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WEDNESDAY, DECEMBER 13, 1978

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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
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CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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

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

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This is a list of documents relating to Federal grants programs which were published in the FEDERAL REGISTER during the previous week.

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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.

[3410-02-M]

Title 7—Agriculture

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

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 2, Amdt. 6]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final rule.

SUMMARY: This amendment allows each handler of Dancy variety tangerines to ship during the weeks December 4 through December 10 and December 11 through December 17, 1978, a quantity of smaller size tangerines (2 5/16 inches diameter) equal to 75 percent of total shipments, during a specified prior period, the first week and equal to 100 percent of total shipments during such period the second week. In the absence of this amendment up to 75 percent of smaller tangerines could be shipped the week ending December 10, and only tangerines 2 5/16 inches in diameter could be shipped the week ending December 17. This action will allow increases in supplies of tangerines, during the periods specified, in recognition of market needs and the size composition of the available crop in the interest of growers and consumers.

EFFECTIVE DATE: December 4, 1978, through December 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the recommendations of the committee established under the marketing agreement and order, and upon other information, it is found that the regulation of shipments of Florida tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

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

(2) The minimum size requirements, herein specified, for domestic shipments reflect the Department's appraisal of the need for the amendment of the current regulation to permit handling of additional smaller size fresh Florida tangerines of the designated variety, during the specified period, based on market needs for greater supplies of such variety. Because of the growing conditions in the production area the amount of large fruit is presently less than anticipated and there is a need to augment supplies by permitting shipment of a larger proportion of the smaller size fruit. The Dancy variety continues to size on the tree, and as the season progresses, increased quantities of such fruit is expected to meet the larger minimum size requirement. Relaxation of the minimum size requirements for a larger portion of each shipper's Dancy tangerine shipments will tend to promote the orderly marketing of Florida tangerines, now that shipments of the Robinson variety are about completed and Dancy are being shipped in greater volume.

The Citrus Administrative Committee, at an open meeting on December 5, 1978, reported that the amendment would allow shipment of approximately 85 additional carlots of Dancy variety tangerines during the specified period. The committee indicated there is a current market demand for larger quantities of smaller size Dancy tangerines and markets presently can absorb a larger portion of the supply of the smaller fruit. It indicated markets cannot absorb greater quantities of such smaller tangerines than the proportions recommended, without disruption of the markets.

The Department's Crop Reporting Board estimates the 1978-79 season's crop of Florida tangerines at 3.8 million boxes (approximately 7.6 million cartons), or about 18 percent larger than the 1977-78 crop.

The committee projected the market demand for all varieties of fresh tangerines this season, as follows: Dancy (2,500 carlots); Robinson (1,500 carlots); Honey (2,100 carlots). Each carlot is equivalent to one-thousand cartons. The regulation, as amended, for Dancy tangerines relieves restrictions from those currently in effect, and amendment of such regulation, as hereinafter provided, will tend to avoid disruption of the orderly marketing of tangerines in the public interest.

It is concluded that the amendment of the size requirements, hereinafter set forth, is necessary to establish and maintain orderly marketing conditions and to provide acceptable size fruit in the interest of producers and consumers pursuant to the declared policy of the act.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida tangerines. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Accordingly, it is found that the provisions of § 905.302 (Orange, Grapefruit, Tangerine and Tangelo Regulation 2; 43 FR 43013; 52197; 53027; 54617; 57139), should be and are amended by revising paragraph (d) to read as follows:

§ 905.302 Orange, Grapefruit, Tangerine, and Tangelo Regulation 2.

* * * * *

(d) *Percentage of size regulation applicable to Dancy variety tangerines.*

Notwithstanding the provisions of Table I in paragraph (a) of this section, any handler may during each of the periods December 4 through December 10, 1978, and December 11 through December 17, 1978, ship Dancy variety tangerines smaller than 2 9/16 inches in diameter: *Provided*, That such smaller tangerines are not smaller than 2 4/16 inches in diameter: *And provided further*, That during the period December 4 through December 10 the quantity of such smaller tangerines does not exceed 75 percent of the quantity shipped in the applicable prior period and during the period December 11 through 17 the quantity of such smaller tangerines does not exceed 100 percent of the quantity shipped in the applicable prior period, as determined by the procedure specified in § 905.152 (43 FR 32397).

* * * * *

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

Dated: December 7, 1978.

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

[FR Doc. 78-34657 Filed 12-12-78; 8:45 am]

[3410-02-M]

PART 928—PAPAYAS GROWN IN HAWAII

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1979 fiscal period, to be collected from handlers to support activities of the Papaya Administrative Committee which locally administers the Federal marketing order covering papayas grown in Hawaii.

DATES: Effective January 1, 1979, through December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereafter provided, will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

§ 928.208 Expenses, rate of assessment, and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Papaya Administrative Committee during the period January 1, 1979, through December 31, 1979, will amount to $434,274.

(b) The rate of assessment for said year payable by each handler in accordance with § 928.41 is fixed at $0.006 per pound of papayas.

(c) Unexpended funds in excess of expenses incurred during fiscal year ending December 31, 1978, shall be carried over as a reserve in accordance with § 928.42.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal year shall apply to all assessable papayas handled from the beginning of such year. To enable the committee to meet fiscal obligations, approval of the expenses and assessment rate is necessary. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. It is necessary to effectuate the declared purposes of the act to make these provisions effective as specified.

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

Dated: December 7, 1978.

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

[FR Doc. 78-34656 Filed 12-12-78; 8:45 am]

[7535-01-M]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Fixed Assets

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule requires Federal credit unions to seek written approval of the Administration for investment in fixed assests in excess of 5 percent of members' assets. In addition, the rule prohibits Federal credit unions from acquiring real property for use as premises from directors, members of the supervisory and credit committees, officials, and employees, their spouses or members of their immediate families without written approval of the Administration.

EFFECTIVE DATE: January 15, 1979.

ADDRESS: Comments on this final regulation may be submitted to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 2025 M Street, NW, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT:

Joseph Bellenghi, Assistant Administrator for Examination and Insurance at the above address, (202) 254-8760.

SUPPLEMENTARY INFORMATION: On June 19, 1978, the Administration published a proposed rule (43 FR 26317) to limit the powers of Federal credit unions to purchase, hold and dispose of property necessary or incidental to their operation. Public comment was invited, to be received on or before July 17, 1978. Upon review of these comments and after a thorough reconsideration of the proposed rule by the Administration, certain changes, as set forth below, have been made.

ANALYSIS OF CHANGES

1. FIVE PERCENT OF SHARES LIMIT

Many commentors objected to the 5 percent shares limitation for various reasons. Some argued that additional regulations, in the area of fixed assets, were unnecessary in that NCUA already has the authority to take administrative action against those credit unions that engage in unsafe and unsound business practices. Over investment in fixed assets is indeed an unsafe and unsound business practice which could be, and has been, addressed through administrative action. Administrative action is, in the final

analysis, the enforcement tool for gaining compliance with either established guidelines or regulations. However, this type of action is not now effective in preventing losses to credit unions from over investing in fixed assets. Once contracts are signed, the costs of terminating the contracts may be as harmful (financially) to the credit union as proceeding with a given asset acquisition. Losses or impaired operations of Federal credit unions, due to over investment in fixed assets, become liabilities of the National Credit Union Share Insurance Fund (NCUSIF). Mandatory reporting and required approvals, prior to signing contracts, will afford NCUA an opportunity to prevent over investment in fixed assets without a Federal credit union incurring losses due to stiff termination clauses of contracts.

Several commentors suggested that the 5 percent of shares limitation is too low, given the recent effects of inflation, and cited recent fixed asset acquisitions of their own or others which exceeded the 5 percent. In response to those comments, the Administration has modified the limitation to now read 5 percent of assets rather than shares which will expand the base. It must be remembered that the 5 percent limitation is a *reporting threshold*, not an absolute value beyond which investments cannot be made. If a reporting threshold, were established so that *all* investments in fixed assets fell below the threshold, that reporting threshold would cease to be functional. It may well be that information gathered during a monitoring process may indicate the need to revise the reporting threshold at some time in the future. Although the limitation has been changed, the Administration's position regarding additional comments on the original limitation remain applicable.

Some commentors suggested that the 5 percent limitation would cause credit unions to keep their investments below 5 percent to avoid having to document the proposed acquisition and seek approval from the Administration. They pointed out that this would result in credit unions "underbuilding," necessitating frequent changes, improvements, or need for new buildings at overall increased costs to the credit union. Sound business practice requires that all management actions be based upon a thorough analysis of the circumstances surrounding that action. A decision to invest a significant amount of funds in fixed assets should be based upon a thorough analysis of the need for and the feasibility of the proposed acquisition. This analysis should be reduced to writing so that all parties to the decision can come to understand the scope and impact of the proposed action.

Some commentors expressed the belief that the 5 percent reporting threshold was unfair in that it did not take into consideration the differences in costs between different areas of the country or between urban and rural areas. It is true that the threshold does not take into consideration these geographical cost differences. To attempt to include in the regulation varying thresholds based upon construction costs in different parts of the country and in rural and urban areas and even in different parts of some urban areas would unnecessarily complicate the regulation. Regional directors in processing requests to exceed 5 percent will take into consideration local construction costs as well as the credit union's need for and the feasibility of the proposed project.

2. INCLUDING FURNITURE, FIXTURES AND EQUIPMENT IN THE LIMITATION

Some commentors suggested that limits for furniture, fixtures and equipment should be established separate from land and buildings. In all cases the intent seemed to be to retain the 5 percent threshold for land and buildings and allow an additional amount (1 percent to 2½ percent) for furniture, fixtures and equipment. There does not appear to be a compelling reason (other than to increase the threshold) for establishing separate limits. It is the aggregate amount invested in non-income producing assets that is of critical importance, not the nature of the non-income producing asset. The single threshold for all fixed assets is, therefore, retained.

Several commentors pointed out that including furniture, fixtures and equipment in the threshold would work a hardship on newly chartered credit unions or on those credit unions which have already invested 5 percent or more in fixed assets. Implementation of this regulation would cause such credit unions to seek approval for small, insignificant acquisitions, thereby placing an unnecessary burden upon the credit union and NCUA. The wording of section (c)(3) of the proposed regulation was intended to provide relief from the need for credit unions to make repeated requests when replacing or purchasing new items of furniture, fixtures and equipment by setting an approved limit within which the credit union could make additional acquisitions without approval.

The effects of depreciation would reduce the book value of fixed assets over time, thus providing a range for additional acquisitions of assets equal to the difference between the book value and the approved investment level. Although the wording of section (c)(3) has been modified to provide flexibility, it would still require the initial request for a waiver. To provide relief for newly chartered credit unions and certain credit unions at or over the 5 percent limit, credit unions with less than $2,000,000 in assets have been exempted from the requirement to seek approval for fixed asset investments in excess of 5 percent.

To permit credit unions greater flexibility in replacing existing equipment and meeting new requirements, those credit unions that have received approval to invest more than 5 percent in fixed assets will be permitted to make future acquisitions of fixed assets without seeking approval again. Such future acquisitions of fixed assets are permitted up to 1 percent of the credit union's assets over the amount approved.

3. INCREASED COSTS RESULTING FROM DELAYS

Several commentors stated that the requirement to obtain approval from NCUA could cause delays in implementing acquisitions of fixed assets with a resultant increase in costs. The Administration is not unmindful of the need for a timely decision. To ensure the prompt handling of requests to invest in fixed assets, a new paragraph has been added to section (c). This paragraph requires that the Administration acknowledge receipt of the request and respond to the request within 45 days of receipt. If the credit union has not received a denial of its request at the end of the 45-day period, the credit union may proceed with its proposed acquisition.

4. APPLICABILITY OF THE REGULATION TO FEDERAL CREDIT UNIONS THAT ALREADY EXCEED THE 5 PERCENT THRESHOLD

Several commentors questioned the effect of the proposed regulation on those credit unions whose investments in fixed assets exceeds 5 percent as of the effective date of the regulation. The regulation does not require such credit unions to obtain approval for investments in fixed assets already made. Any additional investments by these credit unions would be subject to all the requirements of this rule. Section (c)(6) was added to require credit unions that have contractual commitments for fixed assets in excess of the 5 percent threshold to inform NCUA of the existence of such commitments within 30 days of the effective date of this rule.

5. OTHER COMMENTS

Several commentors objected to the rule, stating that it impinged on the credit union board's responsibility and that Federal credit unions would incur additional expense in justifying to outsiders necessary prudent business deci-

sions. Any substantial investment of members' funds should be based upon a thorough analysis of the circumstances surrounding the proposed investment. It seems inconceivable that such an analysis could be made without reducing the plan to writing. The documentation required in support of a request to exceed the 5 percent limit is no more than that which the credit union would need to arrive at its prudent business decision. Assuming the credit union has properly analyzed its investment decision, the cost of submitting its request is negligible, consisting primarily of the cost of copying documents and postage. The purpose of this rule is to ensure that boards of directors have properly analyzed their investment decisions and to afford NCUA an opportunity to review that analysis in those cases involving the commitment of large amounts of members' funds. Over investment in fixed assets can have severely adverse effects upon credit unions and can represent a financial threat to the National Credit Union Share Insurance Fund (NCUSIF). During the first 10 calendar months of 1978 alone, the NCUSIF granted guarantees of almost $3 million to credit unions because of financial problems directly attributable to over investment in fixed assets.

Some commentors objected to the requirement to dispose of former premises since in many cases the former premise could be rented out or leased and provide income to the credit union. Part 107(4) of the Federal Credit Union Act provides that a credit union may purchase, hold, and dispose of property necessary or incidental to its operations. Retaining a piece of property whose only purpose is to provide office space to other entities is clearly not necessary or incidental to the Federal credit union's operations. Further, investing in, or holding, property with the intent of realizing a profit from appreciation at a future sale is also outside the powers of a Federal credit union.

Accordingly, 12 CFR Part 701 is amended by adding a new Section to read as follows.

LAWRENCE CONNELL,
Administrator.

DECEMBER 7, 1978.

(Sec. 107(4), 48 Stat. 1218 (12 U.S.C. 1757(4)), sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and sec. 209, 84 Stat. 1104 (12 U.S.C. 1789))

§ 701.36 FCU ownership of fixed assets.

(a) Under section 107(4) of the Federal Credit Union Act a Federal credit union has the power to purchase, hold and dispose of property necessary or incidental to its operations. A Federal credit union's ownership of fixed assets shall be limited as described in this chapter.

(b) Definitions—As Used in This Section. (1) Premises includes any office, branch office, sub-office, service center, parking lot, other facility or real estate where the credit union transacts or will transact business.

(2) Furniture, Fixtures, and Equipment includes all office furnishings (i.e., tables, chairs, desks, file cabinets, curtains, drapes, rugs, etc.), office machines, computer hardware and software, automated terminals, heating and cooling equipment.

(3) Fixed Assets means premises and furniture, fixtures and equipment as these terms are defined above.

(4) Investment in fixed assets means:

(i) Any investment in real property (improved or unimproved) which is being used or is intended to be used as premises;

(ii) Any leasehold improvement on premises;

(iii) The aggregate of the lease payments pursuant to a lease agreement on fixed assets;

(iv) Any investment in the bonds, stock, debentures, or other obligations of a partnership or corporation holding any fixed assets used by the Federal credit union and any loans to such partnership or corporation; or

(v) Any investment in furniture, fixtures and equipment.

(5) Abandoned premises means former Federal credit union premises from the date of relocation to new quarters, and property originally acquired for future expansion for which such use is no longer contemplated.

(c) Investment in Fixed Assets. (1) No Federal credit union with $2,000,000 or more in assets, without the prior approval of the Administration, shall invest in fixed assets if the aggregate of all such investments exceeds 5 percent of assets. Certain investments in fixed assets such as those in § 701.36(b)(4)(iv) above are further limited as to approval and amount by §§ 701.26, 701.27-1, 701.27-2, and 701.28 and sections 107(5)(D) and 107(7)(I) of the Federal Credit Union Act.

(2) A Federal credit union shall submit such statements and reports as the Administration may require in support of any investment in fixed assets in excess of the limit specified above. Such reports and statements shall include but not be limited to:

(i) A narrative, describing the proposal in terms of costs, usage, location, and method of financing;

(ii) Current financial data; and

(iii) A proforma projected balance sheet and statements of income and expenses for each of the ensuing 5 years based upon the assumption that the proposal will be approved.

(3) If the Administration determines that the proposal will not adversely affect the credit union, an aggregate dollar amount or percentage of assets will be approved for investment in fixed assets. Once such a limit has been approved, a Federal credit union may make future acquisitions of fixed assets, provided, the aggregate of all such future investments in fixed assets does not exceed an additional 1 percent of the assets of the credit union over the amount approved.

(4) Federal credit unions shall submit their requests to the NCUA regional office having jurisdiction over the geographical area in which the credit union's main office is located. The regional office shall inform the requesting credit union, in writing, of the date the request was received. If the credit union does not receive notification of the action taken on its request within 45 calendar days of the date the request was received by the regional office, the credit union may proceed with its proposed investment in fixed assets.

(5) Federal credit unions with assets of $2,000,000 or more that have investments in fixed assets in excess of 5 percent as of the effective date of this rule may honor existing (firm) commitments to acquire fixed assets without the Administration's approval; however, these Federal credit unions must notify the appropriate NCUA regional office of the existence of such commitments within 30 days of the effective date of this rule.

(d) Premises. (1) When real property is acquired for future expansion, at least partial utilization should be accomplished within a reasonable period, which shall not exceed 3 years unless otherwise approved in writing by the Administration. After real property acquired for future expansion has been held for 1 year, a board resolution with definitive plans for utilization must be available for inspection by the examiner.

(2) Investments in premises will be recorded on the credit union's books at the lower of cost or fair market value. The cost of land shall be carried on the books of the credit union in an account separate from the cost of improvements thereon. Unless otherwise approved in writing by the Administration, the cost of improvements shall be amortized over the estimated useful life or period of lease, whichever is less, through periodic charges to depreciation expense using any one of the generally accepted methods of depreciation, such as straight line or declining balance methods. The reverse sum-of-the-years digits method is not acceptable.

(3) The estimated useful life shall conform to guidelines prescribed by the Administration.

(4) For purposes of determining the periodic depreciation charge, the salvage value of improved real property shall be limited to 10 percent of the

cost of the depreciable property (excluding the cost of land) unless a higher salvage value is determined by an independent qualified appraiser at the time of acquisition.

(5) A Federal credit union shall endeavor to dispose of "abandoned premises" at a price sufficient to reimburse the Federal credit union for its investment and costs of acquisition. Current documents must be maintained reflecting the Federal credit union's continuing and diligent efforts to dispose of "abandoned premises." After "abandoned premises" have been on the Federal credit union's books for 4 years, the property must be publicly advertised for sale. Disposition must occur through public or private sale within 5 years of abandonment, unless otherwise approved in writing by the Administration.

(e) Furniture, Fixtures and Equipment. (1) Investments in furniture, fixtures, and equipment will be recorded on the credit union's books at the lower of cost or fair market value. The cost of computer hardware and software shall be carried on the books of the credit union in an account separate from other items of furniture, fixtures, and equipment.

(2) The cost of furniture, fixtures, and equipment shall be amortized over the estimated useful life through periodic charges to depreciation expense using any of the generally accepted methods of depreciation. The reverse sum-of-the-years digits method is not acceptable.

(f) Prohibited Transactions. (1) Except with the prior written approval of the Administration, no Federal credit union may acquire real property by investment in premises from any of the following:

(i) A director, member of the credit committee or supervisory committee, official or employee of the Federal credit union, or the spouse of such director, member of the credit committee or supervisory committee, official or employee;

(ii) A corporation in which any director, member of the credit committee or supervisory committee, official or employee, or the spouse of such director, member of the credit committee or supervisory committee, official or employee is an officer or director, or has a stock interest of 10 percent or more;

(iii) A partnership in which any director, member of the credit committee or supervisory committee, official or employee, or the spouse of such director, member of the credit committee or supervisory committee, official or employee is a general partner, or a limited partner with an interest of 10 percent or more; or

(iv) A member of the immediate family of a director, member of the credit committee or supervisory committee, official or employee of the Federal credit union, living in the same household.

[FR Doc. 78-34665 Filed 12-12-78; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATIONAL REGULATIONS

[Reg. OR-139; Amdt. No. 76]

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

Amendment of Delegation of Authority to the Director, Bureau of Accounts and Statistics

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., December 7, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule expands the authority delegated to the Director of the Bureau of Accounts and Statistics to include: (1) Amendments of the Board's accounting system to allow carriers to use the latest accounting and reporting standards; (2) technical, editorial, or interpretive amendments of the accounting and reporting regulations; (3) the public release of industry financial and statistical studies and reports prepared by the Bureau of Accounts and Statistics; (4) exemptions from reporting requirements under certain circumstances; and (5) the collection of special reports from foreign air carriers under certain circumstances. This expansion of authority delegated to the Director of the Bureau of Accounts and Statistics is intended to relieve the Board from having to give time and attention to routine matters.

DATES: Effective: December 7, 1978. Adopted: December 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: This rule will relieve the Board of certain routine matters by adding several new delegations of authority to those now handled by the Director, Bureau of Accounts and Statistics, for matters in which there are no issues of substance or where policy standards are well defined so that the Board can spend time on more important matters that only it can decide.

UPDATING REGULATIONS

For many years, the Board has maintained a consistent policy of keeping its accounting and reporting regulations up to date with the latest professional standards in the field. The Board adopted this policy because experience had shown that a uniform accounting system, based on current accounting and reporting standards, provides a sound platform for the application of a wide variety of regulatory purposes, all of which can be traced back to a common starting point. Experience has also shown that such an accounting system is less burdensome. It provides a common data base to serve a variety of other financial reporting needs for local, state, Federal, creditor and investor concerns, and eliminates the need to explain differences between regulatory reports and financial reports issued to the general public.

Even though the policy of keeping the regulations up to date with generally accepted accounting and reporting standards has been clearly established, the Board itself still considers and issues each proposed rule and final rule updating the regulations. This individual consideration seems unnecessary in view of the consistency of the Board's policy over the years.

Moreover, the Board has noted that professional organizations and governmental bodies (like the Financial Accounting Standards Board and the Securities and Exchange Commission) that are responsible for molding accounting and reporting standards for the business community are issuing new policy pronouncements at a faster pace. This means that as time goes by the Board would be considering more of these update amendments.

Since the policy of keeping the accounting regulations current with accounting changes is well established, the Board has decided to delegate to the Director, Bureau of Accounts and Statistics, with the concurrence of the General Counsel and other concerned bureaus, the authority to propose and issue amendments to the Board's accounting and reporting regulations for the purpose of keeping them up to date with general accepted accounting principles.

Under the new procedure, the Director of the Bureau of Accounts and Statistics, using delegated authority, will propose the accounting changes to be incorporated into the regulations. The proposal will allow a thirty-day period

for comment.[1] After review of the comments, a final rule could also be issued under delegated authority when there are no substantial objections. If substantial objections are received, the proposed rule would come before the Board for decision in the same way that they are handled now. Even if a final rule is issued under delegated authority, a petition for review of staff action could be taken to the Board under § 385.50 of the Organization Regulations (14 CFR 385.50). The new delegation, therefore, will not diminish the rights of any party to rulemakings.

In establishing this new delegation, it is the Board's conclusion that this delegation will relieve it from having to consider a number of routine accounting changes that will take place each year, and allow the Board time to concentrate on more important matters.

INCORPORATING INTERPRETATIONS AND MAKING OTHER TECHNICAL AND EDITORIAL CHANGES

There are two other types of rule changes that are being delegated to the Director, Bureau of Accounts and Statistics, with the concurrence of the General Counsel and other concerned bureaus.

One type would allow the Director to incorporate accounting and reporting interpretations into the regulations. These interpretations are made by the Director, Bureau of Accounts and Statistics, and arise individually on a case-by-case basis over a long period of time. Before this body of interpretations becomes too cumbersome to be used in a convenient and efficient manner, steps should be taken to rescind those that have outlived their usefulness and, where practical, to incorporate others into the regulations by rulemaking proceedings. Because carriers are already bound by the interpretations, there would be no actual changes in the accounting and reporting instructions.

The other type of rule change involves editorial and technical amendments to enhance the clarify or usefulness of financial and statistical reports. Most of these changes are very minor and do not warrant the Board's attention at public meetings.

INDUSTRY REPORTS

The Bureau of Accounts and Statistics uses financial and statistical data filed by the carriers to prepare industry financial and statistical reports for public release. These industry reports are not now released to the public without Board approval. A fourth delegation of authority will permit these reports to be released by the Director, Bureau of Accounts and Statistics, but will be clearly marked as a staff study.

EXEMPTIONS FROM REPORTING

On rare occasions, carriers have been obliged to file report forms with the board even though they have had nothing to report. This usually happens when carriers cease operations for some reason, or when they do not conduct the activity covered in the report. These conditions are sometimes temporary and sometimes not.

The Director of the Bureau of Accounts and Statistics has the delegated authority to waive accounting and reporting requirements; but this authority is subject to a variety of conditions and limitations which vary according to the regulation containing the requirement to be waived. In order to give the Director the authority to exempt carriers from reporting for indefinite periods, the Board is adding a fifth delegation of authority to permit such exemptions when unusual circumstances are involved, or when the carrier has nothing to report.

FOREIGN AIR CARRIERS

Section 385.17(g) delegates authority to the Director, Bureau of Accounts and Statistics, to require special reports from any air carrier when he determines that such reports are necessary to meet temporary information needs, assist in an evaluation of continued financial fitness, or comply with special information requests by Congress, the Board, or another agency or component of the Federal Government. Because the definition of "air carrier" is restricted to U.S. citizens by the Act, this delegation of authority does not apply to foreign air carriers. Consequently, the Board's staff must either submit special reporting requirements for foreign carriers to the Board or rely on voluntary compliance with requests for information. To date, voluntary compliance with requests has proven less than satisfactory.

To solve this problem, this final rule will add to the Director's authority the power to collect, under the same circumstances now established for U.S. carriers, special reports from foreign air carriers.

Since these amendments are of an administrative nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedures are unnecessary and that the rule may become effective immediately.

Accordingly, the Board amends § 385.17 of the Organization Regulations (14 CFR 385.17) by revising paragraph (g) and adding new paragraphs (i), (j), (k), (l), and (m) to read as follows:

§ 385.17 Delegation to the Director, Bureau of Accounts and Statistics.

* * * * *

(g) Require special reports from any air carrier or any foreign air carrier under circumstances upon a finding that such reports are necessary to meet temporary information needs, assist in an evaluation of continued financial fitness, or comply with special information requests by Congress, the Board, or another agency or component of the Federal Government.

* * * * *

(i) Propose and issue amendments to accounting and reporting regulations to conform with generally accepted accounting principles, with the concurrence of the General Counsel and other concerned bureaus, when no person having a substantial interest expresses an objection to the change. A thirty-day period for comments will be allowed.

(j) Propose and issue amendments to incorporate accounting and reporting interpretations into the Board's regulations, with the concurrence of the General Counsel and other concerned bureaus, when no person having a substantial interest expresses an objection to the change. A thirty-day period for comments will be allowed.

(k) Propose and issue amendments of an editorial or technical nature that prescribe the manner and form in which financial and statistical reports should be submitted when no person having a substantial interest expresses an objection to the change.

(l) Issue staff reports prepared from financial and statistical data filed with the Board.

(m) Exempt air carriers and foreign air carriers from reporting requirements because of unusual circumstances.

(Secs. 204(a), 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766, as amended; (49 U.S.C. 1324(a), 1377). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; (49 U.S.C. 1324 (note)).)

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34681 Filed 12-12-78; 8:45 am]

[1] We are not allowing the usual sixty-day period for comment because the entire thrust of our proposal is to establish procedures which allow carriers to use as expeditiously as possible the latest accounting and reporting standards in their financial reports filed with the Board.

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-6003, 34-15380, 35-20811, IC-10505]

UNIFORM AND INTEGRATED REPORTING REQUIREMENTS: MANAGEMENT REMUNERATION

Amendments to Disclosure Forms

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending certain disclosure forms and regulations to standardize and improve the Commission's disclosure requirements relating to management remuneration. The amendments revise the management remuneration disclosure provisions in certain registration statements, periodic reports and proxy and information statements filed with the Commission under the Securities Act of 1933 and the Securities Exchange Act of 1934 to require tabular and other forms of disclosure as to all remuneration from the registrant and its subsidiaries for services during the latest fiscal year by certain specified directors, executive officers and officers of the registrant. The manner in which certain of such amounts will be computed are specified in the new amendments and in some cases will be the amount expensed by the registrant, or its subsidiaries for financial reporting purposes.

EFFECTIVE DATE: The amendments are effective with respect to fiscal years ending after December 25, 1978 for initial filings made on or after January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Steven J. Paggioli, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, 500 North Capitol Street, Washington, D.C. 20549 (202/376-8090).

SUPPLEMENTARY INFORMATION: On July 28, 1978, the Commission published for comment proposed amendment to the management remuneration disclosure requirements which appear in Item 4 of Regulation S-K.[1] Although most of the revisions proposed for comment have been adopted, there are two principal areas in which the Commission has not followed the proposals: (1) The Commission is not adopting any provisions similar to those proposed for comment to extend the remuneration disclosure requirements to officers or directors of wholly-owned subsidiaries of the registrant; (2) the columnar presentation for management remuneration has been revised to call for a column reflecting salaries and similar amounts actually distributed or accrued during the latest fiscal year; a column reflecting the aggregate of certain other forms of non-contingent remuneration for services during the fiscal year—such as insurance premiums and personal benefits; and a column reflecting various forms of contingent remuneration for which amounts were expensed during the year for financial reporting purposes. Although these columns would be presented in the same remuneration table, there would be no requirement to aggregate the amounts in a separate column.

BACKGROUND

In Release No. 33-5950 the Commission described the reasons for proposing amendments in the area of management remuneration disclosure and noted that, as management remuneration packages have become more diverse and complex, the format for their disclosure in Commission filings has changed. Thus, many forms of remuneration presently are not being included in the remuneration table but, instead, are disclosed through narrative discussions set forth in footnotes or paragraphs following the table. It was further noted in that release that the proposals were intended to require that the table reflect all remuneration which can be quantified and related to the services performed by individual members of management during the fiscal year.

A number of commentators addressed the broad policy question of whether it is appropriate to require that the remuneration table include all forms of remuneration described in the proposals.

Some indicated that the present requirements and disclosure practices are adequate and that it would be inappropriate to present, in a single table, forms of remuneration which range from cash salaries to deferred or contingent incentive arrangements.

The Commission has given careful consideration to the over 350 letters of comment on the proposed amendments, many of which addressed the question of whether all forms of remuneration should be included in the remuneration table. Based upon the Commission's review of these letters of comment, upon the Commission's experience in administering the federal securities laws, and upon certain data which appears in the record in the hearings on corporate goverance,[2] the Commission has determined that it is in the public interest and will promote the protection of investors to require that the forms of remuneration described in the proposals be included in the remuneration table should be amended, generally in the manner proposed, as a means of promoting better investor understanding. In the Commission's view, the expansion of the table is consistent with the relevant statutory provisions[3] and is a basic element in providing security holders with information with which to assess the performance of management.

The following portions of this release will describe the amendments adopted and will discuss certain issues raised by commentators. However, for a more complete understanding of the new requirements the reader should

[1] Securities Act Release No. 33-5950 (July 28, 1978) (43 FR 34415). Regulation S-K is a disclosure provision which specifies information required to be disclosed in various registration statements, periodic reports, and proxy and information statements filed with the Commission under the Securities Act of 1933 and the Securities Exchange Act of 1934. The requirements of Item 4 are incorporated by reference in a number of disclosure forms and regulations and thus will revise the disclosure requirements of Forms S-1 and S-11 under the Securities Act and Forms 10, 10-K and Regulation 14A under the Exchange Act.

[2] See Securities Exchange Act Release No. 13482 (April 28, 1977) (42 FR 23901) announcing a re-examination of the Commission's rules relating to shareholder communications, shareholder participation in the corporate electoral process and corporate governance generally; in connection with that inquiry, certain proposed amendments to the Commission's disclosure requirements were published for comment in Securities Exchange Act Release No. 14970 (July 18, 1978) (43 FR 3195).

[3] Item 14 of Schedule A under the Securities Act describes information which, pursuant to Section 7, might be required in prospectuses:

(14) The remuneration, paid or estimated to be paid, by the issuer or its predecessor, directly or indirectly, during the past year and ensuing year, to (a) the directors or persons performing similar functions, and (b) its officers and other persons, naming them whenever such remuneration exceeded $25,000 during any such year. Under the Exchange Act, in sections 12(b) (D) and (E), a registration statement under that Act may, subject to Commission rulemaking, contain the following:

(D) The directors, officers, and underwriters, and each security holder of record holding more than 10 per centum of any class of any equity security of the issuer (other than an exempted security), their remuneration and their interests in the securities of, and their material contracts with, the issuers and any person directly or indirectly controlling or controlled by, or under direct or indirect common control with the issuer;

(E) Remuneration to others than directors and officers exceeding $20,000 per annum;

Section 13(a)(1) of the Exchange Act vests the Commission with rulemaking authority to require disclosure to keep reasonably current the information required to be included in or filed with a registration statement filed under that Act.

refer to the Text of the Amendments, set forth later herein.

Item 4(a)—Remuneration of Management. It was proposed in Release No. 33-5950 that Item 4(a) be amended in a number of respects from the existing remuneration disclosure requirements. Although many of the proposals have been retained, others have been amended in response to the public comments received.

Present Item 4(a) calls for disclosure regarding "all direct remuneration paid by the registrant and its subsidiaries during th registrant's last fiscal year . . ." As adopted today, the item requires disclosure "concerning all remuneration . . . for services in all capacities to the registrant and its subsidiaries during the registrant's last fiscal year or, in specified instances, prior fiscal years." It thus would require disclosure not only of remuneration paid directly by the registrant and its subsidiaries but also of all remuneration from third partries for services to the registrant and its subsidiaries. The Commission feels that any burden imposed on the registrant in connection with obtaining this information from the individual officer, director or others is outweighed by the value of the information to investors. Further, such information is relevant, even though not paid directly by the registrant or its subsidiaries, since there may often be some form of indirect consideration given by the registrant to the third party who paid the individual. In addition, disclosure will be required in certain instances regarding remuneration not previously disclosed which is for services performed in prior fiscal years. For example, if a company prepares and uses a 1978 proxy statement in March, 1979, the remuneration table would not reflect a bonus for 1978 which was actually determined and awarded in May, 1979. Thus, the remuneration table for the 1979 proxy should include such amount.

However, it should be noted that the amendments would not require disclosure of remuneration paid by an investment company's investment adviser to officers and directors of the company.

These sums are obtained by the adviser essentially from its advisory fee which is required to be disclosed and appears to be the pertinent disclosure which should be made by the company to its shareholders.

Item 4(a)(1)—Five Executive Officers or Directors. The proposal would have changed the present item by increasing the number of persons with respect to whom disclosure is required from three to five, by deleting the $40,000 floor below which disclosure is not required, and by referring to "executive officer" rather than "officers."

The proposed increase from three to five persons who might be required to be named in the remuneration table has been retained. Many commentators felt that the increase is appropriate because a number of corporations, particularly those with larger and more diverse operations, have a chief executive office consisting of two or more persons or have the top management functions performed by more than three persons. Other commentators indicated a belief that the proposed increase from three to five persons who are to be named in the table should not be adopted because the invasion of personal privacy implicit in the proposal was not justified, particularly with respect to smaller issuers whose top management may be concentrated among a smaller group of persons and whose remuneration to the fourth and fifth executive-officer or director may be relatively small.

The Commission believes that the retention of a floor below which disclosure need not be made alleviates many of the problems raised by the public comments. The floor, which has been raised by 25% from $40,000 to $50,000 in recognition of inflationary effects on remuneration, should mean that executive officers or directors of some smaller issuers will not be required to have this information made public; at the same time, the increase to the five most highly compensated "executive officers or directors" of the registrant will provide investors with further data with which which to assess the performance of key members of management. The $50,000 floor will be determined by reference to the sum of the remuneration to be included in Column C1 and C2 which will reflect all forms of current remuneration. The reference to "executive officers" will also have the effect of limiting disclosure of individual remuneration to those persons who, as set forth in the definition of that term, and as discussed further below, perform policy making functions.

Proposed Item 4(a)(2)—Not adopted. The Commission had proposed a new Item 4(a)(2) intended to reach the five most highly compensated executive officers or directors of the registrant or its wholly-owned subsidiaries not already named pursuant to proposed Item 4(a)(1), if the individual's aggregate remuneration exceeded $150,000.

This proposal, which could have resulted in naming persons who are officers or directors of wholly-owned subsidiaries, elicited a very large number of adverse comments which noted, among other things, that an invasion of personal privacy and confidentiality could occur under the proposal, without any materially important new information becoming available to shareholders and investors. It was also felt that the information would not be material because the individuals concerned, particularly executive officers and directors of subsidiaries, might not be among those key policymakers of the registrant whose remuneration should be disclosed. It was also argued by certain commentators that since the heads of subsidiaries are generally not in a position to determine their own salary levels, the possibility of conflict or abuse in connection with establishing their levels of compensation is reduced. Also, since salaries are most often scaled down from those of the five most highly paid executives about whom disclosure is required by Item 4(a)(1), the public should be able to draw general conclusions about the level of remuneration of others, without requiring disclosure of additional named individuals. Another basis urged for not requiring information as to the next five persons is that other provisions proposed would disclose the overall group compensation of officers and directors of the registrant.

Many corporations also pointed out that salary information regarding heads of subsidiaries is considered very confidential within the corporation and that adverse consequences could result if the information is made available to the heads of other subsidiaries. The officers of various subsidiaries are allegedly paid varying amounts due to a number of factors which may have no disclosure significance, such as seniority, pay scales in the industry, special arrangements to induce employment, employment contracts entered into at the time the subsidiary was acquired, and foreign cost-of-living allowances. Among the adverse consequences noted if disclosure were made were a loss of morale, a trend toward standardization of salaries at higher levels without regard to individual factors and a danger of pirating of employees by competitors willing to pay a higher salary.

The proposal was especially criticized in connection with its effects on executive officers or directors of the registrant's foreign subsidiaries. One factor of grave concern to the commentators and to the Commission is the possibility of increased danger of acts of terrorism, including kidnapping and ransom demands, if salaries of the heads of foreign subsidiaries are publicly known. In addition, it was pointed out that such individuals are often paid certain amounts, such as cost-of-living, home-leave, and education allowances to compensate them for living overseas; these arrangements, absent further disclosure, could make it difficult to compare the remuneration of a foreign resident with that of a domestic resident. Also the recent currency fluctuations would impair comparability because of the greater

number of dollars needed to maintain a given level of remuneration in a foreign currency.

Although the Commission has determined not to adopt the proposals which could have elicited remuneration disclosure as to executive officers or directors of subsidiaries, it is concerned that in certain instances the disclosure of such data solely as to managers of the parent could result in significant omissions. For example, a key employee or director of a subsidiary might be the highest-paid person in the entire corporate structure and have managerial responsibility for major aspects of the registrant's overall operations. In such a case, information describing only the remuneration of executive officers and directors of the parent might not provide the investor with information necessary to understand executive management remuneration.

The definition of the term "executive officer" has been adopted as proposed and includes, among others, "any other person who performs similar policy making functions." Accordingly, the Commission advises registrants that they should give careful consideration to the question of who are the appropriate persons to be named in the table, and to whether certain highly compensated directors or employees of subsidiaries are in fact "executive officers" of the registrant. The Commission will monitor the disclosure practices in this area to determine whether further actions are appropriate.

Adopted Item 4(a)(2)—Group Information. Item 4(a)(2) as adopted is unchanged from the corresponding item as presently in effect and as proposed. It elicits aggregate remuneration for all officers and directors of the registrant as a group, without requiring that they be named.

Specified Tabular Format. The table as adopted contains five columns but has been modified in certain respects. Proposed Column E, which would have been the sum of Columns C and D, has not been adopted because, as was pointed out by the commentators, the amounts in those two columns might not be viewed as comparable. Since Column C relates to current remuneration and since Column D relates to contingent remuneration which may be realized in the future, it was urged by some commentators that it may be misleading to show a total for the two of them. The Commission has concluded that the proposed aggregate column might be eliminated since specific information will nonetheless be readily available in a tabular format so that a reader may readily evaluate it in the manner deemed most appropriate.

Instructions to Item 4(a)—Instruction 1—Columns A and B. Columns A and B follow the approach in present Item 4(a) and call for the name of the individual or the number of persons in the group and the capacities in which such persons served during the year.

Instruction 1 incorporates the substance of Instruction 2 of the Item 4(a) and defines the term "executive officer." The definition of "executive officer" includes "any vice president in charge of a principal business unit, division or function (such as sales, administration or finance). . . ." It also points out that Item 4(a)(1) refers to "executive officers," while Item 4(a)(2) includes "officers," a broader group of management persons than is encompassed in the former term.

Instruction 2—Column C. Instruction 2 has been revised in certain respects to specify as a part of Column C those forms of remuneration most typically regarded as "current remuneration," with two subcolumns for presentation of different forms of current remuneration. The instruction indicates that Column C includes cash or cash equivalents which have been distributed during the fiscal year or which have been accrued during the fiscal year and with reasonable certainty will be distributed or unconditionally vested in the future, if they relate to services performed in the fiscal year. Column C1 will include salaries, fees, commissions, bonuses, and directors' fees; Column C2 will include cash or cash equivalent remuneration attributable to securities or property, certain insurance benefits, and personal benefits.

Instruction 2(a)—Column C1—Salaries. Column C1, as adopted, will include all cash remuneration distributed or accrued as salary, fees, commissions, bonuses and directors' fees with respect to services rendered during the fiscal year. Amounts which are determined and due to the officer or director in the form of cash which were earned for services performed in that fiscal year but with respect to which payment has been deferred, either voluntarily by the individual or pursuant to the provisions of an agreement, will be included in Column C1. Column C1 should not reflect amounts attributable to services rendered in prior years which have been included in the remuneration table for a prior fiscal year. Conversely, if an amount actually distributed in the latest fiscal year relates to services rendered in a prior fiscal year, Column C1 should include such amount, less any amount relating to the same contract, agreement, plan, or arrangement previously included in the remuneration table for a prior fiscal year.

Instruction 2(b)—Column C2—Securities or Property. The spread between the acquisition price, if any, and the fair market price of all securities or property acquired under any plan or arrangement, including securities issued on exercise of options, for the benefit of any of the specified persons or groups, less any amount previously reported in the remuneration table for a prior fiscal year with respect to the same contract, agreement, plan or arrangement should be included in Column C2. The fair market price of any such securities or property shall be determined as of the date during the fiscal year that either of the following events occurs, or if the plan or arrangement contemplates that both such events may occur, the fair market price shall be determined as of the date during the fiscal year that the later event occurs: (1) The recipient exercises any option, right or similar election in connection with the contract, agreement, plan or arrangement; or (2) the recipient becomes entitled without further contingencies to retain the securities or property.

Instruction 2(c)—Column C2—Life or Health Insurance; Medical Reimbursement Plans. Proposed Instructions 3(b) relating to life insurance and 3(c) concerning health insurance and medical reimbursement plans have been removed form Instruction 3 and appear as Instruction 2(c). Since benefits received pursuant to such plans generally would not be of a contingent nature, but rather would be deemed Column C2 remuneration, these instructions have been transferred to this Instruction 2. In this regard, based upon numerous comments, the exemption from the reporting requirements for nondiscriminatory group life insurance programs has been incorporated into this instruction.

Instruction 2(d)—Column C2—Item 4(a)—Personal Benefits. The provisions of proposed Instruction 3(f) specified that personal benefits which are not directly related to job performance, including those which indirectly benefit a specified person (other than those benefits provided to a broad category of employees on a basis which does not discriminate in favor of officers and directors), would be included in Column D. This position is reiterated in the amendments as adopted today; however, such benefits are to be reported in Column C2 to reflect the revision of the table to distinguish between current and contingent forms of remuneration in Columns C and D respectively and the provisions now appear as Instruction 2(d) to Item 4(a).

New Instruction 2(d)(i) concerns the method of valuation for personal benefits. It requires that personal benefits be valued on the basis of the registrant's and subsidiaries' aggregate

actual incremental costs; however, if such aggregate costs are significantly less than the aggregate amounts the recipient would have had to pay to obtain the benefit, appropriate disclosure, including the value to the recipient, is required in a footnote to the table.

Most commentators concurred in the Commission's proposal to value personal benefits on the basis of actual incremental cost. However, many commentators took issue with that portion of the provisions which would require separate footnote disclosure where there is a significant disparity between actual incremental cost to the registrant and value to the recipient. These commentators were of the view that the value of a benefit to the recipient is not material to investors, since that value does not bear on the use of corporate funds or reflect on the integrity of management.

While the Commission continues to believe that the registrant's cost generally is the appropriate measure for disclosing personal benefits as management remuneration and wishes to reemphasize its conclusion that in most circumstances use of this measure will result in adequate disclosure, there may in fact be some instances where sole reliance on aggregate incremental costs as the basic valuation for disclosure may be inappropriate. To the extent that personal benefits may comprise a significant component of the remuneration of a given individual, or the management group, inclusion of dollar amounts that represent a nominal incremental cost to a registrant, without further explanation, may not provide shareholders with complete information regarding the level of management remuneration. The Commission believes that in those instances where the footnote disclosure is required, shareholders will be afforded more accurate information with which to assess the performance of management. Accordingly, the provision for footnote disclosure has been retained, in order to provide more adequate disclosure where particular facts and circumstances suggest that valuation information supplemental to aggregate incremental cost may be warranted.

As proposed, the conditional exclusion for certain personal benefits provided that if a registrant could not determine without unreasonable effort or expense the specific amount of certain personal benefits, or the extent to which benefits are personal rather than business, the amount of such personal benefits may be omitted from the table provided that: (A) after reasonable inquiry, the registrant has concluded that the aggregate amounts of such personal benefits which cannot be specifically or precisely ascertained do not exceed $10,000 as to each person (or in the case of a group, $10,000 for each person in the group); and (B) the board of directors or any appropriate committee of the board, after reasonable inquiry, has concluded that the above conditions are satisfied and that the information set forth in the table is not rendered materially misleading by the omission of these amounts.

Most of the commentators supported the adoption of a conditional exclusion for those personal benefits that are very difficult to identify and value. Many commentators were of the view that the requirement for review by the board or a committee of the board was unduly burdensome and might result in additional effort and expense in the course of the preparation of disclosure documents, noting that in their opinion, registrants and their boards of directors already have full responsibility for the adequacy and accuracy of disclosure in proxy statements as well as other disclosure documents. Since the Commission is of the view that registrants, acting through their directors and officers, do have the responsibility for disclosures made in proxy statements and other disclosure documents, it has determined that mandating a specific procedural requirement for directorial review of personal benefit disclosure is not necessary. Accordingly, the proposed requirement for directorial review of the conditional exclusion has not been adopted as an express provision of the new amendments.

The proposed conditional exclusion also provided that whenever the personal benefits included in the table with respect to a named person represent 10 percent of such person's remuneration, or $25,000, whichever is less, information about the personal benefits must be included in a footnote disclosing the amount of such benefits and briefly describing them. Some commentators opposed this provision, indicating their views that any additional footnote required by this portion of the instruction would not result in meaningful disclosure and that the inclusion of amounts representing personal benefits in the table should be sufficient.

However, as noted in Release 33-5950, disclosure that a large portion of an executive's remuneration is in the form of personal benefits may permit shareholders to make better judgments about remuneration data, and the Commission believes that such disclosure would not impose any undue burdens on registrants in these instances in which an individual's remuneration is comprised of significant amounts of personal benefits. Accordingly, the proposed requirement for footnote disclosure has been adopted, with the 10%/$25,000 threshold determined with respect to an individual's aggregate remuneration disclosed in columns C1 and C2.

Instruction 3. Instruction 3 has been revised in a number of ways. As noted above, the Commission has responded to the commentators' concern that certain forms of remuneration are subject to contingencies and should not be aggregated with current remuneration by revising the remuneration table presentation to eliminate Column E and to redefine the types of benefits required under Column D. Instruction 3 discusses in some detail the types of remuneration which may be of a contingent nature and thus reportable under column D. Generally, if the distribution of the forms of remuneration described in Instruction 3, or the unconditional vesting or measurement of benefits thereunder is subject to future events, amounts expensed for financial reporting purposes under such arrangements should be included in Column D. The types of plans discussed below are among those typically meeting these standards, however similar disclosure should be made in Column D as to any similar plan or arrangement.

Instruction 3(a)—Pension or Retirement Plans; Annuities; Employment Contracts; Deferred Compensation Plans. Except insofar as the introductory language of Instruction 3 has been revised, no revisions have been made from Instruction 3(a) as proposed. This instruction will require that Column D include any amounts expensed for financial reporting purposes by the registrant and its subsidiaries for the year which represents the contribution, payment, or accrual for the account of the specified persons or group under any pension or retirement plan, annuity, employment contract, deferred compensation plan, or similar arrangement. Contributions to tax qualified plans would be included but a general exclusion is permitted if the amount of the contribution for specific individuals is not or cannot readily be separately or individually calculated by the regular actuaries for the plan. If the exclusion is utilized, a footnote to the table would be required stating this fact and disclosing the percentage which the aggregate contributions to the plan bears to the covered compensation of plan participants and briefly describing the covered compensation. The Commission anticipates that the footnote disclosure may provide a reasonable indication of the approximate amount of remuneration omitted from the table pursuant to this provision.

Instruction 3(b)—Incentive and Compensation Plans and Arrangements. Although this instruction evoked a large commentator response,

no revisions have been made in the instruction as proposed, other than reclassifying it as subparagraph (b). The Commission believes, however, that the commentators' major concerns that the inclusion of such benefits would be misleading to shareholders and would distort communication have been resolved by the revisions in the remuneration table presentation.

Instruction 3(b) requires that Column D include any amount expensed by the registrant or its subsidiaries for financial reporting purposes for the year in connection with stock options, stock appreciation rights, phantom stock plans and any other incentive or compensation plan or arrangement pursuant to which the measure of benefits is based on objective standards or the value of securities. This instruction would encompass not only those arrangements in which the measure of benefits is based on the market prices of securities but also those in which benefits result, for example, from the registrant or a defined profit center having met predetermined earnings goals.

This instruction would require current disclosure of remuneration earned and expensed during the year despite the fact that the vesting or measurement of benefits is subject to future events. Since generally accepted accounting principles require the expensing for financial reporting purposes of the buildup in the value of interests under certain stock incentive plans, this instruction would require that any such amount be reported as remuneration under Column D. Conversely, because disclosure in the remuneration table is generally geared to financial reporting, if the selected levels or conditions are not achieved, Instruction 3(b)(2) permits a credit to be taken against the remuneration disclosed in Column D. However, any such later-year credit included in the table would be required to relate to an item actually reflected in the table for a prior year and to be specifically disclosed by footnote.

Instruction 3(c)—Stock Purchase Plans; Profit Sharing and Thrift Plans. Proposed instruction 3(e) has been reclassified Instruction 3(c), but has not otherwise been revised. This instruction would require disclosure of any contribution made under any stock purchase, profit sharing, thrift or similar plan, whether or not the plan is qualified under the Internal Revenue Code. This instruction is intended to assure that contributions under arrangements, whether or not tax qualified, are treated as remuneration. It should also be noted that, depending upon the facts and circumstances, plans of this type might not involve contingencies geared to future events and would be includable in Column C2, rather than Column D.

Instruction 4—Transactions with Third Parties. Instruction 4 as proposed and adopted requires that transactions between the issuer or its subsidiaries and third parties, the primary purpose of which is to remunerate the persons specified in Item 4(a), are to be incorporated into remuneration disclosure; otherwise, the disclosure of such transactions would be governed by the "Certain Transactions" provisions.

This instruction met virtually no objection from the commentators and is adopted in the form proposed. The position that Item 4(a) does not require disclosure of remuneration paid to a partnership in which any officer or director has been retained; any such transaction should be disclosed pursuant to other disclosure requirements.

Instruction 5—Other Permitted Disclosure. As proposed in Release 33-5950, Instruction 5 allows registrants to provide additional remuneration disclosure through a footnote to the table, additional tabular columns, or otherwise, if greater detail is appropriate. The instruction is adopted in the form proposed; however, as noted in that release, Instruction 5 should not be construed to allow amounts required to be included in the remuneration table to be presented solely in a footnote.

Instruction 6. Definition of "Plan." Proposed Instruction 6 defined "plan" as used in this item to include all plans, contracts, authorizations, or arrangements, whether or not set forth in any formal document. This definition is identical to that appearing in present Instruction 1 to Item 4(b) of Regulation S-K and has been retained.

Item 4(b) Proposed Remuneration. Item 4(b) as proposed in Release 33-5950 would require a brief description of all remuneration payments proposed to be made in the future, pursuant to any existing plan or arrangements, to the persons and groups specified in Item 4(a). As to defined benefit or actuarial plans with respect to which amounts are not included in the table pursuant to Instruction 3(a) to Item 4(a), a separate table was proposed to be included, showing the estimated annual benefits payable upon retirement to persons in specified remuneration and years-of-service classifications.

This item is substantially similar to present Item 4(c) of Regulation S-K and was not the subject of extensive comment. However, in response to several commentators' concerns, a clarifying paragraph similar to the instruction to current Item 4(c) has been added. This paragraph provides that information need not be furnished with respect to group life, health, hospitalization, or medical reimbursement plans which do not discriminate in favor of officers or directors and which are available generally to all salaried employees; this exclusion is similar to Instruction 2(c) of Item 4(a).

Item 4(c) Remuneration of Directors. Proposed Item 4(c)(1) required a description of any standard arrangements, stating amounts, by which directors of the registrant are compensated for all services as a director, including any additional amounts payable for committee participation or special assignments. Specification of remuneration received by directors in addition to or in lieu of that specified by any standard arrangement would also be required, including the names of directors and amounts of such remuneration earned by each (with a cross-reference allowed for any persons as to whom this information is given in Item 4(a)). Item 4(c)(2) proposed to require disclosure as to the aggregate remuneration for the last fiscal year for all directors of the registrant who are not also officers of the registrant or its subsidiaries, as a group, stating the number of persons without naming them.

Several commentators supported the proposed Item 4(c) disclosure, believing that useful information will be provided and that shareholders are entitled to know the method used to compensate non-officer directors. Also, as noted in Release 33-5950, a number of companies already disclose this type of information on a voluntary basis. However, some commentators were of the view that the disclosure provision of proposed Item 4(c)(2), which called for disclosure of the aggregate remuneration of all non-officer directors as a group, and that of Item 4(a)(2), which requires disclosure of remuneration (including fees and directors' fees) for all officers and directors as a group, would result in duplication of disclosure.

The Commission believes that the provisions of Item 4(c)(1) for disclosure of standard and other compensation arrangements, in conjunction with Item 4(a), will provide shareholders with the information necessary for informed judgments about remuneration data on directors. Accordingly, Item 4(c)(1) has been retained (with a subclassification redesignated as new Item 4(c)(2) for remuneration as a director pursuant to arrangements other than standard arrangements). Since director's compensation will be included for all officers and directors as a group in Column C1 of the table required by Item 4(a), the disclosure which would have been required by proposed Item 4(c)(2) (i.e. aggregate remuneration of all non-officer directors as a group) has been deleted.

Additional Recommendations. In Release 33-5950, the Commission noted that several commentators have suggested that the remuneration item should be amended or modified to require disclosure in the following four specific areas: (1) Requiring a more detailed breakdown of the components of remuneration; e.g., disclosure of specific amounts for incentive plans, bonus arrangements, retirement plans, personal benefits and similar provisions; (2) requiring disclosure of the spread between the fair market value of the issuer's common stock and the exercise price of any presently outstanding unexercised stock options; (3) requiring disclosure of the cost to an issuer and its subsidiaries of owning, maintaining, and operating any property, facility, service, equipment, or similar item (including, but not restricted to aircraft, apartments, lodges, resort facilites, automobiles, yachts, club or recreational memberships) if the personal use made of such item during the fiscal year was predominantly by or for the benefit of officers, executive officers or directors of the registrant and its subsidiaries. Disclosure would be required of the cost of a facility used for both business and personally by executives, regardless of the extent of personal use; and (4) requiring disclosure of the aggregate annual cost to the registrant and its subsidiaries of maintaining the office of the chief executive.

The commentators were almost unanimously opposed to any action requiring disclosure in these four areas. Many commentators were of the opinion that the remuneration disclosure item as proposed to be revised would provide a sufficiently detailed breakdown and suggested that refinement to present a breakdown of further specific items would result in more confusing and less comprehensible disclosure.

Similarly, strong opposition was expressed to requiring the reporting of the spread between the fair market value of the issuer's common stock and the exercise price of any presently outstanding unexercised stock options. Most commentators took the position that these amounts merely reflect changes in market values and thus do not reflect concepts of individual remuneration and may be subject to substantial contingencies which may prevent realization of any such amount by option holders.

With respect to disclosure of the cost of certain assets if the personal use made thereof was predominantly by or for the benefit of management, most commentators were of the opinion that in the large majority of cases these assets have an essential business purpose, and in any event noted that any material personal use of such assets by officers and directors already would be required to be reported under the interpretive guidelines and proposed instructions regarding personal benefits.

Similarly, the cost of maintaining the office of the chief executive was largely viewed as an essential business expense. The commentators felt that disclosure of the aggregate annual cost would not result in meaningful disclosure since the role and function of this office may legitimately vary from company to company, and commentators questioned the appropriateness of including this essential cost concept in the context of remuneration.

The Commission has considered the views of the commentators and others and it has determined at this time not to propose any disclosure requirements relating to the additional recommendations listed in Release 33-5950.

Effective Date and Operation of the Amendments. The amendments are effective for filings made with the Commission that contain information with respect to fiscal years ending on or after December 25, 1978, when such filings are initially made on or after January 15, 1979.

The Commission is aware that certain of the concepts embodied in the amendments represent a departure from the prior practice in disclosing management remuneration. For this reason, the staff of the reviewing branches in the Division of Corporation Finance will be available to discuss interpretive issues presented in connection with specific registrants. Moreover, the staff will be flexible in the use of its discretion in reviewing filings complying with the new provisions and will monitor the disclosure practices of the coming proxy season to determine whether to recommend further actions to the Commission.

Certain Findings. As required by Section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the amendments adopted herein would have on competition and has concluded that they would impose no significant burden on competition. In any event, the Commission has determined that any possible burden will be outweighed by, and is necessary and appropriate to achieve, the benefits of these amendments to investors and registrants.

Text of the Amendments. 17 CFR 229.20 is amended by revising Item 4(a), (b) and (c) thereof to read as follows:

§ 229.20 Information required in document.

Item 4. Management remuneration. (a) *Current remuneration.* Furnish the information required in the table below, in substantially the tabular form as specified, concerning all remuneration of the following persons and groups for services in all capacities to the registrant and its subsidiaries during the registrant's last fiscal year, or, in specified instances, certain prior fiscal years:

(1) *Five executive officers or directors.* Each of the five most highly compensated executive officers or directors of the registrant as to whom the total remuneration required to be disclosed in Columns C1 and C2, below, would exceed $50,000, naming each such person; and

(2) *All officers and directors.* All officers and directors of the registrant as a group, stating the number of persons in the group without naming them.

(3) *Specified Tabular Format:*

Remuneration Table

(A)	(B)	(C) Cash and cash-equivalent forms of remuneration		(D)
		(C1)	(C2)	
Name of individual or number of persons in group	Capacities in which served	Salaries, fees, directors' fees, commissions, and bonuses	Securities or property, insurance benefits or reimbursement, personal benefits	Aggregate of contingent forms of remuneration

Instructions to Item 4(a). 1. *Columns A and B, Persons subject to this item.* (a) This item applies to any person who was an executive officer, officer, or director of the registrant at any time during the fiscal year. However, information need not be given for any portion of the period during which such person was not an executive officer, officer,

or director of the registrant, provided a statement to that effect is made. Item 4(a)(1) applies to "executive officers" and directors. Item 4(a)(2) applies to "executive officers," other officers, and directors.

(b) An "executive officer" of a person includes its president, secretary, treasurer, any vice president in charge of a principal business unit, division, or function (such as sales, administration or finance), and any other person who performs similar policy-making functions.

2. *Column C.* Column C shall include remuneration for services rendered during the fiscal year distributed to or for the account of the specified person or group, or which is accrued and with reasonable certainty will be distributed or unconditionally vested in the future. Column C shall also include any amount actually distributed or in the latest fiscal year which relates to services rendered in a prior fiscal year, less any amount relating to the same contract, agreement, plan, or arrangement previously included in the remuneration table for a prior fiscal year. However, if this calculation results in a credit, any such credit should be reflected in Column D and not Column C2. See Instruction 3(b)(2). Column C should be segregated into two subcolumns; the first, C1, should include the forms of remuneration described in Instruction 2(a), below; the second, C2, should include the forms of remuneration described in Instruction 2 (b), (c) and (d), below. Column C shall include cash or cash-equivalent amounts distributed or accrued, including but not limited to the following:

(a) *Salaries.* All cash remuneration distributed or accrued in the form of salaries, fees, directors' fees, commissions and bonuses.

(b) *Securities or property.* The spread betweeen the acquisition price, if any, and the fair market price of all securities or property acquired under any contract, agreement, plan or arrangement, including securities issued on exercise of options, for the benefit of any of the specified persons or groups, less any amount previously reported in the remuneration table for a prior fiscal year with respect to the same contract, agreement, plan or arrangement. The fair market price of any such securities or property shall be determined as of the date during the fiscal year that either of the following events occurs; or if the plan or arrangement contemplates that both such events may occur, the fair market price shall be determined as of the date during the fiscal year that the later event occurs:

(1) The recipient exercises any option, right or similar election in connection with the contract, agreement, plan or arrangement; or

(2) The recipient becomes entitled without further contingencies to retain the securities or property.

(c) *Life or health insurance; medical reimbursement plans.* The cost of premiums paid by the registrant or any of its subsidiaries on life insurance policies insuring any such person or group, unless the sole beneficiary under the policy is the registrant or its subsidiaries. Also, the cost of any premium for health insurance and the cost of any medical reimbursement plans (which may be the benefits paid under any such plans) for the benefit of the specified persons and groups shall be allocated to such persons and groups and reflected in Column C. Information need not be furnished pursuant to this Instruction 2(c) for any costs under group life, health, hospitalization, or medical reimbursement plans which do not discriminate in favor of officers or directors of the registrant and which are available generally to all salaried employees.

(d) *Personal benefits.* The value of personal benefits which are not directly related to job performance, other than those provided to broad categories of employees and which do not discriminate in favor of officers or directors, furnished by the registrant or its subsidiaries directly or through third parties to each of the specified persons and groups, or benefits furnished by the registrant or its subsidiaries to other persons which indirectly benefit the specified persons.

(i) *Valuation.* Such benefits shall be valued on the basis of the registrant's and subsidiaries' aggregate actual incremental costs; however, if such aggregate costs are significantly less than the aggregate amounts the recipient would have had to pay to obtain the benefits, appropriate disclosure, including the aggregate value to the recipient, should be made in a footnote to the table.

(ii) *Conditional exclusion of personal benefits.* If the registrant cannot determine without unreasonable effort or expense the specific amount of certain personal benefits, or the extent to which benefits are personal rather than business, the amount of such personal benefits may be omitted from the table provided the following condition is met:

A. *Inquiry.* After reasonable inquiry, the registrant has concluded that the aggregate amounts of such personal benefits which cannot be specifically or precisely ascertained do not in any event exceed $10,000 as to each person or, in the case of a group, $10,000 for each person in the group and has concluded that the information set forth in the table is not rendered materially misleading by virtue of the omission of the value of such personal benefits.

(iii) *Footnote disclosure.* If as to a person named in the table an amount representing personal benefits included in Column C2 exceeds 10 percent of the aggregate amount disclosed in Columns C1 and C2 or $25,000, whichever is less, include a footnote to the table stating the dollar amount or percentage of Column C2 represented by such personal benefits and briefly describing the kinds of such benefits.

