19, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Amalgamated Clothing Workers of America on behalf of the workers and former workers of Frank Saltz and Sons, Incorporated, Passaic, New Jersey (TA-W-521). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's sport jackets and suit jackets produced by Frank Saltz and Sons, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivsion of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showinng a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of December 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-826 Filed 1-9-76;8:45 am]

[TA-W-523]

MAKRESS INC. AND MAKRESS LINGERIE, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 19, 1975 the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Ladies Garment Workers Union, on behalf of the workers and former workers of Makress Inc. and Makress Lingerie, Inc., Arecibo, Puerto Rico, divisions of Character Foundations, Inc., New York, New York (TA-W-523). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with foundation and under garments produced by Makress Inc. and Makress Lingerie, Inc. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International

Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of December 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-829 Filed 1-9-76;8:45 am]

[TA-W-264]

MICHAEL, INCORPORATED

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-264: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 24, 1975 in response to a worker petition received on that date which was filed by The Amalgamated Clothing Workers of America on behalf of workers and former workers producing suit coats for military uniforms at Michael, Inc., Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on November 5, 1975 (40 FR 51522). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Michael, Inc., its customer, industry analysts, the U.S. Department of Commerce, the U.S. International Trade Commission, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard as to whether any of the other criteria are satisfied, the investigation reveals that the third criterion has not been met.

The investigation of Michael, Inc. reveals that the firm produces suit coats for military uniforms. Michael bids competitively on contracts awarded by the U.S. Department of Defense, its sole customer.

There are no U.S. imports of suit coats for military uniforms. Officials of the Department of Defense indicate that the Department purchases uniforms and uniform parts only from manufacturers within the United States and has never purchased such products from foreign sources.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with coats for military uniforms produced by Michael, Inc. did not contribute importantly to the total or partial separation of workers of that firm.

Signed at Washington, D.C. this 31st day of December 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-817 Filed 1-9-76;8:45 am]

[TA-W-238]

MODERN COAT CO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-238; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 14, 1975 in response to a worker petition received on October 14, 1975 which was filed by Amalgamated Clothing Workers Union on behalf of workers and former workers producing men's suit coats and sportcoats at the Philadelphia, Pa. plant of Modern Coat Company.

The notice of investigation was published in the FEDERAL REGISTER on October 24, 1975 (40 FR 49829). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Modern Coat Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated.

(2) That sales of production, or both, of such firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of production workers declined 25 percent in the first ten months of 1975 compared to the like period in 1974. Average weekly hours declined 2.7 percent in the first ten months of 1975 compared to the like period in 1974.

Sales or Production, or Both, Have Decreased Absolutely. Sales at Modern Coat Company declined 14 percent in the first ten months of 1975 compared to the first ten months of 1974.

Increased Imports Contributed Importantly. Imports of men's and boys' tailored suits increased their share of domestic consumption and production from 5.7 percent and 6 percent, respectively in 1971 and 9.5 percent and 10.5 percent, respectively in 1973. Imports declined both absolutely and relatively in 1974. Imports of men's and boys' sportcoats increased their share of the domestic market each year from 1972 to 1974. The ratio of imports to domestic production and consumption increased from 17.1 percent and 14.6 percent, respectively in 1972 to 22.3 percent and 18.2 percent, respectively in 1974.

Modern Coat's sale customer in 1973 and 1974, terminated Modern Coat's contract in late 1974. This decision was based on the customer's decision to open its own manufacturing facility in the U.S.

Information developed during the investigation of Modern Coat indicates that the firm's difficulties in late 1974 and 1975 were attributable to the loss of its sole customer when that customer decided to open its own production facility in the U.S. That customer does not import finished goods for sale to its customers.

Therefore, it is concluded that imports of men's suit coats and sportcoats did not contribute importantly to the total or partial separations of workers of Modern Coat Company, Philadelphia, Pennsylvania.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suit coats and sportcoats produced at the Philadelphia, Pa. plant or Modern Coat Company did not contribute importantly to the total or partial separation of the workers of that plant.

Signed at Washington, D.C. this 31st day of December 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-818 Filed 1-9-76;8:45 am]

[TA-W-247]

NICK IPPOLITI, INC.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-247: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 14, 1975 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's suits and sportcoats at Nick Ippoliti, Inc., Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 50587) on October 30, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Nick Ippoliti, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Employment of production workers at Nick Ippoliti, Inc. declined 30 percent in 1974 from 1973; average weekly hours for production workers declined 14 percent during the same period. All production related employment at Ippoliti was terminated by early January 1975.

Sales or Production, or Both, Have Decreased Absolutely. Ippoliti produced men's suit coats and sportcoats on a contractual basis. One manufacturer/customer of Ippoliti accounted for approximately two-thirds of Ippoliti's output in recent years. Total production by Ippoliti declined in six consecutive quarters from the second quarter of 1973 until production was terminated in the fourth quarter of 1974.

Increased Imports Contributed Importantly. Imports of men's and boys' suits have increased relative to domestic consumption and production in each year from 1971 to 1973. While imports of men's and boys' suits fell slightly in 1974 compared to 1973, the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9 percent respectively were well above the 1971–1973 average of 8.6 percent and 7.8 percent respectively. In the first seven months of 1975 imports of men's and boys' suits increased 131 percent compared to the first seven months of 1974. The ratio of imports to domestic production increased from 7.7 percent in the first seven months of 1974 to 22.1 percent in the first seven months of 1975.

Imports of men's and boys' sportcoats increased their share of the domestic market each year from 1972 to 1974. The ratio of imports to domestic production and consumption increased from 17.1 percent and 14.6 respectively in 1972 to 22.3 percent and 18.2 percent respectively in 1974. The ratio of imports to domestic production increased from 24.5 percent in the first seven months of 1974 to 36.7 percent in the first seven months of 1975.

The evidence developed by the Department's investigation indicates that the decision to close Nick Ippoliti, Inc. was based upon the closure of the firm for which Ippoliti performed most of its contract operations. Officials of that firm and its own customers at the retail level indicated that unsatisfactory product quality and service led to the closing of the firm. With the loss of sales to its major customer, the determination was made to terminate the operations of Nick Ippoliti, Inc.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suit coats and sportcoats produced by Nick Ippoliti, Inc., Philadelphia, Pennsylvania did not contribute importantly to the total or partial separations of the workers of that firm.

Signed at Washington, DC. this 31st day of December 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-819 Filed 1-9-76;8:45 am]

[TA-W-245]

OTTO B. MAY CO.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-245; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 20, 1975 in response to a worker petition received on October 20, 1975 which was filed by the United Steelworkers of America on behalf of workers formerly producing vat and disperse dyes at the Newark, New Jersey plant of the Otto B. May Company.

The notice of investigation was published in the FEDERAL REGISTER on October 29, 1975, (40 FR 50333). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Otto B. May, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard as to whether the other criteria are satisfied, the investigation reveals that the third criterion has not been met.

Otto B. May produced vat dyes and disperse dyes. Vat dyes were used on cotton and cotton-polyester blends while disperse dyes were used on synthetic materials. Imports of vat dyes like or directly competitive with those produced at Otto B. May declined from 10.2 million pounds in 1972 to an estimated 4.5 million pounds in 1974. The ratios of imports to domestic shipments and consumption decreased from 18.1 and 15.3 percent respectively in 1972 to 8.1 and 7.5 percent in 1974.

Imports of disperse dyes like or directly competitive with those produced at Otto B. May declined from 10 million pounds in 1972 to an estimated 6.8 million pounds in 1974. The ratios of imports to domestic shipments and consumption decreased from 26.1 percent and 20.7 percent respectively in 1972 to 14.7 percent and 12.8 percent in 1974.

Customers of Otto B. May had decreased purchases of vat dyes from the firm but competition from imported vat dyes was not a factor in these reductions. Reductions were primarily due to either the loss of government contracts or the general decline in demand for clothing in the U.S. recently. In some cases price considerations were also a factor in a

customer's decision to reduce vat dye purchases from Otto B. May, but the price competition came from other domestic firms.

These customers had not reduced purchases of disperse dyes from Otto B. May to any significant degree. All layoffs occurring in December 1974 were the result of the firm's decreased sales of vat dyes. The decreased sales were the result of factors other than competition from imported vat dyes.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with vat and disperse dyes produced at the Newark, New Jersey plant of Otto B. May Company did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C., this 31st day of December 1975.

HERBERT N. BLACKMAN,
Associated Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-820 Filed 1-9-76;8:45 am]

[TA-W-525]

OXFORD TILE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 19, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Brotherhood of Pottery and Allied Workers on behalf of the workers and former workers of Oxford Tile Company, Cambridge, Ohio, a division of Marmon Group, Incorporated, Chicago, Illinois (TA-W-525). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with ceramic wall tile produced by Oxford Tile Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of December 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-830 Filed 1-9-76;8:45 am]

[TA-W-241]

PENN STATE CLOTHING CORP.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-241: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 14, 1975 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's suits and sportcoats at Penn State Clothing Corporation, Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on October 30, 1975 (40 FR 50587). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Penn State Clothing Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. Employment of production workers at Penn State Clothing Corporation declined 18 percent in 1974 from 1973 and declined 12 percent in the first nine months of 1975 compared to the same period in 1974. Average weekly hours for production workers declined seven percent in 1974 from 1973 and increased four percent in the first nine months of 1975 compared to the first nine months of 1974.

Sales or Production, or Both, Have Decreased Absolutely. Sales of men's suits, sportcoats, and trousers by Penn State declined 24 percent in quantity and one percent in value in 1974 from 1973. Sales declined 14 percent in quantity and two percent in value in the first ten months of 1975 compared to the first ten months of 1974.

Increased Imports Contributed Importantly. Imports of men's and boys' suits have increased relative to domestic consumption and production in each year from 1971 to 1973. While imports of men's and boys' suits fell slightly in 1974 compared to 1973, the ratios of imports to domestic production and consumption in 1974 of 9.9 percent and 9.0 percent respectively were well above the 1971-1973 average of 8.6 percent and 7.8 percent respectively. In the first seven months of 1975 imports of men's and boys' suits increased 131 percent compared to the first seven months of 1974. The ratio of imports to domestic production increased from 7.7 percent in the first seven months of 1974 to 22.1 percent in the first seven months of 1975.

Imports of men's and boys' sportcoats increased their share of the domestic market each year from 1972 to 1974. The ratio of imports to domestic production and consumption increased from 17.1 percent and 14.6 respectively in 1972 to 22.3 percent and 18.2 percent respectively in 1974. The ratio of imports to domestic production increased from 24.5 percent in the first seven months of 1974 to 36.7 percent in the first seven months of 1975.

Imports of men's and boys' tailored trousers decreased their relative share of domestic production and consumption from 25.7 percent, and 20.5 percent in 1972 to 19.7 percent and 16.4 percent in 1974. In the first seven months of 1975, imports of men's and boys' tailored trousers increased 29 percent compared to the first seven months of 1974.

Evidence developed in the investigation of Penn State Clothing Corporation indicates that customers of Penn State reduced purchases from the firm for reasons other than increased import competition. The customers indicated that they reduced purchases from Penn State due to price increases by Penn State at a

time when consumer preferences were shifting to leisure suits offering a more casual appearance.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits, sportcoats and trousers produced by Penn State Clothing Corporation did not contribute importantly to the total or partial separations of the workers at that firm.

Signed at Washington, D.C. this 31st day of December 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.76-821 Filed 1-9-76;8:45 am]

[TA-W-519]

PRODUCTION MOLDED PLASTICS, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 19, 1975, the Department of Labor received a petition filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Chemical Workers Union, on behalf of the workers and former workers of Production Molded Plastics, Inc., Alliance, Ohio, a wholly-owned subsidiary of Detroit Molding Co., Inc., East Detroit, Michigan (TA-W-519). Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with automotive custom molded, plastic parts produced by Production Molded Plastics, Inc., or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 22, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 19th day of December 1975.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-831 Filed 1-9-76;8:45 am]

[TA-W-409-518]

GENERAL MOTORS CORP., ET AL.

Notice of Hearing

The Department of Labor has ordered a public hearing in connection with the investigations instituted on December 18, 1975, under Section 221(a) of the Trade Act of 1974 on the basis of petitions filed on behalf of the workers and former workers of General Motors Corporation (TA-W-409-482), Ford Motor Company (TA-W-483-516), and Chrysler Corporation (TA-W-517-518). Notice of receipt of the petitions and the institution of these investigations was published in the FEDEAL REGISTER on January 7, 1976 (41 FR 1342).

This public hearing is being held on request of the petitioners and will take place beginning at 10:00 a.m., e.s.t. on January 26, 1976, in Room South 4215 A, B, and C, U.S. Department of Labor Building, 3d Street and Constitution Avenue NW., Washington, D.C. Less than fifteen days notice has been provided because of the necessity for prompt action. Interested parties desiring to appear and be heard should send written notification, at least three days in advance of the hearing if possible, to the Acting Director, Office of Trade Adjustment Assistance, Room South 5315, U.S. Department of Labor, 3d Street and Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 7th day of January 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-1032 Filed 1-9-76;10:14 am]

[AB 18 (Sub.-No. 16)]

INTERSTATE COMMERCE COMMISSION

CHESAPEAKE AND OHIO RAILWAY CO.

Abandonment Portion Ionia Branch Between Portland and Ionia, in Ionia County, Michigan

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Ionia County, Mich., on or before January 16, 1976, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 22nd day of December, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

CHESAPEAKE AND OHIO RAILWAY COMPANY ABANDONMENT PORTION IONIA BRANCH BETWEEN PORTLAND AND IONIA, IN IONIA COUNTY, MICHIGAN

The Interstate Commerce Commission hereby gives notice that by order dated December 22, 1975, it has been determined that the proposed abandonment by the Chesapeake and Ohio Railway Company between Portland and Ionia, Mich., a distance of 13.81 miles in Ionia County, Mich., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because (1) there has been a decreasing demand for rail service over this line, (2) no regional or local economic developmental plans are dependent upon the continued existence of the instant line, (3) the Grand Trunk Western Railroad may be in a position to maintain service to the largest shipper on the line and, (4) the historic, safety, pollution, and ecological aspects of the proposed action are absent or minimal.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before February 2, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.76-838 Filed 1-9-76;8:45 am]

[AB 31 (Sub-No. 2)]

GRAND TRUCK WESTERN RAILROAD CO.

Abandonment Between Marne and Grand Haven, Ottawa County, Michigan

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Ottawa County, Mich., on or before January 16, 1976, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the Federal Register as notice to interested persons.

Dated at Washington, D.C., this 22nd day of December, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD, *Secretary*.

GRAND TRUNK WESTERN RAILROAD COMPANY ABANDONMENT BETWEEN MARNE AND GRAND HAVEN, OTTAWA COUNTY, MICHIGAN

The Interstate Commerce Commission hereby gives notice that by order dated December 22, 1975, it has been determined that the proposed abandonment of the Grand Trunk Western Railroad Company rail line extending 21.47 miles between Maine and Grand Haven, Ottawa County, Mich., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that diversion of the current traffic to other transportation modes should not create any substantial alterations in the existing environmental conditions along the corridor. There exist no definitive economic development plans which would necessitate continued operation of this line. Public interest has been expressed for purchase of the right-of-way upon abandonment for a public recreational trail program.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before February 2, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.76-839 Filed 1-9-76;8:45 am]

[AB 102 (Sub-No. 2)]

MISSOURI-KANSAS-TEXAS RAILROAD CO.

Abandonment Between Georgetown and Austin, in Williamson and Travis Counties, Texas

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Envrionmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Williamson and Travis Counties, Tex., on or before January 16, 1976, and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the Federal Register as notice to interested persons.

Dated at Washington, D.C., this 22nd day of December, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD, *Secretary*.

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY ABANDONMENT BETWEEN GEORGETOWN AND AUSTIN, IN WILLIAMSON AND TRAVIS COUNTIES, TEXAS

The Interstate Commerce Commission hereby gives notice that by order dated December 22, 1975, it has been determined that the proposed abandonment by the Missouri-Kansas-Texas Railroad Company of its line of railroad between Georgetown and Austin, Tex., a distance of 27.8 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that as substantially all traffic on the line is bridge traffic which will be rerouted over other lines, virtually no diversion of rail traffic to motor carrier is anticipated, and no increase would occur in highway traffic, energy consumption, air pollution, and noise intrusions associated with such a diversion. There are no indications of developmental activities which would be affected by loss of service on the line. Sale of the right-of-way to a public agency would insure availability of the land in the right-of-way for future use as a transportation or other public use corridor and would be consistent with current interest in acquisition of the right-of-way for public use.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before February 2, 1976.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[FR Doc.76-840 Filed 1-9-76;8:45 am]

[Notice No. 155]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

JANUARY 12, 1976.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before February 2, 1976. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75802. By order entered January 5, 1976, Division 3, acting as an Appellate Division, approved the transfer to Overoad West, Ltd., Littleton, Colo., of the operating rights set forth in Certificate No. MC 52709 (Sub-No. 315), issued February 1, 1974, to Ringsby Truck Lines, Inc., Littleton, Colo., authorizing the transportation of general commodities, with exceptions, in containers, and empty containers, between ports of entry located in California, Oregon, and Washington, on the one hand, and, on the other, points in the United States (including Alaska, but excluding

Hawaii), restricted to traffic having a prior or subsequent movement by water.

Richard S. Mandelson, Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80203, attorney for applicants.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-841 Filed 1-9-76;8:45 am]

[Notice No. 156]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 12, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76277. By application filed December 17, 1975, AURELIA TRUCKING CO., 2136 Pine Grove Ave., Port Huron, MI 48060, seeks temporary authority to lease the operating rights of NORTHLAND TRANSPORT, INC., P.O. Box 626, Superior, WI 54880, under section 210a(b). The transfer to AURELIA TRUCKING CO., of the operating rights of NORTHLAND TRANSPORT, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-842 Filed 1-9-76;8:45 am]

[Notice No. 947]

ASSIGNMENT OF HEARINGS

JANUARY 7, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 56640 (Sub-No. 35), Delta Lines, Inc., now being assigned March 22, 1976 (1 week), at San Francisco, Calif., at the Clift Hotel, Geary and Taylor Streets and continued to March 29, 1976, (1 week), at Los Angeles, Calif. at the Biltmore Hotel, 550 South Olive Street; April 20, 1976 (4 days), at Eugene, Oregon, at the Thunderbird Motel, 205 Coburg Road; and April 26, 1976 (1 week), at Medford, Oregon at the Red Lion Motel, 200 N. Riverside Avenue. AB 12 Sub-7, Southern Pacific Transportation Company Abandonment Between Claribel And Montpellier, in Stanislaus County, California, now being assigned February 19, 1976 (2 days) at Modesto, California, in a hearing room to be later designated. MC 107993 Sub-40, J. J. Willis Trucking Company, now being assigned February 23, 1976, (2 days) at San Francisco, Calif., in a hearing room to be later designated.

