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federal register

TUESDAY, FEBRUARY 27, 1979

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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	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 January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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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.

[3410-07-M]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

EDITORIAL AMENDMENT TO SUBCHAPTER HEADINGS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) makes an editorial amendment to the Code of Federal Regulations to promote clarity and prevent confusion in the identification of its regulations. This action is taken so that during the period that the FmHA program regulations are being revised and renumbered in accordance with its restructuring of regulations a continuity of identifying Part numbers may be retained. This action is taken as a result of discussion with the Office of the Federal Register.

EFFECTIVE DATE: December 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph H. Linsley, Chief, Directives Management Branch. Phone: 202-447-4057.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends the Code of Federal Regulations in Title 7 Chapter XVIII by changing the titles of Subchapters H and I and by removing the Subchapter designations for Subchapters J-W. Subchapter H is entitled "Program Regulations" and includes Parts numbered between 1900 and 1999. Subchapter I is entitled "Administrative Regulations" and includes Parts numbered between 2003 and 2045. The agency is restructuring its regulations and has determined that until all regulations have been renumbered it will be administratively more efficient to dispense with the use of Subchapter Headings. This will prevent instances where certain Part numbers would be numerically out of sequence. The Agency is restructuring its regulations to promote coordination between its field staff and local members of the public. The restructuring does not involve any substantive change in the Agency regulations. Only the administrative grouping of regulations under certain Subchapter headings will be affected.

The FmHA originally published all of its regulations which affected the public in Subchapters A through G, Parts 1800-1890. In response to the needs of the general public the Agency decided to restructure its regulations around the numbering system assigned by the Office of the Federal Register. The Agency took this action to provide more complete information to the public in a more efficient manner. Because the volume of material published by the Agency made it impossible to renumber, revise and republish the entire set of regulations at one time, a new set of Part designations were necessary.

The Agency was assigned Parts 1900-2099 by the Office of the Federal Register. Parts 1900-1999 represent the Agency's Program Regulations and Parts 2000-2099 represent it's Administrative Regulations. The reorganization of regulations was prematurely begun and some of the new 1900 series regulations were published. After extensive analysis and discussion, the Agency decided that the reorganization of the Program regulations needed itself to be reorganized. Therefore the Agency is now moving forward on two separate fronts. The first effort is to revise all regulations presently in the Part 1800-1890 series and renumber them to an assigned number in the Part 1900-1999 series. The second effort is to revise and renumber those regulations which were issued with a 1900 series number but which are now out of place under the new organization of regulations approved by the Agency.

Therefore, publication for proposed rulemaking is unnecessary. The official making this determination is Mr. Joseph H. Linsley, Chief, Directives Management Branch, Phone: 202-447-4057. This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044. A copy of the Impact Statement prepared according to these criteria is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, Washington, D.C. 20250.

Therefore, Chapter XVIII is amended as follows:

1. The title of Subchapter H is amended to read "Program Regulations" and includes any Part appearing in the Code of Federal Regulations between 1900 and 1999.
2. The title of Subchapter I is amended to read "Administrative Regulations" and includes any Part appearing in the CFR between 2000 and 2045.
3. The designation "Subchapter J" entitled "Real Property" is hereby removed from the CFR.
4. The designation "Subchapter K" entitled "Property Management" is hereby removed from the CFR.
5. The designation "Subchapter L" entitled "Loan and Grant Making" is hereby removed from the CFR.
6. The designation "Subchapter M" identified as "(Reserved)" is hereby removed from the CFR.
7. The designation "Subchapter N" entitled "Security Servicing" is hereby removed from the CFR.
8. The designation "Subchapter O" identified as "(Reserved)" is hereby removed from the CFR.
9. The designation "Subchapter P" entitled "Guaranteed Loans" is hereby removed from the CFR.
10. The designation "Subchapter Q" entitled "Reports" is hereby removed from the CFR.
11. The designation "Subchapter R" identified as "(Reserved)" is hereby removed from the CFR.
12. The designation "Subchapter S" entitled "Personnel" is hereby removed from the CFR.
13. The designation "Subchapter V" entitled "Administration" is hereby removed from the CFR.
14. The designation "Subchapter W" entitled "Business Services" is hereby removed from the CFR.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; sec. 10 Pub. L. 93-357, 88 Stat. 392; 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; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

Dated: February 16, 1979.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-5732 Filed 2-26-79; 8:45 am]

[3410-02-M]

CHAPTER XI—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

PART 1260—BEEF RESEARCH AND INFORMATION

Subpart—Rules of Practice and Procedure Governing Proceedings To Formulate an Order Under the Beef Research and Information Act

AGENCY: Agricultural Marketing Service.

ACTION: Final Rule.

SUMMARY: On August 4, 1978, the Beef Research and Information Act was amended to change the number of producers necessary for referendum approval from two-thirds of those voting to a majority of those voting. This document amends the rules of practice and procedure governing proceedings to formulate an order under the Beef Research and Information Act, which were published in the FEDERAL REGISTER on June 23, 1976. The amendment revises the definition of the term "Act" and revises the section pertaining to ex parte communications.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, Phone: 202-447-3970.

SUPPLEMENTARY INFORMATION: It has been determined that under the administrative procedure provisions in 5 U.S.C. 553, it is impractical and unnecessary to allow opportunity for public comment or to delay the effectiveness of these rules of practice until 30 days after publication in the FEDERAL REGISTER for the reasons that: (1) No substantive rule or change of rules is involved, and (2) These procedures are patterned directly after existing procedures that have been effectively used in similar programs.

Accordingly, Part 1260, Title 7, Code of Federal Regulations is amended as follows:

Subpart—Rules of Practice and Procedure Governing Proceedings to Formulate an Order under the Beef Research and Information Act

1. The table of contents is amended by revising it to read as follows:

Sec.
1260.1 Words in the singular form.
1260.2 Definitions.
1260.3 Proposals.
1260.4 Requirement of bond or other security.
1260.5 Reimbursement of expenses by the Board.
1260.6 Institution of proceedings.
1260.7 Docket number.
1260.8 Judge.
1260.9 Motions and requests.
1260.10 Conduct of the hearing.
1260.11 Oral and written arguments.
1260.12 Certification of the transcript.
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1260.14 Administrator's recommended decision.
1260.15 Submission to Secretary.
1260.16 Decision by the Secretary.
1260.17 Execution of the order.
1260.18 Filing.
1260.19 Ex parte communications.
1260.20 Additional documents to be filed with hearing clerk.
1260.21 Hearing before Secretary.

* * * * *

2. Section 1260.2 is amended by revising paragraph (a) to read as follows:

§ 1260.2 Definitions.

* * * * *

(a) The term "Act" means the Beef Research and Information Act, as amended, Pub. L. 94-294, 94th Cong., approved May 28, 1976, 7 U.S.C. 2901-2918.

* * * * *

3. Section 1260.19 is amended by deleting the existing section and replacing it with a new section to read as follows:

§ 1260.19 Ex parte communications.

(a) At no stage of the proceeding following the issuance of a notice of hearing and prior to the issuance of the Secretary's decision therein shall an employee of the Department who is or may reasonably be expected to be involved in the decision process of the proceeding discuss ex parte the merits of the proceeding with any person having an interest in the proceeding or with any representative of such person; *Provided*, That procedural matters and status reports shall not be included within this limitation; and, *Provided further*, That an employee of the Department who is or may reasonably be expected to be involved in the decisional process of the proceeding may discuss the merits of the proceeding with such a person if all parties known to be interested in the proceeding have been given notice and an opportunity to participate. A memorandum of any such discussion shall be included in the record of the proceeding.

(b) No person interested in the proceeding shall make or knowingly cause to be made to an employee of the Department who is or may reasonably be expected to be involved in the decisional process of the proceeding an ex parte communication relevant to the merits of the proceeding except as provided in paragraph (a) of this section.

(c) If an employee of the Department who is or may reasonably be expected to be involved in the decisional process of the proceeding receives or makes a communication prohibited by this section, the Department shall place on the public record of the proceeding:

(1) All such written communications;

(2) Memoranda stating the substance of all such oral communications; and

(3) All written responses, and memoranda, stating the substance of all oral responses thereto.

(d) Upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this section, the Department may, to the extent consistent with the interest of justice and the policy of the underlying statute, take whatever steps are deemed necessary to nullify the effect of such communication.

(e) For the purposes of this section, "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all interested parties is not given, but which shall not include requests for status reports (including requests on procedural matters) on a proceeding.

Dated: February 21, 1979.