3. *Column D.* Column D shall include remuneration of the specified persons and groups in whole or in part for services rendered during the fiscal year, including but not limited to the forms of remuneration described in paragraphs (a) through (c) below, if the distribution of such remuneration or the unconditional vesting or measurement of benefits thereunder is subject to future events.

NOTE.—Registrants need only report remuneration in accordance with Column D as it relates to the latest fiscal year. They need not, for example, report amounts accrued in previous periods.

(a) *Pension or retirement plans; annuities; employment contracts; deferred compensation plans.* (i) As to each of the specified persons and groups, the amount expensed for financial reporting purposes by the registrant and its subsidiaries for the year which represents the contribution, payment, or accrual for the account of any such person or group under any existing pension or retirement plans, annuity contracts, deferred compensation plans, or any other similar arrangements. Such amounts should be reflected as remuneration for the fiscal year under all such plans or arrangements, including plans qualified under the Internal Revenue Code, unless, in the case of a defined benefit or actuarial plan, the amount of the contribution, payment, or accrual in respect of a specified perons is not and cannot readily be separately or individually calculated by the regular actuaries for the plan.

(ii) If amounts are excluded from the table pursuant to the previous provision, include a footnote to the table: (A) Stating such fact; (B) disclosing the precentage which the aggregate contributions to the plan bears to the total remuneration of plan participants convered by such plan; and (C) briefly describing the remuneration covered by the plan.

(b) *Incentive and compensation plans and arrangements.* (1) With respect to stock options, stock appreciation rights plans, phantom stock plans and any other incentive or compensation plan or arrangement pursuant to which the measure of benefits is based on objective standards or on the value of securities of the registrant or another person, granted, awarded or entered into at any time in connection with services to the registrant or its subsidiaries, include as remuneration of each of the specified persons and groups any amount expensed by the registrant and its subsidiaries for financial reporting purposes for the fiscal year as remuneration for any such specified person or group attributable to an interest in any such plan or arrangement.

(2) If the registrant has expensed amounts for financial reporting purposes and reported such amounts in the remuneration table and in a subsequent year, in connection with the same plan or arrangement, credits its remuneration expense for financial reporting purposes, for any proper reason, including a decline in the market price of the securities, such credit may be reflected as a reduction of the remuneration reported in Column D. If amounts credited pursuant to this instruction are so reflected in the table, include a footnote stating the amount of such credit and briefly describing such treatment.

(3) The term "options" as used in this item includes all options, warrants, or rights, other than those issued to security holders as such on a pro rata basis.

(c) *Stock purchase plans; profit sharing and thrift plans.* Include the amount of any contribution, payment or accrual for the account of each of the specified persons and groups under any stock purchase, profit sharing, thrift, or similar plans which has been expensed during the fiscal year by the registrant and its subsidiaries for financial reporting purposes. Amounts reflecting contributions under plans qualified under the Internal Revenue Code may not be excluded.

4. *Transactions with third parties.* Item 4(a), among other things, includes transactions between the registrant and a third party when the primary purpose of the transaction is to furnish remuneration to the persons specified in Item 4 (a). Other transactions between the reqistrant is to furnish remuneration to the persons specified in Item 4(a). Other transactions be-

tween the registrant and third parties in which persons specified in Item 4(a) have an interest, or may realize a benefit, generally are addressed by other disclosure requirements concerning the interest of management and others in certain transactions. Item 4(a) does not require disclosure of remuneration paid to a partnership in which any officer or director was a partner; any such transactions should be disclosed pursuant to these other disclosure requirements, and not as a note to the remuneration table presented pursuant to Item 4(a).

5. *Other permitted disclosure.* The registrant may provide additional disclosure through a footnote to the table, through additional columns, or otherwise, describing the components of aggregate remuneration in such greater detail as is appropriate.

6. *Definition of "plan".* The term "plan" as used in this item includes all plans, contracts, authorizations, or arrangements, whether or not set forth in any formal documents. Item 4. [End of Instructions to Item 4(a)]

(b) *proposed remuneration.* Briefly describe all remuneration payments proposed to be made in the future, pursuant to any existing plan or arrangement to the persons and groups specified in Item 4(a). As to defined benefit or actuarial plans with respect to which amounts are not included in the table pursuant to Instruction 3(a) to Item 4(a), include a separate table showing the estimated annual benefits payable upon retirement to persons in specified remuneration and years-of-service classifications. Information need not be furnished with respect to any group life, health, hospitalization, or medical reimbursement plans which do not discriminate in favor of officers or directors of the registrant and which are available generally to all salaried employees.

(c) *Remuneration of directors.* (1) *Standard arrangements.* Describe any standard arrangement, stating amounts, by which directors of the registrant are compensated for all services as a director, including any additional amounts payable for committee participation or special assignments.

(2) *Other arrangements.* If a director of the registrant received remuneration for services as a director during the fiscal year in addition to or in lieu of that specified by any standard arrangement, state the name of such directors and the amount of such remuneration earned by each; if this information is given as to a person named in the table required by Item 4(a), a cross-reference may be used.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 1, 79 stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a) 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 5, 6, 78 Stat. 565-568, 569, 570-574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3-5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78*l*, 78m, 78n, 78o(d), 78w(a).)

AUTHORITY. The amendments are adopted pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) (15 U.S.C. 77f, 77g, 77h, and 77s) of the Securities Act of 1933; Sections 12, 13, 14, 15(d) and 23(a) (15 U.S.C. 78*l*, 78m, 78o(d) and 78w) of the Securities Exchange Act of 1934.

The Commission finds that any changes in the amended provisions from those published in Release No. 33-5950 have already been generally subject to comment and are either technical in nature or less burdensome than previous proposals so that further notice and rulemaking procedures pursuant to the Administrative Procedure Act (5 U.S.C. 553) are not necessary.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 4, 1978.

[FR Doc. 78-34669 Filed 12-12-78; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 1024-5]

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

Clean Air Act: Prevention of Significant Deterioration

AGENCY: Environmental Protection Agency.

ACTION: Interpretation of regulations.

SUMMARY: In June 1978, the Environmental Protection Agency (EPA) promulgated new regulations for the prevention of significant deterioration (PSD). Section 52.21(i)(4) of those regulations provides that they do not apply to a source whose application for a PSD permit under the old regulations would have been evaluated by March 1, 1978, but for an extension of the period for comment on the application. EPA has interpreted the new regulations as requiring, in a case where such a source ultimately got a permit under the old regulations, that construction on the source commence within one year and 18 days after permit issuance in order to preserve the validity of the permit.

DATES: Any petition for judicial review of this interpretation must be filed on or before February 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Wyckoff, Attorney, Office of General Counsel, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-0744.

SUPPLEMENTARY INFORMATION: The new PSD regulations which EPA promulgated in June 1978 contain certain grandfather exemptions. 43 FR 26388, 26406 (June 19, 1978). EPA recently gave an interpretation of those exemptions in response to an inquiry from the Pittston Company. the Pittston Company proposes to construct a source to which one of the exemptions applies. EPA communicated and explained its interpretation in a letter dated October 31, 1978. The relevant portion of that letter follows:

This is in response to your letter of September 7, 1978, to Robert Thompson, Regional Counsel for EPA Region I.

In that letter, you note that on August 18, 1978, EPA issued to the Pittston Company a PSD permit to construct a refinery and marine terminal in Eastport, Maine. You then ask in effect whether EPA would agree that Pittston, in order to preserve the validity of the permit, need commence construction on the refinery and terminal no earlier than 18 months from the date EPA issued it, that is, no earlier than February 18, 1980. For the reasons that follow, EPA would not agree. In our view, Pittston must commence construction no later than September 5, 1979.

As you know, there are three grandfather exemptions in the new PSD regulations. Sections 52.21(i) (2) and (3) contain two of them. Those sections provide that the new regulations do not apply to any major emitting facility for which certain permits were obtained by March 1, 1978, and on which construction commences by March 19, 1979. 43 FR 26388, 26406 (June 19, 1978). Section 52.21(i)(4), which expresses the third exemption, provides that the new regulations do not apply to any major emitting facility which was subject to the PSD regulations in effect before March 1, 1978, if EPA would have evaluated an application for a PSD permit for the facility under those regulations by March 1, 1978, but for an extension of the public comment period. The last sentence of section 52.21(i)(4) adds that "the application shall continue to be processed, and granted or denied, under [the old PSD regulations]." *Id.* EPA processed and granted the application for the permit for the refinery and marine terminal under the old

regulations. It did so in accordance with section 52.21(i)(4).

You read section 52.21(i)(4) as giving permittees 18 months to commence construction on sources which that section would exempt. You rely on the last sentence of the section, having concluded that the sentence "requires that the permit be processed under [old regulations]". Those regulations independently set an 18-month deadline for commencement of construction. *See* 40 CFR 52.21(e)(3) (1977). But to give permittees with sources exempt under section 52.21 (i)(4) 18 months to commence construction would be to treat them much more favorably than persons issued the required permits just before March 1, 1978. Sections 52.21(i) (2) and (3) give those persons only one year and 18 days to commence construction. EPA did not intend to treat permittees under section 52.21(i)(4) any differently than persons issued the required permits just before March 1. Indeed, there is absolutely no reason to do that. In addition, the last sentence of section 52.21(i)(4) merely states that the "application" shall be processed under the old regulations. Thus, section 52.21(i)(4) specifies that the substantive and procedural requirements of the old regulations were to govern EPA's decision whether to issue a permit. Section 52.21(i)(4) does not cover the length of time that an issued permit remains valid. That matter is resolved by reference to section 52.21(i) as a whole.

In our view, sections 52.21(i)(2)-(4), when read together, require a permittee under section 52.21(i)(4) to commence construction within the same amount of time that would be the case for a person issued the required permits just before March 1, *i.e.*, within one year and 18 days from permit issuance. In the case of the Eastport refinery and marine terminal, construction on it must commence, therefore, on or before September 5, 1979.

This interpretation, that construction on a source exempt under 52.21(i)(4) must commence within one year and 18 days from permit issuance, is nationally applicable final action within the meaning of section 307(b)(1) of the Clean Air Act. As such, it is reviewable only in the United States Court of Appeals for the District of Columbia Circuit. Any petition for review must be filed on or before February 12, 1979.

Dated: November 24, 1978.

DAVID G. HAWKINS,
Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 78-34202 Filed 12-12-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1011—COMMISSION ORGANIZATION

DIRECTOR, BUREAU OF ACCOUNTS

Delegation of Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: Part 1011 of Title 49 of the Code of Federal Regulations provides for the assignment of authority vested by law in the Interstate Commerce Commission or the Chairman of the Commission. The Chairman is assigned certain authority to act for the Commission in procedural matters. Section 1011.7 allows the Chairman to redelegate to specified Commission employees the authority to act in certain matters assigned to him. Various special accounts in the Uniform Systems of Accounts (49 CFR 1201 through 1211) require Commission approval to use. This rule change redelegates authority to the Director, Bureau of Accounts, the Assistant Director, and the Chief, Section of Accounting to approve requests from carriers to use these special accounts. Because this rule involves the internal organization and procedures of the Commission, we are issuing it in final form, and are not requesting public comments.

EFFECTIVE DATE: December 6, 1978.

FOR FURTHER INFORMATION CONTACT:

George M. Chandler, Director, Policy Review Office, Interstate Commerce Commission, Washington, D.C. 20423, Phone: 202-275-1912.

Section 1011.7 of Title 49 of the Code of Federal Regulations is amended by adding a new paragraph (g) to read as follows:

1011.7 Certain accounts in the Uniform Systems of Accounts, 49 CFR 1201-1211, require Commission approval to use. Authority to grant or deny requests for use of these accounts is delegated to the Director of the Bureau of Accounts, the Assistant Director, and the Chief, Section of Accounting.

These delegations of authority are made under the authority contained in Section 2 of Reorganization Plan No. 1 of 1969, 5 U.S.C. Appendix (38 Stat. 59); and 49 CFR 1011.5(a) (1), (2), (4), and (5).

By the Commission, A. Daniel O'Neal, Chairman.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34659 Filed 12-12-78; 8:45 am]

[7035-01-M]

[Ex Parte No. 358-F]

PART 1039—RAILROAD CONTRACT RATES; POLICY STATEMENT

Change of Policy; General Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of change of policy.

SUMMARY: Contract rates are not in and of themselves unlawful, and they may be beneficial in many situations. This represents a change in policy with regulations. Contract rates may be filed under normal procedures. Their lawfulness will be determined on a case-by-case basis.

EFFECTIVE DATE: November 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, or Harvey Gobetz, Interstate Commerce Commission, Washington, D.C. 20423 (202) 275-7693.

SUPPLEMENTARY INFORMATION: In a FEDERAL REGISTER notice of May 23, 1978, the ICC proposed to issue a general policy statement permitting the filing in tariff form of railroad contract rates. Interested parties were invited to file comments (43 FR 22148). The ICC had previously disapproved of these rates, so this action represents a change in policy.

After analyzing the comments we received, we adopt the following statement of policy to be added as a new Part 1039 to Title 49, Chapter X, Subchapter A of the Code of Federal Regulations:

Sec.
1039.1 Definitions.
1039.2 Lawfulness.
1039.3 Approval.
1039.4 Common carrier obligation.

AUTHORITY: 49 U.S.C. 10321(a).

§ 1039.1 Definition.

A "contract rate" is a railroad freight rate arrived at through mutual agreement between a railroad (or two or more railroads participating in a through route) and a shipper in which the railroad agrees to provide service for a given price and the shipper

agrees to tender a given amount of freight during a fixed period.

§ 1039.2 Lawfulness.

Contract rates are not in and of themselves unlawful, and they may be beneficial in many situations. Anticompetitive effects, if any, may be outweighed by other considerations. Such rates may provide opportunities for railroads to develop innovative pricing strategies. They can result in lower shipping costs, better freight car utilization, increased efficiency, and improved service. They can enhance a railroad's ability to compete with carriers of other modes, and they can make it possible for both railroads and shippers to make future plans on an informed basis.

§ 1039.3 Approval.

Contract rates may be filed with the Commission under normal procedures, and their lawfulness will be determined on a case-by-case basis. A contract rate may be approved regardless of its duration or of the ownership of the cars to be used in performing the service. Contract rates based on a percentage of the shipper's traffic, rather than on a fixed volume, are not condemned, but they will be approved following the closest scrutiny by the Commission to determine whether they are economically justified and not anticompetitive.

§ 1039.4. Common carrier obligation.

Railroads performing service under contract rates will not be relieved of their obligations as common carriers to serve other shippers. When a contract rate is made for one shipper, other shippers willing and able to ship a like kind of traffic under substantially similar circumstances and conditions should be afforded the opportunity to enter into similar contract rates.

Dated: November 9, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34610 Filed 12-12-78; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Bear River Migratory Bird Refuge, Utah, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of the Bear River Migratory Bird Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Ned I. Peabody, P.O. Box 459, Brigham City, Utah 84302, Telephone 801-744-2488.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Bear River Migratory Bird Refuge, Utah, only on the areas designated by signs as being open to fishing. These areas comprising 10 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, Fish and Wildlife Service, Federal Building, Salt Lake City, Utah 84138. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. The use of boats is prohibited below the river control gates at refuge headquarters.

2. Fishermen are required to register at the refuge office upon entering the refuge.

The provisions for this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: December 5, 1978.

RODNEY F. KREY,
Acting Refuge Manager.

[FR Doc. 78-34607 Filed 12-12-78; 8:45 am]

[3510-22-M]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 611—FOREIGN FISHING

Incremental Apportionment of Total Allowable Level of Foreign Fishing in the Bering Sea and Northeast Pacific

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final regulation.

SUMMARY: Foreign fishermen did not harvest their total 1977 allocation of certain species allocated to them by the preliminary fishery management plan (PMP) for the trawl fisheries and herring gillnet fishery of the eastern Bering Sea and northeast Pacific. On the basis of that underutilization, the 1978 specifications of optimum yield (OY) for groundfish species were increased. This regulation releases to total allowable level of foreign fishing (TALFF) the reserves established when OY's were increased, with the exception of 500 metric tons (mt) of Pacific cod and 100 mt of sablefish.

EFFECTIVE DATE: December 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry Rietze, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801, Telephone: (907) 586-7221.

SUPPLEMENTARY INFORMATION: The PMP for trawl fisheries in the Bering Sea (42 FR 9298), as amended for 1978, established OY, TALFF, and U.S. capacity. In the case of Pacific cod and sablefish, reserves were established of 1500 and 600 metric tons (mt) respectively. On September 11, an amendment was approved to the plan to release 500 mt and 400 mt respectively of the Pacific cod and sablefish reserve. These amounts were subsequently allocated to foreign nations. On September 28, a further amendment was approved to the plan to increase OY's for yellowfin sole, "other" flounders, Pacific cod, squid, and "other" species (in Areas I, II, and

III). This amendment also established new reserves as follows: yellowfin sole—20,000 mt; "other" flounders—19,590 mt; Pacific cod—11,930 mt; squid—630 mt; and "other" species—7,000 mt. Proposed regulations implementing this amendment to increase the OY's were published in the FEDERAL REGISTER on October 30, 1978 (43 FR 50473). The comment period for this amendment concluded November 9. Final regulations were published on November 22, 1978 (43 FR 54636).

The Alaska region has completed its quarterly review of U.S. capacity, as required by the foreign fishing regulations (50 CFR 611.20(c)) and has concluded that U.S. fishermen will not harvest the recently established reserves. Therefore, with certain exceptions, the additional surplus is made available to foreign nations.

The harvest of groundfish in the Bering Sea by U.S. fishermen has been minimal to date this year. U.S. fishermen have taken, and will continue to take, low amounts of Pacific cod for use as crab bait. Their are no known domestic plans, other than those of the bait fishery, to pursue a domestic groundfish fishery in the Bering Sea. No applications for or indications of "joint venture" operations are known. There is always a possibility of domestic fishermen commencing longlining for sablefish. Reserves of 500 tons of Pacific cod and 100 tons of sablefish will be retained to cover Pacific cod catch to date and possible future catches of Pacific cod and sablefish.

The Assistant Administrator for Fisheries finds and determines that the "cooling off" periods can be waived and that these regulations may be promulgated as final regulations because:

A. This action will not disadvantage any party;

B. No time is required to adjust to the revised regulations that will stem from this action;

C. Further delay will inhibit the ability of foreign nations to fulfill their allocations; and

D. Delay in implementing these regulations in a timely manner is unnecessary, impractical, and contrary to the public interest.

The Assistant Administrator also finds that this is not a significant Federal action within the meaning of the National Environmental Policy Act and does not require compliance with Executive Orders 12044, 11821 and 11949.

Signed at Washington, D.C. this 8th day of December, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

AUTHORITY: 16 U.S.C. 1801 *et seq.*

§ 611.20 [Amended]

Amend 50 CFR 611.20(c), as amended, by revising Table I as follows:

1. Lines 24, 25, 31, 33, 34, 36, and 37 are revised to read:

"Species Code"	"Species"	"Ocean Area"	"Amended TALFF (mt)"
006	Cod, Pacific	Aleutians and Bering Sea	[4]70,000
003	Flounders, other than yellowfin sole.	do	159,000
007	Sablefish	Bering Sea	[5]2,900
002	Sole, Yellowfin	Aleutians and Bering Sea	126,000
001	Squid	do	10,800
099	Other species	do	100,600
080, 081, and 099	Armorheads, alfonsins, and other groundfish.	do	[6]2,000

Footnotes are revised as follows:

[4]Does not include 500 metric tons held in reserve.

[5]Does not include 100 metric tons held in reserve.

[6]The TALFF for armorheads, alfonsins, and other groundfish resources is subject to additional restrictions on total effort by foreign fishing vessels. No more than 50 vessel days of trawling and 50 vessel days of bottom longlining will be allowed in this fishery.

§ 611.93 [Amended]

Amend 50 CFR 611.93(b), as amended, by revising Table I as follows:

1. In column one, bottom line, add words "and revised" between the words "initial" and "TALFF."

2. In column three headed "yellowfin sole," strike "106,000," and substitute "126,000."

3. In column four headed "Other Flounders," strike "139,410," and substitute "159,000."

4. In column seven headed "Sablefish Areas I-III" strike "2,800," and substitute "2,900."

5. In column nine headed "Pacific Cod," strike "58,570," and substitute "70,000."

6. In column twelve headed "Squid," strike "10,170," and substitute "10,800."

7. In column thirteen headed "Other Species Areas I-III," strike "59,600," and substitute "66,600."

[FR Doc. 78-34644 Filed 12-12-78; 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.

[3410-16-M]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Part 624]

EMERGENCY WATERSHED PROTECTION PROGRAM

Intent to Review Regulations, Policies, and Procedures

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to review regulations, policies, and procedures.

SUMMARY: This is a notice of intent to review regulations, policies, and procedures governing the emergency watershed protection (EWP) program with a view toward appropriate revisions to assure the program's effectiveness.

DATE: All comments, suggestions, or other inputs should be submitted on or before January 15, 1979.

ADDRESS: Comments, suggestions, or other inputs may be delivered by mail or in person to: Joseph W. Haas, Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture, Room 5113, South Building, P.O. Box 2890, 14th and Independence Avenue, SW., Washington, D.C. 20013, (202-447-4527).

FOR FURTHER INFORMATION CONTACT:

James W. Mitchell, Director, Watersheds Division, Soil Conservation Service, U.S. Department of Agriculture, Room 5229, South Building, P.O. Box 2890, 14th and Independence Avenue, SW., Washington, D.C. 20013, (202-447-3527).

SUPPLEMENTARY INFORMATION:

SUMMARY

Existing regulations, policies, and procedures are contained in 7 CFR, Chapter VI, Part 624, and in the Soil Conservation Service's Watersheds Memorandum-124, issued September 12, 1977.

Among the matters to be considered in the review, but not all inclusive, are the following:

Responsiveness and uniformity with which assistance is made available.

Economic defensibility of the program.

Eligibility requirements, especially as they relate to the program's mission of alleviating imminent hazards to life and property.

Financial and other participation by local and State Government and private individuals or corporations.

Ways to avoid significant adverse environmental impacts.

INTERIM ACTIONS

Certain aspects of the program are being revised effective immediately in order to improve responsiveness, provide better management control, and to clarify eligibility requirements. These changes, too, are subject to review and revision. They are as follows:

1. EWP funds will not be used to perform work on structural features of projects, measures, or practices installed under the Watershed Protection Program (Pub. L. 83-566 and Pub. L. 78-534) or the Resource Conservation and Development Program.

2. EWP funds are to be obligated within 220 consecutive calendar days after the date funds are allotted to a State. Allotted funds not obligated within 220 days will be withdrawn from the State to be held available for use in other emergency situations.

3. A review of each application for assistance will be made to insure conformance with Executive Orders 11988 and 11990.

4. An emergency watershed protection team consisting of SCS Washington Office and Technical Service Center personnel will determine the eligibility of all permanent, enduring, or long-life measures or practices proposed for assistance. The team will determine the eligibility of such practices during the development of requests for funds and before any commitments are made to sponsors or individuals. The team will also be available, at the request of the State Conservationist(s), to help determine the eligibility of other EWP measures or practices and to assist with administrative details.

5. EWP funds will not be used to perform the following types of work:

a. Installation of rock riprap or other structural measures to provide protection to land, crops, pastures, etc., unless incidental to alleviating imminent hazards to life or high value property.

b. Construction of new channels or restoring old channels in cases where naturally formed, post-disaster channels are of equal or greater capacity then their predisaster counterparts.

c. Removal of floating debris and/or sediment from reservoirs, debris basins, grade stabilization, or similar structures.

d. Repair of beach, dune, or shoreline erosion resulting from wave action.

6. Formal operation and maintenance agreements must be obtained on all permanent type measures.

PUBLIC COMMENT

Suggestions, comments, or other inputs from the public concerning the review of the EWP program, including the interim actions, are requested.

All comments, suggestions, or other inputs received by January 15, 1979, will be considered in decisions made as a part of or resulting from the review of EWP regulations, policies, guidelines, and procedures.

FUTURE ACTIONS

Preliminary results of the EWP reviews are expected to be available on or about May 1, 1979. The results will be used in making decisions on proposed permanent revisions to the regulations, policies, guidelines, and procedures governing the EWP program. The revisions will be published about June 15, 1979, as a proposal subject to public comment for not less than 60 days. Final regulations, policies, guidelines, or procedures are expected to be published on or about December 1, 1979.

Signed at Washington, D.C., on December 5, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-34680 Filed 12-12-78; 8:45 am]

[3410-02-M]

Agricultural Marketing Service

[7 CFR Part 1062]

[Docket No. A0-10-A53]

MILK IN THE ST. LOUIS-OZARKS MARKETING AREA

Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions.

SUMMARY: This notice extends the time for filing exceptions to the findings and conclusions under issue 2 of the November 17, 1978, recommended decision for the order regulating the handling of milk in the St. Louis-Ozarks marketing area. Issue 2 deals with "pooling standards for supply plants."

DATE: Exceptions now are due on or before January 30, 1979.

ADDRESS: Exceptions (four copies) should be filed with the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202-447-4824).

SUPPLEMENTARY INFORMATION:

Prior documents in this proceeding:

Notice of Hearing: Issued May 31, 1978, published June 6, 1978 (43 FR 24540).

Recommended Decision: Issued November 17, 1978, published November 22, 1978 (43 FR 54642).

Notice is hereby given that the time for filing exceptions to the findings and conclusions under issue 2 (pooling standards for supply plants) of the recommended decision, with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the St. Louis-Ozarks marketing area which was issued November 17, 1978 (43 FR 54642) is hereby extended to January 30, 1979.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et. seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR PART 900).

Signed At Washington, D.C., on December 7, 1978.

IRVING W. THOMAS,
Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 78-34609 Filed 12-12-78; 8:45 am]

[3410-07-M]

Farmers Home Administration

[7 CFR Part 1948]

[FmHA Instruction 1948-A]

RURAL DEVELOPMENT AREA DEVELOPMENT ASSISTANCE

Additional Criteria for Selecting Grantees

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to amend the regulations of the Area Development Assistance Planning Grant Program. This action is taken to provide additional criteria for selecting grantees. The amendment is intended to make potential applicants more aware of criteria which will be considered in the selection of grantees.

DATE: Comments must be received on or before January 12, 1979.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Kugler, 202-447-2573.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration proposes to add § 1948.32(j) of Subpart A, Part 1948, Chapter XVIII, Title 7 in the Code of Federal Regulations.

This action is being taken to help direct grant funds to those whose activities most clearly support the objectives of the program. Since limited funds are available for the program it is necessary to provide criteria so that only those applicants whose efforts best support the program and whose organization can utilize the funds in the most effective and efficient manner are selected.

The purpose of this amendment is to give preference to those multi-jurisdictional organizations which have on their policy making boards direct representation of the unemployed, underemployed, those with low family incomes and minorities. This provision will not exclude other organizations which will provide alternative means for securing this participation in the decision making process of the organization.

The agency normally allows 60 days for submission of comments on its proposals in conformance with Executive Order 11024. However, it is felt that this addition is primarily administrative in nature and will be in the best interest of the public in that it will aid in making the maximum use of limited funds, therefore, the comment period on this document is 30 days.

Therefore, as proposed, § 1948.32(j) reads as follows:

§ 1948.32 Grant selection.

* * * * *

(j) In the case of multi-jurisdictional applicants, the extent to which the unemployed, underemployed, those with low family incomes and minorities directly participate on the policy making board of the organization.

* * * * *

(7 U.S.C. 1989, delegation of authority by the Sec. of Agri., 7 CFR 2.23 delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70).

Dated: December 8, 1978.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 78-34642 Filed 12-12-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[14 CFR Part 239]

[EDR-369; Docket No. 34191; Dated: December 7, 1978]

REPORTING DATA PERTAINING TO FREIGHT LOSS AND DAMAGE CLAIMS BY CERTIFICATED ROUTE AIR CARRIERS AND FOREIGN ROUTE AIR CARRIERS*

Proposed Revocation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to eliminate the reporting of data pertaining to freight loss and damage claims arising from the transportation of cargo by air. Pub. L. 95-163, among other things, deregulated the domestic all-cargo operations of section 418 certificated air carriers and resulted in a

*This title is currently incorrectly shown in Title 14 of the Code of Federal Regulations (14 CFR Part 239) as "Reporting Data Pertaining to Freight Loss and Damage Claims by Certain Air Carriers and Foreign Route Air Carriers."

change in the regulatory need by the Board for monitoring freight loss and damage claims.

DATES: Comments by: February 11, 1979. Comments and other relevant information received after the above date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 34179, Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: The Board, by adopting ER-996 (41 FR 21763, April 29, 1977), substantially reduced its collection of freight loss and damage claims data from certain air carriers and foreign route air carriers. This reduction resulted from an extensive reevaluation by the Board of its need for the reports filed under Part 239 of the Board's Economic Regulations (14 CFR Part 239).

Essentially, ER-996 reduced the filing requirements in Part 239 (CAB Form 239) to a simplified semi-annual one page report, replacing four quarterly schedules and one annual schedule. Basically, the report asked for the total number and dollar value of claims received and claims paid by certificated route and foreign route air carriers for their domestic, international, and system operations. The rule also reduced the number of carriers required to file CAB Form 239 by eliminating it as a reporting requirement for supplemental air carriers, airfreight forwarders, and commuter air carriers.

Before deciding on the reporting reductions outlined above, the Board also considered the possibility of eliminating Part 239 in its entirety. However, the Board decided that a minimum level of reporting for claims data was still needed to fulfill a general regulatory responsibility to monitor trends in the volume of freight loss and damage claims.

Pub. L. 95-163, which the President signed on November 9, 1977, amended the Federal Aviation Act so as to provide for, among other things, the deregulation of domestic all-cargo operations. Because of this deregulation, the Board has re-evaluated its need for data to monitor cargo claims. While the Board has tentatively concluded that there is no longer a regulatory need for monitoring cargo claims data, data users outside the Board have been asked to what extent these data are being used.

Their responses indicated that the data are not being utilized because of a lack of detail in the information now being reported. While several respondents stated that cargo claims data would be useful if the level of detail was expanded, the Board has tentatively decided not to expand these reports in view of its own lack of a regulatory need for the data. However, the Board is seeking public comments on the need for claims data as well as the specific uses to which such data would be put.

PROPOSED RULE

The Board proposes to amend its Economic Regulations (14 CFR Chapter II, Subchapter A) as follows:

1. The Table of Contents of Subchapter A would be amended by revoking and reserving Part 239, *Reporting Data Pertaining to Freight Loss and Damage Claims by Certificated Route Air Carriers and Foreign Route Air Carriers*, to read:

SUBCHAPTER A—ECONOMIC REGULATIONS

Part

* * * * *

239 [Reserved]

* * * * *

2. Part 239, *Reporting Data Pertaining to Freight Loss and Damage Claims by Certificated Route Air Carriers and Foreign Route Air Carriers* would be revoked and reserved.

(Sec. 204(a), 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; (49 U.S.C. 1324(a) 1377).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34682 Filed 12-12-78; 8:45 am]

[3510-06-M]

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

[15 CFR Part 806]

DIRECT INVESTMENT SURVEYS

Mandatory Reporting Requirement

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to establish a mandatory reporting requirement for (1) a statistical survey of a U.S. business enterprise at the time a 10 percent or more, direct or indirect, voting interest in it (whether it is an incorporated or unincorporated entity) is secured by a foreign person; (2) to require the reporting of a purchase of the operating assets of a U.S. business enterprise by an existing U.S. affiliate of a foreign person; and (3) to require certain information to be reported by other parties to such investment transactions (the foreign parent, an existing U.S. affiliate of a foreign person, and agents or other intermediaries assisting in such investment transactions). The purpose of this amendment is to further implement the President's responsibilities under the International Investment Survey Act of 1976. These responsibilities were delegated to the Secretary of Commerce in Section 3 of Executive Order 11961 of January 19, 1977.

DATE: Comments must be received on or before January 12, 1979.

ADDRESSES: Send comments to: U.S. Department of Commerce, Bureau of Economic Analysis, International Investment Division (BE-50), Washington, D.C. 20230. All comments, material, questions, etc., in response to this proposal will be available for public inspection during normal business hours, 8:30 a.m. to 5 p.m., in Room 608, 1401 K Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

George R. Kruer, Chief, International Investment Division, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, D.C. 20230, 202-523-0657.

SUPPLEMENTARY INFORMATION: On December 22, 1977 the Department of Commerce published final rules implementing the duties and authority delegated to it by the President in Section 3 of Executive Order 11961 of January 19, 1977 to carry out the International Investment Survey Act of 1976 (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108). Section 806.15(g)(2) of those rules read as follows: "BE-13—Questionnaire on Establishment of, or Investment in, a U.S. Business Enterprise, Including Real Estate, by a Foreign Person—This report is not required at this time but a notice of proposed rulemaking concerning it will be inserted in the FEDERAL REGISTER at a later date."

This notice of proposed rulemaking is to inform the public that a BE-13 survey form and related schedules have been prepared and to invite public comment on the reporting requirements.

Based on the circumstances surrounding the establishment or acquisi-

tion of the U.S. business enterprise by a foreign person, Form BE-13 and/or one of the related schedules will be required from:

1. The U.S. business enterprise that has been established or acquired;

2. The foreign person establishing or acquiring the U.S. business enterprise;

3. An existing U.S. affiliate of a foreign person, when the U.S. affiliate establishes or acquires another U.S. business enterprise to the extent that the foreign person, as concerns the established or acquired business enterprise, owns or controls, directly or indirectly, 10 percent or more of the voting securities if an incorporated business enterprise or an equivalent interest if an unincorporated business enterprise;

4. An existing U.S. affiliate of a foreign person, when the affiliate acquires a business segment (whether in the same or another line of business), operating unit, or an existing U.S. business enterprise and merges it into its own operation rather than organizing or continuing it as a separate legal entity; and

5. An intermediary, i.e., an agent, nominee, manager, custodian, trust, or any person acting in a similar capacity, who is involved in the sale of a 10 percent or more voting interest in a U.S. business enterprise, including real estate, to a foreign person, or to another U.S. person which is a U.S. affiliate of a foreign person, when such a foreign involvement is known. The report or schedules will be required to be submitted within 45 days after the transaction occurs.

The legal authorities, provisions, definitions and requirements presently contained in 15 CFR Part 806 pertaining to foreign direct investment in the United States are applicable to this BE-13 report form and related schedules.

NOTE.—The Department of Commerce has determined that this proposal is not a significant regulation requiring preparation of a regulatory analysis under Executive Order 12044.

It is therefore proposed to modify Part 806, 15 CFR, as set forth below:

JUANITA M. KREPS,
Secretary of Commerce.

In § 806.15, paragraph (g)(2) is revised to read as follows:

§ 806.15 Foreign direct investment in the United States.

* * * * *

(g) * * *

(2) BE-13—Report on a Foreign Person's Establishment, Acquisition, or Purchase of the Operating Assets, of a U.S. Business Enterprise, Including Real Estate. Reporting under this survey consists of:

(i) Form BE-13: Report for U.S. Business Enterprise which has been Established or Acquired by a Foreign Person—To be completed by the U.S. business enterprise (U.S. affiliate) which has been established or acquired by a foreign person;

(ii) Form BE-13, Schedule A: For Foreign Parent—To be completed by the foreign person (hereinafter, foreign parent) who established or acquires a direct voting interest in the U.S. affiliate or by the U.S. business enterprise established or acquired (hereinafter "U.S. affiliate"), to the extent it has or can secure the information. (A separate Schedule A must be filed covering each foreign parent with a voting interest.)

(iii) Form BE-13, Schedule B: For Existing U.S. Affiliate—To be completed by an existing U.S. affiliate of a foreign person that establishes or acquires a voting interest in a U.S. business enterprise of such a magnitude that the established or acquired enterprise becomes a U.S. affiliate of the foreign person. (A separate Schedule B must be completed by each existing U.S. affiliate with a voting interest.)

(iv) Form BE-13, Schedule C: For a Business Segment, Operating Unit, or Business Enterprise Acquired by and Merged into an Existing U.S. Affiliate—To be completed by an existing U.S. affiliate of a foreign person when it acquires a business segment (whether in the same or another line of business), an operating unit, or an existing U.S. business enterprise and merges it into its own operation rather than organizing or continuing it as a separate legal entity.

(v) Form BE-13, Schedule D: For Agent or Other Intermediary—To be completed by an agent or other intermediary involved in the sale of a 10 percent or more voting interest in a U.S. business enterprise, including real estate, to a foreign person, or to another U.S. person that is a U.S. affiliate of a foreign person, when such a foreign involvement is known.

All investments must be reported; there is no exemption level below which an establishment or acquisition of a U.S. affiliate would not have to be reported.

[FR Doc. 78-34641 Filed 12-12-78; 8:45 am]

[6355-01-M]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1500]

HAZARDOUS SUBSTANCES LABELING REQUIREMENTS

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Commission's regulations for the prominence, placement, and conspicuousness of cautionary statements that are required by the Federal Hazardous Substances Act to be on the labels of hazardous substances intended, or packaged in a form suitable, four household use. The amendments would clarify these regulations by codifying interpretations and policies that have been issued under the act. In a few instances, the amendments also contain provisions that vary slightly from current labeling practices, particularly in the area of type size measurement. The Commission believes that the amendments are necessary to promote uniformity in the labeling practices of manufacturers.

DATE: Comments on the proposal should be submitted by February 12, 1979. The Commission proposes that this rule shall be effective 90 days after the date of publication of the final rule in the FEDERAL REGISTER. All hazardous substances bearing labels printed after the effective date would have to comply with the revised labeling requirements. Labels printed before expiration of the 90 day period could be used for a period of up to two years after the date of publication of the final rule. Hazardous substances which are labeled more than two years after that date would have to comply with the revised labeling requirements.

ADDRESS: Comments on the proposal should be sent, preferably in five copies to the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Charles M. Jacobson, Telephone 301-492-6400, or Michael J. Gidding, Telephone 301-492-6629, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207.

SUPPLEMENTARY INFORMATION: Section 2(p)(1) of the Federal Hazardous Substances Act, 15 U.S.C. 1261(p)(1), requires that hazardous substances bear labels containing certain cautionary statements. Section 2(p)(2) of the act, 15 U.S.C. 1261(p)(2), requires that such statements be prominently located on the label in conspicuous and legible type that contrasts by typography, layout, or color with other printed matter on the label. The Commission's regulations, at 16 CFR 1500.121, currently contain a number of general requirements which manufacturers must meet to satisfy the requirements of sec. 2(p)(2). Among these are provisions covering the required type size and placement of labeling statements and

methods of achieving appropriate contrast with other material on the label. The present requirements, however, are not specific. For example, they state that prominence of labeling shall be obtained by use of "suitable [or adequate] contrast with the background achieved by distinctive typography or color." Similarly, type size, within certain maximum and minimum limits, need only be of a size bearing "a reasonable relationship to the [other] printing on the [label] panel involved." General provisions of this nature have, of necessity, resulted in case by case review by the Commission staff of individual labels to determine whether they comply with the act and its regulations. Over the years, however, a number of interpretations and policies generally applicable to the labeling of all hazardous substances have evolved.

To promote uniformity in labeling practices, the Commission has decided to make these interpretations and policies more readily available to the public by publishing them in the FEDERAL REGISTER as amendments to 16 CFR 1500.121. Although not required to do so by sec. 4 of the Administrative Procedure Act, 5 U.S.C. 553, the Commission is proposing these policies and interpretations for public comment in order to obtain the views of interested persons. The Commission intends primarily to codify interpretations which have been in effect for a number of years; however, in a few instances (particularly in the area of type size measurement), the provisions of this proposal may vary slightly from current labeling practices. A brief summary of each proposed subsection appears below.

Sec. 1500.121(a) explains the scope of the proposed rule and contains definitions applicable to its provisions. Two of the definitions are significant. First, since the terms "display panel" and "principal display panel" apply to both the immediate container and any outer wrapping or package, all cautionary labeling required by the act must appear on both the immediate container and any outer container or wrapping unless there is a specific exception in the regulations. Second, type size is measured in terms of the height of the upper case or capital letters as they actually appear on the label.

Sec. 1500.121(b) contains the requirements for placement of labeling statements on display panels. Signal words and statements of hazard (defined in § 1500.121(a)) must appear horizontally and together in a square or rectangular area on each principal display panel of a container and must be separate from all other printed or graphic material. All other cautionary labeling must appear horizontally and together on a display panel. Any cautionary labeling on the immediate container which is not clearly visible through any outer container or wrapper must also appear on the outer container or wrapper and conform to the requirements of § 1500.121. Finally, § 1500.121(b) contains special rules for placement, when appropriate, of the word "poison" and the skull and crossbones.

Sec. 1500.121(c) establishes requirements for the minimum allowable type size for cuationary labeling statements, based on the area of the principal display panel. This paragraph describes how to compute the area of the principal display panel and requires that signal words and statements of hazard appear in capital letters. It also prohibits the use of an elongated type style which might render cautionary labeling statements not clearly legible, contains specifications for the type size and placement of cuationary labeling in literature containing directions for use, and requires that the type size, style, and boldness of all statements of hazard on a label be uniform.

Section 1500.121(d) requires that the color of any cautionary labeling statement must be in sharp contrast with the color of any background on which it appears. Additionally, no cautionary labeling statement may be obscured by features such as the label design, the use of vignettes, or proximity of other labeling.

Sections 1500.121(e) and (f) contain special labeling requirements for collapsible metal tubes and unpackaged hazardous substances, respectively. Cautionary labeling for the latter must appear upon the substance itself or upon a tax securely affixed to the article. Sec. 1500.121(g) states that compliance with all provisions of § 1500.121 is required unless an exemption has been granted.

The Commission preliminarily attempted to assess the potential economic impact of this regulation on manufacturers, packers, distributors, and retailers of hazardous substances. The information currently available is sparse. However, because the regulation simply codifies long-standing interpretations of the existing regulations, the Commission believes the number of labels which will have to be altered to be relatively small. Furthermore, the Commission proposes to allow 90 days for revisions to be made after publication of a final order and to allow labels printed prior to the expiration of the 90 day period to be used for up to two years. Accordingly, the Commission anticipates that publication of the regulation will have no significant adverse economic consequences. The Commission specifically invites comment from interested parties on the number of labels which might have to be revised, the costs associated with such revisions, and the length of time necessary to complete revisions where appropriate.

Therefore, pursuant to the provisions of the Federal Hazardous Substances Act (secs. 2(p)(2), 10(a); 15 U.S.C. 1261(p)(2), 1269(a)) and under the authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231, 15 U.S.C. 2079(a)), the Commission hereby proposes that § 1500.121 of Chapter II, Subchapter C, Part 1500, of Title 16 of the Code of Federal Regulations be revised to read as follows:

§ 1500.121 Labeling requirements: placement, conspicuousness, and contrast.

(a)(1) *Background and scope.* Section 2(p)(1) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261(p)(1), requires that hazardous substances bear certain cautionary statements on their labels. These statements include: signal words; affirmative statements of the principal hazard(s) associated with a hazardous substance; the common or chemical name of the hazardous substance; the name and place of business of the manufacturer, packer, distributor, or seller; statements of precautionary measures to follow; instructions, when appropriate, for special handling and storage, the statement "Keep out of the reach of children"; and, when appropriate, first-aid instructions. Section 2(p)(2) of the act specifies that all such statements shall be located prominently on the label of such a substance and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label. This regulation contains requirements for the type size and placement of cautionary material on the labels of hazardous substances and contains other requirements which such cautionary statements must meet in order to satisfy section 2(p)(2) of the act.

(2) *Definitions.* For the purposes of this section:

(i) "Container" means the immediate package from which a hazardous substance may be dispensed and also any article, package or wrapping, such as a tube or cone used for a firework or a wet cell battery casing containing sulphuric acid, which is necessary for the substance to function during actual use.

(ii) "Cautionary labeling" and "cautionary labeling required by the act" mean all items of labeling information required by section 2(p)(1) of the FHSA (repeated in 16 CFR 1500.3(b)(14)(i)) and/or by the regulations at 16 CFR 1500.14 which require additional labeling under section 3(b) of the act.

(iii) "Display panel" means any surface of the immediate container and/or its outer container or wrapping which bears labeling.

(iv) "Principal display panel" means the portion(s) of the surface of the immediate container, and of any outer container or wrapping, which bear(s) the labeling customarily placed or designed to be placed facing outward when the package is displayed for retail sale. In the case of a cylindrical or nearly cylindrical container, the principal display panel consists of the area bordered by that 40 percent of the circumference of the container most likely to be displayed, shown, presented, or examined under customary conditions of retail sale.

(v) "Type size" means the actual height of the printed image of each upper case or capital letter as it appears on the label of a hazardous substance.

(vi) "Signal word" means the appropriate word "DANGER," "WARNING," or "CAUTION," as required by section 2(p)(1)(C) or (D) of the act.

(vii) "Statement of principal hazard(s)" means that wording descriptive of the principal or primary hazard(s) associated with a hazardous substance required by section 2(p)1)(E) of the act. Some examples of such statements are "Harmful or Fatal if Swallowed," "Vapor Harmful," "Flammable," "Skin and Eye Irritant."

(viii) "Other cautionary material" means all labeling statements, other than "signal words" or "statement(s) or principal hazard(s)," required by the act or by regulations issued under the act.

(b) *Prominent label placement.* To satisfy the requirement that cautionary labeling statements shall appear "prominently" on the label of a hazardous substance, all such statements shall be placed on the label as follows:

(1) *Horizontal placement of labeling statements.* All cautionary labeling required by the act shall appear in lines that are generally parallel to any base on which the package rests as it is designed to be displayed for sale. This requirement does not apply to labeling on collapsible tubes. (See § 1500.121(e)).

(2) *Principal display panel labeling.* (i) All items of cautionary labeling required by the act may appear on the principal display panel on the immediate container and, if appropriate, on any outer container or wrapper. See paragraph (b)(4) below for exceptions to labeling outer containers and wrappings.

(ii) The signal word, the statement of principal hazard(s), and instructions to read carefully any cautionary material that may be placed elsewhere on the label shall be blocked together within a square or rectangular area on the principal display panel on the immediate container and, if appropriate, on any outer container or wrapping. This area must be enclosed by a borderline if the required cautionary statements would otherwise be obscured by the design of the label, the use of vignettes, or the proximity of other labeling. All cautionary statements placed on the principal display panel shall be separated on all sides from other printed or graphic matter, with exception of the declaration of net contents required under the Fair Packaging and Labeling Act, 15 USC 1453(a) (2) and (3), by a space no smaller than the height of the type size in which the other cautionary material required by the act (exclusive of signal words and statements of hazard) appears on the label.

(iii) Depending on the design of the package or the configuration of the label, or both, a package may have more than one principal display panel. If so, each principal display panel must at a minimum bear the signal word, statement of principal hazard or hazards, and, if appropriate, instructions to read carefully any cautionary material that may be placed elsewhere on the label.

(A) Where the principal display panel of the immediate container consists of a lid, cap, or other item which may be separated from the immediate container and discarded, the container shall be deemed to have a second principal display panel on that portion of the surface of the container most likely to face outward during consumer storage or use.

(3) *Prominent label placement—other display panel labeling.* All items of cautionary labeling required by the act which do not appear on the principal display panel shall be placed together on a display panel elsewhere on the container. The name and place of business of the manufacturer, packer, distributor, or seller may appear separately on any display panel. Where cautionary material appears on a display panel other than the principal display panel, the principal display panel shall bear the statement "Read carefully other cautions on the — panel," or its practical equivalent. A description of the location of the other panel is to be inserted in the blank space.

(4) *Outer container or wrappings.* All cautionary labeling appearing on a display panel on the immediate container of a hazardous substance shall also appear on a display panel on any outer container or wrapping used in the retail display of the substance. Those cautionary labeling statements appearing on the immediate container which are clearly legible through any outer container or wrapper used in retail display need not appear on the outer container or wrapping itself. (See sec. 2(n)(1) of the act).

(5) *Placement of the word "poison" and the skull and crossbones symbol.* The word "poison" and, when appropriate, the skull and crossbones symbol shall appear on the label of a hazardous substance as follows:

(i) If a hazardous substance is highly toxic as defined in § 1500.3(c)(i) and section 2(h)(1) of the FHSA, the label must bear the word "poison" in accordance with section 2(p)(1)(H) of the act in addition to the signal word "DANGER," and must also bear the skull and crossbones symbol. Some products, under § 1500.14(b) of the regulations, may, in addition to any required signal word, require the word "poison" and/or the skull and crossbones symbol because of the special hazard associated with their ingredients. In both instances, the word "poison" and the skull and crossbones symbol need not appear on the principal display panel on the container, unless all other cautionary labeling required by the act appears on the principal display panel. When cautionary labeling appears on a display panel other than the principal display panel, the word "poison" and the skull and crossbones symbol must appear either together with such labeling or together with the signal word and statement(s) of principal hazard on the principal display panel.

(ii) Where, pursuant to a regulation issued under section 3(b) of the act, the label of a hazardous substance requires the word "poison" instead of a signal word, the word "poison" shall appear in capital letters on the principal display panel together with the statement(s) of the principal hazard. Certain substances for which the word "poison" is required instead of any signal word are listed in § 1500.129.

(c) *Conspicuousness—type size and style.* To satisfy the requirement that cautionary labeling statements under the act be conspicuous and legible, such statements shall conform to the following requirements:

(1) *Area of principal display panel.* The area of the principal display panel is the area of the side or surface of the immediate container, or of the side or surface of any outer container or wrapping, that bears the labeling customarily placed or designed to be placed facing outward when the package is displayed for sale. This area is not limited to the portion of the surface covered with labeling; rather it includes the entire surface of the package which faces outward during retail display. Flanges at tops and bottoms of cans, conical shoulders of cans, handles, and shoulders and necks of bottles and jars are excluded in measuring the area. For the purposes of de-

termining the proper type size for cautionary labeling, the area of the principal display panel is to be computed as follows:

(i) In the case of a rectangular package, where one entire side can properly be considered to be the principal display panel, the product of the height times the width of that side shall be the area of the principal display panel. For tubes, the area shall be measured as the length of the side bearing the principal display panel times the width at the bottom of the tube.

(ii) In the case of a cylindrical or nearly cylindrical container on which the principal display panel appears on the side, the area of the principal display panel shall be 40 percent of the product of the height of the container times its circumference.

(iii) In the case of any other shape of container, the area of the principal display panel shall be 40% of the total surface of the container, excluding those areas, such as flanges at tops and bottoms, specified above. However, if such a container presents an obvious principal display panel (such as a circular top of a flat polish can or an oval or hour-glass shaped area on the side of a container for dishwashing detergent), the area to be measured shall be the entire area of the obvious principal display panel.

(2) *Type size requirements.* The term "type size" refers to the height, measured in one hundredths of an inch, of the actual printed image of each upper case or capital letter as it appears on the label. When an item of labeling is required to be in a specified type size, all upper case and/or capital letters must be at least equal in height to the required type size, and all other letters must be the same type style as the upper case and/or capital letters. Unless otherwise specified in the regulations (examples appear at §§ 1500.14(b)(6), 1512.19, 1508.9, 1505), the type size of all cautionary statements appearing on any display panel shall comply with the specifications in Table 1 when the area of the principal display panel is measured by the method in paragraph (c)(1) above:

TABLE I

Area of Principal Display Panel in Square Inches*	>0-2	>2-5	>5-10	>10-15	>15-20	>20-25	>25-30	>30-75	>75-150	>150-200	>200+
Type Size in Inches**											
Signal Word***	.06	.08	.10	.12	.14	.16	.16	.18	.20	.24	.30
Statement of Hazard	.06	.06	.08	.10	.10	.10	.12	.12	.12	.16	.20
Other Cautionary Material	.04	.06	.06	.08	.08	.08	.08	.10	.10	.12	.16

* > means "greater than"

** height of printed image of capital or upper case letters

*** including the word "poison" when required instead of a signal word by section 3(b) of the act(§ 1500.129)

If all of the required cautionary labeling does not appear on the principal display panel, the statement to "Read carefully other cautions on the —— panel" must appear in the same type size as that required in Table I for the other cautionary material which appears elsewhere on the label of a hazardous substance.

(3) *Type style-proportion.* The ratio of the height of a capital or upper case letter to its width shall be such that the letter is clearly legible. An example of inappropriate ratios follows:

DANGER HARMFUL IF SWALLOWED

(4) *Signal word and statements of hazard—capital letters.* The signal word, the word "poison" if required instead of a signal word (see § 1500.129), and the statement of principal hazard or hazards shall be in capital letters.

(5) *Multiple statements of hazard—type size and style.* All statements of principal hazard or hazards on a label shall appear in the same size and style of type, and shall appear in the same color or have the same degree of boldness.

(6) *Accompanying literature containing directions for use.* Where literature accompanying the package of a hazardous substance contains directions for use and is required under section 2(n) of the act to bear cautionary labeling, all such labeling shall immediately precede the directions for use and shall be blocked together within a square or rectangular area.

(i) The type size of such cautionary labeling, other than signal words and statements of principal hazard(s), shall be at least that of the type size of the directions for use or six one hundredths of an inch (.06 inch), whichever is larger.

(ii) The signal word and the statement of principal hazard or hazards shall appear in capital letters of a type size no smaller than that of the other cautionary statements appearing in the literature. However, if the type size of the signal word and/or statements of principal hazard or hazards is smaller than that specified in Table I (paragraph (C)(2)) for signal words and statements of hazards appearing on the principal display panel[1], all cautionary labeling accompanying the directions for use shall appear within a borderline.

(d) *Conspicuousness-contrast.* To satisfy the requirement that caution-

[1]To determine whether the type sizes of the signal word and statement of hazard conform to Table 1, match the type size of the other cautionary material accompanying the directions with the largest comparable type size listed in Table 1 for "Other Cautionary Material". To conform to Table 1, the signal word and statement of hazard would have to appear in the largest type size for signal words and statements of hazard associated with the respective type size for "Other Cautionary Material".

ary labeling statements appear in conspicuous and legible type in contrast by typography, layout, or color with the other printed matter on the label, such statements shall conform to the following requirements:

(1) *Color.* The color of any cautionary labeling statement shall be in sharp contrast with the color of the background upon which such a statement appears. Examples of combinations of colors which do not satisfy the requirement for sharp contrast are: black letters on a dark blue or dark green background, dark red letters on a light red background, light red letters on a reflective silver background, and white letters on a light gray or tan background.

(2) *Interference with consipicuousness—label design, vignettes, other printed material.* The label design, the use of vignettes, or the proximity of other labeling or lettering shall not be such that any cautionary labeling statement is obscured or rendered inconspicuous.

(e) *Collapsible metal tubes.* Collapsible metal tubes containing hazardous substances shall be labeled so that all cautionary labeling required by the act appears as close to the dispensing end of the container as possible. The placement and conspicuousness of these statements shall conform to the provisions of paragraphs (b), (c), and (d) above.

(f) *Unpackaged hazardous substances.* Where practicable, unpackaged hazardous substances intended or distributed in a form suitable for use in or around a household or by children shall be labeled so that all items of information required by the act appear upon the article itself. In instances where this is impracticable (for example, because of the size or nature of the article), the required cautionary labeling must be displayed by means of a tag or other suitable material that is no less than five square inches in area and that is securely affixed to the article so that the labeling will remain attached throughout conditions of merchandising and distribution to the ultimate consumer. The placement and consipicuousness of all cautionary labeling appearing on such a tag or material, or on an unpackaged article, shall conform to the provisions of paragraphs (b), (c), and (d) above. For the purposes of determining the proper type size to use on a tag or other material, the area of one side of the tag or other material shall be the area of the principal display panel.

(g) *Exemptions.* All requirements of this section must be complied with unless an exemption has been granted under section 3(c) of the act and § 1500.83, or under the provisions of another statute should this section be incorporated by reference in regulations under another statute. Section 1500.82 contains the requirements for exemption requests under the Federal Hazardous Substances Act.

(h) *Effective date.* The provisions of the revised rule apply to hazardous substances bearing labels printed more than ninety (90) days after the date of publication of a final rule in the FEDERAL REGISTER. Labels printed prior to the expiration of the ninety days could be used for no more than two years after publication of the final rule. All hazardous substances to which labels are applied more than two years after publication of the final rule would have to comply with the provisions of the revised rule.

Interested persons are invited to submit written data, views, or arguments regarding any aspect of the proposed rule on or before February 12, 1979. Comments submitted after this date will be considered to the extent practicable.

Written submissions and any accompanying data or material should be sent, preferably in five copies, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be supported by a memorandum or brief.

Any comments that are received and all other material which the Commission has that is relevant to this proceeding may be seen in, or copies obtained from , the Office of the Secretary, 3rd Floor, 1111 18th Street N.W., Washington, D.C. 20207.

Dated: December 6, 1978.

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

[FR Doc. 78-34646 Filed 12-12-78; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 31]

[LR-36-78]

EMPLOYMENT TAXES WITH RESPECT TO EMPLOYEES OF RELATED CORPORATIONS

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to employment taxes with respect to employees of related corporations. Provisions for treating certain related corporations as one employer for purposes of the social security and Federal unemployment taxes were added by the Social Security Amendments of 1977. The regulations would provide related corporations and their employees with the guidance needed to comply with the new law. The regulations would affect related corporations and individuals who are employed by two or more related corporations one of which is the common paymaster of the corporations.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 12, 1979. The amendments are proposed to be effective with respect to wages paid after December 31, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T [LR-36-78], Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Eileen Murphy of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under sections 3121 (s) and 3306 (p) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 314 of the Social Security Amendments of 1977 (91 Stat. 1536) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

TREATMENT AS ONE EMPLOYER

Section 314 of the Social Security Amendments of 1977 added two subsections to the Internal Revenue Code to provide, in effect, for the treatment of certain related corporations as one employer for purposes of the social security tax and the Federal unemployment tax. The language of the two provisions, sections 3121 (s) and 3306 (p), is identical except for technical language implementing the purpose clauses.

Under the new provisions, when two or more related corporations concurrently employ the same individual and compensate that individual through a common paymaster which is one of the related corporations for which th individual performs services, each of the corporations is considered to have paid only the remuneration it actually disburses to that individual. Corporations are related for this purpose if they satisfy any of four tests relating

to common ownership of their stock, common voting power to select their directors, common officers, or common employees.

The regulations provide rules which define "common paymaster". The common paymaster must be a corporation that is a member of the group of related corporations and for which the common employee performs services. A group of related corporations may have more than one common paymaster, either for separate categories of employees or for separate categories of related corporations.

The regulations provide rules which define "concurrent employment". An employee is presumed to be concurrently employed by related corporations if those corporations use a common paymaster to remunerate the employee. The definition of concurrent employment excludes an employee who completely terminates an employment relationship with one corporation and then enters into an employment relationship with a related corporation. The regulations give examples of factors that are relevant in deciding whether an employment relationship has been terminated, as distinguished from a suspension of employment while the employee performs services for a related corporation, or while the employee is temporarily inactive.

ALLOCATION OF LIABILITY

The regulations provide rules for the allocation of employment taxes, and for liability for these taxes. The common paymaster has primary responsibility for remitting the employment taxes with respect to remuneration it disburses as the common paymaster. If the common paymaster fails to remit these taxes, it remains liable for any unpaid portion. In addition, each other related corporation is jointly and severally liable for a share of these taxes, in the amount of the liability that (but for section 3121 (s)) would have existed with respect to the remuneration from that related corporation, up to the amount of the liability of the common paymaster.

The regulations also provide rules which allocate the employment taxes for purposes of a deduction by the related corporation, which may possibly be allowable under other sections of the Code. This allocation is made on the basis of remuneration; however, if the corporation's records are not adequate for use of the remuneration method of allocation, the district director may allocate these taxes in an appropriate manner.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

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

DRAFTING INFORMATION

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

PROPOSED AMENDMENTS TO THE REGULATIONS

The proposed amendments to the Employment Tax Regulations (26 CFR Part 31) are as follows:

§ 31.3121(a)(1) [Deleted]

PARAGRAPH 1. Section 31.3121(a)(1) and the historical note are deleted.

PAR. 2. Section 31.3121(a)(1)-1 is amended by adding at the end of the portion of paragraph (a)(3) that precedes example (1) a sentence which reads as follows:

§ 31.3121(a)(1)-1 Annual wage limitation.

(a) *In general.* * * *

(3) * * * In connection with the annual wage limitation in the case of remuneration paid after December 31, 1978, from two or more related corporations that compensate an employee through a common paymaster, see § 31.3121(s)-1.

* * * * *

PAR. 3. There is added immediately after § 31.3121(r)-1 the following new section:

§ 31.3121(s)-1 Concurrent employment by related corporations with common paymaster.

(a) *In general.* For purposes of sections 3102, 3111, and 3121(a)(1), except as otherwise provided in paragraph (c) of this section, when two or more related corporations concurrently employ the same individual and compensate that individual through a common paymaster which is one of the related corporations for which the individual performs services, each of the corporations is considered to have paid only the remuneration it actually disburses to that individual. This rule applies whether the remuneration was paid with respect to the employment relationship of the individual with the disbursing corporation or was paid on behalf of another related corporation. Accordingly, if all of the remuneration to the individual from the related corporations is disbursed through the common paymaster, the total amount of taxes imposed with respect to the remuneration under sections 3102 and 3111 is determined as though the individual has only one employer (the common paymaster).

(b) *Definitions.* The definitions contained in this paragraph are applicable only for purposes of this section and § 31.3306(p)-1.

(1) *Related corporations.* Corporations shall be considered related corporations for an entire calendar quarter (as defined in § 31.0-2(a)(9)) if they satisfy any one of the following four tests at any time during that calendar quarter:

(i) The corporations are members of a "controlled group of corporations", as defined in section 1563 of the Code, or would be members if section 1563 (a)(4) and (b) did not apply and if the phrase "more than 50 percent" were substituted for the phrase "at least 80 percent" wherever it appears in section 1563(a).

(ii) In the case of a corporation that does not issue stock (such as a mutual insurance company), the holders of more than fifty percent of the voting power to select the members of the board of directors of such corporation are concurrently the holders of more than fifty percent of that power with respect to the other corporation.

(iii) Fifty percent or more of one corporation's officers are concurrently officers of the other corporation.

(iv) Thirty percent or more of one corporation's employees are concurrently employees of the other corporation.

The following examples illustrate the application of this paragraph:

Example (1). (a) M Corporation employs individuals A, B, C, and D. N Corporation employs individuals C, D, E, and F. O Corporation employs individuals D, E, F, and G. M Corporation is paymaster for individuals A, B, C, D, E, F, and G. The corporations have no officers or stockholders in common.

(b) M and N are related corporations because these corporations have at least 30% common employees (C and D). N and O are related corporations because these corporations have at least 30% common employees (E and F). M and O are not related corporations because they have less than 30% common employees.

(c) For purposes of determining the amount of the tax liability under sections 3102 and 3111, individual C is treated as having one employer. Individuals E and F have two employers for these purposes, although N and O are related corporations, because E and F are not employed by M Corporation, the common paymaster. Individual D also is treated as having two employers for the purposes of these sections because M and N Corporations are treated

as one employer, and O Corporation is treated as a second employer (since it is not related to the paymaster, M Corporation). Of course, individuals A, B, and G are not concurrently employed by two or more corporations, and, accordingly, section 3121 (s) is inapplicable to them.

Example (2). Corporations X, Y, and Z meet the definition of related corporations for the first time on April 12, 1979, and cease to meet it on September 25, 1979. A is concurrently employed by X, Y, and Z throughout 1979. In each of the four calendar quarters of 1979, A's remuneration from X, Y, and Z is $2,000, $10,000, and $30,000, respectively. All of the remuneration to A from X, Y, and Z for the year is disbursed by X, the common paymaster. Under these circumstances, the amount of wages subject to sections 3102 and 3111 is as follows:

For the first calendar quarter

X	Y	Z
$2,000	$10,000	$22,900

For the second calendar quarter

X	Y	Z
$20,900 ($22,900 −$2,000)	0	0

For the third calendar quarter

X	Y	Z
0	0	0

For the fourth calendar quarter

X	Y	Z
0	$10,000	0

Of course, if the corporations had been related throughout 1979, only $22,900 of X's first quarter disbursement would have constituted wages subject to sections 3102 and 3111.