MC-F 12560 and MC 29 Sub-6, Continental Van Lines, Inc.—Purchase—Moving Corporation of America, Inc., now being assigned February 25, 1976 (3 days) at San Francisco, Calif., in a hearing room to be later designated.

MC 97710 Sub-7), Peters Truck Lines, now being assigned March 1, 1976 (1 Week) at San Francisco, California, in a hearing room to be later designated

MC 61592 Sub-354, Jenkins Truck Lines, Inc., now assigned January 12, 1976, at Seattle, Wash., is canceled and application is dismissed.

AB 26 Sub-No. 4, Southern Railway Company Abandonment between Williamson And Robert, In Pile Lamar, Upson, Monroe and Crawford Counties, Georgia, now assigned January 15, 1976, at Griffin, Georgia, will be held in the Civil Defense Bldg., Fire Station No. 2, 401 North Expressway.

MC 504 Sub-104, Harper Motor Lines, Inc., application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-837 Filed 1-9-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

HIGHWAY SAFETY PROGRAM

Program Approval Policy Revision

In accordance with the determination of the Secretary of Transportation concerning highway safety sanctions, published today in the FEDERAL REGISTER (See FR Doc. 76-1095, *infra*) the Federal Highway Administration and the National Highway Traffic Safety Administration hereby announce a revision of their Highway Safety Program Approval Policy, published June 12, 1975 (40 FR 25246) and revised August 27, 1975 (40 FR 38185).

The Program Approval Policy dealt with approval of highway safety programs of certain States for fiscal year 1976. Category I concerned the three States—California, Illinois, and Utah—without complete motorcycle helmet use laws. The August 27, 1975 revision of the Program Approval Policy provided that these States' Annual Work Programs could be approved in an amount which represents not more than 50 percent of the total obligational limitation of base program funding which was made available to them under 23 U.S.C. 402 during fiscal year 1975.

After the publication of the August revision to the Program Approval Policy, sanctions hearings were held for California, Illinois and Utah. The Secretary's sanctions determination requires that the Annual Work Programs of the three States should be funded for the entire fiscal year 1976 period, ending September 30, 1976. The Program Approval Policy is therefore revised to enable the States to receive full funding for fiscal year 1976.

The NHTSA Regional Administrators and the FHWA Regional Administrators and/or Division Administrators are authorized to act in accordance with the revision to the Program Approval Policy.

(Pub. L. 89-564, 80 Stat. 731, 23 U.S.C. 401 *et seq.*; delegations at 49 CFR 1.48 and 49 CFR 1.50)

Issued on January 9, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

JAMES B. GREGORY,
National Highway Traffic Safety Administrator.

[FR Doc.76-1094 Filed 1-9-76;12:47 pm]

Office of the Secretary

[Dockets No. 75-18, 75-19, and 75-20; Notice 4]

UTAH, ILLINOIS, AND CALIFORNIA

Notice of Sanctions Determinations

By notices of July 31, 1975, the Administrators of the Federal Highway Administration and the National Highway Traffic Safety Administration began proceedings pursuant to 23 CFR Part 1206 to consider withholding Federal highway safety funds and highway construction funds from California, Illinois, and Utah (40 FR 32153). At issue was the failure of each of these States to adopt a law requiring all motorcycle riders to wear helmets, as specified in Highway Safety Program Standard No. 3, Motorcycle Safety, 23 CFR 1204.4. After public hearings in which the States presented their objections to the proposed sanctions, the Administrators submitted their recommendations. Upon review of their recommendations and the record before me, I have made the following determinations in accordance with 23 CFR 1206.12:

UTAH

Utah has a helmet use law limited to roads posted for speeds above 35 miles per hour. Although concern for the safety of motorcycles on lower-speed roads prompted the Administrators to begin proceedings against Utah, the motorcycle safety program submitted by Utah seems calculated to carry out the basic goals of the motorcycle safety standard. The State offered evidence of a high rate of helmet use and presented a plan calculated to raise the rate on high-speed roads to the neighborhood of 90 percent. This plan includes a motorcycle safety education program, a licensing system, and a public information campaign.

Upon review of the information submitted by Utah, I concur in the recommendations of the Administrators that Utah should be granted approval of its highway safety program, as reflected in its annual highway safety work program and comprehensive plan and as supplemented by its detailed plan for motorcycle safety.

ILLINOIS

I have concluded that the other elements of Illinois' motorcycle safety program are not sufficient at this time to offset the State's lack of a helmet law. Although the State's overall motorcycle death rate is not the highest, the per-

centage of motorcyclist wearing helmets is sufficiently low (40 percent according to Illinois; 25 percent according to NHTSA) that a helmet law would produce a significant savings in life. The case is not altogether clear, however, as there are two mitigating circumstances. First, Illinois has shown a renewed willingness to upgrade its motorcycle safety program. Although I am advised that the funding levels provided by the State may not be adequate, it should prove possible for the State to secure adequate funding during the next legislative session and to upgrade its program in other respects. Second, Illinois is the only State whose supreme court has ruled a helmet law unconstitutional. The law, enacted in 1967, was held unconstitutional in People v. Fries, 42 Ill. 2d 446, 250 N.E. 2d 149 (1969).

Of course, States are properly required under some circumstances to amend their constitutions to conform to Federal law and could certainly be expected to do so if they wished to render themselves eligible for Federal grants. Moreover, there is some indication in the Fries opinion that the defect on which the Illinois Supreme Court focused could be cured statutorily without a constitutional amendment. It is true that it has been more than six years since the Fries decision was rendered, but perhaps the State should have a "last clear chance" to reenact a helmet law that is capable of withstanding a constitutional test. Thus, Illinois is at least arguably a close case.

CALIFORNIA

California's case, on the other hand, seems clear. Alone among the States, California has never adopted a helmet use law in any form. Despite having the largest number of motorcycles of any State and a correspondingly greater number of motorcycling deaths and injuries, the State has relied on a voluntary program of helmet use. Although the California use rate (approximately 55 percent) suggests that it has been more successful in this regard than Illinois, the State falls far short of the use rates observed in States with helmet laws. In view of the lives to be saved by increasing helmet use and the repeated opposition of the State to complying with the requirements of the standard on motocycle safety, I would certainly, but for special legislative circumstances at the Federal level which I shall discuss in a moment, determine that the sanctions specified in 23 U.S.C. 402 should be invoked against California.

CURRENT LEGISLATIVE DEVELOPMENTS

The entire matter is complicated by the fact that both Houses of Congress have passed bills during this session providing that, for the purpose of the Secretary's authority to withhold apportionments under 23 U.S.C. § 402(c):

> A highway safety program approved by the Secretary shall not include any requirement that a State implement such a program by adopting or enforcing any law, rule, or regulation based on a standard promulgated by the Secretary under this section requiring any motocycle operator eighteen years of age or older or passenger eighteen years of age or older to wear a safety helmet when operating or riding a motorcycle on the streets and highways of that State. (H.R. 8235, § 208(a); Cranston et al. amendment to S. 2711, 121 Cong. Rec. 21935–21941, December 12, 1975.)

Both bills would also invest the Secretary with a greater degree of discretion in considering whether the imposition of sanctions for failure to comply with a given standard is appropriate.

Given the fact that both bills contain sections dealing directly with this issue, it is almost certain that any final highway bill (if it is signed into law) will change substantially the current provisions of 23 U.S.C. 402(c). Normally, I would neither guess about Congressional sentiment nor attempt to draw inferences about likely future law—even in cases where the inference seems as clear as this one—and would instead proceed under those laws on the books at the time the decision in question is before me. But, again, this case is not that simple. For the bills containing the provisions to which I have just averted are the very same bills that contain the highway safety and construction authorizations whose apportionment I am being asked to withhold or reduce. It would be an overstatement to assert that there is no legal step I can take to sanction California and possibly Illinois; there is agreement that I could devise a sanction were I intent upon doing so.[2] But I would find it slightly bizarre to withhold funds that are to be provided under a given pending statute when that pending statute at the same time indicates that I am no to withhold funds under circumstances like this. I have therefore decided to exercise the discretion that courts have held I possess in this area (see Public Citizen v. Brinegar, Civil Action No. 74–1621, D.C.D.C., decided March 20, 1975) not to invoke the available sanctions at this time. In the unlikely event the authorizations are enacted and signed into law without the language that prevents me from requiring mandatory helmet laws to be adopted and enforced pursuant to a DOT safety standard, I shall then invoke sanctions against California and confront the more difficult question whether they should be invoked against Illinois.[2]

Issued on January 9, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary.

[FR Doc.76–1095 Filed 1–9–76;8:45 am]

[1] Fiscal year 1977 federal-aid highway funds were in fact authorized by section 102 of the Federal-Aid Highway Act of 1973, Pub. L. 93–87, 87 Stat. 250, which amended section 108(b) of the Federal-Aid Highway Act of 1956 72 Stat. 374, as amended. That authorization will be reenacted (and perhaps increased) by the pending legislation because of the readjustment of the Federal fiscal year in section 501 the Congressional Budget Control and Impoundment Act of 1974, Pub. L. 93–344, 88 Stat. 297 at 321, amending section 237 of the Revised Statutes, 31 U.S.C. 120. By concurrent resolution of the Congress, the Department was recently authorized to apportion Interstate construction funds for fiscal year 1977. (S. Con. Res. 62, passed by Senate, 121 Cong. Rec. 15484–5, Sept. 8, 1975; concurred in by House, 121 Cong. Rec. 12655, Dec. 16, 1975) Rather than immediately reducing these apportionments to California and possibly to Illinois, I have directed that the necessary conditions be attached to the apportionments to allow me to defer that decision until the formal authorizing legislation is enacted. In addition, I will not now exercise my discretion to disapprove these States' Comprehensive Plans and Annual Work Programs, or specifically to condition my later approval on their enactment of appropriate legislation.

[2] Rather than prolong any funding uncertainty during the time required for Congress to reconvene and to consider the authorizing legislation, I have authorized the Administrators to approve the California and Illinois programs for the remainder of fiscal year 1976 and to release the necessary funds. (23 etao shrd cmfw vbgk vbgkq shrd cmf vbgkq U.S.C. 402(c); 23 CFR 1206)

ADVISORY COMMITTEE ON AIRPORT SECURITY

Notice of Establishment

Notice is hereby given that the Advisory Committee on Airport Security is being established. The Secretary of Transportation is sponsor of the Committee, which consists of experts in the fields of aviation, security, and law enforcement drawn from Government agencies and the aviation industry. The Committee will make recommendations for the development and implementation of short- and long-term measures to protect airports, air navigation facilities, and aircraft against acts of terrorism, destruction, and violence.

The Secretary of Transportation has determined that formation and operation of the Advisory Committee on Airport Security are necessary in the public interest in connection with the performance of duties imposed on the Department of Transportation by law.

Issued in Washington, D.C., January 6, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

[FR Doc.76–750 Filed 1–9–76;8:45 am]

federal register

MONDAY, JANUARY 12, 1976

PART II:

FEDERAL ELECTION COMMISSION

■

ADVISORY OPINIONS

Requests for Advisory Opinions

FEDERAL ELECTION COMMISSION

[Notice 1976-1]

ADVISORY OPINIONS

The Federal Election Commission announces the publication today of Advisory Opinions 1975-33, 1975-61, and 1975-89. The Commission's opinions are in response to questions raised by individuals holding Federal office; candidates for Federal office and political committees, with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of the Federal Election Campaign Act of 1971, as amended, of Chapters 95 or 96 of Title 26 United States Code, or of Sections 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18 United States Code.

The Commission points out that these advisory opinions should be regarded as interim rulings which are subject to modification by future Commission regulations of general applicability. In the event that a holding in either opinion is altered by the Commission's regulations, the persons to whom the opinions were issued will be notified.

ADVISORY OPINION 1975-33

INTERPRETATION OF SPENDING LIMIT EXEMPTION FOR FUND-RAISING COSTS

The Federal Election Commission renders this advisory opinion under 2 U.S.C. § 437f in response to a request submitted by the Bentsen in '76 Committee, a political committee supporting the candidacy of Senator Lloyd Bentsen for nomination for election to the office of President of the United States. The request was made public by the Commission and published in the FEDERAL REGISTER on August 20, 1975 (40 FR 36533). Interested parties were given an opportunity to submit comments relating to the request. No comments were received.

The Bentsen in '76 Committee seeks an advisory opinion concerning the proper interpretation of the fund-raising exception to the definition of the term "expenditure," found in 18 U.S.C. § 591(f) (4) (H). The question posed is whether the prohibition in 18 U.S.C. § 608(c) (1) (A), which forbids a candidate for nomination to the office of President of the United States from spending more than twice the amount which a candidate for nomination to the office of Senator from that state may spend, requires that the twenty percent fundraising exception [18 U.S.C. § 591(f) (4) (H)] be prorated, state by state, with the effect that no candidate seeking the presidential nomination could spend, in any one state, an amount in excess of twice the Senatorial limit including the fund-raising exception.

Under 18 U.S.C. § 591(f) (4) (H) costs incurred by a candidate in soliciting contributions are excluded from the definition of "expenditures" until they exceed twenty percent of the candidate's § 608 (c) limitations, at which point they count against that limit. 18 U.S.C. § 608 (c) (1) (A) imposes a ten million dollar spending limit (plus a cost of living adjustment to be determined in 1976) on a candidate seeking presidential nomination. That section further stipulates that the aggregate of expenditures in any one state may not exceed twice the spending limit applicable in that state to a candidate seeking senatorial nomination.

It is the Commission's opinion that the latter limit on spending in a particular state is not an alternative overall limit, since if computed for all fifty states the total would far exceed the ten million dollar national limit. Rather, the statute prescribes one limit for candidates seeking presidential nomination and further requires that within that limit such candidates may not spend in any state more than twice the limit for a Senate candidate seeking nomination in such state.

Since the language of 18 U.S.C. § 591 (f) (4) (H) refers specifically to "the expenditure limitation applicable to such candidate under (18 U.S.C. § 608(c)]," it is the Commission's opinion that such exemption is applicable only to the nationwide ten million dollar limit on candidates for the presidential nomination and need not be prorated state by state under the formula of "twice the expenditure limitation applicable in such State to a candidate for nomination" to the Senate. 18 U.S.C. § 608(c) (1) (A) and (C). Thus, a candidate for the presidential nomination may spend up to two million dollars for fundraising in any state or combination of states subject, of course, to the qualification that these expenses are attributable to fundraising and not to other campaign related expenses.

More specifically, it is the Commission's opinion that fundraising efforts which are not targeted for particular states and/or which do not occur within close proximity of the primary elections in the states where the solicitations are made are not required to be prorated and attributed on a state by state basis. As long as the funds are being raised for the candidate's overall, national campaign and are not made for the purpose of directly influencing particular state primaries, presidential candidates and committees need not allocate such efforts, even though they might incidentally affect the outcome of primaries in particular states.

However, in those instances where the fundraising efforts are aimed at particular states and are undertaken in those states within close proximity of upcoming primary elections the presumption is made that those efforts must be prorated and attributed to the candidate's primary efforts in those particular states. Allocation of such costs is necessary in order to maintain the integrity of the state by state expenditure limitations.

The above discussion notwithstanding, the Commission is of the opinion that the absence of a parallel exemption for fundraising expenses under the definition of contribution in 18 U.S.C. § 591(e) precludes an individual or political committee from absorbing any candidate's fundraising expenses under the guise of the fundraising exemption. Any such payment will be subject to the limitations set out in 18 U.S.C. § 608 (a) and (b) and to the prohibitions on national banks, corporations, labor organizations, and government contractors set out in 18 U.S.C. §§ 610 and 611. The Commission notes further that since there is also no parallel exemption for disclosure purposes [2 U.S.C. § 431 (e) and (f)], all amounts expended by a candidate or his/her authorized committee(s) for fundraising must be reported under 2 U.S.C. § 434 even though they may not necessarily be counted against the candidate's limit in 18 U.S.C. § 608(c).

This advisory opinion is issued on an interim basis pending promulgation by the Commission of rules and regulations or policy statements of general applicability.

NOTE: The foregoing opinion was adopted by the Commission by a 5 to 1 vote with Commissioner Tiernan voting against adoption. The dissenting opinion of Commissioner Tiernan is published as follows:

DISSENTING OPINION OF COMMISSIONER ROBERT O. TIERNAN TO ADVISORY OPINION 1975-33

"Rose is a rose is a rose is a rose." Advisory Opinions of the Federal Election Commission, on the other hand, have neither the beauty nor the self-definition of Ms. Stein's flower. Advisory opinions are meant to inform and give unambiguous guidance; the aesthetic qualities of AO 1975-33 notwithstanding, I am most concerned that this advisory opinion fails to make a clear statement upon which appropriate acts of voluntary compliance may be predicated. In order to offer some words of amplification, I dissent.

In Advisory Opinion 1975-33, the Commission has stated that the twenty percent fundraising exemption of 18 U.S.C. § 591 (f) (4) (H) need not be prorated on a state by state basis as long as the funds are being raised for the candidate's overall, national campaign. I agree wholeheartedly with this position. However, the Commission has also stated that "in those instances where the fundraising efforts are aimed at particular states and are undertaken in those states within close proximity of upcoming primary elections, the presumption is made that those efforts must be prorated and attributed to the candidate's primary efforts in those particular states."

I also agree with this latter statement, but feel that the exception rests on the distinction between "fundraising" and "campaigning". This distinction must be more accurately described and the meaning of the term "within close proximity" more precisely drawn.