WILLIAM T. MANLEY,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-5721 Filed 2-26-79; 8:45 am]

[3410-05-M]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1446—PEANUTS

Subpart—1979 Crop Peanut Loan and Purchase Program

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is, for the 1979 crop of peanuts, to announce (1) the national level of support for quota peanuts, (2) the national level of support for additional peanuts, (3) sales policy for peanuts received under loan or acquired by the Commodity Credit Corporation (hereinafter referred to as "CCC") under the 1979 program, and (4) other related provisions. The need for this rule is to satisfy the statutory requirements as provided for in Section 108 of the Agricultural Act of 1949, (hereinafter referred to as the "Act"), as added by the Food and Agriculture Act of 1977.

EFFECTIVE DATE: February 26, 1979.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: A notice that the Secretary was preparing to make determinations with respect to these provisions was published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1380), in accordance with 5 U.S.C. 533. The written comment period ended February 5, 1979, but all comments received through February 9, 1979, were considered. There were 105 responses—one from an association of manufacturers of peanut products; 13 from members of the Congress; nine from peanut grower organizations; 11 from general farm organizations; 3 from sheller organizations; five from local bankers; five from State governments; 56 from individuals; one from the ASCS peanut task force; and one from an ASC State Committee. Following is a summary of comments received.

Quota price support level: 105 commentators. One organization and one individual recommended $420 per ton, the legal minimum. All other respondents recommended a higher support level within the range of $440 to $520 per ton. A majority recommended that the minimum support level be increased by the percentage increase in the Index of prices paid by farmers for production items, interest, taxes and wage rates (PPI) during the period January 1 through December 31, 1978 (or by 11 percent, which was the estimated increase in the PPI for that period).

Additional price support level: 51 commentators. Thirteen organizations and 14 individuals recommended $250 per ton, the same as the 1978 level. The remaining recommendations were mostly within the $275 to $350 per ton range. Several respondents recommended that the loan rate be at a level under which no program costs would be incurred.

Sales policy: 35 commentators. There were 17 organizations and 18 individual commentators, concerned primarily with the minimum price for edible export sales of additional peanuts under loan or acquired by CCC. Two organizations and five individuals recommended a minimum edible export sales price of $400, the same as in 1978. Seven organizations and three individuals recommended an increase roughly proportional to any increase in the quota loan rate. Eight organizations and ten individuals recommended that this minimum price be equivalent to the quota loan rate.

After considering the comments received and the applicable provisions of the Act, the following determinations are being made with respect to the 1979 crop of peanuts.

1. *The national level of support for quota peanuts.* Subsection 108(a) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts of the 1979 crop at such level as he finds appropriate, but not less than $420 per ton. In determining price support levels, subsection 108(a) of the Act directs the Secretary to take into consideration (a) any change in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period January 1 through December 31, 1978, inclusive, and (b) the eight factors specified in section 401(b) of the Act, namely: The supply of the commodity in relation to the demand therefor, the levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand. Pursuant to the language of subsection 108(a) of the Act, the following data were considered:

(a) *Index of prices paid for production items, interest, taxes and wage rates.* The current estimate of the calendar year 1978 index (1910-1914) is 805 compared with 740 in calendar year 1977—an increase of 8.78 percent in 1978. A comparable increase in the minimum price support level of $420 per ton would result in a loan rate of about $457 per ton.

(b) The eight factors to be considered, as specified in section 401(b) of the Act, are as follows:

1. *Supply of the commodity in relation to demand.* In a ruling published December 8, 1978 (43 FR 57580), the Department established the 1979-crop national poundage quota for peanuts at the statutory minimum of 1,596,000 tons. The determinations that this minimum level was sufficient to meet total estimated requirements for domestic edible use and a reasonable carryover was based on the following data:

	1,000 tons
Projected requirements 1979 MY:	
Domestic edible	1,010
Seed	105
Crushing residual from edible millings	155
Subtotal 1979 requirements	1,270
Reasonable carryover (15 percent of requirements)	190
Total requirements	1,460
Minimum national poundage quota	1,596
Percentage of requirements	109

2. *Price levels at which other commodities are being supported* (1979 Crop):

Commodity	Price support	Target price
Upland Cotton (lb)	.5023	[1].577
ELS Cotton (lb)	.9295	
Corn (bu)	2.00	2.20
Sorghum (cwt)	3.39	4.11
Barley (bu)	1.63	2.40
Oats (bu)	1.03	
Rye (bu)	1.70	
Wheat (bu)	2.35	3.40

[1] Preliminary.

3. *Availability of funds.* It is estimated that Commodity Credit Corporation funds will be available for this purpose.

4. *The perishability of the commodity.* Shelled peanuts can be kept in cold storage for two years or more with little loss of weight or quality. It is hazardous, however, to hold peanuts in dry storage through the hot summer months because of danger of loss due to deterioration, insect infestation, or rodent damage.

5. *Importance of commodity to agriculture and the national economy.* Peanuts are grown on about 59 thousand farms in 16 States. The value of picked and threshed production from the 1978 crop is estimated at $833 million, about $50 million higher than the value of the 1977 crop.

6. *The ability to dispose of stocks acquired through price support operations.* There is an immediate dollar market for peanuts for crushing at competitive prices.

7. *The need for offsetting temporary losses of export markets.* Because of a world shortage, U.S. exports of peanuts in the 1977-78 marketing year reached an all-time high of 513,000 tons. The shortage is expected to continue through the 1978-79 marketing year, and U.S. exports for that period are projected at 498,000 tons. Whether this export volume can be sustained

through the 1979-80 marketing year will depend largely on export availabilities from India and other producers of peanuts for edible use. The latest projection for 1979-80 U.S. exports is 470,000 tons, consisting of 135,000 tons of commercial quota peanuts and peanut products, 275,000 tons of additional peanuts grown under commercial contracts and 60,000 tons sold from loan stocks of quota and additional peanuts. If 1979-80 export demand is higher, or the supply of additional peanuts is lower than projected, an estimated 210,000 tons of surplus quota loan stocks will be available, at or above the quota loan rate plus costs, to make up the shortfall.

8. *The ability and willingness of producers to keep supplies in line with demand.* In a referendum held December 12 through 15, 1977, 93.6 percent of the growers voting approved marketing quotas and acreage allotments for the 1978 through 1980 crops of peanuts. In so voting, the growers indicated acceptance of a ruling which will reduce the quantity of peanuts eligible for price support at the quota loan rate from 1,680,000 tons in 1978 to 1,596,000 tons in 1979—a reduction of 84,000 tons.

After consideration of the comments received and the above data, it has been determined by the Secretary that the national level of support for 1979-crop quota peanuts will be $420 per ton, the statutory minimum.

2. *The national level of support for additional peanuts.* Subsection 108(b) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on 1979-crop "additional peanuts", which are defined in the 1977 amendments to the Act as any peanuts which are marketed from a farm and which are in excess of the marketings of quota peanuts from such farm for the marketing year but not in excess of the actual production from the farm acreage allotment. This subsection requires that the loan rate for 1979 crop additional peanuts shall be announced no later than February 15, 1979, and that in determining this rate the Secretary shall take into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

Historically, there is an immediate dollar market for peanuts for crushing and production of peanut oil and meal. Peanut oil prices usually have averaged about 4 cents to 5 cents per pound above soybean oil prices, with peanut meal prices averaging about $5 per ton below soybean meal prices. In recent months peanut oil prices have averaged almost double soybean oil prices due primarily to a short U.S. crop and heavy export volume, which has reduced domestic crushing availabilities. Current projections indicate a decline in peanut exports in the 1979-80 marketing year, an increase in domestic crushing availabilities and a peanut domestic crushing value of $290 per ton, based on oil at 38 cents per pound and meal at $165 per ton.

The demand for U.S. peanuts in foreign markets is estimated at 470,000 tons in the 1979 marketing year compared with an estimated 498,000 tons in 1978. The projected reduction in exports is based on the expectation that peanut export availabilities from India and other world suppliers will recover from the abnormally low levels of the last few years. It is estimated that world demand, combined with the minimum sales policies established by this determination, will sustain an average export price for edible peanuts of at least $400 per ton for U.S. peanuts. It is estimated that the domestic crushing value of peanuts will be $290 per ton.

Taking into consideration these factors and the comments received, it has been determined by the Secretary that the national level of support for 1979 crop additional peanuts will be $300 per ton.

4. *Sales Policy.* Section 407 of the Act provides that CCC may not sell peanuts at less than 105 percent of the support price plus reasonable carrying charges, except sales for new or byproduct uses, extraction of oil, export, and prevention of deterioration or spoilage.

Section 359(j) of the Agricultural Adjustment Act of 1938, as added by the Food and Agriculture Act of 1977, provides that additional peanuts received under loan may be sold for domestic edible use at prices not less than those required to cover all costs incurred with respect to such peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus (1) 100 percent of the quota loan value if the additional peanuts are sold and paid for during the harvest season upon delivery by the producer, or (2) 105 percent of the quota loan value if the additional peanuts are sold after delivery by the producer but on or before December 31, of the marketing year, or (3) 107 percent of the quota loan value if the additional peanuts are sold later than December 31 of the marketing year.