(2) *Common paymaster*—(i) *In general.* A common paymaster of a group of related corporations is any member thereof that disburses remuneration to employees of two or more of those corporations on their behalf. The common paymaster is not required to disburse remunerations to all the employees of those two or more related corporations, but the provisions of this section do not apply to the remuneration of any employee who does not receive remuneration through a common paymaster.

(ii) *Multiple common paymasters.* A group of related corporations may have more than one common paymaster. Some of the related corporations may use one common paymaster and others of the related corporations use another common paymaster with respect to a certain class of employees. A corporation that uses a common paymaster to disburse remuneration to certain of its employees may use a different common paymaster to disburse remuneration to other employees.

(iii) *Examples.* The rules of this subparagraph are illustrated by the following examples:

Example (1) S, T, U, and V are related corporations with 2,000 employees collectively. Forty of these employees are concurrently employed by two or more of the corporations, during a calendar quarter. The four corporations arrange for S to disburse remuneration to thirty of these forty employees for their services. Under these facts, S is the common paymaster of S, T, U, and V with respect to the thirty employees. S is not a common paymaster with respect to the remaining employees.

Example (2). (a) W, X, Y, and Z are related corporations. The corporations collectively have 20,000 employees. Two hundred of the employees are top-level executives and managers, sixty of whom are concurrently employed by two or more of the corporations during a calendar quarter. Six thousand of the employees are skilled artisans, all of whom are concurrently employed by two or more of the corporations during the calendar year. The four corporations arrange for Z to disburse remuneration to the sixty executives who are concurrently employed by two or more of the corporations. W and X arrange for X to disburse remuneration to the artisans who are concurrently employed by W and X.

(b) A is an executive who is concurrently employed only by W, Y, and Z during the calendar year. Under these facts, Z is a common paymaster for W, Y, and Z with respect to A. Assuming that the other requirements of this section are met, the amount of the tax liability under sections 3102 and 3111 is determined as if Z were A's only employer for the calendar quarter

(c) B is a skilled artisan who is concurrently employed only by W and X during the calendar year. Under these facts, X is a common paymaster for S and X with respect to B. Assuming that the other requirements of this section are met, the amount of the tax liability under sections 3102 and 3111 is determined as if X were B's only employer for the calendar quarter.

(3) *Concurrent employment.* An employee is presumed to be concurrently employed by two or more related corporations if those corporations compensate the employee through a common paymaster. The contemporaneous existence of an employment relationship with each corporation is the decisive factor; if it exists, the fact that a particular employee is on leave or otherwise temporarily inactive is immaterial. However, employment is not concurrent with respect to one of the related corporations if the employee's employment relationship with that corporation is completely nonexistent during periods when the employee is not performing services for that corporation. An employment relationship is completely nonexistent if all rights and obligations of the employer and employee with respect to employment have terminated, other than those that customarily exist after employment relationships terminate. Examples of rights and obligations that customarily exist after employment relationships terminate include those with respect to remuneration not yet paid, employer's property used by the employee not yet returned to the employer, severance pay, and lump-sum termination payments from a deferred compensation plan. Circumstances that suggest that an employment relationship has become completely nonexistent include unconditional termination of participation in deferred compensation plans of the employer, forfeiture of seniority claims, and forfeiture of unused fringe benefits such as vacation or sick pay. If the employment relationship is nonexistent during a quarter, that employee may not be counted towards the 30-percent test set forth in paragraph (b)(1)(iv) of this section; however, section 3121 (s) of the Code would apply to remuneration paid to the former employee for services rendered while the employee was a common employee. The principles of this subparagraph are illustrated by the following examples.

Example (1). R, S, and T are related construction corporations which use S as a common paymaster with respect to skilled artisans. A is a bricklayer who is assigned work on a weekly basis at construction projects undertaken by any one of the corporations. When A leaves an R project to work at a T project, it is not known whether A will return to an R project. The corporations maintain one pension plan for all their employees, and the accrual of fringe benefits and seniority rights is on the basis of service for all three corporations regardless of services performed on projects of any particular corporation. Under these facts, A is concurrently employed by the three corporations.

Example (2). U, V, and W are related corporations whose geographical zones of business activity do not overlap. U, V, and W arrange for U to be a common paymaster for managers and executives. All three corporations maintain cafeterias for the use of their employees. B is a cafeteria manager who has worked at U's headquarters for three years. On June 1, 1980, B is transferred from U to the position of cafeteria manager of W. There are no plans for B's return to U. B's accrued pension benefits in the U Pension Plan are transferred to the W Pension Plan, at B's decision to forego a lump-sum payment from the U Pension Plan. B is replaced at the U cafeteria. B becomes subject to the W fringe benefit schedule. U pays B a lump-sum for B's unused vacation and sick pay. Under these facts, B is not concurrently employed by U and W, because B's employment relationship with U was completely nonexistent during B's employment with W.

Example (3). X, Y, and Z are related corporations for which X is the common paymaster with respect to executives. C is an executive of Y who usually maintains an office at Y's corporate headquarters. Frequently, C is required to set up a temporary office for two or three months at one of the field offices of X or Z. During those periods, the corporation for which C performs services is ultimately liable for C's remuneration by reimbursing X, the common paymaster However, Y gives credit to C for the time spent at the field offices, for purposes of accruing vacation benefits, determining seniority status, and computing pension benefits. In C's absence, another employee of Y usually uses C's desk and parking space at Y's headquarters. When C returns to the headquarters from assignment, the desk and parking space revert to C's use. Under these facts, C is concurrently employed by X, Y, and Z.

(c) *Allocation of employment taxes*—(1) *Responsibility to pay tax.* If the requirements of this section are met, the common paymaster has the primary responsibility for remitting taxes pursuant to sections 3102 and 3111 with respect to the remuneration it disburses as the common paymaster. The common paymaster computes these taxes as though it were the sole employer of the concurrently employed individuals. If the common paymaster fails to remit these taxes (in whole or in part), it remains liable for the full amount of the unpaid portion of these taxes. In addition, each of the other related corporations using the common paymaster is jointly and severally liable for its appropriate share of these taxes. That share is an amount equal to the lesser of:

(i) The amount of the liability of the common paymaster under section 3121(s), after taking account of any tax payments made, or

(ii) The amount of the liability under sections 3102 and 3111 which, but for section 3121(s), would have existed with respect to the remuneration from such other related corporation, reduced by an allocable portion of any taxes previously paid by the common paymaster with respect to that remuneration.

The portion of taxes previously paid by the common paymaster that is allocable to each related corporation is determined by multiplying the amount of taxes paid by a fraction, the numerator of which is the portion of the amount of employment tax liability of the common paymaster under section 3121(s) that is allocable to such related corporation under paragraph (c)(2) of this section, and the denominator of which is the total amount of the common paymaster's liability under section 3121(s), both determined without regard to any prior tax payments. These rules apply whether or not the tax on employees was withheld from the employees' wages.

(2) *Allocation of tax*—(i) *In general.* If the related corporations maintain a record of the remuneration disbursed to the employee for services performed for each corporation, the remuneration-based allocation rules of paragraph (c)(2)(ii) of this section apply. If the related corporations do not maintain this record of remuneration, the group-wide allocation rules of paragraph (c)(2)(iii) of this section apply. In all cases, allocations must be made with respect to each payment of wages. The allocation of employment tax liabilities pursuant to this subparagraph also determines which related corporation may be entitled to income tax deductions with respect to the payments of those taxes.

(ii) *Remuneration-based allocation rules.* Under the remuneration-based method of allocation, each related corporation that remunerates an employee through a common paymaster has allocated to it for each pay period an amount of tax determined according to the following formula:

$$\frac{\text{Portion of wage payment constituting remuneration to the employee for services performed for the corporation}}{\text{Total wage payment constituting remuneration to the employee for all services performed for the related corporations using the common paymaster}} \times \text{Tax on employees under section 3102 and tax on employers under section 3111 that the common paymaster is required to remit with respect to the wage payment.}$$

If the remuneration disbursed to an employee for services performed for a corporation is inappropriate, the district director may adjust the remuneration records of the related corporations to reflect appropriate remuneration. The district director may use the principles of § 1.482-2(b) in making the adjustments.

Example. (i) X and Y are related corporations which use Y as common paymaster for their executives. A is a concurrently employed executive who performs services during the first quarter of 1979 for X and Y. Y remunerates $4,000 gross pay every week to A, calculated as follows:

Wage payments	Remuneration			Tax on employers under section 3111	Tax on employees withheld under section 3102	Total
	X	Y	Total			
1	$3,000	$1,000	$4,000	$245.20	$245.20	$490.40
2-3		8,000	8,000	490.40	490.40	980.80
4	1,000	3,000	4,000	245.20	245.20	490.40
5	4,000		4,000	245.20	245.20	490.40
6	2,000	2,000	4,000	177.77	177.77	355.54
7-13	10,000	18,000	28,000	0	0	0
	$20,000	$32,000	$52,000	$1,403.77	$1,403.77	$2,807.54

The amounts of remuneration to A are determined by the district director to be appropriate. Under these facts, the tax is allocated to X and Y in the following amounts:

Wage payments	X	Y
1	$\frac{\$3,000}{\$4,000} \times \$490.40 = \$367.80$	$\frac{\$1,000}{\$4,000} \times \$490.40 = \$122.60$
2-3	--	$\frac{\$8,000}{\$8,000} \times \$980.80 = \$980.80$
4	$\frac{\$1,000}{\$4,000} \times \$490.40 = \$122.60$	$\frac{\$3,000}{\$4,000} \times \$490.40 = \$367.80$
5	$\frac{\$4,000}{\$4,000} \times \$490.40 = \$490.40$	--
6	$\frac{\$2,000}{\$4,000} \times \$355.54 = \$177.77$	$\frac{\$2,000}{\$4,000} \times \$355.54 = \$177.77$
7-13	$\frac{\$10,000}{\$28,000} \times -0- = -0-$	$\frac{\$18,000}{\$28,000} \times -0- = -0-$
	$1,158.57	$1,648.97

(ii) If Y remits none of the taxes to the Internal Revenue Service, X is liable for $2,452.00 (the entire amount due pursuant to sections 3102 and 3111 with respect to the remuneration to A from X) (12.26% × $20,000). Any amount remitted by X to the Internal Revenue Service under these circumstances is also credited against the liability of the common paymaster, Y. However, only the portion of the employment taxes allocated to X under (i) above may be deducted by X as employment taxes paid by it in respect of wages paid by it to its employees.

(iii) If Y remits $1,000.00 of the total $2,807.54 due, Y as common paymaster remains liable for $1,807.54 ($2,807.54 minus $1,000). X's liability is the lesser of $1,807.54 (the liability of the common paymaster), or X's total liability, in the absence of section 3121 (s), on wages paid through the common paymaster ($2,452.00) minus a credit for an allocable part of the amount remitted by Y. The part is $412.66

$$\left(\frac{\$1,158.57\ (\text{X's allocable share of tax})}{\$2,807.54\ (\text{total tax})}\right) \times \$1,000$$

(tax remitted). Since $1,807.54 is less than $2,039.34 ($2,452.00 minus $412.66), X and Y are jointly and severally liable for $1,807.54.

(iii) *Group-wide allocation—rules.* Under the group-wide method of allocation, the district director may allocate the taxes imposed by sections 3102 and 3111 in an appropriate manner to a related corporation that remunerates an employee through a common paymaster if the common paymaster fails to remit the taxes to the Internal Revenue Service. Allocation in an appropriate manner varies according to the circumstances. It may be based on sales, property, corporate payroll, or any other basis that reflects the distribution of the services performed by the employee, or a combination of the foregoing bases. To the extent practicable, the district director may use the principles of § 1.482-2(b) in making the allocations.

(d) *Effective date.* This section is effective with respect to wages paid after December 31, 1978.

§ 31.3306(b)(1) [Deleted]

PAR. 4. Section 31.3306(b)(1) and the historical note are deleted.

PAR. 5. Section 31.3306(b)(1)-1 is amended by adding at the end of the portion of paragraph (a)(3) that precedes example (1) a sentence which reads as follows:

§ 31.3306(b)(1)-1 $3,000 limitation.

(a) *In general.* * * *

(3) * * * In connection with the annual wage limitation in the case of remuneration after December 31, 1978 from two or more related corporations that compensate an employee through a common paymaster, see § 31.3306(p)-1.

* * * * *

PAR. 6. There is added immediately after § 31.3306(o)-1 the following new section:

§ 31.3306(p)-1 Employees of related corporations.

(a) *In general.* For purposes of sections 3301, 3302, and 3306(b)(1), when two or more related corporations concurrently employ the same individual and compensate that individual through a common paymaster which is one of the related corporations for which the individual performs services, each of the corporations is considered to have paid only the remuneration it actually disburses to that individual (unless the disbursing corporation fails to remit the taxes due). Paragraphs (b) and (c) of § 31.3121(s)-1 contain rules defining related corporations, common paymasters, and concurrent employment, and rules for determining the liability of the other related corporations for employment taxes if the common paymaster fails tor emit the taxes pursuant to sections 3102 and 3111, and for allocating these taxes among the related corporations. Those rules also apply to the tax under section 3301. For purposes of applying those rules to this section, references in those rules to section 3111 are considered references to sections 3301 and 3302, and references to section 3121 are considered references to section 3306.

(b) *Allocation of credit for contributions to State unemployment funds.* A special rule for applying the rules of § 31.3121(s)-1 to this section applies if it is necessary to determine the ultimate liability of each related corporation for which services are performed in the event the common paymaster fails to remit the tax to the Internal Revenue Service. In determining the ultimate liability of a corporation, the credit for contributions to State unemployment funds that the corporation may claim under section 3302 is calculated as if each corporation were a separate employer.

(c) *Effective date.* This section is effective with respect to wages paid after December 31, 1978.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-34645 Filed 12-12-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1022-8]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS—MASSACHUSETTS

Particulate Emission Limitation for Sewage Sludge Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of a revision to the Massachusetts State Implementation Plan (SIP) by amending Regulation 7.02(11)—Emission Limitation to Incinerators, by adding a particulate emission limitation for sewage sludge incinerators which was not previously included in this regulation.

DATES: Comments must be received on or before January 12, 1979.

ADDRESSES: Copies of the Massachusetts submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 2113, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and Department of Environmental Quality Engineering, Division of Air and Hazardous Materials, Room 320, 600 Washington Street, Boston, Massachusett 02111.

Comments should be submitted to the Regional Administrator, Region I, Environmental Protection Agency, Room 2203, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT:

David Stonefield, Air Branch, EPA Region I, Room 2113, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On July 3, 1975 the Commissioner of the Massachusetts Department of Environmental Quality Engineering (the Department) submitted as revisions to the SIP, regulation changes which affect all six Air Pollution Control Districts.

Regulation 7.02(11), (formerly Regulation 2.5.3), Emission Limitations from Incinerators, is amended by adding a particulate emission limitation for sewage sludge incinerators. Sewage sludge incinerators were not previously included in this regulation. The proposed emission limitation is 0.65 grams of particulate matter per kilogram of dry sludge input for new

or modified sewage sludge incinerators, which is consistent with EPA Standards of Performance for New Stationary Sources as set forth in Subpart O of 40 CFR Part 60 (published in the March 8, 1974 FEDERAL REGISTER). Also, the emission testing method specified is that required by Subpart O. The proposed revision is consistent with EPA guidelines, and will not interfere with the attainment or maintenance of National Ambient Air Quality Standards.

A revision to Regulation 7.02(12)(d) (formerly Regulation 2.5.4.4) containing a requirement for submerged fill tubes for certain sizes of stationary tanks was also included as part of this submittal. This revision will be resubmitted as part of the SIP revision requirements for volatile organic compound control measures under the Clean Air Act Amendments of 1977, and will be discussed in a subsequent FEDERAL REGISTER notice.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(A)-(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended 7401 and 7601.

Dated: December 4, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator, Region I.

[FR Doc. 78-34578 Filed 12-12-78; 8:45 am]

[6560-01-M]

[FRL 1023-6]

[40 CFR Part 65]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Notice of Proposed Approval of an Administrative Order Issued by Indiana Air Pollution Control Board to American Chemical Services, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to approve an Administrative Order issued by the Indiana Air Pollution Control Board to American Chemical Services, Inc. The Order requires the Company to bring air emissions from its solvent processing and recovery facility in Griffith, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP) by January 1, 1979. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before January 12, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Cynthia Colantoni, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2082.

SUPPLEMENTARY INFORMATION: American Chemical Services, Inc. operates a facility at Griffith, Indiana. The Order under consideration addresses emisssions from the waste gas incinerator at the facility, which is subject to Indiana Regulations IC 13-1-1 and IC 13-7-11-2. The regulations limit the emissions of hydrocarbons, and are part of the federally approved Indiana State Implementation Plan. The Order requires final compliance with the regulations by January 1, 1979, by replacing the presently installed waste gas incinerator. In the interim, the source will modify the process for handling solvent and additives in order to control the destruction of product gas.

Because this Order has been issued to a major source of hydrocarbon emissions and permits a delay in compliance with the applicable regulations it must be approved by U.S. EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. EPA may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Indiana SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. EPA may approve the Order. After the public comment period, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

(Authority: 42 U.S.C. 7413, 7601.)

Dated: December 1, 1978.

JOHN MCGUIRE,
Regional Administrator
Region V.

[FR Doc. 78-34579 Filed 12-12-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 67]

[Docket No. 20981; FCC 78-820]

IMPACT OF CUSTOMER PROVISION OF TERMINAL EQUIPMENT ON JURISDICTIONAL SEPARATIONS

Request for Comments and Replies on Report Prepared by Staff

AGENCY: Federal Communications Commission.

ACTION: Federal-State Joint Board Memorandum opinion and Order, Docket 20981.

SUMMARY: The Joint Board solicits comments and replies on the report prepared by its staff on the impact of customer provision of terminal equipment on jurisdictional separations. Comments and replies will be analyzed by the staff and a further report to the Joint Board will be prepared.

DATES: Comments to be filed on or before March 1, 1979 and replies on or before April 16, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Francis L. Young, Common Carrier Bureau, (202) 632-7084.

In the matter of Impact of customer provision of terminal equipment on jurisdictional separations, Docket No. 20981.[1]

MEMORANDUM OPINION AND ORDER

Adopted: November 16, 1978.

[1] See 43 FR 5011, February 7, 1978.

Released: December 6, 1978.

1. The Joint Board convened in this proceeding appointed a joint staff to study and analyze the potential impact of terminal equipment competition on jurisdictional separations. As result of that effort, the Board expected the staff to outline further efforts required to resolve the issue before the Board. Now before the Board for its consideration is a report from the staff concerning their initial findings and future areas of investigation. The staff has recommended that this initial report should be supplemented with comments from all interested persons in order to ascertain contrary conclusions as well as additional recommended areas of further staff study. In the action we take herein, the Board accepts the staff's recommendation for such comments.

2. The staff report generally concludes that immediate impact has not been demonstrated but that a potential for future adverse impact may occur. This conclusion is based on studies performed on both an individual state and nationwide basis. While each of the studies, of necessity, had to use different assumptions and data bases, the staff indicates that this primary conclusion is consistent with each study. The Joint Board now solicits comments on the conclusions set forth in Section C and the matters raised in Section E of the attached *Report of Staff Assistants.*[1a] in the event different conclusions are reached or different quantitative results of alternative studies are proffered supporting details must be supplied. Supporting empirical data and thorough documentation of study methods and assumptions are necessary for the Joint Board to assess the validity of any alternative showing.

3. The staff report raises two areas in which the staff will continue to develop further reports. The first is what level of impact should be considered as adverse impact warranting affirmative action either at the Federal or State level or both. The second area is what should the nature of any remedy be. We have instructed the staff to continue to study these questions. Similarly, we request that comments also address these questions. Since these questions are subject to a broad range of interpretation, we have concluded that a reply pleading opportunity should also be afforded all persons. We urge that all comments be limited to the question before us and replies limited to matters raised in any comments. Upon review of these filings and completion of the further staff studies, the staff will prepare a report for our consideration.

4. *Accordingly, it is ordered,* That comments on the attached *Report of Staff Assistants* made to the Federal-State Joint Board on November 16, 1978, shall be filed no later than March 1, 1979, and replies shall be filed no later than April 16, 1979.

5. *It is further ordered,* That an original and sixteen copies of all comments and replies be filed with the Secretary, Federal Communication Commission and one copy be filed with each State Commission member of the Federal-State Joint Board. Copies of all filings in this matter will be available for public inspection in the Public Reference Room of the Commission at 1919 M Street, N.W., Washington, D.C. during normal working hours.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-34586 Filed 12-12-78; 8:45 am]

[1a] Appendices filed with the original document.

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-364; RM-2936; RM-2968; RM-2988]

FM BROADCAST STATIONS IN GRAND RAPIDS, AND HIBBING, MINN.

Order Extending Time for Filing Comments and Reply Comments.

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving the proposed assignment of FM channels in Grand Rapids and Hibbing, Minnesota. Petitioner, Hibbing Broadcasting Company, states that the additional time is needed so that it can complete its engineering exhibits.

DATES: Comments must be filed on or before February 15, 1979, and reply comments on or before March 9, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: December 6, 1978

Released: December 8, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Grand Rapids and Hibbing, Minnesota), BC Docket No. 78-364, RM-2936, RM-2968, RM-2988.

1. On November 3, 1978, the Commission adopted a *Notice of Proposed Rule Making and Order to Show Cause,* 43 FR 53475, concerning the above-entitled proceeding. The present dates for filing comments and reply comments are January 2, and January 22, 1979, respectively.

2. On November 28, 1978, counsel for Hibbing Broadcasting Company ("HBC"), licensee of Station WMFG-FM, Hibbing, Minnesota, requested an extension of time for filing comments to and including February 15, 1979. Counsel states that HBC wishes to respond to the various issues raised by the Commission and to submit a written statement as to the question of the modification of its license. However, he adds, in order to submit these detailed and substantive comments, it is necessary for HBC to retain competent engineering counsel and has taken steps to do so. Counsel states that the intervening holiday period will prevent the preparation in final form of such engineering exhibits for submission by the present deadline date.

3. We are of the view that the public interest would be served by this extension so that Hibbing Broadcasting Company may file any information which might be helpful to the Commission in reaching a decision in this proceeding.

4. *Accordingly, it is ordered,* That the dates for filing comments and reply comments in BC Docket No. 78-364 are extended to and including February 15, and March 9, 1979, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

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

[FR Doc. 78-34663 Filed 12-12-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[49 CFR Chapter X]

[Ex Parte No. 346]

RAIL GENERAL EXEMPTION AUTHORITY

CROSS REFERENCE: For a document withdrawing a notice of proposed rulemaking, and a document giving the Commission's decision on whether to give general exemption authority to railroads to transport unmanufactured fruits and vegetables, see FR Doc. 78-34590, Ex Parte No. 346, and FR Doc. 78-34589, Ex Parte No. 346 (Sub. No.

1) in the notices section of this issue of the FEDERAL REGISTER.

[7035-01-M]

[49 CFR Ch. X]

[Ex Parte No. 355]

COST STANDARDS FOR RAILROAD RATES

Interpretation of Statutory Provisions

AGENCY: Interstate Commerce Commission.

ACTION: Amended Notice of Proposed Rulemaking.

SUMMARY: This is an amendment to the initial notice of October 11, 1978 which requested the public to comment on the proposed cost standards and to answer specific questions posed in the discussion. This amendment provides for cross-service of the comments.

DATES: Statements of participants are due on or before the following dates: Notice of intent to participate: December 28, 1978. Statements of comment: January 19, 1979. Replies to statements of comment: February 19, 1979.

ADDRESSES: Send notice to intent to participate to: Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423. Send subsequent statements to: Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, 202-275-7693 or Harvey Gobetz.

SUPPLEMENTARY INFORMATION: In a FEDERAL REGISTER notice of October 11, 1978 (43 FR 46877), the Commission requested comments on this proposed rulemaking. Any comments an interested party wished to offer were to be filed with the Commission.

General Mills, Inc., in a letter dated November 1, 1978, urges the Commission to provide for cross-service of the comments. It states that the importance of the proceeding and the complexity of the subject matter make it desirable to allow for replies.

It appears there is a need for full participation in this proceeding by all interested parties. We conclude that this outweighs the considerations of economy which prompted us originally to forego cross-service. Accordingly, any person intending to participate in this proceeding shall file an original and one copy of a notice of intent to participate with the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, within 15 days. This notice shall include a detailed statement of (1) whether the person's interest extends merely to receiving Commission releases in this proceeding; (2) whether the person wishes to participate by filing and receiving statements of comments; (3) whether, if the person desires to file statements, his interest can be consolidated with those of other persons by the filing of joint statements; and (4) any other pertinent information to aid in limiting the service list and avoiding unnecessary expense.

The Commission will then make available to all participants a service list containing the names and addresses of those participating in this proceeding. An original and 15 copies of each statement, if possible, shall then be filed with the Commission, and one copy shall be served upon each person on the service list by January 19, 1979. Any replies to these statements of comment shall be filed by February 19, 1979.

Issued at Washington, D.C. on December 6, 1978.

By the Commission, Chairman O'Neal.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34658 Filed 12-12-78; 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.

[6050-01-M]

ACTION

CONTINUATION OF NATIONAL VISTA GRANTS

This notice explains the procedures that will be used to evaluate current national VISTA grants for continuation for second and third years of operation. each grant has been awarded on a 1-year operational basis and publication of these procedures does not assure continuation of any current grant. New national VISTA grants and fourth-year continuation grants will be required to compete for award according to the procedures described in 43 FR 46153 (October 5, 1978).

In accordance with ACTION's response to Executive Order 12044 (Improving Government Regulations), a working group met on August 25, 1978, and determined that the publication of these procedures was not tantamount to the adoption of an agency regulation. This notice is a general statement of agency procedures affecting a small class of grantees. Pursuant to section 420 of the Domestic Volunteer Service Act, Pub. L. 93-113, these procedures will be effective January 12, 1979.

1. *Criteria for approving continuation of national VISTA grants.* The criteria listed below will be used to determine whether current national VISTA grants should be continued for second or third years of operation.

a. General program criteria: (1) timely attainment of first year proposal goals and objectives and/or description of steps being taken to assure attainment; (2) measurable impact on low-income community such as mobilization of resources, transference of skills to community residents, allevation of poverty conditions; (3) realistic and measurable second (or third) year goals and objectives that will lead to development of indigenous leadership, increase decision-making among low-income people, impact on poverty condition; (4) compliance with VISTA program criteria.

b. Legal and policy compliance: (1) poverty orientation of projects; (2) involvement of low-income people in decision-making and implementation of VISTA project; (3) direct contact between volunteers and low-income community members; (4) compliance with ACTION statute, regulations, and policies.

c. Grantee management and fiscal capability: (1) adequate support of volunteers including supervision, on-the-job transportation, problem-solving, technical assistance; (2) adequate support of project components by national grantee, including technical assistance, administation, problem-solving, fundraising; (3) national grantee and local component handling of LRV recruitment; (4) reasons for and plans to alleviate volunteer attrition; (5) adequate handling of fiscal and accounting requirements and remedial action taken or planned, if necessary; (6) soundness and feasibility of second (or third) year budget proposal.

d. Training: (1) effectiveness of pre- and in-service training and changes planned for second (or third) year training design or methodology; (2) in-service training plans for reenrolling volunteers; (3) volunteer and local component assessment of training.

2. *Procedures for review of continuations.*

a. *Full-year continuation.* (1) Between 150 and 180 calendar days prior to the end of the current budget period, the VISTA grant project manager will sdend to each grantee information and materials on continuation/extension of the national grant.

(2) Between 120 and 150 calendar days prior to the end of the current budget period, each grantee will notify the VISTA project manager in writing of its intent to continue, extend, or not continue its current grant.

(3) If the grantee intends to continue the grant for a full year, the following documentation must be submitted to the VISTA project manager and the ACTION grants officer no later than 120 days prior to the end of the current budget period: (a) pages 1, 8, 8b, 10, and 12 of ACTION Form A-263, the Application for Federal Assistance; (b) revised/updated ACTION Form A-566, Project Narrative completed by the national grantee and including local component work sites, requested number of volunteers per site, pre- and in-service training designs, new training materials, changes in staff or project structure, and LRV recruitment plan; (c) revised/updated problem statements, goals, and objectives, volunteer work plans from local components with management and support information if different from first year; (d) complete Project Narratives and Volunteer Work Plans from new local components; (e) Local Component Questionnaire concerning broad issues of program compliance and support received from national grantee; (f) list of all current local components excluded from continuation application and brief explanation of each exclusion by national grantee; (g) statement from national grantee describing and justifying overall impact of grant, assessment of training/technical assistance provided, resource mobilization, volunteer recruitment, and attrition problems and issues raised in Local Component Questionnaires.

(4) No later than 100 calendar days prior to the end of the current budget period, the VISTA project managers will send all of the above documentation to ACTION Regional and State Directors along with a National Grant Continuation Questionnaire. Questionnaires should be returned to the project manager within 15 work days of receipt. State Director recommendation forms should be submitted on all new components.

(5) No later than 60 calendar days prior to the end of the current budget period, a Project Review Board (PRB) will be convened. The PRB will consist of a minimum of 5 members with 2 VISTA staff selected by the Director of VISTA and at least 2 other non-VISTA field, and/or headquarters staff with experience/knowledge of VISTA programs selected by the Associate Director of Domestic Operations. Representatives from the Offices of General Counsel and Contracts and Grants Management will participate in the PRB as non-voting members. The PRB will consider all the documentation described in (3) above, as well as the following materials furnished by the VISTA project manager: (a) most recent project Quarterly Report; (b) most recent Program Officer Site Visit Report; (c) ACTION Office of Compliance (programmatic) Audit Report and grantee response; (d) ACTION Office of Policy and Planning/Evaluation mail survey analysis of overall national grant; (e) VISTA project manager recommendation.

(6) The PRB will recommend continuation or non-continuation of the overall national grant and individual project components in accordance with the criteria set forth in (2) above.

(7) Within 15 work days of the PRB meeting, the Office of General Counsel will review the entire grant continuation package for legal sufficiency, including the grantee's response to conditions stipulated by the PRB.

(8) The Director of VISTA will accept or reject the PRB's recommendations as to the overall grant package and individual project components. If the VISTA Director rejects the PRB recommendations as to the overall grant package, he/she will set forth in writing in detail the reasons and rationale, specifying the PRB findings with which he/she disagrees.

(9) If approved by the VISTA Director, the complete grant package, along with a signed procurement request, will be submitted to the ACTION Grants Office no later than 45 calendar days prior to the end of the current budget period.

(10) After issuance of the Notice of Grant Award, the VISTA project manager will send the project package to the ACTION Regional and State Offices, including requests to obtain Governor's approval of new components added to the grant.

b. *Extension of current grant with no additional funds* (1) No later than 90 calendar days prior to the end of the current budget period, the grantee will notify in writing the ACTION Grants Officer and the VISTA project manager of its intent to extend the budget period utilizing funds available from the current grant.

(2) Upon receipt of the concurrence of the VISTA project manager and VISTA Director, the ACTION Grants Officer will issue an amended Notice of Grant Award with a new budget period "end" date.

c. *Extension of current grant with additional funds required* (1) No later than 90 calendar days prior to the end of the current budget period, the grantee will submit to the ACTION Grants Officer and ACTION project manager a grant augmentation request. The request will consist of: (a) a letter from the grantee indicating the proposed budget period "end" date; (b) pages 1 and 8B of ACTION Form A-263, Application for Federal Assistance; (c) a Form A-19-1, Rebudget Request Form, and narrative justification for all increased line items.

(2) Upon receipt of the VISTA project manager's and VISTA Director's concurrences, and a signed procurement request, the ACTION Grants Officer will issue an Amended Notice of Grant Award augmenting the grant with additional funds.

d. *Non-continuation of current grant* (1) If the grantee does not wish to continue the grant for an additional year of operation, the grantee shall so notify in writing the VISTA project manager and ACTION Grants Officer no later than 90 calendar days prior to the end of the current budget period.

(2) If ACTION intends to deny a grantee's application for continuation, the procedures in ACTION Order 2650.4 and 45 CFR § 1206, Grants and Contracts—Suspension and Termination and Denial of Application for Refunding, shall be followed.

This notice is issued in Washington, D.C., on December 8th, 1978.

JOHN R. LEWIS,
Associate Director for Domestic & Anti-Poverty Operations.

[FR Doc. 78-34538 Filed 12-12-78; 8:45 am]

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

ROADLESS AREA REVIEW AND EVALUATION (RARE II)

Amendment to the Inventory List

Notice is hereby given of amendment to the inventory of roadless and undeveloped areas within the National Forests and Grasslands. The original inventory was published in the FEDERAL REGISTER, Friday, November 18, 1977, pages 59690-59715. Subsequent amendments were published Tuesday, February 14, 1978, pages 6291-6292, Thursday, June 8, 1978, pages 24876-24881, Tuesday, October 3, 1978, pages 45754-45755, and Thursday, October 19, 1978, page 48670.

The inventory is subject to adjustment from time to time as corrected data become available, as areas are modified, or areas are added or deleted from the list. This amendment contains five changes to delete private land from inventoried areas; 34 inventoried areas are deleted to reflect allocations to nonwilderness uses as a result of completed land management plans; two areas found to meet inventory criteria are added; one area found not to meet inventory criteria is deleted; a recalculation of acreage had been made for six areas; two typographical errors are corrected; one area has a small acreage deletion to reflect a prior commitment of resources; and an addition is made to one area.

The amendments are listed by State and National Forest in the same order as the original list. Acreages shown are gross acres.

State: Alaska

Tongass NF:
Changes shown in the FEDERAL REGISTER Notice of October 3, 1978, for the Tongass National Forest in Alaska were erroneously printed under Alabama. In addition, the reference to area 525:0, Deer Island, was incorrect and is deleted.

State: Arkansas

Ouachita NF:
Change 8006, Bear Mountain, to 2,720 acres.
Change 8083, Belle Starr Cave WSA, to 6,036 acres.
Change 8088, Bell Star East, to 5,000 acres.
Change 8089, Bell Star West, to 5,560 acres.
(Changes reflect only a recalculation of acreage.)

State: California

Angeles NF:
Delete 5001, San Dimas.
Delete 5267, San Gabriel.
Delete 5270, West Fork.
(Reflects allocation to nonwilderness uses in the San Gabriel unit plan.)

Cleveland NF:
Delete 5010, Ladd.
Delete 5011, Coldwater.
Delete 5013, Trabuco-Hotsprings.
Delete 5014, Wildhorse.
Delete 5015, San Mateo.
(Reflects allocation to nonwilderness uses in the Trabuco unit plan.)

Klamath NF:
Delete 5283, Litus.
(Reflects allocation to nonwilderness uses in the King unit plan.)

Los Padres NF:
Delete 5101, Bottchers.
Delete 5106, Silver-Three Peaks.
Delete 5275, Midway Canyon.
Delete 5276, Logwood.
(Reflects allocation to nonwilderness uses in the Big Sur Coastal unit plan.)

Modoc NF and Shasta-Trinity NF:
Delete 5065, Callahan Flow.
Delete 5066, Mt. Hoffman.
Delete 5148, Lavas.
Delete 5150, Dobie Flat.
Delete 5151, Burnt Lava Flow.
(Reflects allocation to nonwilderness uses in the Medicine Lake unit plan.)

San Bernardino NF:
Change 5307, Sheep Mountain to 7,700 acres.
(Reflects deletion of the 700 acres Stockton Flat area because of a prior commitment of resources.)

Sequoia NF:
Change 5206, Woodpecker, to 45,100 acres.
(Reflects addition of 700 acres to meet inventory criteria.)
Delete 5201, Kings Canyon.
(Area found not to meet inventory criteria.)

State: Idaho

Caribou NF:
Delete 4167, Meade Peak.
Delete 4168, Hell Hole.
Delete 4169, Telephone Draw.
Delete 4170, Red Mountain.
Delete 4171, Soda Point.
Delete 4172, Sherman Peak.
Delete 4173, Stauffer Creek.
Delete 4174, Williams Creek.
Delete 4175, Liberty Creek.
Delete 4176, Mink Creek.
Delete 4177, Paris Peak.
Delete 4178, Station Creek.
Delete 4180, Swan Creek Mtn.
Delete 4181, Gibson.
(To reflect allocation to nonwilderness uses as a result of the Final Environmental Statement for the Bear River Land Management Plan.)

State: Illinois

Shawnee NF:
Add 9106, Lusk Creek, 6,737 acres.
(Reflects addition of a roadless area found to meet inventory criteria.)

State: Montana

Nezperce NF:
Delete 1848, Dixie Summit-Nut Hill.
Delete 1843, Goddard Creek.
(To reflect allocation to nonwilderness uses as a result of the gospel Bump and Hot Point Land Management Plans.)

State: North Carolina

National Forests in North Carolina:
Change 8055, Balsam Cone, to 13,529 acres.
Change 8057, Shinning Rock Extension, to 10,000 acres.
Change 8058, Linville Gorge Extension, to 3,014 acres.
Change 8199, Catfish Lake South, to 7,605 acres.
(These changes reflect the deletion of private lands from inventoried roadless areas.)

State: Oregon

Crooked River National Grassland:
Add 6321, Dechutes Canyon, 17,482 acres.
(Addition to the inventory of a roadless area found to meet inventory criteria.)

State: Virginia

Jefferson NF:
Change 8182, Kimberling Creek, to 5,580 acres.
(Reflects deletion of 146 acres of private land from the roadless area.)

Dated: December 6, 1978.

THOMAS C. NELSON,
Acting Chief.

[FR Doc. 78-3412 Filed 12-12-78; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket Nos. 33090, 23080-2; Order 78-12-9]

AAT AIRLINES, INC.

Order Fixing Final Service Mail Rates

Issued under delegated authority, December 4, 1978.

By Order 78-11-81, dated November 16, 1978, the Board directed all interested persons, particularly the Postmaster General and AAT Airlines, Inc., d/b/a Air Sunshine (AS), to show cause why the Board should not adopt the proposed findings and conclusions and fix, determine, and publish the final rates proposed therein.

The time designated for filing notice of objection has elapsed. AS filed a notice of objection on November 24, 1978, but withdrew it on November 28, 1978. No other notice of objection or answer to the order has been filed. All persons have therefore waived the right to a hearing and all other procedural steps short of fixing a final rate.

Accordingly, pursuant to the Federal Aviation Act, as amended, and particularly sections 204(a) and 406 thereof, the Board's Procedural Regulations, 14 CFR Part 302, and the authority delegated by the Board in its Organizational Regulations, 14 CFR 385.16(g),

1. We make final the tentative findings and conclusions set forth in Order 78-11-81;

2. The Postmaster General, pursuant to the provisions of section 406 of the Federal Aviation Act, as amended, shall pay AAT Airlines, Inc., d/b/a Air Sunshine (AS) for the transportation of mail by aircraft between Miami and Key West and for other operations which AS may hereafter undertake, the facilities used and useful thereof, and the services connected therewith, on and after the date of commencement of AS's mail transporting operations, the final service mail rates established in Docket 23080-2;

3. The Postmaster General shall pay the fixed final service mail rates in their entirety; and

4. We shall serve a copy of this order upon the Postmaster General and Air Sunshine.

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 10 days after the service date of this order.

We shall make this order effective and an action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

We shall publish this order in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34674 Filed 12-12-78; 8:45 am]

[6320-01-M]

[Docket Nos. 33275, etc.; Order 78-12-25]

AMERICAN AIRLINES, INC., ET AL.

Order of Consolidation Regarding New Orleans-West Service Investigation

Issued under delegated authority, December 5, 1978.

Order 78-11-84, served November 20, 1978, revised the scope of this proceeding. In response to that order, the nine captioned carriers have filed applications and motions to consolidate them into Docket 33275. The motions to consolidate will be granted only to the extent that the applications conform to the scope of the investigation instituted by Order 78-8-122 and amended by Order 78-11-84.

Accordingly, pursuant to authority delegated to the presiding administrative law judge by Order 78-11-84,

It is ordered, That:

1. The motions to consolidate Amendment No. 2 to the application of American Airlines, Inc., in Docket 33436, Amendment No. 3 to the application of Braniff Airways, Incorporated, in Docket 31699, Amendment No. 1 to the application of Continental Air Lines, Inc., in Docket 33439, Amendment No. 1 to the application of Eastern Air Lines, Inc., in Docket 33445, Amendment No. 1 to the application of Northwest Airlines, Inc., in Docket 33420, First Amended application of Ozark Air Lines, Inc., in Docket 33415, Amendment No. 1 to the application of Southern Airways, Inc., in Docket 33424, Amendment No. 1 to the application of Texas International Airlines, Inc., in Docket 33431, and Amendment No. 1 to the application of Western Air Lines, Inc., in Docket 33433 into the investigation in Docket 33275 are granted to the extent that the applications conform to the scope of the investigation in Order 78-8-122 as amended by Order 78-11-84.

2. Ozark Air Lines, Inc., is made party to the investigation in Docket 33275.

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 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 before that date 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.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34675 Filed 12/12/78; 8:45 am]

[6320-01-M]

[Docket No. 34195; Order 78-12-57]

ASPEN AIRWAYS, INC.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of December 1978.

Order of Suspension and Investigation Regarding Limitation of Carrier's Liability in Cases of Schedule Irregularities

By tariff revisions [1] issued November 7, 1978, and marked to become effective January 6, 1979, Aspen Airways, Inc. (Aspen) proposes to cancel its participation in the industry tariff rule which provides that, in the event of a missed flight connection due to schedule irregularities, the carrier causing the delay will arrange transportation on the next available flight in the same or a higher class of service at no additional cost to the passenger.

[1] Revisions to Airline Tariff Publishing Company (ATP), Agent, Tariff C.A.B. No. 142.

Aspen claims that more than half of its annual traffic is carried between Denver and Aspen during the winter months; because of its location, the Aspen airport is subject to frequent weather closings; because of the heavy air traffic in the Denver-Aspen corridor, the frequency and duration of delays have been increasing; based on past experience, Aspen anticipates substantial weather-induced delays and cancellations on 21 days during the first quarter of 1979, and at least one such delay nearly every day; of its projected 87,000 passengers during this period, 86,000 will be interline passengers; of these, 20,000 Aspen-originating passengers will be exposed to possible misconnections due to terminal and weather delays; as Aspen would be required to pay ¾ of the cost of any upgradings at Denver (either from coach to first-class or, in some cases, from discount to full-fare), the financial impact of the rule could be devastating; Aspen calculates a minimum upgrading cost during the first quarter of $900,000, substantially greater than its projected operating profit for the whole year; this estimate is probably understated, since Aspen expects a large increase in the number of interline passengers in 1979, as well as greater proportion of traffic moving on deep discount fares (*e.g.*, Super-Saver); and the carrier, however, will receive no offsetting benefit from the provisions, as it offers no discount fares (except a group fare) and, as a matter of policy, carries all misconnected incoming passengers from Denver to Aspen without additional charge. Finally, Aspen claims that it only joined ATP's tariff effective July 19, 1978, to enable it to file joint fares with other certificated carriers; application to Aspen of the rule in question was unintentional; and the carrier has never previously had any similar tariff provision.

The Board has determined that the proposed rules revisions may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated; we further conclude that they should be suspended pending investigation.

While Aspen has demonstrated unusual operating characteristics which might justify its proposal, at least as to weather-related flight irregularities, we are concerned about the breadth of its proposed rule. In addition to eliminating liability in cases of weather-related delay, the exculpation would also extend to misconnections due to other causes, such as mechanical delay, airport congestion, and change of gauge, for which Aspen has not submitted justification. Furthermore, it would add a new tariff provision disclaiming all liability whatsoever for flight delay or cancellation, except in the case of schedule changes. We believe this unduly restricts its obligation to transport, particularly since passengers receive no warning that they may face additional charges in such cases.

On the other hand, we are not unsympathetic to Aspen's peculiar weather difficulties. We would, therefore, accept a provision that relieves Aspen from the obligation to arrange alternative transportation (including upgrading, if necessary) in the event of misconnection caused by weather conditions, but which would provide for such alternative transportation in all other cases, such as mechanical delay, general airport congestion, etc. which are at least partly under the carrier's control. Any revision must, however, exclude the exculpatory language Aspen proposed to add in Rule 380, and include a provision for notice to passengers warning them of the possibility of additional charges in the event of weather delay. Since the high possibility of a missed connection is the basis for Aspen's proposal, we see no alternative to a notice requirement. Because of the already advanced date of Aspen's peak season, we will permit Aspen to file such a change on short notice.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002,

1. We institute an investigation to determine whether the provisions shown on Appendix A and rules, regulations, and practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, we suspend the provisions shown in Appendix A and defer their use to and including April 5, 1979, unless we order otherwise, and no changes shall be made therein during the period of suspension except by order or special permission of the Board;

3. Copies of this order shall be filed with the tariff and served upon Aspen Airways, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

TARIFF C.A.B. NO. 142, ISSUED BY AIRLINE TARIFF PUBLISHING COMPANY, AGENT

On 28th Revised Page 169:

1. The portion of subparagraph (C)(1)(b) in Rule 380 which reads "(Not applicable to AP.)"; and

2. Subparagraph (C)(1)(d) to Rule 380.

[FR Doc. 78-34676 Filed 12-12-78; 8:45 am]

[6320-01-M]

EMERY AIR FREIGHT

Application for an All-Cargo Air Service Certificate

DECEMBER 7, 1978.

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 33974, from Emery Air Freight, Old Danbury Road, Wilton, Connecticut for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application within twenty-one (21) days after publication of this notice in the FEDERAL REGISTER. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34672 Filed 12-12-78; 8:45 am]

[6320-01-M]

EXEMPTION OF U.S. AND FOREIGN AIR CARRIERS FROM TARIFF OBSERVANCE REQUIREMENTS TO PERMIT RESOLUTION OF CONSUMER COMPLAINTS

[Docket No. 34189]

Order Granting Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 7th day of December, 1978.

Airline tariffs filed with the Civil Aeronautics Board contain numerous restrictions, most of them self-imposed, on what the carriers may or may not do to satisfy consumer grievances. The Board believes that it is in the public interest to allow carriers more flexibility than they have previously enjoyed in disposing of passenger claims and complaints. For this reason, we are exempting carriers from the tariff-observance provisions in section 403(b) of the Federal Aviation Act and § 221.3(b) of our Economic Regulations to the extent necessary to allow them to make mone-

tary adjustments for passengers who register complaints. This exemption applies to all air carriers and to all foreign air carriers holding permits issued by the Board under section 402 of the Act.

Section 403(a) of the Act requires airlines to file tariffs with the Board listing their fares, the conditions governing the availability of each type of fare, and other terms that affect passenger rights and airline responsibilities. The air travel problems covered in the tariffs include, among other things, flight delays and cancellations, mishandled baggage, list tickets, air fare misquotes and miscalculations, oversold flights, and ticketing and reservation errors. Tariffs are written by the carriers, and these rules generally contain provisions that limit or completely relieve airlines from responsibility for many types of passenger problems.

Section 403(b) of the Act requires airlines to observe their tariffs and prohibits rebating any portion of the air fare to the passenger. Section 221.3(b) of the Economic Regulations says essentially the same thing. The Board has never enforced the anti-rebating provisions against airlines for making monetary adjustments to complaining passengers not expressly provided for in their tariffs. Violations of these provisions could, nevertheless, subject airlines to administrative or civil enforcement proceedings or conceivably, in extreme cases, to criminal penalties, if they were ever enforced. In denying claims for compensation, airlines have often in the past fallen back on their tariffs, telling passengers that whatever payment they were requesting could constitute an illegal rebate.

Earlier this year, our former Bureau of Enforcement (now the Bureau of Consumer Protection) became concerned that many carriers were explaining that they could not settle claims on the grounds that any airline caught making fare adjustments or payments not specifically described in its tariffs would be prosecuted and fined by the Board for illegal rebating. To alleviate the industry's fears and encourage carrier responsiveness to customer complaints, that Bureau wrote letters to all U.S. air carriers and many foreign carriers on March 17, 1978 and May 22, 1978, articulating its long-standing policy not to enforce rebating prohibitions with respect to any payments an airline might make to satisfy consumer grievances, even if the compensation resulted in a technical violation of the Act. The Bureau of Consumer Protection's records indicate that many carriers are now taking a far more flexible approach to handling complaints than they did in the past. Some carriers, however, still appear to be concerned about the legality of deviating from their tariffs under any circumstances, and they continue to tell passengers that paying the compensation requested would violate Federal law.

Prior to the adoption of the Airline Deregulation Act of 1978, the Board's authority to grant exemptions was contingent upon a finding of "undue burden" upon a carrier by virtue of the "limited extent" of its operations or the existence of "unusual circumstances" affecting the carrier's operations. The new legislation has substantially broadened the Board's exemption power under section 416(b) of the Act. The Board may now exempt any person from complying with any portion of Title IV of the Act, or any regulation prescribed by the Board under Title IV, upon a finding that the exemption "is consistent with the public interest." Congress expanded the exemption power to enable the Board to relieve carriers from the statutory provisions in situations where their required observance would produce anomalous or nonsensical results.[1] We have concluded that it is entirely consistent with the public interest to encourage responsiveness by air carriers and foreign air carriers to consumer complaints, and to remove any doubt as to the legality of such responsiveness, by exempting them from the requirements of section 403(b) of the Act and § 221.3(b) of our regulations so as to allow monetary adjustments or payments to be made to dissatisfied passengers.

In any non-regulated industry, a company may exercise its own business judgment to satisfy customer grievances by making whatever monetary adjustments it considers appropriate. Since responsiveness to consumer problems is an important factor in a competitive market, we believe that airlines should be able to have this same freedom without violating Federal law. At the same time, allowing airlines such discretion will not force them to pay claims they consider unreasonable or unsubstantiated. When they do decide to deny claims, however, the exemption we are granting means that the carriers may no longer assert the threat of prosecution by the Board or legal compulsion under the tariff provisions of the Federal Aviation Act and our regulations as an excuse. We also consider it in the public interest to facilitate the informal resolution of disputes that arise from time to time between airlines and their customers. To the extent that the additional flexibility we are giving the carriers for responding to complaints will allow and encourage them to settle more consumer claims before litigation is commenced, it will also help all parties to avoid the expense and delay invariably associated with a legal proceeding.

The industry letters issued by the Bureau of Enforcement last spring expressed concern that some carriers might use the freedom to disregard tariffs in order to satisfy consumer claims as a device for rebating. We do not believe this to be a problem with the exemption. First, rebating is characteristic of markets with rigid mimimum price regulation. The practice has diminished as an enforcement problem as the air transportation system has become more competitive. Second, we are aware of any cases where a systematic rebating practice has been concealed or disguised by a carrier under the pretext of resolving individual consumer grievances. Moreover, the Board will still retain its ability to take effective enforcement action under sections 404(b) and 411 of the Act in the unlikely event a carrier would attempt to use monetary adjustments to complainants as a ruse for systematically discounting its published fares.

Finally, we are not suggesting that carriers should completely ignore the provisions in their tariffs for handling passenger claims. We expect the tariffs to realistically describe the carrier's practices and, if carriers change their general policies for dealing with consumer complaints and claims, we expect that they will amend their tariffs to reflect the new policies. Obviously, however, problems will continue to arise from time to time which are not dealt with or anticipated in the tariffs, and we believe it is consistent with the public interest for carriers to be able to compensate passengers encountering such problems without fear of violating the act or our regulations.

Accordingly,

1. We exempt all U.S. air carriers and all foreign air carriers from section 403(b) of the Federal Aviation Act of 1958, as amended, and § 221.3(b) of the Board's Economic Regulations (14 CFR 221.3(b)), to the extent necessary to enable each carrier to compensate or make monetary adjustments to any passenger who registers a complaint or claim for an expense incurred or for a loss or any other damage sustained as a result of the carrier's or its agent's negligence, misrepresentation, or other act or omission which in the carrier's judgment justifies such payment of compensation or adjustment; and

2. We shall serve this order on all U.S. certificated air carriers and all foreign air carriers holding permits under section 402 of the Act.

We shall publish this order in the FEDERAL REGISTER.

[1] S. Rep. No. 95-631, Report of the Senate Committee on Commerce, Science and Transportation on S. 2493, 95th Cong. 2nd Sess. p. 85. (1978).

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[2]
Secretary.

[FR Doc. 78-34671 Filed 12-12-78; 8:45 am]

[6320-01-M]

[Docket No. 32708]

HOUSTON-PHOENIX/TUCSON CASE

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held commencing February 6, 1979, at 10:00 a.m. (local time) in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report, served October 16, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 7, 1978.

KATHERINE A. KENT,
Administrative Law Judge.

[FR Doc. 78-34677 Filed 12-12-78; 8:45 am]

[6320-01-M]

[Docket No. 23080-2; Order 78-12-52]

PRIORITY AND NONPRIORITY DOMESTIC SERVICE MAIL RATES—PHASE II

Order to Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of December 1978.

Cochise Airlines, Inc. (Cochise) and Sky West Aviation, Inc. (Sky West), have recently been granted certificates of public convenience and necessity for regional feeder service in the *Arizona Service Investigation* (Docket 30635).[1] The certificates authorize the carriers to engage in air transportation of persons, property, and mail, and shall be effective on December 4, 1978.

It is necessary that the Board determine the fair and reasonable rates of service mail compensation to be paid to these carriers by the Postmaster General. The Board has previously found the domestic service mail rates fair and reasonable for similar short haul service of the other ceritificated carriers. We see no reason why these same rates should not apply to the certificated operations of Cochise and Sky West. Therefore, we believe that the service mail rates established in this proceeding by Order 78-11-80, served November 21, 1978, should be payable to Cochise and Sky West over their entire certificated systems effective on and after commencement of services pursuant to their certificates of public convenience and necessity.

Based on the foregoing, the Board tentatively finds and concludes that:

On and after the date of commencement of certificated air transportation by Cochise Airlines, Inc., and Sky West Aviation, Inc., the fair and reasonable rates of compenstation to be paid entirely by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, to Cochise Airlines, Inc., and Sky West Aviation, Inc. are the rates established in Docket 23080-2.

Accoordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302,

1. We direct all interested persons, particularly Cochise Airlines, Inc., Sky West Aviation, Inc. and the Postmaster General, to show cause why the Board should not adopt the foregoing findings and conclusions and fix, determine and publish the rates and charges specified;

2. Further proceedings shall be in accordance with the Board's rules of practice, 14 CFR 302, and if there are any objections to the rates and charges or to the other findings and conclusions proposed, notice thereof shall be filed no later than December 18, 1978, and, if notice is filed, written answer and supporting documents shall be filed no later than January 8, 1979; and

3. We shall serve a copy of this order upon the Postmaster General, Cochise Airlines, Inc. and Sky West Aviation, Inc.

We shall publish this order in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,[2]
Secretary.

[FR Doc. 78-34670 Filed 12-12-78; 8:45 am]

[6320-01-M]

ROSENBALM AVIATION, INC.

Application for an All-Cargo Air Service Certificate

DECEMBER 6, 1978.

In accordance with Part 291 (14 CFR Part 291) of the Board's Economic Regulations (effective November 9, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 33973, from Rosenbalm Aviation, Inc., Willow Run Airport, Ypsilanti, Michigan for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of Part 291, interested persons may file an answer in opposition to this application within twenty-one (21) days after publication of this notice in the FEDERAL REGISTER. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34673 Filed 12-12-78; 8:45 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

ANNUAL SURVEYS IN MANUFACTURING AREA

Notice of Determination

In conformity with title 13, United States Code, sections 182, 224, and 225, and with due notice having been published on November 8, 1978 (43 FR 52042), I have determined that annual data to be derived from the surveys listed below are needed to aid the efficient performance of essential governmental functions and have significant appliction to the needs of the public and industry. The data derived from these surveys, most of which have been conducted for many years, are not publicly available from nongovernmental or other government sources.

Most of the following commodity or product surveys provide data on shipments and, or production; some provide data on stocks, unfilled orders, orders booked, consumption, etc. Reports will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys. These surveys have been arranged under major group headings based on the Standard Industrial Classification Manual (1972 edition) promulgated by the Office of Management and Budget for the use of Federal statistical agencies.

[2] All members concurred.

[1] Order 78-8-195, decided August 31, 1978, served September 5, 1978. At its request, the effective date for Sky West was postponed to June 1, 1979, by Order 78-11-83 adopted November 16, 1978.

[2] All Members concurred except Chairman Cohen who did not participate.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Broadwoven goods finished
Narrow fabrics
Yarn production

MAJOR GROUP 23—APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS

Apparel
Brassieres, corsets, and allied garments
Gloves and mittens

MAJOR GROUP 24—LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE

Hardwood plywood
Softwood plywood
Lumber

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Pulp, and detailed grades of paper and board

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Industrial gases
Inorganic chemicals
Pharmaceutical preparations, except biologicals
Sulfuric acid

MAJOR GROUP 29—PETROLEUM REFINING AND RELATED INDUSTRIES

Asphalt and tar roofing and siding products

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Rubber
Plastics Products

MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS

Shoes and slippers (by method of construction)

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Consumer, scientific, technical, and industrial glassware
Fibrous glass

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Steel mill products
Insulated wire and cable
Magnesium mill products

MAJOR GROUP 34—FABRICATED METAL PRODUCTS EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Commercial steel forgings
Steel power boilers
Selected heating equipment
Metal cans

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Internal combustion engines
Tractors, except garden tractors
Farm machines and equipment
Mining machinery and mineral processing equipment
Refrigeration and airconditioning equipment, including warm air furnaces
Computers and office and accounting machines
Pumps and compressors
Selected industrial air pollution control equipment
Construction machinery

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Radios, televisions, and phonographs
Motors and generators
Wiring devices and supplies
Switchgear, switchboard apparatus, relays, and industrial controls
Selected electronic and associated products, including telephone and telegraph apparatus
Electric housewares and fans
Electric lighting fixtures
Major household appliances

MAJOR GROUP 37—TRANSPORTATION EQUIPMENT

Aircraft propellers

MAJOR GROUP 38—PROFESSIONAL, SCIENTIFIC, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC AND OPTICAL GOODS; WATCHES AND CLOCKS

Selected instruments and related products
Atomic energy products and services

The following survey represents an annual supplement of a monthly survey and will cover the same establishments canvassed monthly. There will be no duplication of reporting, however, since the type of data collected on the annual supplement will be different from that collected monthly.

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Glass containers

The following list of surveys represents annual counterparts of monthly and quarterly surveys and will cover only those establishments which are not canvassed or do not report in the more frequent surveys. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS

Flour milling products

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Finishing plant report—broadwoven fabrics
Consumption of wool and other fibers, and production of tops and noils
Carpet and rugs
Knit fabric production

MAJOR GROUP 23—APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS

Sheets, pillowcases, and towels

MAJOR GROUP 25—FURNITURE AND FIXTURES

Matresses and bedsprings

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Converted flexible packaging products

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Phosphatic fertilizer materials
Paint, varnish, and lacquer

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PRODUCTS

Plastics bottles

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Flat glass
Refractories
Clay construction products

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Nonferrous castings
Iron and steel foundries
Steel inventories (Consumers and Producers Reports)
Copper inventories

MAJOR GROUP 34—FABRICATED METAL PRODUCTS EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Plumbing fixtures
Steel shipping drums and pails
Closures for containers

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Construction machinery

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT AND SUPPLIES

Fluorescent lamp ballasts

MAJOR GROUP 37—TRANSPORTATION EQUIPMENT

Aircraft engines
Complete aircraft
Backlog of orders for aircraft, space vehicles, missiles, engines, and selected parts
Truck trailers

The annual survey of manufactures will collect general statistical data, such as employment; payroll; work-hours; capital expenditures; cost of materials consumed; gross book value, retirements, and depreciation of fixed assets; rental payments; supplemental labor costs; information on the quantity of fuels used, etc. This survey, while conducted on a sample basis, will cover all manufacturing industries, including data on plants under construction but not yet in operation.

A survey of research and development (R&D) activities will be conducted. The major data to be obtained in this survey will include total R&D expenditures by source of funds, the number of scientists and engineers employed, the amounts spent for pollution abatement and energy R&D, and, for comparative purposes, the total net sales and receipts and the total employment of the company.

A survey of shipments to Federal Government agencies is planned to provide information on the impact of Federal procurement on selected industries and on the economy of States, standard metropolitan statistical areas, and geographic regions.

The annual survey of oil and gas will canvass the industry which provides most of the fuel produced in the United States as well as a substantial portion of the raw material requirements of many industries. The survey will collect information on exploration, development, and production costs; sales volumes and values; drilling activity; and assets in the crude petroleum and natural gas industry.

The annual survey on pollution abatement expenditures is designed to collect from the manufacturing area total expenditures by industry to abate pollutant emissions. The survey covers current operating costs and capital expenditures by industry to reduce pollution in its air, water, or solid forms. It will also obtain the costs recovered from abatement activities and quantities of pollutants abated.

The survey of plant capacity will obtain information such as number of shifts; the actual operating rate; the number of production workers for actual, preferred, and practical operating rates; the reasons for operating at less than capacity; and the length of time required to reach and to maintain practical rates. The survey will be done on a sample basis and will cover all manufacturing industries.

The report forms will be furnished to firms included in these surveys. Copies of survey forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed the annual surveys be conducted for the purpose of collecting the data hereinabove described.

Dated: December 8, 1978.

MANUAL D. PLOTKIN,
Director,
Bureau of the Census.

[FR Doc. 78-34604 Filed 12-12-78; 8:45 am]

[3510-25-M]

Foreign-Trade Zones Board

[Docket No. 14-78]

FOREIGN-TRADE ZONE NO. 14, LITTLE ROCK, ARKANSAS

Application To Relocate and Expand Zone Area

Notice is hereby given that the Little Rock Port Authority (the Port), on behalf of the Arkansas Department of Industrial Development, grantee of Foreign-Trade Zone No. 14, has applied to the Foreign-Trade Zones Board (the Board) requesting authority to relocate the zone from its present site in the Port's transit warehouse terminal on the Arkansas River to a nearby site covering some 28 acres. The application was formally filed by the Board on December 7, 1978.

The Little Rock zone was authorized by the Board on October 4, 1972 (Board Order No. 90). Operations began in December 1975, and during the past year the zone received some 176 short tons of goods valued in excess of $1.8 million. It has become apparent to the Port that the space available at the current zone site is not adequate to meet the needs of prospective zone tenants desiring additional warehouse space and open area on which to construct their own facilities. Consequently, the Port intends to move from its present facility to a larger area within the adequate port industrial complex.

The proposal requests zone status for two tracts of Port-owned property containing some 28 acres within a half mile of the present zone building. A 104,000 square foot warehouse facility is nearing completion on one of the sites. The expanded zone area is expected to be used for storage, distribution, assembly and processing activities on such products as photographic equipment, automobile parts, watches, alcoholic beverages, and packaged foods.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; Herbert T. Fink, District Director, U.S. Customs Service, 600 South Street, New Orleans, Louisiana 70130; and Colonel Dale K. Randels, District Engineer, U.S. Army Engineer District Little Rock, P.O. Box 867, Little Rock, Arkansas 72203.

Comments concerning the proposed zone relocation and expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and be postmarked on or before December 29, 1978.

A copy of the Port's application is available for public inspection at each of the following locations:

U.S. Department of Commerce (Satellite Office), Suite 109, 1100 North University, Little Rock, Arkansas 72207.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 6886-B, U.S. Department of Commerce, 14th and E Streets NW., Washington, D.C. 20230.

Dated: December 7, 1978.

JOHN J. DA PONTE,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc. 78-34611 Filed 12-12-78; 8:45 am]

[3510-25-M]

[Docket No. 15-78]

FOREIGN-TRADE ZONE NO. 27, BOSTON, MASSACHUSETTS

Application for Expansion

Notice is hereby given that the Massachusetts Port Authority (Massport), grantee of Foreign-Trade Zone No. 27, has applied to the Foreign-Trade Zones Board (the Board) requesting authority to expand its zone to include Commonwealth Pier No. 5 and the Commonwealth Storage Yards, located on the Boston Inner Harbor. Both facilities are owned by the grantee. The application was formally filed on December 8, 1978.