First, it is my view that where a candidate's effort is focused on one or more primary states—such as New Hampshire, Massachusetts, or the New England region—within 28 days of the presidential primary election, such efforts are not fundamentally "fundraising". Instead, such direct mailings, rallies, television and radio appeals, and the like, are primarily campaign efforts made for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention or a political party or for the expression of a preference for the nomination of persons for election to the office of President of the United States. These expenditures should therefore be attributed to the candidate's primary effort.

Second, in the Commission's discussion of Advisory Opinion 1975-33 at their public meeting of December 23, 1975, reference was made to 39 U.S.C. § 3210(a) (5) (D) as a good rule of thumb for the meaning of "within close proximity" of upcoming primary elec-

tions. This section prohibits Members of Congress from sending out any mass mailings of newsletters or the like under the frank less than 28 days before a primary or general election. The presumption in this prohibition is that any mass mailings in this period would be for the purpose of influencing the election. In further discussion, the Commission indicated that any presidential candidate, who phoned or wrote the Commission requesting guidance as to the meaning of "within close proximity" in Advisory Opinion 1975-33, would be referred to 39 U.S.C. § 3210(a)(5)(D).

A letter or a phone inquiry should not be required to obtain such a reference and clarification of the meaning of "within close proximity." This advisory opinion should state that a good rule of thumb is that any mass mailings or the like aimed at particular primary states less than 28 days before the election are "within close proximity" of upcoming primary elections and therefore are attributable campaign expenditures.

ROBERT TIERNAN,
Commissioner for the Federal Election Commission.

ADVISORY OPINION 1975-61

SALARY EXPENDITURE ALLOCATIONS IN SIMULTANEOUS CANDIDACIES

This advisory opinion is rendered under 2 U.S.C. § 437f, in response to a request for an advisory opinion submitted by Robert N. Thomson, Counsel, Bentsen in '76, and published in the September 18, 1975, FEDERAL REGISTER (40 FR 43167). Interested parties were given an opportunity to submit written comments pertaining to the request, but none were received.

The requesting party seeks an advisory opinion indicating whether there are specific accounting methods which must be used to make a fair salary allocation where one individual may be performing tasks for a candidate who is simultaneously seeking nomination for the offices of U.S. Senator and President.

The Commission is of the opinion that the two separate campaign committees may adopt any accounting method which will yield an allocation which reflects the actual billable time spent by the individual on each of the campaigns.

This advisory opinion is issued on an interim basis pending final promulgation by the Commission of rules and regulations or policy statements of general applicability.

ADVISORY OPINION 1975-89

TREATMENT OF HONORARIUMS EARNED THOUGH NOT YET RECEIVED

This advisory opinion is rendered under 2 U.S.C. § 437f in response to a request for an advisory opinion which was submitted by Congressman Mike McCormack, which was published as AOR 1975-89 in the November 4, 1975, FEDERAL REGISTER (40 FR 51356). Interested parties were given an opportunity to submit written comments relating to the request. No comments were received.

The request generally asks whether under 18 U.S.C. § 616, an hororarium is accepted by a Federal officer or employee on the date the honorarium is earned or on the date the honorarium is received. This request for clarification was made in particular with reference to the portion of 18 U.S.C. § 616 which provides:

"Whoever, while an elected or appointed officer or employee of any branch of the Federal Government—* * *

(2) accepts honorariums * * * aggregating more than $15,000 in any calendar year;

shall be fined not less than $1,000 nor more than $5,000."

This provision clearly limits the aggregate of honoraria which may be accepted in any calendar year for an appearance, speech, or article. The question then arises as to when an honorarium is considered accepted for purposes of the calendar year limitations provided in 18 U.S.C. § 616. It is the opinion of the Commission that, regardless of when the honorarium is acutally received by the Federal officer or employee, it shall be treated as accepted for purposes of the $15,000 aggregate limitations, in the calendar year when the officer or employee has completed the appearance, speech, or article for which the obligation or promise (whether or not legally enforceable) to pay an honorarium arose.

This conclusion is based upon use of the statutory term "accepts," rather than receives, which former term contemplates an accrual approach to honorariums. Under the accrual concept, as it has developed under the Federal tax laws, the year when an honorarium is regarded as accepted is the year when it is realized, even if it is not then actually received. Thus it is the right to receive and not the actual receipt that determines when the honorarium is accepted. When the right to receive an honorarium becomes fixed, the honorarium is accepted. Accordingly, an honorarium is to be considered as accepted in one calendar year when there is justification for a reasonable expectation that the honorarium will be paid in due course, even if in a subsequent year.

This rule for determining when an honorarium is accepted clearly accords with the Commission's conclusion in AO 1975-93.[1] In AO 1975-93, the Commission held that an honorarium of $2,000 which was promised for a speech made in 1974, could be received in 1975 without violating the limitations of 18 U.S.C. § 616 since "had she [the Federal officer] been paid in 1974, it would not have come within the restrictions of § 616."[2]

This advisory opinion is issued only on an interim basis, pending the promulgation by the Commission of rules and regulations, or policy statements, of general applicability.

Dated: January 5, 1976.

NEIL STAEBLER,
Vice Chairman for the Federal Election Commission.

[FR Doc.76-571 Filed 1-9-76;8:45 am]

[1] 40 FR 58394, December 16, 1975.

[2] Supra. Consideration should also be given to AO 1975-8, 40 FR 37646 (August 21, 1975) in which the Commission discussed "what action by a Member of Congress constitutes acceptance of an honorarium."

[Notice 1976-2, AOR 1975-125 and 1975-127-130 and 1975-132-133]

ADVISORY OPINION REQUESTS

In accordance with the procedures set forth in the Commission's Notice 1975-4, published on June 24, 1975 (40 FR 26660), Advisory Opinion Request 1975-125 and 1975-127-130 and 1975-132-133 are published today.

Interested persons wishing to comment on the subject matter of any Advisory Opinion Request may submit written views with respect to such requests on or before January 27, 1976. Such submission should be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, NW., Washington, D.C., 20463. Persons requiring additional time in which to respond to any Advisory Opinion Request will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered by the Commission before it issues an advisory opinion. The Commission recommends that comments on pending Advisory Opinion Requests refer to specific AOR number of the Request commented upon, and that statutory references be to the United States Code citations, rather than to the Public Law Citations.

The Commission will continue to publish Advisory Opinion Requests carrying the designation 1975 in cases where the Commission received the request in 1975. Requests received by the Commission in 1976 will be prefaced with a reference to that year. Advisory Opinions issued in response to a particular request will continue to bear the number assigned to the original request.

AOR 1975-125: Establishment and Operation of a Political Action Committee (Request Edited by the Commission)

DEAR COMMISSIONERS: This is a request for an advisory opinion made on behalf of a political action committee, Union Camp PAC (the "PAC"), pursuant to Section 437f of Title 2 of the United States Code [as to the legality of the PAC's proposed activities.]

The PAC was established by Union Camp Corporation ("Union Camp") pursuant to Sections 610 and 611 of Title 18 of the United States Code as a separate segregated fund and Union Camp intends to maintain it as such. Union Camp will defray the costs and expenses incurred in the establishment and administration of, and the solicitation of contributions to the PAC. In this regard, Union Camp has contributed and intends to continue to contribute services to the PAC including, but not limited to, accounting, clerical and legal. Furthermore, Union Camp does not believe it necessary to report such services as contributions by Union Camp to the PAC.

* * * [A copy of the proposed Union Camp PAC By-Laws is on file with the Federal Election Commission.]

The PAC is an unincorporated association. The contributors to it, other than its officers and members of the Contributions Committee, will not be members of the PAC. No person will have any property rights in regard to the PAC or its assets.

The offices of the PAC are those of Chairman, Treasurer and Secretary. The PAC also has a Contributions Committee composed of

the Chairman, Treasurer and such other members as may be appointed to such Committee by the Chairman from time to time. The Contributions Committee is empowered to set basic policies with respect to expenditures to be made by the PAC, and to direct disbursements to any specific candidates or political committees. The Chairman, subject to such basic policies and to any specific directions of the Contributions Committee shall determine the candidates and political committees that the PAC shall support and the amount of all expenditures and disbursements by the PAC.

In selecting candidates and political committees to receive distributions, the Contributions Committee and the Chairman will be guided by the purposes set forth in Article IV of the By-Laws * * *

Present plans are for the PAC initially to solicit contributions from salaried employees of Union Camp and certain of its domestic subsidiaries who are not foreign nationals within the definition of 18 U.S.C. § 613. Unsolicited contributions may be accepted from stockholders of Union Camp.

It is anticipated that initially solicitation of contributions to the PAC will be made at group meetings of employees who are being solicited, several of which have already been held.

Contributions will be solicited on a voluntary basis only, and monies shall not be solicited or secured by physical force, job discrimination, or financial reprisal, or threat thereof, or as a condition of employment, or obtained in any commercial transaction.

Contributions will be permitted by means of check or payroll deduction only. Contributions to the PAC will be maintained in one or more bank accounts separate from the accounts of Union Camp. The account may bear interest. Only the Chairman and Treasurer of the PAC and their duly designated agents will be able to draw on the account.

The PAC will be used to support, primarily, candidates for Federal offices and committees supporting such candidates, but will also support candidates for state and local offices, if permitted by applicable state and local laws.

The PAC has been registered with the Commission as a political committee and will maintain the records and file the reports required under Federal law and applicable regulations.

* * * * *

ROBERT F. MCANALY
Associate Counsel.

Source: Robert F. McAnaly, Associate Counsel, Union Camp Inc., 1600 Valley Road, Wayne, New Jersey 07470 (December 1, 1975).

AOR 1975-127: Placement of Non-Campaign Related Advertising in Organization Publications (Request Edited by the Commission)

DEAR CHAIRMAN CURTIS:

* * * * *

The basic situation involved in this question is the placing of personal (non-campaign) ads in one-time organization publications. For example: "Congratulations from Ed Patten" and "Best wishes from Congressman and Mrs. Edward Patten." Publications would primarily include annual association award programs or dinner programs.

If such ads were placed in a publication during a non-election period while I am not a candidate and no funds are being collected nor spent by me or in my behalf for campaign purposes, are there any restrictions placed on such ads or should they be reported as political in nature? The ads would be paid for solely with personal funds.

If the above ads were published in a publication during an election period while I am a candidate, would there be any restrictions placed on the ads and would they have to be reported according to the act? The ads would be paid for with personal funds.

Thirdly, I would assume that if I placed such ads during campaign periods and paid for them with campaign funds, I would therefore have to report it as a political advertisement. Am I correct?

* * * * *

EDWARD J. PATTEN.

Source: Congressman Edward J. Patten, 2332 Rayburn House Office Building, Washington, D.C. 20515 (December 11, 1975).

AOR 1975-128: Funds That May Be Used for Solicitation by a Political Action Committee (Request Edited by the Commission)

DEAR CHAIRMAN CURTIS: Last year our Association established the American Book Publishers Political Action Committee.

I would like to inquire if it would be permissible to use our Association funds or solicit corporate funds from our membership to pay for an advertisement. Specifically what I have in mind is to buy an ad in *Publishers Weekly*, the trade journal for book publishers, explaining our PAC and soliciting individual contributions from the readership.

* * * * *

DIANE RENNERT.

Source: Diane Rennert, American Book Publishers Political Action Committee, Suite 750, 1920 L Street, N.W., Washington, D.C. 20036 (December 11, 1975).

AOR 1975-129: Acceptance of Maximum Individual Contributions by A Non-Major Political Party (Request Edited by the Commission)

DEAR COMMISSIONERS: On behalf of the National Committee of the Libertarian Party (hereinafter, the "LNC"), we request an Advisory Opinion pursuant to 2 U.S.C. § 437f (a), concerning the applicability of 18 U.S.C. § 608(b), to certain contributions by individuals, described below, to the Party.

The LNC believes that it is entitled to receive contributions from individuals in amounts up to and including $25,000 per individual per calendar year, so long as the LNC in soliciting and accepting such contributions and the potential donor in making them have no agreement of any sort that the funds contributed are to be directed toward supporting the candidacy or candidacies for Federal office of a specific individual or individuals. The LNC requests an Advisory Opinion confirming this interpretation of 18 U.S.C. § 608(b).

[There follows an analysis of the Commission's previously issued advisory opinions which the attorneys for the Libertarian Party advocate as being applicable to this activity by the political committee.] * * *

* * * * *

The LNC believes that, if Advisory Opinions 1975-4 and 1975-74 are correct, then it too is entitled as a matter of law to receive unearmarked contributions from individuals in amounts not exceeding $25,000 per year. There are several readily apparent reasons why this conclusion is required.

First, there is nothing in the statute or in the legislative history so far as we know that would permit the Commission on a principled basis to distinguish between major and non-major parties for purposes of the $25,000 aggregate contribution limitation.

Second, the Court of Appeals for the District of Columbia Circuit, in upholding the constitutionality of the expenditure and contribution limits, noted that "* * * we are not concerned with a ban on political activity, but with a limitation on amount, *without any discrimination based on party or orientation of speech or activity.*" *Buckley v. Valeo*, 519 F. 2d 821, 834 (1975), *prob. juris. noted*, 44 U.S.L.W. 3178 (Oct. 7, 1975) (emphasis added).

Third, although the LNC's activities are not yet on the scale of those of the RNC [Republican National Committee] or DNC [Democratic National Committee], they are such as to entitle the party to accept and utilize unearmarked contributions up to the statutory limits. The Libertarian Party has nominated Presidential and Vice Presidential candidates, and in 1976 will run at least one hundred candidates for the Senate and House of Representatives in over thirty States.

Fourth, like the RNC and the DNC, the LNC engages in numerous activities not directly designed to influence the outcomes of specific elections. It supports voter-registration and "get-out-the-vote" drives; it provides speakers, organizes volunteer workers, and publicizes issues of importance to the Party and its adherents. See S. Rep. 93-689, 93d Cong., 2d Sess., 8 (1974). The LNC assists its local affiliates by providing information on the conduct of practical politics and by doing research, the results of which are made available to all Party members.

Moreover, the Libertarian Party had a distinctive philosophy for which its adherents attempt to proselytize as widely as possible. * * * The Libertarian Party cannot compete effectively with the two major parties until its philosophy becomes more widely known; its philosophy cannot become more widely known unless it engages in significant dissemination of its ideas and positions; it cannot engage in such dissemination unless it can raise and spend money on the basis of legal equality with the two major parties.

* * * * *

Assuming that the Commission does advise the LNC that it may accept unearmarked $25,000 contributions from individuals, a subsidiary question arises. The LNC expects to receive at least one and possibly several such contributions in December 1975. These contributions will be placed in escrow accounts pending a Commission decision on the foregoing Advisory Opinion Request. The money in these escrow accounts is irrevocably committed to the LNC, and it will be paid automatically when the Commission adopts a favorable Advisory Opinion. The LNC believes, and asks the Commission to confirm in accordance with AO 1975-74, supra, that such contributions are in fact received by the LNC in 1975, and do not therefore count toward the respective contributors' 1976 aggregate contribution ceiling.

* * * * *

BRICE M. CLAGETT.
JOHN R. BOLTON.

Source: Brice M. Clagett and John R. Bolton, Attorneys for the Libertarian Party, 888 Sixteenth Street, NW., Washington, D.C. 20006 (December 15, 1975).

AOR 1975-130: Treatment of a Political Dinner Which Is Paid for Separately from Any Contributions That Are Made (Request Edited by the Commission)

DEAR MR. CURTIS:

* * * * *

The committee organized to support my campaign gives a dinner at a hotel. Those attending the dinner are asked to make a contribution of $50 to my committee, and are asked to include a check for $20, made out to the hotel to cover the cost of the dinner. My committee forwards all checks to the hotel, none of that money goes through the books of the committee. The

committee pays for all mailings, postage, telephone and related expenses such as a band.

Under this set of circumstances, would the money which goes to the hotel be counted against my fund raising limits of 20%?

JAMES H. SCHEUER.

Source: Congressman James H. Scheuer, 2438 Rayburn House Office Building, Washington, D.C. 20515 (December 2, 1975).

AOR 1975-132: Requested Review of Previous Advisory Opinion or Payment of Computer Tabulation Costs (Request Edited by the Commission)

DEAR [COMMISSIONERS]: On behalf of the National Republican Congressional Committee (NRCC), I hereby request a supplementary advisory opinion to Advisory Opinion 1975-3. In that opinion, the Federal Election Commission ruled that a certain NRCC activity would be subject to limitation under 18 U.S.C. § 608; to wit, the payment of computer tabulation costs to a Member of Congress who has sent a questionnaire under the frank. The Commission stated that this decision was based in large part on "proposed regulations providing that the cited definitions apply to these activities and that they are therefore subject to limitation under 18 U.S.C. § 608."

This reference is apparently to FEC Notice 1975-18, a proposed regulation dealing with office accounts. Since the issuance of AO 1975-3, this proposed regulation has been substantially amended. Therefore, the NRCC respectfully requests that the Commission re-examine AO 1975-3 in light of these revisions to the office account regulation. Furthermore, the NRCC requests that the Commission withdraw AO 1975-3 until such time as the proposed regulation has either passed the 30 legislative days period necessary for prescription of an FEC regulation (2 U.S.C. § 438(c)) or until Congress has passed a resolution of approval in each House, whichever comes first.

JAN W. BARAN.

Source: Jan W. Barran, Legal Counsel, National Republication Congressional Committee, 512 House Office Building Annex Washington, D.C. 20515 (October 6, 1975).

AOR 1975-133: Expenditure of Excess Campaign Funds From A Trust Account (Request Edited by the Commission)

DEAR MR. CHAIRMAN: After the 1970 Senatorial Campaign, I found that I had a surplus of funds left in my major campaign committee * * * [on the advice of the appropriate Senate officers] my principal campaign committee did transfer the funds to a Certified Public Accountant as Trustee for me as beneficial owner. Since that time, a strict accounting has been maintained by him and fiduciary income returns have been made and taxes paid.

The question that now arises is: are the funds subject to the $35,000.00 limit that an individual can spend? I, of course, have not taken personal possession of the funds. Under trust law, I am an equitable owner as beneficiary. Since I have never taken full legal title to the funds it would seem that the Trustee should not be limited to the expenditure of $35,000.00 on my behalf. Since the fund has more than $35,000.00, I would like to know with certainty that the Trustee could release more than $35,000.00 for use in my 1976 campaign.