Sales of both quota and additional peanuts for domestic edible use will be made on the terms specified in items (2) and (3) of the preceding paragraph. Also, additional peanuts will be sold for domestic edible use on the terms specified in item (1) of the preceding paragraph. Under the discretionary authority provided by the Act, it has been determined that sales of quota peanuts for export will be made by CCC at not less than all costs incurred plus 100 percent of the quota loan value. Sales of additional peanuts from which edible grades are to be exported will be made by CCC at not less than $400 per ton. Sales of additional peanuts for export for crushing only will be made by CCC at not les than all costs incurred with respect to such peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus 100 percent of the additional loan value. Additional peanuts sold by CCC for export crushing will be required to be fragmented prior to export. Sales of quota and additional peanuts for domestic crushing only will be made by CCC at competitive prices with the use of oil being restricted to domestic markets if the price of the peanuts from which the oil is produced is less than the applicable loan rate, plus costs.

FINAL RULE

The material previously appearing in §§ 1446.30 through 1446.50 as subpart "1978 Crop Peanut Warehouse Storage Loan Supplement" remains in full force and effect as to the 1978 crop. Effective, for the 1979 crop of peanuts, §§ 1446.30 and §§ 1446.37 are deleted and reserved and §§ 1446.31 through 1446.36 of Title 7 and the title of the subpart are amended to read as follows:

Subpart—1979 Crop Peanut Loan and Purchase Program

Sec.
1446.30 [Reserved]
1446.31 Applicability.
1446.32 National average support value, quota peanuts.
1446.33 National average support value, additional peanuts.
1446.34 Sales for domestic edible use.
1446.35 Sales for export.
1446.36 Sales for domestic crushing.
1446.37 through 1446.50 [Reserved]

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 108, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445c, 1421); sec. 359, 52 Stat. 31, as amended (7 U.S.C. 1359).

Subpart—1979 Crop Peanut Loan and Purchase Program

§ 1446.31 Applicability.

The support prices specified in this subpart apply to 1979 crop farmers stock peanuts in bulk or in bags, net weight basis, eligible for price support under the General Regulations (43 FR 27159).

§ 1446.32 National average level of support, quota peanuts.

The national average level of support for 1979 crop quota peanuts is $420 per ton.

§ 1446.33 National average level of support, additional peanuts.

The national average level of support for 1979 crop additional peanuts is $300 per ton.

§ 1446.34 Sales for domestic edible use.

Sales of peanuts for domestic edible use including use as seed, will be made by CCC at prices not less than those required to cover all costs incurred with respect to such peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus (a) 105 percent of the quota loan value if sold on or before December 31, 1979, or (b) 107 percent of the quota loan value if sold later than December 31, 1979, except that (c) sales of additional peanuts for domestic edible use, if sold and paid for during the harvest season and upon delivery by the producer, will be made by CCC at not less than all costs incurred plus 100 percent of the quota loan value.

§ 1446.35 Sales for export.

Sales of quota peanuts for export will be made by CCC at not less than all costs incurred with respect to such peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus 100 percent of the quota loan value. Sales of additional peanuts from which edible grades are to be exported will be made by CCC at not less than $400 per ton. Sales of additional peanuts for export crushing only will be made at not less than all costs incurred with respect to such peanuts for such items as inspection, shrinkage, warehousing, and other expenses, plus 100 percent of the additional loan value, and such peanuts shall be fragmented prior to export in accordance with the General Regulations.

§ 1446.36 Sales for domestic crushing.

Sales of quota and additional peanuts for domestic crushing only will be made by CCC at competitive prices, and if such prices are less than all costs incurred plus the applicable loan rate for quota or additional peanuts, the use of the oil produced from such peanuts will be restricted to domestic markets.

NOTE.—A Final Impact Statement will be available from Thomas A. VonGarlem (ASCS), (202) 447-7954.

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

NOTE.—This regulation has been determined significant under the USDA criteria implementing Executive Order 12044.

Signed at Washington, D.C., on February 21, 1979.

BOB BERGLAND,
Secretary,
Department of Agriculture.

[FR Doc. 79-5790 Filed 2-26-79; 8:45 am]

[3410-34-M]

Title 9—Animals and Animal Products

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

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Areas Quarantined and Released

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Modoc County and an additional portion of San Luis Obispo County in California because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed from specimens collected from cattle in these areas by the National Veterinary Services Laboratories in Ames, Iowa. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the infested areas.

Also, these amendments release portions of Tulare County and a portion of Kern County, California, from areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in these quarantined areas.

EFFECTIVE DATE: February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building, Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION:

These amendments quarantine a portion of Modoc County and an additional portion of San Luis Obispo County in California because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas, contained in 9 CFR Part 73, as amended, apply to these quarantined areas.

Also, these amendments release portions of Tulare County and a portion of Kern County, California, from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas, contained in 9 CFR Part 73, as amended, no longer apply to these released areas. However, the restrictions pertaining to the interstate movement of cattle from nonquarantined areas, contained in said Part 73 will apply to those areas of both counties released from quarantine.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, is hereby amended in the following respects:

1. In § 73.1a, in paragraph (c), relating to the State of California, new paragraphs (c)(1) and (c)(3) are added to read:

§ 73.1a Notice of quarantine.

* * * * *

(c) * * *.

(1) The premises of the Peter Carey Ranch, Modoc County, California, secs. 20, 28, 29, 31, and 32, T. 42 N., R. 11 E.; and N. 1/2 of sec. 4, N. 1/2 of sec. 5 T. 41 N. R. 11 E.

* * * * *

(3) The premises of Jose Moto, San Luis Obispo County, California, secs. 35 and 36, T. 11 N., R. 20 E.

* * * * *

§ 73.1a [Amended]

2. In § 73.1a, paragraphs (c)(6)(i), (c)(6)(ii) and (c)(8) relating to the State of California are deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendments quarantining areas impose certain further restrictions necessary to prevent the interstate spread of cattle scabies from these areas and must be made effective immediately to accomplish their purposes in the public interest.

The amendments releasing areas from quarantine relieve restrictions no longer deemed necessary to prevent the spread of cattle scabies from such free areas, and should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevant information to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 16th day of February 1979.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of the quarantine and release of quarantine, as indicated above, warrants the publication of this document without waiting for public comment. These amendments to the regulations covering cattle scabies will be scheduled for review under provisions of E.O. 12044 and Secretary's Memorandum 1955. The review will include preparation of an Impact Analysis Statement which will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301-436-8695.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-5720 Filed 2-26-79; 8:45 am]

[6714-01-M]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 329—INTEREST ON DEPOSITS

Preauthorized Transfers From Savings Accounts

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final Rule.

SUMMARY: The FDIC is amending its regulations permitting preauthorized transfers from savings to checking or other deposit accounts. The amendment will eliminate a provision of the regulation which has been interpreted as restricting such transfers to a demand or other deposit account of the same depositor. The restriction to accounts of the same depositor, in the opinion of FDIC's Board of Directors, serves no useful purpose and unduly complicates administration of the regulations.

EFFECTIVE DATE: This amendment is effective on February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

F. Douglas Birdzell, Senior Attorney, Bank Regulation Section, Legal Division (202-389-4324), Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: On May 5, 1978, FDIC's Board of Directors (Board) amended § 329.5(c)(2) of FDIC's regulations (12 CFR 329.5(c)(2)) to permit preauthorized transfers from savings deposits to a demand or other deposit account "of the same depositor". Since adoption of the regulation, FDIC's staff has received numerous inquiries concerning the meaning of this provision. Among these are questions going to the propriety of transferring funds from a single name savings deposit to a joint name checking account (or from a joint name savings account to a single name checking account). FDIC's staff has stated that transfers of this nature (with at least one common name between the two accounts) are permitted. However, the regulation arguably prohibits transfers to accounts of persons other than "the same depositor". Hence, the holder of a savings deposit could not transfer funds automatically to a demand deposit of a different person. In view of the fact that this restriction serves no useful purpose, does not accord with other regulations allowing preauthorized transfers of funds to third parties, and in some instances may cause unnecessary inconvenience, the Board has decided to eliminate the language giving rise to the restriction. However, the Board is of the opinion that the automatic transfer service should continue to be limited to individuals.

The provisions of Section 553(b) and 553(d) of the Administrative Procedure Act and corresponding provisions of FDIC's regulations respecting notice, public participation and deferred effective date were not followed in connection with the adoption of this amendment because notice and public procedure are both unnecessary and not in the public interest, and because the amendment eliminates an existing regulation.