The existing zone was authorized by the Board on April 5, 1977 (Board Order No. 116). It is located on a 5-acre tract within the Boston Marine Industrial Park (formerly the South Boston Naval Annex) in South Boston. The parcel is owned by the City of Boston Economic Development and Industrial Corporation (BEDIC) and includes a 9-story warehouse/processing structure which is planned to be leased to Massport for zone use. Renovation of this facility is nearing completion, but there has been a delay in the adoption of an operating agreement between the grantee and BEDIC. One of the concerns appears to be whether and to what extent the existing facility should be used for warehousing operations. As a result, Mas-

sport has decided to request another facility on land it owns.

The application seeks zone status for Commonwealth Pier No. 5 on Northern Avenue, about on half mile west of the existing zone area. The facility, situated on an 11-acre site, includes about 800,000 square feet of enclosed space on two floors. Because of interest and inquires concerning possible facilities requiring open area, the applicant has also requested zone designation for the Commonwealth Storage Yards, a 48-acre tract located across Northern Avenue from Commonwealth Pier No. 5. Initial users of the expanded zone area are expected to conduct storage, testing, manipulation, exhibition, and distribution activities on such products as heavy machinery, electronic items, leather goods, jewelry, bicycles, and sporting equipment.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; Donald F. Kelly, Assistant Regional Commissioner, U.S. Customs Service, Region I, Suite 1819, 100 Summer Street, Boston, Massachusetts 02110; and Colonel John P. Chandler, Division Engineer, U.S. Army Engineer Division New England, 424 Trapelo Road, Waltham, Massachusetts 02154.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and be postmarked on or before January 5, 1979.

A copy of Massport's application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 10th Floor, 441 Stuart Street, Boston, Massachusetts 02116.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, 14th and E Streets, NW, Washington, D.C. 20230.

Dated: December 8, 1978.

JOHN J. DA PONTE,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc. 78-34655 Filed 12-12-78; 8:45 am]

[3510-25-M]

Industry and Trade Administration

CONSOLIDATED DECISION ON APPLICATIONS FOR DUTY FREE ENTRY OF ACCESSORIES FOR FOREIGN INSTRUMENTS

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

DOCKET NUMBER: 78-00356. APPLICANT: Louisiana State University and Agriculture and Mechanical College, Baton Rouge, La. 70803. ARTICLE: Standard Motor Control Unit, No. 34-07-71 (to fit existing Carl Zeiss Electron Microscope 10). MANUFACTURER: Carl Zeiss, West Germany. INTENDED USE OF ARTICLE: The article is intended to be used to power three accessories to an electron microscope which is being used for the study of biological materials to learn the processes of disease at the cellular level, the location of specific viruses within cells and ultrastructure as it involves physiological function. The article will also be used in the courses "Ultrastructure" and "Cytochemistry" to train graduate students in the use of electron microscopy and to suggest special techniques that might be useful in their particular research projects. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: July 27, 1978. ADVICE SUBMITTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON: November 7, 1978.

DOCKET NUMBER: 78-00378. APPLICANT: The University of Chicago, 5801 South Ellis Avenue, Chicago, Ill. 60637. ARTICLE: Goniometer Stage Assembly for EM-300 and Accessories. MANUFACTURER: Philips Electronics Instruments NVD, The Netherlands. INTENDED USE OF ARTICLE: The article is an accessory to be used in conjunction with an electron microscope in research to determine the structure of fibers of hemoglobin S formed in sickle cell anemia and related sickle cell disease which involve interaction of sickle cell hemoglobin S with other mutant hemoglobin. Investigations will center on (1) Electron microscopic study of negatively stained fibers formed in red cells of individuals homozygous for hemoglobin S and heterozygous for Hb S and other mutant sickling hemoglobins (2) Freeze fracture of whole sickled cells, (3) "Low dose" microscopy of large two-dimensional arrays of unstained sickle fibers, (4) Analysis of the electron micrographs obtained by the above methods by recently developed Fourier methods will be carried out to determine the three-dimensional mass distribution and orientation of individual molecules within the hemoglobin fiber, and (5) In parallel with electron microscopic studies, methods will be devised to obtain very well oriented fibers of sickle hemoglobin suitable for X-ray diffraction. In addition, the article will be used in the course Biophysics 309—Principles and Practices of Electron Microscopy to teach the use of the electron microscope and specimen preparation. APPLICATION RECEIVED BY COMMISSION OF CUSTOMS: August 9, 1978. ADVICE SUBMITTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON: November 22, 1978.

DOCKET NUMBER: 78-00382. APPLICANT: University of Kansas Medical Center, College of Health Sciences and Hospital, 39th and Rainbow Boulevard, Kansas City, Kans. 66103. ARTICLE: LKB 14800-3/Cryokit and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used for investigations that include ultrastructural studies on normal and pathologic animal tissues, viral infected cells, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host cell and viral interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environment due to the presence of tumor viruses. The experiments will be conducted in order to further basic knowledge on cell and tissue ultrastructure in the frozen state to reveal enzyme localization and distribution in cells and tissues under normal and pathological conditions. The article will also be used in a course entitled "Ultrastructural Histology" which involves a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: August 23, 1978. ADVICE SUBMITTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON: November 22, 1978.

COMMENTS: No comments have been received with respect to any of the foregoing applications. DECISION: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States. REASONS: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufac-

tured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda that the accessories are pertinent to the applicant's intended uses and that it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instruments with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34626 Filed 12-12-78; 8:45 am]

[3510-25-M]

CONSOLIDATED DECISION ON APPLICATIONS FOR DUTY FREE ENTRY OF ELECTRON MICROSCOPES

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

DOCKET NUMBER: 78-00450. APPLICANT: Johns Hopkins University, School of Medicine, 725 North Wolfe Street, Baltimore, Md. 21205. ARTICLE: Electron Microscope, Model EM 10A and accessories. MANUFACTURER: Carl Zeiss, West Germany. INTENDED USE OF ARTICLE: The article is intended to be used for the study of the localization of cytoskeletal proteins in non-muscle cells by immunochemical electron microscopic methods. In particular, the investigation of the localization of the protein alpha-actinin with respect to the substructure of the brush border and junctional complex of epithelial cells. In addition, the article will be used to train people in basic electron microscopy techniques. ARTICLE ORDERED: September 1, 1978.

DOCKET NUMBER: 79-00003. APPLICANT: Providence Medical Center, Department of Pathology, 700 North East 47th Avenue, Portland, Oreg. 97213. ARTICLE: Electron Microscope, Model EM 9S-2 and accessories. MANUFACTURER: Carl Zeiss, West Germany. INTENDED USE OF ARTICLE: The article is intended to be used for studies of human tissue, removed by biopsy, surgical operation or autopsy and submitted for pathological examination. Specimens of major interest are poorly differentiated neoplasms from several organs, kidney, skeletal and cardiac muscle, skin, blood, bone marrow, lymph nodes, and body fluids. In addition, the article will be used for educational purposes in the courses:

Introduction to Basic Electron Microscopic Technique,

Ultrastructural Alterations in Human Disease,

Advanced Electron Microscopic Technique—Independent Study.

Other courses or segments of conferences are based on data generated by the article during the above cited research. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: October 3, 1978.

DOCKET NUMBER: 79-00006. APPLICANT: DHEW, National Institutes of Health, Laboratory of Biophysics, IRP, NINCDS, Marine Biological Laboratory, L-320, Woods Hole, Mass. 02543. ARTICLE: Electron Microscope, Model EM 400 HMG and accessories. MANUFACTURER: Philips Electronics Instruments, NVD, The Netherlands. INTENDED USE OF ARTICLE: The article is intended to be used in a variety of modes to study the fine structure of cell membranes and cytoplasmic macromolecular architecture, particularly in the neurons of a number of invertebrate and vertebrate species. In general, the main feature distinguishing the fine structure of neural material is its high degree of liability. Hence, there will be special emphasis on developing preservation techniques designed to minimize ultrastructural changes during fixation and subsequent processing for electron microscopy. ARTICLE ORDERED: August 3, 1978.

DOCKET NUMBER: 79-00007. APPLICANT: University of Pennsylvania, School of Medicine, 36th and Hamilton Walk, Philadelphia, Pa. 19104. ARTICLE: Electron Microscope, Model EM 201C and accessories. MANUFACTURER: Philips Electronics Instruments NVD, The Netherlands. INTENDED USE OF ARTICLE: The article is intended to be used for research involving the study of contracticle proteins in muscle and non-muscle systems. In the latter, studies of the formation and orientation of actin filaments in relation to the state of motion of a specific portion of the cell are of greatest interest. Tissue culture cells, pollen cells, blood platelets and the slime mold will be used to study the changes in non-muscle acting filaments during various forms of cell motility. The formation of myosin filaments *in vitro* will be examined using vertebrate skeletal muscle. The interaction of the M-band proteins with synthetic myosin filaments will be examined using vertebrate skeletal muscle. The interaction of the M-band proteins with synthetic myosin filaments, primarily rabbit uterine myosin filaments. In addition, the article will be used in the following courses to give a cellular understanding of the structure of the body: Histology, Neurobiology, Cell Differentiation, Tissue Interactions. Molecular Organization of Striate Myofibritis, Cell Motility and Membranes, Independent Study and Research. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: October 3, 1978.

DOCKET NUMBER: 79-00019. APPLICANT: Stanford University, 851 Welch Road, Palo Alto, Calif. 94304. ARTICLE: Transmission Electron Microscope, Model H-300 and accessories. MANUFACTURER: Hitachi-Perkin-Elmer, Japan. INTENDED USE OF ARTICLE: The article is intended to be used extensively to study pathological tissue at a molecular and cellular level. The principal areas of research will include the following: (1) Study of renal tissue from kidney biopsies to determine the degree of immunological injury to the basement membrane of the glomeruli. (2) Research of lymphomas and Hodgkin's Disease in which a new thrust is being made to demonstrate surface antigens on tumor cells. (3) Advanced research on tissue obtained by endomycardial biopsy from humans to determine whether viruses are the cause of myocarditis and cardiomyopathies. (4) Research to try to understand the mechanism of anticancer drug on heart muscle so that larger doses of the drug can be given to cure cancer without also causing heart disease. In addition, the article will be used for training surgical pathology trainees, and medical students in the surgical pathology rotations as well as training in electron microscopy—an essential skill for modern Pathologists. The article will also be used for instructional purposes for two courses: Advanced Analytical Chemistry and Physical Chemistry Laboratory. ARTICLE ORDERED: July 28, 1978.

COMMENTS: No comments have been received with respect to any of the foregoing applications. DECISION: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, was being manufactured in the United States at the

time the articles were ordered. REASONS: Each foreign article to which the foregoing applications relate is a conventional transmission electron microscope (CTEM). The description of the intended research and/or educational use of each article establishes the fact that a comparable CTEM is pertinent to the purposes for which each is intended to be used. We know of no CTEM which was being manufactured in the United States either at the time of order of each article described above or at the time of receipt of application by the U.S. Customs Service.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States either at the time of order or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34621 Filed 12-12-78; 8:45 am]

[3510-25-M]

CONSOLIDATED DECISION ON APPLICATIONS FOR DUTY-FREE ENTRY OF MICROLAB TISSUE PROCESSOR

The following is a consolidated decision on applications for duty-free entry of microlab tissue processor pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

DOCKET NUMBER: 78-00402. APPLICANT: The University of Texas System Cancer Center, 6723 Bertner Drive, Houston, Tex. 77030. ARTICLE: Microlab Tissue Processor and Accessories. MANUFACTURER: Microlab Products, Canada. INTENDED USE OF ARTICLE: The article is intended to be used for the investigation of ultrastructural features of tumors in order to establish ultrastructural criteria for the diagnosis and differential diagnosis of human neoplasms. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: August 30, 1978. ADVICE SUBMITTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON: November 30, 1978.

DOCKET NUMBER: 78-00453. APPLICANT: Georgetown University Medical School, Department of Pathology, 3900 Reservoir Road NW., Washington, D.C. 20007. ARTICLE: Microlab Automatic Tissue Processor. MANUFACTURER: Microlab Products, Canada. INTENDED USE OF ARTICLE: The article is intended to be used during investigations of surgical and autopsy material and experimental animal model tissues for immuno-electron microscopic identification of tissue antigens. The article will also be used in the course Electron Microscopy in Pathology for educational purposes. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: October 2, 1978. ADVICE SUBMITTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON: November 30, 1978.

COMMENTS: No comments have been received with respect to any of the foregoing applications. DECISION: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States. REASONS: Each foreign article provides ten programs, twenty treating liquids, and temperature control ±0.2 degrees centigrade (°C) in the zero to 45°C range. The Department of Health, Education, and Welfare (HEW) advises in its respectively cited memoranda that the capabilities cited above are pertinent to the purposes for which each of the foreign articles is intended to be used. HEW also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to any of the articles to which the foregoing applications relate for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34620 Filed 12-12-78; 8:45 am]

[3510-25-M]

WITHDRAWAL OF APPLICATION FOR DUTY FREE ENTRY OF SCIENTIFIC ARTICLE

The University of Illinois at Chicago Circle has withdrawn docket Number 79-00030 an application for duty-free entry of a Laser Kit.

Accordingly, further administrative proceedings will not be taken by the Department of Commerce with respect to this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director Statutory Import Programs Staff.

[FR Doc. 78-34625 Filed 12-12-78; 8:45 am]

3510-25-M]

APPLICATIONS FOR DUTY FREE ENTRY OF SCIENTIFIC ARTICLES

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

DOCKET NUMBER: 79-00050. APPLICANT: Louisiana State University, Institute for Environmental Studies, 42 Atkinson Hall, Baton Rouge, LA 70803. ARTICLE: Triaxial Equipment, Oedometer with swelling attachment, Electric unconfined apparatus, and Lab. Penetrometer. MANUFACTURER: Geonor, Norway. INTENDED USE OF ARTICLE: The foreign article is intended to be used in the investigation of geotechnical parameters such as density, residual stress and stress history, existence of discontinuities, temperature, time etc. requiring drained or undrained triaxial, direct

shear, and consolidation tests for in situ methods evaluation on borings, standard penetration, core penetration, vane shear and pressuremeter to investigate the utility of Gulf Coast Salt Domes for the storage or disposal of radioactive wastes. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00053. APPLICANT: State University of New York at Stony Brook, Department of Physics, Stony Brook, N.Y. 11794. ARTICLE: Lead Glass Blocks. MANUFACTURER: O'Hara Optical Glass Manufacturing Co. Ltd., Japan. INTENDED USE OF ARTICLE: The article is intended to be used in Elementary Particle Physics experiments in which the lead glass will be mated to photomultiplier tubes and associated electronics. The assembly will be used to detect very high energy electrons and protons which deposit all their energy in the lead glass. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 16, 1978.

DOCKET NUMBER: 79-00054. APPLICANT: DHEW, National Institutes of Health, Neuromuscular Diseases Section, IRP, Bldg., 10/10D20/Clinical Center, 9000 Rockville Pike, Bethesda, MD 20014. ARTICLE: LKB 8800A Ultrotome III Ultramicrotome and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used for studies of biological materials which include human biopsy material (muscle, nerve) animal tissues and tissue cultures of both human and animal origin. The investigations will include ultrastructural studies of normal and pathological human and animal tissues. Developmental studies of cytochemical and histochemical staining for enzyme and subcellular organelle localization will be undertaken. Subcellular changes in cells induced by changes in their biochemical and pyhsical environs will be investigated. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00055. APPLICANT: National Institutes of Health, Bethesda, MD 20014. ARTICLE: LKB 2128-010 Ultrotome III Ultramicrotome and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used to prepare sections of retinae from vertebrate eyes for observation to understand the intercellular connections and circuitry underlying the electrical activity of the retina. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00056. APPLICANT: University of Texas Health Science Center as Dallas, Dept. of Internal Medicine, 5323 Harry Hines Blvd., Dallas, Texas 75325. ARTICLE: Microperfusion pump type III. MANUFACTURER: Wolfgang Hampel, West Germany. INTENDED USE OF ARTICLE: The article is intended to be used for experiments which will investigate mechanisms of fluid and electrolyte transport in the proximal tubule of the rat kidney. Proximal tubules of the rat kidney will be perfused *in vivo* with artificial ultrafiltrate solutions. Volume reabsorptive rate, bicarbonate reasorptive rate, and intraluminal pH will be measured. In addition, the article will be used in the training of postdoctoral research fellows in the micropuncture laboratory. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00057. APPLICANT: East Tennessee State University, College of Medicine, Box 23320A, Johnson City, TN 37601. ARTICLE: Phywe Model/21 single parameter Fluorescence Impulscytophotometer, and accessories. MANUFACTURER: Phywe, West Germany. INTENDED USE OF ARTICLE: The article is intended to be used to allow quantitative cytochemical study of fluorescent dyes bound to specific classes of macromolecules in populations of cells. Specific experiments include studies of relative DNA content in certain mollusc species known to contain multiple sets of chromosomes (polyploidy) in each nucleus; to study cell cycle kinetic, protein and RNA amounts per cell in populations of normal blood cells and leukemias; and to study monocytes and macrophages with respect to total protein (related to size) and the distribution of fluorescent structures with respect to "activation". APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00058. APPLICANT: University of Illinois at Chicago Circle, P.O. Box 4348, Chicago, Illinois 60680. ARTICLE: Laser Kit, Model K-103-2 and accessories. MANUFACTURER: Lumonics Research Ltd., Canada. INTENDED USE OF ARTICLE: The article is intended to be used to study organic reactions initiated by infrared radiation. These reactions fall into three main categories: (i) Laser induced decomposition of molecules, (ii) Laser-induced isomerizations, and (iii) Biomolecular reactions such as the reaction of butadiene with vinyl chloride. The objective of this research is to discover if laser radiation can cause new chemical reactions or accelerate known reactions. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00059. APPLICANT: Michigan Technological University, Dept. of Geol. and Geol. Engrg., Purchasing Department, Houghton, MI 49931. ARTICLE: Heating and cooling stage for microscope. MANUFACTURER: Chaixmeca, France. INTENDED USE OF ARTICLE: The article is intended to be used to study microscopic inclusions in rock specimens, and particularly specimens from mineral deposits. The studies will involve determination of: 1) the temperature of disappearance of vapor bubbles; 2) the temperature of dissolution of solid phases in the fluid inclusions, and 3) the temperature at which the inclusions freeze. These data will provide information on the temperature and pressures at which the fluid inclusions formed and on the concentration of dissolved salts in the trapped fluids. This information will aid in the understanding of the mechanism(s) of formation of mineral deposits, and particularly vein deposits of the base and precious metals. The article will also be used in graduate courses in mineral deposits and, to a lesser extent, petrology, and will be used for research by graduate students and faculty. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00060. APPLICANT: Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. ARTICLE: LKB 2250-041 PMV Cryo-Microtome type 450 MP and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article will be used to prepare thin frozen sections of both small (mice, quail, rats) and large (monkeys) laboratory animals for histochemical and autoradiological procedures. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00061. APPLICANT: University of Rochester School of Medicine and Dentistry, 601 Elmwood Avenue, Rochester, N.Y. 14642. ARTICLE: Automated ultrasonic body imager. MANUFACTURER: Ausonics Ltd., Australia. INTENDED USE OF ARTICLE: The article is intended to be used for study of the reflection characteristics of a variety of tissues within the body by computer analysis of the amplitude, scattering characteristics and frequency content of signals emanating from specific targets. The wide field of view of the article will also permit large image reconstruction of the heart at selected phases of the cardiac cycle to provide static images of structure position or in a motion format which will provide dynamic information concerning the movement of structures. The unique features of the article will permit rapid and accurate calculation of the volumes of organs as well as the display of structures in 3-dimension using a computerized facility. In addition,

the article will be used in educational programs in which trainees from both Radiology and Cardiology are actively involved. In this connection, the superior structure representation obtrained by this instrument will demonstrate anatomic and disease characteristics more faithfully and will simplify the presentation of anatomic information in a 3-dimensional concept by virtue of the closely spaced, automatically obtained individual planes in areas of great anatomic complexity. Medical students who regularly view ultrasonic images will be provided with a more complete, in-depth display of structures and diseases to enhance their understanding of ultrasonic imaging, as well as the impact of structural alteration on organ function. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00062. APPLICANT: Thomas Jefferson University, 1020 Walnut Street, Philadelphia, Pa. 19107. ARTICLE: Diaphanocope. MANUFACTURER: Durillon and Lasseigne, France. INTENDED USE OF ARTICLE: The article is intended to be used in the diagnosis and follow-up medical care of patients suspected of having breast tumors which at the present time is an area of investigation. In addition, the article will be used in the course Surgery-350 a third year course in surgical diagnosis and treatment. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00063. APPLICANT: SRI International, 333 Ravenswood Avenue, Menlo Park, California 94025. ARTICLE: Laser, EMG 500. MANUFACTURER: Lambda Physik, West Germany. INTENDED USE OF ARTICLE: The article is intended to be used to provide an intense source of ultraviolet coherent radiation during the study of the photodissociation and absorption of neutral and ionic molecules, and the lifetimes of excited states of these molecules. The bonding and potential surfaces of these molecules will also be investigated. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00064. APPLICANT: University of California, San Francisco, 1438 Harbour Way South, P.O. Box 4028, Richmond, CA 94804. ARTICLE: Electron Microscope, Model EM 400 and accessories. MANUFACTURERS: Philips Electronics Instruments NVD, The Netherlands. INTENDED USE OF ARTICLE: The article is intended to be used in conducting varied research projects which include the following:

(1) Histological and cytological studies of the development of the pancreas, using ultrastructure to complement their molecular studies.

(2) Studies on the formation of synapses between neurons and target cells to localize particular molecules in synapses using antibody conjugates.

(3) Characterization of purified homogeneity synaptic vesicles and further to use antibodies to synaptic vesicles and to presynaptic neurotoxins in functional studies of the nervous system.

(4) Several studies on chromosomal structure—including studies of the organization of Drosophila polytene chromosome bands/interbands.

(5) Analysis of biological macromolecules, particularly DNA and RNA, and their interaction with proteins.

(6) Characterization of yeast and mammalian gene DNA isolate by recombinant DNA techniques.

(7) Studies of the mechanisms which mediate the RNA tumor viruses and the factors that control viral gene expression.

In addition, the article will be used for instruction purposes covering all new techniques. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00065. APPLICANT: The University of Texas at Austin, Electrical Engineering Research Laboratory, 10100 Burnet Rd., Austin, TX 78758. ARTICLE: Millimeter Reflex Klystrons. MANUFACTURER: Varian Associates of Canada, Canada. INTENDED USE OF ARTICLE: The article is intended to be use for research purposes in the field of radio astronomy. The phenomena studied are the spectral line emissions of interstellar molecules, the continuum radiation of planets and the emission of atmospheric constituents. In addition, the article will be used in the following courses which all graduate students obtaining a Ph.D. in millmeter wavelength radio astronomy must take:

a. Astronomy 393S—Theoretical Astrophysics—Interstellar Medium.

b. Astronomy 393—Dense Interstellar Matter.

c. Astronomy 391—Graduate Research in Astronomy.

d. Astronomy 399R, 699R, and 999R—Dissertation.

APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00066. APPLICANT: Princeton University, P.O. Box 33, Princeton, New Jersey 08540. ARTICLE: Electron Microscope, Model EM 400 HMG and accessories. MANUFACTURER: Philips Electronics Instruments NVD, The Netherlands. INTENDED USE OF ARTICLE: The article is intended to be used for investigation of biological macromolecules (proteins, nucleic acids), cell particulates (chromatin, ribosomes, membranes) viruses, cells with the objective of obtaining knowledge of biomedical value. The article will be used by both pre- and postdoctoral research students in their research work, as well as by faculty. The pre- and postdoctoral students will receive training in the use of the microscope by resident electron microscopists. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

DOCKET NUMBER: 79-00067. APPLICANT: National Institutes of Health, Bethesda, Maryland 20014. ARTICLE: Electron Microscope, Model EM 400 HBG and accessories. MANUFACTURER: Philips Electronics Instruments NVD, The Netherlands. INTENDED USE OF ARTICLE: The article is intended to be used by electron microscopists looking at synaptic junctions, gap junctions, neural processes and peptide binding sites. The work on the neural connections of the retina involves examination of serial sections in the electron microscope and some of the project will involve examination of Golgi-impregnated tissues or horseradish peroxidase injected cells. The sectioned neurons are followed through at least one hundred sections and frequently mortage electron micrographs are taken. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: November 22, 1978.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Statutory Import Programs Staff.

[FR Doc. 78-34623 Filed 12-12-78; 8:45 am]

[3510-25-M]

WITHDRAWAL OF APPLICATION FOR DUTY FREE ENTRY OF SCIENTIFIC ARTICLE: CORRECTION

In FR 78-33736 appearing at page 56699 in the FEDERAL REGISTER of December 4, 1978, references to the University of Tennessee are hereby corrected to read the National Institutes of Health.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory
Import Programs Staff.

[FR Doc. 34624 Filed 12-12-78; 8:45 am]

[3510-25-M]

CONSOLIDATED DECISION ON APPLICATIONS FOR DUTY FREE ENTRY OF ULTRAMICROTOMES

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commmerce Building, at 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

DOCKET NUMBER: 78-00390. APPLICANT: Michael Reese Hospital and Medical Center, 2929 S. Ellis Ave., Chicago, Ill. 60616. ARTICLE: LKB 8800A Ultrotome III Ultramicrotome and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used to section bone cartilage specimens which will be used for ultrastructural studies including histochemical and morphometric analysis of hormonally stimulated specimens using organ culture techniques. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: August 24, 1978. ADVICE SUBMITTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON: November 22, 1978.

DOCKET NUMBER: 78-00405. APPLICANT: Boston University School of Medicine, Department of Dermatology, Houseman Research Building, Room 316, 80 East Concord Street, Boston, Mass. 02118. ARTICLE: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used to section human and animal tissues and isolated cell components which have been embedded in hardened epoxy resins. Investigations will be conducted involving ultrastructural studies on normal and pathologic tissues, developmental studies on enzyme and subcellular organelle localization in cells and tissues membrane interactions and subcellular changes in cells induced by changes in their biochemical and physical environments. The article will also be used in courses entitled Ultrastructure and Cell Biology which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize variuous enzymes. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: August 31, 1978. ADVICE SLUBMITTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON: November 22, 1978.

DOCKET NUMBER: 78-00406. APPLICANT: Yale University, Purchasing Department, 20 Ashman Street, New Haven, Conn. ARTICLE: LKB 8800A Ultrotome III Ultramicrotome and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used in ongoing research involving a variety of mammalian tissues including those of man, mouse, rabbit, and guinea pig. Normal, experimental, and pathologic tissues from each of these species will be examined with respect to their microcirculation. Studies will be conducted to discover how changes to the development of serious systemic and cutaneous disorders. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: August 31, 1978. ADVICE SUBMITTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON: November 30. 1978.

DOCKET NUMBER: 78-00421. APPLICANT: Yale University, School of Medicine, Section of Neuroanatomy, 333 Cedar Street, Room C201, New Haven, Conn. 06510. ARTICLE: LKB 2128-010/Ultrotome IV Ultrtamicrotome and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED LUSE OF ARTICLE: The article is intended to be used to study biological tissues which include nerve and glial cells of the brain. The research will include ultrastructural studies on normal and pathologic brain development, organelle localization in neurons and tissues, membrane interactions between cells. In addition, the article will be used as a teaching aid for students enrolled in the course on "Normal and Pathological Development of Primate Brain" as well as for teaching graduate students in the field of neuroscience. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: September 11, 1978. ADVICE SUBMITTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON: November 30, 1978.

DOCKET NUMBER: 78-00423. APPLICANT: Florida Institute of Technology, Country Club Road, Melbourne, Fla. 32901. ARTICLE: LKB 2088 Ultrotome V Ultramicrotome and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used to section plant, animal, and fungal specimens for ultrastructural studies on development in both animal and plant tissues, and on the cellular changes that occur during the aging of a number of different kinds of organism. Ultrastructural studies on chromosomes and on gene location will also be performed. The article will be used principally in the course, B5011. Electron Microscopy which teaches the principles and techniques for the use of the electron microscope in biological research, including specimen preparation, ultramicrotomy, fixation, staining, and interpretation. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: September 14, 1978. ADVICE SUBMITTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON: November 30, 1978.

DOCKET NUMBER: 78-00424. APPLICANT: Columbia University, International Institutes of Human Reproduction, Room 1519, Black Building, 630 West 168th Street, New York, N.Y. 10032. ARTICLE: LKB 2088 Ultrotome V Ultramicrotome and accessories. MANUFACTURER: LKB Produkter AB, Sweden. INTENDED USE OF ARTICLE: The article is intended to be used to study the ultrastructure of biological cells and tissues; including the analysis of ova, sperm, and a variety of neuroendocrine tissues. In addition, it will be used for the identification of receptors for a variety of hormones by the application of electron dense markers. The experiments to be conducted will include:

(1) Studies of the mechanisms controlling the primate menstrual cycle with emphasis on brain pituitary ovarian hormonal interrelationships.

(2) The definition of the development of the gonadotropic access in longterm organotypic cultures of newborn rodent hypothalamic preoptic areas.

(3) Characterization and functional organization of neurosecretory pathways.

(4) Studies of biochemistry, endocrinology, and genetics of mammalian germ cell production.

(5) Studies of the metabolic aspects and biochemical kinetics of spermatogenesis and the chemistry of sperm motility.

(6) The examination of the structural biochemistry, spermatozoa with emphasis on the role of cystine rich cross-linked protein structures.

(7) Work on the central nervous system with localization of ovarian gonadotropin receptors.

(8) Investigations on the biosynthetic pathways of steroid synthesis. APPLICATION RECEIVED BY COMMISSIONER OF CUSTOMS: September 14, 1978. ADVICE SUBMITTED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON: November 30, 1978.

COMMENTS: No comments have been received with respect to any of the foregoing applications. DECISION: Applications approved. No in-

strument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. REASONS: Each of the foreign articles provides a range of cutting speeds 0.1 to 20 or more millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing aplications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Statutory Import Programs Staff.

[FR Doc. 78-34622 Filed 12-12-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

HOWARD GELBERG

Modification of Permit

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 228 issued to Dr. Howard Gelberg, Department of Pathology, New York State College of Veterinary Medicine, Cornell University, Ithaca, New York 14853, on March 31, 1978 (43 FR 14938), is modified in the following manner:

Section B-1 has been changed to read:

"Section B-1. The harbor seals shall be acquired from beached/stranded specimens held by facilities that have received permission from the appropriate State authority to release them and subject to the approval of the Regional Director of the region in which the animals are located."

The modification is effective on December 13, 1978.

This modification has been granted on the basis of information supplied by the Permit Holder concerning the availability of animals authorized to be taken.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: December 5, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-34597 Filed 12-12-78; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of Public Meeting.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to discuss: (1) Review of silver hake management strategy options; (2) Reports of herring, groundfish, foreign fishing permit review, and gear conflicts committees: Council action on each; (3) Discussion of policies on groundfish allocations and access control or open fishing; (4) Policy statement on role of advisors; (5) Other Business.

DATES: The meeting will convene on Wednesday, January 3, 1979, at approximately 10 a.m. and adjourn on Thursday, January 4, 1979, at approximately 5 p.m.

ADDRESS: The meeting will take place at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Mass.

FOR FURTHER INFORMATION CONTACT:

Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Mass. 01960, Telephone: (617) 535-5450.

SUPPLEMENTARY INFORMATION: For information on seating arrangements, changes to the agenda, and/or written comments, contact the Executive Director.

Dated: December 8, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-34605 Filed 12-12-78; 8:45 am]

[3510-22-M]

ROBERT ELSNER

Modification of Permit

Notice is hereby given that pursuant to the provisions of §216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (39 FR 1851, January 15, 1974), the Scientific Research Permit issued to Robert Elsner, Institute of Marine Science, University of Alaska, Fairbanks, Alaska 99701, on July 3, 1974, is modified in the following:

1. The period of valisify during which the authorized marine mammals may be taken is extended from August 1, 1978, to August 1, 1980.

2. Of the one hundred ten (110) animals to be taken by killing, as authorized ty the Permit, sixty (60) may be captured, held in captivity and subsequently killied in the course of the research activities as described in the application and supplementry documentation.

This modification is effective on December 8, 1978.

The Permit, as modified, and documentation pertaining to the modification, ia available in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1168, Juneau, Alaska 99802.

Dated: November 30, 1978.

WINFRED H. MEIBOHM,
National Marine Fisheries Service.

[FR Doc. 78-34596 Filed 12-12-78; 8:45 am]

[3510-22-M]

ROLAND DE LA POYPE

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361—1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name—Mr. Roland de la Poype, Marineland Cote d'Azur.

b. Address—Route de Biot, 06600 Antibes, France.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphins (*Tursiops truncatus*), 4.

4. Type of Take: To capture and maintain permanently in a facility.

5. Location and Activity: Copano Bay, Rockport, Texas.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before January 12, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11614, March 12, 1975). In this regard, the application:

(a) Was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the Department des Alpes-Maritimes, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity;

(b) Includes:

i. A verification from the Veterinaires of France of the information set forth in the application;

ii. A certification from the Veterinaires that the Government of France is prepared to monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

iii. A Statement that the Veterinaires will have no objection to a NMFS decision to amend, suspend, or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Veterinaires of France have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following office:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33701.

Dated: June 12, 1978.

WILLIAM ARON,
Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 78-34598 Filed 12-12-78; 8:45 am]

[3510-17-M]

Office of the Secretary

NATIONAL LABORATORY ACCREDITATION CRITERIA COMMITTEE FOR FRESHLY MIXED FIELD CONCRETE

Establishment

In a separate notice appearing in this issue of the FEDERAL REGISTER, the Department of Commerce announced the issuance of a final finding of need to accredit testing laboratories that test freshly mixed field concrete. Accordingly, pursuant to paragraph (h)(3) of section 7.4 of the Procedures for a National Voluntary Laboratory Accreditation Program (15 CFR Part 7) and the Federal Advisory Committee Act (5 U.S.C. App. (1976)) notice is hereby given that the Secretary of Commerce has determined, after consultation with the General Services Administration, that the establishment of the National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete is in the public interest in connection with the performance of duties imposed on the Department of Law.

The Committee's duties will be to develop and recommend to the Secretary general and specific criteria to accredit testing laboratories that test freshly mixed field concrete. The factors to be considered by the Criteria Committee in the development of such recommended criteria will be those set forth in paragraph (a)(1) and (2) of section 7.7 of the referenced Procedures. The criteria developed by the Committee will be in accordance with the terms and conditions set out in subsections (b), (c), and (d) of section 7.7 of the Procedures. Furthermore, in accordance with subsection 7.8(c) of the Procedures, the Committee will provide to the Secretary its evaluation and recommendations regarding written and oral comments submitted by interested parties on the proposed criteria published by the Secretary in the FEDERAL REGISTER.

The Committee will consist of twenty-three members from the government and private sectors. For balanced membership the Committee will have the following composition:

Federal agency interests	7
State or local government interests	4
Private sector interests (Specifiers, producers, users/contractors, testing laboratories, general interest groups)	11
Department of Commerce (Chairperson)	1
Total Membership	23

Private sector Committee members will be appointed by the Secretary for two-year terms. Individuals representing Federal or State or local government interests will be appointed by the head of the agency or organization concerned for two-year terms. The Committee Chairperson will be the Department's Deputy Assistant Secretary for Product Standards.

Members of the Committee will be selected on the basis of their specialized experience relating to the manufacture and use or knowledge of freshly mixed field concrete. Comments which have been received by the Department regarding Committee representation are being considered in this selection process.

Members of the Committee will not be compensated for their services. They shall, upon request, be paid travel expenses incurred in the performance of their duties for the Committee as authorized by GSA Federal Travel Regulations FPMR 101-7 and amendments, and Department of Commerce travel regulations. It is anticipated that the Committee will meet three times in Washington, D.C. Additional meetings may be called as deemed desirable by the Chairperson.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act 15 days from the date of publication of this notice.

Interested pesons are invited to submit comments regarding the establishment of the National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete. Such comments, as well as any inquiries, may be addressed to Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3221.

Dated: December 7, 1978.

GUY W. CHAMBERLIN, Jr.,
Deputy Assistant Secretary for Administration.

[FR Doc. 78-34628 Filed 12-12-78; 8:45 am]

[3510-18-M]

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Final Finding of Need to Accredit Testing Laboratories That Test Freshly Mixed Field Concrete

AGENCY: Assistant Secretary of Commerce for Science and Technology.

ACTION: Notice of final finding of need.

SUMMARY: Pursuant to the Procedures for a National Voluntary Laboratory Accreditation Program (15 CFR Part 7), this notice announces the Secretary's final finding of need to accredit testing laboratories that test freshly mixed concrete, and thereby establishes a program to accredit such laboratories. This notice also sets out the basis for the final finding of need and identifies applicable product standards and standard test methods for which testing laboratories would be required to demonstrate competence in order to be accredited. In addition, this notice advises that a separate notice is being simultaneously published annocuncing the establishment by the Secretary of Commerce of a National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete to develop and recommend general and specific criteria for use in accrediting testing laboratories that test freshly mixed field concrete.

EFFECTIVE DATE: December 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3221).

SUPPLEMENTARY INFORMATION: On June 23, 1978, the Department announced in the FEDERAL REGISTER (43 FR 27224-27228) the issuance of a preliminary finding of need to accredit testing laboratories that test freshly mixed field concrete as covered by four product standards (three standard specifications and one standard code) identified in Appendix 1 to that notice. Eight standard test methods which are referenced in those four product standards, are also identified in Appendix 1 to that notice. The list of product standards appearing in Appendix 1 is intended to refer only to those sections concerned with freshly mixed field concrete.

That notice invited interested persons desiring to comment on the preliminary finding of need to submit their comments to the Assistant Secretary for Science and Technology by August 7, 1978. The 59 written statements received during the comment period are part of the public record and are available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street, between Constitution Avenue and E Street NW., Washington, D.C. 20230.

The notice also advised that any person desiring an informal hearing to express his or her views relative to the preliminary finding should communicate that desire by July 10, 1978, to the Assistant Secretary for Science and Technology. No such hearing was requested.

The comments on the preliminary finding of need have been carefully considered and evaluated. In addition, the Department re-examined the preliminary finding and the basis on which it was issued. The result of this effort is a document entitled, "Summary and Analysis of Response to Preliminary Finding of Need, a Review of Economic Consequences, and Recommendations for a Final Finding of Need." That document list the members of the public who provided written comments and is available for inspection and copying at the Department's Central Reference and Records Inspection Facility mentioned above.

Of the 59 written statements received, 52 stated specific positions for or against the preliminary finding of need. Forty respondents representing 36 different organizations or individuals (i.e., producers, associations, laboratories, consultants/engineers) supported the preliminary finding of need. Twelve written statements from 13 respondents (two individuals represented themselves through one letter) were opposed to the preliminary finding of need. A number of respondents raised substantive points concerning the basis for the finding of need. These are discussed below.

Some respondents expressed concerns about the scope of this laboratory accreditation program (LAP) including: 1) use of the term, "freshly mixed field concrete," 2) inclusion of ready mixed concrete delivered to a plant that manufactures precast/prestressed units, and 3) inclusion of more standards and test methods. Freshly mixed field concrete is a common term and is used to identify the product which is defined as structural hydraulic cement concrete provided in plastic form at the construction job site for placement and curing. This definition is not intended to exclude quality control laboratories that test ready mixed concrete delivered to a plant that manufactures precast/prestressed units. Therefore, such laboratories may apply for accreditation under this LAP. However, it is the intent of this LAP to exclude test methods for hardened concrete and structural lightweight concrete. This limitation will minimize the cost of accreditation (i.e., overhead costs increase as more test methods are included). Furthermore, this LAP can be expanded in the future if deemed appropriate.

Two respondents suggested that the number of testing laboratories (359 were cited in the June 23 notice) that will want to be accredited is overstated because the Cement and Concrete Reference Laboratory (CCRL) examination program includes government laboratories and field-sited laboratories performing nuclear power plant testing and because the number of active commercial laboratories in the CCRL program is only 244. The implication of these comments is that only commercial laboratories can participate. However, all testing laboratories, whether they be private or public, can become accredited under this LAP if they meet the accreditation criteria. It is expected that a sizable portion of commercial and government laboratories and their field-sited laboratories will want to become accredited under this LAP to verify their capabilities and maintain their competence. Their ongoing participation in the CCRL program is evidence of this desire. Furthermore, public notification of the accreditation of laboratories under this LAP will provide increased stature and public recognition of such labora-

tories beyond that provided by CCRL, thereby encouraging more laboratories to participate. Also, it is believed that many users of testing services will use accredited laboratories when available, which would further encourage participation in the LAP.

One respondent questioned whether most of the 21 organizations identified in the letter of March 20, 1978, from the National Ready Mixed Concrete Association which requested this LAP, as either requiring or encouraging CCRL examinations as a basis for laboratory acceptability would actually use NVLAP accreditation as a requirement. Although no laboratories have as yet been accredited under NVLAP, it is believed that NVLAP accreditation which is based upon reasonably comprehensive accreditation criteria will be cited as a requirement by a sizable number of organizations contracting for concrete testing services. The significant costs associated with testing would seem to support the need for producers and users of freshly mixed field concrete to secure services of laboratories which are recognized as competent. A LAP will provide this recognition.

Five respondents questioned the benefits to the public of the LAP as stated in the June 23 notice. However, 23 respondents indicated that this LAP would be in the public interest. Of the five respondents who questioned the benefits, four respondents expressed the belief that this LAP would have negative economic consequences. The fifth respondent wanted to see better data on the benefits as well as on costs and energy consumpton. A section of the aforementioned summary and analysis document, entitled "Review of Economic Consequences," addresses these concerns by providing a cost-benefit analysis. The results of this analysis reveal that this LAP should have positive net economic consequences even when using "worst-case" assumptions.

One respondent specifically challenged the statements made in the June 23 notice concerning the three ways that unreliable testing can adversely affect the public in economic terms. That party asserted that: 1) overdesign is more likely to be caused by poor process control than by poor testing techniques; 2) the party found at fault for poor testing usually pays for the retesting, thus rarely affecting the total cost of quality control; and 3) estimates in the notice regarding the costs of accepting poor concrete and of rejecting good concrete are unrealistic. Many other respondents provided testimonials tending to refute the assertions of this respondent. For example, because of the availability of more reliable data from good testing, one concrete producer claimed to have reduced the cement content by one-half sack per cubic yard without compromising design strengths. Another respondent claimed to have data indicating significant potential savings if the amount of overdesign currently necessary to offset the effects of nonstandard testing could be reduced. Yet another producer estimated that he is wasting $100,000 a year on unneeded overdesign. Testimonials regarding quality control testing include a producer who claimed that from 30 percent to 70 percent of his quality control efforts consist of monitoring the testing performed by independent laboratories. Similarly, another producer claimed to have been forced to double his own laboratory staff to perform additional defensive testing. Another stated that when indicated strengths are low, considerable effort and expense is involved in evaluating the in-place concrete strength which in a majority of cases is found to be satisfactory; the costs of the delays in construction and verification testing dwarf the cost of testing properly. Statements regarding the cost of replacing good concrete and of accepting poor concrete due to poor testing procedures include a producer who claimed that within the past two years he has had to replace good concrete even though subsequent core tests showed that the concrete was well above design strength. Based upon the comments received, the statements and estimates of benefits claimed in the June 23rd notice are confirmed in the final finding of need. In addition, a fourth economic benefit, that being the reduction of construction delays, is also cited herein.

Four respondents stated that the concrete industry and private testing laboratories are doing an excellent job and must remain in control of the industry. One respondent claimed that there is nothing to be gained by a "governmental licensing program;" another refused to "vote in favor of any more government controls;" another stated that the tools are presently available on a State and national (not Federal) basis; and another opposed compulsory regulations mandating expensive test sequences. With regard to the points raised by these four respondents, it is emphasized that NVLAP is a voluntary program. It is not a licensing program since it does not require laboratories to provide or be accredited for the testing services included in the program's scope. Laboratories will apply for accreditation only if they believe that they will derive benefit. The national character of the NVLAP is intended to assist States by providing a uniform program to meet individual State needs.

Five respondents expressed the thought that this LAP would be a wasteful duplication of existing programs which are available to take care of the need for quality testing. The CCRL program and the proposed program of the American Association for Laboratory Accreditation (AALA) were referenced in this connection. Although CCRL examination reports can be obtained to judge the degree of competence of a laboratory, the job of interpreting the reports may be beyond the capability of some users and can be technically burdensome and time consuming for other users of testing laboratory services. This LAP would alleviate the burden of judging the competence of laboratories; users could simply require laboratories to be NVLAP accredited for the testing services which they procure. With regard to the comment on wasteful duplication, the procedures for NVLAP do not preclude use of the professional examination services of CCRL in order in minimize the costs of this LAP and the duplication of inspections (i.e., CCRL and NVLAP inspections could be conducted simultaneously, where appropriate, in order to avoid dual charges to laboratories). With regard to the comment on the AALA program, that program is still being developed and it is not clear that an accreditation program for concrete testing laboratories will be established under it.

A total of 31 respondents made reference to some or all of the additional benefits listed in that portion of the June 23 notice set out in subsections (a) through (j) under number 2 entitled, "Whether there is a national need to accredit testing laboratories for freshly mixed field concrete beyond that served by any existing laboratory accreditation programs in the public or private sector." Of these, 28 respondents indicated that the suggested additional benefits will accrue, but three respondents questioned the validity of the claims for some of these additional benefits. Of these three respondents, one expressed the thought that these anticipated benefits will not occur. The two other respondents suggested specific reasons for questioning such benefits. An analysis of the issues raised by these two respondents in the referenced subsections (a) through (j) follows:

(a) Both claimed that testing procedures never cause failures. This may or may not be true. In order to eliminate confusion and to clarify the intended meaning, the corresponding subsection is changed in the final finding of need to read, "Improved test data resulting in reduction of risk of concrete structures being loaded beyond their capability with regard to their gain of strength during construction. Such overloading has contributed to structural failures in the past."

(b) One respondent claimed that testing does not determine cement contents and other material conditions. The other stated that the manufacturer will have added costs to pass on to the consumer. In developing concrete mix proportions, a concrete producer bases calculations for needed overdesign on average strength and variability of concrete supplied to past projects. The availability of more reliable data from improved testing should lower overdesign factors, thus allowing the production of concrete with less cement and consequently lower cost. As indicated earlier, one respondent claimed definite savings of cement valued at $20,000 because of more accurate testing. Also as indicated earlier, costs for defensive quality control testing should decrease with improved testing; thus there should be less costs to pass on to the consumer. Therefore, statement (b) of the June 23 notice is not deleted from the list of additional benefits of this LAP.

(c) Both respondents claimed that disputes over concrete quality will not be reduced by this LAP. We disagree. It is believed that improved testing will reduce the number of such disputes, the resolution of which requires costly effort to verify concrete quality. Competent testing would provide greater assurance that the quality of the concrete is that which is indicated by the test results. With greater assurance and confidence in the validity of the test results there will be less motive for disputing such results. The statement therefore remains unchanged in the final finding of need.

(d) Both respondents agreed that there would be increased professional recognition of testing laboratories and their personnel, but that this would not be worth the cost if it were the only benefit. However, as shown herein, this will not be the only benefit of this LAP.

(e)-(j) Both respondents indicated that the engineering usage of materials has nothing to do with field testing of delivered materials. However, as stated above, if improved testing provides more reliable data on concrete used for past projects, the design engineer will be able to mix proportions of concrete materials in a manner that minimizes cost (i.e., better utilization of aggregates, waste materials, cements, etc.). It is believed that although his LAP will not be involved directly in the design engineer's decisions, it is one of the factors which contributes indirectly to effecting the additional benefits as listed. Therfore, statements (e)-(j) of the June 23 notice of additional benefits remain valid. However, statements (e) through (i) have been combined into one statement in the final finding of need. Statement (j) of the June 23 notice remains the same.

Three respondents implied that it would not be practical or feasible to accredit testing laboratories that test freshly mixed field concrete. However, it is believed that this LAP is practical and feasible. In the first place it is contemplated that this LAP will employ features similar to the CCRL program which has been in existence since 1929 and which is funded by the user testing laboratories. Moreover, the CCRL program demonstrates that it is feasible and practical to examine testing laboratories using the standards and test methods cited in Appendix 1 to the June 23 notice. This LAP will be administered by a small number of Department of Commerce (DoC) personnel and it is envisioned that it will utilize the services of CCRL which employs about 20 people, and/or will employ competent professionals to carry out examination, inspection, and evaluation of testing laboratories.

One respondent questioned the value of preannounced inspections of laboratories. He stated that any inspections for accreditation as a matter of policy will have to be subjet to the limitation under which CCRL operates—that is, preannounced inspections. This is not necessarily true. Unannounced inspections could be employed by this LAP and are actually contemplated in the LAP for thermal insulation materials. Also, the administration of the program could be such as to compensate for the alleged weakness of preannounced inspections (e.g., by making use of proficiency sampling techniques).

A number of respondents addressed the scope, objectives, size, and selection of a criteria committee as well as the administration of this LAP. Such comments will be forwarded to the members of such committee upon their selection. Additional details regarding these comments are addressed in the aforementioned summary and analysis document.

FINAL FINDING OF NEED

The request of the National Ready Mixed Concrete Association that the Secretary of Commerce find that there is a need to accredit testing laboratories that test freshly mixed field concrete has been carefully examined and evaluated. Moreover, the preliminary finding of need issued earlier, together with the written comments submitted by interested parties in response thereto, have been carefully reviewed and analyzed. On the basis of that review and analysis, it is hereby found that a need exists to accredit testing laboratories that test freshly mixed field concrete. The basis for this finding is as follows:

(a) Freshly mixed field concrete production exceeds 150 million cubic yards per year. Building code requirements in American Concrete Institute document ACI 318 suggest that strength tests of concrete should be taken at least once for every 150 cubic yards of concrete poured. This could be construed to mean that at least one million tests should be conducted on freshly mixed field concrete per year. Unreliable testing can economically affect the public in four ways: (1) by increasing the cost of quality control because of the need for retesting; (2) by causing poor concrete to be accepted which eventually has to be removed and replaced, or by causing good concrete to be rejected; (3) by causing construction delays; and (4) by requiring the use of more cement than necessary in concrete products to assure safety and to compensate for testing uncertainty. (It should be noted that the cost of replacement of substandard concrete is not independent of the cost of overdesign because a reduction in design margin may increase the incidence of substandard concrete. The reduction in the cost of one diminishes the opportunity to reduce the cost of the other.) Estimates have been made which indicate that the annual cost of quality control caused by needed retesting is about $12.9 million, the annual cost of accepting poor concrete and rejecting good concrete is between $12.5 to $18.5 million, the annual cost of construction delays caused by unreliable testing is about $18 million, and the annual cost of overdesign caused by unreliable test data is about $46 million.

(b) Although the CCRL program provides a testing laboratory inspection service, and reports findings and deficiencies to the laboratories being examined, it is not authorized to accredit them or publish related data for public use. Providing accreditation to qualified laboratories should encourage more testing laboratories to seek evaluation, and provide needed information to users.

(c) In addition to the economic benefits described above, additional benefits should accrue in the following ways:

(1) Improved test data resulting in reduction of risk of concrete structures being loaded beyond their capability with regard to their gain of strength during construction. Such overloading has contributed to structural failures in the past.

(2) Improved testing and quality control resulting in improved freshly mixed field concrete quality and greater service life to the consuming public.

(3) Reduction in disputes over field concrete quality that disrupt the construction process and result in economic loss.

(4) Increased professional recognition for testing laboratories and their personnel.

(5) More effective utilization of the materials for producing concrete.

(6) Support of the steadily increasing need for higher strength concretes.

(d) The four product standards included in this LAP are deemed to be of sufficient importance to commerce since it is estimated that freshly mixed field concrete production is worth $4.2 billion with an estimated in-place value of $16 billion annually.

(e) The eight standard test methods set out in Appendix 2 are deemed valid existing test methods for ascertaining the conformity to the product standards of freshly mixed field concrete.

(f) The CCRL laboratory examination program is extensive and has been in existence for a number of years. Based on this experience, this LAP for testing laboratories that test freshly mixed field concrete is deemed to be both feasible and practical. The professional examination services of CCRL may well be used in this LAP to minimize costs of the program by combining CCRL and NVLAP inspections.

In view of the above finding of need the Department hereby establishes a laboratory accreditation program (LAP) to accredit testing laboratories that test the product, freshly mixed field concrete. The purpose of this LAP presently is limited to evaluating and accrediting testing laboratory facilities to determine their cpability to conduct tests required by the applicable product standards concerning freshly mixed field concrete.

The applicable product standards are those identified in Appendix 1 to this notice. The eight standard test methods are those identified in Appendix 2. The applicable product standards and standard test methods included in the appendices to this notice are those which are in effect on the date on which this final finding of need is published in the FEDERAL REGISTER and thereafter shall be those versions that are then currently in effect. Such applicable product standards include only those sections concerned with freshly mixed field concrete. "Freshly mixed field concrete" is defined as structural hydraulic cement concrete provided in plastic form at the construction job site for placement and curing.

Being published simultaneously with this notice is a separate notice in the FEDERAL REGISTER which announces the establishment by the Secretary of a National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1). The function of that Committee will be to develop and recommend to the Secretary general and specific criteria for use in accrediting testing laboratories that test freshly mixed field concrete.

NOTE.—The Department of Commerce has determined as detailed in the aforementioned summary and analysis, that this final finding of need does not contain a proposal having potential major economic consequences requiring preparation of a Regulatory Analysis under Executive Order 12044.

Issued: November 27, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

APPENDIX 1—PRODUCT STANDARDS APPLICABLE TO THE FINAL FINDING OF NEED FOR A LAP ON FRESHLY MIXED FIELD CONCRETE

DESGINATIONS, TITLE AND APPLICABLE SECTIONS/CHAPTERS

1. ASTM C94: Standard Specification for Ready Mixed Concrete (Sections 14 and 16 of ASTM C94-74a).

2. ASTM C685: Standard Specification for Concrete Made by Volumetric Batching and Continuous Mixing (Sections 9 and 10 of ASTM C685-74).

3. ACI 301: ACI Standard Specifications for Structural Concrete for Buildings (Chapter 16.3.4 through 16.3.8, excluding 16.3.7 of ACI 301-72).

4. ACI 318: ACI Standard Building Code Rquirements for Reinforced Concrete (Chapters 4.3.1 through 4.3.4 of ACI 318-71 now referenced by section 4.8.1 through 4.8.3 of ACI 318-77).

NOTE.—ASTM: American Society for Testing and Materials. ACI: American Concrete Institute.

APPENDIX 2—TEST METHODS APPLICABLE TO THE FINAL FINDING OF NEED FOR A LAP ON FRESHLY MIXED FIELD CONCRETE

ASTM Designation	Title
C31	Standard Method for Making and Curing Concrete Test Specimens in the Field.
C39	Standard Test Method for Compressive Strength of Cylindrical Concrete Specimens.
C138	Standard Test Method for Unit Weight, Yield, and Air Content (Gravimetric) of Concrete.
C143	Standard Test Method for Slump of Portland Cement.
C172	Standard Method of Sampling Fresh Concrete.
C173	Standard Test Method for Air Content of Freshly Mixed Concrete by the Volumetric Method.
C192	Standard Method of Making and Curing Concrete Test Specimens in the Laboratory (The required field test specified in C31 will be performed in the laboratory in accordance with the requirements of C192).
C231	Standard Test Method for Air Content of Freshly Mixed Concrete by the Pressure Method.

[FR Doc. 78-34627 Filed 12-12-78; 8:45 am]

[3810-71-M]

DEPARTMENT OF DEFENSE

Department of the Navy

BOARD OF ADVISORS TO THE PRESIDENT, NAVAL WAR COLLEGE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Board of Advisors to the President, Naval War College will meet on December 15, 1978, in Room 210, Conolly Hall, at the Naval War College, Coaster's Harbor Island, Newport, Rhode Island. The meeting will commence at 8:30 a.m. and terminate at approximately 4:30 p.m.

The purpose of the meeting is to elicit the advice of the Board on education, doctrinal, and research policies and programs of the Naval War College.

For further information concerning the meeting contact Commander M.T. Midas, U.S. Navy, Executive Assistant to the Dean of Academics, Naval War College, Newport, RI 02840, telephone number (401) 841-35354.

Dated: December 11, 1978.

P. B. WALKER,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-34786, Filed 12-12-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

PEACEFUL USES OF ATOMIC ENERGY

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (24 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the United States and the International Atomic Energy Agency (IAEA) on the peaceful applications of atomic energy.

The subsequent arrangement to be carried out involves the provision of the following materials as the U.S. gift of special nuclear material to the IAEA for 1978:

1. For fuel for an IAEA research reactor project in Venezuela: up to approximately 3.3 kilograms of uranium with an enrichment of under 20% in U-235.

2. As samples, standards, and targets for the IAEA's Safeguards Analytical Laboratory and the IAEA's nuclear data measurement and safeguards activities in Romania. Less than 30 grams uranium with an everage enrichment of less than 25% in U-235;

less than 5 grams of plutonium; and less than 2 grams of U-233.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 7, 1978.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 78-34584 Filed 12-12-78; 8:45 am]

[6450-01-M]

OFFICE OF ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the United States of America and the European Atomic Energy Community (Euratom) Concerning Peaceful Uses of Atomic Energy and the Agreement for Cooperation between the Government of the United States of America and the Republic of Austria Concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves the retransfer of (1) 5.42 g of uranium enriched to 93% U-235 from Euratom to Austria for destructive post-irradiation examination work at OSGAE in Seibersdorf and (2) 53 grams of uranium enriched to 4.3% U-235 and 4.7 grams of uranium enriched to 90% U-235 from Austria to Euratom for post-irradiation analysis at KFA, Julich, Germany.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: December 8, 1978.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 78-34585 Filed 12-12-78; 8:45 am]

[6450-01-M]

RENEWAL OF THE CHARTER OF THE PERSONNEL SECURITY REVIEW BOARD PANEL

This notice is published in accordance with the provision of Section 7 of the Office of Management and Budget Circular A-63, as amended. Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act, and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Personnel Security Review Board Panel has been renewed for a 6-month period ending on June 9, 1979.

The renewal of the Panel has been determined necessary and in the public interest. The Panel will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the Department of Energy Organization Act (Pub. L. 95-91), OMB Circular A-63 (Revised), and other directives and instructions issued in implementation of those Acts.

Further information regarding this Panel may be obtained from the Department of Energy Advisory Committee Management Office (202-252-5187). Issued at Washington, D.C. on December 8, 1978.

PHILIP S. HUGHES,
Assistant Secretary, Intergovernmental and Institutional Relations.

[FR Doc. 78-34662 Filed 12-12-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1022-7]

NATIONAL AIR POLLUTION CONTROL TECHNIQUES ADVISORY COMMITTEE

Open Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the National Air Pollution Control Techniques Advisory Committee will be held at 9:00 a.m. on January 10 and 11, 1978, at the Olde Colony Motor Lodge and Conference Center, Commonwealth Rooms—North and Center, North Washington and First Streets, Alexandria, Virginia 22313. The commercial telephone number is (703) 548-5300.

The tentative agenda for the meeting is as follows:

January 10 (Wednesday)

9:00 a.m. REVIEW OF NEW SOURCE PERFORMANCE STANDARDS FOR BASIC OXYGEN FURNACES IN IRON AND STEEL MILLS, SULFURIC ACID PLANTS, AND ASPHALT CONCRETE PLANTS. The Clean Air Act Amendments of 1977 require that all new source performance standards be reviewed, and revised if necessary, every four years. Ten standards are now under review. and the three subject reviews are essentially complete.

1:00 p.m. GENERIC STANDARDS FOR ORGANIC CHEMICALS INDUSTRY. EPA is developing generic standards for the organic chemicals industry. These regulations would be applied uniformly to all plants when a Section 112 designation is made.

5:00-5:30 p.m. COMMITTEE EXECUTIVE SESSION.

January 11 (Thursday)

8:30 a.m. GENERIC STANDARDS FOR ORGANIC CHEMICALS INDUSTRY. (Continued if Necessary)

9:00 a.m. REVIEW OF CONTROL TECHNIQUES DOCUMENT ON CARBON MONOXIDE. The national ambient air quality standard is now under review. Review of the control techniques document is required by the Clean Air Act.

11:00 a.m. STATUS OF INDUSTRIAL BOILER NEW SOURCE PERFORMANCE STANDARD. Because of the complexity of this standard, early comment by the Committee is necessary.

4:30-5:00 p.m. COMMITTEE EXECUTIVE SESSION.

All meetings are open to the public. Anyone wishing to make a presentation should contact Mrs. Mary Jane Clark, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, by January 5, 1979. The commercial telephone number is (919) 541-5271, and the FTS number is 629-5271.

Dated: December 6, 1978.

EDWARD F. TUERK,
Acting Assistant Administrator, for Air, Noise, and Radiation.

[FR Doc. 78-34577 Filed 12-12-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21284]

CHARLES RIVERS ASSOCIATES STUDY

Inquiry Into the Economic Relationship Between Television Broadcasting and Cable Television; Order Setting Time for Filing of Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time; response to notice of inquiry.

SUMMARY: An extension of time has been granted to the National Association of Broadcasters and several broadcast parties for the purpose of filing a study in Docket 21284, which concerns the economic relationship between television broadcasting and cable television.

DATE: Responses to the filing will be due on or before December 29, 1978.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION:

Contact David Nicoll, Cable Television Bureau, (202) 632-9703.

SUPPLEMENTARY INFORMATION:

Adopted: December 6, 1978.

Released: December 7, 1978.

By the Chief, Cable Television Bureau:

In the Matter of inquiry into the economic relationship between television broadcasting and cable television.

1. By *Order* in this proceeding released December 21, 1977 (67 FCC 2d 264) a general deadline for the filing of comments of March 15, 1978 was adopted. In connection with that *Order*, however, the Commission noted that a project to be undertaken by Charles River Associates for Capital Cites Communications, the National Association of Broadcasters, and a number of other interested parties could not be completed by that date. The Commission stated that "If the Charles Rivers Associates study is in fact undertaken we would welcome its findings in whole or in part, during the Inquiry or in connection with pertinent rulemakings, if any."

2. A part of that study undertaken by Charles Rivers Associates was received by the Commission on December 5, 1978 and has been placed in the record of this proceeding. Parties wishing to file comments responsive to this study are hereby granted until December 29, 1978 to do so.

This action is taken by the Chief, Cable Television Bureau pursuant to authority delegated by Section 0.288 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
PHILIP L. VERVEER,
Chief,
Cable Television Bureau.

[FR Doc. 78-34664 Filed 12-12-78; 8:45 am]

[6712-01-M]

[Mexican List No. 288]

MEXICAN STANDARD BROADCAST STATIONS

Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Mexican standard broadcast stations modifying the assignments of Mexican broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting, January 30, 1941.

OCTOBER 1, 1978.