* * * * *

QUENTIN N. BURDICK.

Source: Honorable Quentin N. Burdick, United States Senate, Washington, D.C. 20510 (December 18, 1975).

Dated: January 5, 1976.

NEIL STAEBLER,
Vice Chairman for the Federal Election Commission.

[FR Doc.76-572 Filed 1-9-76;8:45 am]

[Notice 1976-3, AOR 1976-1]

ADVISORY OPINION REQUEST

In accordance with the procedures set forth in the Commission's Notice 1975-4, published on June 24, 1975 (40 FR 26660), Advisory Opinion Request 1976-1 is published today.

Interested persons wishing to comment on the subject matter of any Advisory Opinion Request may submit written views with respect to such requests on or before January 27, 1976. Such submission should be sent to the Federal Election Commission, Office of General Counsel, Advisory Opinion Section, 1325 K Street, NW., Washington, D.C. 20463. Persons requiring additional time in which to respond to any Advisory Opinion Request will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered by the Commission before it issues an advisory opinion. The Commission recommends that comments on pending Advisory Opinion Requests refer to specific AOR number of the Request commented upon, and that statutory references be to the United States Code citations, rather than to the Public Law Citations.

AOR 1976-1: Application of 18 U.S.C. § 610 and the Federal Election Campaign Act of 1971, as amended, to Host Committee for 1976 Democratic National Convention (Request Edited by the Commission)

GENTLEMEN: I am writing to you on behalf of the Citizens Committee For The Democratic National Convention, Inc., a not-for-profit corporation formed pursuant to the New York Not-For-Profit Corporation Law (hereinafter referred to as the "Citizens Committee").

The Citizens Committee has been formed to act as a host committee for the 1976 Democratic National Convention pursuant to designation by the Mayor of The City of New York.

The Citizens Committee's Certificate of Incorporation, a copy of which is attached hereto (Enclosure A),** provides for the following corporate purposes:

"(a) To act as a non-partisan host committee to delegates, alternates, members of the press and others attending the 1976 Democratic National Convention in The City of New York so as to enhance the image and reputation of The City of New York as a center for the holding of conventions and meetings of all kinds and as a destination for tourists, thereby benefiting the people and economy of The City of New York;

"(b) To conduct receptions, welcoming parties and informational meetings to carry out the purposes of Paragraph "a" above;

"(c) To publish informational booklets, guides and other materials to carry out the purposes of Paragraph "a" above;

"(d) To coordinate the policies and practices of hotels, restaurants and other retail business firms with regard to the 1976 Democratic National Convention so as to further encourage individuals and groups to hold future conventions and meetings in The City of New York."

The Certificate also provides that:

"(4) (a) No part of assets, income or profit the Corporation shall be distributable to or enure to the benefit of its members, directors, officers or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes).

"(b) No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in or intervene in any political campaign on behalf of any candidate for public office, any candidate for nomination for public office or any political party.

"(c) No part of the assets, income or profit of the Corporation shall be used or expended to meet or satisfy any of the contractual obligations of The City of New York to the Democratic National Committee with regard to the 1976 Democratic National Convention.

"(d) Upon the dissolution of the Corporation or the winding up of its affairs, the assets of the Corporation shall be distributed exclusively to not-for-profit corporations whose purpose is the development of the economy of The City of New York."

The Citizens Committee will act as the representative of the people and business community of New York City to the delegates, alternates, members of the press and others attending the 1976 Democratic National Convention. It plans to organize receptions, informational meetings about New York City, special events in retail stores and restaurants and similar activities for the press and others, thereby welcoming those attending the Convention. The Citizens Committee is contemplating the publication of guides, informational booklets and similar materials with a view to introducing the City to its visitors during the Convention period. It may also act as a coordinating office with regard to the various business services that will be used by visitors to the City during the Convention, e.g. the taxi industry, public garages, tour buses and restaurants.

The Citizens Committee will not assume any of the contractual obligations of the City of New York to the Democratic National Committee with regard to the Convention. As stated above, it is barred from so doing by the provisions of its Certificate of Incorporation.

The Citizens Committee plans to seek donations for its activities from corporations which are engaged, at the local retail level, in the business of supplying consumer goods and services to the public, such as, hotels, resturants and retail stores. Such donations, it is expected, would not be disproportionate to such corporations' expectation of a reasonable economic return during the life of the Convention. For example, the Citizens Committee plans to seek donations from each

**The certificate is available at the Commission for inspection and copying.

hotel in New York City which has committed rooms to the Convention, based upon the number of rooms committed. Enclosed for your information is a copy of a resolution in this regard adopted by the Board of Directors of the Hotel Association of New York City, Inc. (Enclosure B).

In addition, and in view of the Citizens Committee's stated purpose of encouraging future tourism and conventions in New York City so as to benefit the economy of the City, the Citizens Committee proposes to seek donations from corporations engaged in activities in New York City other than at the local retail level. The Citizens Committee believes that such business concerns would share in the economic benefits which would accrue to New York City as a result of its enhanced reputation as a tourist and convention center. Such donations might consist of funds or donations in kind, e.g. office space for the Citizens Committee and/or space for non-official receptions and other activities for those visiting New York City during the 1976 Convention.

The Citizens Committee has reviewed the Advisory Opinions of the Commission, specifically AO 1975-1 and AO 1975-47, as well as the Proposed Disclosure Regulations in connection with Federal Campaign Funds, as they appeared in the Federal Register of September 29, 1975 (Vol. 40, No. 189).

It appears to the Citizens Committee that the activities contemplated by it do not fall within the activities listed as items (1) through (6) in AO 1975-1. The Citizens Committee's activities, at most, might be considered to fall within the general language of item (7) of AO 1975-1, and if so, under AO 1975-47, corporate donations to the Citizens Committee would not constitute a violation of 18 U.S.C. 610. However, since it appears that the planned activities of the Citizens Committee may be outside the scope of item (7), various prospective donors have requested that the Citizens Committee seek the opinion of the Commission as to whether corporate donations to the Citizens Committee would constitute a violation of 18 U.S.C. 610.

A question has also arisen with regard to the obligation of the Citizens Committee, under Part 109 of the Proposed Disclosure Regulations, to file reports with the Commission.

While the Citizens Committee might be considered to represent the people and business community of New York City to those attending the Convention, it will not be the official representative of either the State of New York or any of is political subdivisions (§ 109.1(a)). It is contemplated that representatives of the Citizens Committee will meet with officials of the 1976 Democratic National Convention to explain and coordinate the Citizens Committee's activities during the Convention (§ 109.1(a)(2)). However, this alone would not invoke the reporting requirement in the absence of the expenditure of funds in connection with a convention (§ 109.1(b)).

It does not appear that the Citizens Committee will expend "any funds in connection with a convention" as that phrase is defined in § 109.5 of the Proposed Disclosure Regulations. The Citizens Committee does not contemplate undertaking any of the activities listed in subsections (a) through (e) and (g) of § 109.5. Also, it is not expected that the Citizens Committee will undertake any entertainment activities which will be part of the "official convention activity", referred to in subsection (f) of § 109.5. However, the activities and events of the Citizens Committee may be listed in the programs, schedules and/or brochures published by the Democratic National Convention or by The City of New York for the information of delegates, alternates, members of the press and others attending the Convention.

In view of the foregoing, the Citizens Committee requests the opinion of the Commission that:

(1) Donations to the Citizens Committee, for its activities as described hereinabove, by corporations engaged at the retail level in the business of supplying consumer goods or services to the public in New York City would not constitute a violation of 18 U.S.C. 610.

(2) Donations of funds, services, or office or other space to the Citizens Committee, for its activities as described hereinabove, by corporations located in New York City, but not engaged at the retail level in the business of supplying consumer goods or services to the public, would not constitute a violation of 18 U.S.C. 610.

(3) The Citizens Committee is not required to file statements with the Federal Election Commission, pursuant to Part 109 of the Proposed Disclosure Regulations, in connection with its activities as described hereinabove.

Since it will be necessary for the Citizens Committee to commence its organizing and fund-raising activities during the month of January, 1976, we respectfully request the earliest possible advice from the Commission.

SANFORD FREEDMAN.

Source: Sanford Freedman, Esquire, Citizens Committee for the Democratic National Convention, Inc., 666 Fifth Avenue, New York, New York 10019 (December 26, 1975).

Dated: January 6, 1976.

NEIL STAEBLER,
Vice Chairman for the Federal Election Commission.

[FR Doc.76-745 Filed 1-9-76;8:45 am]

federal register

MONDAY, JANUARY 12, 1976

PART III:

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

■

RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Miscellaneous Amendments

Title 1—General Provisions

CHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Miscellaneous Amendments

The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571–576, to study the efficiency, adequacy and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs, and to make recommendations for improvement to administrative agencies, collectively or individually, to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574(1)).

The Administrative Conference of the United States at its Thirteenth Plenary Session, held December 11–12, 1975, adopted six recommendations regarding the procedures of the Internal Revenue Service in administering the tax laws. Each recommendation contains a series of proposals for improved procedures with respect to a discrete area of tax administration.

1. The table of contents of Part 305 of Title 1, Chapter III, CFR is amended to add the following sections:

Sec.

305.75–5 Internal Revenue Service Procedures: The Audit and Settlement Processes (Recommendation No. 75–5).

305.75–6 Internal Revenue Service Procedures: Collection of Delinquent Taxes (Recommendation No. 75–6).

305.75–7 Internal Revenue Service Procedures: Civil Penalties (Recommendation No. 75–7).

305.75–8 Internal Revenue Service Procedures: Tax Return Confidentiality (Recommendation No. 75–8).

305.75–9 Internal Revenue Service Procedures: Taxpayer Services and Complaints (Recommendation No. 75–9).

305.75–10 Internal Revenue Service Procedures: The IRS Summons Power (Recommendation No. 75–10).

2. Section 305.75–5 is added to Part 305 to read as follows:

§ 305.75–5 Internal Revenue Service Procedures: The Audit and Settlement Processes (Recommendation No. 75–5).

(a) *Individual Agent's Requisition of Returns for Audit.* (1) The Internal Revenue Service should amend its procedures whereby an examining officer requisitions a tax return for the purpose of audit. The procedures should assure that the examining officer will make an adequate written explanation of his need to have the file, and that such explanation accompany the requisition and be reviewed by the requesting officer's Group Manager. For returns that are requisitioned for reasons so routine as to make detailed written explanation unnecessary, however, a code number designating the reason for selection in each case should suffice. The categories of routine reasons for requisition should be specifically and narrowly defined in the Internal Revenue Manual.

(b) *Notification of Reasons for Selection for Audit.* (1) Each individual taxpayer should be given, at the time he is notified of the selection of his return for audit, a brief written statement of the selection program or other criterion on the basis of which his return was selected for audit. To the extent feasible, the selection of returns for audit should be made pursuant to programs and criteria established in advance.

(2) The Internal Revenue Service should annually publish statistics, by income level, showing the number of returns examined, the results of the examinations, and other pertinent information, for each of its selection programs and criteria.

(c) *Repetitive Audits.* The Internal Revenue Service should establish the following procedures to be observed with respect to an individual who has undergone one or more audits with respect to the three preceding taxable years resulting in no change or only small change in his tax liability.

(1) The district office's Returns Program Manager should not assign that individual's return to an audit group unless it is accompanied by an adequate file reflecting such recent audit experience.

(2) Before contacting the taxpayer, the Group Manager and the examining officer should carefully review the current return in light of the taxpayer's past audit history to determine whether the issues presented by the current return are similar to those of prior audits. If they are, the current year's return should not be further examined unless there is compelling reason to believe that a substantial tax change will result.

(3) When it is decided that the return should be further examined, then, before the examining officer commences his review of the taxpayer's books and records, the taxpayer should be informed in writing that he may inquire about the necessity for this repetitive audit. Taxpayer Compliance Measurement Program (TCMP) audits should not be subject to the foregoing procedures.

(d) *Review of Audit Selection.* The Internal Revenue Service should carry out a systematic ongoing evaluation of its selection of taxpayers' returns for audit. It should at a minimum maintain procedures whereby the reasons for audit selection, as indicated by Service personnel on Forms 1247 (Examination Record) or 4298 (Audit Requisition and Information Report), can be verified for appropriateness and accuracy. The procedures established should be sufficient to enable the Joint Committee on Internal Revenue Taxation or other Congressional oversight body to obtain listings of all or a specified portion of the returns selected for audit, identified by any of the following characteristics: taxpayer name and identification number; return document locator number; specific (coded) reason for selection; year for which return was filed; date of audit selection; and date of audit completion.

(e) *Staffing for TCMP Audits.* To minimize the time of taxpayers and of Service personnel devoted to the income tax aspects of the Taxpayer Compliance Measurement Program (TCMP), the Internal Revenue Service should select from among its most capable and experienced Revenue Agents and Tax Auditors the personnel to conduct TCMP income tax audits and related research projects.

(f) *Advice to Taxpayers Regarding Retention of Records.* The Internal Revenue Service should annually endeavor to inform each taxpayer (a) that an audit of his return, should there be one, will not likely commence for some period of time after the return has been filed; (b) that the taxpayer should retain, for use in case of audit, a copy of his return and all records which support the return for at least three years following the time fixed by law for its filing; and (c) that his receipt of a refund, based on the calculations in the tax return, does not preclude audit of that return at a later time. This recommendation could be fulfilled, for example, by presenting such information prominently in the Commissioner's annual message or elsewhere in the instruction materials accompanying the forms mailed to taxpayers.

(g) *Measurement and Promotion of Voluntary Compliance.* The Internal Revenue Service should seek funds from the Congress to undertake studies to evaluate the effectiveness of methods to measure and promote voluntary compliance with the tax laws of the United States. Such inquiries should include consideration of return selection methods, audit procedures, collection procedures, programs for the education of taxpayers, and taxpayer assistance services.

(h) *Analysis of Recovery Experience.* The Internal Revenue Service should periodically publish a comparative study, for each taxpayer class, of a representative sample of District and Appellate Conference settlements involving the most commonly controverted issues. The study should include comparison and analysis of the recovery ratio (i.e., the ratio of the amount of deficiency agreed upon by the parties to the amount of deficiency originally recommended by the examining officer), with reference to the factors of (a) amounts of tax involved, (b) whether or not the taxpayers were represented, and (c) patterns of geographic variation.

3. Section 305.75–6 is added to Part 305 to read as follows:

§ 305.75–6 Internal Revenue Service Procedures: Collection of Delinquent Taxes (Recommendation No. 75–6).

(a) *Notices Mailed to Delinquent Taxpayers.* The Internal Revenue Service should revise its methods of notifying taxpayers of the application of forcible collection powers to collect delinquent accounts.

(1) The Service should experiment with sending its Final Notice Before

Seizure by certified mail, return receipt requested, before forcible collection action is initiated.

(2) The Final Notice Before Seizure should be revised to indicate that forcible action may be taken at any time after the expiration of ten days from date of the Notice and to emphasize that such action may thereafter be taken without further notice to the taxpayer.

(3) If no levy or seizure action is initiated after an unusually long interval, such as 120 days, after the date of a Final Notice Before Seizure, the District Office should undertake additional actual notification to the taxpayer that levy or seizure will follow promptly, but not sooner than ten days thereafter. Such additional notification should be attempted by telephone or personal contact, and if no contact is established, by certified mail, return receipt requested.

(b) *Income Tax Liens.* (1) In connection with the recording or filing of income tax liens, the Internal Revenue Service should establish and promulgate in the Internal Revenue Manual:

(i) Factors to be considered in determining whether such liens are to be recorded or filed;

(ii) Procedures to ensure, to the extent feasible, that the taxpayer is notified of the recording or filing of such lien against his property; and

(iii) Procedures to ensure, without the necessity of application by the taxpayer, that upon payment or satisfaction of a delinquent account, a release of such lien is properly recorded or filed in all places where notice of such lien was recorded or filed.

(c) *Levies on Liquid Assets.* (1) The Internal Revenue Service should establish and promulgate in the Internal Revenue Manual affirmative and specific guidelines for resort to levies on liquid assets (in addition to specifying, as it now does, when these powers should not be used) in order to achieve fair and even-handed application thereof. In formulating such guidelines, the Service should by illustration seek to specify the circumstances in which the debtor is provided a "reasonable" opportunity to pay the tax and which constitute "judicious" use of the levy powers.

(2) In order to reduce the possibility of undue or unanticipated hardship to delinquent taxpayers against whom salary or wage levies are imposed, legislation should be enacted to exempt from levy a minimum amount of the taxpayer's salary or wages, such amount to be based in part upon the number of dependents of the taxpayer. Such legislation should also provide that a levy on salary or wages of a taxpayer be continuous from the date the levy is first made until the tax liability with respect to which it is made is satisfied or becomes unenforceable because of the lapse of time.

(d) *Seizures and Sales of Non-Liquid Assets.* (1) The Internal Revenue Service should establish the following procedures to ensure that the taxpayer is injured as little as possible by the seizure and sale of non-liquid assets, consistent with collection of the delinquent taxes:

(i) Withdrawal from Revenue Officers and delegation only to Group Managers of the authority to determine that seizure will be imposed;

(ii) Determination by the Group Manager, prior to imposition of the seizure, that the proceeds of sale of the seized assets will exceed the anticipated expenses of sale;

(iii) Return to the taxpayer of any item of property as to which a determination can reasonably be made that the minimum sale price is unlikely to exceed the Service's expenses of seizure and sale.

(2) To provide qualitative information concerning seizures and sales of non-liquid assets, the Internal Revenue Service should from time to time collect, tabulate, and analyze data on:

(i) The number of seizures, as it now does;

(ii) The number of sales;

(iii) The gross proceeds from sales;

(iv) The funds applied in reduction of tax liabilities;

(v) Personnel and other overhead costs incurred by the Service in the seizure and sale proceedings;

(vi) The number of releases back to the taxpayer of seized property; and

(vii) The reasons for such releases.