* * * * *

Pursuant to its authority under Sections 9 and 18 of the Federal Deposit Insurance Act (12 U.S.C. Sections 1819 and 1828), FDIC's Board is amending § 329.5 of FDIC's regulations to read as follows:

§ 329.5 Withdrawal of savings deposits.

* * * * *

(c) *Manner of payment of savings deposits.* * * *

(2) An insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists of funds deposited to the credit of, and in which the entire beneficial interest is held by one or more individuals, through transfer of credit to a demand or other deposit account of the same or another depositor pursuant to a written agreement between the bank and the depositor authorizing such payments or transfers in connection with checks or drafts drawn upon the bank, or for any other purpose not prohibited by law or regulation. Interest earned on a savings deposit may be transferred pursuant to the provisions of this subparagraph whether or not the depositor is an individual. In accordance with § 329.1(e)(1)(iii) of this Part 329, the bank must reserve the right to require the depositor to give notice in writing of an intended withdrawal (transfer) not less than 30 days before such withdrawal (transfer) is made. This reservation shall be expressly set forth in the written agreement authorizing transfers pursuant to this subparagraph. The bank may not require the depositor to enter into an agreement providing for the automatic transfer of savings deposits as a condition to maintaining a savings or other deposit account. * * *

By order of the Board of Directors.

Dated: February 16, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 79-5718 Filed 2-26-79; 8:45 am]

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2952]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

The American Society of Anesthesiologists, Inc.

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires a Park Ridge, Ill. medical society, composed mainly of physicians who have limited their professional activities to the practice of anesthesiology, to cease including statements relating to compensation arrangements in membership documents; conditioning membership privileges on such arrangements; or engaging in any act or practice which would serve to influence the prices members charge for their services. The Society would be further required to delete from its files any record of disciplinary sanc-

tions imposed upon members for failure to adhere to past pricing policies, and advise affected parties of such deletion. Additionally, the Society would be required to revoke the charter of any component society which fails to comply with the terms of the order.

DATES: Complaint and order issued Jan. 22, 1979.[1]

FOR FURTHER INFORMATION CONTACT:

FTC/C, Alfred F. Dougherty, Jr., Washington, D.C. 20580. (202) 523-3601.

SUPPLEMENTARY INFORMATION:

On Wednesday, Oct. 11, 1978, there was published in the FEDERAL REGISTER, 43 FR 46856, a proposed consent agreement with analysis in the Matter of The American Society of Anesthesiologists, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart—Coercing and Intimidating: § 13.370 Suppliers and sellers. Subpart—Combining or Conspiring: § 13.395 To control marketing practices and conditions; § 13.430 To enhance, maintain or unify prices; § 13.475 To restrain competition in buying; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Controlling, Unfairly, Seller-Suppliers: § 13.530 Controlling, unfairly, seller-suppliers. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-60 Release of general, specific, or contractual constrictions, requirements, or restraints.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-5717 Filed 2-26-79; 8:45 am]

[1] Copies of the Complaint and Decision and Order filed with the original document.

[4810-22-M]

Title 19—Customs Duties

CHAPTER 1—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 79-65]

PART 22—DRAWBACK

Claim Rates

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

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that drawback rates shall expire 15 years after issuance or approval unless renewed by the rate holder. Also, applications for drawback rates shall be considered as abandoned if supporting drawback statements are not filed within one year of receipt of the application. Customs currently is required to maintain files consisting of obsolete rates and applications. The changes are being made so that Customs may dispose of these obsolete files.

EFFECTIVE DATE: March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald Beach, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5856).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 24, 1978, notice was published in the FEDERAL REGISTER (43 FR 3286) of a proposal to amend Part 22, Customs Regulations (19 CFR Part 22), relating to claims for drawback.

The term "drawback" refers to a situation in which a duty or tax, lawfully collected, is refunded because of a particular use made of the merchandise on which the duty or tax was collected. One of the more common types of claims for drawback is when articles manufactured or produced in the United States with the use of imported merchandise are exported (section 313(a), Tariff Act of 1930 as amended (19 U.S.C. 1313(a))).

A rate of drawback is a contract between the Customs Service and a drawback applicant based on the applicant's description of his manufacturing operation for certain products which permits him to file drawback claims for these products with reasonable certainty that he will receive a refund of the duty or tax collected. Section 22.3, Customs Regulations, provides that each manufacturer or producer of articles intended for exportation with benefit of drawback shall make application for the establishment of a rate of drawback. Section 22.3(c) provides that the manufacturer or producer may abandon his application for the establishment of a rate of drawback by filing a written statement to that effect addressed to the district director with whom the application was filed or to the Customs investigating officer. In practice, however, applicants who have abandoned applications for drawback rates rarely file such a statement. As a result, many abandoned applications are still on file with Customs. To enable Customs to remove these obsolete applications from its files, it was proposed to amend § 22.3(c) to provide that applications would be considered abandoned if supporting drawback statements, required by § 22.4(h), Customs Regulations, are not filed within one year of receipt of the application.

Section 22.4, Customs Regulations, provides for the establishment of drawback rates. Currently, established drawback rates remain in effect indefinitely. As a result, Customs maintains files of established drawback rates which frequently have become obsolete. To enable Customs to remove these obsolete documents from its files, it was proposed to amend § 22.4 to provide that drawback rates would expire after a period of 15 years, unless they are renewed. All drawback applicants holding current drawback rates will receive written notice from the appropriate regional commissioner of Customs informing them that rates which are 15 years old, unless renewed, will expire 90 days after the date of that letter.

Interested persons were given until February 23, 1978, to submit comments regarding the proposal.

DISCUSSION OF COMMENTS

TIME LIMIT TO RENEW DRAWBACK RATES

Almost all commenters were concerned with the proposal in § 22.4(r) to revoke existing drawback rates if the rates were not renewed within 30 days from the date of the "notice to renew." The commenters thought that allowing 30 days to renew was too short a time considering the serious consequence of having a rate revoked, and requested that the time be extended.

Customs believes that this point is well taken. Therefore, § 22.4(r) has been revised to extend the time period within which to renew drawback rates to 90 days from the date of notice. This should give existing rate holders ample time to renew their rates.

TIME LIMIT FOR ABANDONMENT OF DRAWBACK APPLICATIONS

Several commenters objected to the 1-year time limit for abandonment of applications set forth in proposed § 22.3(c). Comments ranged from suggestions as to when the 1-year limit should begin to run to recommendations that the time limit be extended. Some commenters stated that written notice should be given by Customs before cancelling applications and that an application should not be cancelled if Customs is aware that the importer does not intend to abandon his application.

These statements and objections apparently stem from a mistaken belief that the 1-year limit for abandonment of applications is absolute, and that it is mandatory that a correct and complete supporting drawback statement be submitted within the 1-year period. It is not Customs intention that this provision be used to cancel an application which an applicant desires to keep active. Any contact by the applicant with Customs Headquarters or, in the case of applications under 19 U.S.C. 1313(a), the appropriate Customs regional office, regarding the application will extend the running of the 1-year period. For example, a telephone request for more time to submit the supporting drawback statement would be sufficient to advise Customs of an intent to keep an application active. Even if a drawback application is mistakenly abandoned by an applicant, the application can be reinstituted without the applicant losing drawback rights. An applicant need merely resubmit his application and then proceed to prepare his supporting drawback statement to obtain a rate of drawback.

Because of Customs liberal view of permitting any contact by the applicant to extend the 1-year period and the simple method of reinstituting an abandoned application without the applicant losing drawback rights, the time limit for abandonment of applications is not being extended.

EXPIRATION OF DRAWBACK RATES

Several commenters objected to the proposal in § 22.4(r) that drawback rates expire after 15 years unless renewed by the rate holder.

One commenter suggested that Customs notify rate holders at least 60 days prior to expiration of the 15-year period. Another suggested that if a claim has been filed under the rate within a 5-year period prior to the expiration date, it should be considered as renewed for a succeeding 5-year period. It also was contended that the expiration of all nonrenewed rates would be "arbitrary".

Under present procedures, established drawback rates remain in effect indefinitely even though in many cases they may have become obsolete and are not used. However, Customs has no way of determining which rates are obsolete and, therefore, may be removed from the files. There are approximately 9500 drawback rates on file at the Customs Headquarters alone, some of which have been on file since the 1920's. In addition, an even greater number of drawback rates is on file with the regional Customs offices. Customs estimates that at least 25 percent of these rates are obsolete and could be removed from the files. So that Customs may dispose of these obsolete files, it has been determined that drawback rates must have an expiration date with a simple renewal procedure. Customs believes that the proposal presents a practicable and reasonable method for keeping drawback files current without imposing an unreasonable burden on the rate holder. All the rate holder need do is be aware of the date his rates were issued or approved and to submit a written request for renewal prior to the expiration of 15 years from that date.