Call letters	Location	Power kilowatts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of change or commencement of operation
				610 kHz					
XEEL	Fresnillo, Zac., N. 23° 10' 58", W. 102° 53' 46" (*shares antenna with XEIH*, 1400 kHz)	1.000D/ .150N.	ND-U-*164*	U	III	*295*	120	*262*	Immediately
				680 kHz					
XELG	Leon, Gto., N. *21° 07' 08"*, W. 101° 41' 01"	10.000D/ 5.000N	ND-D-190 DA-N	U	II	362	120	362	Immediately
				690 kHz					
XETRAN	Progreso, Yuc. N. 21° 18' 00", W. 89° 39' 30"	50.000D/ 50.000N	DA-2	U	II				4-1-79
				710 kHz					
XEDP	CD Cuauhtemoc, Chih., N. 28° 30' 00", W. 106° 55' 16"	5.000	ND-D-190	D	II	335	120	345	Immediately
				810 kHz					
XERI	Reynosa, Tam., N. *26° 04' 18"*, W. *98° 15' 32"*	.500	ND-D-*188*	D	II	*302*	120	*302*	Immediately
				860 kHz					
(NEW)	Pabellon, Ags., N. 22° 09' 15", W. 102° 16' 18"	4.00	ND-D-175	D	II	230	120	230	4-1-79
				860 kHz					
XEZX	Tenosique, Tab., N. *17° 35' 34"*, W. *91° 30' 34"*	1.000D/ 150N	ND-U-175	U	II	197	120	262	Immediately
				920 kHz					
XELCM	Lazaro Cardenas, Mich., N. 17° 04' 21", W. 102° 13' 32" (Delete assignment)	.500	ND-D-190	D	III	267	120	267	
				920 kHz					
XEBM	San Luis Potosi, Slp., N. *22° 09' 23"*, W. *100° 56' 29"*	5.000D/ 1.000N	ND-U-183	U	III	242	100	262	Immediately
				930 kHz					
XELCM	Lazaro Cardenas, Mich., N. 17° 58' 07", W. 102° 12' 00" (Previous assignment on 920 kHz	.500	ND-D190	D	III	264	120	264	4-1-79
				950 kHz					
XECAA	Calvillo, Ags., N. 21° 51' 00", W. 102° 43' 22" (Previous assignment on 1020 kHz	1.000D/ .00N	ND-U-173	U	III	207	120	213	4-1-79
				1020 kHz					

Call letters	Location	Power kilo-watts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system Number of radials	Ground system Length (feet)	Proposed date of change or commencement of operation
XECAA	Calvillo Ags., N. 21° 50' 45", W. 102° 44' 14" (Delete assignment)	.500	ND-D-175	D	II	167	120	241	
				1090 kHz					
XEMCA	Panuco, Ver., N. *22° 08' 01"*, W. *98° 07' 56"*	5.000	ND-D-190	D	II	226	120	226	4-1-79
				1110 kHz					
XEFZ	Monterrey, N. L., N, 25° 40' 11", W. 100° 18' 26" (PO 0.250 kw, D)	*.500*	ND-D-175	D	II	191	90	204	4-1-79
				1190 kHz					
(NEW)	Acayucan, Ver., N. 17° 55' 41", W. 94° 58' 41"	1.000	ND-D-190	D	II	207	120	207	4-1-79
				1200 kHz					
XEPLA	Pabellon, Ags., N. 22° 09' 16", W. 102° 16' 18"	*4.000*	ND-D-183	D	II	187	120	187	4-1-79
				1260 kHz					
XEL	Mexico, D. F., N. 19° 23' 07", W. 99° 07' 16" (PO 10 kw D, 1 kw N, ND-U-185) (shares antenna with XEVOX, 1590 kHz	10.000D/ 5.000N	ND-D-*182* DA-N	U	III	203	90	*180*	Immediately
				1270 kHz					
XECAL	Tijuana, BCN, N. 32° 32' 20", W. 117° 02' 40' (PO 0.500 kw U, ND-U-175	5.000D/ 5.000N	DA-2	U	III				
				1270 kHz					
XEMW	San Luis Rio C, Son., N. 32° 29 15", W. 114° 46' 50" (shares antenna with XECB, 1450 kHz	1.000	ND-D-*193*	D	III	205	120	*203*	Immediately
				1340 kHz					
XEPX	Puerto Angel, Oax., N. 15° 39' 14", W. 96° 30' 05"	.500D/ .200N	ND-U-*185*	U	IV	197	*120*	146	Immediately
				1340 kHz					
XECW	Los Mochis, Sin., N. *25° 46' 22"*, W. *108° 59' 04"* (shares antenna with XECU, 1470 kHz	1.000D/ .200N	ND-U-*165*	U	IV	184	*0*	*74*	Immediately
				1340 kHz					
XEMA	Fresnillo, Zac., N. 23° 10' 26", W 102° 52' 58" (shares antenna with XEQS, 1470 kHz	1.000D/ .250N	ND-U-*193*	U	IV	197	120	*197*	4-1-79
				1370 kHz					
XEMON	Monterrey, N. L., N. 25° 40' 11", W. 100° 18' 26"	10.000	ND-D-175	D	III	230	90	230	4-1-79
				1370 kHz					
(NEW)	Huayacocotla, Ver., N. 20° 32' 36", W.*98° 29' 36"*	.250	ND-D-75	D	III	126	120	165	4-1-79
				1400 kHz					
XEIH	Fresnillo, Zac., N. *23°10' 58"*, W. 102° 53' 46" (*shares antenna with XEEL, 610 kHz*) change to 930 kHz	.800D/ .250N	ND-U-150	U	IV	109	90	109	Immediately
				1450 kHz					
XECB	San Luis Rio C., Son., N. 32° 28' 43", W. 114° 46' 24" (PO 0.250 kw U) (*shares antenna with XEMW, 1270 kHz*	1.000D/ .250N	ND-U-186	U	IV	148	120	169	Immediately
				1470 kHz					
XECU	Los Mochis, Sin., N. 25° 46' 22", W. 108° 59' 04" (PO 0.250 kw U ND-U-184) (*shares antenna with XECW, 1340 kHz*	1.000D/ .250N	ND-U-185	U	III	167	90	167	Immediately
				1470 kHz					
XEQS	Fresnillo, Zac., N. *23° 10' 26"*, W. *102° 52' 58"* (shares antenna with XEMA, 1340 kHz)	1.000	ND-D-*202*	D	III	*197*	*120*	*197*	4-1-79
				1510 kHz					
XEYQ	Fresnillo, Zac., N. *23° 07' 50"*, W. *102° 49' 54"*	1.000	ND-D-*187*	D	II	*161*	*120*	*161*	4-1-79
				1520 kHz					
(NEW)	Tenosique, Tab., N. 17° 28' 45," W. 91° 25' 33"	.250	ND-D-175	D	II	162	120	110	4-1-79
				1520 kHz					
XECGP	Morelia, Mich., N. 19° 42' 16", W. 101° 11' 30"	.500	ND-D-175	D	II	164	120	164	Immediately
				1540 kHz					
(NEW)	Villahermosa, Tab., N. 17° 59' 15", W. 92° 55' 00"	*5.000*	ND-D-175	D	II	230	90	230	4-1-79
				1590 kHz					
XEVOZ	Mexico, D.F., N. *19° 23' 07"*, W. *99° 07' 16"* (*shares antenna with XEL, 1260 kHz*)	10.000D/ 5.000N	ND-U-*199*	U	III	203	90	*180*	Immediately
				1600 kHz					

Call letters	Location	Power kilowatts	Antenna radiation mv/m/kw	Schedule	Class	Antenna height (feet)	Ground system Number of radials	Ground system Length (feet)	Proposed date of change or commencement of operation
XEGEM	Toluca, Mex., N. 19° 14' 45", W. 99° 34' 54"	2.000	DA-D	D	III				4-1-79

WALLACE E. JOHNSON,
Chief, Broadcast Bureau,
Federal Communications Commission.

[FR Doc. 78-34550 Filed 12-12-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

DOMINION NAVIGATON CO., LTD.

Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other persons No. C-1,105.

In the matter of Dominion Navigation Company Limited, c/o Kerr Steamship Company, Inc., 753 Boulevard, Kenilworth, New Jersey 07033.

WHEREAS, Dominion Navigation Company has ceased to operate the passenger vessel MARCO POLO to and from United States ports; and

WHEREAS, Certificate (Casualty) No. C-1,105 issued to Dominion Navigation Company Limited has been returned for revocation,

IT IS ORDERED, that Certificate (Casualty) No. C-1,105 covering the MARCO POLO be and is hereby revoked effective December 6, 1978.

IT IS FURTHER ORDERED, that a copy of this Order be published in the FEDERAL REGISTER and served on certificant.

By the Commission December 6, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-34614 Filed 12-12-78; 8:45 am]

[6730-01-M]

XANADU CRUISES, INC.

Certificate of Financial Responsibility for Indemnification of Passengers for nonperformance of Transportation No. P-163 and Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages No. C-1,154.

In the matter of Xanadu Cruises, Inc., 7777 Perimeter Road, Boeing Field International, Seattle, Washington 98108.

WHEREAS, Xanadu Cruises, Inc., A Joel Eisenberg and June Eisenberg have ceased to operate the passenger vessel XANADU to and from United States ports,

IT IS ORDERED, that Certificate (Performance) No. P-163 issued to Xanadu Cruises, Inc., A. Joel Eisenberg and June Eisenberg on June 14, 1976, and reissued on July 22, 1976, and Certificate (Casualty) No. C-1,154 issued to Xanadu Cruises, Inc., A. Joel Eisenberg and June Eisenberg, be and are hereby revoked effective December 6, 1978.

IT IS FURTHER ORDERED, that a copy of this Order be published in the FEDERAL REGISTER and served on certificants.

By the Commission December 6, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-34613 Filed 12-12-78; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

NATIONAL CITY CORP.

Acquisition of Bank; Correction

In FR Doc. 78-33506 appearing at page 56101 of the issue for Thursday, November 30, 1978, the notice should read as follows:

National City Corporation, Cleveland, Ohio, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of The Huron County Banking Company, N.A., Norwalk, Ohio. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 22, 1978. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-34631 Filed 12-12-78; 8:45 am]

[1505-01-M]

TEXAS AMERICAN BANCSHARES, INC.

Acquisition of Bank

Correction

In FR Doc. 78-33507, appearing on page 56102 in the issue for Thursday, November 30, 1978, in the second paragraph, in the 13th line, the date "Jan-

uary 2, 1979" should be corrected to read "December 22, 1978".

[1505-01-M]

GOVERNMENT PRINTING OFFICE

MICROPUBLISHING ADVISORY COUNCIL TO THE PUBLIC PRINTER

Meeting

The Micropublishing Advisory Council to the Public Printer will meet on January 12, 1979, at the Government Printing Office, North Capitol and H Streets, N.W., Washington, D.C. 20401.

The purpose of this meeting is to discuss the Depository Library Microform Program.

The meeting will be open to the public. Any member of the public who wishes to attend should notify Miss Cindy Perry, Government Printing Office, Washington, D.C. 20401 (Telephone number: (703) 557-2050.

Dated: December 1, 1978.

JOHN J. BOYLE,
Public Printer.

[FR Doc. 78-34617 Filed 12-12-78; 8:45 am]

[4110-88-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of January 1979:

INTERAGENCY COMMITTEE ON FEDERAL ACTIVITIES FOR ALCOHOL ABUSE AND ALCOHOLISM, January 23, 1979: 9:00 a.m.—OPEN MEETING, Conference Room 403-A, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, Contact: Mr. James Vaughan, Room 16C-10, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3888.

Purpose: The Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism (1) evaluates the adequacy and technical soundness of all Federal programs and activities which relate to alcohol abuse and alcoholism and provides for the communication and exchange of information necessary to maintain the coordination and effectiveness of such programs and activities, and (2) seeks to coordinate efforts undertaken to deal with alcohol abuse and alcoholism in carrying out Federal health, welfare, rehabilitation, highway safety, law enforcement, and economic opportunity laws.

Agenda: The meeting will consist of reports from the Committee's working groups: Federal Employee Alcoholism Programs; Research; Prevention, Education and Information; Treatment and Rehabilitation; and Manpower and Training. There will also be a discussion of Committee operations.

Substantive program information may be obtained from the contact person listed above. The NIAAA Information Officer who will furnish summaries of the meeting and a roster of Committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute of Alcohol Abuse and Alcoholism, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306.

Dated: December 8, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-34630 Filed 12-12-78; 8:45 am]

[4110-88-M]

PSYCHOLOGICAL SCIENCES FELLOWSHIP REVIEW COMMITTEE

Meeting Change

In FR Doc. 78-31506 appearing on page 52061 in the issue of Wednesday, November 8, 1978, the Notice is changed as follows:

PSYCHOLOGICAL SCIENCES FELLOWSHIP REVIEW COMMITTEE, December 18-19; 9:00 a.m.—Conference Room, Shenandoah C, Ramada Inn, 1900 North Fort Myer Drive, Arlington, Va. 22209. OPEN—December 18; 9:00-11:00 a.m. CLOSED—Otherwise.

All other information remains as announced November 8.

Dated: December 8, 1978.

ELIZABETH A. CONNOLLY,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-34629 Filed 12-12-78; 8:45 am]

[4110-07-M]

Social Security Administration

WAIVER OF WIN PROGRAM REQUIREMENTS FOR AFDC RECIPIENTS AGE 16 AND 17

Invitation To Comment on Proposed Demonstration Project

The California Department of Social Services has submitted an application under section 1115(b) of the Social Security Act to conduct a project entitled "Evaluation of the Impact of Exempting 16 and 17-Year Old Children From Mandatory WIN Requirements." A summary of the project provided by the State is as follows:

"The determination of the relationship between the costs of administering WIN requirements for 16 and 17-year old youth and the benefits that accrue from these requirements is central in the project. Establishment of the relationship will require comparative analysis of essential variables under existing mandatory WIN program requirements and under conditions which exempt 16 and 17-year-old youth from WIN program requirements. To acquire the necessary data, a waiver of 45 CFR 224.20(b)(2), as it affects 16 and 17-year-old children, will be required during the year long Phase II of the project.

"Relevant sections of the Social Security Act which would have to be temporarily waived include Sections 402(a)(1) and 402(a)(19). The affected provisions of the California State Plan are Welfare and Institutions (W & I) Code Sections 11253 and 11310. Detailed provisions of the State Plan are reflected in Chapter 42-600 (WIN) of Eligibility and Assistance Standards (EAS) of the California Department of Social Services.

"The project will be conducted only in Los Angeles County for a period totaling 16 months. The appropriate one year waivers would affect that county only and are expressly for project purposes. The project will collect, control, and test data which will clearly demonstrate that the deletion of WIN requirements for the target age group will (1) administratively simplify eligibility determination, (2) increase equity in the administration of AFDC, (3) eliminate a major source of AFDC case errors, and (4) not significantly increase the AFDC caseload. There are no known impediments to successful implementation of a WIN exemption provision for the target age group."

ADDRESSES: For full understanding of the details of the project, it is available for public inspection between 8:30 a.m. and 4:30 p.m., Monday through Friday in Room 914, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. 20009. Comments should be sent to Dr. Wilmer Kerns, Social Security Administration, Office of Research and Statistics, Family Assistance Studies Staff, at the above address.

FOR FURTHER INFORMATION CONTACT:

You may call Dr. Kerns at (202) 673-5595.

DATES: Comments received by January 12, 1979, will be considered in deciding whether to approve this application.

(Catalog of Federal Domestic Assistance Program No. 13.812—Assistance Payments-Research)

Dated: December 8, 1978.

DON I. WORTHMAN,
Deputy Commissioner of Social Security.

[FR Doc. 78-34684 Filed 12-12-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 31869]

NEW MEXICO

Proposed Withdrawal and Reservation of Lands—Amendment

Correction

In FR Doc. 78-32253 appearing at page 53508 in the issue for Thursday, November 16, 1978, the date for comments in the last paragraph of the document now reading "December 18, 1979" should have read "December 18, 1978."

[4310-84-M]

[NM 34442]

NEW MEXICO

Termination of Proposed Withdrawal and Reservation of Land

DECEMBER 4, 1978.

Notice of a Forest Service, Department of Agriculture, application NM 34442, for withdrawal and reservation of land for a dam and reservoir for water storage for the Village of Ruidoso, was published as FR Doc. 78-26575 on page 43075 of the issue of September 22, 1978.

The applicant agency has cancelled its application.

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

EAGLE CREEK DAM AND RESERVOIR

T. 10 S., R. 13 E.,
Sec. 31, NE¼NE¼, S½NW¼NE¼, S½NE¼, E½SW¼ AND SE¼ LESS PARTS OF TRACTS A, B, AND C OF HES 247;
Sec. 32, S½NE¼NW¼, NW¼NW¼, S½NW¼, NE¼SW¼, N½SW¼SW¼, AND NW¼SW¼ LESS PARTS OF TRACTS A, B, AND C OF HES 247.

The area described aggregates 553.83 acres in Lincoln County, New Mexico.

Therefore, pursuant to the regulations contained in 43 CFR Part 2391, such lands at 10:00 a.m. on January 10, 1979, will be relieved of the segregative effect of the above mentioned application.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-34615 Filed 12-12-78; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[337-TA-42]

CERTAIN ELECTRIC SLOW COOKERS

Commission Procedure on the Presiding Officer's Recommendation for Relief, Bonding, and the Public Interest

Recommendation of presiding officer issued. On September 12, 1978, the presiding officer in investigation No. 337-TA-42 (Certain Electric Slow Cookers), being conducted by the United States International Trade Commission under the authority of section 337 of the Tariff Act of 1930, issued his recommended determination that the Commission—

(1) Terminate this 337 action with respect to the Sanyei Corporation, Sanyei New York Corp., Kusumi Electric Manufacturing Co., Ltd., and NGK Insulators, Ltd. (also known as Nippon Gaishi Mfg., Ltd.);

(2) On the basis of licensing and assignment agreements executed between respondents Lakewood Manufacturing Co. (Lakewood) and Imarflex Manufacturing Company, Ltd. (Imarflex), and complainant Rival, terminate this investigation with respect to Lakewood and Imarflex; and

(3) Find H & H Manufacturing Company and H & H Appliances in default and in violation of section 337 of the Tariff Act of 1930.

An addendum to the recommended determination finding Electrical & Electronics in violation of section 337 was issued by the presiding officer on October 20, 1978. The presiding officer has certified the evidentiary record to the Commission for its consideration. Copies of the presiding officer's recommended determination and the addendum thereto may be obtained by contacting the Office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161.

Requests for oral argument and oral presentation. At present, no oral argument is planned with respect to the recommended determination of the presiding officer. Similarly, no oral presentation is planned with respect to the subject matter of section 210.14(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.14(a)) concerning relief, bonding, and the public-interest factors set forth in section 337(d) and (f) of the Tariff Act of 1930, as amended (19 U.S.C. 1337), which the Commission is to consider in the event it determines that there should be relief. However, the Commission will consider requests for an oral argument or an oral presentation if they are received by the Secretary to the Commission no later than January 12, 1979.

Written submissions on the Recommended Determination. Written submissions from the parties, other interested persons, government agencies and departments, governments, or the public with respect to the recommended determination will be considered by the Commission if received not later than January 29, 1979.

Written presentations on relief, bonding, and the public interest. A party to the investigation, an interested agency, a public-interest group, or any interested member of the public may file a written submission on relief, bonding, or the public interest.

1. *Relief.* If the Commission finds a violation of section 337, it will issue (1) an order which could result in the exclusion from entry of certain electric slow cookers into the United States or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of these slow cookers. Accordingly, the Commission is interested in what relief should be ordered, if any.

2. *Bonding.* If the Commission finds a violation of section 337 and orders some form of relief, such relief would not become final for a 60-day period, during which the President would consider the Commission's report. During this period, the slow cookers would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond should be determined, if any.

3. *The public interest.* If the Commission finds a violation of section 337 and orders some form of relief, it must consider the effect of such relief upon the public interest. Accordingly, the Commission is interested in the effect of any exclusion order or cease and desist order upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

Written submissions to the Commission. The Commission requests that written submissions of two types be filed in order to focus the issues.

1. *Briefs on the presiding officer's recommendation.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommendation. Briefs must be filed with the Secretary to the Commission no later than January 29, 1979. Statements made in submissions should be supported by references to the record. Persons with

the same positions are encouraged to consolidate their submissions, if possible.

2. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public-interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These written submissions will be very useful to the Commission if it determines that there is a violation of section 337 and that relief should be granted.

Written comments and information concerning relief, bonding, and the public interest shall be submitted as follows. First, complainant shall file a detailed proposed Commission action, including a proposed determination of bonding, a proposed remedy, and a discussion of the effect of its proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, with the Secretary to the Commission no later than January 11, 1979. Second, other parties, interested agencies, public-interest groups, and other interested members of the public shall file written comments and information concerning the action which complainant has proposed, any available alternatives, and the advisability of any Commission action in light of the public interest considerations listed above no late than January 29, 1979.

Additional information. The original and 19 true copies of all written submissions must be filed with the Secretary to the Commission. If you wish to submit a document (or a portion thereof) to the Commission in confidence, you must request *in camera* treatment. Your request should be directed to the Chairman of the Commission and must include a full statement of the reasons the Commission should grant such treatment. The Commission will either accept such submission in confidence or return the submission. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Notice of the Commission's investigation was published in the FEDERAL REGISTER of July 6, 1977 (42 FR 34558).

By order of the Commission.

Issued: December 8, 1978,

KENNETH R. MASON,
Secretary.

[FR Doc. 78-34685 Filed 12-12-78; 8:45 am]

[7020-02-M]

[303-TA-4 and 5]

CERTAIN YARNS OF WOOL FROM URUGUAY AND BRAZIL

[303-TA-6 and 7]

CERTAIN LEATHER WEARING APPAREL FROM COLOMBIA AND BRAZIL

[303-TA-8]

CERTAIN GLOVES AND GLOVE LININGS FROM BRAZIL

Investigations and Hearing

Having received advice from the Department of the Treasury on November 22, 1978, that a bounty or grant is being paid with respect to—

(1) Yarns of wool imported from Uruguay and Brazil, provided for in item 307.60 of the Tariff Schedules of the United State (TSUS);

(2) Wearing apparel, of leather, for men and boys, or of types commonly worn by both sexes, from Colombia and Brazil, provided for in item 791.76 of the TSUS; and

(3) Gloves and glove linings, of fur on the skin, from Brazil, provided for in item 705.30 of the TSUS—

which merchandise from said countries is accorded duty-free treatment, the United States International Trade Commission on December 4, 1978, instituted investigations Nos. 303-TA-4 through 8, inclusive, under section 303(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(b)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing in connection with the investigations will be held in the Commission's Hearing Room, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t., on Tuesday, January 9, 1979. All persons shall have the right to appear at the public hearing shall be filed with the Secretary of the Commission at his office in Washington, D.C. not later than noon, Thursday, January 4, 1979.

There will be a prehearing conference in connection with these investigations which will be held in Washington, D.C. at 10:00 a.m., e.s.t., on Friday, January 5, 1979, in Room 117, U.S. International Trade Commission Building, 701 E Street, NW.

By order of the Commission.

Issued: December 8, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-34686 Filed 12-12-78; 8:45 am]

[44-1018-M]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

INSULAR AREAS

LEAA Policy for Implementation of Title V, Section 501 of Public Law 95-134, October 15, 1977

Notice is hereby given that the Law Enforcement Assistance Administration, consistent with the authority granted by Section 501 of Title V, Public Law 95-134, October 15, 1977, will continue to encourage submission of consolidated grant applications by Insular Areas eligible for LEAA grant funds. Consolidated grant applications are for Part C, Part E, and small State supplement funds under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for Part B formula grant funds under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. Application for Part B planning funds under the Omnibus Crime Control and Safe Streets Act, as amended, will continue to be awarded based on a separate application because most eligible jurisdictions require the advance receipt of such funds in order to complete a consolidated application for program funds.

The Insular Areas may determine, through the planning process, the proportion of consolidated grant funds to be allocated for particular programs and law enforcement purposes. Existing statutory restrictions on use of funds will, however, continue in force and provide the framework with which such allocations may be made by the Insular Areas. A single consolidated report to LEAA may be completed by each Insular Area, as appropriate.

It is noted that the LEAA Administration has exercised the policy authority granted by Section 501(d) of Public Law 95-134 to waive matching fund requirements for the LEAA program in the Insular Areas, effective October 15, 1977.

HENRY S. DOGIN,
Deputy Administrator for Policy Development.

[FR Doc. 78-34616 Filed 12-12-78; 8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-592-A and STN 50-593-A]

ARIZONA PUBLIC SERVICE CO., ET AL., PALO VERDE NUCLEAR GENERATING STATION, UNITS 4 AND 5

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters

Arizona Public Service Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, filed on July 28, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns additional ownership participants, Nevada Power Company, San Diego Gas and Electric Company, Los Angeles Department of Water & Power, and the Cities of Anaheim, Burbank, Glendale, Pasadena, and Riverside, California, for the Palo Verde Nuclear Generating Station, Units 4 and 5 located in Maricopa County, Arizona.

This additional Antitrust information was filed in connection with the Arizona Public Service Company's applications for construction permits and operating licenses for the Palo Verde Nuclear Generating Station, Units 4 and 5.

The original "Notice of Receipt of Antitrust Information and Application for Construction Permits and Operating Licenses; Time for Submission of Views on Antitrust Matters" was published in the FEDERAL REGISTER on May 8, 1978 (43 FR 19729).

A copy of the Arizona Public Service Company letter, dated July 28, 1978 and the above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room at 1717 H Street, N.W. Washington, D.C. 20555 and at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Arizona 85004.

Information in connection with the antitrust review of this application can be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. ATTN: Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation.

Any person who wishes to have their views on the antitrust matters with respect to the Nevada Power Company, San Diego Gas and Electric Company, Los Angeles Department of Water & Power, and the Cities of Anaheim, Burbank, Glendale, Pasadena, and Riverside, California presented to the Attorney General should submit such views for consideration to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before January 22, 1979.

Dated at Bethesda, Maryland, this 13th day of November 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-32556 Filed 11-21-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-445, 50-446]

COMANCHE PEAK STEAM ELECTRIC STATION, UNIT NOS. 1 AND 2 (CPPR-126 AND CPPR-127), TEXAS UTILITIES GENERATING CO., ET AL.

Negative Declaration Supporting Amendment of Construction Permits

The staff of the U.S. Nuclear Regulatory Commission (the Commission) has reviewed the proposed amendment relating to the construction permits for the Comanche Peak Steam Electric Station, Units No. 1 and 2 (CPPR—126 and CPPR-127) located in Somervell County, Texas, issued to Texas Utilities Generating Company, *et al.* The amendment would authorize a modification of Condition 3.E.(7) to remove the requirement that a chlorine minimization study of performed and the results be submitted to the Commission prior to docketing of the Environmental Report, Operating License Stage.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal for the amendment and has concluded that an environmental impact statement for this particular action is not warranted. This conclusion is based on the fact that there will be no significant environmental impacts attributable to the proposed action.

The environmental appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 4th day of December 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-34638, Filed 12-12-78; 8:45 am]

[7590-01-M]

[Docket No. 70-2738; License No. XSNM-1222]

EDLOW INTERNATIONAL CO.

Order

I. BACKGROUND AND SUMMARY

In the matter of Edlow International Company (Agent for the Government of India on Application to Export Special Nuclear Materials).

On February 13, 1978, the Natural Resources Defense Council, the Sierra Club, and the union of Concerned Scientists filed two motions with the Commission. The first requested the Commission to resume the hearings the Commission held in July 1976 on exports of low-enriched uranium to India.[1] The second requested that the Commission consolidate consideration of applications XSNM-1060 and XSNM-1222, two applications for low-enriched uranium to be used at the Tarapur Atomic Power Station in India. On March 6, 1978 the Commission granted Petitioners' request that license application XSNM-1222 be consolidated with XSNM-1060. CLI-78-4, 7 NRC 311. On April 24, 1978, the Commission denied the motion requesting a further public hearing on XSNM-1060, and deferred its decision on whether a hearing should be held on XSNM-1222 until it had received the views of the Executive Branch on that license application. CLI-78-9, 7 NRC 455.

On September 15, 1978, the Executive Branch provided its views on XSNM-1222, recommending that the Commission issue XSNM-1222. Petitioners responded to this submission on October 31, 1978 by filing a supplemental memorandum renewing their earlier request for a hearing. On November 14 and 15, the Commission's Staff and the Executive Branch filed responses to Petitioners' motion opposing further hearings.

The Commission has reviewed these submissions and finds that further public proceedings on a written basis will be in the public interest and will assist the Commission to make the statutory determinations required by the Atomic Energy Act.[2] 42 U.S.C.

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[1] See CLI-76-6, 3 NRC 563 (1976) and CLI-77-20, 5 NRC 1358 (1977) for a description of these hearings.

[2] Chairman Hendrie and Commissioner Gilinsky voted against conducting further public proceedings.

§ 2155a, 10 CFR § 110.84(a). Part II of this Order establishes the framework for a hearing consisting of written comments under § 110.85 of our Rules, and announces the schedule which will govern this proceeding. This order will also be published in the FEDERAL REGISTER. The Commission will consider whether an opportunity for oral presentations to the Commission is warranted, after reviewing written comments received.

II. NOTICE OF HEARING CONSISTING OF WRITTEN COMMENTS

Petitioners' February 13, 1978 motion and supplemental pleading of October 31, 1978 request the Commission to order a public hearing. Based on this request, we are ordering a hearing focusing on four topics: (1) the sufficiency, for purposes of the Nuclear Non-Proliferation Act (NNPA), of Indian Prime Minister Desai's assurances that "he will not authorize nuclear explosive devices or further nuclear explosions"; (2) the adequacy, for purposes of the NRC's determination under the NNPA, of the safeguards applied by the International Atomic Energy Agency at the Tarapur facility, and of U.S. government information on those safeguards: (3) the status of U.S.-India negotiations regarding the return of spent fuel from Tarapur to the United States for storage; and (4) the need for the fuel requested.

The NRC staff, the Petitioner and the Department of State will be participants in this proceeding. The Commission also invites interested members of the public to submit written comments on issues raised by Petitioners or any other issues pertaining to the proposed export of nuclear fuel to India and which relate to statutory determinations the Commission must make under the Atomic Energy Act of 1954, as revised by the Nuclear Non-Proliferation Act of 1978. Written comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch, by January 11, 1979. Participants may file responses to comments submitted by other participants. These reply comments should be submitted by January 22, 1979. This public proceeding will be deemed to be completed on January 29, 1979, unless the Commission has, by that date, ordered oral presentations. If the Commission orders oral presentations, they will be held 14 days after the Commission orders them. In that instance, the public proceeding shall be deemed to be completed at the conclusion of the parties' oral presentations.

Further instructions regarding participation in this hearing consisting of written comments are set forth in 10 CFR Part 110, Subparts I and J.

It is so ORDERED.

For the Commission.

Dated at Washington, D.C., this 8th day of December, 1978.

SAMUEL J. CHILK,
Secretary of the Commission.

SEPARATE VIEWS OF COMMISSIONER GILINSKY

I would have preferred to see the Commission act on this application. I believe sufficient information is available to make a decision. It seems to me that written submissions from the public are not likely to so change this situation as to justify the time spent in the proceeding.

[FR Doc. 78-34632 Filed 12-12-78; 8:45 am]

[7590-01-M]

[Docket No. 50-289]

METROPOLITAN EDISON CO. ET AL.

Issuance of Amendment to Facility Operating Licence

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specifications for the facility by increasing the frequency at which heat balance checks are performed to verify the calibration of the power range nuclear instrumentation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 13, 1978, (2) Amendment No. 46 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 22nd day of November 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-34633 Filed 12-12-78; 8:45 am]

[7590-01-M]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 42 to Facility Operating License No. DPR-40, issued to Omaha Public Power District (the licensee), which revised the license for operation of the Fort Calhoun Station, Unit No. 1 (the facility), located in Washington County, Nebraska. The amendment becomes effective on February 23, 1979.

The amendment adds a license condition to include the Commission-approved physical security plan as part of the license.

The licensee's filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filing dated April 7, 1978, revised July 31, 1978, and the Commission's Security Plan Evaluation Report are proprietary information and are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR § 9.12.

For further details with respect to this action, see (1) Amendment No. 42 to License No. DPR-40 and (2) the Commission's related letter to the licensee dated November 30, 1978. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebraska. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of November 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-34634 Filed 12-12-78; 8:45 am]

[7590-01-M]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This Series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.7, Revision 2, "Control of Combustible Gas Concentrations in Containment Following a Loss-of-Coolant Accident," is being issued in conjunction with recently published amendments to NRC regulations in 10 CFR § 50.44 (43 FR 50162) that clarify Commission requirements for controlling combustible gases in the primary containment structure of light-water power reactors under certain accident conditions.

Combustible gas control systems are provided to protect the containment against hydrogen burning or explosion following a loss of primary coolant accident. There are circumstances under which "inerting" of the containment could be required for protection during the time period immediately following the accident and just before effective operation of the combustible gas control system (a period of about two minutes). Inerting is a process of adding nitrogen to reduce the concentration of oxygen in the containment atmosphere. This prevents any hydrogen produced or accumulated immediately following a loss-of-coolant accident from reacting with oxygen to cause a fire or hydrogen explosion.

Inerting is required only if a licensee is unable to show that hydrogen would not accumulate to excessive levels or that, if such a situation should occur, it would not affect the plant's safety functions. The NRC staff has estimated that, for all but two of the plants now operating or under construction, inerting the containment would not be needed.

Regulatory Guide 1.7, Revision 2, provides detailed guidance for complying with the new regulations and other related Commission regulations. This guide has been revised as a result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at anytime. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of the latest revision of issued guides (which may be reproduced) or for the placement on an automatic distribution list of single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 6th day of December 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-34640, Filed 12-12-78; 8:45 am]

[7590-01-M]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced, (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Section No. 1.8, "Interfaces for Standard Designs" of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Virginia 22161. The domestic price is $70.00, including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Section No. 1.8 is $4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, N.W. Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda, Maryland this 4 day of December, 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-34639 Filed 12-12-78; 8:45 am]

[7590-01-M]

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas and San Diego Gas and Electric Company (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (the facility) located in San Diego County, California. The amendment is effective as of its date of issuance.

The amendment changes certain provisions in Sections 6 and 5 (Administrative Controls) of Appendices A and B, respectively, to reflect the new corporate and station organizational structure, and to increase the Onsite Review Committee membership.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 17, 1978, (Proposed Change No. 72), and (2) Amendment No. 39 to License No. DPR-13, including the Commission's related transmittal letter. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California 92676. A single copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 30th day of November 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-34635 Filed 12-12-78; 8:45 am]

[7590-01-M]

[Docket Nos. 50-445 and 50-446]

TEXAS UTILITIES GENERATING CO. ET AL.

Issuance of Amendments to Construction Permits

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 1 to Construction Permits Nos. CPPR-126 and CPPR-127 issued to Texas Utilities Generating Company, *et al.* for construction of the Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, located at the permittee's site in Somervell County, Texas.

The amendments modify the construction permits to remove the requirement that a chlorine minimization study be performed and the results submitted to the Commission prior to docketing of the Environmental Report, Operating License Stage.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended and the Commission's rules and regulations. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the amendment to the construction permits and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to this action.

For further details with respect to this action, see (1) the application for amendments dated June 30, 1978, (2) Amendments No. 1 to Construction Permit Nos. CPPR-126 and CPPR-127, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and in the Somervell County Public Library, On the Square, Glen Rose, Texas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland, this 4th day of December 1978.

For the Nuclear Regulatory Commission.

RONALD L. BALLARD,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc. 78-34636 Filed 12-12-78; 8:45 am]

[7708-01-M]

PENSION BENEFIT GUARANTY CORPORATION

IMPROVING QUALITY OF REGULATIONS

Statement of Policy and Procedures

1. PURPOSE

This Statement of Policy and Procedures is issued in response to the President's Order on improving government regulations (Executive Order 12044). A proposed version of this Statement was published in the FEDERAL REGISTER for public comment on May 25, 1978, and the only comment received approved of the Statement. The Statement sets forth objectives for reviewing existing regulations and issuing new regulations; and it establishes procedures for meeting those objectives.

2. POLICY

To simplify and imporove the quality of regulations, it is the policy of PBGC that the following objectives be pursued in issuing new regulations and continuing existing regulations:

(a) *Necessity.* A regulation should not be issued or continued in effect unless it is based on a well-defined need to address a specific problem.

(b) *Clarity.* A regulation and any additional material explaining it should be clear and precise; and the entire presentation of the regulation shall be designed so that the regulation can be applied by all who are likely to have to apply it.

(c) *Simplicity.* A regulation should be as short and simple as possible.

(d) *Timeliness.* A regulation should be issued in time to respond to the circumstances that require, it; and it shoud be modified or canceled promptly as those circumstances change.

(e) *Reasonableness.* The direct and indirect effects of the regulation should be adequately considered. Alternative approaches should be reviewed, and the least burdensome of the acceptable alternatives should be chosen.

(f) *Public Participation.* In general, a significant regulation (other than a temporarily effective regulation; see 5 U.S.C. 553(b)(B) (1976)) will be issued after allowing time—usually not less than 60 days—for all interested persons to comment on it. When PBGC

determines that a 60 day notice period is not feasible or appropriate, the regulation will be accompanied by a brief statement of the reasons for the agency's determination—such as the need of the public for immediate guidance as to what it must do in order to comply with Title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301-1381 (1976)) or a mandatory deadline imposed by the Congress or courts.

3. CONTACT FOR FURTHER INFORMATION

For further information, please write or call Judith R. Goldstein, Deputy Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corp., 2020 K Street, N.W., Washington, D.C. 20006; 202-254-4895.

4. DEFINITIONS

(a) "Policy Committee" means the committee of PBGC that is composed of the Assistant Executive Director for Policy and Planning, the Director of the Office of Financial Operations, the Director of the Office of Program Operations, and the General Counsel. In addition, the Executive Director may, from time to time, designate other senior officials as members of the Committee.

(b) "Regulation" includes a proposed regulation, a final regulation, and an amendment of a proposed regulation.

(c) "Significant regulation" means a regulation which:

(i) Concerns a matter on which there is likely to be substantial public interest or controversy;

(ii) Has a significant impact on another Federal agency;

(iii) Requires a regulatory analysis under Paragraph 7 of this Statement; or

(iv) Otherwise is deemed significant.

5. PROCEDURE FOR DEVELOPMENT OF SIGNIFICANT REGULATIONS

(a) Proposals for the development of a regulation will be submitted to the Policy Committee.

(b) The Policy Committee will determine whether a proposal, if and when developed, would constitute a significant regulation; and if so, the Policy Committee will review the following matters and obtain the Executive Director's approval or disapproval of its conclusions and recommendations ("Recommendations"):

(i) The issues to be considered;

(ii) The alternative approaches to be explored;

(iii) A tentative plan for obtaining public comment; and

(iv) Target dates for completion of steps in the development of the regulation.

(c) If the Policy Committee finds that a significant regulation is likely to have a major economic impact, then a regulatory analysis will be prepared. (See Paragraph 7.)

(d) After the final specifications of the regulation have been drafted, they shall be sent to the General Counsel, who will draft the regulation.

(e) The draft of the regulation will be circulated to the agencies with major responsibilities under the Employee Retirement Income Security Act of 1974 (See 29 U.S.C. 1001-1381 (1976)—"ERISA").

(f) If the Executive Director deems it appropriate, the draft regulation also will be sent to the Advisory Committee of PBGC for its advice and comments. In making this determination, the Executive Director will consider the effect of the draft regulation on other issues reviewed by the Advisory Committee and the interest of the Advisory Committee in the problem addressed by the regulation.

(g) After consideration of any comments from the principal ERISA agencies and the Advisory Committee, and at the direction of the Executive Director, the draft regulation will be submitted to the Board of Directors of PBGC for approval.

(h) Upon the approval of the Board, the General Counsel will transmit the approved proposed regulation to the FEDERAL REGISTER. The name, address and telephone number of a knowledgeable agency official shall be included in the publication.

(i) When the period for public comment is completed, the Policy Committee will review all comments received and, (i) to the extent necessary, prepare Recommendations for a revision of the regulation; (ii) make an estimate of any new reporting burdens or recordkeeping requirements necessary for compliance with the regulation; and (iii) develop a plan for evaluating the regulation after its issuance. The General Counsel then will prepare the draft of a final regulation; and following any further review deemed appropriate by the Executive Director and at his direction, the regulation will be presented to the Board of Directors of PBGC.

(j) Upon final approval by the Board, the General Counsel will transmit the regulation to the FEDERAL REGISTER for publication. The name, address and telephone number of a knowledgeable agency official shall be included in the publication.

6. PROCEDURE FOR DEVELOPMENT OF REGULATIONS THAT ARE NOT SIGNIFICANT

(a) If the proposed regulation is not considered significant by the Policy Committee or the Executive Director, it will be developed and issued without necessarily following the procedures of Paragraph 5 above.

(b) When a proposed nonsignificant regulation is published in the FEDERAL REGISTER, the notice will include a statement explaining why the regulation was not considered significant.

7. PROCEDURES FOR REGULATORY ANALYSES

(a) For every significant regulation, the Policy Committee will determine whether it is likely to have a major economic impact. If so, a regulatory analysis will be required.

(b) A significant regulation will be considered likely to have a major economic impact:

(i) If the regulation is likely to impose:

(A) Gross economic costs of $100 million per year; or

(B) A major increase in costs or prices for individual industries, levels of government, or geographic regions; or

(ii) For any other reason, as determined by the Executive Director.

In determining whether a regulatory proposal is likely to have a major economic impact, attention will be directed to the effect of the proposal on the existing statutory and regulatory environment, not to the effect the regulation would have on an unregulated environment.

(c) The regulatory analysis will be prepared under the direction of the Policy Committee and will include the following:

(i) A concise statement of the problem;

(ii) A description of the major alternatives for dealing with the problem that were considered (including the alternative selected);

(iii) An analysis of the economic consequences of each alternative; and

(iv) A detailed explanation of the reasons for choosing the alternative selected.

(d) When a proposed regulation is published in the FEDERAL REGISTER, the notice will include a brief summary of any regulatory analysis, setting forth an explanation of the regulatory alternative that was selected or is favored and a brief description of the other alternatives considered. The notice will also indicate how members of the public can obtain a copy of any draft regulatory analysis, and will solicit public comment on the draft regulatory analysis.

(e) After the end of the public comment period, the draft regulatory analysis will be reviewed by the Policy Committee in light of the comments received.

(f) When the final regulation is published in the FEDERAL REGISTER, the notice will include a brief summary of any final regulatory analysis, setting forth an explanation of the regulatory alternative that was selected and a de-

scription of the other alternatives considered. The notice will also indicate how members of the public can obtain a copy of any final regulatory analysis.

8. SEMIANNUAL REGULATIONS AGENDA

(a) In June and December of each year, PBGC will publish in the FEDERAL REGISTER an agenda of significant regulations under development or scheduled to be reviewed. This agenda will list the name and telephone number of a knowledgeable agency official as the PBGC point of contact for each item on the agenda.

(b) Each published agenda will describe the significant regulations under development or scheduled to be reviewed, the need for and the legal basis for the action being taken, and the status of the regulations previously listed on the agenda. The General Counsel will be responsible for providing statements for the agenda as to the legal basis for the actions being taken. The Policy Committee will determine the basic contents of the agenda and will request various offices of PBGC to supplement the basic contents with any detailed data required. The General Counsel will sent the agenda to the FEDERAL REGISTER for publication, after final concurrence by the Policy Committee and approval by the Executive Director.

(c) As a relatively new agency, PBGC is still very heavily involved in developing new regulations needed to carry out the pension plan termination insurance program it administers. To date, PBGC has promulgated only nine final regulations dealing with program matters (that is, regulations implementing provisions of Title IV of ERISA, as opposed to regulations implementing other, non-program laws such as the Freedom of Information Act and the Privacy Act), and all of these regulations have been issued since September 15, 1975. PBGC is currently working on some 15-20 new regulations. This need to develop new regulations is expected to continue, and perhaps even increase, over the next few years because of anticipated extensive legislative amendments to Title IV of ERISA.

Given the relatively small number of final regulations issued thus far, their relative newness, and the continuing need to develop additional regulations, PBGC does not believe it is appropriate at this time to begin the process of reviewing its existing regulations. Thus, PBGC does not currently plan to schedule existing regulations for review until some time in 1980. However, should public comments indicate the need for possible revision of any of the existing regulations prior to 1980, PBGC would undertake a review of the regulation prior to that time.

In addition, as part of its revised procedures set forth in this Statement for issuing regulations, PBGC will develop a plan for evaluating each new significant regulation now under development. The first of these regulations are expected to be issued in final form some time in mid-1979. PBGC contemplates that these evaluation plans for new regulations will include the following criteria for reviewing the regulations:

(i) The existence of legislative amendments of Title IV of ERISA that may require revisions or cancellation;

(ii) The continued need for the regulation;

(iii) The type and number of complaints or suggestions received;

(iv) The Burdens imposed on those directly or indirectly affected by the regulation;

(v) The need to simplify or clarify language;

(vi) The need to eliminate overlapping and duplicative regulations; and

(vii) The length of time since the regulation has been evaluated or the degree to which technology, economic conditions or other factors have changed in the area affected by the regulation.

On the first Monday in October, PBGC will publish in the FEDERAL REGISTER a schedule showing the times during the coming fiscal year when each of the agency's semiannual agendas will be published. The schedule for fiscal year 1979 was published on October 2, 1978.

9. APPLICABILITY

(a) This Statement of Policy and Procedures does not apply to any regulations that are issued in response to an emergency or which are governed by short-term statutory or judicial deadlines. However, in such cases, the PBGC will publish a notice in the FEDERAL REGISTER that states why it is impracticable or contrary to the public interest to follow the provisions of this Statement and gives the name of the PBGC official who made this determination.

(b) The formal requirements of this Statement of Policy and Procedures do not apply to any rulemaking for which a notice of proposed rule making was issued before the effective date of this Statement of Policy and Procedures. But, the general objectives of this Statement of Policy and Procedures shall apply to all currently ongoing rulemaking proceedings.

10. EFFECTIVE DATE

This Statement of Policy and Procedures is effective upon:

(i) Approval of the Board of Directors of PBGC;

(ii) Approval by the Office of Management and Budget; and

(iii) Final publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on December 8, 1978.

MATTHEW M. LIND,
Executive Director, Pension Benefit Guaranty Corporation.

Issued on the date set forth above, pursuant to a resolution of the Board of Directors authorizing its Executive Director to issue same.

HENRY ROSE,
Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 78-34606 Filed 12-12-78; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20804; 70-6236]

FALL RIVER ELECTRIC LIGHT CO. AND MONTAUP ELECTRIC CO.

Proposed Issuance of Short-Term Notes to Banks

DECEMBER 1, 1978.

NOTICE IS HEREBY GIVEN that Fall River Electric Light Company, 10 North Main Street, Fall River, Massachusetts 02722, ("Fall River") and Montaup Electric Company ("Montaup"), P.O. Box 391, Fall River, Massachusetts 02722, both electric utility subsidiary companies of Eastern Utilities Associates, a registered holding Company, have filed a declaration with this Commission pursuant to the Public Utility Holding company Act of 1935 ("Act"), designating Sections 6(a)(1), 7 and 12(c) of the Act and Rules 42(b)(2) and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Fall River and Montaup propose to make borrowings from designated banks in the following maximum amounts to be outstanding at any one time during the period ending December 24, 1979: Fall River, $5,800,000; Montaup $26,700,000.

The borrowings are to be evidenced by promissory notes dated the respective dates of issue, maturing April 2, 1979 for all notes issued on and after December 26, 1978 and prior to April 2, 1979, July 2, 1979 for all notes issued on and after April 2, 1979 and prior to July 2, 1979, October 1, 1979 for all notes issued on and after July 2, 1979 and prior to October 1, 1979 and December 24, 1979 for all notes issued on and after October 1, 1979

and prior to December 24, 1979. With respect to such notes to banks for which compensating balances of 20% are required, the notes will bear interest at not in excesss of the prime or base in effect on the date of issuance or from time to time. With respect to such notes to banks for which no compensating balances are required, the notes will bear interest at not in excess of an effective rate derived from the prime or base rate in effect on the date of issuance, or from time to time, together with an assumed compensating balance of 20%. All notes will provide for prepayment in whole or in part without penalty. Assuming a required compensating balance of 20% and a prime or base rate of 11½%, the effective interest rate on such borrowings would be 14.38%. This same effective rate of 14.38% would also be applicable in the case of notes for which no compensating balance is required as long as the prime or base rate is 11½%.

Proceeds of the borrowings will be used for construction expenditures, for meeting compensating balance requirements of lending banks, and to pay short-term debt at or prior to maturity.

Fall River and Montaup expect to have short-term loans outstanding on December 26, 1978, of $4,950,000 and $18,400,000, respectively. Construction expenditures for Fall River and Montaup during the same period are estimated at $1,684,000 and $13,847,000 respectively. It is stated that the proposed issuance of the notes is exempted from the competitive bidding requirements of Rule 50 pursuant to Rule 50(a)(2).

The fees and expenses to be incurred in connection with the proposed transactions $3,030, including $1,030 in attorney's fees. It is noted that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 26, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-34580 Filed 12-12-78; 8:45 am]

[8010-01-M]

[Rel. No. 20802; 70-6215]

SOUTHERN OHIO COAL CO. AND OHIO POWER CO.

Proposed Financing for Coal Mining Subsidiary

DECEMBER 1, 1978.

Notice is hereby given that Ohio Power Company ("Ohio Power"), 301 Cleveland Avenue, SW., Canton, Ohio 44702, an electric utility subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, and Southern Ohio Coal Company ("SOCO"), Post Office Box K, Moundsville, West Virginia 26041, a coal mining subsidiary of Ohio Power, have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 12(b), 12(c) and 12(f) of the Act and Rules 42, 45, 46 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

SOCO is engaged exclusively in developing and mining coal reserves owned by Ohio Power and in supplying coal for use at Ohio Power's Mitchell Plant at Captina, West Virginia and at the General James M. Gavin Plant at Cheshire, Ohio, which plant is owned by Ohio Electric Company, a generating subsidiary of Ohio Power. Applicants-declarants seek authorization for a set of financial transactions involving the following:

(1) SOCO's borrowing up to $130,000,000 from a group of banks from time to time through December 31, 1980, pursuant to a term loan agreement ("Loan Agreement") and issuing its promissory notes ("Notes") in connection with such borrowings;

(2) SOCO's applying the proceeds from such borrowings as follows:

(a) 52% of such amount to Ohio Power to prepay a portion of the promissory note of SOCO held by Ohio Power; and

(b) 48% of such amount to Ohio Power as a distribution from capital surplus with respect to SOCO's outstanding shares of common stock; and

(3) Applicants-declarants' executing various documents in connection with the borrowing, including a subordination agreement ("Subordination Agreement"), capital funds agreement ("Capital Funds Agreement") and a letter to the lending banks giving assurances as to continued ownership of certain assets.

The banks and the amounts of their proposed commitments are as follows:

Bank	Amount
Citibank	$30,000,000
Chase Manhattan Bank	20,000,000
Chemical Bank	20,000,000
Continental Illinois National Bank and Trust	20,000,000
Irving Trust Company	20,000,000
Manufacturers Hanover Trust Company	20,000,000
	$130,000,000

Each borrowing by SOCO under the Loan Agreement will be made pro-rata from among the banks in proportion to their respective commitment. The Notes evidencing such borrowings will mature in installments from March 31, 1980, through December 31, 1986, and will provide for installments totalling 15% of the principal amount thereof that is unpaid on December 31, 1980, in each of the years 1981 through 1985 and 25% of such principal amount in 1986; such annual installments to be paid in equal quarterly amounts on March 31, June 30, September 30 and December 31 in each year. Interest on the unpaid principal balance of the Notes will be payable quarterly and at maturity at the rate per annum equal to 109% of Citibank's prime rate for 90-day loans to responsible and substantial commercial borrowers. Interest after the principal of the Notes shall have become due (whether by acceleration or otherwise) will be payable at a rate per annum equal to the greater of 6% or 2% plus Citibank's prime rate. each bank shall also receive a commitment fee of ½ of 1% per annum on the daily average unused amount of the bank's commitment, computed from the date of the Loan Agreement.

The Notes will be prepayable, in whole or in part, at any time without premium or penalty. The Loan Agreement requires prepayment in the event the Coal Supply Agreement among SOCO, Ohio Power and Ohio Electric or the Capital Funds Agree-

ment (which is discussed further below) should either cease to be fully enforceable or terminate. The Notes are also prepayable in full at the election of the banks upon the occurrence of certain events of default specified in the Loan Agreement.

To induce the Banks to enter into the Loan Agreement, applicants-declarants propose to enter into the Subordination Agreement with the banks which will provide that so long as any of the Notes remain outstanding, all indebtedness and obligations of SOCO to Ohio Power, including SOCO's 9.16% promissory note in the principal amount of $142,721,664 due April 1, 2008 (the "9.16% Note"), shall be subordinate and junior in right of payment to all indebtedness of SOCO evidenced by the Notes. The Subordination Agreement would not prevent SOCO from paying principal or interest on any indebtedness or obligations to Ohio Power as they become due as long as SOCO is not in default under the Loan Agreement or the Notes, or unless such payments would result in such a default.

The Capital Funds Agreement would obligate Ohio Power to supply or cause to be supplied to SOCO such amounts of capital as might be required if the cash flow of SOCO should prove inadequate to meet the installments of principal due on the Notes during the years 1981 through 1986. Any capital that Ohio Power may be required to supply to SOCO under the Capital Funds Agreement shall be furnished in cash in the form of (a) a capital contribution with respect to the common stock of SOCO and (b) a loan to SOCO evidenced by a promissory note maturing not less than 20 nor more than 30 years from date of issuance and bearing interest, payable semiannually, at a rate per annum equal to the effective interest cost of the latest series of first mortgage bonds issued by Ohio Power prior to the date of issuance of such note. The amounts of such capital represented by the capital contribution and by the loan, respectively, shall be calculated so that immediately following the receipt of such capital and the issuance of the note, the aggregate investment of Ohio Power in SOCO shall consist of 52% long-term debt and 48% equity. If at any time SOCO should be prohibited by any applicable law or regulation from issuing a promissory note as required above, then Ohio Power would be obligated to supply all of the capital required by SOCO at the time in the form of a cash capital contribution.

SOCO proposes to apply 52% of the amount of each borrowing from the banks under the Loan Agreement to prepay a portion of the principal amount of its 9.16% Note held by Ohio Power and to pay the remaining 48% of such amount as a distribution from capital surplus with respect to its outstanding shares of common stock, all of which are held by Ohio Power. Assuming the borrowing of the full $130,000,000, the effect on SOCO's capitalization (excluding current liabilities) as of June 30, 1978, would be as follows (in millions):

	Per Books 6/30/78	Adjustments	Pro Forma 6/30/78
Long-Term Debt:			
Note Payable to Ohio Power	$142.7	(67.6)	$75.1
Notes Payable to Banks		130.0	130.0
	$142.7		$205.1
Equity:			
Common Stock, including premium	$10.0		$10.0
Other Paid-in Capital	117.6	(62.4)	55.2
Retained Earnings	7.4		7.4
	$135.0		$72.6
Total Capitalization	$277.7		$277.7

SOCO's present capitalization was created in compliance with this Commission's order of April 24, 1978 (HCAR No. 20515 in File No. 70-6090), which order approved the conveyance to SOCO of Ohio Power's entire investment in coal mining development and associated facilities at the Meigs Mines complex and the Martinha Mines at the net value of such assets on Ohio Power's books. The consideration of approximately $260,200,000 paid by SOCO for such assets consisted of the 9.16% Note and cash provided by a capital contribution from Ohio Power, in proportions calculated to establish a debt-equity ratio in SOCO equal to the average debt-equity ratio of Ohio Power during the period that its investment in the assets transferred was made (52% long-term debt and 48% preferred stock and common equity).

The April 24, 1978, order also provided that the price at which coal is sold by SOCO to AEP system companies should not exceed SOCO's cost, including reasonable compensation for necessary capital calculated in accordance with a formula prescribed in such order. Under the prescribed formula the rates of return allowed on the debt and equity component of Ohio Power's initial investment have been calculated to be 9.16% and 12.11%, respectively. These two rates result in a composite rate of 10.58% after Federal income tax and and 11.51% including a provision for Federal income taxes at the rate of 13.8% (which is the minimum effective rate based upon a 46% tax rate and the maximum 70% investment tax credit offset).

It is stated that by increasing the amount of debt capital in SOCO (the interest on which is deductible for tax purposes) in relation to the amount of its equity capital, it is anticipated that the proposed borrowings under the Loan Agreement should, over its term, produce a net reduction in the cost of coal supplied by SOCO to AEP system companies. During periods when the prime rate is below 9.71%, the borrowings by SOCO would result in a reduction in the cost of coal, regardless of Federal income tax effect.

During periods when the prime rate is 9.71% or above, any reduction in the cost of coal would depend on the effective tax rate applicable to SOCO. Assuming an effective tax rate of 13.8%, the "break-even" prime rate under the proposal is 10.56%.

It is proposed that during months in which the average prime rate applicable is in excess of 10.5%, SOCO would use a cost of capital component, including provision for Federal income taxes, of 11.51%, to be applicable to the total capital of SOCO, including term loans outstanding. During months in which the average prime is 10.5% or less, SOCO would use the actual borrowing cost applicable to the term loans and a cost of capital, including provision for Federal income taxes, of 11.51%, applicable to the debt and equity capital provided by Ohio Power. It is stated that under these conditions the cost of coal sold by SOCO would not include costs of capital that were in excess of the amounts currently authorized in File No. 70-6090, and, during periods when the prime rate had declined to more normal historical levels, the result would be substantial reductions in the effective cost of coal.

In addition to a possible coal price reduction, the proposed transactions, through the prepayment of part of the 9.16% Note and the payment of a distribution of capital surplus on SOCO's common stock, would provide Ohio Power with funds for the repayment of short-term debt and for construction purposes. The receipt of such funds would reduce commensurately Ohio Power's financing requirement during a period in which it is anticipated that Ohio Power may be restricted in its ability to raise capital through the issuance of first mortgate bonds (it presently lacks the 2.0 interest coverage required for such issuance, a condition expected to continue well into 1979) as a result of delays in receiving adequate rate increases. Ohio Power states that its estimated external financing requirements for 1979 aggregate approximately $210,000,000, including $40,000,000 of maturing first mortgage bonds. Its present anticipated resources for the net $170,000,000 needed consist of a possible $40,000,000 sale of preferred stock (which will be the subject of a future application to this Commission) and a proposed $50,000,000 cash capital contribution from AEP, which is the subject of another application before this Commission (File No. 70-6082).

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $4,500. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 28, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rules 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-34581 Filed 12-12-78; 8:45 am]

[8010-01-M]

[Release No. 15377; SR-SCCP-78-5]

STOCK CLEARING CORPORATION OF PHILADELPHIA

Order Approving Proposed Rule Change

DECEMBER 1, 1978.

On October 16, 1978, the Stock Clearing Corporation of Philadelphia ("SCCP"), 17th Street and Stock Exchange Place, Philadelphia, Pennsylvania 19103, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which eliminates SCCP's trade-for-trade clearance system and requires members settling securities transactions at SCCP to use its continuous net settlement ("CNS") system. Under the proposed rule change, SCCP participants would no longer have the option of using either system.

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. 15281, October 26, 1978) and by publication in the FEDERAL REGISTER (43 FR 50979, November 1, 1978).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of Section 17A and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-34582 Filed 12-12-78; 8:45 am]

[8010-01-M]

[Release No. 34-15354; File No. SR-SCCP-78-6]

STOCK CLEARING CORPORATION OF PHILADELPHIA

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 6, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed Rule change as follows:

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Stock Clearing Corporation of Philadephia (SCCP) proposes a change to its Trade Recording Charges as set forth in Section 2 of its Rule 23 on Compensation for services rendered. The proposed change will allow Specialists to be charged a maximum trade recording fee of $2.00 under certain specific conditions. The text of the proposed rule change is attached as Exhibit 2 to SCCP's filing on Form 19b-4A.

BASIS AND PURPOSE OF PROPOSED RULE CHANGE

The purpose of the proposed Rule change is to reduce Specialists' clearing fees, relating them more closely to SCCP unit costs, which have decreased as a consequence of higher volumes. The proposed rate change will reduce Specialists' clearing costs by approximately 15%, provide a volume discount, and give rate relief for smaller round-lot trades.

The proposed Rule change provides for the equitable allocation of reasonable dues, fees, and other charges among its participants as set forth in section 17A(b)(3)(D) of the Securities Exchange Act of 1934.

No comments have been solicited or received regarding the proposed rule change.

SCCP believes that no burden on competition will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof, with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 3, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 27, 1978.

[FR Doc. 78-34583 Filed 12-12-78; 8:45 am]

[1505-01-M]

SMALL BUSINESS ADMINISTRATION

[Application No. 09/09-5232]

CALIFORNIA COASTAL EQUITIES, INC.

Application for License To Operate as a Small Business Investment Company

Correction

In FR Doc. 78-33614 appearing in the issue of Friday, December 1, 1978, at page 56304, make the following change.

On page 56305, the first column, the second full paragraph, first and second lines, change the date of "January 18, 1979" to "December 18, 1978".

[1505-01-M]

[Delegation of Authority No. 30 Rev. 15]

FIELD OFFICES

Delegation of Authority To Conduct Program Activities; Republication

Correction

In FR Doc. 78-33011 appearing at page 55220 in the issue of Friday, November 24, 1978, make the following corrections:

(1) On page 55220, in the second column, paragraph b(6) should read as follows:

	Approve	Decline
* * * * *		
(6) Supervisory Loan Specialist, Financing Division, D/O	250,000	500,000
* * * * *		

(2) On page 55221, in the third column, paragraph 2 f and h should read:

	Home loans	Business loans
* * * * *		
f. Supervisory Loan Specialist, Financing Division, D/O	100,000	500,000
* * * * *		
h. Branch Manager, except Fairbanks Branch Office	100,000	500,000
* * * * * *		

(3) On page 55222, in the second column, Section B1, paragraph b, change "to Obligate" to "To obligate".

(4) On page 55223, in the second column, Section A:

(a) In paragraph 1, the seventh line, change "liquidation" to "litigation".

(b) In paragraph b., the first line, correct "small" to read "Small".

(c) In paragraph 2, the fifth line, insert the word "and" between "when" and "as".

(5) On page 55224, in the first column, paragraph 2, fourth line, capitalize the word "investment" and on the same page, second column, paragraph 3 g, delete the comma after the Roman numeral "IX".

[1505-01-M]

[Delegation of Authority No. 12-A; (Revision 2)]

REDELEGATION OF FINANCIAL ASSISTANCE

Correction

In FR Doc. 78-33950 appearing on page 57207 in the issue of Wednesday, December 6, 1978, the heading should read as it appears above.

1. In the 1st column about ⅓ and ⅔s down, the center headings should read:

"A. DIRECTOR, OFFICE OF FINANCING

* * * * *

B. CHIEF, PROGRAM OPERATIONS DIVISION

* * * * *

2. In the middle column, paragraph C.1.b., the last line should read, "total amount due thereon.".

3. In the paragraph after "C.1.b" should be "C.1.c" instead of "C.1.C.".

4. In the 3rd column, under "G. Director, Office of Special Gurantees", the 2nd paragraph, should be "2".

5. On page 57208 in the 1st column, the 1st line should read, "[guaran-]tee fund not needed for payment of operating * * *".

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 78-6]

EFFECTS OF DELAYED OR HALTED HIGHWAY PROJECTS

Extension of Comment Period

AGENCY: Federal Highway Adminstration, DOT.

ACTION: Extension of comment period.

SUMMARY: This document extends the period for submission of information and suggestions based on the notice published October 12, 1978 (43 FR 47039), requesting submissions by December 11, 1978, on the effects of delayed or halted highway projects. The comment period is extended until January 12, 1979, in order to provide interested parties additional time to prepare their submissions.

DATE: Information and suggestions must be received on or before January 12, 1979.

ADDRESS: FHWA Docket No. 78-6, Federal Highway Administration, HCC-10, Room 4205, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. King, Chief Relocation Assistance Division, 202-426-0116; or Mr. Stanley H. Abramson, Office of the Chief Counsel, 202-426-0791, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are Monday through Friday from 7:45 a.m. to 4:15 p.m. eastern time.

Issued on December 5, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 78-34608 Filed 12-12-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 78-491]

INSTRUMENTS OF INTERNATIONAL TRAFFIC

Certain Steel Kegs Used for the Transportation of Ingots of Tin and Lead Designated as Instruments of International Traffic

It has been established to the satisfaction of the U.S. Customs Service that steel kegs, generally referred to as "payoff packs," designed for the transportation of ingots of tin and lead which are composed of steel sides and lids with steel-stripped edges measuring 18 inches in diameter by 20 inches in height, are substantial, are suitable for and capable of repeated use, and are used in significant numbers in international traffic.

Under the authority of § 10.41a(a)(1), Customs Regulations, I hereby designate the above-described steel kegs as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended (19 U.S.C. 1322 (a)). These kegs may be released under the procedures provided for in § 10.41a, Customs Regulations. (103598)

(BOR-7-07)

Dated: December 7, 1978.