(e) *Undue Hardship.* The Internal Revenue Service should continue to exempt from levy or seizure those taxpayers to whom undue hardship would result from such activity. However, the Service should establish and promulgate more specific criteria and procedures to make the application of the undue hardship principle more uniform. These should include:

(1) A listing of criteria for exempting funds sufficient for the purchase of common necessaries of life for the taxpayer and his dependents, including food, housing, transportation, and clothing;

(2) Clear advise as to what information and documentation is needed for the Service to make the determination of hardship; and

(3) Sufficient time and opportunity for the taxpayer to obtain the information and documentation necessary to complete and support the financial statement on which the determination will be based.

(f) *Installment Payments of Delinquent Taxes.* The Internal Revenue Service should establish and promulgate in the Internal Revenue Manual procedures to enable taxpayers to pay their delinquent accounts in installments in appropriate circumstances. The Service should endeavor to ensure that the monthly sum of installment payments required of the taxpayer towards liquidation of his delinquent account does not exceed the amount of the taxpayer's monthly take-home income less his monthly expenses for common necessaries of life. The Service should keep line personnel advised of the minimum acceptable installment in order that the costs to the Service from processing any such payments do not exceed the sum of any such payment. No payment agreement should be rejected solely because of the length of time it would require to satisfy the debt; however, waiver or extension of the statute of limitations for collection should be obtained if the time needed for payment will extend beyond the limitations period, and the agreement should be subject to at least annual review and adjustment to reflect changes, if any, in the taxpayer's ability to liquidate the unpaid delinquency. Finally, the Service should discontinue any reference to agreements for payment of delinquent taxes in periodic installments as "part payment" agreements because such terminology fosters the mistaken impression that a portion of the tax debt has been forgiven. The idiom of "part payment agreement" should be supplanted with such terms as "installment agreement," "periodic payments," or others which do not connote that less than the total delinquency is to be paid.

(g) *Jeopardy and Termination Assessments.* (1) In order to prevent abuse of the authority to make jeopardy and termination assessments, the Internal Revenue Service should establish and promulgate procedures that will enable the taxpayer to contest the necessity and amount of such assessments at the earliest possible time. The taxpayer should be furnished as soon as practicable after the assessment is made a full written explanation of the facts upon which (i) the District Director found that collection of a tax deficiency is or has been jeopardized, and (ii) the computation of tax was based (including the method of such computation). An informal conference should be granted at the taxpayer's request to resolve any dispute over the finding of jeopardy and computation. The investigating agents who developed the facts upon which the finding of jeopardy and the computation of tax was based, and their supervisors, should ordinarily be in attendance at such a conference.

(2) In order to restrict the imposition of jeopardy and termination assessments to situations in which the eventual collection of tax is jeopardized, the Internal Revenue Service should remove the implication, now present in the Internal Revenue Manual, that jeopardy or termination assessments are justified merely by the existence of a "prima facie case" and make clear in the Manual that no such assessment may be imposed unless a determination has been made by the District Director, based on substantial evidence, that a tax is due and the eventual collection of the tax is jeopardized.

(3) The Internal Revenue Service should establish and promulgate in the Internal Revenue Manual procedures which will ensure immediate release to the taxpayer of any or all property distrained in jeopardy and termination proceedings in return for an adequate surety in the amount of the net proceeds expected to be realized on a forced sale of any or all such property the release of which is sought.

(h) *Employer Tax Payments.* To permit more prompt contact with defaulting business taxpayers, the Internal Revenue Service should speed its credit-

ing of employer payments of withheld employee income and Social Security taxes by requiring commercial banks to forward records of such payments directly to an Internal Revenue Service Center, rather than to a Federal Reserve Bank.

(i) *Education of New Employers.* The Internal Revenue Service should endeavor to give officers of new businesses written advice of their possible personal liability for payment of withheld employee taxes. This advice could be communicated individually to all such officers, whose names and addresses the Service could require to be submitted as part of the application for an employer identification number. Alternatively, the Service could send multiple copies of the advice letter to the new business entity, with the request that the copies be distributed to all officers. In either case the letter should invite the officer to discuss any questions with a Taxpayer Service Representative. When officers do respond and it is determined that there is a responsibility to pay and file returns of certain taxes, a follow-up contact should be made to ascertain that the responsibilities are understood and followed. Moreover, the Service should work with other Federal agencies to assure that the officers of new employer organizations being established with Federal financial assistance will become familiar with their responsibilities before they commence operations. Similar efforts, with the cooperation of parent organizations, should be made to contact and instruct franchisees and licensees of chain stores, food outlets, oil companies, and the like.

4. Section 305.75–7 is added to Part 305 to read as follows:

§ 305.75–7 Internal Revenue Service Procedures: Civil Penalties (Recommendation No. 75–7).

(a) *Analysis of Effectiveness of Civil Penalties.* The Internal Revenue Service should annually compile and publish, for each taxpayer class and by year of tax returns, statistical data, together with analytic discussions, pertaining to the assessment and collection of civil penalties for underpayment of tax due to each of the different types of conduct now or hereafter provided as the basis for such penalties. Such data should be compiled for the purpose of evaluating the significance, effectiveness, and fairness of these civil penalties and should include: (1) the number and dollar amounts of penalties assessed, (2) the number and dollar amounts of penalties voluntarily paid by taxpayers, (3) the number and dollar amounts of penalties contested by taxpayers, (4) the number and dollar amounts of penalties sustained by court action and collected. In addition to making such data and analyses available to the public and to the Congress, the Service should consider and determine whether additional data and analyses should be compiled and prepared pertaining to the significance, effectiveness, and fairness of these and other civil penalties from the standpoint of the administration of the tax laws by the Service, enforcement of the laws by the courts, and compliance with the laws by taxpayers.

(b) *Structure and Application of Civil Penalties for Underpayment of Tax.* Legislation should be enacted which would restructure and alter application of the civil penalties for underpayment of tax, established in Section 6653 of the Internal Revenue Code, as follows:

(1) The penalty for "negligence" should be retained. Negligence should be defined as failure to exercise reasonable care in keeping records or in preparing the tax return.

(2) A taxpayer against whom this penalty is assessed should have the burden of proof to establish by a preponderance of the evidence that his conduct was not negligent. The present five percent penalty for "intentional disregard of rules and regulations (but without intention to defraud)" should be repealed.

(3) A new penalty should be established for "reckless or intentional conduct (but without willful attempt to evade payment of tax)." The rate of this penalty should be fixed at a level near the midpoint (say 25%) between the rates of the penalties for negligence (now 5%) and for willful atempts to evade payment of tax (now 50%). Reckless conduct should be defined as meaning that in keeping records or preparing the tax return, the taxpayer has consciously disregarded a substantial risk that an underpayment would occur; provided, that it is not intended that the penalty to be established pursuant to this paragraph would apply to an underpayment resulting from a bona fide disagreement with the Internal Revenue Service as to the interpretation of the tax law or its application to facts disclosed on a tax return. Intentional conduct should be defined as meaning that in keeping records or preparing the tax return, the taxpayer knew that an underpayment would occur or was substantially certain to occur.

(4) A taxpayer against whom this penalty is assessed should have the burden of proof to establish by a preponderance of the evidence that his conduct was not reckless or intentional. In any case where the taxpayer succeeds in persuading the court that his conduct was not reckless or intentional, the court should be empowered to impose the lesser penalty for negligence, even though it had not theretofore been assessed by the Internal Revenue Service.

(5) The present 50 percent penalty for "fraud" should be restated to apply only to "willful attempt to evade payment of tax," which should be understood to have the same meaning as under Section 7201 of the Internal Revenue Code.

(6) The Internal Revenue Service should have the burden of proof to establish by clear and convincing evidence that an underpayment is attributable to the taxpayer's willful attempt to evade payment of tax. If the Service succeeds in persuading the court that a part of the underpayment is so attributable, the burden of proof should shift to the taxpayer to establish by a preponderance of the evidence that the remainder of the underpayment is not so attributable. In any case where the court is not persuaded that the taxpayer engaged in a willful attempt to evade payment of tax, the court should be empowered to impose the penalty for reckless or intentional conduct (proposed in c. above) or the penalty for negligence, provided that, before the court may impose either of such lesser penalties, the Service shall have so proposed and the taxpayer shall have had the opportunity to present evidence to establish that he is not liable therefor.

(7) In imposing the penalties for underpayment of taxes described above, each penalty rate should be applied only to the portion of the total underpayment that is attributable to conduct liable for penalty at such rate.

(c) *Publicity of Civil Penalty for Underpayment of Tax Because of Fraud.* The Internal Revenue Service should seek statutory instruction with respect to publicizing the imposition of the 50 percent civil penalty for underpayment of tax because of fraud (or, as recommended in paragraph 2 above, restated as "willful attempt to evade payment of tax").[1]

(d) *Structure and Application of Civil Penalties for Failure to File Tax Return or to Pay Tax.* (1) Legislation should be enacted which would restructure and alter application of the civil penalties for failure to file a tax return or to pay a tax, established in Section 6651 of the Internal Revenue Code, as follows:

(i) The phrase "and not due to willful neglect" should be deleted from paragraphs (1), (2), and (3) of subsection 6651(a).

(ii) The monthly rate of the penalty for failure to file a return, established in subsection 6651 (a)(1), should be modified so as to extend the time period of lateness in filing a return which must elapse before the rate of penalty to be applied reaches the present aggregate maximum rate of 25 percent. The table below sets forth three options for so modifying the monthly penalty rate, compared with present law.

	Penalty for first month (percent)	Penalty for each succeeding month (percent)	Period of lateness to reach maximum penalty (months)
Present law	5	5	5
Option 1	5	2	11
Option 2	5	1¼	16
Option 3	5	1	21

The penalty for failure to pay tax established by subsection 6651(a)(2) should be imposed in addition to, and not offset against, the foregoing penalty.

(2) The monthly rate of the penalty for each month after the first month of failure to file a return should be prorated on a semi-monthly basis.

[1] Issuance of such publicity should be carried out in a manner consistent with Conference Recommendation 73–1, Adverse Agency Publicity.

(e) The Internal Revenue Service should set forth, in the regulations under Section 6651 of the Internal Revenue Code, or in other form readily available to the public, the listing of acceptable reasons for late filing of a tax return that are set forth in the Internal Revenue Manual.

(f) *Procedures for Appealing Civil Penalties for Failure to File Tax Return or to Pay Tax.* With regard to civil penalties for failure to file a tax return or to pay tax established in Section 6651 of the Internal Revenue Code, taxpayers should be accorded administrative settlement procedures and the right to Tax Court review similar to those accorded with regard to civil penalties for underpayment of tax established in Section 6653 of the Code.

5. Section 305.75–8 is added to Part 305 to read as follows:

§ 305.75–8 Internal Revenue Service Procedures: Tax Return Confidentiality (Recommendation No. 75–8).

(a) *Purpose and Scope of Application of Recommendations.* (1) Under existing law, tax returns are disclosed by the Internal Revenue Service for many purposes to many governmental agencies outside the Internal Revenue Service. The purpose of these recommendations is substantially to narrow the authority of the Service to disclose to other governmental agencies tax returns pertaining to the tax liability of individuals and decedents, including principally individual income tax returns (Forms 1040 and 1040A), estate tax returns (Form 706), gift tax returns (Form 709), and income tax returns filed on behalf of estates or trusts (Form 1041). Tax returns of business entities such as partnerships and corporations, even though they may have bearing on the tax liability of individuals, are outside the scope of these recommendations. The omission of such other tax returns from the scope of application of these recommendations is intended to reflect neither approval nor disapproval of existing law or of the disclosure practices of the Internal Revenue Service thereunder, with respect to such other tax returns. But Congress, in addressing the subject of tax return confidentiality should make provision to govern the confidentiality and conditions of disclosure of all categories of tax returns, including categories that are outside the scope of these recommendations.

(2) As used in these recommendations, the term "tax return" means (i) the return itself together with any schedule, list, and other written statement filed by or on behalf of the taxpayer with the Internal Revenue Service which is designed to be supplemental to or become a part of the return, and (ii) other records, reports, information received orally or in writing, factual data, documents, papers, abstracts, memoranda, or evidence taken, or any portion thereof, relating to the items included in (1).[1]

(b) *General.* Legislation should be enacted which would permit the disclosure of tax returns by the Internal Revenue Service only as authorized by express statute designating the persons to whom and the purposes for which disclosure may be made, the procedures governing such disclosure, and limitations on use or redisclosure that shall govern such disclosure.

(c) *Availability of Tax Returns to Executive Departments and Agencies.* (1) Legislation should be enacted which would permit the disclosure by the Internal Revenue Service of tax returns to any Executive department or agency of the Federal government in the following circumstances:

(i) To any office of the Treasury Department for use that is necessary to its exercise of responsibility for the administration of the tax laws, the formulation of tax policy, or the preparation of economic analyses.

(ii) To a United States Attorney, or to an attorney of the Department of Justice, for use in preparing for and conducting civil or criminal litigation that is related to administration of the tax laws, provided, that any such disclosure shall be limited to (i) the tax return of the taxpayer who is a party to the litigation, (ii) the tax return of an alleged co-conspirator of such party, and (iii) the tax return of any other taxpayer which contains information that is pertinent to an issue in the litigation, and provided further, that when any such disclosure is to be made in response to a request initiated by any such attorney, the request shall be in writing and state with specificity the reasons for seeking the tax return.

(iii) To the Bureau of the Census and to the Bureau of Economic Analysis of the Department of Commerce for use that is necessary to their respective statistical collection and publication responsibilities.

(iv) To the Social Security Administration for use that is necessary to its responsibility for administering the Social Security Act.

(v) To the Department of Labor and to the Pension Benefit Guaranty Corporation for use that is necessary to their respective responsibilities for administering the Employee Retirement Income Security Act.

Particularly, the Internal Revenue Service should not be permitted to disclose tax return information to any Executive department or agency of the Federal government for use in any way relating to an individual's service as a juror. [The Conference defers consideration of whether, and under what circumstances, tax returns should be disclosed to Executive departments or agencies of the Federal government for use in litigation or investigations not related to the administration of the tax laws.]

(2) Any disclosure in a form that allows identification of the taxpayer should be made only if the agency or department to which disclosure is made follows procedures based on legally enforceable regulations no less restrictive than those of the Internal Revenue Service which are designed to assure that the tax return will not be used or redisclosed for any purpose other than that for which such disclosure is made.

(d) *Availability of Tax Returns to the Executive Office of the President.* (1) Legislation should be enacted which would permit the disclosure of tax returns by the Internal Revenue Service to the Executive Office of the President, only in accordance with the following limitations:

(i) The President shall personally sign a written request for such disclosure which (a) specifies the taxpayer's tax return to be disclosed; (b) designates by name a responsible individual to whom disclosure is to be made; (c) states with specificity the reasons for seeking the tax return and the uses to which it will be put; and (d) states that the tax return requested will not be reproduced and will not be used or redisclosed for any use other than that for which disclosure is requested.

(ii) The requested tax return shall be furnished by the Internal Revenue Service only in written form and only to the President or to an individual designated in the request.

(iii) The written material furnished by the Internal Revenue Service shall be returned to the Service after the use for which it was requested has been completed.

(2) The Internal Revenue Service should maintain permanent records of all disclosures of tax returns to the Executive Office of the President, including copies of Presidential requests, the dates and reasons therefor, the individuals to whom disclosure is made, and the dates when materials furnished are returned to the Service. Based on such records, the Internal Revenue Service should prepare and submit an annual report to the committees of the Congress which are charged with responsibility for oversight of the administrative procedures of the Service, of the names of all taxpayers about whom information was disclosed, the reasons for which each disclosure was requested, and the names of all individuals to whom such disclosures was made.

(e) *Availability of Tax Returns to Committees of Congress.* The existing statutory authority (Section 6103(d) of the Internal Revenue Code) for disclosure of tax returns to the House Committee on Ways and Means, the Senate Committee on Finance, and the Joint Committee on Internal Revenue Taxation should be continued. Disclosure of tax returns by the Internal Revenue Service to any other committee of the House or Senate, or joint committee of the Congress, should only be in accordance with specific authorization for such disclosure by a resolution of the House or Senate or, in the case of a joint committee, by a concurrent resolution.

[1] This definition is taken from Treasury Regulation § 301.6103(a)–1(3)(i). In considering any legislation in this area, Congress should consider the adequacy of this definition, since some technical problems may exist under the present regulation.

(f) *Availability of Tax Returns to States.* (1) Legislation should be enacted which would amend Section 6103(b) of the Internal Revenue Code by providing the following additional limitations on the right of any State official, body, or commission to inspect tax returns:

(i) The State shall have enacted a statute, which the Commissioner of Internal Revenue has determined to be substantially similar to paragraph (2) of Section 7213 of the Internal Revenue Code, making it a crime for any officer, employee, or agent of the State, or of any political subdivision thereof, to disclose any information acquired by him as a consequence of a disclosure made by the Internal Revenue Service pursuant to Section 6103(b) of the Internal Revenue Code.

(ii) The State shall have entered into, and shall fully comply with, an agreement with the Internal Revenue Service by which the State is obligated to adopt legally enforceable regulations and procedures to safeguard the confidentiality of tax returns which are determined by the Internal Revenue Service to provide satisfactory assurance that (a) information disclosed by the Service to the State, pursuant to Section 6103(b) of the Internal Revenue Code, and (b) information, submitted by a taxpayer to the State or local tax authorities, which is the same as or substantially similar to that compiled for submission with the taxpayer's federal income tax return, will be used or disclosed only within the limitations therein provided.

(2) The Internal Revenue Service should adopt regulations which shall contain provisions to accomplish the following:

(i) Establish procedures whereby (a) the Service will make the determination that a State has enacted a Statute that is substantially similar to paragraph (2) of Section 7213 of the Internal Revenue Code, and (b) the Service will monitor the State's enforcement of such statute;

(ii) Establish criteria that will be applied by the Service in making determinations regarding the sufficiency of State regulations and procedures designed to limit use and redisclosure of information to be disclosed pursuant to Section 6103(b) of the Internal Revenue Code;

(iii) Establish criteria that will be applied by the Service in acting upon requests for disclosure of information pursuant to Section 6103(b) of the Internal Revenue Code; and

(iv) Establish procedures whereby the Service will audit and enforce the performance by the States of their obligations provided in agreements entered into as a condition of obtaining disclosure of information pursuant to Section 6103(b) of the Internal Revenue Code, including a procedure for suspending disclosure of information to a State under Section 6103(b) whenever the Service determines that the State has failed to perform any of its obligations provided in such agreement.