One commenter noted that some drawback claimants are not drawback rate holders but merely manufacture drawback merchandise for other businesses that claim drawback. The commenter is concerned that if the rate holder fails to renew his drawback rates, the claimant will have no recourse.

Customs believes that in this situation, the drawback claimant also should be aware of the date the drawback rates were issued or approved and be in a position to take appropriate steps to see that the rate is renewed timely. This should not be an unreasonable burden for a business that is a drawback claimant.

Another commenter contended that drawback rates amended after the date of issuance or approval should expire 15 years from the date of amendment.

Customs agrees with this comment. As noted in § 22.4(o)(1), if an applicant submits a revised drawback statement, the previous drawback rate will be superseded by an amended rate. Section 22.4(r) has been reworded to reflect that the amended rate will remain in effect for 15 years from the date of approval of the revised drawback statement.

REVISED DRAWBACK STATEMENT REQUIRED

Several objections related to proposed § 22.4(o)(1), which would require a revised drawback statement, instead of a supplemental drawback statement, to amend an existing drawback rate. One commenter contended that requiring revised drawback statements places an additional burden on the public for no substantial reason. Another commenter suggested that only a letter be required where minor revisions are involved.

Proposed § 22.4(o)(1) does not require that a complete and new drawback statement be submitted to Customs in every instance to effect minor changes in an existing rate. A complete and new drawback statement would be required only if there were a change from the existing drawback rate to a new rate for an entirely different product produced from different designated merchandise or if there were a substantive change in the drawback rate.

As proposed, § 22.4(o)(1) would enable Customs to have all information relative to a rate of drawback for a product in a single drawback statement identified by its individual Treasury Decision number. This will avoid problems for Customs and the rate holder which exist when a rate holder has different rates for different products under one Treasury Decision which has been amended several times.

EXPIRATION OF ALL RATES

Two commenters requested that expiration of drawback rates after 15 years should apply only to inactive or obsolete rates. Because § 22.43 provides that drawback claims are subject to audit at any time, the commenters claim that by means of the audit program, Customs should be aware of which rates are inactive.

While Customs agrees that only those rates which are inactive or obsolete should expire, it believes that the drawback offices should not be required to be guided by audit activity to determine which rates should be renewed and which claims are "active". Customs does not have the necessary resources to audit continuously all rate holders and believes that such a procedure would not be operationally feasible. Customs is of the opinion that to require rate holders who have "active" rates to renew them is the only practicable and reasonable way to identify inactive and obsolete rates. This procedure is certainly less of a burden to Customs and rate holders than submitting to an audit merely to determine if the rates are "active".

APPLICATION NOT REQUIRED BEFORE EXPORTATION

One commenter claimed that § 22.49(n), which requires that a drawback application be filed before exportation of the articles on which drawback is sought, would not be necessary if the proposed amendments are adopted. The commenter correctly stated that the date of filing a drawback application need no longer affect whether drawback will be allowed.

The application is used solely as a means of activating a procedure under which customs responds to the applicant with an explanation of how to obtain a drawback rate.

Customs agrees with this comment. Accordingly, this section is being deleted. Also, as suggested by the commenter, the last sentence of both proposed §§ 22.3(c) and 22.4(o)(1) and that portion of the first sentence of present § 22.3(a), which refers to denial of drawback on articles exported prior to receipt of their drawback application, are being deleted.

RATES RENEWED AT EACH REGION

One commenter suggested that proposed § 22.4(r)(3), which provides that a rate holder may renew its rate by submitting a written request to the regional commissioners where drawback entries have been liquidated, is inconsistent with present §§ 22.4(i), 22.4(o), and 22.6(b).

Sections 22.4(i), 22.4(o), and 22.6(b) provide, in effect, that amendments or approvals of drawback rates are to be submitted to the regional offices where the drawback claims have been or will be liquidated, and the regional commissioner at the first region listed will issue the amendment or approval of the drawback rates.

Drawback application, amendment, and renewal procedures are separate and distinct processes. It is not necessary, therefore, that the renewal step operate in the same manner as other drawback processes.

EDITORIAL CHANGES

The paragraph heading of proposed § 22.3(c) has been changed from "Abandonment of rates" to "Abandonment of applications" and paragraph headings have been added to § 22.3(a) and (b). The reference to "(g)(1)" in the last sentence of proposed § 22.6(a) has been changed to "(g-1)".

DRAFTING INFORMATION

The principal author of this document was Harold M. Singer, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. however, personnel from other Customs offices participated in its development.

AMENDMENTS TO THE REGULATIONS

To reflect these changes, Part 22 of the Customs Regulations (19 CFR Part 22) is amended as set forth below.

R. E. CHASEN,
Commissioner of Customs.

Approved: February 12, 1979.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

PART 22—DRAWBACK

1. Section 22.3 is amended to read as follows:

§ 22.3 Application for establishment of drawback rate.

(a) *General.* Each manufacturer or producer of articles intended for exportation with benefit of drawback (whether a primary, intermediate, or final manufacturer or producer of the articles, and whether or not the articles are of a character covered by a general drawback rate) shall make application for the establishment of a rate of drawback. The application shall be made on Customs Form 4477 or in a substantially similar form and shall be filed with the district director at any port of entry. When it is desired to export articles before an application in such form can be delivered in the regular course of the mails, a telegraphic application will be accepted provided it shows the name of the manufacturer or producer, the name of the merchandise used, the name of the articles being exported, and the location of the factory at which the articles are manufactured or produced, and provided it is followed promptly by an application in the prescribed form.

(b) *Vessels or Aircraft.* In the case of a vessel or aircraft on which drawback is to be claimed under section 313(g), Tariff Act of 1930, the application prescribed in paragraph (a) of this section shall be made by the builder of the vessel or aircraft.

(c) *Abandonment of applications.* The manufacturer or producer may abandon his application for the establishment of a rate of drawback by filing a written statement to that effect with the Customs officer with whom the application was filed. An application shall be considered abandoned if supporting drawback statements are not filed within one year of receipt of the application.

2. The heading and § 22.4 are amended by deleting paragraph (n), amending paragraph (o), and adding a new paragraph (r), as set forth below:

§ 22.4 Identification of imported merchandise and ascertainment of quantities for allowance of drawback; establishment of drawback rates; expiration of drawback rates.

* * * * *

(n) [Reserved]

(o)(1) *Amendment of rates.* When a manufacturer or producer having a drawback rate desires to have the rate amended under section 313(a), Tariff Act of 1930, or to change a drawback statement filed under § 22.6, he shall submit a revised drawback statement to the regional commissioner who issued the rate. If warranted, the regional commissioner shall issue an amended rate and revoke the superseded rate in the same action. This procedure also shall apply to amendments of the other rates set forth in paragraph (h) of this section. The revised drawback statement shall be submitted to Headquarters, U.S. Customs Service, except as provided in paragraph (o)(2).

(2) A revised drawback statement requesting an amendment under section 313(b), (d), or (g), Tariff Act of 1930, as amended, shall be submitted to the regional commissioner for action in accordance with paragraph (o)(1), provided the changes covered by the amendment are limited to—:

(i) A change in location of the factory of the manufacturer or producer;

(ii) An additional factory at which the methods followed and the records maintained are the same as those at another factory operating under an existing drawback rate of the manufacturer or producer;

(iii) A change in name of the manufacturer or producer;

(iv) The succession of a sole proprietorship, partnership, or corporation to the operations of the manufacturer or producer; or

(v) Any combination of the foregoing changes.

* * * * *

(r) *Expiration, revocation, renewal, or amendment of rates.* (1) Unless renewed by the rate holder in accordance with paragraph (r)(3), drawback rates issued under this section, or contained in statements approved under section 22.6, shall expire 15 years from the date of issuance or approval, or from the date of approval of any amendment, as applicable, provided such date is on or after [*effective date of this rule*].

(2) If the dates of issuance or approval are before [*effective date of this rule*], an appropriate Customs officer shall notify the rate holder in writing of the provisions of this paragraph. Unless renewed by the rate holder in accordance with paragraph (r)(3), such rate shall expire the later of:

(i) 15 years from the date of issuance or approval, as applicable, or

(ii) 90 days from the date of the notice to the rate holder.

(3) A rate holder may renew its rate by submitting a request in writing, prior to the expiration of the rate, to each regional commissioner where drawback entries filed under the rate have been liquidated. The rate shall be renewed for a succeeding 15-year period upon receipt of the request.

(4) A rate will be revoked if the rate holder specifically requests revocation in writing to the appropriate Customs officer.