J. P. TEBEAU,
Director, Carriers, Drawback and Bonds Division.

[FR Doc. 78-34619 Filed 12-12-78; 8:45 am]

[4810-25-M]

Office of the Secretary

[Treasury Department Order No. 120-1]

DIRECTOR OF BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Trafficking in Contraband Cigarettes; Delegation of Authority Regarding Enforcement

By virtue of the authority vested in me as Secretary of the Treasury, including the authority of Reorganization Plan No. 26 of 1950, it is ordered that:

1. The Director of the Bureau of Alcohol, Tobacco and Firearms is delegated the authority to administer and enforce the provisions of 18 U.S.C. Chapter 114 (relating to trafficking in contraband cigarettes) and the provisions of the Act of August 9, 1939 (49 U.S.C. Chapter 11), insofar as that Act involves matters relating to violations of 18 U.S.C. Chapter 114.

2. The Director of the Bureau of Alcohol, Tobacco and Firearms is hereby authorized to prescribe all needful rules and regulations for enforcement of the laws specified in paragraph one, subject to approval by the Secretary or his delegate.

Dated: December 5, 1978.

ROBERT CARSWELL,
Acting Secretary of the Treasury.

[FR Doc. 78-34600 Filed 12-12-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 754]

ASSIGNMENT OF HEARINGS

DECEMBER 8, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

No. MC 116915 (Sub-No. 27) M1F, Frederick Transport Limited, now assigned for hearing on January 16, 1979, at Buffalo, New York, and will be held in Room 226, Federal Building.

No. MC 108531 (Sub-No. 20), Blue Bird Coach Lines, Inc., now assigned for hearing on January 22, 1979, at Rochester, New York, will be held in Room 402, Federal Building & Courthouse.

No. MC 142059 (Sub-No. 29F), Cardinal Transport, Inc., now being assigned for hearing on January 29, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 107064 (Sub-No. 122F), Steere Tank Lines, Inc., now assigned for hearing on December 12, 1978, at Dallas, Texas is cancelled and application dismissed.

No. MC 128273 (Sub-No. 301F), Midwestern Distribution, Inc., now being assigned for hearing on February 26, 1979, (1 week), at Cincinnati, Ohio, in a hearing room to be later designated.

No. MC 144374F, Mason Travel Service, Inc., now being assigned for hearing on February 21, 1979, (3 days), at Indianapolis, Indiana in a hearing room to be later designated.

No. MC 134922 (Sub-No. 248), B. J. McAdams, Inc., now being assigned for hearing on February 6, 1979, (1 day), at Birmingham, Alabama, in a hearing room to be later designated.

No. MC 143059 (Sub-No. 21F), Mercer Transportation Co., now being assigned for hearing on February 7, 1979, (1 day), at Birmingham, Alabama in a hearing room to be later designated.

No. MC 126305 (Sub-No. 88), Boyd Brothers Transportation Co., Inc., now being assigned for hearing on February 8, 1979, (2 days), at Birmingham, Alabama in a hearing room to be later designated.

No. AB-43 (Sub-No. 50), Illinois Central Gulf Railroad Company, Abandonment Between Milepost 137.6 Near Wanilla, Mississippi And, Milepost 175.0 Near Byram, Mississippi In Lawrence Copiah And, Hinds Counties Mississippi, now being assigned for hearing on February 12, 1979, (1 week), at Jackson, Mississippi in a hearing room to be later designated.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34649 Filed 12-12-78; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 8, 1978.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. within 15 days from the date of publication of this notice.

FSA NO. 43642, M. B. Hart, Jr., Agent's No. A6351, rates on crude earth, in carloads, between points in Southern Territory, in Supplement 32 to Southern Freight Association, Agent, Tariff 763-G, I.C.C. S-1313, effective December 27, 1978.

Grounds for relief—Revised rate structure; short-line distance formula and groupings.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34652 Filed 12-12-78; 8:45 am]

[7035-01-M]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

DECEMBER 6, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and

notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before December 26, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 117574 (Sub-E168), filed January 20, 1976. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Representative: William A. Chesnutt, P.O. Box 1166, Harrisburg, PA 17108. *Steel reinforcing bars* which because of size or weight require the use of special equipment from the plant site of Bethlehem Steel Corporation at Steelton, PA to points in IA, MN, MO, and WI. (Gateways to be eliminated: Toledo, OH and Columbus, OH)

MC 124154 (Sub-E8), filed June 5, 1978. Applicant: WINGATE TRUCKING COMPANY, INC., 1004 21st Avenue, Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural Chemicals And Agricultural Chemical Materials, in containers,* between points in AL on and south of U.S. Hwy. 278, on the one hand, and, on the other, points in VA. (Gateway eliminated: facilities of Helena Chemical Company at Gainesville, GA.)

MC 124154 (Sub-E10), filed June 5, 1978. Applicant: WINGATE TRUCKING COMPANY, INC., 1004 21st Avenue, Albany, GA 31702. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. *Agricultural Chemicals And Agricultural Chemical Materials, in containers,* between points in AL on and south of U.S. Hwy. 278, on the one hand, and, on the other, points in NC on and east of U.S. Hwy. 441. (Gateway eliminated: facilities of Helena Chemical Company at Gainesville, GA.)

MC 125433 (Sub-E60), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 S. Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (Same as above.) *Commodities* which by reason of size or weight, require special handling or the use of special equipment and *commodities when also machinery, boilers, storage tanks, and parts therefor, structural steel, and contractors' outfits, and supplies* requiring special equipment or rigging which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight, require special handling or the use of special equipment, (1) between points in CO on, south and west of a line beginning at the CO-UT State line extending along U.S. Hwy 6 to junction CO Hwy 133, then along CO Hwy 133 to junction CO Hwy 135, then along CO Hwy 135 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 550, then along U.S. Hwy 550 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the CO-WY State line exending along WY Hwy 430 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction WY Hwy 28, then along WY Hwy 28 to junction WY Hwy 789, then along WY Hwy 789 to junction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line; (2) between points in CO on and within a line beginning at the CO-NM State line extending along U.S. Hwy 550 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line extending along WY Hwy 430 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 14, then along U.S. Hwy 14 to junction U.S. Hwy 16, then along U.S. Hwy 16 to junction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line; (3) between points in CO on, south and east of a line beginning at the CO-NM State line extending along U.S. Hwy 285 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the CO-KS State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line extending along WY Hwy 430 to junction I Hwy 80, then along I Hwy 80 to junction U.S. Hwy 30N, then along U.S. Hwy 30N to junction U.S. Hwy 189, then along U.S. Hwy 189 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the WY-MT State line; and (4) between points in CO on and north of a line beginning at the CO-UT State line extending along U.S. Hwy 6 to junction CO Hwy 9, then along CO Hwy 9 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the CO-KS State line, on the one hand, and on the other, points in WY on and west of a line beginning at the WY-UT State line extending along I Hwy 80 to junction U.S. Hwy 189, then along U.S. Hwy 189 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the WY-MT State line. RESTRICTION: The authority above the extent it authorizes the transportation of explosives will expire December 22, 1981. (Gateway eliminated: points in UT)

MC 125433 (Sub-E61), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 S. Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (Same as above). *Special-purpose trailers, designed for use in connection with the maintenance and repair of electric power transmission lines,* and *those designed for use incidental to construction and mining projects* (except, in either case, trailers, designed to be drawn by passenger automobiles in truck-away service), when also commodities which by reason of size or weight, require special handling, or the use of special equipmant, and *special-purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines,* and *those designed for use incidental to construction and mining projects* (except, in either case, trailers designed to be drawn by passenger automobiles in truck-away service), which do not require special handling, or the use of special equipment when moving in the same shipment on the same bill of lading as special purpose trailers designed for use in connection with the maintenance and repair of electric power transmission lines, and *those designed for use incidental to construction and mining projects* (except in either case, trailers designed to be drawn by passenger automobiles in truck-away service), when also commodities which by reason of size or weight, require special handling or the use of special equipment; (1) between points in CO on, south and west of a line beginning at the CO-UT State line extending along U.S. Hwy 6 to junction CO Hwy 133, then along CO Hwy 133 to junction CO Hwy 135, then along CO Hwy 135 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 550, then along U.S. Hwy 550 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the CO-WY State line extending along WY Hwy 430 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction WY Hwy 28, then along WY Hwy 28 to junction WY Hwy 789, then along WY Hwy 789 to junction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line; (2) between points in

CO and within a line beginning at the CO—NM State line and U.S. Hwy 550, then along U.S. Hwy 550 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction CO Hwy 135, then along CO Hwy 135, to junction CO Hwy 133, then along CO Hwy 133 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line and junction WY Hwy 430, then along WY Hwy 430 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 14, then along U.S. Hwy 14 to junction U.S. Hwy 16, then along U.S. Hwy 16 to juction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line. (3) between points in CO on, south and east of a line beginning at the CO-NM State line and U.S. Hwy 285, then along U.S. Hwy 285 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the CO-KS State line on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line and WY Hwy 430, then along WY Hwy 430 to junction I Hwy 80, then along I Hwy 80 to junction U.S. Hwy 30-N, then along U.S. Hwy 30N to junction U.S. Hwy 189, then along U.S. Hwy 189 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the WY-MT State line; and (4) between points in CO on and north of a line beginning at the CO-UT State line and U.S. Hwy 6, then along U.S. Hwy 6 to junction CO Hwy 9, then along CO Hwy 9 to junction U.S. Hwy 24 then along U.S. Hwy 24 to the CO-KS State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-UT State line and I Hwy 80, then along I Hwy 80 to junction U.S. Hwy 189, then along U.S. Hwy 189 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the WY-MT State line. RESTRICTION: The authority granted herein is restricted against the transportation of commodities in bulk. (Gateway eliminated: points in UT)

MC 125433 (Sub-E62), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 S. Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Construction materials when also machinery, boilers, storage tanks, and parts therefor structural steel and contractor's outfits and supplies,* requiring special equipment or rigging (except commodities in bulk), (1) between points in CO on, south and west of a line beginning at the CO-UT State line extending along U.S. Hwy 6 to junction CO Hwy 133, then along CO Hwy 133 to junction CO Hwy 135, then along CO Hwy 135 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction U.S. Hwy 550, then along U.S. Hwy 550 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the CO-WY State line extending along WY Hwy 430 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction WY Hwy 28, then along WY Hwy 28 to junction WY Hwy 789, then along WY Hwy 789 to junction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line; (2) between points in CO on and within a line beginning at the CO-NM State line extending along U.S. Hwy 550 to junction U.S. Hwy 50, then along U.S. Hwy 50 to junction CO Hwy 135, then along CO Hwy 135 to junction CO Hwy 133, then along CO Hwy 133 to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 285, then along U.S. Hwy 285 to the CO-NM State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the CO-WY State line extending along WY Hwy 430 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction U.S. Hwy 89, then along U.S. Hwy 89 to junction U.S. Hwy 14, then along U.S. Hwy 14 to junction U.S. Hwy 16, then along U.S. Hwy 16 to junction WY Hwy 120, then along WY Hwy 120 to junction WY Hwy 397, then along WY Hwy 397 to the WY-MT State line; (3) between points in CO on, south and east of a line beginning at the CO-NM State line extending along U.S. Hwy 285 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the CO-KS State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-CO State line extending along WY Hwy 430 to junction I Hwy 80, then along I Hwy 80 to junction U.S. Hwy 30N, then along U.S. Hwy 30N to junction U.S. Hwy 189, then along U.S. Hwy 189 to junction U.S. Hwy 89 then along U.S. Hwy 89 to the WY-MT State line; and (4) between points in CO on and north of a line beginning at the CO-UT State line extending along CO Hwy 6 to junction CO Hwy 9, then along CO Hwy 9 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the CO-KS State line, on the one hand, and, on the other, points in WY on and west of a line beginning at the WY-UT State line extending along I Hwy 80 to junction U.S. Hwy 189, then along U.S. Hwy 189 to junction U.S. Hwy 187, then along U.S. Hwy 187 to junction U.S. Hwy 89, then along U.S. Hwy 89 to the WY-MT State line. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E63), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 S. Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Self-propelled articles,* each weighing 15,000 lbs or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, (except commodities in bulk), (1) between points in CO on and west of a line beginning at the CO-UT State line extending along U.S. Hwy 50 to junction U.S. Hwy 550, then along U.S. Hwy 550 to the CO-NM State line, on the one hand, and, on the other, points in MT; (2) between points in CO on and within a line beginning at the CO-UT State line extending along U.S. Hwy 50 to junction U.S. Hwy 550, then along U.S. Hwy 550 to the CO-NM State line, then along the CO-NM State line to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction CO Hwy 789 then along CO Hwy 789 to the CO-WY State line, on the one hand, and on the other, points in MT on and west of a line beginning at the US-CN International Boundary line extending along MT Hwy 242 to junction U.S. Hwy 191, then along U.S. Hwy 191 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 310, then along U.S. Hwy 310 to the MT-WY State line; (3) between points in CO on and within a line beginning at the CO-WY State line extending along CO Hwy 789 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction CO Hwy 9, then along CO Hwy 9 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction CO Hwy 125, then along CO Hwy 125 to the CO-WY State line, on the one hand, and, on the other, points in MT west of a line beginning at the US-CN International Boundary line extending along MT Hwy 242 to junction U.S. Hwy 191, then along U.S. Hwy 191 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 310, then along U.S. Hwy 310 to the MT-WY State line; (4) between points in CO on and within a line beginning at the CO-NM State line extending along U.S. Hwy 285 to junction CO Hwy 9, then along CO Hwy 9 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction I Hwy 25, then along I Hwy 25 to the CO-NM State line, on the one hand, and, on the other, points in MT on and west of a line beginning at the MT-WY State line extending along U.S. Hwy 191 to junction I Hwy 90, then along I Hwy 90 to junction U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 91, then along U.S. Hwy 91 to the US-CN International

Boundary line; and (5) between points in CO, on the one hand, and, on the other, points in MT on and west of a line beginning at the MT-ID State line extending along I Hwy 15, to junction I Hwy 90, then along I Hwy 90 to junction U.S. Hwy 93, then along U.S. Hwy 93 to the US-CN International Boundary line. RESTRICTION: The above operations are restricted to commodities which are transported on trailers. (Gateway eliminated—points in UT.)

MC 125433 (Sub-E64), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 S. Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same as above). *Commodities which* by reason of size or weight, require special handling or the use of special equipment and commodities when also machinery, boilers, storage tanks, and parts therefor, structural steel, and contractors' outfits, and supplies requiring special equipment or rigging which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight, require special handling or the use of special equipment. (Except commodities in bulk) (1) between points in CO on and west of U.S. Hwy 50 beginning at the CO-UT State line extending along to junction U.S. Hwy 550, then along U.S. Hwy 550 to the CO-NM State line, on the one hand, and, on the other, points in MT. (2) Between points in CO on and within a line beginning at the CO-UT State line extending along CO Hwy 50 to junction U.S. Hwy 550, then along U.S. 550 to the CO-NM State line, then along the State line to junction U.S. Hwy 285, then along U.S. 285 to junction U.S. 24, then along U.S. 24 to junction CO Hwy 789, then along CO Hwy 789 to the CO-WY State line, on the one hand, and, on the other, points in MT on and west of a line beginning at the US-CN International Boundary extending along MT Hwy 242 to junction U.S. Hwy 191, then along U.S. Hwy 191 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 310, then along U.S. Hwy 310 to the MT-WY State line. (3) Between points in CO on and within a line beginning at the CO-WY State extending along CO Hwy 789 to junction U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 285, then along U.S. Hwy 285 to junction CO Hwy 9, then along CO Hwy 9 to junction U.S. Hwy 40, then along U.S. Hwy 40 to junction CO Hwy 125, then along CO Hwy 125 to CO-WY State line, on the one hand, and, on the other, points in MT west of a line beginning at the US-CN International Boundary extending along MT Hwy 242, then along MT Hwy 242 to junction U.S. Hwy 191, then along U.S. Hwy 191 to junction U.S. Hwy 87, then along U.S. Hwy 87 to junction U.S. Hwy 310, then along U.S. Hwy 310 to the MT-WY State line. (4) Between points in CO on and within a line beginning at the CO-NM State line extending along U.S. Hwy 285 to junction CO Hwy 9, then along CO Hwy 9 to junction U.S. Hwy 40, then along U.S. Hwy 40 to I Hwy 25, then along I Hwy 25 to the CO-NM State line, on the one hand, and, on the other, points in MT on and west of a line beginning at the MT-WY State line extending along U.S. Hwy 191 to junction I Hwy 90, then west along I Hwy 90 to junction U.S. Hwy 287, then along U.S. Hwy 287 to junction U.S. Hwy 91, then along U.S. Hwy 91 to junction US-CN International Boundary line; and (5) Between points in CO, on the one hand, and, on the other, points in that part of MT on and west of a line beginning at the MT-ID State line extending along I Hwy 15 to junction U.S. Hwy 10, then west along U.S. Hwy 10 to junction I Hwy 90, then north along I Hwy 90 to junction U.S. Hwy 93, then north on U.S. Hwy 93 to junction US-CN International Boundary line. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E69), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Forest products*, when also commodities which by reason of size or weight, require special handling or the use of special equipment and *forest products* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading, as forest products, when also commodities which by reason of size or weight require special handling or the use of special equipment, (except commodities in bulk), from points in ID, to points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E70), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Forest products*, when also construction materials (except commodities in bulk), from points in ID, to points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E71), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Wood cabinets* and *parts* thereof, and *wood paneling*, when also commodities which by reason of size or weight, require special handling or the use of special equipment, and *wood cabinets and parts thereof*, and *wood paneling* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as wood cabinets and parts thereof, and *wood paneling* when also commodities which by reason of size or weight require special handling or the use of special equipment (except commodities in bulk), from Corona, CA, to points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E72), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Wood cabinets* and *parts* thereof, and *wood paneling*, when also construction materials (except commodities in bulk), from Corona, CA, to points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E73), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Lumber and lumber mill products*, when also commodities which by reason of size or weight, require special handling or the use of special equipment, and *lumber and lumber mill products* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as lumber and lumber mill products when also commodities which by reason of size or weight require special handling or the use of special equipment, (except commodities in bulk), from points in Clallam, Jefferson, Grays Harbor, Pacific, Wahkiakum, Mason, Thurston, Lewis, Cowlitz, Clark, San Juan, Island, Whatcom, Skagit, Snohomish, Kitsap, King, Pierce, and Skamania Counties, WA, and poins in ID north of the northern boundary of ID County, to points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E74), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Lumber and lumber mill products*, when also construction materials (except commodities in bulk), from points in Clallam, Jefferson, Grays Harbor, Pacific, Wahkiakum, Mason, Thurston, Lewis, Cowlitz, Clark, San Juan, Island, Whatcom, Skagit, Snohomish, Kitsap, King,

Pierce, and Skamania Counties, WA, and poins in ID north of the northern boundary of ID County, to points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E75), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Wood cabinets and parts* thereof, and when also commodities which by reason of size or weight, require special handling or the use of special equipment, and *wood cabinet and parts* thereof which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as wood cabinets and parts thereof, when also commodities which by reason of size or weight, require special handling or the use of special equipment, (except commodities in bulk), from El Monte, CA, to points in CO. (Gateway eliminated: points in UT.)

MC 125433 (Sub-E76), filed September 5, 1978. Applicant: F-B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson, 1945 South Redwood Road, Salt Lake City, UT 84104. *Wood Cabinets And Parts* thereof, when also construction materials (except commodities in bulk), from El Monte, to points in CO. (Gateway eliminated: points in UT.)

By the Commission:

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34650 Filed 12-12-78; 8:45 am]

[7035-01-M]

[Notice No. 230]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 6, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 531 (Sub-362TA), filed October 23, 1978. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, TX 77021. Representative: Wray E. Hughes, 4904 Griggs Road, Houston, TX 77021. To transport *wine, grape concentrate* and *distilled spirits,* in bulk, in tank vehicles, from Edison, CA to Sam Rushing Winery at Merigold, MS, for 180 days. Supporting Shipper(s): Giumarra Vineyards Corporation, P.O. BIN 1969, Bakersfield, CA 93303. Send protests to: District Supervisor, John F. Mensing, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 2052 (Sub-6TA), filed November 3, 1978. Applicant: BLAIR TRANSFER, INC., 203 South Ninth Street, Blair, NE 68008. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. *Meats and packinghouse products,* from the facilities of Spencer Foods, Inc., at or near Schuyler, NE, to points in NC, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Spencer Foods, Inc., P.O. Box 544, Schuyler, NE 68661. Send protests to: Carroll Russell, ICC, 110 North 14th Street, Suite 620, Omaha, NE 68102.

MC 51146 (Sub-656TA), filed November 3, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: John R. Patterson, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. *Waste paper,* from Kansas City, KS, to points in IA on and east of U.S. Hwy 65 and those points in IL on and north of Interstate Hwy 70, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Imperial Paper Stock Co., Inc., 2201 Scott Avenue, St. Louis, MO 63103 (John D. Fudemberg). Send protests to: Gail Daugherty, ICC, U.S. Federal Building and Courthouse, 517 E. Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 82079 (Sub-67TA), filed November 7, 1978. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue SW, Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, MI 49503. *Frozen foods,* from facilities of Michigan Lloyd J. Harriss Pie Company, in Saugatuck and Holland, MI, to points in IL, for 180 days. Note: An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER: Michigan Lloyd J. Harriss Pie Company, Saugatuck, MI 49453. SEND PROTEST TO: C. R. Flemming, ICC, 225 Federal Bldg., Lansing, MI 48933.

MC 94265 (Sub-284TA), filed November 2, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., Post Office Box 305, Route 460, Windsor, Virginia 23487. Representative: Clyde W. Carver, Suite 212, 5299 Roswell Road, N.E., Atlanta, Georgia 30342. *Fresh, smoked or processed meats, meat products and meat by-products,* from the facilities of Kahn's and Company at Cincinnati, OH, to Mechanicsville, VA, for 180 days. Supporting shipper: Kahn's and Company—3241 Spring Grove Avenue, Cincinnati, OH 45225. Send protests to: Paul D. Collins, ICC, 10-502 Federal Building, 400 North Eighth Street, Richmond, VA. 23240. Note: An underlying ETA seeks 90 days authority.

MC 106644 (Sub-269TA), filed November 8, 1978. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, Georgia 30301. Representative: Wilfred Rohling (same address as applicant). *Pipe fittings, valves and hydrants,* from the facilities of Clow Corp. at or near Buckhannon, WV, to points in Il, IN, MI, OH, PA, MD, MA, AND VA, for 180 days. Supporting shipper: Clow Corp., 1211 W. 22nd St., Oak Brook, IL 60522. Note: An underlying ETA seeks 90 days authority., SEND PROTESTS TO: Sara K. Davis, ICC, 1252 W. Peachtree St., N. W., Rm. 300, Atlanta, GA 30309.

MC 107818 (Sub-95TA), filed October 26, 1978. Applicant: GREENSTEIN TRUCKING COMPANY, 280 N.W. 12th Avenue, P.O. Box 608, Pompano Beach, FL 33061. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. *Frozen foods,* from the facilities of Stouffer Foods Corporation, subsidiary of The Stouffer Corporation, at or near Solon and Cleveland, OH to points in FL, re-

stricted to traffic originating at said origins. There is no environmental impact involved in this application, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Stouffer Foods Corporation, Subsidiary of the Stouffer Corporation, 5750 Harper Road, Solon, OH 4439. SEND PROTESTS TO: Donna M. Jones, Trans. Asst., ICC, Monterey Building, Suite 101, 8410 N.W. 53rd. Terrace, Miami, FL 33166.

MC 108207 (Sub-482TA), filed July 10, 1978, and published in the FEDERAL REGISTER issue of September 13, 1978, and republished as corrected this issue. Applicant: FROZEN FOOD EXPRESS, P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same as above). *Photographic materials,* requiring refrigeration, from Irving, TX to points in NM, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Agfa-Geveart, Inc., 1780 Hurd Drive, Irving, TX 75062. SEND PROTESTS TO: Opal M. Jones, ICC, 1100 Commerce Street, Room 13C12, Dallas, TX 75242. The purpose of this republication is to show whom protests are sent to as previously omitted.

MC 112713 (Sub-223TA), filed October 13, 1978. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207, Representative: Edward G. Bazelon, Axelrod, Goodman, Steiner & Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes transporting: *General Commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities of unusual value, and those requiring special equipment) (1) Between Houston, TX and Freeport, TX: From Houston, TX over TX Hwy 288 to Freeport, TX, and return over the same route, serving all intermediate points; (2) Between Houston, TX and Laredo, TX: From Houston, TX over U.S. Hwy 59 to Laredo, and return over the same route, serving all intermediate points; (3) Between Victoria, TX and Corpus Christi, TX: From Victoria, TX over U.S. Hwy 77 to junction U.S. Hwy 181, then over U.S. Hwy 181 to Corpus Christi, TX, and return over the same route, serving all intermediate points; (4) Between San Antonio, TX and junction U.S. Hwys 77 and 181 at or near Sinton, TX: From San Antonio, TX over U.S. Hwy 181 to junction U.S. Hwy 77 at or near Sinton, TX, and return over the same route, serving all intermediate points; (5) Between junction U.S. Hwys 181 and 77 at or near Sinton, TX and Brownsville, TX: From junction U.S. Hwys 181 and 77 at or near Sinton, TX, over U.S. Hwy 77 to Brownsville, TX and return over the same route, serving all intermediate points; (6) Between Corpus Christi, TX and Robstown, TX: From Corpus Christi, TX over TX Hwy 44 to Robstown, TX, and return over the same route, serving all intermediate points; (7) Between San Antonio, TX and Laredo, TX: From San Antonio, TX over Interstate Highway 35 to Laredo, TX, and return over the same route, serving all intermediate points; (8) Between Eagle Pass, TX and junction of U.S. Hwy 57 and Interstate Hwy 35: From Eagle Pass, TX over U.S. Hwy 57 to junction Interstate Hwy 35, and return over the same route, serving all intermediate points; (9) Between Laredo, TX and Brownsville, TX: From Laredo, TX over U.S. Hwy 83 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Brownsville, TX, and return over the same route, serving all intermediate points; (10) Between junction of U.S. Hwys 281 and 83 at or near Pharr, TX and Harlingen, TX: From junction U.S. Hwys 83 and 281 at or near Pharr, TX, over U.S. Hwy. 83 to Harlingen, TX, and return over the same route, serving all intermediate points; (10) Between Shreveport, LA and Houston, TX: From Shreveport, LA over U.S. Hwy 79 to Carthage, TX, then over U.S. Hwy 59 to Houston, TX, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points; and, from Shreveport, LA over U.S. Hwy 79 to Carthage, TX, then over TX Hwy 315 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Houston, TX, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points; (11) Between Memphis, TN and Houston, TX: From Memphis, TN over Interstate Hwy 40 to Little Rock, AR, then over Interstate Hwy 30 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Houston, TX, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points, for 180 days. SUPPORTING SHIPPERS: Approximately 150 statements of support have been filed which may be viewed at the field office below or Headquarters. SEND PROTESTS TO: John V. Barry, ICC, 600 Federal Office Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 113382 (Sub-21TA), filed November 2, 1978. Applicant: NELSEN BROS., INC., P.O. Box 613, Nebraska City, NE 68410. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Tires and tubes,* from Chicago, IL and Louisville, KY and points in their commercial zones, to the facilities of T. O. Haas Tire Company, Inc. at Lincoln, NE for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: T. O. Hass Tire Company, Inc., 640 West "O" Street, Lincoln, NE 68528. Send protests to: Max H. Johnston, ICC, 285 Federal Bldg., 100 Centennial Mall North, Lincoln, NE 68508.

MC 114604 (Sub-58TA), filed November 1, 1978. Applicant: CAUDELL TRANSPORT, INC., P.O. Drawer I, Forest Park, GA 30050. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. *Meat, meat products, meat byproducts, and articles distributed by meat packing-houses as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* From the facilities of John Morrell & Co., at Montgomery, AL, to all points in the United States in and east of TX, OK, KS, NE, SD, and ND, for 180 days. SUPPORTING SHIPPER: John Morrell & Co., 208 South LaSalle St., Chicago, IL 60604. SEND PROTESTS TO: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Rm. 300, Atlanta, GA 30309. An underlying ETA seeks 90 days authority.

MC 115669 (Sub-172TA), filed November 7, 1978. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar Street, Post Office Box 95, Clay Center, Nebraska 68933. Representative: Howard N. Dahlsten (same address as applicant). *Fertilizers, fertilizer materials and agricultural chemicals,* from the facilities of Chemical Enterprises, Inc., located in Adams County, NE, to points in CO, IA, KS, MN, MO, ND, OK, SD, TX, and WY; and from the facilities of Chemical Enterprises, Inc., located 10 miles southwest of Odessa, TX, to Garden City, KS and the facilities of Chemical Enterprises, Inc., located in Adams County, NE, for 180 days. Supporting shipper: Chemical Enterprises, Inc., 8582 Katy Freeway, Houston, TX 77024. Send protests to: Max H. Johnston, ICC, 285 Federal Bldg. & Court House, 100 Centennial Mall North, Lincoln, NE 68508.

MC 115904 (Sub-79TA), filed November 17, 1978. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. *Iron and steel articles* from the facilities Metra Steel, Inc., located at or near Portland, OR to points in CA and UT for 180 days, applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Metra

Steel, Inc., P.O. Box 3154, Portland OR 97208. Send protests to: Barney L. Hardin, District Supervisor, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706

MC 116763 (Sub-452TA), filed November 1, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Representative: Gary J. Jira, North West Street, Versailles, Ohio 45380. *Automobile or truck bodies, parts or accessories* (except commodities in bulk, in tank vehicles), from Moline, IL, to the facilities of Mack Trucks, Inc., at or near Allentown, PA and Macungie, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Mack Trucks, Inc., Francis A. Solga, 2100 Mack Blvd., Allentown, PA 18105. Send protests to: Paul J. Lowry, ICC, 5514-B Federal Bldg., 550 Main St., Cincinnati, OH 45202.

MC 117507 (Sub-14TA), filed September 15, 1978, and published in the FEDERAL REGISTER issue of November 13, 1978, and republished as corrected this issue. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, Downingtown, PA 19335. Representative: Thomas J. O'Brien (Same as above). *Liquid argon, liquid nitrogen, liquid oxygen, in specially designed trailers,* furnished by the shipper, from East Chicago, IN, to points in KY, MI and OH, and from Ashtabula and Lorain, OH, to points in IN, KY and MI, under a continuing contract or contracts with Union Carbide Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Carbide Corp., 270 Park Avenue, New York, NY 10017. Send protests to: T. M. Esposito, ICC, 600 Arch Street, Room 3238, Philadelphia, PA 19106. The purpose of this republication is to common carrier in lieu of contract carrier, as previously published.

MC 118838 (Sub-32TA), filed September 20, 1978, and published in the FEDERAL REGISTER issue of November 14, 1978, and republished as corrected this issue. Applicant: GABOR TRUCKING, INC., Rural Route No. 4, Box 124B, Detroit Lakes, MN 56501. Representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. *Gypsum, gypsum products and materials and supplies* (except in bulk, in tank vehicles) used in the manufacture, installation and distribution of gypsum and gypsum products between the facilities of Georgia-Pacific Corporation, Gypsum Division, located at Cuba, MO, on the one hand, and, on the other, all points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Georgia-Pacific Corporation, 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Ronald R. Mau, 268 Federal Building & U. S. Post Office, 657 Second Avenue North, Fargo, ND 58102. The purpose of this republication is to show whom protests are sent to as previously omitted.

MC 119741 (Sub-116TA), filed November 8, 1978. Applicant: GREEN FIELD TRANSPORT COMPANY, INC. 1515 Third Field Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501 Representative: D. L. Robson, P.O. Box 1235, Fort Dodge, IA 50501. *Meats, meat products, meat by-products,* and *articles distributed by meat packinghouses* (except hides and commodities in bulk, in tank vehicles), as described in sections A and C of appendix I to *The Report in Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from Huron Dressed Beef, Inc. at Huron, SD, to points in IL, IN, IA, KS, MI, MN, MO, NE, OH, and WI, for 180 days. Supporting shipper: Huron Dressed Beef, Inc. P.O. Box 924, Huron, SD 57350. Send protests to: Herbert W. Allen, ICC, 518 Federal Bldg., Des Moines, IA 50309.

NOTE.—An underlying ETA seeks 90 days authority.

MC 123054 (Sub-22TA), filed October 13,1978. Applicant: R & H CORPORATON, 295 Grand Avenue, Box 469, Clarion, PA. 16214. Representative: William J. Lavelle, Attorney at Law, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA. 15219. *Foodstuffs,* except in bulk, from Canajoharie, NY to points in KY, OH, WV and that part of PA on and west of U.S. Hwy. 219, for 180 days. Supporting shipper: Beech-Nut Foods Corporation, Church Street, Canajoharie, NY 13317. Send protests to: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA. 15222.

MC 123294 (Sub-47TA), filed November 3, 1978. Applicant: WARSAW TRUCKING CO., INC., 1102 West Winona, Warsaw, IN 46580. Representative: H. E. Miller, Jr., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. *Coke* from Monroe, MI, to the facilities of Dalton Foundries, Inc., at Warsaw, IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days. Supporting Shipper: Dalton Foundries, Inc., Lincoln and Jefferson Streets, Warsaw, IN 46580. Send protests to: Lois Stahl, ICC, Everett McKinley Dirksen Building, Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 126844 (Sub-55TA), filed September 14, 1978, and published in the FEDERAL REGISTER issue of November 14, 1978, and republished as corrected this issue. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Terrence D. Jones, 2033 K Street, NW, Washington, DC 20006. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities utilized by Geo. A. Hormel & Co., at or near Scottsbluff, NE, and from the facilities of Spencer Packing Co., at or near Schuyler, NE, to all points in PA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. SEND PROTESTS TO: John P. Lynn, ICC, 428 East State Street, Room 204, Trenton, NJ 08608. The purpose of this republication is to include geographical scope as previously omitted.

MC 128527 (Sub-123TA), filed August 18, 1978, and published in the FEDERAL REGISTER issue of October 12, 1978, and republished as corrected this issue. Applicant: MAY TRUCKING COMPANY, P.O. Box 398, Payette, ID 83661. Representative: Timothy R. Stivers, Registered Practitioner, P.O. Box 162, Boise, ID 83701. *Steel,* unfinished; *structural steel;* and *steel articles,* viz: *coil, plate, and sheet,* from the facilities of Metra Steel at or near Portland, OR, to points in Cache, Box Elder, Weber, Wasatch, Davis, Utah, and Salt Lake Counties, UT; and to our facilities and directly to customers in Alameda, Contra Costa, Kern, Los Angeles, Sacramento, San Francisco, and San Joanquin Counties, CA, and points in their commercial zones, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Metra Steel, P.O. Box 3154, Portland, OR 97204. SEND PROTESTS TO: Barney L. Hardin, ICC, 1471 Shoreline Drive, Suite 110, Boise, ID 83706. The purpose of this republication is to correct the territorial description.

MC 128543 (Sub-12TA), filed November 1, 1978. Applicant: CRESCO LINES, INC., 13900 S. Keeler Ave., Crestwood, IL 60445. Representative: Edward G. Bazelon, 39 S. LaSalle St., Chicago, IL 60603. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Zinc, zinc alloys and zinc products,* from the facilities of New Jersey Zinc Mineral Co. located at or near Clarksville, TN, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NC, OH, OK, PA, SC, TX, VA, WV, and WI, for 180 days. Supporting shipper:

Gulf + Western Natural Resources Group, 2200 First American Center, Nashville, TN 37238. Send protests to: Lois M. Stahl, ICC, Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 133466 (Sub-2TA), filed October 17, 1978. Applicant: FORT CALHOUN EXPRESS, INC., P.O. Box 12127, Fort Calhoun, NE 68023. Representative: Thomas B. Sehon, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Round aluminum bar stock*, from St. Lawrence County, NY, to the facilities of Wilkinson Manufacturing Co. at Fort Calhoun, NE; and *Solid extruded aluminum pieces*, from Clark County, WA, to the facilities of Wilkinson Manufacturing Co. at Fort Calhoun, NE, for 180 days, under a continuing contract, or contracts, with Wilkinson Manufacturing Co. of Fort Calhoun, NE. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wilkinson Manufacturing Co., P.O. Box 12127, Fort Calhoun, NE 68023. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, Union Pacific Plaza, 110 North 14th Street, Omaha, NE 68102.

MC 133562 (Sub-31TA), filed October 30, 1978. Applicant: HOLIDAY EXPRESS CORPORATION, P.O. Box 115, Estherville, IA 51334. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk in tank vehicles), from the facilities of John Morrell & Co. at Montgomery, AL to points in the United States in and east of TX; OK; KS; NE; SD, and ND, for 180 days Restricted to the transportation of shipments originating at the named facilities at named origin and destined to the named destination states, except traffic moving in foreign commerce. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell and Co., 208 South LaSalle St., Chicago, IL 60604. Send protests to: Herbert W. Allen, ICC, 518 Federal Building, 210 Walnut St., Des Moines, IA 50309.

MC 134064 (Sub-14TA), filed November 1, 1978. Applicant: INTERSTATE TRANSPORT, INC., 1820 Atlanta Highway, Gainesville, GA 30501. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203. *Foodstuffs* (except commodities in bulk), from the facilities of Globe Products Company, Inc. at or near Clifton, NJ, to points in NC, TN, AL, MS, LA, SC, GA, and FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Globe Products Company, Inc., 55 Webro Road, Clifton, NJ. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree Street, N.W., Room 546, Atlanta, GA 30309.

MC 134064 (Sub-15TA), filed November 8, 1978. Applicant: INTERSTATE TRANSPORT, INC., 1820 Atlanta Highway, Gainesville, Georgia 30501. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80217. *Hanging carcass beef*, from the facilities of Shapiro Packing Company, at or near Augusta, GA, to points in FL, IL, IN, MD, MI, MN, NJ, NY, OH, PA, TN, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Shapiro Packing Company, P.O. Box 119, Augusta, GA 30903. Send protests to: Sara Davis, ICC, Room 300, 1252 West Peachtree, N.W., Atlanta, GA 30309.

MC 134286 (Sub-87TA), filed November 8, 1978. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, Iowa 51102. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Chemicals, acids, solvents, and edible oils* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Allied Chemical at or near Syracuse, NY; Dow Chemical at or near Ludington, MI; Burris Chemical at or near East Point, GA; North Star Chemical at or near Pine Bend, MN; and Standard Milling at or near Meta, MO, to the plantsite and storage facilities utilized by Warren-Douglas Chemical Company, at or near Sioux City, IA, and Omaha, NE, and points in their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Paul Wendte, Territorial Manager, Warren-Douglas Chemical Co., 3002 F Street, Omaha, NE 68107. Send protests to: Carroll Russell, Suite 620, 110 North 14th Street Omaha, NE 68102.

MC 134477 (Sub-263TA), filed August 10, 1978, and published in the Federal Register issue of October 18, 1978, and republished as corrected this issue. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, P.O. Box 3496, St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Electric ranges and microwave ovens, and such commodities as used in the manufacture, sale and distribution of electric ranges and microwave ovens*, from the facilities of Litton Microwave Cooking Products, Litton Systems, Inc., at Minneapolis, MN to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI, and DC, for 180 days. SUPPORTING SHIPPER(S): Litton, Inc., 1405 Xenium Lane North, Minneapolis, MN 55441. SEND PROTESTS TO: Delores A. Poe, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401. The purpose of this republication is to show the correct designation for the destination states of Georgia (GA), Mississipi (MS), and Rhode Island (RI) as previously published.

MC 135152 (Sub-27TA), filed September 12, 1978, and published in the FEDERAL REGISTER issue of November 13, 1978, and republished as corrected this issue. Applicant: CASKET DISTRIBUTORS, INC., R.R. #2, P.O. Box 327, West Harrison, IN 45030. Representative: J. D. Campbell (same as above). *Apples, in boxes, dried*, Item 77020 NMFC. From Wenatchee, WA, to IL, OH, PA, NJ, and RI, for 180 days. SUPPORTING SHIPPER(S): Drackett Company, 5020 Spring Grove Avenue, Cincinnati, OH 45232. SEND PROTESTS TO: Beverly J. Williams, ICC, Federal Building & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204. The purpose of this republication is to include Ohio (OH) in the territorial description as previously omitted.

MC 136343 (Sub-152TA), filed September 18, 1978, and published in the FEDERAL REGISTER issue of November 14, 1978, and republished as corrected this issue. Applicant: MILTON TRANSPORTATION, INC., R. D 1, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Printing paper*, from the facilities of Howard Paper Mills, Inc., at Dayton and Urbana, OH to points in ME, NH, VT, and VA, for 180 days. Restricted to the transportation of shipments originating at the named origins and destined to the named destinations. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Howard Paper Mills, Inc., West church street, Urbana, OH 43078. SEND PROTESTS TO: Charles F. Myers, ICC, P.O. Box 869 Federal Square Station, Harrisburg, PA 17108. The purpose of this republication is to include New Hampshire (NH) to the territorial description as previously omitted.

MC 136713 (Sub-14TA), filed November 1, 1978. Applicant: AERO LIQUID TRANSIT, INC., 1717 Four Mile Road N.E., Grand Rapids, Michigan 49505. Representative: Daniel J. Kozera, Jr., The McKay Tower, Suite 2-A, Grand Rapids, Michigan 49503. *Liquefied petroleum gases*, in bulk, in tank vehi-

cles, from the Cochin Pipeline terminal, at or near Milford, IN, to points in MI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great Plains Gas Company, 1101 Second Avenue S.E., Cedar Rapids, IA 52406. Send protests to: C. R. Fleming, ICC, 225 Federal Building, Lansing, MI 48933.

MC 138469 (Sub-90TA), filed November 1, 1978. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. For 180 days, *Kitchen cabinets and component parts thereof,* from the facilities of Triangle Pacific Corp. at Union City, IN, to Points in AZ, CA, ID, MT, NV, OR, UT, and WA. Send protest to: Connie Stanley, ICC, 240 Old U.S. Post Office and Court House, 215 N.W. Third Street, Oklahoma City, OK 73102. An underlying ETA seeks 90 days of authority. Supporting Shipper: Triangle Pacific Corporation, 4255 LBJ Freeway, Dallas, TX 75234.

MC 138469 (Sub-93TA), filed November 17, 1978. Applicant: DONCO CARRIERS, INC., 2025 S. Nickolas, P.O. Box 75354, Oklahoma City, OK 73107. Representative: Jack Blanshan, Suite 200, 205 West Touhy Ave., Park Ridge, IL. 60068. *Canned and preserved foodstuffs* from the facilities of Heinz U.S.A., division of H.J. Heinz Co., at or near Pittsburg, PA to points in AR, OK and TX, restricted to shipments originating at the named facilities and destined to the named states, for 180 days. SUPPORTING SHIPPER(S): Heinz U.S.A., Division of H.J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. SEND PROTESTS TO: Connie Stanley, Trans. Asst., Room 240 Old Post Office & Courthouse Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 142559 (Sub-55TA), filed September 18, 1978, and published in the FEDERAL REGISTER issue of November 14, 1978, and republished as corrected this issue. Applicant: BROOKS TRANSPORATATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. *Paper and paper products and equipment, materials and supplies used in the manufacture and distribution of paper and paper products* (except commodities in bulk) between Rittman and Mentor, OH, on the one hand, and, on the other, Kansas City, KS, and points in and east of MN, IA, MO, AR, and LA, for 180 days. SUPPORTING SHIPPER(S): Packaging Corporation Industrial Street, Rittman, OH 44270. SEND PROTESTS TO: ICC, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199. The purpose of this republication is to complete commodity description as previously omitted.

MC 142559 (Sub-67TA), filed November 14, 1978. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, George, Greek, King, McMahon & McConnaughey, 100 East Broad Street, Columbus, OH 43215. *Lawn and garden care products and materials and supplies used in the manufacture and distribution thereof,* except commodities in bulk, between Marysville and Columbus, OH, on the one hand, and on the other points in the states of WI, IL, IN, MI, PA, NY, NJ, MD, and MO, for 180 days. SUPPORTING SHIPPER(S): O.M. Scott & Sons Co., Maple Street, Marysville, OH 43040. SEND PROTESTS TO: Mary Wehner, District Supervisor ICC, Bureau of Operations, 731 Federal Office Bldg., 1240 East Ninth Street, Cleveland, OH 44199.

MC 143328 (Sub-10TA), filed November 3, 1978. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherlund, 1150 Connecticut Avenue, NW, Suite 400, Washington, DC 20036. (1) *Malt beverages and related advertising materials, equipment and supplies,* from points in Jefferson County, CO, to points in MT and WA; and, (2) *Empty containers and materials and supplies used in and dealt in by breweries,* from points in MT and WA, to points in Jefferson County, CO, for 180 days. Applicant has also filed an underlying ETA seeking 90 days of operating authority. Supporting Shipper: Adolph Coors Company, Golden, CO 80401. Send protests to: Paul J. Labane, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 143433 (Sub-5TA) filed November 2, 1978. Applicant: B. L. GILBERT, d/b/a GILBERT TRUCKING CO., 310 South First Avenue, Stroud, OK 74079. Representative: T. M. Brown, P.O. Box 1540, Edmond, Oklahoma 73034. *Carpets, padding, carpet samples, materials, and accessories,* from the facilities of Venture Carpets, U.S.A., a division of Venture Industries, Inc., at or near Pawhuska, OK, to points in AZ, CO, ID, KS, MT, NV, NM, OR, TX, UT, WA, and WY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Venture Carpets, U.S.A., a div. of Venture Industries, Inc., P.O. Box 209, Calhoun, Georgia 30701. Send protests to: Connie Stanley, ICC, 215 N. W. 3rd, Room 240, Oklahoma City, OK 73102.

MC 143621 (Sub-6TA) filed November 17, 1978. Applicant: TENNESSEE STEEL HAULERS, INC., 901 Fifth Avenue, North, Nashville, Tennessee 37219. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tennessee 37219. *Paper bags on flatbed equipment* from the facilities of Werthan Industries, Inc. at or near Nashville, TN to the facilities of Marquette Company at or near Rockmart, GA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Werthan Industries, 404 James Robertson Parkway, Nashville, TN. Send protests to: Joe Tate, District Supervisor, Bureau of Operations, ICC, Suite A-422 U. S. Courthouse, 801, Broadway, Nashville, TN 37203.

MC 144160 (Sub-3TA) filed October 13, 1978. Applicant: DONALD A. HALVORSEN, 19000 S. W. Wright Court, Aloha, OR 97005. Representative: Philip G. Skofstad, P.O. Box 594, Gresham, OR 97030. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Greases, motor* and *lubricating oils, tires, batteries,* and empty returned *drums,* except commodities in bulk in tank vehicles, between Portland, OR, on the one hand, and on the other, Shelton and Yakima, WA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): R. H. Bowles Co., Inc., P.O. Box 431, Toppenish, WA 98948. Gott Oil Co., Inc., P. O. Box 247, Shelton, WA 98584. SEND PROTESTS TO: District Supervisor A. E. Odoms, Bureau of Operations, 114 Pioneer Courthouse, 555 S. W. Yamhill St., Portland, OR 97204.

MC 144329 (Sub-3TA) filed November 3, 1978. Applicant: JOE RIDDLE and CHARLES RIDDLE, d/b/a RIDDLE TRUCKING COMPANY, Route 6, Tazewell, TN 37879. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Coal,* in bulk, in dump vehicles, from the mines and facilities of Champion International Corporation in Harlan County, Ky., to Sullivan County, Tenn, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Champion International Corporation, Knightsbridge Drive, Hamilton, Ohio 45021. Send protests to: Glenda Kuss, ICC, Suite A-422 U.S. Court House, 801 Broadway, Nashville, TN. 37203.

MC 1447474TA filed November 17, 1978. Applicant: INTERSTATE EQUIPMENT CO,. INC, 22821 N. 81st Avenue, Peoria, AZ 85345. Representative: Phil B. Hammond, 10th Floor, 111 West Monroe, Phoenix, Arizona 85003. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting:

glass fiber, glass yarn, fiberglass cloth and fabric, and waste fiber [1] from (A) the facilities of Owens-Corning located at Anderson, SC; Jackson, TN; Huntingdon, PA, and Amarillo, TX, to (B) the facilities of Royell, Inc., located at Mountain View, Anderson, Sacramento, Marysville, Woodland, Los Angeles, Bakersfield, and Fresno, CA; and Carson City, NV; and [2] from (A) and (B) above to the customers of Royell, Inc., located at points in CA and NV, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Royell, Inc., 441 Clyde Ave., Mountain View, CA 94040. SEND PROTESTS TO: Andrew V. Baylor, District Supervisor, ICC, Rm. 2020 Federal Bldg. 230 N. First Ave., Phoenix AZ 85025.

MC 144792 (Sub-3TA), filed October 12, 1978. Applicant: CONTRACT TRANSPORTER, INC., P.O. Box 190, Lexington, NC 27292. Representative: Noah H. Huffstetler, III, Allen, Steed & Allen, P. A., P. O. Box 2058, Raleigh, NC 27602. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: *Empty metal cans*, liquid capacity not to exceed 1 gallon, with or without ends between the facilities of Reynolds Metals Company at or near Salisbury, NC and the facilities of Miller Brewing Company at or near Eden, NC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Reynolds Metals Company, P.O. Box 27003, Richmond, VA. SEND PROTESTS TO: District Supervisor, Terrell Price, 800 Briar Creek Rd-Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 145100 (Sub-1TA), filed August 7, 1978, and published in the FEDERAL REGISTER issue of October 18, 1978, and republished as corrected this issue. Applicant: ALBERT J. AND JIM L. WHITAKER, dba WHITAKER'S WRECKER SERVICE, 816 NW 6th Street, Oklahoma City, OK 73106. Representative: David A. Cherry, 223 Ciudad Building, Oklahoma City, OK 73112. (1) *Wrecked and disabled trucks and truck-tractors and replacements therefor*, in truckaway service by use of wrecker equipment only; and (2) *Wrecked and disabled trailers*, between Oklahoma City, OK, on the one hand, and, on the other, points in AL, AZ, AR, CO, GA, IL, IA, KS, KY, MN, MS, MO, NM, OK, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Lee Way Motor Freight, Inc., 3401 N.W. 63, Oklahoma City, OK 73116; Market Pre-Pack, 401 N. Vicki, Oklahoma City, OK 73117; and Mistletoe Express Service, P.O. Box 25125, Oklahoma City, OK 73125. SEND PROTESTS TO: Connie G. Stanley, ICC, Room 240, Old U.S. Post Office and Courthouse, 215 N.W. Third Street, Oklahoma City, OK 73102. The purpose of this republication is to change the commodity description.

MC 145324 TA, filed August 30, 1978, and published in the FEDERAL REGISTER issue of October 19, 1978, and republished as corrected this issue. Applicant: LIBERTY TRANSPORT, INC., 1212 Tierra Luna, Walnut, CA 90096. Representative: Patricia M. Schnegg, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. *Plastics, vinyls, and upholstery materials, and related supplies and accessories*, from points in MA, NY, NJ, MI, CT, PA, OH, IN, LA, NC, TN, KY, GA, AND IL to points in Phoenix, AZ, and Sacramento and Los Angeles Counties, CA, for 180 days. SUPPORTING SHIPPER(S): Lindsey & Hall, 1036 S. Hope Street, Los Angeles, CA 90015. SEND PROTESTS TO: Irene Carlos, ICC, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012. The purpose of this republication is to show complete territorial description as previously omitted.

MC 145332TA, filed September 1, 1978, and published in the FEDERAL REGISTER issue of November 9, 1978, and republished as corrected this issue. Applicant: CLEVELAND FREIGHT LINES, INC., 17877 St. Clair Avenue, Cleveland, OH 44110. Representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contractor carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic fiber yarn and materials, equipment and supplies used in the manufacture and distribution thereof*, (except commodities in bulk), between Painesville, OH, on the one hand, and, on the other, points in AL, GA, KY, NJ, NY, NC, PA, SC, TN and VA, under a continuing contract or contracts with IRC Fibers Co., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): IRC Fibers Co., Wayne, NJ 07470. SEND PROTESTS TO: ICC, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199. The purpose of this republication is to complete the commodity description as previously omitted.

MC 145384 (Sub-13TA), filed October 17, 1978. Applicant: ROSE-WAY, INC., 1914 East Euclid, Des Moines, IA 50306. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Iron* and *steel* articles from the facilities of La Salle Steel Company at Hammond, IN, to points in AZ and CA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): La Salle Steel Company, 1412 150th Street, Hammond, IN 46320. SEND PROTESTS TO: Herbert W. Allen, District Supervisor, Bureau of Operations ICC, 518 Federal Building, Des Moines, IA 50309.

MC 143436 (Sub-15TA), filed October 17, 1978. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. *Confectionery items, dessert preparations, gumball machines and stands and display and advertising material*, in vehicles equipped with mechanical refrigeration, from the facilities of Leaf Confectionery, Inc. located at or near Chicago, IL, to points in IN, KY, MI, OH and WV, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Leaf Confectionery, Inc., 1155 North Cicero Avenue, Chicago, IL 60651. SEND PROTEST TO: Beverly J. Williams, Trans. Asst., ICC, Federal Bldg. & U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 145517TA, filed October 17, 1978. Applicant: MANITO TRANSIT CO., an ILLINOIS CORPORATION, Box 8, Ashkum, IL 60911. Representative: Douglas G. Brown, P. C., The INB Center—Suite 555, Springfield, IL 62701. *Liquid petroleum products*, in bulk; in tank vehicles, from Ashkum, IL to points in IN on and north of I-70, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Meier Oil Service, Inc., Michael M. Meier, Secretary, Box 8, Ashkum, IL 60911. SEND PROTESTS TO: Lois M. Stahl, Trans. Asst., ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 145744 (Sub-1TA), filed November 18, 1978. Applicant: C. V. SOHN, INC., 142 Midland, Maryland Heights, MO 63043. Representative: Warren H. Sapp, P.O. Box 16047, Kansas City, MO 64112. *Meat, meat products, and meat by-products*, from the facilities of Seitz Foods, Inc., and Terminal Warehouses of St. Joseph, Inc., St. Joseph, MO, to points in DC, DE, MD, NC, NJ, NY, OH, PA, SC, and VA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Seitz Foods, Inc., P.O. Box 247, St. Joseph, MO 64502. SEND PROTESTS TO: District Supervisor, P. E. Binder, ICC, Bureau of Operations, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-34657 Filed 12-12-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01-M]

1

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the December 7, 1978, meeting agenda.

TIME AND DATE: 10 a.m., December 7, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 3. Docket 26487, *Transatlantic, Transpacific, and Latin American Service Mail Rates Investigation* (OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Because of the complexity of this case, compounded by the illness of key staff members, staff work was not completed in time to allow the Board to consider this matter thoroughly. Accordingly, the following Members have voted that agency business requires the deletion of item 3 from the December 7, 1978, agenda and that no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2506-78 Filed 12-11-78; 10:29 am]

[6320-01-M]

2

CIVIL AERONAUTICS BOARD,

Notice of additions and deletion of items to the December 7, 1978, agenda.

TIME AND DATE: 10 a.m., December 7, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Addition: 3a. Hawaiian petition for rulemaking to amend Sec. 250.2(b) and 250.5 governing denied boarding. Doc. 33031 (OGC, BPDA).

Addition; 11a. Docket 30452, Pending intercarrier agreements revising the Universal Air Travel Plan (BPDA).

Deletion: 12. Dockets 30699 and 33019—*Oakland Service Case* and *Chicago-Midway Expanded Service Proceeding* (BPDA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The deadline for action to be taken on the petition from Hawaiian is December 12, 1978. In order to ensure that Board members have sufficient time to review the issues and still comply with the 120-day rule for disposing of petitions for rulemaking, item 3a must be heard at the Board meeting on December 7 as that is the last remaining public meeting prior to the date action is required. The Universal Air Travel Plan was discussed and an order approved in substance at the Sunshine Meeting of October 24, 1978. Because of unexpected delay in drafting of the order and the need to avoid further cancellations of intercarrier discussions, Item 11a should be considered by the Board at the December 7 meeting. Item 12 is being deleted from the December 7, 1978, agenda as the Office of General Counsel has suggested several changes which need to be incorporated in the draft orders before it is discussed at a Board meeting. Accordingly, the following Members have voted that agency business requires the addition of items 3a and 11a and the deletion of item 12 from the December 7, 1978, agenda and that no earlier announcement of these changes was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2507-78 Filed 12-11-78; 10:29 am]

[6320-01-M]

3

CIVIL AERONAUTICS BOARD.

Notice of deletions of items to the December 7, 1978, agenda.

TIME AND DATE: 10 a.m., December 7, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

20. Docket 33712, Tiger International-Seaboard Acquisition Case. This case involves the preclearance of Tiger International's acquisition of up to 25 percent of Seaboard's stock in voting trust and the institution of a proceeding under section 408 for approval of the acquisition of control (BPDA).

24. Docket 27426; Application of Air New England, Inc. (ANE) and Delta Air Lines, Inc. (Delta) for approval of a refinancing agreement (5123-B BPDA, BCP).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: In order to permit other staff components to prepare their recommendations, item 20 is being deleted and will be rescheduled for a later meeting. The Office of General Counsel has some changes it would like to make to the order in item 24 and there is not adequate time for staff discussion of these proposed changes before the December 7, 1978, meeting. Accordingly, the following Members have voted that agency business requires the deletion of items 20 and 24 from the December 7, 1978, agenda and that no earlier announcement of these changes was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2508-78 Filed 12-11-78; 10:29 am]

[6320-01-M]

4

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the December 7, 1978, meeting agenda.

TIME AND DATE: 10 a.m., December 7, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 25. Docket 30332, IATA agreements proposing varying increases in Western Hemisphere cargo rates through September 30, 1979, to compensate for cost increases. The reporting carriers support the increases; no other comments or objections have been received. (Memo 8322, 8322-A, BPDA, BIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 25, Docket 30332, IATA agreements proposing varying increases in Western Hemisphere cargo rates through September 30, 1979, to compensate for cost increases requires further staff work. Accordingly, agency business requires the deletion of item 25 from the agenda and no earlier announcement of this change was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2509-78 Filed 12-11-78; 10:29 am]

[6320-1-M]

5

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:00 a.m., December 14, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 33696, Application of Aero Trades (Western) Ltd. to amend foreign air carrier charter permit to authorize use of both small and large aircraft (Memo 8345, BIA, OGC).
3. Docket 33243, Application of Air Panama International, S. A. to modify its permit to allow stopover privileges at Mexico City for traffic moving between Los Angeles, California and a point or points in the Republic of Panama (Memo 8238-A, GIA, OGC).
4. Dockets 33209, 31217, and 33838—National application for certificate authority and Trans International Airlines, Inc. applications for certificate and immediate exemption authority to serve Israel via intermediate points. (BIA, OGC).
5. Docket 33712, Tiger International-Seaboard Acquisition Case. This case involves the prescreening of Tiger International's acquisition of up to 25 percent of Seaboard's stock in voting trust and the institution of a proceeding under section 408 for approval of the acquisition of control (Memo 8346, BPDA).
6. Dockets 33322 and 33434; Aspen requests an exemption to engage in scheduled air transportation in the Aspen/Gunnison-Colorado Springs markets and the Denver-Durango / Cortez-Farmington-Albuquerque markets. (Memo 8343, BPDA, OGC).
7. Dockets 33988 and 33989, Application of Hughes Airwest for Emergency Exemption from 401(j)(2) Notice Requirements so as to Permit Airwest to Terminate Service in 59 Markets (BPDA).
8. Dockets 32901, 33073, 32901, 33980, 33981, and 33982, TXI's application and notice of intent to suspend service at Carlsbad, Clovis, and Hobbs, N. Mex.; Air Midwest's application for subsidy-eligible certificate authority to serve Albuquerque, Amarillo, Lubbock and the above points and motion to consolidate; Petitions of Carlsbad, Clovis and Hobbs for determinations of their respective essential air transportation and for prohibition of the proposed suspension (BPDA).
9. Docket 33857, Motion of Delta Air Lines requesting the Board to process its application for restriction removal filed under Section 401 (e)(7)(B) within 60 days of such application (December 23, 1978), (BPDA).
10. Docket 32702, Delta's application to amend certificates for Routes 8, 24, and 54 so as to authorize nonstop transportation between Kansas City, on the one hand, and Chicago and Denver, on the other (Memo 8341, BPDA).
11. Docket 32954, Certificate Amendment Application of Texas International for Dallas/Ft. Worth-Oklahoma City Nonstop Authority (Memo 6130-E. OGC, BPDA).
12. Docket 33068, *Transpacific Low-Fare Route Investigation (OGC).*
13. Dockets 33112 and 33283, Petition of TXI to postpone National shareholder vote on Pan American merger proposal and to permit unlimited purchases of National stock by TXI (OGC).
14. Docket 32293, Northeast Points-Puerto Rico/Virgin Islands Service Investigation (OGC).
15. Docket 33031, Petition of Hawaiian Airlines for rulemaking to amend Part 250 of the Board's new rules governing denied boarding compensation (DBC) and requiring the airlines to solicit volunteers for denied boarding (Memo 8302-A, OGC).
16. Creation of the Bureau of Pricing and Domestic Aviation. (OGC).
17. H.R. 14384—The Cargo Security Act of 1978, providing a comprehensive program to improve cargo security, to be coordinated by DOT (Memo 8344, OGC, BPDA, BAS, BCP).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-2510-78 Filed 12-11-78; 10:29 am]

[6570-06-M]

6

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 10:30 a.m. (eastern time), Friday, December 15, 1978.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Recommended procedures for the Office of Appeals and Review.
2. Proposed adoption of current Civil Service Commission procedures being transferred to the Equal Employment Opportunity Commission.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued December 8, 1978.

[S-2511-78 Filed 12-11-78; 10:29 am]

[6210-01-M]

7

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11:30 a.m., Monday, December 18, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Legislative program and priorities for 1979.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: December 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2505-78 Filed 12-11-78; 10:29 am]

[6770-01-M]

8

FOREIGN CLAIMS SETTLEMENT COMMISSION.

F.C.S.C. Meeting Notice No. 27-77, Notice of Meetings—Announcement in Regard to Commission Meetings and Hearings.

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

December 6, 1978, at 10:30 a.m., canceled.
December 13, 1978, at 10:30 a.m., canceled.

December 20, 1978, at 10:30 a.m., consideration of decisions involving claims of American Citizens against the German Democratic Republic.
December 27, 1978, at 10:30 a.m., canceled.

Subject matter listed above, not disposed of at the scheduling meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579, telephone 202-653-6156.

Dated at Washington, D.C., on December 8, 1978.

FRANCIS T. MASTERSON,
Executive Director.

[S-2512-78 Filed 12-11-78; 3:17 pm]

[7600-01-M]

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m., December 21, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:
Ms. Patricia Bausell, 202-634-4015.

Dated: December 7, 1978.

[S-2513-78 Filed 12-11-78; 3:17 pm]

federal register

WEDNESDAY, DECEMBER 13, 1978
PART II

DEPARTMENT OF THE INTERIOR

Office of the Secretary

■

IMPROVING GOVERNMENT REGULATIONS

Implementation of E.O. 12044; Final Rule

[4310-10-M]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY

PART 14—RULEMAKING

Final Rule on Improvements in the Rulemaking Process

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: The final rule contains the procedures of the Department of the Interior to implement the President's Executive Order on improving Government regulations, E.O. 12044 (March 23, 1978).

EFFECTIVE DATE: January 26, 1979.

FOR FURTHER INFORMATION CONTACT:

J. Austin Burke (Regulatory Analysis Criteria), Office of Policy Analysis, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-7785.

John D. Trezise (Significant Rules Criteria), Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-5216.

Vivian A. Keado (General Procedures), Office of Administrative Services, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-6191.

SUPPLEMENTARY INFORMATION:

ORGANIZATION OF THE DEPARTMENT

The Department of the Interior consists of ten principal operating units: The Bureau of Land Management, the Bureau of Reclamation, the National Park Service, the U.S. Fish and Wildlife Service, the Heritage Conservation and Recreation Service, the Geological Survey, the Bureau of Mines, the Office of Surface Mining, the Office of Water Research and Technology and the Bureau of Indian Affairs. These units are supervised by four program Assistant Secretaries, who, in turn, report directly to the Secretary of the Interior.