(g) *Requisition of Tax Returns by Service Personnel.* The Internal Revenue Service should strengthen its procedures designed to eliminate unnecessary inspection of tax returns by Service employees. Such procedures should provide for (1) periodic monitoring by Service management of the requisitioning of tax returns by Service employees, (2) preparation and maintenance of statistical records designed to reveal patterns of frequency in, and of reasons for, the requisitioning of tax returns by Service employees, and (3) preservation of the documents employed by Service employees to requisition tax returns by incorporating each such document in the permanent file of the return requisitioned thereby.

(h) *Notice to the Public About Tax Return Disclosures.* The Internal Revenue Service should inform each taxpayer, by means of a concise statement in the tax return or other appropriate place, of the disclosure, for uses unrelated to the administration of Federal tax laws, that may be made of information supplied by the taxpayer in the return. Such statement should include reference to a public document, which should be prepared and disseminated by the Service, which identifies the governmental agencies and other persons to which disclosures of tax returns are made and the purposes for such disclosures, and which fully describes the procedures followed by the Service with respect to the disclosure of tax returns.[2]

6. Section 305.75-9 is added to Part 305 to read as follows:

§ 305.75-9 Internal Revenue Service Procedures: Taxpayer Services and Complaints (Recommendation No. 75-9).

(a) *Separate Accounting for Taxpayer Service Functions.* (1) The Internal Revenue Service should, on a basis consistent from year to year, compile data on all personnel and funds allocated to and utilized in the performance of functions by its Taxpayer Service Division. Such data should be broken down, perhaps on the basis of statistical sampling, for each of the major types of taxpayer service provided, with attention to at least the following functions:

(i) Responding to individual inquiries and requests for assistance regarding administrative and operating procedures of the Service which have an impact on particular taxpayers;

(ii) Answering individual inquiries for tax law advice and providing assistance in tax return preparation; and

(iii) General education of members of the public about the tax laws, their tax-return-filing and tax-payment responsibilities, and the administrative and operating procedures of the Service.

(b) *Taxpayer Services.* (1) The Internal Revenue Service should consider establishing a procedure whereby taxpayer inquiries and requests for assistance can be promptly screened and referred for response to Service personnel selected on the basis of their competence and authority to respond to particular categories of inquiry or assistance. Such a screening and referral system might be facilitated by:

(i) Developing statistical profiles of the categories of inquiry and requests for assistance that are most frequently made;

(ii) Specifically training and assigning some personnel to review taxpayer inquiries and requests for assistance and to make referral of them to those Service personnel whose competence and authority will assure prompt and effective responses;

(iii) Specifically training some personnel as specialists in the administrative and operating procedures of the Internal Revenue Service, with emphasis on the operation of Service Centers, to whom referral of inquiries and requests for assistance will be made;

(iv) Continuing to make available experienced and knowledgeable Audit Division personnel to whom referrals of inquiries and requests for assistance may be made, especially during tax-return-filing season; and

(v) Continuing to maintain high quality staffing of taxpayer contact units in the Service Centers until some workable alternative thereto is developed.

(c) *Tax Law Advice to Taxpayers.* The Internal Revenue Service should adopt procedures designed to assure that any taxpayer who inquires for tax law advice from any employee of the IRS Taxpayer Service Division will be informed that: (a) the answer to his inquiry is based on the facts understood by the employee and that such understanding may not be identical to, nor as comprehensive as, the taxpayer's; (b) the Service is not bound by the advice given by the employee and may assert a different position at some later date, for example, if the taxpayer's return is audited; (c) the advice given by the employee is based on the Service's interpretation of the tax laws and, if such be the case with respect to a particular inquiry, that there is authority for a different interpretation as to which the taxpayer should seek his own tax law advice; and (d) the taxpayer should preserve any records pertaining to the subject matter of the inquiry for at least three years following the time fixed by law for filing the tax return to which the inquiry pertains. The substance of the foregoing information should be incorporated into all written materials issued by the Service describing the availability of taxpayer services or responding to inquiries for tax law advice. The substance of such information also should be mentioned in oral responses to inquiries for tax law advice, to the degree appropriate to the nature and circumstances of the contact.

(d) *Taxpayer Complaint Response Procedures.* The Internal Revenue Service should establish regular procedures whereby any taxpayer can obtain a prompt and impartial response to any legitimate complaint about the conduct of any individual IRS employee. These complaint response procedures should be

[2] This recommendation might be implemented by amplification of the Privacy Act notification provided with the 1975 income tax returns.

organized and operated so as to provide for the receipt and processing of such complaints by Service personnel who have thorough familiarity with the authority, organization, and administrative and operating procedures of the Service.

(e) The recommended complaint response procedures should be well publicized and easily accessible to taxpayers through all IRS personnel, however organized and wherever situated, whose responsibilities include the provision of assistance, advice, or other services to taxpayers (for example, Taxpayer Service Representatives and personnel of Service Center Taxpayer Contact Units).

(f) The recommended complaint response procedures should be designed and operated so as to provide information that will enable the line management of the Service systematically to:

(1) Identify the causes of all legitimate complaints about the conduct of individual IRS employees;

(2) Assess the effectiveness of the complaint response procedures from the standpoint of taxpayers; and

(3) Determine what changes, consistent with the Service's duty to administer the internal revenue laws, may be necessary in the training, supervision, or assignment of Service personnel to eliminate causes of legitimate complaints about the conduct of individual IRS employees.

7. Section 305.75-10 is added to Part 305 to read as follows:

§ 305.75-10 Internal Revenue Service Procedures: The IRS Summons Power (Recommendation No. 75-10).

(a) *Information on the Summons.* (1) The Internal Revenue Service should revise its Summons form (Form 2039) to delete extraneous language and references to particular statutes, regulations, or fact situations, and to include, preferably on its face, and in a prominent position and type style:

(i) A brief and specific description of administrative procedures available to the summoned party for raising objections to the summons or to questions propounded at the appearance; and

(ii) A statement that if the summoned party fails to comply with the summons or fails to answer questions propounded, the Service may seek a court order to compel compliance, and that where the summoned party fails to appear or otherwise to comply with the summons willfully and without legal excuse, he may be subject to contempt proceedings or criminal prosecution.

(b) *Notification to Taxpayer of Summons to Third Parties.* At the time a summons is served on a third party requesting testimony or production of documents, or as soon as feasible thereafter, the Internal Revenue Service should transmit a copy of such summons to the person to whom such testimony or documents relate.

(c) *Management Monitoring of Use of Summons.* To assure better oversight by its management of the use of the summons by its officers and employees, the Internal Revenue Service should prepare and maintain statistics and analyses for each taxpayer class, to the extent possible, comprising the following data:

(1) Number of summonses issued;

(2) Classifications of employees issuing summonses;

(3) Number of summonses with which there is voluntary compliance;

(4) Number of summonses with which there is not voluntary compliance and for which it is decided not to seek judicial enforcement, together with the reasons for such decisions; and

(5) Number of summonses with which there is not voluntary compliance and for which it is decided to seek enforcement, together with the reasons for such decisions, whether judicial enforcement is granted or denied, and the reasons for denial of enforcement.

RICHARD K. BERG,
Executive Secretary.

JANUARY 6, 1976.

[FR Doc.76-641 Filed 1-9-76;8:45 am]

federal register

MONDAY, JANUARY 12, 1976

PART IV:

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Education Office

■

DESEGREGATION OF PUBLIC EDUCATION

Public Elementary and Secondary Schools

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.

PART 180—DESEGREGATION OF PUBLIC EDUCATION

Notice of proposed rulemaking was published in the FEDERAL REGISTER on March 17, 1975 (40 FR 12243), setting forth proposed amended regulations for the program of desegregation of public education authorized in Title IV of the Civil Rights Act of 1964, 78 Stat. 246, as amended (42 U.S.C. 2000c–2000c–9). Pursuant to section 503 of the Education Amendments of 1972, a public hearing was held April 21, 1975 in Washington, D.C., on the proposed regulations. In addition, written comments were received and considered.

In view of the legal necessity of obligating funds appropriated for the program for the fiscal year 1975 prior to June 30, 1975, adoption of substantive amendments to the proposed regulations as to those funds would not have been feasible. Accordingly, the proposed regulations were adopted on June 13, 1975 (40 FR 25207) as final regulations intended only to govern awards made under the program from funds appropriated for the fiscal year 1975. Pursuant to section 503(d) of the Education Amendments of 1972, the material set forth below indicates action taken with respect to the proposed regulations, in light of the comments received, which will govern awards from funds appropriated for the program for fiscal years succeeding the fiscal year 1975.

Program purpose. Title IV of the Civil Rights Act authorizes three types of assistance in connection with the desegregation of public elementary and secondary schools. Technical assistance to school districts, authorized by section 403, is provided pursuant to the regulations (Subparts B and C) through State educational agencies and public or private agencies (including institutions of higher education) which receive awards for this purpose. Training institutes conducted by institutions of higher education, authorized by section 404, are provided for (Subpart D) to assist elementary and secondary school personnel to deal with desegregation problems. Grants to school boards, authorized by section 405, are provided for (Subpart E) to enable school boards to hire desegregation specialists and give inservice training to school personnel respecting desegregation. "Desegregation" includes not only desegregation on the basis of race, color, religion, or national origin but desegregation on the basis of sex. The term also includes, for the purpose of Subparts B and C, desegregation on the basis of English language deficiencies resulting from students' non-English dominant environments.

Following is a discussion of comments received, with each comment followed by the response of the Office of Education:

1. *Comment.* Several comments were to the effect that the competitive advantage provided in Subparts B, C, and E to applications focusing on desegregation on the basis of race, color, religion, or national origin over applications focusing on desegregation on the basis of sex should be eliminated.

Response. This competitive advantage has been eliminated by deleting the criteria (formerly designated §§ 180.14 (a), 180.24(a), 180.44(b)) relating to numbers of affected students. Applications will be ranked on the basis of the remaining criteria provided for in §§ 180.14, 180.24, and 180.44 (relating to such factors as needs assessment, statement of objectives, activities, resource management, evaluation, and budget), although the number of students to be affected by a proposed project may affect the size of the award. In order to encourage school boards applying for grants under Subpart E to focus on both desegregation on the basis of race, color, religion, or national origin and desegregation on the basis of sex (where needs exist in these areas), § 180.44(b) (formerly (c)) is amended by providing, in the context of the Commissioner's reviewing applications, for an application to receive up to five points for needs assessment relating to each one of these two types of desegregation. To further increase the importance of need as a criterion for such grants, § 180.44(b) is also amended by providing for an application to receive up to five points for each of the other two elements of this criterion.

2. *Comment.* One commenter objected to the aforementioned criteria relating to numbers of affected students on the grounds that they provided a competitive advantage to school districts with large numbers of affected students and to State educational agencies and general assistance centers proposing to serve such districts.

Response. As is indicated in the response to the preceding comment, this competitive advantage has been eliminated.

3. *Comment.* It was suggested that Title IV funds should be divided equally between assistance related to sex-based desegregation and assistance related to desegregation on the basis of race, color, religion, or national origin.

Response. It is anticipated that many applications will focus on both of these types of desegregation and that adequate assistance will be provided for both areas without such a division of funds.

4. *Comment.* One commenter suggested that the definition of "desegregation" should be better defined as regards sex desegregation and provided examples of problems and activities in this area which should be specifically set forth in the regulations.

Response. The definition of "desegregation" in § 185.02(a)(1) derives from the corresponding provision in the statute, section 401(b) of the Civil Rights Act. The problem areas and authorized activities set forth in § 180.12, which is incorporated by reference in §§ 180.22 (a), 180.32(a), and 180.42, cover many possible facets of sex desegregation.

5. *Comment.* One commenter suggested that the regulations provide that input and participation should be sought by school districts from women's groups in the formulation of applications for grants and the implementation of approved activities.

Response. Section 180.44(c)(2) provides that a criterion for such grants is the extent to which a school district's application reflects such input and participation by representatives of the communities affected by desegregation (including, as applicable, minority and non-minority group communities). In light of the widely varying presence, leadership, and representativeness of different types of groups in different localities, further specificity in the regulations as to community involvement is not deemed desirable.

6. *Comment.* It was suggested that provision in § 180.16(b)(2)(ii), which is incorporated by reference in § 180.26(b)(2), for development of bilingual education programs, materials, and methods should be broadened to refer to "bilingual-bicultural" education programs, materials, and methods.

Response. Sections 180.16 and 180.26 derive from *Lau v. Nichols*, 414 U.S. 563(1974), which focused exclusively on a school system's failure to provide special instruction to non-English speaking students which took account of such a language background. The purpose of these sections is to facilitate special assistance to students who, because they are from environments in which the dominant language is other than English, are not capable of effective participation in the educational process.

7. *Comment.* One commenter suggested that the provision in § 180.16(b)(2)(i), which is incorporated by reference in § 180.26(b)(2), for training of teachers should be amplified so as to specify the training of "native" and "non-native" teachers.

Response. No requirement is intended that the teachers to be trained must be members of the same ethnic group as the students with whom they intend to work.

8. *Comment.* It was urged that one of the general assistance centers provided for in § 180.26 serve school districts having significant numbers of students of Asian ancestry who are of limited English-speaking ability, without regard to service areas.

Response. Program experience indicates that the general assistance centers will be more useful if they serve limited geographical areas. Moreover, it is hoped that they will have expertise relevant to the needs of students of non-English dominant minority groups generally rather than the needs of only students of particular groups.

9. *Comment.* It was suggested that the regulations should provide that educationual materials developed as a result

of Title IV assistance should be free of racial or sex bias, stereotype, or tracking and be culturally pluralistic.

Response. The use of program funds for the development of materials which did not fit this description would appear inconsistent with the program statute and the existing regulations.

10. *Comment.* One commenter suggested that a separate service area should be established for Puerto Rico and the Virgin Islands rather than having these jurisdictions served by a general assistance center also serving New Jersey and New York.

Response. Program experience indicates that a single general assistance center can adequately serve these four jurisdictions.

11. *Comment.* One commenter suggested that an allowable cost under a grant to a school district should be stipends to participating students and parents.

Response. The statute (section 405(a)) does not authorize such stipends.

12. *Comment.* It was suggested that training institutes should be authorized to pay participants stipends of less than the $30 per day provided for in § 180.-32(c).

Response. No reasons accompanied this suggestion. It is believed that a uniform stipend is desirable.

13. *Comment.* One commenter suggested that training institutes be authorized which take place during both a summer session and the regular academic year, rather than during only one of these periods.

Response. The statute (section 404) provides only for short-term or regular session institutes.

14. *Comment.* One commenter suggested that technical assistance be made available to nonprofit organizations conducting activities under the Emergency School Aid Act.

Response. The law (section 403) provides for technical assistance only to school districts and other governmental units which operate public schools.

Several changes are being made in the regulations on the basis of further review thereof within the Department:

(a) Section 180.22 (b) (3) is amended to provide that the Commissioner may make more than one award in a single service area for a general assistance center pursuant to §§ 180.21–25 if he determines that several awards are necessary to ensure that technical assistance will be provided in that area for both desegregation on the basis of race, color, religion, or national origin and desegregation on the basis of sex.

(b) Sections 180.16 and 180.26 are amended by adding paragraph (d) thereto provide that, where the dominant language in a geographical area is other than English, students shall be deemed to be non-English dominant minority group members if they have been specifically determined by the Commissioner to be from environments in which the dominant language is other than the dominant language in the geographical area and, as a result of such circumstances, they are not capable of effective participation in the educational process.

(c) Section 180.35 is amended to provide that, in determining the amount of an award for a training institute, the Commissioner may consider the desirability of using funds for other applications which warrant his approval. That section is further amended to provide that an application for an award for a training institute need not be approved if it does not score at least 28 points on the basis of the applicable criteria.

Adoption of amended regulations. In light of the foregoing, Part 180 of Title 45 of the Code of Federal Regulations is amended to read as set forth below.

Effective date. Pursuant to section 431 (d) of the General Education Provisions Act (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.405, Civil Rights Technical Assistance and Training)

Dated: November 3, 1975.

T. H. BELL,
U.S. Commissioner of Education.

Approved: January 5, 1976.

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

PART 180—DESEGREGATION OF PUBLIC EDUCATION

Subpart A—General Provisions

Sec.
180.01 Purpose.
180.02 Definitions.
180.03 Applicability of Subchapter A.

Subpart B—Technical Assistance Arrangements With State Educational Agencies

180.11 Eligibility for awards.
180.12 Authorized activities.
180.13 Proposals.
180.14 Criteria for awards.
180.15 Award procedures.
180.16 Awards for activities to benefit non-English dominant minority group students.

Subpart C—General Assistance Centers

180.21 Eligibility for awards.
180.22 Authorized activities.
180.23 Proposals.
180.24 Criteria for awards.
180.25 Award procedures.
180.26 Awards for activities to benefit non-English dominant minority group students.

Subpart D—Training Institutes

180.31 Eligibility for assistance.
180.32 Authorized activities.
180.33 Applications.
180.34 Criteria for assistance.
180.35 Award procedures.

Subpart E—Grants to School Boards

180.41 Eligibility for assistance.
180.42 Authorized activities.
180.43 Applications.
180.44 Criteria for assistance.
180.45 Award procedures.

AUTHORITY: Title IV of the Civil Rights Act of 1964, 78 Stat. 246, as amended (42 U.S.C. 2000c–2000c–9), unless otherwise noted.

Subpart A—General Provisions

§ 180.01 Purpose.

The purpose of this part is to provide for awards as authorized by sections 403, 404, and 405 of title IV of the Civil Rights Act of 1964, as amended, for technical assistance, training institutes, and grants to school boards in connection with desegregation of public elementary and secondary schools.

(42 U.S.C. 2000c)

§ 180.02 Definitions.