3. Paragraphs (a) and (c) of § 22.6 are amended as follows:

§ 22.6 General drawback rates in effect; approval of drawback statements by Headquarters, U.S. Customs Service, and by regional commissioners.

(a) *Drawback statements; filing and approval by one regional commissioner.* Each manufacturer or producer of articles covered by a drawback rate in this section, except under paragraph (g-1), shall submit to the regional commissioner where drawback entries will be filed a drawback statement, in duplicate, describing the methods used in the manufacture or production of the products involved. The statement also shall set forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of entries. If the statement provides for compliance with the rate, the regional commissioner shall approve the drawback statement and promptly notify the applicant in writing of the action. Drawback statements, in triplicate, relating to products covered by paragraph (g-1) shall be forwarded to Headquarters, U.S. Customs Service for approval.

* * * * *

(c) *Drawback statements; revised.* Revised drawback statements covering changes in drawback statements filed under this section shall be handled in accordance with the provisions of paragraphs (a) and (b) of this section.

* * * * *

(R.S. 251, as amended, sections 313, 624, 46 Stat. 693, as amended, 759 (19 U.S.C. 66, 1313, 1624))

[FR Doc. 79-5754 Filed 2-26-79; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 75N-0339]

HUMAN AND VETERINARY DRUGS

Current Good Manufacturing Practice in Manufacture, Processing, Packing, or Holding; Extension of Effective Date for Expiration Dating Requirements

AGENCY: Food and Drug Administration.

ACTION: Extension of Effective Date.

SUMMARY: The agency is extending the effective date of the new requirements on expiration dating of drug products, based on information submitted to FDA in requests for an extension of the effective date.

EFFECTIVE DATES: September 28, 1979 for expiration dating requirements; March 28, 1979 for all other provisions.

FOR FURTHER INFORMATION CONTACT:

Clifford G. Broker (HFD-323) (301-443-5307), or Robert J. Rice, Jr. (HFE-30) (301-443-5220), Bureau of Drugs, Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 29, 1978 (43 FR 45014), the Food and Drug Administration (FDA) published final regulations regarding current good manufacturing practice (CGMP) for human and veterinary drug products. A misprint of the effective date was corrected in the FEDERAL REGISTER of October 10, 1978 (43 FR 46528). Because of the nature of many of the provisions under these regulations, the agency provided a 6-month delayed effective date (until March 28, 1979) for their implementation.

On November 1, 1978, the Proprietary Association, 1700 Pennsylvania Ave. NW., Washington, DC 20006, submitted to FDA a petition for stay of action. The petition (Docket No. 75N-0339/PSA) is on file in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

The petitioner requested an additional 6 months for manufacturers to implement the expiration dating provisions of the CGMP regulations. The petitioner cited the 6-month to 1-year ordering cycles for pre-printed labeling and stated that for many manufacturers, imposition of the March 28, 1979 effective date for expiration dating would result in destruction of labeling that has already been ordered but that will not comply with expiration dating requirements that will be in effect on March 28, 1979. The petitioner argued that many manufacturers were reluctant to voluntarily adopt expiration dating until the final regulations were published, because the industry could not anticipate the specifics of such a requirement. The petitioner stated that manufacturers who considered implementing the proposed regulations ran the risk of having to re-label again if the final regulations on expiration dating contained provisions not in the proposal, such as requirements on the location of the expiration date, type size, specific wording, or even a maximum dating period, e.g., 5 years.

The agency has notified The Proprietary Association by letter (on file in the office of the FDA Hearing Clerk) that the petition for stay of action is denied as untimely under FDA's administrative practices and procedures regulations (21 CFR 10.35). Under § 10.35(g) a petition for a stay of action submitted later than 30 days after the date of the decision involved must be denied as untimely. The day of the decision is the day the rule is published in the FEDERAL REGISTER (§ 10.35(b)). In the case of the CGMP regulations, that day was September 29, 1978. Accordingly, a petition for a stay of action filed after October 30, 1978 (computation of time under 21 CFR 10.20) would be untimely.

Notwithstanding denial of this petition on procedural grounds, the agency has considered the merits of these requests. FDA has recently proposed (in the FEDERAL REGISTER of November 7, 1978 (43 FR 51966)) to relax the requirements concerning the time period for submission of petitions when good cause is shown. Consistent with the spirit of that proposed change, and in accordance with § 10.35(a), FDA concludes that an extension of the effective date for the expiration dating requirements is warranted.

Expiration dating provisions should be implemented without unnecessary disruption and cost, both of which could mean increased costs for the consumer. Some manufacturers use immediate containers with pre-printed labeling, which may have to be ordered well in advance of its actual use; consequently, a 6-month delayed effective date may prove insufficient for some manufacturers to implement expiration dating. In light of the comprehensiveness of the undertaking, and because additional time will not impact adversely on the public interest, an additional 6-month delay is not unreasonable.

Even though granting an extension is justified, FDA believes that many manufacturers can and will implement the expiration dating provisions within 6 months for most drug products. They are encouraged to do so.

The additional time being granted will be ample for all manufacturers to comply with expiration dating requirements. Therefore, FDA is not now prepared to consider any further delays in the effective date, except in extraordinary circumstances.

The agency has also received a request from Ex-Lax Distributing Co., Inc., New York, NY 10016, to extend the effective date for the expiration

dating provisions to June 30, 1979 (a copy of the request is on file at the office of the FDA Hearing Clerk). This firm stated that meeting the March 28, 1979 effective date would pose an economic burden on it because labeling already on order would not be printed with an expiration date and therefore would have to be discarded. The manufacturer requested additional time to use existing labeling. Because of the action taken on the petition of The Proprietary Association, separate consideration of the Ex-Lax Distributing Co. request is unnecessary. The company has been so notified.

The effective date statement is also being revised to clarify that the new effective date applies to drug products that are packaged after that date. This revision is necessary to make clear the legality of drug products distributed without an expiration date after September 28, 1979. Because the appropriate expiration date is related to the drug product in its commercial package, these provisions should apply to drug products packaged in containers intended for commercial distribution after the effective date. This clarification, in light of the additional 6-month delayed effective date, should pose no problems to manufacturers and will simplify the effective date provisions.

For the reasons set forth above, the Commissioner is revising the effective date paragraph of the final regulation appearing in the FEDERAL REGISTER of September 29, 1978 (43 FR 45014) to read as follows:

Effective date. This regulation shall be effective on March 28, 1979, except that the expiration dating requirements under these amendments that have not been previously in effect shall apply to drug products packaged after September 28, 1979.

(Secs. 501, 502, 505, 506, 507, 510, 701 Stat. 1049-1053 as amended, 59 Stat. 463 as amended, 76 Stat. 794 as amended (21 U.S.C. 351, 352, 355, 356, 357, 360, 371); Pub. L. 92-387, 86 Stat. 559-562.)

Dated: February 21, 1979.

JOSEPH P. HILE,
Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-5724 Filed 2-26-79; 8:45 am]

[4110-03-M]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Copper Naphthenate Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Farnam Companies, Inc., providing for use of copper naphthenate as an aid in treating thrush (degenerative hoof disease) in horses and ponies.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Farnam Companies, Inc., 2230 East Magnolia, Phoenix, AZ 85036, filed an NADA (100-616V) providing for use of a 37.5 percent copper naphthenate solution as an aid in treating thrush in horses and ponies. Farnam's drug is related to Ayerst Laboratories' Kopertox (37.5 percent copper naphthenate solution) which was approved June 1962. The approval is codified in § 524.463 (21 CFR 524.463). Farnam has submitted data from controlled studies demonstrating therapeutic equivalence between its preparation and that of Ayerst. This document amends § 524.463 to reflect approval of Farnam's drug for the aforementioned use. Additionally, the existing text is editorially revised to conform to current format.

Under the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is made public and is available for examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 524 is amended by revising § 524.463 to read as follows:

§ 524.463 Copper naphthenate solution.

(a) *Specification.* The drug contains 37.5 percent copper naphthenate in a suitable solvent.

(b) *Sponsor.* (1) See No. 000046 in § 510.600(c) of this chapter for use as provided in paragraph (c)(1) of this section.

(2) See No. 017135 in § 510.600(c) of this chapter for use as provided in paragraph (c)(2) of this section.

(c) *Conditions of use*—(1) *Horses, cattle, swine, sheep, goats, and dogs*—(i) *Amount.* Apply daily to affected area until fully healed.

(ii) *Indications for use.* It is used in the treatment of lesions in horses, cattle, swine, sheep, goats, and dogs, including footrot, ringworm, wounds, for drying up superficial sores, for drying necrotic material for subsequent removal, to keep open lesions clean, and for treating udder sores. It is used in cattle for treating heel cracks, hoof punctures, and dehorning wounds. It is used in horses for treating thrush, scratches, and for toughening hooves (spongy). It is used in dogs for treating cracked skin over elbows and for toughening foot pads.