In addition to these operating units, the Department of the Interior has a number of administrative offices, most of which are under the supervision of the Assistant Secretary—Policy, Budget and Administration. The Office for Equal Opportunity, the Office of Hearings and Appeals and the Office of Territorial Affairs are supervised by the Under Secretary. The Office of the Solicitor is under the jurisdiction of the Solicitor.

The Assitant Secretaries, Under Secretary and Solicitor are collectively referred to as Secretarial Officers.

CURRENT RULEMAKING PROCESS

Under present procedures, most substantive rules [1] are initially drafted in the operating units. In some units, such as the Bureau of Land Management, there is a central office which ordinarily prepares rules. In other units, rules are drafted by operating offices of the units.

Only three units—the National Park Service, the Fish and Wildlife Service and the Office of Surface Mining—have been delegated authority to issue rules. In all other cases, both proposed and final rules relating to bureau programs must be signed at the Department level by the Secretary, Under Secretary, an Asseistant Secretary or the Solicitor. Further, even in the cases of the National Park Service, the Fish and Wildlife Service and the Office of Surface Mining, more important rules are ordinarily forwarded to the Department level for issuance.

In early 1977, the Department instituted a procedure which required personal review by the Secretary of controversial rules and rules which establish or change major Department-wide policy or programs. This procedure applies to both proposed and final rules.

The Department has not had a formal or regularized procedure for early Secretarial involvement in the rulemaking process. There ordinarily has been early oversight of the development of important rules at least at the Assistant Secretarial level, and often at the Secretarial level. This oversight has occurred on an informal basis, however.

SEMIANNUAL AGENDA

The Department's semiannual agenda of rules scheduled for initial review was published in the FEDERAL REGISTER on May 25, 1978, 43 FR 22582. The semiannual agenda of rules to be reviewed or developed between January and June, 1979, will be published in the FEDERAL REGISTER in January.

PROPOSED PROCEDURES TO IMPLEMENT E.O. 12044

The Department's proposed procedures to implement E.O. 12044 were published in the FEDERAL REGISTER for public comment on May 25, 1978, 43 FR 22573.

As required by the Executive Order, the proposal contained special procedures for the development of "significant rules"; procedures for analysis of the economic impact of rules having major economic consequences; procedures for periodic review and updating of existing rules; and procedures for publication of a semiannual agenda of rules scheduled for development during the following six months. The proposal also contained procedures for development of rules not falling in the "significant" category.

COMMENTS AND MODIFICATIONS IN PROPOSAL

The Department received thirteen timely comments on its proposal. The Department has carefully considered these comments and has adopted several suggestions made by the commenters.

The comments received by the Department and the Department's reasons for accepting or rejecting the comments are discussed below.

1. One commenter suggested that, after receiving and analyzing comments on proposed rules, the Department should publish a revised proposed regulation for public comment. This suggestion has not been adopted. The Department's procedures will ordinarily afford the public two opportunities to comment on significant rules before adoption; once on a notice of intent to propose rules, once on a notice of proposed rulemaking. A mandatory third round of comments would offer only marginal benefits in improved public participation and would considerably prolong the rulemaking process. It should be pointed out, however, that the Department's procedures are sufficiently flexible to permit an additional round of comments on proposed rules if initial public comments result in major reworking of the proposal.

2. One commenter recommended that the definition of "rule" in § 14.2(e) be modified, for purposes of the Department's procedures for adoption of significant rules, to exclude interpretative rules and general statements of policy. The Department has concluded that E.O. 12044 does not permit adoption of this recommendation. "Interpretative rules" and "general statements of policy" are "rules" under the Administrative Procedure Act, but, as are several other categories of rules, both are excepted from the APA's notice-and-comment procedures in 5 U.S.C. 553. Section 6 of the Executive Order permits exception from the Order's significant rules procedures for three of the categories of rules excepted from notice-and-comment rulemaking, but contains no exception for "interpretative rules" and "general statements of policy."

3. One commenter objected that the initial determination of whether a new rule will be significant will be made by the same official who will supervise

[1] The term "rules" is used in preference to "regulations." The term "rules" is defined in the Administrative Procedure Act. "Regulations" is not defined in the APA and thus lacks the precise meaning of "rules."

drafting of the rule. Two other commenters urged that there should be checks and balances to ensure proper implementation of the Department's procedures by regulation writers. Because of the same concerns reflected in these comments, both the Department's proposed and final procedures call for continuing review at the Department level during the process of formulating rules. With respect to the initial determination of significance, § 14.3(b) provides for review of the determination of significance by a Secretarial Officer. Although the procedures permit a Secretarial Officer to delegate this responsibility for specific classes of rules, delegations may be made only to bureau heads, not to lower level employees. The final procedures are also revised to make clear that bureau heads may not redelegate the approval authority.

4. Another commenter expressed concern that Secretarial Officers would make excessive delegations of the authority to determine the significance of rules, which "could cause the rulemaking process to revert back to its current status." The Department shares this concern, but believes that permitting authority to be delegated may be necessary to permit Secretarial Officers to focus their attention on more important rules if they find themselves swamped with review of significance determinations for clearly minor rules. As pointed out in the Department's draft report, however, it is anticipated that delegations, if made at all, will occur only after initial experience with the criteria for significance and will relate to classes of rules whose status under the criteria is clear.

5. Two commenters suggested that the Department's criteria for significance in § 14.3(c) be expanded to include as significant those rules which make a change in established agency policy. The Department has not adopted this suggestion. It would inhibit efforts to update or eliminte outdated minor rules. Further, the Department believes that the concern underlying the suggestion will be satisfied by the criteria which it is adopting. If a proposed modification of an existing rule will have significant economic, environmental, paperwork or inter- or intra-governmental impacts, the proposal will be treated under the procedures for developing significant rules.

6. The Department's proposal provided in § 14.3(c)(5) that a rule would be treated as significant if it was likely to have a substantial economic effect on a *particular* region, industry, or level of government. The proposal also provided that, in deciding whether to prepare a regulatory analysis, consideration should be given to the economic effect on particular regions, industries or levels of government. One commenter suggested that the word "particular" be replaced with "individual", pointing out that "individual" is more flexible and tracks the language of the Executive Order. This suggestion has been adopted. Another commenter suggested that the significant rules criteria be expanded to include rules which would have a substantial economic effect on a unit of a region, industry or level of government. This suggestion has not been adopted. It would tend to dilute the significant rules procedures by extending them to minor rules having a very limited impact.

7. One commenter suggested that the Department's criteria for significance be expanded to include "rules which affect the rights of individuals and/or may have a disparate impact on the basis of sex." The Department very much shares the concerns reflected in this comment. The Department has not adopted the comment, however. The Department believes that its general procedures for development of all rules are sufficient to assure protection of rights of individuals and avoid disparate impacts on the basis of sex.

8. Several commenters suggested that the Department lower the $100 million annual economic effect threshold for preparation of regulatory analyses. The Department believes that its proposal met this suggestion. Under § 14.3(d)(1) of the proposal, regulatory analyses would be prepared not only for rules having an annual economic effect of $100 million or more, but also for rules having an annual economic effect of less than $100 million if the protential effect on the economy or on a region, industry or level of government is sufficiently major to require formal analysis to assure that the objectives of the rule are achieved with minimum burden. The proposal contained standards in § 14.3(d)(2) to assist in determining whether a regulatory analysis should be prepared on rules having an effect of less than $100 million. This approach is carried over in the Department's final procedures.

9. One commenter suggested that, in considering whether to prepare a regulatory analysis for rules not having an annual economic effect of $100 million, the Department examine whether the rule will result in "a major increase in the costs or prices for" a region, industry or level of government, rather than whether the rule will have a "potential economic effect" sufficiently major to require analysis. The Department has not adopted this suggestion. In applying its formulation, the Department will consider potential increases in costs and prices.

10. In the standards in § 14.3(d)(2) for determining whether to prepare a regulatory analysis for rules not having an annual economic effect of $100 million, one factor proposed to be considered was "the estimated likelihood that the acceptable alternative which would impose the minimum economic burden would not be clearly chosen without formal analysis." One commenter suggested that this factor be deleted because "estimating whether an acceptable alternative would be chosen before a thorough economic evaluation is made of all alternatives would be premature." The Department has not adopted this suggestion. The intent of this provision is to permit a regulatory analysis to be omitted only where the minimum burden alternative is clear. If there is any doubt a regulatory analysis incorporating the necessary economic evaluation will be prepared.

11. One commenter objected to the Department's definition of "region" in § 14.3(d)(3)(ii). The commenter pointed out that the economic effect of a rule on a single large state could be as important as the economic effect of some other rule on a group of smaller states. It was the Department's intention to define region so that a single state could be a region. The definition has been revised to clarify this intention.

12. One commenter objected that the Department's definition in § 14.3(d)(3)(iii) of "industry" as a 4-digit industry within the Standard Industrial Classification System established by the Office of Management and Budget is too narrow. The Department has decided to retain the proposed definition. The Standard Industrial Classification System provides a readily understandable and traditionally accepted standard by which to measure impacts on economic organizations.

13. Two commenters made the general comment that the Department's criteria for significance and for preparation of a regulatory analysis were too restrictive and do not meet the intent of Executive Order 12044. The Department does not agree. Both sets of criteria are fully consistent with the requirements of the Order.

14. A commenter suggested that § 14.3(f) be modified to require that, when the Department excepts a rule from the procedures for development of significant rules, a complete and detailed explanation of the exception by published promptly in the FEDERAL REGISTER. The Department has modified § 14.3(f) to make clear that exceptions will be explained in the FEDERAL REGISTER. The Department has retained the provision on the timing of

this explanation contained in its proposal; the explanation would be contained in any FEDERAL REGISTER Document for the rules for which an exception has been made.

15. Another commenter suggested that all Departmental records relating to determinations of significance and preparation of a regulatory analysis be made available to interested persons. Section 14.3(g) of the Department's proposal provided that all final and proposed rulemaking documents and notices of intent to propose rules published in the FEDERAL REGISTER would state whether or not the rule is a significant rule. The Department's final procedures retain this provision and also require that, for significant rules, the FEDERAL REGISTER document state whether a regulatory analysis is necessary. The Department anticipates that documents containing the decision on significance and a regulatory analysis would ordinarily be available to the public on request.

16. One commenter suggested that the work plan provision of § 14.4. be modified because it implied that the Secretary could approve a proposed rule before the rule is ever published in the FEDERAL REGISTER for public comment. This was not the intent of the work plan requirement. The purpose of the work plan is to permit the Secretary to make a decision as to whether there is any need for a proposed rule before substantial work is expended on the rule. Approval of the work plan does not signify final approval of the rule. During the drafting process, there will be continuing review of the need for the rule and of alternative regulatory approaches to be taken in the rule.

17. Several commenters objected that the provisions of § 14.4(c) on early public involvement were insufficiently definite in requiring publication of a notice of intent to propose rulemaking. It was the Department's intent to require such a notice, except in specifically defined situations. Section 14.4 has been modified to more clearly reflect this intention.

18. Three commenters objected to the provisions of § 14.4(c) permitting omission of a notice of intent to propose rulemaking when there has been a recent previous opportunity for comment on the issues to be addressed in the proposed rule. The Department has decided to retain this provision. The provision is a narrow one. The purpose of a notice of intent to propose rulemaking is to obtain public comments on the need for and general approaches to be taken in a new rule. If there has been a recent, earlier opportunity for comment on these issues, repeating the notice of intent would be wasteful. An example of a situation in which this exception might be invoked would be where partial revision of a newly issued significant rule is required by a court decision.

19. One commenter suggested that § 14.4(c)(2) require inclusion in notices of intent of an address where information may be obtained and comments sent. This had been the Department's intent and the suggestion has been adopted.

20. One commenter suggested that notices of intent published under § 14.4(c)(2) include the rationale and supporting data usd by the Department in determining that a rulemaking is needed. The Department has not adopted this suggestion. As proposed and adopted, § 14.4(c) calls for notices of intent to state the need for a planned rule. It is intended that this statement will be an explanation of the basis of the Department's thinking concerning the need for a rule.

21. One commenter suggested that the lists of supplementary public involvement techniques in §§ 14.4(c)(3), 14.4(g)(3) and 14.5(b)(4) be expanded to include publication of paid advertisements. The Department has adopted this suggestion. It should be pointed out, however, that the lists of public involvement techniques in these sections are illustrative rather than exhaustive. Further techniques for assuring public involvement are discussed in the Department's interim public participation guidelines published in the FEDERAL REGISTER for August 11, 1978, 43 FR 35754-35757. For each rulemaking, a specifically tailored public participation strategy should be developed utilizing these and other techniques. (When advertisements are published, the Department will comply with the procedural requirements of 44 U.S.C. 3702).

22. One commenter suggested the use of joint public/Government task forces in the development of regulations, particularly at the earliest stages. The Department agrees that, in some cases, such groups may be an effective public participation tool. The Department's procedures, as drafted, permit such groups to be used on a case-by-case basis in appropriate situations. The Department does not believe that a broad requirement for use of such groups would be warranted.

23. One commenter suggested that the Department address, in the preamble to its final procedures, the relationship between the procedures and the requirements of the Federal Advisory Committee Act, 5 U.S.C. Appendix I. In preparing both its proposed and final procedures the Department considered including in the procedures a discussion of the FACA. It was decided that such a discussion should be omitted, partly because of uncertainties caused by judicial interpretations of the FACA and partly because the determination of whether an advisory committee subject to the Act has been created requires a careful and detailed review of the factual circumstances of each case. Where the Department utilizes an FACA advisory committee to obtain advice on proposed regulations, it will, of course, comply with the requirements of the Act. Factors to be considered in determining the existence of an advisory committee include whether it has: (1) A fixed membership (including at least one person who is not a full-time federal officer or employee), (2) a defined purpose of providing advice to a federal official or agency regarding a particular subject or subjects, (3) regular or periodic meeting and (4) organizational structure. Marblestone, The Coverage of the Federal Advisory Committee Act, 35 Fed. Bar J 119, 127-128 (1976). Seminars and meetings at which participation is open to the general public do not constitute advisory committees under these criteria. An example of the use of such seminars and meetings as a public involvement technique may be found in the procedures being utilized by the Office of Surface Mining Reclamation and Enforcement to develop rules to implement the Surface Mining Reclamation and Enforcement Act. *See, e.g.,* 43 FR 25881 (June 15, 1978).

24. One commenter suggested that the description of the content of regulatory analyses in § 14.4(d) be expanded to include further discussion of the substance and scope of the analysis to be performed. The commenter also suggested that a requirement for approval of draft and final regulatory analyses by the Office of the Solicitor be added to § 14.4(d)(3). Neither suggestion has been adopted. The Department recognizes the need for further guidance for the drafters of regulatory analyses and plans development of such guidance in the near future based on initial experience with the regulatory analysis procedure. The Office of the Solicitor has responsibility for legal review of draft and proposed rules under §§ 14.4(f) and (h). It is intended that this review authority includes review for legal sufficiency of accompanying draft and final regulatory analyses.

25. A commenter suggested that the specific supervisory responsibilities of the official in charge of the drafting of proposed and final significant rules listed in § 14.4(e)(1) be described as the basic minimum responsibilities of the official. This suggestion has been adopted by rewriting § 14.4(e)(1) to state that "at a minimum" the lead official will perform the listed responsibilities.

26. One commenter suggested that, in publishing final significant rules,

the Department include in the Federal Register document the rationale for rejecting those comments not accepted. This was the intention of the provisions of § 14.4(i)(1) of the Department's proposed procedures. Sections 14.4(i)(1) and 14.4(e)(1) have been modified to clarify this intention.

27. One commenter suggested that the Department's public comment period on proposed significant rules contained in § 14.4(g) be lengthened from 60 to 90 or 120 days. This suggestion has not been adopted. The benefits to public participation which might be gained by extending the minimum comment period would be offset by the delay and public uncertainty which a longer period would entail. Further, the 60 day period is only a minimum; a longer period for comments may be afforded where the complexity of a proposed rule or other factors dictate.

28. One commenter suggested that § 14.4(g) be modified to require that, when the Department shortens the comment period of proposed significant rules, it include in the FEDERAL REGISTER a thorough explanation of the basis for doing so. As adopted, § 14.4(g) requires a statement explaining use of the shortened period, rather than a "brief" statement, as was initially proposed.

29. Several commenters suggested that the Department's procedures in § 14.5 for the development of rules not meeting the criteria for significance should provide for a minimum comment period on such rules of longer than 30 days. The Department has not adopted this suggestion. The rules covered by § 14.5 will have been determined not to warrant development through the procedures for "significant" rules and will tend to be less complex and have a smaller potential impact. Further, the 30 day comment period provided in § 14.5(b)(3) is a minimum period; a longer comment period may be afforded when necessary.

30. One commenter suggested that § 14.5(c)(4) be modified to extend the minimum effective date for interpretative rules and general statements of policy adopted under the procedures for nonsignificant rules from 30 to 60 days after publication in the FEDERAL REGISTER. This suggestion has not been adopted. A mandatory 60 day waiting period would inhibit the prompt development of needed interpretations and policy statements.

31. One commenter recommended that § 14.5(c)(5) be modified to make codification of interpretative rules and general statements of policy in the Code of Federal Regulations mandatory. This recommendation has not been adopted. Some issuances falling in these categories are of short term interest only and do not merit codification.

32. Two commenters suggested that § 14.6 include a time period for acting on petitions for rulemaking. The Department has not adopted this suggestion. Although a time limit might be desirable, the Department has decided that establishing a time limit is not feasible because the length of time necessary to act on a petition will vary considerably depending on the complexity of the issue raised and the extent of public involvement which is solicited.

33. One commenter recommended adoption of several procedural provisions to govern submission and review of petitions for rulemaking. The Department has not adopted this suggestion. Section 14.6 is in substance a recodification of present 43 CFR 14.1, which has performed adequately in the past. Should the number of petitions increase in the future, the Department would consider adopting further procedural provisions in this area.

34. One commenter suggested that § 14.7 provide for review of existing rules by an outside body, rather than by Department personnel. The Department has not adopted this suggestion. Review of existing rules involves consideration of a number of factors which can best be evaluated by the responsible agency officials. The Department does view public participation in review of regulations as important, however. Under § 14.7(c), both as proposed and adopted, a key factor to be considered by reviewing officials will be the type and number of complaints and suggestions received concerning a rule.

35. One commenter suggested that one criterion for review of existing rules under § 14.7 be the need to eliminate sex-based criteria and terminology. The Department has adopted this suggestion.

36. One commenter suggested that the Department's semiannual agenda include the mailing address of the official knowledgeable concerning each rule listed. A second commenter suggested that the agenda include the expected date on which a proposed rule will be issued. Both suggestions have been adopted.

37. One commenter suggested that the Department develop a set of objective criteria to determine the need for rules. The Department has not attempted this effort. It is hoped, however, that the procedures implementing E.O. 12044 will force a close examination of the need for new rules, as well as the need to continue existing rules.

38. One commenter suggested that all Department of the Interior proposed regulations be assigned an identification number. The Department has not included this requirement in its E.O. 12044 procedures, but will consider administrative adoption of this suggestion.

In addition to the changes described above made in response to comments, the Department has made a small number of modifications in its proposal based on its own review of the proposal. Most of these changes are changes in grammar or technical changes and none affects the overall structure of the proposal. Principal changes are the following:

1. Section 14.3(d)(3)(i) contained a typographical error which changed the meaning of the section. As published, the section stated that "economic effects", for purposes of the Department's procedures, does include measures of consumers' willingness to pay for which monetary values would have to be imputed. As the Department's narrative published with the proposed procedures indicated, the section should have said that "economic effects" does not include such measures. This error has been corrected.

2. Sections 14.4(c)(3), 14.4(g)(3) and 14.5(b)(4) have been revised to make clear that sending of press releases to newspapers of general circulation should be considered as a public involvement technique.

3. A new § 14.1(c)(2) has been added to deal with the applicability of the Department's procedures to rules under development on the effective date of the procedures. The procedures will apply to such rules, but it will not be necessary to return to the beginning of the development process to accommodate the new requirements of the procedures. If, for example, a proposed rule has been issued for a new significant rule, it will not be necessary to withdraw the proposal and issue a notice of intent to propose rulemaking. Rather, it will only be necessary to complete the remaining steps in the significant rules development process.

DRAFTING INFORMATION

The principal authors of the Department procedures were: Vivian Keado and Lois Paull, Office of Administrative Services, John Trezise, Office of the Solicitor and Austin Burke, Office of Policy Analysis.

Under the authority of Executive Order 12044, a revised 43 CFR Part 14 is hereby adopted. The text of the revised Part 14 is set out below.

CECIL D. ANDRUS,
Secretary of the Interior.

SEPTEMBER 14, 1978.

PART 14—RULEMAKING

Sec
14.1 Purpose and scope.

Sec.
14.2 Definitions.
14.3 Determination of significance.
14.4 Development of significant rules.
14.5 Development of other rules.
14.6 Petitions for rulemaking.
14.7 Review of rules.
14.8 Semiannual agenda.

AUTHORITY: 5 U.S.C. 301, 551, 552, 553, 556, 557, E.O. 12044, March 23, 1978.

§ 14.1 Purpose and scope.

(a) *Purpose.* This part contains the policies and procedures of the Department of the Interior for adoption of rules. These policies and procedures incorporate the requirements of the Administrative Procedure Act and Executive Order 12044 (March 23, 1978) ("Improving Government Regulations").

(b) *Scope.* The principal sections of this part deal with procedures for develpment of "significant" rules and preparation of regulatory analyses (§ 14.4); procedures for devlopment of other rules (§ 14.5); the method by which members of the public may petition for rulemaking (§ 14.6); and procedures for periodic review of existing rules (§ 14.7).

(c) *Exceptions.* (1) The policies and procedures of this part do not apply to: (i) Rules which are required by statute to be made on the record after an opportunity for a formal hearing under the procedures for such hearings contained in 5 U.S.C. 556 and 557; (ii) rules involving a foreign or military affairs function of the United States; and (iii) rules related to agency management or personnel.

(2) The procedures of this part are applicable to all rules developed after the effective date of the part. It is also applicable to rules in development on the effective date of the part, except that, if a step in the development process (such as issuance of a notice of proposed rulemaking) has been completed, this part does not require that this or earlier steps be repeated or taken.

§ 14.2 Definitions.

(a) *Secretary.* "Secretary" means the Secretary of the Interior.

(b) *Secretarial Officer.* "Secretarial Officers" are the Under Secretary, the Solicitor and the Assistant Secretaries.

(c) *Bureau.* "Bureau" refers to all bureaus and offices of the Department of the Interior, including the Office of the Secretary and the Other Departmental offices.

(d) *Lead Official.* "Lead official" means the official assigned responsibility for developing a rule. The designation of a lead offical is the intial responsibility of the bureau developing the rule, but may be reviewed by the Secretarial Officer having jurisdiction over the bureau.

(e) *Rule.* "Rule" means a statement of general or particular applicability and future effect which implements, interprets or prescribes law or policy or describes the organization, procedure or practice requirements of the Department. (5 U.S.C. 551(4).)

§ 14.3 Determination of significance.

(a) *Initial determination.* (1) Before developing a new rule or an amendment to an existing rule, the lead official must determine whether the rule or amendment will be a significant rule. This determination must be in writing, state whether or not the rule is significant and briefly describe the basis of the determination.

(2) The decision on whether a regulatory analysis of the economic consequences of a rule is required should ordinarily be made at the same time as the determination of significance. In some cases, the need to collect additional economic information may necessitate postponement of the decision. In these cases, a decision on preparation of a regulatory analysis should be made no later than the beginning of the drafting of the proposed rule.

(b) *Approval.* Both the determination of whether or not a rule is significant and the decision on preparation of a regulatory analysis must be approved by the Secretarial Officer having jurisdiction over the program to which the rule relates. Secretarial Officers may, however, delegate approval responsibility for particular types or classes of rules to bureau heads. Bureau heads may not redelegate this approval authority.

(c) *Criteria for significance.* A rule is "significant" if it falls within one or more of the following categories:

(1) Rules which have a major and nation or regionwide impact on state or local governments. Factors to be considered in determining whether the impact of a rule will be major include its effect on: (i) Interstate relations; (ii) relations between state and local governments; (iii) internal organization of state and local goverments; (iv) personnel practices of state and local governments; (v) planning and fiscal activities of state and local governments; (vi) the role and functions of heads of state and local governments; and (vii) eligibility criteria for Federal financial assistance.

(2) Rules which impose major new recordkeeping or reporting requirements on individuals, businesses, organizations or state or local governments. Factors to be considered in determining whether reporting or recordkeeping requirements will be major include: (i) The number of persons, businesses, organizations or state or local governments covered; (ii) the number and difficulty of items to be reported on or recorded; (iii) the frequency of reporting or recording; and (iv) costs involved in the reporting or recording.

(3) Rules which both involve a potential conflict between environmental and other considerations and constitute a major Federal action for which an environmental impact statement is required by section 102(2)(c) of the National Environmental Policy Act of 1969. (42 U.S.C. 4332(2)(c).)

(4) Rules which will have a major impact on other programs of the Department, other Federal agencies or the allocation of Federal funds.

(5) Rules which are likely to have a substantial economic effect on the entire economy or on an individual region, industry or level of government.

(d) *Criteria for regulatory analysis.* (1) A regulatory analysis of the economic consequences of a rule will be prepared if the rule is within category (5) of the criteria for significance and (i) the rule will have an annual economic effect of $100 million or more, or (ii) even though the economic effect of the rule will be less than $100 million, the potential economic effect of the rule on the economy or an individual region, industry or level of government is sufficiently major as to require formal analysis to assure that the objectives of the rule are achieved with minimum burden.

(2)(i) In determining whether a regulatory analysis should be prepared for rules which will have an economic effect of less than $100 million, close attention should be given to such factors as: (A) The present average level of real income of the region which may be affected and the potential change in average income for the region as a result of the rules; (B) the present cost of doing business of an industry and the potential effect of the rules on the cost; (C) the present cost of operating a level of government or a particular governmental program and the potential effect of the rules on that cost; and (D) the estimated likelihood that the acceptable alternative which would impose the minimum economic burden would not be clearly chosen without formal regulatory analysis.

(ii) No specific quantitative levels or percentages are established for examining rules which will have an ecomomic effect of less than $100 million because the relative effect of such rules may be minor for some regions, industries or levels of government, but major or critical for others. Thus each case needs to be examined individually. For example, a particular method of regulation might cause a very small increase in the cost of doing business for an industry. If, however, there are a number of firms in that industry which are marginal, a small increase in

costs could drive these firms out of business. In such a case, a regulatory analysis should be prepared if the least burdensome method of regulation is not obvious without formal analysis.

(3)(i) "Economic effects" means changes in the use of resources which, in principle, would affect national income and which can be valued in dollar terms. For purposes of determining the necessity for regulatory analysis, economic effects does not include measures of consumers' willingness to pay in cases when monetary values would have to be imputed. If a regulatory analysis is determined to be necessary however, measurement of consumers' willingness to pay which would have to be imputed, would be measured or estimated when such datum was of significance to the regulatory decision at hand, and such measurement was practical.

(ii) A "region" is a geographic area ordinarily covering more than one state, although for some rules a narrower interpretation may be appropriate. For example, a particular proposed rule might affect only one state; but the area affected could be as large, or the impact as great, as other rules significantly affecting a region comprising more than one state. Under such a circumstance, the same consideration for determining the need for regulatory analysis should be given as if the region comprised more than one state.

(iii) An "industry" is defined to correspond to a 4-digit industry within the Standard Industrial Classification System established by the Office of Management and Budget (OMB, *Standard Industrial Classification Manual* (1972)).

(e) *Discretionary use of procedures for significance and regulatory analysis.* The Secretary or the Secretarial Officer having jurisdiction over the program to which a rule relates may require that the rule be developed through the procedures for development of significant rules or that a regulatory analysis be prepared, or both, even though the rule does not meet the criteria for significance or preparation of a regulatory analysis.

(f) *Exceptions.* The Secretary or the Secretarial Officer having jurisdiction over the program to which a rule relates may except from the procedures for development of significant rules and preparation of regulatory analyses rules (1) issued in response to an emergency or which are governed by short-term statutory or judicial deadlines, or (2) which relate to Federal Government procurement. The Supplementary Information section of FEDERAL REGISTER documents for rules for which such exceptions are made will contain an explanation of why it is impractical or contrary to the public interest for the Department to follow the procedures for development of significant rules.

(g) *Statement of significance.* All final and proposed rulemaking documents and notices of intent to propose rules published in the FEDERAL REGISTER will state in the Supplementary Information section whether or not the rule is a significant rule. For rules determined to be significant, they will also state whether a regulatory analysis is required.

§ 14.4 Development of significant rules.

(a) *Scope.* This section outlines the procedures for developing significant rules, including procedures to involve the public in the development process.

(b) *Work Plan.* (1) When a rule has been determined to be significant, the lead official will promptly prepare a work plan for review and approval by the Secretary.

(2) The work plan will state the need for development of the rule, the principal issues and alternative approaches to be considered, a tentative plan for public involvement, and target dates for completion of steps in its development. The plan will also state whether or not a regulatory analysis will be prepared or, if this determination has not been made, the process by which the determination will be made.

(3) The plan will be submitted to the Secretary through the Secretarial Officer having jurisdiction over the program to which the rule relates and the Assistant Secretary—Policy, Budget and Administration. The Assistant Secretary—Policy, Budget and Administration must review and approve the decision on whether a regulatory analysis is necessary during the review of the work plan.

(4) After review of the plan, the Secretary will approve or disapprove the plan. The Secretary's approval may be conditioned on modifications in the plan.

(5) When the Secretary approves a work plan, he will indicate whether he wishes to approve the rule before it is published in the FEDERAL REGISTER as a proposed and final rule or whether the approval authority may be exercised by the Secretarial Officer having jurisdiction over the program to which the rule relates.

(c) *Early public involvement.* (1) Before a proposed significant rule is drafted, a notice of intent to propose rulemaking will be published in the FEDERAL REGISTER. The notice of intent may be omitted, however, if time constraints require immediate preparation of a proposed rule or if there has been a recent previous opportunity for comment by the general public on the issues to be addressed in the proposed rule.

(2) A notice of intent will state the need for, the subject matter of and key issues presented by the anticipated rulemaking, and will advise the public where additional information may be obtained and where comments should be sent. If a regulatory analysis is to be prepared, the notice should invite comment on the economic consequences of alternative regulatory approaches. If no decision on a regulatory analysis has been made, the notice of intent should invite comment on whether the potential economic consequences of the rule require preparation of a regulatory analysis.

(3) When a notice of intent to propose rulemaking is to be published, consideration will be given to taking additional actions to assure meaningful public participation in the rulemaking process. These additional actions may include, but are not limited to: (i) Holding open conferences or public hearings; (ii) sending press releases to newspapers of general circulation and other publications likely to be read by those affected; (iii) directly notifying interested parties, including state and local governments; and (iv) taking out paid advertisements in publications likely to be read by those affected.

(d) *Regulatory analysis.* (1) If a regulatory analysis is required, the draft regulatory analysis will ordinarily be prepared after the receipt of public comments in response to the notice of intent to propose rulemaking (if one is published), but before or during the process of drafting the proposed rule. The final regulatory analysis will be prepared after the comment period on the proposed rules and draft regulatory analysis. The lead official will be responsible for assuring that the preparation of the draft and final regulatory analyses is integrated with the preparation of the proposed and final rules.

(2) The regulatory analysis will contain: (i) A succinct statement of the problem being addressed and objectives of the rule; (ii) a description of the major alternative ways of achieving the objectives that were considered by the bureau; (iii) an analysis of the economic consequences of each of the alternatives; and (iv) a detailed explanation of the reasons for choosing one alternative over the others.

(e) *Preparation of proposed and final significant rules.* (1) In supervising the preparation of proposed and final rules, the lead official is responsible for assuring at a minimum that: (i) The direct and indirect effects of the rule are adequately considered; (ii) alternative approaches are considered and the least burdensome of acceptable alternatives is chosen; (iii) public comments are considered and that the final rulemaking document states the

reason for accepting or rejecting these comments or groups of comments; (iv) the rule is written in clear English and will be understandable to those who must comply with it; and (v) new reporting or recordkeeping burdens which may result from the rule are considered and conform to the requirements of the Federal Reports Act.

(2) When the final rule is prepared, the lead official is also responsible for developing a plan for evaluating the rule after its issuance. The plan should take into account the review cycle for review of rules in § 14.7.

(f) *Approval of proposed significant rules.* Notices of proposed significant rulemaking will be approved by the Secretary or, if the Secretary has so authorized, by the Secretarial Officer having jurisdiction over the program to which the rule relates. Prior to submission for approval, notices of proposed rulemaking will be reviewed by the Assistant Secretary—Policy, Budget and Administration and the Solicitor.

(g) *Publication of proposed significant rules.* (1) The public will be given a minimum of 60 calendar days after the date of publication in the FEDERAL REGISTER to comment on proposed significant rules. A shorter period may be used only in special cases requiring more timely action. In such cases, the notice of proposed rulemaking will contain a statement of the reason for the shorter period.

(2) A notice of proposed rulemaking will contain a statement of the alternative approaches considered in drafting the proposed rule and explanation of the basis for selection of the alternative incorporated in the proposal. If a draft regulatory analysis has been prepared, the notice of proposed rulemaking will state how copies may be obtained and will ask for comments on the analysis.

(3) To assure meaningful public comment on a proposed rule, consideration will be given to supplementing the FEDERAL REGISTER notice by taking additional actions. These additional actions may include, but are not limited to: (i) Open conferences and public hearings; (ii) sending press releases to newspapers of general circulation and other publications likely to be read by those affected; (iii) directly notifying interested parties, including state and local governments; and (iv) taking out paid advertisements in publications likely to be read by those affected.

(h) *Approval of final significant rules.* (1) Final significant rules will be approved by the Secretary or, if the Secretary has so authorized, by the Secretarial Officer having jurisdiction over the program to which the rule relates. Prior to submission for this approval, final rules will be reviewed by the Assistant Secretary—Policy, Budget and Administration and the Solicitor.

(2) Before approving a final significant rule, the Secretary or Secretarial Officer should determine that: (i) The rule is needed; (ii) the direct and indirect effects of the rule have been adequately considered; (iii) alternative approaches have been considered and the least burdensom of the acceptable alternatives has been chosen; (iv) public comments have been considered and an adequate discussion of the comments is contained in the rulemaking document; (v) the rule is written in clear English and can be understood by those who must comply with it; (vi) an estimate has been made of the new reporting burdens or recordkeeping requirements necessary for compliance with the rule; (vii) the name, address and telephone number of a knowledgeable agency official is included in the document; (viii) the name of the principal author of the rule is included in the document; (ix) a plan has been developed for evaluating the rule after its issuance; and (x) the final regulatory analysis, if one has been prepared, adequately considers the economic consequences of the final rule.

(3) To assist the Secretary or Secretarial Officer in reviewing final significant rules, each rule must be accompanied by a memorandum: (i) Addressing each of the items listed above; (ii) analyzing the views of public, citizens groups, user groups and elected officials; and (iii) summarizing the anticipated impact of the rule. A copy of the regulatory analysis will be attached to this memorandum.

(i) *Publication of final significant rules.* (1) The Supplementary Information section of a rulemaking document must contain a concise statement of the basis and purpose of the rule and must also discuss the reasons for accepting or rejecting all relevant and significant comments or groups of comments on the proposed rule.

(2) The rulemaking document must include a clear statement of the date on which the rule will take effect. This date will be a minimum of 30 calendar days after the date of publication in the FEDERAL REGISTER unless (i) the rule grants or recognizes an exemption or relieves a restriction or (ii) other good cause for a shorter delay of the effective date exists. If a rule is to become effective less than 30 days from the date of publication, the reason for the earlier date will be explained in the Supplementary Information Section.

(3) If a final regulatory analysis was prepared, the document will state where copies may be obtained.

§ 14.5 Development of other rules.

(a) *Scope.* Although a rule does not meet the criteria for significance, public participation in its development will often be helpful. This section contains supplementary Department of the Interior policies for public participation in the development of rules not meeting the criteria for significance.

(b) *Legislative Rules*—(1) *Definition.* "Legislative rules" are rules, other than rules of agency organization, procedure or practice, which are issued under statutory authority and which implement the statute.

(2) *Notice of intent to propose rules.* (i) If proposed legislative rules are likely to be complex or controversial or to reflect major changes in existing rules, an opportunity for public comment before the publication of a notice of proposed rulemaking may be helpful in drafting the proposed rules. Before drafting such proposed legislative rules, the lead official should consider whether publication in the FEDERAL REGISTER of a notice of intent to propose rulemaking will be beneficial in the drafting process.

(ii) A notice of intent will state the need for the rule, the subject matter of and the key issues presented by the anticipated rulemaking, and will advise the public where additional information may be obtained and where comments may be sent.

(3) *Proposed rulemaking*—(i) *Administrative Procedure Act Requirement.* Section 4 of the Administrative Procedure Act, requires that the public be allowed an opportunity to comment on proposed legislative rules before final adoption. (5 U.S.C. 553). This requirement for comment does not apply to rules which deal with public property, loans, grants, benefits or contracts. (5 U.S.C. 553(a).) Further, the requirement for comment, if otherwise applicable, may be waived if it is found, for good cause, that notice of and public comment on a proposed legislative rule are impracticable, unnecessary or contrary to the public interest. (5 U.S.C. 553(b)(B).)

(ii) *Department policy.* (A) It is the policy of the Department not to invoke the exception to notice and comment procedures for legislative rules relating to public property, loans, grants, benefits or contracts. When legislative rules fall in these categories, an opportunity for comment will be given unless notice and comment are determined to be impracticable, unnecessary or contrary to the public interest.

(B) Dispensing with the publication of a notice of proposed legislative rulemaking on the ground that notice and an opportunity for comment are impracticable, unnecessary or contrary to the public interest is not favored and should occur only in special cases,

such as emergencies or instances where a proposed amendment makes only minor technical changes in a rule.

(iii) *Statement of basis for omitting notice and comment.* When it is determined that a final legislative rule is to be adopted without prior publication of a notice of proposed rulemaking, a specific statement of the basis for the determination will be published with the rule.

(iv) *Period for comment.* No specific time period for comment is prescribed by the Administrative Procedure Act. Except where another statute requires a longer notice period, the public will be given a minimum of 30 calendar days to comment on legislative rules. A shorter period may be used only in special cases requiring more timely action. In such cases, the notice of proposed rulemaking will contain a statement of the reasons for the shorter period.

(4) *Assuring public participation.* When a notice of intent to propose a rule or a notice of proposed rulemaking is to be published, the lead official will consider taking additional actions to assure meaningful public participation in the rulemaking process. These additional actions may include, but are not limited to: (i) Holding open conferences or public hearings; (ii) sending press releases to newspapers of general circulation and other publications likely to be read by those affected; (iii) directly notifying interested parties, including state and local governments; and (iv) taking out paid advertisements in publications likely to be read by those affected.

(5) *Final rulemaking documents.* (i) The Supplementary Information section of the rulemaking document for all final legislative rules must contain a concise statement of the basis and purpose for the rule and must also discuss all relevant and significant comments on the proposed rule.

(ii) The rulemaking document must include a clear statement of the date on which the rule is to take effect. This date will be a minimum of 30 calendar days after the date of publication in the FEDERAL REGISTER unless: (A) The rule grants or recognizes an exemption or relieves a restriction or (B) other good cause for a shorter delay of the effective date exists. If a rule is to become effective less than 30 days from the date of publication, the reason for the earlier date will be explained in the Supplementary Information section.

(c) *Interpretative rules and general statements of policy*—(1) *Definitions.* (i) "Interpretative rules" are rules issued by the Department to advise the public of the Department's interpretation of the statutes and rules which it administers.

(ii) "General Statements of Policy" are statements issued by the Department to advise the public prospectively of the manner in which the Department proposes to administer a discretionary power.

(2) *Public participation.* The Administrative Procedure Act does not require public participation in the development of interpretative rules and general statements of policy. The lead official should, however, consider whether public participation in the development process will be beneficial. Factors which should be considered in making this decision include the impact of the rule or policy on the public or on state and local governments; the complexity and pervasiveness of the rule or policy; the degree to which the rule or policy will modify existing interpretations or policies; and the confusion or controversy likely to be caused by practical difficulties of compliance with a new rule or policy.

(3) *Procedures for public participation.* When it is determined that there should be an opportunity for public participation in the development of an interpretative rule or general statement of policy, the notice and comment rulemaking procedures of 5 U.S.C. 553(b) and (c) and the procedures for development of legislative rules in §§ 14.5(b)(3)(iv) and 14.5(b)(4) will be used.

(4) *Effective Date.* Final interpretative rules and general statements of policy may be made effective on the date of publication in the FEDERAL REGISTER. Except in emergency situations, consideration should, however, be given to delaying the effective date for 30 calendar days from the date of publication if (i) the adoption of the rules or statement was not preceded by an opportunity for comment or (ii) the rule of statement substantially modifies an earlier interpretation or policy on which members of the public or state or local governments have relied.

(5) *Codification.* Interpretative rules and general statements of policy should be codified in the Code of Federal Regulations if they have a substantial impact on, or are of continuing interest to, the public or state or local governments.

(d) *Rules of Agency organization, procedures and practices*—(1) *Definition.* "Rules of organization, procedure and practice" are: (i) Descriptions of the Department's central and field organization and the methods by which the public may obtain information, make submittals or requests, or obtain decisions; (ii) statements of the general course and method by which the Department's functions are channeled and determined, including the nature and requirements of all formal and informal procedures available; and (iii) rules of procedures, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports or examinations.

(2) *Public participation.* The Administrative Procedure Act does not require public participation in the development of rules of agency organization, procedure and practice. The lead official should, however, consider whether initial publication of a proposed rule in the FEDERAL REGISTER will contribute to the process of developing the rule.

(3) *Procedures for Public Participation.* When it is determined that there should be an opportunity for public comment on a proposed rule of organization, procedure or practice, the notice and comment rulemaking procedures of 5 U.S.C. 553(b) and (c) and the procedures for development of legislative rules in § 14.5(b)(3)(iv) will be used.

(4) *Effective Date.* Final rules of organization, procedure and practice may be made effective on the date of publication in the FEDERAL REGISTER. Except in emergency situations, consideration should, however, be given to delaying the effective date for 30 calendar days from the date of publication (i) if the adoption of the rule or statement was not preceded by an opportunity for comment or (ii) if the rule substantially modifies an earlier procedure or practice.

§ 14.6 Petitions for Rulemaking.

(a) *Scope.* This section prescribes procedures for the filing and consideration of petitions for rulemaking.

(b) *Filing or Petitions.* Under the Administrative Procedure Act, any person may petition for the issuance, amendment, or repeal of a rule. (5 U.S.C. 553(e).) The petition will be addressed to the Secretary of the Interior, U.S. Department of the Interior, Washington, D.C. 20240. It will identify the rule requested to be repealed or provide the text of a proposd rule or amendment and include reasons in support of the petition.

(c) *Consideration of Petitions.* The petition will be given prompt consideration and the petitioner will be notified promptly of action taken.

(d) *Publication of Petitions.* A petition for rulemaking may be published in the FEDERAL REGISTER if the official responsible for acting on the petition determines that public comment may aid in consideration of the petition.

§ 14.7 Review of Rules.

(a) *Scope.* This section establishes procedures for periodic review of existing rules to assure that they are needed, up-to-date and clear.

(b) *Responsibility.* Each bureau is responsible for reviewing existing rules which relate to programs which it administers. Secretarial Officers are responsible for assuring that bureau reviews are conducted and must approve the results of the reviews.

(c) *Review Criteria.* In reviewing an existing rule, bureaus must consider: (1) The continued need for the rule; (2) the type and number of complaints or suggestions received concerning the rule; (3) whether the rule can be simplified or clarified; (4) the need to eliminate overlapping and duplicative rules; (5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions or other factors have changed in the area affected by the rule; (6) the administrative and reporting burden which the rule imposes on the public; and (7) the need to eliminate sex-based criteria and gender-specific terminology.

(d) *Review Cycle.* Rules will be reviewed at no less than five year intervals. More frequent reviews or special reviews of selected rules may be established by a bureau, the Secretary, or a Secretarial Officer.

(e) *Revision of Rules.* If review of a rule indicates a need for repeal or revision, the procedures for development of significant rules (§ 14.4) or for development of other rules (§ 14.5) will be used as appropriate.

§ 14.8 Semiannual Agenda.

(a) *Scope.* E.O. 12044 requires publication of a semiannual agenda of those rules selected for review and development during the subsequent six month period. This section contains procedures for implementing this requirement.

(b) *Publication and Content of Agendas.* (1) The Department will publish a semiannual agenda in January and July of each year.

(2) The agendas: (i) Will list all new or existing significant rules planned for development or revision; (ii) will list all rules scheduled for review under the five-year cycle; and (iii) should include any new rules planned for development which do not meet the criteria for significance.

(3) The agenda will include: (i) The need and legal basis for each action under consideration; (ii) the name, telephone number and address of the knowledgeable official for each action; (iii) whether or not a regulatory analysis will be required; (iv) the expected date of revision, if known; and (v) the status of those rules previously listed.

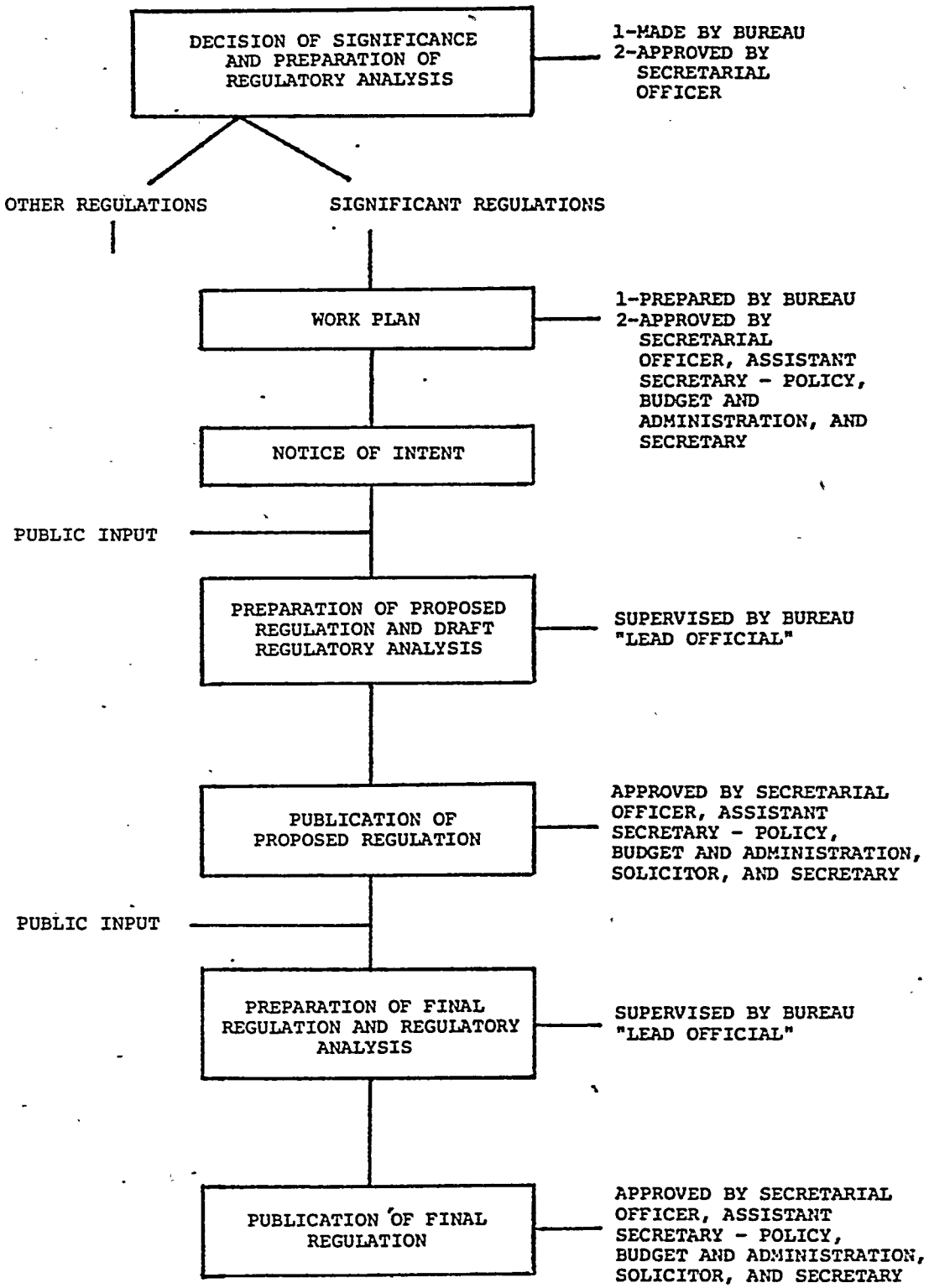
(c) *Approval.* (1) Each bureau will submit its semiannual agenda to the Assistant Secretary—Policy, Budget and Administration through the Secretarial Officer having jurisdiction over the bureau. These agendas should be received by the Assistant Secretary—Policy, Budget and Administration no later than June 15 and December 15 of each year.

(2) The Department's semiannual agenda must be approved by the Secretary prior to publication in the FEDERAL REGISTER.

[4310-10-C]

APPENDIX A

PROCESS FOR DEVELOPING SIGNIFICANT REGULATIONS



[FR Doc. 78-34587 Filed 12-12-78; 8:45 am]

federal register

WEDNESDAY, DECEMBER 13, 1978
PART III

INTERSTATE COMMERCE COMMISSION

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RAIL GENERAL EXEMPTION AUTHORITIES

Proposed Exemptions

[7835-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 346 (Sub-No. 1]

RAIL GENERAL EXEMPTION AUTHORITY—FRESH FRUITS AND VEGETABLES

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: The Commission proposes to exempt the transportation of fresh fruits and vegetables by rail from the provisions of the Interstate Commerce Act, except that carriers must contunue to comply with the Commission's accounting and reporting requirements and shall include in their annual report a brief statement of operations under this exemption authority. Carriers would also be required to submit to the Commission a copy of rate quotations made under this exemption, concurrently with the issuance of the quotation.

DATES: Comments by parties to this proceeding and interested persons must be filed with the Secretary of the Commission on or before January 29, 1979.

ADDRESSES: An original and 10 copies, if possible, of each submission should be forwarded to: Secretary Interstate Commerce Commission, Washington, D.C. 20423

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, Office of Proceedings/Section of Rates, Washington, D.C. 20423, 202-275-7693 or 275-7656.

SUPPLEMENTARY INFORMATION: In the Advance Notice of Proposed Rulemaking in Ex Parte No. 346, *Rail General Exemption Authority,* served May 31, 1978, we noted that the railroad industry's share of the available agricultural commodity traffic, and especially its share of the available fresh fruit and vegetable traffic, has been steadily declining for many years. We speculated that an exemption from economic regulation, as proposed by the Southern Pacific and several affiliated railroads (SP), could be a step toward reversing the steady trend of declining railroad participation in this traffic.

Evidence received in response to Issue 6 of the Advance Notice concerning the desirability of exempting some or all unmanufactured agricultural commodities from economic regulation, confirms that an exemption under section 10505 of Title 49 is warranted in the case of fresh fruits and vegetables. The railroads' share of the available fresh fruit and vegetable market is limited in scope as evidenced by data submitted by parties from published USDA sources [1] and from a study prepared by Manalytics, Inc., and Reebie Associates for the Department of Transportation and the National Bureau of Standards, entitled *A Long Term Study of Procedure Transportation.*[2] Given the minimal participation by railroads in this traffic, it is apparent that, for this reason, regulation is not necessary to effectuate the national transportation policy and would serve little useful public purpose. Furthermore, the fact that the railroads' chief competitors for this traffic, motor carriers, are exempt from the provisions of Subtitle IV of Title 49, while the railroads remain regulated, is a present inequity which constitutes an undue burden on rail carriers by reason of the limited scope of the rail transportation of fresh fruits and vegetables. While this inequity exists with regard to all agricultural commodities which are exempt from regulation for other modes but not for the railroads, the record does not support the requisite statutory findings for an exemption with respect to other unmanufactured agricultural commodities. Strong opposition to a rail exemption for the transportation of grain and grain products was presented by the parties. The railroads' share of this particular market is extensive and in many cases rail is the dominant mode of tranportation. Rail participation in the transportation of this particular commodity does not appear to be "limited in scope." In the case of the transportation of other agricultural commodities exempt by motor, as listed in Administrative Ruling No. 119, evidence was not presented in each instance to warrant a full extension of this exemption to railroads. Therefore, the requested exemption by the SP will be limited to the movement of fresh fruits and vegetables, as listed below by appropriate STCC code numbers. Exemptions for other unmanufactured agricultural commodities not covered by this list may be sought on the basis of individual petitions which detail the railroads' share of the particular market in each case.

The fresh fruit and vegetable exemption will be nationwide and will cover all common carrier obligations. Also, there will be no limitation on the duration of the exemption. These conditions will allow the carriers maximum flexibility to implement innovative approaches. At the same time, the provision in the statute allowing for revocation of the exemption will insure timely intervention by the Commission in the event of rail abuses of this exemption. The railroads will be required to continue to comply with the Commission's accounting and reporting requirements and each carrier shall include a brief statement in their annual report to the Commission discussing the results of the operations performed under this exemption. In addition the railroads will be required to submit to the Commission for information purposes only a copy of rate quotations made under this exemption on a regular basis with the issuance of the quotation as they now do rate quotations for government traffic.

Since this exemption covers essentially all common carrier obligations except as noted above, a word should be said on the effect of the proposed exemption on *Need for Defining Reasonable Dispatch,* 355 I.C.C. 162 (1977), *modifying,* 351 I.C.C. 812 (1976). We there adopted regulations establishing performance standards governing all railroad shipments of perishable commodities. In addition, the railroads were directed to publish in tariffs their operating schedules for perishable commodities between key producing and consuming points throughout the country. Such operating schedules have been filed with the Commission and are currently under investigation.

In that case we stated that absent adequate facilities or schedule coordination, any significant increase in the rail share of the perishable market appears unlikely."[3] In the specific circumstances of this exemption case, we believe that exemption this particular traffic is consistent with the goal we sought to reach in *Reasonable Dispatch:* Timely transportation of perishable commodities. As we noted in *Reasonable Dispatch,* [t]he railroads' own pecuniary interest should provide the incentive to publish such schedules and thereby effectively compete with motor carriers for perishable commodity traffic."[4] If the railroads do not adhere to expedited schedules for the transportation of fresh fruits and vegetables, we fail to see how they will effectively compete for this traffic. It is therefore in their interest to maintain such schedules even in the absence of economic regulation. It should be noted that the requirements of the *Reasonable Dispatch* case and the resulting regulations are still applicable to other perishable commod-

[1] The Secretary of Agriculture estimates that approximately 90 percent of the fresh fruit and vegetable traffic moves by exempt trucks. Similarly, the Rail Public Counsel concludes that in 84.1 percent of more than 2,000 cases analyzed from USDA data, the railroad share of the national transportation market for fresh fruits and vegetables is less than 10 percent.

[2] Although not part of the record, a number of the parties have referred to, and relied upon, the cited study.

[3] 355 I.C.C. at 175-176.

[4] 355 I.C.C. at 176.

ities (as defined in the regulations) not covered by this exemption. We will however, accept comments in Ex Parte No. 284 on whether the reasonable dispatch regulations should be further modified in view of this decision. The case is pending on review. Accordingly, reopening or modification will require permission from the U.S. Court of Appeals for the District of Columbia Circuit.

Parties or other persons interested in submitting comments should focus on the particular exemption set out in this Notice. Circumstances which are believed to require that we retain certain aspects of regulation should be brought to the Commission's attention. Comments are particulary requested as to whether rate quotations made under the exemption should be filed with the Commission.

The categories of commodities which will be exempt under this Notice by STCC Number are:

STCC #01 2 Fresh Fruits or Tree Nuts

and

STCC #01 3 Fresh Vegetables

and shall embrace all articles assigned additional digits listed under these STCC numbers.

Dated: December 6, 1978, at Washington, D.C.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. Commissioner Stafford concurring. Commissioner Clapp absent and not participating.

H. G. HOMME, Jr.,
Secretary.

COMMISSIONER STAFFORD, Concurring:

I agree with the principle that fresh fruits and vegetables probably should be exempt from Commission regulation. In my opinion, however, the draft notice is unnecessarily conclusory in its tone. There is no reason to make it appear that our minds already are made up before public comment is received.

In addition, I believe the Commission would be better served by hearing oral argument than by receiving another round of written pleadings.

[FR Doc. 78-34589 Filed 12-12-78; 8:45 am]

[Ex Parte No. 346]

RAIL GENERAL EXEMPTION AUTHORITY

AGENCY: Interstate Commerce Commission.

ACTION: Notice to the parties and interested persons.

SUMMARY: After consideration of the comments received in response to the Advance Notice of Proposed Rulemaking, we find that adoption of regulations which set standards or procedures for implementing 49 U.S.C. § 10505 is not necessary at this time. The proposed exemption from regulation of rail transportation of unmanufactured agricultural commodities, as requested in a petition filed by the Southern Pacific will be handled separately in the following proceeding, docketed Ex Parte No. 346 (Sub-No. 1). (See the attached Notice of Proposed Exemption.)

SUPPLEMENTARY INFORMATION: In the Advance Notice of Proposed Rulemaking in this proceeding, served May 31, 1978, we contemplated the adoption of rules for implementing the provisions of the Commission's rail exemption authority under 49 U.S.C. § 10505.[1] This action was prompted by a petition filed by the Southern Pacific and several affiliated railroads (SP) to exempt from regulation the transportation by rail of unmanufactured agricultural commodities. Since this was the first petition filed under section 10505, there were certain basic questions which had to be resolved concerning the application of the statutory provisions, in addition to considering the effects of granting the SP's request. These questions were summarized in the seven issues set out in the Advance Notice.

After reviewing the 132 statements filed in response to the invitation to submit comments, we conclude that general regulations governing the application of section 10505 are not necessary at this time and might in fact inhibit initiative of petitioning parties under this section. The purpose of section 10505 is deregulation under specified circumstances. Promulgating additional regulations, not shown to be necessary on this record, is inconsistent with this basic objective.

Section 10505 provides the substantive and procedural requirements under which exemptions may be granted and revoked. Congress gave the Commission authority to grant exemptions where regulation is not necessary according to the standards it set out and to withdraw any exemption which no longer meets the statutory criteria and is necessary to achieve effective regulation. The findings which must be made in each instance act as safeguards to assure that areas which need to be regulated are not exempted and that ". . . the Commission will not act in such a manner as to contravene its Congressional mandate to regulate interstate commerce."[2] For example, there may be instances where the particular competitive circumstances are not sufficient to protect against the establishment of unreasonably high or unduly inflationary rate increases, unjust discrimination, undue preference or prejudice, absent regulatory protection for the benefit of shippers. An exemption under these circumstances would contravene the national transportation policy and would not be authorized by section 10505. Similarly, if such abuses develop after an exemption has been granted, this would be one justification for revoking the exemption.

The statute encourages innovation and experimentation. Congress has provided the framework in section 10505 to accomplish this goal. By further defining the statutory standards in regulations or formulationg a general policy with regared to the extent and duration of all grants of exemption we could unintentionally restrict the opportunity for innovative proposals. Since these issues bear directly on the substance of individual petitions, they will for the present be resolved on a case-by-case basis.

We agree with the many parties who suggest that our Rules of Practice are adequate to process petitions for exemption in accordance with the procedural requirements of section 10505. Also, a mandatory requirement that petitions contain certain specified information as a prerequisite to acceptance, does not appear in accordance with the statute. If the findings required under the statute cannot be made, then an exemption will not be granted. Furthermore, required information which may be relevant in one instance may not be in another. However, we suggest that the specific information set out under Issue 4 in the Advance Notice is the type of evidence which a petition might submit in order to establish that a proposal meets the tests under the statute. Information as to specific operations contemplated under the exemption, projected benefits to the petitioning railroad from the exemption, the industry-wide ramifications of granting the exemption, and the railroads' share of the market for the services sought to be exempted, would be particularly relevant. We do not suggest that this information will be either necessary or sufficient in every instance to gain an exemption under section 10505. Petitioners are encouraged to offer innovative proposals and provide evidence designed to show how the particular situation meets the statutory requirements.

One issue which was raised by some opponents of an agricultural exemption for railroads is the question of the significance of the words "limited scope" as used in section 10505. It is argued that this language is an overriding limitation on requests for exemption of services and transactions and indicates an intent on the part of Congress to restrict the application of

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[1] Formerly section 12(1)(b) of the Interstate Commerce Act.

[2] S. REP. NO. 94-499, 94th Cong., 1st Sess. 53 (1975), *reprinted in* [1976] U.S. CODE CONG. & AD. NEWS 67.

the exemption section to inconsequential areas of regulation. Cited in support of this position is the following language from the Senate Conference Report:

At the same time, the power to exempt from regulation in whole or in part will enable the Commission to commit its limited resources in areas where they are most needed, by enabling it to deregulate those areas which have no significant bearing on the overall regulator scheme.[3]

We do not believe that Congress intended to limit the exemption provision in the manner suggested. Rather we interpret the language "limited scope" as consistent with the other statutory tests. That is, to exempt particular services or transactions, we must find that regulation is not necessary to effectuate the national transportation policy, would be an undue burden on interstate and foreign commerce, and would serve little or no useful public purpose, by reason of the limited scope of such services or transactions. In most cases, it would be impossible to find that these conditions exist if the services or transactions were other than limited in scope. Certainly this language does not summarily preclude an exemption of unmanufactured agricultural commodities. The House Report states the following:

This provision is also addressed to the present inequity of the Interstate Commerce Act which regulates certain commodities for the railroad, but exempts them for other modes. The Committee is particularly desirous that the Commission by its own action, thoroughly study and review this inequity and take the necessary steps to place the rail industry on equal footing in terms of competition.[4]

In the Advance Notice we stated that following the receipt of comments we may elect to separate the question of whether the transportation by rail of unmanufactured agricultural commodities should be exempted from economic regulation. Having determined that rules are not needed at this time, we will handle the requested agricultural exemption in the following proceeding, docketed Ex Parte No. 346 (Sub-No. 1).

Dated: December 6, 1978, at Washington, D.C.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. Commissioner Stafford concurring in the draft report. Commissioner Clapp absent and not participating.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34590 Filed 12-12-78; 8:45 am]

[3] *Id.*

[4] H.R. REP. NO. 94-725, 94th Cong., 1st Sess. 75 (1975). Note the statement in the Senate Conference Report that the conference substitute follows the House provision. . . ." S. CON. REP. NO. 94-595, 94th Cong., 2nd Sess. 153 (1976), *reprinted in* [1976] U.S. CODE CONG. & AD. NEWS. 168.

federal register

WEDNESDAY, DECEMBER 13, 1978
PART IV

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

PUBLIC TRANSPORTATION FOR NONURBANIZED AREAS

Emergency Regulation and Request for Comments

[4910-22-M]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER I—PUBLIC TRANSPORTATION

[FHWA Docket No. 78-40]

PART 825—PUBLIC TRANSPORTATION FOR NONURBANIZED AREAS

Emergency Regulation; Request for Comments

AGENCY: Federal Highway Administration (FHWA) and Urban Mass Transportation Administration (UMTA), Department of Transportation (DOT).

ACTION: Emergency regulation; request for comments.

SUMMARY: This emergency regulation establishes interim operating procedures to implement Section 313 of the Surface Transportation Assistance Act of 1978. This Section institutes a formula grant program offering Federal financial assistance for public transportation in rural and small urban areas.

DATES: This emergency regulation is effective December 13, 1978. Comments must be received on or before March 13, 1979.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 78-40, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Sheldon G. Strickland, Public Transportation Management Division, 202-426-0210, or Lee J. Burstyn, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration. Office hours for FHWA are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

Catherine A. Regan, Office of Transit Assistance, 202-426-2053, or Edward J. Gill, Office of Chief Counsel, 202-426-1909, Urban Mass Transportation Administration. Office hours for UMTA are from 8:30 a.m. to 5:00 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 313 of the Surface Transportation Assistance Act of 1978 amended the Urban Mass Transportation Act of 1964 by adding Section 18 entitled "Formula Grant Program for Areas Other than Urbanized." This program offers Federal financial assistance for public transportation in rural and small urban areas by way of a formula grant program to be administered by each State. Funds made available may be used for capital and operating assistance to State agencies, local public bodies, nonprofit organizations, and operators of public transportation services. Up to 15 percent of the State apportionment may be used for State administrative and technical assistance activities.