Except as otherwise specified, the following definitions shall apply to the terms used in this part:

(a) (1) "Desegregation" means (except for purposes of §§ 180.16 and 180.26) the assignment of students to public schools and within such schools without regard to their race, color, religion, sex, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance. For purposes of this paragraph, overcoming racial imbalance means the assignment of students to correct conditions of segregation or separation (on the basis of race, color, religion, or national origin) not resulting from State or local law or official action.

(2) For purposes of §§ 180.16 and 180.26, "desegregation" means the assignment of students to public schools and within such schools in such manner as to provide such students with an equal opportunity for effective participation in educational programs despite English language deficiencies of such students which result because they are from environments in which the dominant language is other than English.

(42 U.S.C. 2000c(b); *United States* v. *Jefferson County Board of Education*, 372 F. 2d 836, 878–879 (5th Cir. 1966), cert. den. 389 U.S. 840 (1967); *Lau* v. *Nichols*, 414 U.S. 563 (1974))

(b) "Public school" means any elementary or secondary educational institution, provided that such public school is operated by a State, subdivision of a State, or government agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental sources.

(42 U.S.C. 2000c(c))

(c) "School board" means any agency or agencies which administer a system of one or more public schools, and any

other agency which is responsible for the assignment of students to or within such system.

(42 U.S.C. 2000c(d))

(d) "Institution of higher education" means an educational institution in any State which: (1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate; (2) is legally authorized within such State to provide a program of education beyond high school; (3) provides an educational program for which it awards a bachelor's degree; or provides not less than a 2-year program which is acceptable for full credit toward such a degree; or offers a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; (4) is a public or other nonprofit institution; and (5) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner.

(42 U.S.C. 2000c–2000c–9)

(e) (1) "Minority group" refers (except for purposes of §§ 180.16 and 180.26) to persons (i) who are Negro, American Indian, Spanish-surnamed American, Portuguese, Oriental, Alaskan natives, or Hawaiian natives, or (ii) who have been specifically determined by the Commissioner to have been segregated or separated on the basis of race, color, religion, or national origin as a result of State or local law or official action.

(2) For purposes of §§ 180.16 and 180.26, "minority group" refers to persons who have been specifically determined by the Commissioner to be from environments in which the dominant language is other than English and who, as a result of such circumstances, are not capable of effective participation in the educational process.

(42 U.S.C. 2000c–2000c–9; *Lau* v. *Nichols*, 414 U.S. 563 (1974))

(f) "Non-English dominant minority group" refers to persons described in § 180.02(e)(2).

(42 U.S.C. 2000c–2000c–9)

(g) "State" means one of the 50 States or the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(42 U.S.C. 2000c)

(h) "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law for such purpose.

(42 U.S.C. 2000c–2000c–9)

§ 180.03 Applicability of Subchapter A.

Assistance under this part is subject to applicable provisions contained in Parts 100 and (except with respect to Subpart C) 100a of this title (relating to fiscal, administrative, property management, and other matters), except that such assistance shall not be subject to the provisions of § 100a.26(b) of Part 100a, relating to criteria for awards.

(42 U.S.C. 2000c–2000c–9)

Subpart B—Technical Assistance Arrangements With State Educational Agencies

§ 180.11 Eligibility for awards.

(a) Any State educational agency may submit a proposal for a contract or other appropriate agreement pursuant to this subpart for the purpose of rendering technical assistance, upon request, to any school board, municipally, school district, or other governmental unit legally responsible for operating a public school or schools in the preparation, adoption, and implementation of plans, assurances, or programs for the desegregation of public schools. A proposal may focus only on desegregation on the basis of race, color, religion, or national origin, only on desegregation on the basis of sex, or on both of these types of desegregation.

(42 U.S.C. 2000c–2; 20 U.S.C. 1231(b))

(b) Technical assistance proposed to be rendered pursuant to this subpart shall consist of or include the provision of information regarding effective methods of coping with special educational problems occasioned by desegregation.

(42 U.S.C. 2000c–2)

§ 180.12 Authorized activities.

Funds made available pursuant to this subpart shall be used for the activities described in paragraph (a) of this section and for one or more of the activities described in paragraphs (b) through (i) of this section, when such activities are requested in accordance with § 180.11(a).

(a) Planning and other activities designed to insure that administrators, teachers, and other educational personnel are not demoted or dismissed on the basis of race, color, religion, sex or national origin in the process of, or as a result of, desegregation;

(b) Assessment of desegregation-related educational needs in one or more public schools;

(c) Development of administrative methods and techniques to cope with special educational problems occasioned by desegregation;

(d) Development of educational programs, materials, and methods for use in desegregated classroom situations;

(e) Training of administrators, teachers, or other public school personnel in the implementation or use of methods, techniques, programs, and materials designed to cope with special educational problems occasioned by desegregation;

(f) Development of techniques for communications or interaction between public schools or school systems and the groups affected by the desegregation of such schools or school systems;

(g) Technical assistance to public school administrative staffs in determining the availability and appropriate utilization of funds under other Federal and State programs which would assist in coping with special educational problems occasioned by desegregation;

(h) Training of administrative staffs (in school districts which are required to desegregate their schools pursuant to a final order of a court of the United States, a State court, or a State agency or official or pursuant to a plan or assurance required by the Secretary) in efficient and educationally sound methods of assigning students to and within public schools;

(i) Any other activity which the Commissioner determines will make substantial progress toward achieving the purposes of this subpart.

(42 U.S.C. 2000c–2)

§ 180.13 Proposals.

(a) An applicant desiring to enter into an arrangement pursuant to this subpart for any fiscal year shall submit to the Commissioner a proposal for such fiscal year, which proposal shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use the funds awarded on the basis of such proposal only for the activities described in § 180.12. Such proposals, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Commissioner, unless such availability prior to the funding of proposals submitted under this subpart could result in another applicant's obtaining a competitive advantage.

(42 U.S.C. 2000c–2)

(b) Proposals submitted pursuant to this subpart shall contain a listing of the school boards, municipalities, school districts, or other governmental units to which the applicant proposes to render technical assistance, the nature of such assistance expected to be rendered, and a statement as to whether the proposed recipients of such assistance are desegregating their schools pursuant to an order of a court of the United States, a State court, or a State agency or official, or pursuant to a plan or assurance required by the Secretary. Such proposals shall also include copies of all requests for such assistance from such school boards, municipalities, school districts, or other governmental units, and a copy of the form to be prescribed or employed for additional requests for such assistance. Such requests, at a minimum, shall indicate the status of the requesting school board, municipality, school district, or other governmental unit with respect to desegregation and the nature of the special educational problems with respect to which technical assistance is requested, and shall be signed by the chief executive officer or other authorized representative of the requesting agency.

(42 U.S.C. 2000c–2)

(c) Proposals shall be submitted pursuant to this subpart in such form and at such times as the Commissioner may require.

(42 U.S.C. 2000c-2)

§ 180.14 Criteria for awards.

In reviewing proposals under this subpart, the Commissioner shall apply the following criteria:

(a) *Needs assessment (6 points)*. (1) The magnitude of desegregation-related educational needs assessed by the applicant with respect to school boards, municipalities, school districts, or other governmental units within the applicant's State, and (2) the degree to which the applicant has demonstrated by objective evidence the existence of such needs.

(42 U.S.C. 2000c-2)

(b) *Statement of objectives (8 points)*. The degree (1) to which the applicant sets forth specific, measurable objectives for its program, project, or activity, in relation to specifically identified educational needs, and (2) to which such objectives are realistically attainable within the limits of the project period and the available resources.

(42 U.S.C. 2000c-2)

(c) *Activities (23 points)*—(1) *Project design (13 points)*. The extent to which (i) the proposal provides for a continuing exchange of information between the applicant and the school boards, municipalities, school districts, or other governmental units proposed to be served; (ii) the proposed program, project, or activity promises to involve a substantial proportion of the school boards, municipalities, school districts, or other governmental units within the applicant's State which could benefit from technical assistance; (iii) the proposed program, project, or activity is part of a comprehensive, long-range approach to desegregation planning and implementation; and (iv) the proposed services are concentrated upon classes or categories of beneficiaries which are sufficiently limited and specific to give promise of significant results;

(2) *Staffing (6 points)*. The extent to which (i) the proposal contains evidence of background, training, and experience on the part of the professional staff employed or to be employed by the applicant in coping with special educational problems occasioned by desegregation; and (ii) the professional and other staff employed or to be employed by the applicant reflects in composition the race, sex, and ethnicity of the population to be served; and

(3) *Coordination (4 points)*. The extent to which the applicant proposes to make use of other State resources and capabilities in meeting the desegregation-related needs of school boards, municipalities, school districts, and other governmental units.

(42 U.S.C. 2000c-2)

(d) *Resource management (4 points)*. The extent to which the applicant demonstrates that project costs are reasonable in relation to the expected benefits.

(42 U.S.C. 2000c-2)

(e) *Evaluation (5 points)*. The extent to which the applicant sets out a format for objectives, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (1) a timetable for compilation of data for evaluation, and (2) a method of reviewing the proposed program, project, or activity in the light of such data.

(42 U.S.C. 2000c-2)

§ 180.15 Award procedures.

Assistance under this subpart shall be awarded to applicants according to their ranking on the basis of the criteria set forth in § 180.14, except that assistance shall be awarded separately for purposes of § 180.16. However, the Commissioner shall not be required to approve any application which does not meet the requirements of this part, or which is otherwise of such insufficient promise for achieving the purposes of this part that its approval is not warranted. No more than 25 percent of the funds made available for assistance pursuant to this part (other than funds available under §§ 180.16 and 180.26) for any fiscal year shall be awarded for programs, projects, or activities to be conducted pursuant to this subpart, unless the Commissioner determines that the proposals pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise.

(42 U.S.C. 2000c-2)

§ 180.16 Awards for activities to benefit non-English dominant minority group students.

(a) Any State educational agency may submit a proposal for a contract or other appropriate agreement pursuant to this subpart for the purpose of rendering technical assistance, upon request, to any school board, municipality, school district, or other governmental unit legally responsible for operating a public school or schools in the preparation, adoption and implementation of plans or programs for the desegregation of public schools (as the term "desegregation" is defined in § 180.02(a)(2) for purposes of this section), with respect to non-English dominant minority group students (as the term "non-English dominant minority group" is defined in § 180.02(f)). Such a proposal may be submitted whether or not the applicant has submitted a proposal pursuant to §§ 180.11–15.

(42 U.S.C. 2000c-2; 20 U.S.C. 1231(b); *Lau v. Nichols*, 414 U.S. 563 (1974))

(b) The provisions set forth for assistance under §§ 180.11–15 (except for the second sentence of § 180.11(a) and the third sentence of § 180.15) shall apply to assistance under this section, except that:

(1) "Desegregation" and "minority group" are defined for purposes of this section as indicated in §§ 180.02 (a)(2) and 180.02(e)(2); and

(2) Funds made available under this section shall be available for the following activities in addition to those described in § 180.12:

(i) Training of teachers and other ancillary educational personnel in skills related to desegregation problems associated with providing an equal educational opportunity for non-English dominant minority group students, including cultural awareness, oral and written language skills in the dominant languages of such students, and diagnostic evaluation, teaching of English as a second language, and prescriptive teaching techniques; and

(ii) Development of bilingual education programs, materials, and methods for their use in desegregated classroom situations involving non-English dominant minority group students.

(42 U.S.C. 2000c-2; *Lau v. Nichols*, 414 U.S. 563 (1974))

(c) No more than 25 percent of the funds made available for awards pursuant to this section and § 180.26 for any fiscal year shall be awarded for programs, projects or activities to be conducted pursuant to this section, unless the Commissioner determines that the proposals pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise.

(42 U.S.C. 2000c-2; *Lau v. Nichols*, 414 U.S. 563 (1974))

(d) Where the dominant language in a geographical area is other than English, for purposes of this section students in that area shall be deemed to be non-English dominant minority group students if they have been specifically determined by the Commissioner to be from environments in which the dominant language is other than the dominant language in the geographical area and, as a result of such circumstances, to be not capable of effective participation in the educational process.

(42 U.S.C. 2000c-2; *Lau v. Nichols*, 414 U.S.

Subpart C—General Assistance Centers

§ 180.21 Eligibility for awards.

Any public or private agency (other than a State educational agency), including any institution of higher education, may submit a proposal for a contract or other appropriate agreement pursuant to this subpart for the purpose of rendering technical assistance (as described in § 180.11(b)), upon request, to any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools in the preparation, adoption, and implementation of plans, assurances, or programs for the desegregation of public schools. Such technical assistance shall be rendered through general assistance centers serving designated service areas as described in § 180.22(b). A proposal may focus only on desegregation on the basis of race, color, religion, or national origin,

only on desegregation on the basis of sex, or on both of these types of desegregation.

(42 U.S.C. 2000c-2; 20 U.S.C. 1231(b))

§ 180.22 Authorized activities.

(a) Funds made available pursuant to this subpart shall be used for one or more of the activities described in § 180.12 (a) through (i), when such activities are requested in accordance with § 180.21.

(42 U.S.C. 2000c-2)

(b) *Service areas.* (1) Activities authorized under paragraph (a) of this section shall be carried out in one of the following designated service areas, to be specified by the applicant in its proposal:

1. Maine, New Hampshire, Vermont Massachusetts, Connecticut, Rhode Island.
2. New York, New Jersey, Puerto Rico, Virgin Islands.
3. Pennsylvania, Delaware, Maryland.
4. Virginia, West Virginia, District of Columbia.
5. North Carolina.
6. South Carolina.
7. Georgia.
8. Florida.
9. Alabama.
10. Mississippi.
11. Kentucky, Tennessee.
12. Ohio.
13. Indiana.
14. Illinois.
15. Michigan.
16. Wisconsin, Minnesota.
17. Texas.
18. Louisiana.
19. Oklahoma.
20. Arkansas.
21. New Mexico.
22. Iowa, Nebraska, Kansas, Missouri.
23. North Dakota, South Dakota, Montana, Colorado, Wyoming, Utah.
24. California, Nevada, Arizona.
25. Hawaii, Guam, American Samoa, Trust Territory of the Pacific Islands.
26. Oregon, Washington, Idaho.
27. Alaska.

(2) A public or private agency entering into an arrangement pursuant to this subpart shall provide technical assistance, to the extent that financial and other resources permit, upon the request of any school board, State, municipality, school district or other governmental unit located within such agency's designated service area.

(3) No more than one award shall be made pursuant to §§ 180.21–25 for technical assistance activities in a single designated service area, unless the Commissioner determines that the proposals pending before him for additional awards for such activities in such an area are of exceptional merit or promise, or that more than one award is necessary in order to provide for technical assistance in the area for both desegregation on the basis of race, color, religion, or national origin and desegregation on the basis of sex. Where the Commissioner determines that insufficient need exists in one or more designated service areas for a general assistance center, he may require applicants to expand their proposed activities to include more than one such area. Where the Commissioner determines that needs existing in one or more designated service areas will not be met by a general assistance center or a State educational agency, he may require applicants under this subpart to expand their proposed activities to include such areas.

(42 U.S.C. 2000c-2)

§ 180.23 Proposals.

(a) An applicant desiring to enter into an arrangement pursuant to this subpart for any fiscal year shall submit to the Commissioner a proposal for such fiscal year, which proposal shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use the funds awarded on the basis of such proposal only for the activities described in § 180.22. Such proposals shall contain the information and materials described in § 180.13(b). Such proposals, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Commissioner, unless such availability prior to the funding of proposals submitted under this subpart could result in another applicant's obtaining a competitive advantage.

(42 U.S.C. 2000c-2)

(b) Proposals shall be submitted pursuant to this subpart in such form and at such times as the Commissioner may require.

(42 U.S.C. 2000c-2)

(c) Awards under this subpart shall be subject to the Federal Procurement Regulations (41 CFR Chapters 1 and 3), to the extent that such regulations are not inconsistent with the provisions of this part.

(42 U.S.C. 2000c-2)

§ 180.24 Criteria for awards.

In reviewing proposals under this subpart, the Commissioner shall apply the following criteria:

(a) *Needs assessment (9 points).* (1) The magnitude of desegregation-related educational needs assessed by the applicant with respect to school boards, municipalities, school districts, or other governmental units within the applicant's service area, and (2) the degree to which the applicant has demonstrated by objective evidence the existence of such needs.

(b) *Statement of objectives (12 points).* The degree (1) to which the applicant sets forth specific, measurable objectives for its program, project, or activity, in relation to specifically identified educational needs, and (2) to which such objectives are realistically attainable within the limits of the project period and the available resources.

(c) *Activities (35 points)*—(1) *Project design (23 points).* The extent to which (i) the proposal provides for a continuing exchange of information between the applicant and the school boards, municipalities, school districts, or other governmental units proposed to be served; (ii) the proposed program, project, or activity promises to involve a substantial proportion of the school boards, municipalities, school districts, or other governmental units within the applicant's service area which could benefit from technical assistance; (iii) the proposed program, project, or activity is part of a comprehensive, long-range approach to desegregation planning and implementation; and (iv) the proposed services are concentrated upon classes or categories of beneficiaries which are sufficiently limited and specific to give promise of significant results.

(2) *Staffing (12 points).* The extent to which (i) the proposal contains evidence of background, training, and experience on the part of the professional staff employed or to be employed by the applicant in coping with special educational problems occasioned by desegregation; (ii) the professional and other staff employed or to be employed by the applicant reflects in composition the race, sex, and ethnicity of the population to be served.

(d) *Evaluation (7 points).* The extent to which the applicant sets out a format for objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (1) a timetable for compilation of data for evaluation, and (2) a method of reviewing the proposed program, project, or activity in light of such data.

(e) *Budget (10 points).* The degree to which (1) the proposal sets forth the lowest cost in relation to the numbers of minority group or (in the case of activities with regard to desegregation on the basis of sex) other students to be served and (2) the proposal reflects prudent and balanced use of equipment, subcontracts, travel, and other support costs.

(42 U.S.C. 2000c-2)

§ 180.25 Award procedures.