(iii) *Limitations.* Remove necrotic material before applying if damage is extensive. Apply drug daily. If a scab is present, apply once a day until scab is easily removed; then apply every other day until fully healed. After dehorning, apply the drug to the open wound with a swab. Do not use on teats of lactating dairy animals.

(2) *Horses and ponies*—(i) *Amount.* Apply daily to affected hooves until fully healed.

(ii) *Indications for use.* As an aid in treating thrush in horses and ponies due to organisms susceptible to copper naphthenate.

(iii) *Limitations.* Use on horses and ponies only. Remove debris and necrotic material before applying. Apply drug daily. Avoid contact around eyes. Do not administer to horses that are to be slaughtered for food use. Do not contaminate feed. Do not allow runoff of excess drug into hair because contact with the drug may cause some hair loss.

Effective date. This regulation is effective February 27, 1979.

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

Dated: February 15, 1979.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-5662 Filed 2-26-79; 8:45 am]

[4110-03-M]

PART 510—NEW ANIMAL DRUGS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by J. H. Wake Feed Mill, Inc., providing for the use of a 2-gram-per-pound tylosin premix for making complete swine feeds, and to add J. H. Wake Feed Mill, Inc., to the list of approved NADA sponsors.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: J. H. Wake Feed Mill, Inc., 402-406 First Avenue West, Oskaloosa, IA 52577, filed an NADA (110-470V) providing for safe and effective use of a premix containing 2 grams of tylosin (as tylosin phosphate) per pound for the manufacture of complete swine feeds used to increase rate of weight gain and to improve feed efficiency. Approval of this application relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12-491V, which is incorporated herein by reference. This approval does not constitute reaffirmation of the referenced NADA, nor does it constitute reaffirmation of the drug's safety and effectiveness. In addition, J. H. Wake Feed Mill, Inc., has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect approval of this application and to include this firm in the list of approved sponsors.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Food and Drug Administration (HFA-305), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address:	*Drug listing No.*
* * * * *	
J. H. Wake Feed Mill, Inc., 402-406 First Avenue West, Oskaloosa, IA 52577.	017476

* * * * *

(2) * * *

Drug listing No.	*Firm name and address*
* * * * *	
017476	J. H. Wake Feed Mill, Inc., 402-406 First Avenue West, Oskaloosa, IA 52577.

* * * * *

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(60) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(60) To 017476: 2 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. This regulation is effective February 27, 1979.

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

Dated: February 21, 1979.

TERENCE HARVEY,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 79-5722 Filed 2-26-79; 8:45 am]

[4110-03-M]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the regulations to reflect approval of a new animal drug application (NADA) filed for Feed Specialties Co., providing for use of a tylosin and sulfamethazine premix for the manufacture of swine feeds.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Feed Specialties Co., 1877 N.E. 58th Ave., Des Moines, IA 50513, is the sponsor of an NADA (107-957V) providing for safe and effective use of a premix containing 10 grams each of tylosin (as tylosin phosphate) and sulfamethazine per pound of premix for the subsequent manufacture of a complete swine feed used for maintaining weight gains and feed efficiency in the presence of atrophic rhinitis; lowering incidence and severity of *Bordetella bronchiseptica* rhinitis; prevention of swine dysentery (vibrionic); and control of swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*). This application was filed by Elanco Products Co. for Feed Specialties Co. Approval relies upon safety and effectiveness data contained in Elanco's approved NADA's 12-491V and 41-275V. Approval does not constitute reaffirmation of the safety of residues resulting from use of this drug.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFA-305), Room 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.630 is amended to add sponsor No. 017274 by revising paragraph (b)(3) to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * * *

(b) * * *

(3) To 011490, 016968, 017255, 017274, 026186, 034500, 035955, 043743: 10 grams per pound each, paragraph (f)(2)(ii) of this section.

* * * * * *

Effective date. This regulation is effective February 27, 1979.

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

Dated: February 15, 1979.

TERENCE HARVEY,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc. 79-5723 Filed 2-26-79; 8:45 am]

[4510-26-M]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED PLANS FOR ENFORCEMENT OF STATE STANDARDS

Withdrawal of Colorado State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The Colorado State Plan, which was approved under Section 18 of the Occupational Safety and Health Act, has been voluntarily withdrawn by the State, and full Federal enforcement has been resumed.

EFFECTIVE DATE: June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles Boyd, Project Officer, U.S. Department of Labor, Occupational Safety and Health Administration, Room 149, 2100 M Street NW., Washington, D.C. 20210 202-653-5377.

SUPPLEMENTARY INFORMATION: The State of Colorado in a letter from John Kezer, Acting Director, Division of Labor, Colorado Department of Labor and Employment, dated August 29, 1978, has given formal notification of the withdrawal of its plan, effective June 30, 1978, due to the failure of the Colorado Legislature to provide funds for the plan's operation.

This decision does not preclude the future submission of another State Plan by the State of Colorado.

§§ 1952.190-1952.194 (Subpart M) [Revoked]

Accordingly 29 CFR Part 1952 is amended by revoking Subpart M thereof.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-5799 Filed 2-26-79; 8:45 am]

[4510-26-M]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Approval of Supplements to the Iowa State Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: This rule approves three change supplements to the Iowa State plan. Two supplements were submitted in response to Federal program changes; the third supplement concerns a State initiated change.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

John M. Kelly, Project Officer, U.S. Department of Labor, Occupational Safety and Health Administration, 2100 M Street N.W., Room 149, Washington, D.C. 20210, (202) 653-5373.

LOCATION OF SUPPLEMENTS FOR INSPECTION AND COPYING: A copy of the supplements may be inspected and copied during normal business hours at the following locations: Office of State Programs, 2100 M Street, N.W., Room 149, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 3000, 911 Walnut Street, Kansas City, Missouri 64106; Bureau of Labor, State House, East 7th and Court Avenue, Des Moines, Iowa 50319.

SUPPLEMENTARY INFORMATION: Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act), for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902.

On July 20, 1973, notice was published in the FEDERAL REGISTER (33 FR 19368) of the approval of the Iowa plan and adoption of Subpart J of Part 1952 containing the decision and describing the plan. Iowa has submitted supplements to the plan involving developmental changes. (See Subparts B and E, 29 CFR Part 1953.)

DESCRIPTION OF THE SUPPLEMENTS

(1) Amendment to Chapter 4. Recording and Reporting Occupational Injuries and Illnesses: The first supplement is a response to a Federal program change and makes minor clarifications to the Iowa recordkeeping and reporting rules including the use of Federal form Occupational Safety and Health Administration No. 200.

(2) Amendment to Chapter 6, IOSH Consultative Services and Training: This supplement is a response to a Federal program change and provides more detailed procedures for safety consultants when they find a serious hazard or imminent danger.

(3) Modification to the Iowa Plan: This State initiated supplement revises portions of the Iowa plan to reflect present staffing, improves the format of previously accepted position statements and legislative changes, and describes more accurately the current responsibilities of the various divisions of the Iowa Bureau of Labor.

PUBLIC PARTICIPATION

Under § 1953.2(c) of this chapter the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), may prescribe alternative procedures to expedite the review process for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Iowa plan supplements described above are consistent with commitments contained in the approved plan, which were previously made available for public comment. Accordingly, it is found that further public comment is unnecessary.

DECISION

After careful consideration, the Iowa plan supplements described in sections (1) and (2) above are hereby approved under Subpart C of Part 1953, and section (3) above is hereby approved under Subpart E of Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally. In addition, Subpart J of 29 CFR Part 1952 is hereby amended to reflect these approved plan changes and § 1952.164 (n), (o), (p), reads as follows:

§ 1952.164 Completed developmental steps.

* * * * *

(n) Amendment to Chapter 4, Recording and Reporting Occupational Injuries and Illnesses. Clarifications of

the Iowa recordkeeping and reporting rules.

(o) Amendment to Chapter 6, IOSH Consultative Services and Training. Detailed procedures for safety consultants when they find a serious or imminent danger hazard.

(p) Modifications to the Iowa Plan. Minor revisions to the Iowa plan dealing with present staffing, position statements, legislative changes, and current responsibilities of divisions in the Iowa Bureau of Labor.

Signed at Washington, D.C., this 8th day of February 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-5833 Filed 2-26-79; 8:45 am]

[4310-70-M]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 9—MINERALS MANAGEMENT

Subpart A—Mining and Mining Claims

SUPPLEMENTAL MINING CLAIM INFORMATION IN ALASKA NATIONAL MONUMENTS

AGENCY: National Park Service, United States Department of the Interior.