The purpose of this document is to set out interim operating procedures that must be followed by States applying for funds under the program.

These procedures are being issued as an emergency final rule. In the interim, more extensive procedures will be devised which will fully encompass the objectives and requirements of Section 313. Information, data, suggestions, and opinions from interested persons have been received and will be utilized in formulating the future regulations. It is expected that a Notice of Proposed Rulemaking covering these more expanded procedures will be issued in March or April of 1979. A docket has been established and comments on the interim procedures are welcomed. If it is determined that a comment raises a substantive question that requires the interim procedures to be amended prior to the issuance of final rules, the procedures will be amended. Comments received may be utilized in developing the Notice of Proposed Rulemaking.

The Federal Highway Administrator, Karl S. Bowers, and the Urban Mass Transportation Administrator, Richard S. Page, have determined that this emergency regulation is necessary and that it is in the public interest to immediately issue these regulations. This will assure the continuation of nonurbanized area public transportation programs without incurring an interruption in vital services currently being provided. Further, new programs can be implemented without delay.

Anyone wishing to submit written comments related to this regulation is advised to submit them to FHWA Docket No. 78-40.

NOTE.—The Federal Highway Administration and the Urban Mass Transportation Administration have determined that this document contains a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044. An evaluation of this regulation will be prepared and placed in the docket for public inspection.

Issued on: December 7, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

RICHARD S. PAGE,
Urban Mass Transportation Administrator.

In consideration of the foregoing, the Federal Highway Administration hereby amends Chapter I of Title 23, Code of Federal Regulations, by adding a new Part 825 to read as follows:

PART 825—PUBLIC TRANSPORTATION FOR NONURBANIZED AREAS

Sec.
825.1 Requirements.
Appendix A—Nonurbanized area public transportation program operating procedures.
Appendix B—State assurances.

AUTHORITY: 23 U.S.C. § 315; 49 U.S.C. §§ 1601 et seq., (§ 18 of the Urban Mass Transportation Act of 1964, as amended); 49 CFR 1.48(b) and 1.51(f).

§ 825.1 Requirements.

(a) Section 313 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95-599) amends the Urban Mass Transportation Act of 1964 by adding a new Section 18 which institutes a program offering Federal assistance for public transportation in rural and small urban areas by way of a formula grant program to be administered by each State.

(b) Each State that applies for funds under the program shall follow the operating procedures set out in Appendices A and B to this section.

APPENDIX A—NONURBANIZED AREA PUBLIC TRANSPORTATION PROGRAM OPERATING PROCEDURES

Section 313 of the Surface Transportation Assistance Act of 1978 amended the Urban Mass Transportation Act of 1964 by adding Section 18 entitled "Formula Grant Program For Areas Other Than Urbanized." The Section 18 program offers Federal assistance for public transportation in rural and small urban areas by way of a formula grant program to be administered by each State. The goals of this program are to enhance access of people in nonurbanized areas for purposes such as health care, shopping, education, recreation, public services, and employment by encouraging the maintenance, development, improvement, and use of passenger transportation systems.

The operating procedures that follow are designed to accelerate and simplify the delivery of Federal funds made available by this new program.

1. *General Provisions.*

a. The Governor of each State (including the Governors of Puerto Rico, American Samoa, Guam, Virgin Islands, the Northern Mariana Islands) shall designate an agency to receive and administer Federal funds under this program. It is strongly encouraged that where there exists a State trans-

portation agency with public transportation responsibility, that agency be the designee.

b. Upon notification of Section 18 fund apportionment, the State may apply immediately to the Federal Highway Administration (FHWA) Division Administrator for the obligation of up to 15 percent of available funds, for administering this program and for providing technical assistance to recipients of these funds. Such technical assistance may include project planning, program development, management development, coordination of public transportation programs (public and private), and such research as the State may deem appropriate to promote effective means of delivering public transportation service in nonurbanized areas. The Federal share for administration and technical assistance expenses shall be 100 percent. Eligible expenses are computed from the date of the Governor's designation.

c. States may receive approval of the request for administration and technical assistance funds (up to 15 percent of State's Section 18 allocation) by submitting Forms PR-2* and PR-37* to FHWA Division Administrator.

d. Eligible recipients may include State agencies, local public bodies and agencies thereof, nonprofit organizations, and operators of public transportation services in areas other than urbanized areas.

2. *Annual Program of Projects.*

a. The State shall submit for FHWA Division Administrator approval an annual program of projects which conforms to the instructions issued under 23 CFR 630 Subpart A (Federal Highway Program Manual* (FHPM) 6-3-2-2) for the annual program of highway projects. Each Section 18 project should be identified as a separate line item in the annual program submission.

b. At the State's option, the annual program may contain complete project applications, and the State may request FHWA Division Administrator approval of the annual program and authorization of funds for individual projects that contain the supporting information described in paragraph 3.

c. Amendments to the annual program may occur as needed and submitted to the FHWA Division Administrator for approval.

d. To show compliance with paragraph (b) of Section 18, the State's first annual program of projects submission shall also contain a brief description of/and rationale for the following:

(1) Method of distribution of funds within the State. It is not required that the distribution of funds during this interim period be strictly "fair and equitable." However, over the 4-year period of the legislation, a fair and equitable distribution within the State, including Indian reservations, must be achieved.

(2) Description of how the State designated agency will coodinate the implementation of this program with other appropriate State agencies, particularly social service agencies.

3. *Project Supporting Information.*

a. For each project submitted for FHWA Division Administrator approval, the "Assurances" (Appendix B) shall be executed and included. One executed "Assurances" may be submitted for more than one project, as long as the applicable project numbers are identified on the top of the page.

b. In addition, each project submitted shall contain the following:

(1) Brief project description, including type of public transportation service to be provided and/or assisted and the geographic area of service.

(2) Project coordination accomplished, including:

(a) Description of efforts to coordinate with other transportation providers in the service area, both public and private. A list of all providers must be included.

(b) Description of efforts to coordinate with social service agencies in service area, especially those agencies capable of purchasing service.

(c) Amount and sources of funds used to purchase and operate vehicles in the two previous years, if applicable, and description of efforts to maximize the integration of these funds with funds being applied for under the Section 18 program.

(3) Extent of public involvement in preparing the application as governed by Section 3(d)(1) of the Urban Mass Transportation Act of 1964, as amended, and 23 CFR 820.9(b)(2) (paragraph 6b(2) of FHPM 4-8-4). State "Action Plan" procedures could apply. See 3.c. below.

(4) Description of private enterprise involvement in preparing the application. See paragraph 4.

(5) OMB Circular A-95 clearance or disposition.

(6) Disposition of the labor protection provisions of Section 13(c) of the Urban Mass Transportation Act of 1964, as applicable.

(7) Description of Title VI, Civil Rights Act of 1964, 42 U.S.C. 2000d, and Minority Business Enterprise (MBE) activities. See paragraph 7.

(8) Environmental assessment in accord with 23 CFR 771 (FHPM 7-7-2). It is anticipated that the typical Section 18 project could be considered a "non-major action," and processed accordingly.

(9) Project budget, including sources of Federal, State, and local funds.

(10) Provisions for the elderly and handicapped. See paragraph 5.

(11) Disposition of 49 CFR 604 and 605 requirements relative to charter and school bus operations, as applicable. See paragraph 6.

c. If any of the above requirements are dealt with in accordance with FHWA approved State procedures, such as Environmental Action Plans 23 CFR 795 (FHPM 7-7-1) and Affirmative Action Plans 23 CFR 200 (Title VI, MBE, FHPM 2-1-2, etc.), then a reference to the approved procedure followed will be satisfactory project documentation.

d. Furthermore, if any of the above support information was previously submitted to FHWA or UMTA for a subsequently approved Section 3 (Urban Mass Transportation Act of 1964) UMTA project or Section 147 (Federal-Aid Highway Act of 1973, P.L. 93-87) FHWA project 23 CFR 820 (FHPM 4-8-4), resubmission of the information, if still current, for a Section 18 application is not required. Project applications should refer to previous submissions for supporting information when at all possible.

4. *Participation of Private Enterprise.* Private transit and paratransit operators shall be allowed to participate in the provision of service to the maximum extent feasible. In order to insure this process, each local project shall fulfill the following requirements.

a. Make a good faith effort to notify all private providers in the service area to inform them of the intended service plan and ascertain whether they could participate in the provision of service.

b. Establish a process by which private providers may have disputes or conflicts arising out of this program properly heard and settled.

5. *Elderly and Handicapped Provisions.*

a. Until the U.S. Department of Transportation (DOT) finalizes its regulations relative to nondiscrimination on the basis of handicap (implementation of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794)), the applicant must show progress in accomplishing the following requirement from existing elderly and handicapped regulations.

b. The needs of elderly and handicapped persons, especially wheelchair users and semi-ambulatory persons, must be addressed by each applicant. Service must be provided to these persons which is reasonable by comparison with the service provided to the general public and which meets a significant fraction of the actual transportation needs of such persons within a reasonable time period.

6. *Charter Bus and School Bus Provisions (49 CFR 604 and 605).*

a. Local projects may not provide charter or sightseeing services outside their service area. Within the service area, charter and sightseeing services can only be provided on an incidental basis. "Incidental" is defined as those operations which do not interfere with regular service as proposed in the project application. The following uses are presumed *not* to be incidental:

(1) Weekday charters which occur during peak morning and evening rush hours.

(2) Weekday charters which require vehicles to travel more than 50 miles beyond the service area.

(3) Weekday charters which require the use of a particular vehicle for more than a total of 6 hours in any 1 day.

b. Local projects may not engage in school bus operations, exclusively for the transportation of students and school personnel in competition with private school bus operators. Vehicles must remain open to the public at all times and be clearly marked for public use.

7. *Title VI and Minority Business Enterprise Provisions.*

a. The Section 18 program shall be administered in such a manner as to assure that no persons, or minority business enterprise, in the State shall, on the grounds of race, color, sex, or national origin, be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under this program.

b. The FHWA Division Administrator shall assure that all projects pay particular attention to the existence, composition, and distribution of minority population groups, including minority business enterprises, in the project area and shall ensure that the rationale for providing transportation in the project area is such that service to these groups will reflect affirmative compliance with Title VI of the Civil Rights Act of 1964.

8. *Other Applicable Regulations and Instructions.* By reference, the provisions of the following existing regulations and instructions are also applicable to this program:

a. Procedures for Project Applicants.

(1) 23 CFR 820 (FHPM 4-8-4, Rural Highway Public Transportation Program, paragraphs 3b, 5a, 12c(3)(a), 12c(3)(c), and 13c).

(2) 23 CFR 200 (FHPM 2-1-2 on the Title VI, Civil Rights Act of 1964, program).

b. Procedures for the FHWA Division Administrators.

(1) Volume 23, Chapters VI B and VI C of the FHWA Administrative Manual* relative to fiscal and accounting procedures are to be used by FHWA Regional and Division Offices.

(2) The FHWA Federal-Aid Division's February 6, 1978, memorandum* on Program Emphasis Areas Red Tape Reduction. Division Administrators are encouraged to apply timesaving and abbreviated procedures, as described, to this program.

(3) 23 CFR 420 Subpart C (FHPM 4-1-4 on Program Management and Coordination).

9. *Federal and Local Shares of Eligible Costs.*

a. The Federal share payable for nonoperating expenses (capital and administrative) shall not exceed 80 percent of the net cost. The Federal share payable for operating expenses, as defined by 23 CFR 820.3 (paragraph 3b FHPM 4-8-4), shall not exceed 50 percent of the net operating costs, or deficit.

b. Half of the local share for both capital and operating expenses must be provided in cash, from sources other than Federal funds or revenues from the operation of the system. The other half of the local share may be made up of unrestricted funds from other Federal programs.

c. It is both Congressional and U.S. DOT intent that monies made available under Section 18 augment rather than supplant existing transportation resources. States should encourage continuation of existing funding (both State and local) without imposing a formal "maintenance of effort" requirement on local applicants.

10. *Project Agreement and Fiscal Procedures.*

a. The FHWA Division Administrator will insure that existing contracts or agreements between the State and project applicants are modified or new ones prepared as applicable to reflect new funding levels, new matching requirements, etc. (See FHPM 4-8-4, paragraph 12c). The FHWA Division Administrator, upon program authorization, executes the PR-2 project agreement with the State and transmits the PR-37 to the Office of Fiscal Services.

b. Work type codes for capital and operating expenses will be as applied under paragraph 13c of FHPM 4-8-4. The administrative and technical assistance funds will be coded as work type Y200. Project numbers will be assigned as described in FHWA Administrative Manual, Volume 22, Chapter 5. A statewide number should be assigned to the technical assistance authorization.

*The Federal Highway Program Manual and other materials are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

APPENDIX B—STATE ASSURANCES

APPLICATIONS FOR FEDERAL FUNDS UNDER SECTION 18 URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

[Federal Project Number—]

To the best of my knowledge, and based on the information submitted in the application recommended for approval, as an authorized representative of (insert name of State designated agency), I make the following assurances to FHWA:

A. The applicant has the requisite fiscal, managerial, and legal capability to carry out the Section 18 program and to receive and disburse Federal funds.

B. Some combination of State, local, and private funding sources has or will be committed to provide the required local share.

C. The applicant organization has or will have by the time of delivery, sufficient funds to operate the vehicles and/or equipment purchased under this project, as applicable.

D. The applicant assures affirmative compliance with Title VI of the Civil Rights Act of 1964 and related statutes.

E. Private transit and paratransit operators have been afforded a fair and timely opportunity to participate to the maximum extent feasible in the provision of the proposed transportation services by the applicant.

F. The needs of elderly and handicapped persons have been addressed by the applicant.

G. The applicant has demonstrated acceptable efforts to achieve coordination with other transportation providers and users, including social service agencies capable of purchasing service.

H. The applicant has complied, as applicable, with the labor protection provisions of the Urban Mass Transportation Act, as amended.

I. The applicant has complied with the applicable provisions of the guidelines relative to charter bus and school bus operations.

J. The applicant has worked to insure the continuation of existing transportation revenues to complement Section 18 funds.

Signature _____

Title of authorized official _____

Date _____

[FR Doc. 78-34643 Filed 12-12-78; 8:45 am]

federal register

WEDNESDAY, DECEMBER 13, 1978
PART V

DEPARTMENT OF AGRICULTURE

Science and Education Administration

SPECIAL GRANTS PROGRAM FOR FISCAL YEAR 1979

Solicitation of Applications

[3410-22-M]

DEPARTMENT OF AGRICULTURE

Science and Education Administration

SPECIAL GRANTS PROGRAM FOR FISCAL YEAR 1979

Solicitation of Applications

Notice is hereby given that pursuant to the authority of Section 2(c) 1 of the Act of August 4, 1965, Pub. L. 89-106, as amended by Section 1414 of Pub. L. 95-113, the Science and Education Administration (SEA) of the U.S. Department of Agriculture will award project grants for research in the following areas which are further described in Appendix I:

1. Soybean Research	$485,000
2. Pest Management	485,000
3. Transportation of Agricultural and Forest Products	485,000
4. Genetic Vulnerability Strategies	291,000
5. Animal Health Research	up to 8,950,000

In addition, notice is hereby given that pursuant to the authority of Section 1419 of the Food and Agriculture Act of 1977, Pub. L. 95-113, SEA will award project grants in the following area:

1. Production and Marketing of Alcohols and Industrial Hydrocarbons from Agricultural Commodities and Forest Products—$485,000.

Pre-proposals submitted in response to this notice will be evaluated in competition with pre-proposals from other institutions. Based on peer evaluation of the pre-proposals, SEA will invite a limited number of fully documented proposals in each area of research. Research proposals selected by SEA based on recommendations of Peer Panels will be awarded grants from funds appropriated for Fiscal Year 1979 (October 1, 1978-September 30, 1979). Projects may be up to 5 years duration.

APPLICATION PROCEDURES

1. ELIGIBLE INSTITUTIONS

Grants under Section 2(c) 1 of Pub. L. 89-106, as amended, may be made to Land-Grant Colleges and Universities, State agricultural experiment stations, and to other colleges and universities having a demonstratable capacity in food and agricultural research.

Grants under Section 1419 of Pub. L. 95-113, may be made to any college or university.

2. PRE-PROPOSAL AND PROPOSAL SUBMISSION

A. In order to be considered for award pre-proposals not exceeding five pages in length, excluding the title page, must be received by SEA no later than the close of business on January 26, 1979. when pre-proposals exceed five pages in total, *only* the first five pages, excluding the title page, will be evaluated.

B. Pre-proposals should address in a condensed style the items listed in Appendix II, Format for Research Proposals. Items 2 (Objectives), 3 (Procedures), 4 (Justification), 9 (Personnel Support), and 10 (Financial Support), should receive emphasis. An extensive literature review, however, is not required for pre-proposals.

C. Pre-proposals must be clearly labeled as to which area of research, described in Appendix I, the proposed project relates.

D. All pre-proposals from an institution must be signed by a person authorized to act on behalf of the institution. SEA will work only with the authorized person on all matters related to the pre-proposals and to grants if selected for funding. The signature of the authorized person indicates that:

(1) The institution is committed to pursue the research activities described in the pre-proposal and in the proposal if selected for funding.

(2) The institution will commit all funds shown in the proposal budget to the research if the proposal is selected for funding.

E. Research projects will be considered for funding only if they conform to the Subject-matter guidelines as detailed in Appendix I.

F. Estimated funding of the total project budget to come from SEA Special Grant funds shown in pre-proposals cannot be exceeded when a fully developed proposal is requested, but funds from other sources may be increased in the full proposal if desired. Indirect overhead costs included in the total budget must be identified.

G. Submit six copies of each pre-proposal to the Deputy Director for Cooperative Research, Attention: Edward C. Miller, Room 406-W, Administration Building, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

H. SEA will invite a limited number of fully documented proposals in each research area based on the recommendation of Peer Panels, which will evaluate pre-proposals as indicated in Appendices III and IIIA. All copies of pre-proposals not selected will be returned by SEA to the institution.

I. Fully developed proposals invited by SEA will be evaluated by Peer Panels as indicated in Appendices III and IIIA and recommendations for funding will be made by the Peer Panels to the Deputy Director for Cooperative Research. Peer Panels can recommend reduced levels of Special Grant fund support for proposals under review when appropriate.

J. After grants are awarded, all copies of unfunded proposals will be returned by SEA to the originating institution. A summary of Peer Panel evaluations will be provided.

3. BUDGET AND REPORTING REQUIREMENTS

The following items apply only to those proposals that are selected for funding:

A. The grant will be awarded on the basis of all financial support, from any source, that is shown in the proposal budget.

B. Annual financial reports (Standard Form 269) will be required.

C. An annual progress report not to exceed five pages will be required in addition to a shorter summary for insertion into a computerized research information service. Annual reports will be organized around the objectives and research timetable as specified in the project proposal.

D. A comprehensive (performance and financial) final report must be submitted to SEA within 90 days after the termination date of the grant.

4. REGULATIONS

A. The regulations applicable to this grant program are set out in Title 4 of the USDA Administrative Regulations, "Agriculture Grant and Agreement Regulations," which is available upon request.

An approved final Impact Analysis Statement is available from Edward C. Miller, Acting Assistant Deputy Director, Room 406W, Administration Building, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250. This Notice has not been determined significant under U.S.D.A. criteria implementing Executive Order 12044.

It has been determined that because of the need to implement this program so that research relating to plant production can be initiated in the Spring of 1979 compliance with the notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest and, in accordance with E.O. 12044, that it is not possible to publish this notice in proposed form and allow 60 days for public comment.

Done at Washington, D.C., this 7th day of December 1978.

ANSON R. BERTRAND,
Director, Science and Education.

APPENDIX I—SUBJECT MATTER GUIDELINES FOR FISCAL YEAR 1979, GRANTS UNDER SECTION 2 OF PUB. L. 89-106, AS AMENDED

1.0 Soybean Research ($485,000 will be available from FY 1979 funds.) Up to eight proposals will be funded.

SPECIFIC AREAS OF INQUIRY

1.1 Soybean production research to define and implement production management strategies to increase yields, enhance production efficiency, and conserve natural resources.

1.2 Soybean genetic research on the genetic mechanisms that contribute to yield, nutritional quality, or tolerance to biotic and abiotic stresses.

2.0 Pest Management ($485,000 will be available from FY 1979 funds). Up to six proposals will be funded.

SPECIFIC AREAS OF INQUIRY

2.1 The development and/or refinement of biological, chemical, cultural, and other methodologies for suppression of pest losses in crops; including biotic and abiotic parameters in the control of insects, plant pathogens, nematodes, and weeds.

Consideration will be confined to proposals which deal with research on integrated methods of suppression involving complexes of two or more pest disciplines (insects, plant pathogens, nematodes, weeds) affecting one or more closely related crops. In addition, the research should eventually lead to a promising and implementable management system for use by growers.

3.0 Transportation and Related Problems of Agricultural and Forest Products ($485,000 will be available from FY 1979 funds). Up to six proposals will be funded.

SPECIFIC AREAS OF INQUIRY

3.1 Examine logistical problems associated with the seasonal nature of agricultural and forest products, mobility and capacity of transportation equipment, and changing demands of domestic and foreign markets. The logistical aspects most in need of inquiry are those involved in the seasonality, cyclical demand, and perishability characteristics of agricultural and forest products. Some of the problems are: Seasonal and/or cyclical shortage and transport equipment; design of transport rate and service regulations providing sufficient flexibility to management to encourage efficient and equitable allocations of equipment among shippers; determining the amount, kind, and location of storage facilities needed for integrating transportation and storage capacities into an efficient logistics system; and designing public transportation policies that will encourage investments and financial and other operations to create an efficient and equitable logistics system.

3.2 Investigate methods to improve efficiency, while maintaining quality, of transportation and transloading equipment and storage facilities of agricultural and forest products intended for export or domestic use.

3.3 Develop methods for analyzing the needs of local rural areas for freight transportation systems and design policy guidelines useful in assessing plans for local areas' freight logistics systems. The needs of the Department of Agriculture here are for methods that can be applied in the thousands of local rural areas already impacted or about to be impacted by railroad branch line abandonments and/or deteriorating rural roads and bridges. Although there are many local rural areas in need of analysis and/or plans' assessments, this Special Grants Program cannot be the vehicle for achieving funding for such analyses.

4.0 Genetic Vulnerability Strategies ($291,000 will be available for FY 1979). Up to six proposals will be funded.

SPECIFIC AREAS OF INQUIRY

4.1 Introgressing wild and exotic germplasm through wide crosses into cultivated material, including perennials.

4.2 Methodology for locating and aggregating factors for resistance to pests, stress, and soil chemical problems, as well as factors for other attributes that enhance production.

5.0 Animal Health (up to $8,950,000 will be available from FY 1979 funds). Up to ninety proposals will be funded. The development and/or refinement of biotic and abiotic methodologies for suppression of animal losses due to infectious or noninfectious diseases and internal and external parasites of food animals such as cattle, swine, sheep, and poultry, health and disease problems of horses, and of major aquaculture species.

Consideration will be given to animal health problems that are of economic importance to agriculture. Also included are system design approaches that (1) clarify interactive effects of infectious and noninfectious diseases and parasites in animal health, and (2) that seek to develop practical, implementable management systems for the producer to prevent or alleviate these interactive causes of animal losses.

Highest priority will be given to proposals having application to animal health and disease problems identified as high priority by the Animal Health Science Research Advisory Board. The priority list is available upon request from the Animal Sciences Staff, Room 5039-S, South Agriculture Building, Cooperative Research, SEA, USDA, Washington, D.C. 20250, telephone number: (202) 447-5007.

SPECIFIC AREAS OF INQUIRY

5.1 Infectious Diseases.

This area will include research proposals aimed at developing control of infectious disease of livestock, poultry, or major species in aquaculture. Research may include clarification of complex or unknown etiologies; development or improvement of diagnostic methodology; development or improvement of diagnostic methodology; clarification of disease pathogenesis and methods of transmission; studies of resistance mechanisms and resistance enhancing factors; and development of disease prevention, control, or eradication technology.

Highest priority will be placed on research applicable to respiratory, enteric, reproductive, and specific infectious diseases as identified by the Animal Health Science Research Advisory Board.

5.2 Internal and External Parasites.

A. Internal Parasites.

Research on nonchemical methods or on integrated chemical and biological systems for the control of internal parasites of livestock, poultry, or major species in aquaculture.

Highest priority will be given to proposals aimed at the prevention or control of internal parasitism through clarification of host-parasite relationships, novel management methods minimizing exposure to infectious parasitic stages, immunological or other biological, nonchemical control methods, and integrated chemical-biological control systems for internal parasite prevention and control.

B. External Parasites.

(1) Research to develop injury thresholds including research on appropriate sampling methodology for external parasites of the livestock classes under various stress conditions.

(2) Research on sampling of pests and integrated pest suppression by biological, sanitation, chemical, attractants, and cultural practices in controlling external parasites of livestock or poultry.

Priority will be given to proposals that develop integrated methods of prevention or suppression of external parasites. The proposals should include research on a key pest or a complex of pests with integrated control strategies that minimize chemical usage. In addition, the research should lead to a practical implementable management system for use by producers.

5.3 Noninfectious Diseases.

Research applicable to diseases of metabolic origin, mineral deficiencies or imbalances, and that related to toxins present in the feed supply.

Research proposals will be aimed at the identification of causative factors related to these diseases and methodology for their prevention or control. Priority will be placed upon mycotoxicoses, plant toxins, and mineral-related diseases of food minerals.

SUBJECT-MATTER GUIDELINES FOR FISCAL YEAR 1979 GRANTS UNDER SECTION 1419 OF PUB. L. 95-113

1.0 Alcohols and Industrial Hydrocarbons Research ($485,000 will be available from fiscal year 1979 funds.) Up to eight proposals will be funded.

SPECIFIC AREA OF INQUIRY

1.1 Biomass Conversion. Research on the evaluation, production, handling, treatment, and conversion of biomass resources for the manufacture of alcohols or industrial hydrocarbons.

1.2 Coal and Peat Derivatives. Research on the production, economics, and use of fuels and agricultural chemicals derived from domestic coal and peat resources.

1.3 Plant Materials Extraction. Research on the development, stimulation, extraction, or separation of alcohol or hydrocarbon chemical derivatives of high energy value from plant materials.

APPENDIX II—FORMAT FOR RESEARCH PROPOSAL

1. Title Page.

A. Title. A brief, clear, specific designation of the subject of the research. Do not include such terms as, "A Study of" or "A Detailed Analysis of". Names of geographical regions or political subdivisions should not be included unless they are important to the subject of the research.

B. Principal Investigator(s).

C. Name of performing organization and address.

D. Category of research program in which proposal will compete for funds. Include the number of the specific area of inquiry as given in the Guidelines.

E. Date of Submission.

F. Approval Signatures of appropriate officials. All proposals from a University, College, or Institution must be signed by the same authorized official(s).

G. Submitted to: Deputy Director for Cooperative Research, Attention: Edward C. Miller, Room 406-W, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

2. Objectives. A clear, concise, complete, and logically arranged statement of the specific aims of the research.

3. Procedures. A statement of the essential working plans and methods to be used in attaining each of the stated objectives. Procedures should correspond to the objectives and follow the same order. Procedures should include items such as: The sampling plan, experimental design, and analyses anticipated.

4. Justification. This should describe: (1) The importance of the problem to the needs of the Department of Agriculture and to the State or region, being sure to include estimates of the magnitude of the problem: (2) the importance of starting the work now; and (3) reasons for the work being performed in your particular institution.

5. Literature review. A summary of pertinent publications with emphasis on their relationship to the research. Cite important and recent publications from other institutions, as well as your own institution. Citations should be accurate and complete.

6. Current Research. Describe the relevancy of the proposed research to on-going and as yet unpublished research at your own and at other institutions. This section may be combined with Literature Review, if convenient to do so.

7. Facilities and Equipment. The location of the work and the facilities and equipment needed and available should be clearly indicated. This section may be combined with section 3. Procedures, but the combination must clearly show needed and available facilities and equipment.

8. Research Timetable. Show all important research phases as a function of time.

9. Personnel Support. Identify clearly all personnel who will be involved in the research. For each scientist involved include: (1) An estimate of the time commitments necessary; (2) statement of training and research experience; (3) list of other research projects on which currently engaged; and (4) vitae of the principal investigator, senior associates, and other professional personnel should be provided to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support.

10. Financial Support. Show estimated annual costs by source of funds (grant and other sources) in conventional budget categories. Include indirect overhead costs where appropriate.

11. Institutional Units Involved. List each unit of the institution contributing essential services or facilities. The responsibilities of each should be clearly shown. If there is an advisory, or coordinating committee for the project, list members by name, title, and affiliation.

12. Impacts. Estimate the magnitude of the scientific and/or socioeconomic benefits expected from the new knowledge or technology generated. Describe the users of the research results; how the results could be used; their potential impact on the problem defined in the project justification statement; the beneficiaries of the research results and the nature of the benefits received.

APPENDIX III—INSTRUCTIONS FOR PEER PANELS

The primary responsibilities of the Peer Panels are to:

1. Assess conformance to Subject-matter guidelines.

2. Prepare a consensus scoring for each pre-proposal and later proposal.

3. Rank pre-proposals, and later proposals, from top to bottom based on the total scores shown on consensus scoring page.

4. Prepare a consensus scoring page for each pre-proposal and later proposal.

5. Sign and present recommendations addressed to the Deputy Director, Cooperative Research, Science and Education Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

A. Relevance of Pre-Proposals and Later Proposals to Guidelines. Conformance of each pre-proposal and later proposals to the Subject-matter guidelines will be evaluated first by Peer Panels. Where item (1) is checked (Appendix IIIA) materials will be further evaluated by the Peer Panel. Pre-proposals and proposals for which item (2) is checked (Appendix IIIA) may be considered further if the research activities that are exterior to the guidelines are essential to complete objectives. Pre-proposals and later proposals for which item (3) is checked will be returned to the originating institution without further analysis by the Peer Panel.

B. Selection Criteria. These criteria will provide the primary rationale for making awards. For all items, positive scoring will range from 1 (poor) through 10 (outstanding). A score of "0" will be reserved for those cases in which the proposal does not cover the item.

Item 4. Score from 1 to 10 points based on your assessment. (Refer in particular to Elements 2, 3, and 4 Format for Research Proposals.)

Item 5. Consider educational background and experience of the principal investigator, and the nature and composition of research team and support personnel. (Refer to Element 9 in the Format for Research Proposals.)

Item 6. Distribute 10 points based on the adequacy of all facilities, equipment, and program support. Reduce points to reflect excessive purchases of equipment with grant funds. (Refer to Elements 7 and 10 in the Format for Research Proposals.)

Item 7. Score from 1 to 10 points based on justification of grant support requested. (Refer in particular to Element 10 of the Format for Research Proposals.)

Item 8. Assess the probability that the research can be completed and written for publication during the period of the grant. Consider the amount of time and attention that investigators, research team, and support personnel will devote to project. (Refer in particular to Elements 8 and 9 in the Format for Research Proposals.)

Item 9. Distribute points in increasing amount based on investigator's knowledge of relevant literature and on-going research. (Refer to Elements 5 and 6 in the Format for Research Proposals.)

Items 10 and 11. Score from 1 to 10 points in each item based on your assessment of the magnitude of the scientific and/or socioeconomic research project. (Refer in particular to Element 12 in the Format for Research Proposals.)

[3410-22-C]

APPENDIX IIIA

PEER PANEL SCORING FORM

INSTITUTION AND IDENTIFICATION NUMBER: _____

PROJECT TITLE: _____

_____

A. Relevance of Proposal to Guidelines (Check one item)

(1) /___/ Within Guidelines

(2) /___/ Some deviation(s) from Guidelines

(3) /___/ Does not conform to Guidelines

B. Selection Criteria

	Score 1 - 10 (Low to High)	Comments
(4) Overall scientific and technological quality of proposal		
(5) Research competence of the principal investigator(s), research team, and support personnel		
(6) Adequacy of facilities, equipment, and related program support		
(7) Justification of support requested in relation to objectives and procedures		
(8) Feasibility of attaining objectives during life of proposed research		
(9) Awareness of published literature and current research related to proposed research		
(10) Relevance and importance of proposed research to solution of specific areas of inquiry (identified in Guidelines)		
(11) Estimate of expected benefits		
TOTAL	_____	

C. Extended Comments: Use back of page

[FR Doc. 78-34660 Filed 12-12-78; 8:45 am]

federal register

WEDNESDAY, DECEMBER 13, 1978
PART VI

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSIONS AND DEFERRALS

Reports

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

BUDGET RESCISSIONS AND DEFERRALS

Reports

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report ten new deferrals of budget authority totalling $110.6 million and four revisions to previously transmitted deferrals increasing the amount deferred by $3.3 million. The items involve the military education and training program and programs in the Departments of Agriculture, the Interior, State and the Treasury, and several independent agencies.

The details of the deferrals are contained in the attached reports.

THE WHITE HOUSE, December 7, 1978,

[3110-01-C]

Contents of Special Message
(in thousands of dollars)

Deferral No.	Item	Budget Authority
	Funds Appropriated to the President:	
	International Security Assistance	
D79-35	International military education and training...	24,312
	Department of Agriculture:	
	Agricultural Stabilization and Conservation Service	
D79-2A	Commodity Credit Corporation.....	3,530
	Forest Service	
D79-36	Acquisition of lands for Wasatch National Forest	209
D79-37	Timber salvage sales.....	5,500
	Department of the Interior	
	Office of Territorial Affairs	
D79-38	Administration of territories.....	25,000
	Department of State:	
	Administration of Foreign Affairs	
D79-39	Acquisition, operation, and maintenance of buildings abroad.....	36,787
	Department of the Treasury:	
	Office of the Secretary	
D79-23A	Antirecession financial assistance fund.....	2,278
D79-40	Antirecession financial assistance fund.....	5 1/
D79-24A	State and local government fiscal assistance fund.....	80,154
D79-25A	State and local government fiscal assistance fund.....	3,966 1/
	Other Independent Agencies:	
	International Communication Agency	
D79-41	Salaries and expenses.....	2,095
D79-42	Acquisition and construction of radio facilities	3,141
	Small Business Administration	
D79-43	White House Conference on Small Business.....	1,600
	Navajo and Hopi Indian Relocation Commission	
D79-44	Salaries and expenses.....	12,000
	Total, deferrals.....	200,577

1/ Outlays only.

SUMMARY OF SPECIAL MESSAGES
FOR FY 1979
(in thousands of dollars)

	Rescissions	Deferrals
Third special message:		
New items	---	110,649
Changes to amounts previously submitted	---	3,301
Effect of third special message	---	113,950
Previous special messages	75	2,088,559
Total amount proposed in special messages	75 (in one rescission)	2,202,509 1/ (in 44 deferrals)

1/ This amount represents budget authority except for $3,971,000 in two Treasury Department deferrals of outlays only (D79-25A and D79-41).

Deferral No: D79-35

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Funds Appropriated to the President	New budget authority (P.L. 95-481) $ 27,900,000
Bureau International Security Assistance	Other budgetary resources 855,000
Appropriation title & symbol International Military Education and Training (1191081) 1/	Total budgetary resources 28,755,000
	Amount to be deferred: Part of year $ 24,312,000 Entire year
OMB identification code: 11-1081-0-1-152	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program [X] Yes [ ] No	
Type of account or fund: [X] Annual [ ] Multiple-year ____ (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification: Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish military education and training to military and related civilian personnel of foreign countries to "...encourage effective and mutually beneficial relations and increased understanding between the U.S. and foreign countries..." and to "...improve the ability of participating foreign countries to utilize their resources including defense articles and services obtained from the U.S., with maximum effectiveness..."

The Foreign Assistance and Related Programs Appropriations Act, 1979, (Public Law 95-481) appropriated $27.9 million for these purposes. This appropriation represents a reduction of $4.2 million from the planned FY 1979 program level. As a result of this reduction, the Department of State must reprogram the existing funds for allocation to the recipient foreign countries. Accordingly, $24.3 million is temporarily deferred pending the necessary reprogrammings and required congressional notification.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: This deferral will have no programmatic or budgetary impact.

Outlay Effect: There is no outlay effect resulting from this deferral.

1/ This account was the subject of a deferral in FY 1978.

D79-2A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D79-2 transmitted to the Congress on October 2, 1978, and printed as House Document No. 95-392.

This supplementary report for the Commodity Credit Corporation contains the revisions necessary to correct technical errors made in the original deferral report. These changes affect the appropriation title and symbol, the legal authority, and justification sections of the report.

Deferral No: D79-2A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Agriculture	New budget authority (P.L. _____) $ _____
Bureau: Agricultural Stabilization and Conservation Service	Other budgetary resources 50,100,000
Appropriation title & symbol*: Commodity Credit Corporation Administrative Expenses, 1979 1/ 1294336	Total budgetary resources 50,100,000
	Amount to be deferred: Part of year $ 3,530,000
	Entire year _____
OMB identification code: 12-4336-0-3-351	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[X] Other P.L. 95-448*
Type of account or fund: [X] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year _____ (expiration date)	[ ] Contract authority
[ ] No-year	[ ] Other _____

Justification:* The Agriculture, Rural Development, and Related Agencies Appropriation Act, 1979 (P.L. 95-488), provides that not less than 7 percent of the total authorization for administrative expenses of the Commodity Credit Corporation shall be placed in reserve and used only in such amounts and at such times as may be necessary to carry out program operations.

Estimated Effects: This deferral will have no programmatic impact and its economic and budgetary impact will be negligible.

Outlay Effects: There is no outlay effect resulting from this deferral.

1/ This account was the subject of a similar deferral during FY 1978.

* Revised from previous report.

Deferral No: D79-36

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Agriculture	New budget authority (P.L. _____) $ _____
Bureau Forest Service	Other budgetary resources 214,255
Appropriation title & symbol Acquisition of Lands for Wasatch National Forest, Forest Service, 12X1123	Total budgetary resources 214,255
	Amount to be deferred: Part of year $ _____ Entire year 209,255
OMB identification code: 12-9911-0-1-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: Funds in this account are to be used for the acquisition of lands within the Wasatch National Forest for protection and rehabilitation of important watershed areas. A 160 acre tract has been identified and negotiations for its purchase are proceeding. However, it is anticipated that only $5,000 will be needed in FY 1979 for the cost of an appraisal. Therefore, $209,255 are deferred for the entire year. Purchase of this and other properties is anticipated in subsequent fiscal years.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

Estimated Effects: There are no programmatic or budgetary effects that result from this deferral action. Rather, the reserve merely reflects the nature of the program's funding requirements.

Outlay Effect: No outlay effect results from this deferral.

Deferral No: D79-37

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Agriculture	New budget authority (P.L. 95-465) $ 3,000,000
Bureau Forest Service	Other budgetary resources 16,228,200
Appropriation title & symbol Timber Salvage Sales 1/ 12X5204 12X1126	Total budgetary resources 19,228,200
	Amount to be deferred: Part of year $ ____ Entire year 5,500,000
OMB identification code: 12-5204-0-2-302	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: The timber salvage sales fund was authorized by the National Forest Management Act of 1976 to increase the capability of the Forest Service to offer insect-infested, dead, damaged, or fallen timber for sale. Receipts from the sale of such timber are deposited in a special fund and are available until expended to cover the costs of design, engineering, and supervision of the construction of needed roads, as well as the cost to the Forest Service of sale preparation and supervision of actual harvesting.

Public Law 95-465, making appropriations for the Department of the Interior and related agencies, 1979, provided $3 million for design and construction of roads and preparation and harvest administration and sale of salvageable timber on national forests which have not yet built up a salvage fund from receipts. In addition to these funds, estimated receipts for salvage sales are available to finance the program.

Present program plans for timber salvage sales require a resource level of $13,728,200. The remaining $5,500,000 is being deferred in accordance with the Antideficiency Act (31 USC 665) which authorizes the establishment of reserves for contingencies. This action is being taken because of the time lag between the deposit of receipts from salvage sales and the expenditure of funds to cover costs associated with making additional sales. Efficient program planning and accomplishment is facilitated by administering a stable program well within the funds available in any one year for this purpose.

Estimated Effects: There are no programmatic or budgetary effects that result from this deferral action. The reserve reflects the time lag between deposit of receipts from salvage sales and the expenditure of these funds to cover the costs of additional sales.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

1/ This account was the subject of a similar deferral in FY 1978.

Deferral No: D79-38

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior Bureau Office of Territorial Affairs Appropriation title & symbol Administration of Territories 14X0412	New budget authority (P.L. 95-465) $ 52,023,000 Other budgetary resources 36,853,000 Total budgetary resources 88,876,000 Amount to be deferred: Part of year $ 25,000,000 Entire year ____
OMB identification code: 14-0412-0-1-806 Grant program [X] Yes [ ] No	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: The Second Supplemental Appropriations Act, 1978, (Public Law 95-355), appropriated $25 million to the Secretary of the Interior for health care grants to the Government of Guam. The legislative history surrounding this appropriation indicates that the Congress expected at least part of the $25 million to be used for the purchase of a modern, privately owned, but debt-ridden hospital on Guam--the Medical Center of the Marianas (MCM).

The $25 million has been placed in reserve pending release later in FY 1979. The delay in making the funds available for obligation has occurred for several reasons:

- In October 1978, the Department of the Interior asked the Comptroller General to issue an opinion concerning whether the entire $25 million appropriation could be used by Guam to purchase MCM when a March 1978 appraisal set the hospital's fair market value at approximately $18 million. The Department will review the Comptroller General's opinion when it is issued.

- The Administration believes that purchase of the medical center should be consistent with the hospital's current fair market value. Any funds remaining could be used to address other health care needs on Guam.

D79-38

- The legislative history of this appropriation requires that the Secretaries of the Interior and Health, Education, and Welfare jointly approve a health care and hospital management plan to be submitted by Guam concerning MCM and other health care facilities on Guam. Approval of the management plan is expected later in the fiscal year.

Consequently, the Government of Guam and the owner of the hospital must reach an agreement on a purchase price that is consistent with fair market value and that would convey to Guam a clear title to the hospital's building, equipment, and land. The $25 million will be made available for obligation when a resolution of these matters is reached that will assure the legal, efficient, and prudent obligation of the funds.

Estimated Effect: There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect: These funds are expected to be used in FY 1979 regardless of the deferral. Therefore, no effect on outlays is expected.

Deferral No: D79-39

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of State	New budget authority (P.L. 95-431) $125,000,000
Bureau	Other budgetary resources 127,807,000
Appropriation title & symbol Acquisition, Operation, and Maintenance of Buildings Abroad 19X0535	Total budgetary resources 252,807,000
	Amount to be deferred: Part of year $ ____ Entire year 36,787,000
CMB identification code: 19-0535-0-1-153	Legal authority (in addition to sec. 1013): [XX] Antideficiency Act
Grant program [ ] Yes [XX] No	[ ] Other ____
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [XX] Appropriation [ ] Contract authority [ ] Other ____

Justification: The Foreign Service Building Act of 1826, as amended (22 U.S.C. 292-301), empowers the Secretary of State to acquire buildings, residences, and grounds by purchase, construction, long-term lease, or exchange in foreign countries for the use of the U.S. Government and its employees and to operate and maintain such facilities. The Act also authorizes appropriations for these purposes and empowers the Secretary to apply the proceeds from the sale of property acquired under the Act toward the acquisition or construction of other overseas facilities or other purposes authorized by the Act.

The Department of State was provided appropriations totalling $125,000,000 in FY 1979 for the regular buildings program. Other resources such as unobligated balances carried over from FY 1978 and anticipated proceeds in FY 1979 would provide $127,807,000 additional for obligational authority in FY 1979. These funds were to be used, in part, for the construction of new projects but due to the delay in completing the plans and specifications, some construction contracts will not be awarded until FY 1980. Therefore, $36,787,000 is being deferred until FY 1980 for the following projects: Accra, Ghana office building; Lagos, Nigeria 32 staff apartments; Kuala Lumpur, Malaysia office building; Manila, Philippines 66 staff apartments; and part of the Moscow complex.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects: The deferral of these funds will have no programmatic or budgetary effect on the Department's overseas building program.

Outlay Effect: There is no outlay effect of this deferral.

D79-23A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report revises Deferral No. D79-23 transmitted to the Congress on October 2, 1978, and printed as House Document No. 95-392.

This revision of a deferral for the Antirecession financial assistance fund in the Office of the Secretary of the Treasury increases the previously reported deferral from $2,205,000 to $2,278,233. This increase of $73,233 is the result of making technical adjustments necessary to establish the correct amount of the deferral.

Deferral No: D79-23A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Treasury Bureau Office of the Secretary Appropriation title & symbol Antirecession Financial Assistance Fund 208/90108 1/ 2/	New budget authority $ ____ (P.L. ____) Other budgetary resources 2,278,233* Total budgetary resources 2,278,233* Amount to be deferred: Part of year $ 2,278,233* Entire year ____
CMB identification code: 20-0108-0-1-852 Grant program ☒ Yes ☐ No	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☒ Other P.L. 94-369 & P.L. 95-30
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1979 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other ____

Justification:* This deferral represents the projected remaining portion of the FY 1978 appropriation which the Secretary of the Treasury must hold in reserve to meet valid claims from State and local governments that prior antirecession financial assistance payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 22,930 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing has withheld from obligation an amount equal to one-half of one percent of the amount appropriated for the first quarter of FY 1978.

This cumulative unobligated reserve, totaling $2.3 million, is available to the Secretary of the Treasury to satisfy legitimate claims against the fund for prior entitlement periods. The unobligated amount retained in the fund will be reduced whenever the Secretary determines that a lesser amount is adequate to meet foreseeable liabilities against the fund. This reduction will be made by paying the additional amount to recipients as part of a regular distribution of other funds provided for this program.

The authorization for this program terminated on September 30, 1978, but the funds will remain available through FY 1979 for payment of claims from State and local government.

1/ This account was the subject of a similar deferral during FY 1978.
2/ This account is the subject of another deferral, D79-41.
* Revised from previous report.

D79-23A

Estimated Effect: This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program. The entire amount of this reserve is expected to be paid out before the end of fiscal 1979.

Outlay Effect: There is no outlay effect of this deferral since the funds will be paid out in fiscal year 1979.

Deferral No: D79-40

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. ____) $ ---
Bureau: Office of the Secretary	Other budgetary resources 2,278,233
Appropriation title & symbol: Antirecession Financial Assistance Fund 208/90108 1/ 2/	Total budgetary resources 2,278,233
	Amount to be deferred: Part of year 3/ $ 5,000
	Entire year ---
OMB identification code: 20-0108-0-1-852	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [X] Yes [ ] No	[X] Other P.L. 94-369, & P.L. 95-30
Type of account or fund: [ ] Annual [x] Multiple-year September 30, 1979 (expiration date) [ ] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification

The Antirecession Financial Assistance Fund provides for federal economic assistance to State and local governments to help prevent those governments from taking budget related actions which are injurious to national economic health. Scheduled payments are made on a quarterly basis. This deferral represents payments which have been withheld from various governments for reasons of noncompliance with the requirements of the Public Works Employment Act of 1976 (P.L. 94-369).

Estimated Effects

The release of these funds is contingent upon the various government's compliance with the law by submitting required forms and reports.

Outlay Effect

There is no outlay effect of this deferral. The funds will be made available this fiscal year.

1/ This account was the subject of a similar deferral during FY 1978.
2/ This account is the subject of another deferral, D79-23A.
3/ Outlays only.

D79-24A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D79-24 transmitted to the Congress on October 2, 1978, and printed as House Document No. 95-392.

This revision of a deferral for the State and local government fiscal assistance trust fund in the Office of the Secretary of the Treasury increases the previously reported deferral from $78,487,095 to $80,154,384. This increase of $1,665,289 is the result of changes in the data used to determine the entitlements and other technical adjustments in the deferral.

Deferral No: D79-24A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. 95-392) $6,854,924,000*
Bureau: Office of the Secretary	Other budgetary resources 78,489,095
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 20X8111 1/ 2/	Total budgetary resources 6,933,413,095*
	Amount to be deferred: Part of year $ 2,500,000
	Entire year 77,654,384*
OMB identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [X] Yes [ ] No	[X] Other P.L. 92-512, P.L. 94-488 (sec.6)
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: The Secretary of the Treasury must hold in reserve an amount to meet valid claims from State and local governments that past general revenue sharing payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 39,170 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for each entitlement period through FY 1975. In addition, one-half of one percent of the amounts appropriated for general revenue sharing in the Economic Stimulus Appropriations Act, 1977 (P.L. 95-29), and the HUD-Independent Agencies Appropriation Act, 1978 (P.L. 95-119) was also withheld from obligation.

This cumulative unobligated reserve is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods. The unobligated amount of $80.2 million retained in the Trust Fund will be reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Fund. The reduction will be made by paying the additional amount to recipients as part of a regular distribution of other funds provided for the program.

Estimated Effect: This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

1/ This account is the subject of another deferral, D79-25A.
2/ This account was the subject of a similar deferral during FY 1978.
* Revised from previous report.

D79-24A

Outlay Effect: (estimated in millions of dollars):*

Comparision with President's FY 1979 Budget:

1. Budget outlay estimate for FY 1979.....	$6,852.3
2. Outlay savings, if any, included in the budget outlay estimate.....	-0-

Current outlay estimates for FY 1979:

3. Without deferral.....	6,929.8
4. With deferral.....	6,852.1
5. Current outlay savings (line 3 - line 4).....	77.7

Outlay savings for FY 1980.....	-38.8
Outlay savings for FY 1981.....	-38.9

*Revised from previous report.

D79-25A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D79-25 transmitted to the Congress on October 2, 1978, and printed as House Document No. 95-392.

This revision of a deferral for the State and local government fiscal assistance trust fund in the Office of the Secretary of the Treasury increases the previously reported deferral from $2,404,000 to $3,966,000. This increase of $1,562,000 results from noncompliance by additional local governments with the technical requirements of the State and Local Fiscal Assistance Act, as amended.

Deferral No: D79-25 A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Treasury	New budget authority (P.L. 95-392) $6,854,924,000*
Bureau Office of the Secretary	Other budgetary resources 78,489,095
Appropriation title & symbol State and Local Government Fiscal Assistance Trust Fund 20X8111 1/ 2/	Total budgetary resources 6,933,413,095*
	Amount to be deferred: Part of year 3/ $ 3,966,000* Entire year
OMB identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [X] Yes [ ] No	[X] Other P.L. 92-512, Sections 121 & 123 P.L. 94-488
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification: The State and Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of general revenue sharing funds. This deferral represents payments withheld from various governments involved in annexations or disincorporations and for reasons of noncompliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Estimated Effect: The release of these funds is contingent upon adherence by the various governments to the compliance regulations, and determinations as to which higher level of government is eligible to receive those funds withheld because of annexations and disincorporations.

Outlay Effect: There is no outlay effect of this deferral because the funds will be made available this fiscal year.

1/ This account is the subject of another deferral, D79-24A.
2/ This account was the subject of a similar deferral during FY 1978.
3/ Outlays only. The outlays being deferred were obligated in fiscal year 1978 and, therefore, are not reflected in the total budgetary resources available for obligation in fiscal year 1979.

* Revised from previous report.

Deferral No: D79-41

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: International Communication Agency	New budget authority (P.L. 95-431) $ 6,253,000
Bureau	Other budgetary resources 1,020,000
Appropriation title & symbol: Salaries and Expenses 67X0201	Total budgetary resources 7,273,000
	Amount to be deferred: Part of year $ ____
	Entire year 2,095,000
OMB identification code: 67-0201-0-1-154	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other ____

Justification: The United States International Communication Agency (ICA) is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), Executive Order No. 11034 of June 25, 1962, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication, cultural and educational exchange programs.

The Foreign Relations Authorization Act, 1979 (P.L. 95-426, approved October 7, 1978) authorized to be appropriated for fiscal year 1979, $420,577,000 for all activities of ICA. The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979, (P.L. 95-431 approved October 10, 1978) appropriated $368,000,000 for "Salaries and Expenses", of which not to exceed $7,941,000 is to remain available until expended for special international exhibitions, including those provided in the Cultural Exchange Traveling Exhibits agreements between the Soviet Union and the United States. It was estimated in the President's 1979 Budget that funds would be obligated for the Tenth Series of US/USSR exchange exhibits.

Due primarily to delays in completing arrangements with the USSR on the showing of the second exhibit in the Ninth Series of the US/USSR exchange, $2,095,000 of the funds required for the Tenth Series are deferred for the entire year. The funds will be used in succeeding years.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

D79-41
2

Estimated Effects:

There are no programmatic or budgetary effects resulting from this deferral.

Outlay Effect:

There is no outlay effect of this deferral, because the funds could not be used if made available.

Deferral No: D79-42

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency International Communication Agency	New budget authority (P.L. 95-431) $ 19,685,000
Bureau	Other budgetary resources 20,683,745
Appropriation title & symbol	Total budgetary resources 40,368,745
Acquisition & Construction of Radio Facilities, International Communication Agency 67X0204	Amount to be deferred: Part of year $ ____ Entire year 3,140,845
OMB identification code: 67-0204-0-1-154	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other ____
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other ____

Justification: The United States International Communication Agency (ICA) is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), Executive Order No. 11034 of June 25, 1962, as amended, and Reorganization Plan No. 2 of 1977, to carry out international communication, cultural and educational exchange programs.

The Foreign Relations Authorization Act, 1979 (P.L. 95-426, approved October 7, 1978) authorized to be appropriated for fiscal year 1979, $420,577,000 for all activities of ICA. The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979, (P.L. 95-431, approved October 10, 1978) appropriated $19,685,000, to remain available until expended, for the "Acquisition and Construction of Radio Facilities" account primarily to expand the transmitter capacity of the Voice of America's worldwide broadcasting system.

This amount, together with funds appropriated in FY 1978, would expand transmitter facilities in England, Liberia and the Philippines. Delays in these projects have been caused by lags in the procurement and scheduling process and by the need to arrange reprogrammings to finance increased estimated costs and exchange rate losses. Therefore, $3,140,845 are deferred for the Philippines and Liberia projects. These funds will be used in succeeding years.

This deferral action is taken in accordance with the Antideficiency Act (31 U.S.C. 665).

D79-42

Estimated Effects:

There are no programmatic or budgetary effects resulting from this deferral action.

Outlay Effect:

There is no outlay effect of this deferral, because the funds could not be used if made available.

Deferral No: D79-43

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Small Business Administration	New budget authority (P.L. 95-431) $ 4,000,000
Bureau:	Other budgetary resources: --
Appropriation title & symbol: White House Conference on Small Business - 73X0104	Total budgetary resources: 4,000,000
	Amount to be deferred: Part of year $ ____
	Entire year: 1,600,000
OMB identification code: 73-0104-0-1-376	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year ____ (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other ____

Justification

The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1979 (P.L. 95-431) provides funds for a White House Conference on Small Business to be held in Washington, D.C. in early 1980 to consider a wide range of problems facing small businesses and to develop an agenda to address them. Prior to the Washington, D.C. conference, a series of State and regional conferences is planned. Current spending plans for the Conference anticipate obligations of $2.4 million in FY 1979 and $1.6 million in FY 1980.

This deferral action is taken in accordance with the Antideficiency Act (31 USC 665).

Estimated Effect: This deferral will have no programmatic or budgetary effect since the amount deferred will not be required this year to carry out the activities planned for the Conference.

Outlay Effect: There is no outlay effect connected with this deferral since the funds would not be used if made available.

Deferral No: D79-44

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Navajo and Hopi Indian Relocation Commission	New budget authority (P.L. 95-465) $ 7,762,000
Bureau:	Other budgetary resources 12,000,000
Appropriation title & symbol: Salaries and Expenses 48 x 1100 FY 1979 Navajo and Hopi Indian Relocation Commission	Total budgetary resources 19,762,000
	Amount to be deferred: Part of year $ ____ Entire year 12,000,000
OMB identification code: 48-1100-0-1-806	Legal authority (in addition to sec. 1013): [x] Antideficiency Act [ ] Other ____
Grant program [ ] Yes [x] No	
Type of account or fund: [ ] Annual [ ] Multiple-year ____ (expiration date) [x] No-year	Type of budget authority: [x] Appropriation [ ] Contract authority [ ] Other ____

Justification: The Department of the Interior and Related Agencies Appropriation Act, 1979, provided $7,762,000 in funds for assistance and relocations payments for the Navajo and Hopi Indian Relocation Commission. There is also $12,000,000 carried forward into FY 1979 from prior years. Based on current relocation estimates, only $7,762,000 will be needed during FY 1979 to carry out the work of the Commission. Additional funds will be made available if needed.

Estimated Effect: There are no programmatic or budgetary effects resulting from this deferral.

Outlay effect: No effect on outlays results from this deferral action.

[FR Doc. 78-34800 Filed 12-12-78; 8:45 am]

[3110-01-M]

RESCISSIONS AND DEFERRALS

Cumulative Report

DECEMBER 1978.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of December 1, 1978, of one rescission and 34 deferrals contained in the first and second special messages of FY 1979. These messages were transmitted to the Congress on October 2 and November 30, 1978.

RESCISSION (ATTACHMENT A)

One rescission proposal totalling $75,000 in budget authority is presently before the Congress.

DEFERRALS (TABLE A AND ATTACHMENT B)

As of December 1, 1978, $1,903.5 million in 1979 budget authority was being deferred from obligation and another $1.8 million in 1979 obligations was being deferred from expenditure. Table A summarizes the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during FY 1979.

INFORMATION FROM SPECIAL MESSAGES

Published information on the deferrals reported in the October 2, 1978, special message is contained in the FEDERAL REGISTER of Wednesday, October 11, 1978 (Vol. 43, No. 197, Part III). Information on the items included in the November 30, 1978, special message will be published shortly.

Attachments.

[3110-01-C]

Table A

STATUS OF 1979 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$2,088.6
Routine Executive releases (-$183.2M) and adjustments (+$.04M) through December 1, 1978	-183.2
Overturned by the Congress	---
Currently before the Congress	$1,905.3 a/

a/ This amount includes $1.8 million in outlays for a Department of the Treasury deferral (D79-25).

* Detail does not add to total due to rounding.

PAGE 1 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1979 AS OF 12/02/78 11:30

AS OF DEC. 1, 1978 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
OTHER INDEPENDENT AGENCIES								
Foreign Claims Settlement Commission								
Salaries and expenses	BA	R79- 1		75	11 30 78			
TOTAL BA				75				

END OF REPORT

PAGE 1 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 12/01/78 18:48

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-78
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Military assistance	BA	D79-31	161,875		11 30 78	-161,875a			
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		161,875			-161,875			
DEPARTMENT OF AGRICULTURE									
Foreign Agricultural Service									
Salaries & expenses (special foreign currency)	BA	D79- 1	415		10 2 78	-13			402
Agricultural Stabilization & Conservation Service									
Commodity credit corporation	BA	D79- 2	3,530		10 2 78				3,530
Forest Service									
Expenses, brush disposal	BA	D79- 3	32,225		10 2 78				32,225
Restoration of forest lands	BA	D79- 4	48		10 2 78				48
DEPARTMENT OF AGRICULTURE TOTAL	BA		36,218			-13			36,205
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Construction									

PAGE 2 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 12/01/78 18:48

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-78
	BA	D79- 5	9,830		10 2 78				9,830
Promote and develop fishery products and research	BA	D79- 6	12,060		10 2 78	-5,000			7,060
Fisheries loan fund	BA	D79- 7	5,429		10 2 78				5,429
United States Fire Administration									
Facilities	BA	D79-32	6,150		11 30 78				6,150
Maritime Administration									
Ship construction	BA	D79-33	157,000		11 30 78				157,000
DEPARTMENT OF COMMERCE TOTAL	BA		190,469			-5,000			185,469
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Shipbuilding and conversion, Navy	BA	D79-34	563,940		11 30 78				563,940
Military Construction									
Military construction, all services	BA	D79- 8	548,451		10 2 78	-14,750		36	533,737
DEPARTMENT OF DEFENSE-MILITARY TOTAL	BA		1,112,391			-14,750		36	1,097,677
DEPARTMENT OF DEFENSE-CIVIL									
Corps of Engineers									
Alaska hydroelectric power development fund	BA	D79-10	5,450		10 2 78				5,450
Miscellaneous Accounts									

PAGE 3 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 12/01/78 18:48

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-78
Wildlife conservation, etc., military reservations	BA	D79- 9	458		10 2 78				458
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA			5,908						5,908
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St. Elizabeths Hospital	BA	D79-11	27,577		10 2 78				27,577
Social Security Administration									
Limitation on salaries and expenses	BA	D79-12	1,725		10 2 78				1,725
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL BA			29,302						29,302
DEPARTMENT OF THE INTERIOR									
Heritage Conservation and Recreation Service									
Land and water conservation fund	BA	D79-13	30,000		10 2 78				30,000
Geological Survey									
Payments from proceeds, sale of water	BA	D79-14	36		10 2 78				36
Bureau of Mines									
Drainage of anthracite mines	BA	D79-15	1,700		10 2 78				1,700
Office of Territorial Affairs									
Trust territory of the Pacific Islands	BA	D79-16	12,000		10 2 78				12,000

PAGE 4 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 12/01/78 18:48

AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-78
DEPARTMENT OF THE INTERIOR									
TOTAL BA			43,736						43,736
DEPARTMENT OF JUSTICE									
Federal Prison System									
Buildings and facilities									
	BA	D79-17	25,300		10 2 78				
	BA	D79-17A		11,865	11 30 78				37,165
DEPARTMENT OF JUSTICE TOTAL BA			25,300	11,865					37,165
DEPARTMENT OF STATE									
Other									
Emergency refugee and migration assistance fund									
	BA	D79-18	2,750		10 2 78				
	BA	D79-18A		9,500	11 30 78				12,250
DEPARTMENT OF STATE TOTAL BA			2,750	9,500					12,250
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination									
	BA	D79-19	3		10 2 78				3
Facilities & equip. (Airport & airway trust fund)									
	BA	D79-20	290,176		10 2 78				290,176

PAGE 5 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 12/01/78 18:48

AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-78
Federal Highway Administration									
Trust fund share of other highway programs	BA	D79-21	40,000		10 2 78				40,000
Overseas highway	BA	D79-22	13,100		10 2 78				13,100
DEPARTMENT OF TRANSPORTATION TOTAL BA			343,279						343,279
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Antirecession financial assistance fund	BA	D79-23	2,205		10 2 78	-4			2,201
State and local government fiscal assistance fund	BA	D79-24	78,489		10 2 78				78,489
	O	D79-25	2,404		10 2 78	-556			1,848
Bureau of the Mint									
Construction of mint facilities	BA	D79-26	5,730		10 2 78				5,730
DEPARTMENT OF THE TREASURY TOTAL BA			86,424			-4			86,420
TOTAL O			2,404			-556			1,848
GENERAL SERVICES ADMINISTRATION									
Property Management and Disposal Activities									
Rare silver dollar program	BA	D79-27	2,123		10 2 78				2,123
Federal Preparedness Agency									
State and local preparedness	BA	D79-28	80		10 2 78				80

PAGE 6 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 12/04/78 18:15

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 12-01-78
GENERAL SERVICES ADMINISTRATION								
TOTAL BA		2,203						2,203
OTHER INDEPENDENT AGENCIES								
Foreign Claims Settlement Commission								
Payment of Vietnam prisoner of war claims								
BA	D79-29	10,945		10 2 78	-1,051			9,894
Interstate Commerce Commission								
Payment of directed rail service								
BA	D79-30	13,990		10 2 78				13,990
OTHER INDEPENDENT AGENCIES								
TOTAL BA		24,935			-1,051			23,884
TOTAL BA		2,064,790	21,365		-182,693		36	1,903,498
TOTAL O		2,404			-556			1,848

FOOTNOTES

a. This amount was released before the special message containing the deferral was transmitted to Congress.

[FR Doc. 78-34801 Filed 12-12-78; 8:45 am]