In awarding funds under this subpart (which shall be done separately for awards provided for in § 180.26), the Commissioner shall apply the provisions of the Federal Procurement Regulations (41 CFR Chapters 1 and 3). However, he shall not be required to approve any proposal which does not meet the requirements of this part, or which is otherwise of such insufficient promise for achieving the purposes of this part that its approval is not warranted. No more than 50 percent of the funds made available for assistance pursuant to this part (other than funds available under §§ 180.16 and 180.26) for any fiscal year shall be awarded for programs, projects, or activities to be conducted pursuant to this subpart, unless the Commissioner determines that the proposals pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise.

(42 U.S.C. 2000c-2)

§ 180.26 Awards for activities to benefit non-English dominant minority group students.

(a) Any public or private agency (other than a State educational agency), including any institution of higher education, may submit a proposal for a contract or other appropriate agreement pursuant to this subpart for the purpose of rendering technical assistance (as described in § 180.11(b)), upon request, to any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools in the preparation, adoption, and implementation of plans or programs for the desegregation of public schools (as the term "desegregation" is defined in § 180.02(a)(2) for purposes of this section), with respect to non-English dominant minority group students (as the term "non-English dominant minority group" is defined in § 180.02(f)). Such technical assistance shall be rendered through general assistance centers serving designated service areas as described in paragraph (b)(3) of this section. Such a proposal may be submitted whether or not the applicant has submitted a proposal pursuant to §§ 180.21–25.

(42 U.S.C. 2000c-2; 20 U.S.C. 1231(b); *Lau* v. *Nichols*, 414 U.S.C. 563 (1974))

(b) The provisions set forth for assistance under §§ 180.21–25 (except for the third sentence of § 180.21 and the third sentence of § 180.25) shall apply to assistance under this section, except that:

(1) "Desegregation" and "minority group" are defined for purposes of this section as indicated in § 180.02(a)(2) and 180.02(e)(2);

(2) Funds made available under this section shall be available for the activities described in § 180.16(b)(2) in addition to those described in § 180.12;

(3) The following designated service areas, one of which is to be specified by each applicant in its proposal, will prevail:

A. Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Puerto Rico, Virgin Islands.

B. Pennsylvania, Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Kentucky, Tennessee, Georgia, Alabama, Mississippi, Florida.

C. Ohio, Indiana, Illinois, Michigan, Minnesota, Wisconsin, Missouri, Kansas, Iowa, Nebraska.

D. Texas, Louisiana, Arkansas.

E. Montana, North Dakota, South Dakota, Wyoming; Colorado, Utah, Oklahoma.

F. New Mexico, Arizona, Nevada.

G. Southern California (that part of California south of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties).

H. Northern California (that part of California not included in Area G).

I. Washington, Oregon, Idaho. Alaska, Hawaii, Guam, Trust Territory of the Pacific Islands, American Samoa.

(42 U.S.C. 2000c-2; *Lau* v. *Nichols*, 414 U.S. 563 (1974))

(c) No more than 75 percent of the funds made available for awards pursuant to this section and § 180.16 for any fiscal year shall be awarded for programs, projects, or activities to be conducted pursuant to this section, unless the Commissioner determines that the proposals pending before him for funds in excess of such amount for such programs, projects or activities are of exceptional merit or promise.

(42 U.S.C. 2000c-2; *Lau* v. *Nichols*, 414 U.S. 563 (1974))

(d) Where the dominant language in a geographical area is other than English, for purposes of this section students in that area shall be deemed to be non-English dominant minority group members if they have been specifically determined by the Commissioner to be from environments in which the dominant language is other than the dominant language in the geographical area and, as a result of such circumstances, to be not capable of effective participation in the educational process.

(42 U.S.C. 2000c-2; *Lau* v. *Nichols*, 414 U.S. 563 (1974))

Subpart D—Training Institutes

§ 180.31 Eligibility for assistance.

Any institution of higher education may apply for a grant pursuant to this subpart for the operation of short term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel (including school board members or trustees) to deal effectively with special educational problems occasioned by desegregation. An institute may focus only on desegregation on the basis of race, color, religion, or national origin, only on desegregation on the basis of sex, or on both of these types of desegregation.

(42 U.S.C. 2000c-3)

§ 180.32 Authorized activities.

(a) Funds made available pursuant to this subpart shall be used for institutes for special training in one or more of the problem areas described in § 180.12 (except § 180.12 (b) and (g)). Such institutes may be held on the campus of the applicant institutions or at other locations, and shall consist of (1) summer sessions not to exceed 6 weeks in duration or (2) sessions conducted during the regular academic year.

(42 U.S.C. 2000c-3)

(b) Training shall be provided pursuant to this subpart only upon the request of a school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools.

(42 U.S.C. 2000c-3)

(c) *Stipends.* An individual who attends an institute on a full-time basis shall be paid a stipend of $30 for each institute day of attendance up to $150 per week. If, in the case of an institute described in paragraph (a)(2), less than five hours of training is scheduled to be provided on an institute day, the payment for such day shall be $6 per hour, within the $150 weekly limit. In the event that participation in an institute is interrupted or is terminated prior to completion of the institute program, stipend payment shall be made to the individual for such period as he was in attendance on a full-time basis. For purposes of this paragraph, "attendance on a full-time basis" means attendance during a period for which the individual is receiving no other compensation for such attendance or for work performed during such period, and an "institute day" means each day of a program of an institute on which at least 2 (or, in the case of an institute described in paragraph (a)(1) of this section, 5) hours of training is scheduled to be provided.

(42 U.S.C. 2000c-3)

(d) *Travel allowances.* (1) An individual who attends an institute on a full-time basis (as defined in paragraph (c) of this section) may be provided travel or an allowance for his actual cost of travel, from place of residence or employment to place of the institute, and from place of the institute to his place of residence or employment, as set forth in the institution's arrangement with the Commissioner. The allowance for travel in the case of travel by private automobile shall be at the rate of 12 cents per mile. In the case of joint travel by private automobile by a group of participants, travel allowances shall be payable only to one of such participants, but without reduction on account of contribution to him by the other participants.

(2) In addition to the limitations of paragraph (d)(1) of this section, when air, rail, or steamship transportation is used, first-class accommodations or an allowance therefor may be provided only where first-class accommodations are the only class of service for the most direct travel route, or where less than first-class accommodations result or would result in greater cost than first-class accommodations.

(3) In the event that an individual's participation in an institute is terminated prior to his completion of the institute program, travel, or an allowance therefor, from place of the institute to his place of residence or employment may be provided only if such termination is occasioned by extraordinary circumstances not reasonably within the control of the individual.

(42 U.S.C. 2000c-3)

§ 180.33 Applications.

(a) An applicant desiring to receive assistance pursuant to this subpart for any fiscal year shall submit to the Commissioner an application for such fiscal year, which application shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use funds awarded on the basis of such application only for the activities described in § 180.32. Such applications, together with all correspondence and other written materials relating thereto, shall be

made readily available to the public by the applicant and by the Commissioner, unless such availability prior to the funding of applications submitted under this subpart could result in another applicant's obtaining a competitive advantage.

(42 U.S.C. 2000c-3)

(b) Applications for assistance submitted pursuant to this subpart shall contain a listing of the school boards, States, municipalities, school districts, or other governmental units to whose teachers, supervisors, counselors, and other elementary or secondary school personnel the applicant proposes to provide special training, the nature of such training expected to be provided, and a statement as to whether such school boards, States, municipalities, school districts, or other governmental units are desegregating their schools pursuant to an order of a court of the United States, a State court, or a State agency or official or pursuant to a plan or assurance required by the Secretary. Such applications shall also include copies of all requests for such training from such school boards, States, municipalities, school districts, or other governmental units, and a copy of the form to be prescribed or employed for additional requests for such training. Such requests, at a mimimum, shall indicate the status of the requesting school board, State, municipality, school district, or other governmental unit with respect to desegregation, the number and percentage of minority group students enrolled, the nature of the special educational problems with respect to which training is requested, and the approximate number and type of personnel to be trained, and shall be signed by the chief executive officer or other authorized representative of the requesting agency.

(42 U.S.C 2000c-3)

(c) Applications for assistance pursuant to this subpart shall be submitted in such form and at such time as the Commissioner may require.

(42 U.S.C. 2000c-3)

§ 180.34 Criteria for assistance.

(a) In reviewing applications under this subpart, the Commissioner shall apply the criteria set forth at § 180.14(a), (b), (c) (2), (d), and (e), except that (1) needs shall be assessed pursuant to § 180.14(a) with respect to all school boards, States, municipalities, school districts, or other governmental units which have requested training assistance, and (2) 8 points shall be awarded for the criteria set forth in § 180.14(c) (2).

(42 U.S.C. 2000c-3)

(b) *Project design (15 points)*. The Commissioner shall also apply the following criteria: the extent to which (1) The participants in the proposed institute or institutes will include persons with authority to effect substantive changes in public school policies and procedures, including school board members or trustees, superintendents, assistant superintendents, and school principals; (2) the applicant proposes to work with institute participants on a regular basis in classroom and other field situations after completion of formal training sessions; (3) the applicant sets forth specific methods or techniques for preparing institute participants to train other teachers, supervisors, counselors, and other elementary and secondary school personnel in dealing effectively with desegregation-related problems; and (4) the proposed program, project, or activity is designed to develop specific educational strategies for dealing effectively with such problems.

(42 U.S.C. 2000c-3)

§ 180.35 Award procedures.

Assistance under this subpart shall be awarded to applicants according to their ranking on the basis of the criteria set forth in § 180.34, except that at least ten awards shall be made for each fiscal year for institutes of which the primary focus would be training with regard to desegregation on the basis of sex. However, the Commissioner shall not be required to approve any application which does not meet the requirements of this part, does not score at least 28 points on the basis of the criteria set forth in § 180.34, or which is otherwise of such insufficient promise for achieving the purposes of this part that its approval is not warranted. No more than 15 percent of the funds made available for assistance pursuant to this part (other than funds available under §§ 180.16 and 180.26) for any fiscal year shall be awarded for programs, projects, or activities to be conducted pursuant to this subpart, unless the Commissioner determines that the applications pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise. In determining the amount of an award under this subpart, the Commissioner may consider the desirability of using funds for other applications which warrant his approval.

(42 U.S.C. 2000c-3)

Subpart E—Grants to School Boards

§ 180.41 Eligibility for assistance.

Any school board may make application pursuant to this subpart for a grant to pay, in whole or in part, the cost of employing a specialist to advise in problems incident to desegregation, and of giving to teachers and other public school personnel inservice training in dealing with problems incident to desegregation. An application may focus only on desegregation on the basis of race, color, religion, or national origin, only on desegregation on the basis of sex, or on both of these types of desegregation.

(42 U.S.C. 2000c-4)

§ 180.42 Authorized activities.

Funds made available pursuant to this subpart shall be used to employ specialists as described in § 180.41 and to provide inservice training as described in § 180.41, for the purpose of advice or training in one or more of the problem areas described in § 180.12, when such advice or training is not available from other sources.

(42 U.S.C. 2000c-4)

§ 180.43 Applications.

(a) An applicant desiring to receive assistance under this subpart for any fiscal year shall submit to the Commissioner an application for such fiscal year, which application shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use funds awarded on the basis of such application only for the activities described in § 180.42. Such applications, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Commissioner, unless such availability prior to the funding of applications submitted under this subpart could result in another applicant's obtaining a competitive advantage.

(42 U.S.C. 2000c-4)

(b) Applications for assistance pursuant to this subpart shall indicate whether the applicant is desegregating its schools pursuant to an order of a court of the United States, a State court, or a State agency or official, or pursuant to a plan or assurance required by the Secretary, and shall describe the problems incident to desegregation to be addressed by the proposed program, project, or activity. If an application for assistance pursuant to this subpart includes a request for funds for inservice training as described in § 180.41, such application shall indicate the reasons that such training is not available from other sources.

(42 U.S.C. 2000c-4)

(c) Applications for assistance pursuant to this subpart shall be submitted in such form and at such times as the Commissioner may require.

(42 U.S.C. 2000c-4)

§ 180.44 Criteria for assistance.

(a) In reviewing applications for assistance under this subpart, the Commissioner shall apply the criteria set forth in §180.14 (b), (d), and (e). The Commissioner shall also apply the criteria set forth in paragraphs (b) and (c) of this section.

(42 U.S.C. 2000c-4)

(b) *Needs assessment (20 points)*—(1) The magnitude of desegregation-related educational needs assessed by the applicant with regard to (i) *(5 points)* desegregation on the basis of race, color, religion, or national origin (if assistance therefor is sought) and (ii) *(5 points)* desegregation on the basis of sex (if assistance therefor is sought); (2) (5

points) the degree to which the applicant has demonstrated by objective evidence the existence of such needs; and (3) (*5 points*) the extent to which the applicant lacks the financial and other resources necessary to meet such needs.

(42 U.S.C. 2000c-4)

(c) *Activities* (*23 points*)—(1) *Qualifications of specialist* (*8 points*). The extent to which the application (i) contains evidence of desegregation-related background, training, and experience on the part of the person to be employed as an advisory specialist, and (ii) sets forth procedures for direct, formal consultation, on a regular basis, by such specialist with school board members and trustees and the superintendent of the affected school district concerning problems incident to desegregation;

(2) *Community involvement* (*7 points*). The extent to which the application (i) reflects the participation of representatives of the communities affected by desegregation (including, as applicable, minority and non-minority group communities) in the development of the proposed program, project, or activity, and (ii) contains evidence that such representatives will participate in the implementation of the proposed program, project, or activity; and

(3) *Comprehensiveness* (*8 points*). The extent to which (i) the application contains evidence that the proposed program, project, or activity is part of a comprehensive, long-range approach to desegregation planning and implementation, and (ii) the applicant proposes to conduct activities addressing a broad range of problem areas.

(42 U.S.C. 2000c-4)

§ 180.45 Award procedures.

Assistance under this subpart shall be awarded to applicants according to their ranking on the basis of the criteria set forth in § 180.44. However, the Commissioner shall not be required to approve any application which does not meet the requirements of this part, or which is otherwise of such insufficient promise for achieving the purposes of this part that its approval is not warranted. No more than 10 percent of the funds made available pursuant to this part (other than funds available under §§ 180.16 and 180.26) for any fiscal year shall be awarded for programs, projects, or activities to be conducted pursuant to this subpart, unless the Commissioner determines that the applications pending before him for funds in excess of such amount for such programs, projects, or activities are of exceptional merit or promise.

(42 U.S.C. 2000c-4)

[FR Doc.76-810 Filed 1-9-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

DESEGREGATION OF PUBLIC EDUCATION

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Title IV of the Civil Rights Act of 1964, 78 Stat. 246, as amended (42 U.S.C. 2000c–2000c–9), applications for awards are being accepted from State educational agencies, institutions of higher education, and school boards under sections 403 (technical assistance), 404 (training institutes), and 405 (grants to school boards), respectively, of the Act.

Applications must be received by the Regional Office, Application Control Center of the U.S. Office of Education serving the area in which the applicant is located and must be received by that office on or before March 5, 1976.

A. APPLICATIONS SENT BY MAIL

All applications sent by mail will be considered to have been received on time by the Application Control Center if: (1) The application was sent by registered or certified mail not later than March 1, 1976, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by the appropriate regional office mail room. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education appropriate regional office.

OFFICE OF EDUCATION REGIONAL OFFICES

Region I (Boston)—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. U.S. Office of Education, Equal Educational Opportunity, John Fitzgerald Kennedy Federal Bldg., Government Center, Boston, Massachusetts 02203.

Region II (New York City)—New York, New Jersey, Puerto Rico and Virgin Islands. U.S. Office of Education, Equal Educational Opportunity, Federal Bldg., 26 Federal Plaza, New York, New York 10007.

Region III (Philadelphia)—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia. U.S. Office of Education, Equal Educational Opportunity, P.O. Box 13176, 3535 Market Street, Philadelphia, Pennsylvania 19101.

Region IV (Atlanta)—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee. U.S. Office of Education, Equal Educational Opportunity, 50–7th Street, N.E., Atlanta, Georgia 30323.

Region V (Chicago)—Illinois, Indiana, Minnesota, Michigan, Ohio and Wisconsin. U.S. Office of Education, Equal Educational Opportunity, 300 South Wacker Drive, Chicago, Illinois 60606.

Region VI (Dallas)—Arkansas, Louisiana, New Mexico, Oklahoma and Texas. U.S. Office of Education, Equal Educational Opportunity, 1200 Main Tower Building, Dallas, Texas 75202.

Region VII (Kansas City)—Iowa, Kansas, Missouri and Nebraska. U.S. Office of Education, Equal Educational Opportunity, New Federal Office Bldg., 601 East 12th Street, Kansas City, Missouri 64106.

Region VIII (Denver)—Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. U.S. Office of Education, Equal Educational Opportunity, 1961 Stout Street, Denver, Colorado 80202.

Region IX (San Francisco)—Arizona, California, Hawaii, Nevada, American Samoa, Guam and the Trust Territory of the Pacific Islands. U.S. Office of Education, Equal Educational Opportunity, 50 Fulton Street, Room 359, San Francisco, California 94102.

Region X (Seattle)—Alaska, Idaho, Oregon and Washington. U.S. Office of Education, Equal Educational Opportunity, Arcade Plaza Bldg., M/S 628, 1321 Second Avenue, Seattle, Washington 98101.

B. HAND DELIVERED APPLICATIONS

All applications to be hand delivered must be taken to the appropriate U.S. Office of Education Regional Office, Application Control Center at the address listed in Part A of this notice. Hand delivered applications will be accepted daily between the hours of 8:30 a.m. and 4 p.m. local time except Saturdays, Sundays and Federal holidays. Applications will not be accepted after 4 p.m. local time by a U.S. Office of Education Regional Office on the closing date.

C. PROGRAM INFORMATION AND FORMS

Information and program forms may be obtained from the appropriate Regional Office (see listing above).

D. APPLICABLE REGULATIONS

The regulations applicable to this program include the Office of Education general provisions regulations (45 CFR Part 100 and 100a) and Subparts A, B, D, and E of the final regulations for the Civil Rights Technical Assistance and Training Program published in this issue of the FEDERAL REGISTER.

Dated: December 10, 1975.

T. H. BELL,
U.S. Commissioner of Education.

(Catalog of Federal Domestic Assistance number 13.405 Civil Rights Technical Assistance and Training Program)

[FR Doc.76-809 Filed 1-9-76;8:45 am]