ACTION: Emergency Final Rule.

SUMMARY: By this emergency rulemaking the National Park Service (NPS) revises the information required in a submission of a plan of operations under 36 CFR § 9:9 for mining in the Alaska National Monuments administered by the NPS. Under this revision, claimants of unpatented claims seeking to mine in one of these monuments will submit as a part of the plan of operations a Supplemental Claim Information Statement which will contain information on quality and quantity of a mineral discovery as well as on previous production. This information will allow the NPS to make a preliminary determination of the claimant's eligibility for an approved plan of operations. This expedited procedure is required in the Alaska National Monuments administered by the NPS because of the rapidly approaching field season and its brevity. For the same reasons, this rule is promulgated on an emergency basis as a final rule, effective upon publication.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. John Cook, Alaska Area Office, National Park Service, 540 West 5th Ave., Room 202, Anchorage, Alaska 99501; (907) 276-8166. Mr. Roger Contor, National Park Service, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240; (202) 343-5193.

SUPPLEMENTARY INFORMATION: Under 36 CFR, Part 9 Subpart A, the regulations implementing the Mining in the Parks Act, 16 U.S.C. 1901 *et seq.*, the National Park Service requires that before a claimant may be granted access across park lands for mining purposes, the claimant must file and obtain approval of a plan of operations detailing, in essence, where mining is proposed, how and when it will be undertaken, and what steps the claimant will take to reclaim the disturbed area. The specific requirements for the contents of the plan are found at 36 CFR 9.9.

It has been the policy of the NPS in the administration of these regulations to conduct a mining examination of an unpatented claim upon receipt of a plan of operations to determine the claim's validity. This policy has allowed the NPS to avoid approving plans of operations in situations where, under the Mining Law of 1872, a claimant has not located a valid mining claim. This policy was also designed to distinguish extraction and production activities from further prospecting or exploration which is precluded as of the date an area is withdrawn from mineral entry. Because of the more temperate climatic conditions in those areas where plans of operations have been processed and the fortunate spacing of filed plans, the time periods associated with implementing this policy have not thus far imposed significant delays on those claimants who have viable claims.

In Alaska, however, with the limited field season due to the climate, and with the significantly increased number of potentially valid claims which the NPS must examine within the thirteen new or expanded NPS national monuments, the situation is quite different. Just as the climate limits the field season, it limits the season during which mining engineers may make mining examinations of claims. Waiting periods associated with continuing the current policy might easily preclude work by a claimant for one or more field seasons. For this reason a different procedure is justified in the National Monuments in Alaska administered by the National Park Service.

The revised procedure that is implemented by this rulemaking is to require the holder of an unpatented claim to submit a statement of information concerning the quantity and quality of the deposit he has located and previous production from the claim. A suggested format for the submission of this information will be made available by the NPS upon request. It is our intent that this procedure facilitate exercise of valid rights by those who hold them. The claimant, who is in the best position to provide the requested information, has a significant amount of control over the process. It is he who comes to the NPS with an application. Thus, it is in his interest to provide as much information as he can as soon as possible. This information will be reviewed and a preliminary determination made of the claimant's apparent eligibility for an approved plan of operations. When this preliminary review indicates the claimant is eligible, the rest of the plan of operations will be reviewed in accordance with the regulations.

There is no certainty, however, that proper completion of this Supplemental Statement will enable operations to go forward, for the claimant must still comply with the other requirements of the regulations. The adoption of the Supplemental Claim Information Statement is designed only to determine a priority for dealing with the submitted plans of operations, thus more efficiently allocating administrative resources. It should be reemphasized that the NPS intends to engage in a systematic examination of all unpatented mining claims in these monuments and any approved plan of operations will be subject to revocation should this subsequent mining examination establish that the claim is invalid.

Finally, it should be noted that this amendment will apply only to claimants in the National Monuments in Alaska administered by the NPS. In all other areas, the NPS intends to continue its practice of undertaking a mining examination prior to consideration of a plan of operations.

This amendment to 36 CFR, Part 9 Subpart A, is promulgated as an emergency final rule without notice and public comment pursuant to 5 U.S.C. 553. It is hereby found that because of the need to have final procedures in effect in order to allow claimants to begin seeking compliance and because of the practice of moving equipment into the field before the spring thaw, it would be impracticable and contrary to the public interest to delay final promulgation of this rule.

AUTHORITY

Act of September 28, 1976 (16 U.S.C. 1901 *et seq.*), Act of August 25, 1916 (16 U.S.C. 1 and 2-4) and 245 DM (42 FR 12931) as amended.

DRAFTING INFORMATION

The following persons participated in the writing of this regulation: David Jones, National Park Service, San Francisco, California; and John G. DeKoster, Office of the Solicitor, Washington, D.C.

IMPACT ANALYSIS

It has been determined that this is not a major Federal action which will significantly affect the quality of the human environment. Accordingly, no environmental impact statement has been prepared on this action. An environmental impact statement covering proposed Federal actions in Alaska was prepared in 1974 and supplemented on November 28, 1978, by an analysis covering alternative administrative actions.

It has also been determined pursuant to 43 CFR, Part 14, that this is not a significant rule requiring a regulatory analysis. The basis for this determination is the rule's limited scope of application. Additionally, the report imposes little, if any, additional burden on the claimant because it requests only a summary of information already in the possession of the claimant.

Dated: February 15, 1979.

WILLIAM J. WHALEN,
Director, National Bank Service.

In consideration of the foregoing, Part 9 of Title 36, Code of Federal Regulations, § 9.9, subparagraphs (b) (4) and (5) is amended as follows:

§ 9.9 Plan of operations.

* * * * *

(b) * * *

(4) A description of the proposed operations and an estimated timetable for each phase of operations and the completion of operations;

(5) The nature and extent of the known deposit to be mined. When the claim is located in a National Monument in Alaska and is unpatented, a completed Supplemental Claim Information Statement shall be submitted describing the quantity, quality, and any previous production of the deposit.

* * * * *

[FR Doc. 79-5657 Filed 2-26-79; 8:45 am]

[7710-12-M]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Conditions of Delivery; Return of Refused Mail to the Mailstream After Delivery

AGENCY: Postal Service.

ACTION: Final Rule.

SUMMARY: This rule amends postal regulations dealing with "refused mail" in situations where an addressee who solicits orders or requests for tickets, special licenses, contests and other products and services, imposes a quota or limits the number of orders or requests that he will fill. Under the final rule, persons who solicit such orders or requests will not be permitted to return them as "Refused" after the available supplies of tickets, products, services, places, spaces, or special licenses applied for have been promised, allocated, or used. All such left-over solicited orders or requests tendered to the Postal Service for return to the senders must be placed into newly addressed envelopes bearing proper postage prior to being placed into the mails.

EFFECTIVE DATE: March 29, 1979.

FOR FURTHER INFORMATION CONTACT:

George E. Thomas (202) 245-4512.

SUPPLEMENTARY INFORMATION: On December 11, 1978, the Postal Service published for comment in the FEDERAL REGISTER proposed changes to Parts 154 and 159 of the Postal Service Manual to carry out the rule changes described above (43 FR 57925). Interested persons were invited to submit written comments concerning the proposed change by January 10, 1979.

Written comments were received from three individuals. All agreed with the rule change. One of the commenters suggested that if a person has ordered merchandise and then decides he does not want it, such person should be responsible for postage payment to return it. Postal regulations on this subject were not changed. A merchandise order may continue to be refused at the discretion of the addressee at the time it is offered for delivery. Even after delivery, an addressee may mark such a piece of mail REFUSED and return it to the mail so long as it is unopened, EXCEPT for registered, insured, certified, and COD mail.

Another commenter stated that book and record clubs often continue to send merchandise to members after the members have terminated their club membership. The commenter stated that he was in agreement with the rule as long as it considered such situations. The new rule in no way affects the addressee's privilege to refuse such merchandise.

After considering all comments received, the Postal Service hereby adopts without change the following revisions of the Postal Service Manual:

PART 154—CONDITIONS OF DELIVERY

1. Amend 154.1 to read as follows:

154.1 *Delivery, Refusal and Return.*

.11 *Delivery to Addressee.* The addressee may control delivery of his mail. In the absence of a contrary order, the mail is delivered as addressed. Mail addressed to several persons may be delivered to any one of them.

.111 *Mail Refused When Offered For Delivery.* The addressee may refuse to accept a piece of mail at the time it is offered for delivery.

.112 *Mail Refused After Delivery.* After delivery, an addressee may mark a piece of mail REFUSED and return it unopened to the mail, EXCEPT:

a. Registered, insured, certified, and COD mail may not be refused and returned postage free after delivery has been effected.

b. Mail sent to an addressee in response to the addressee's sales promotion, solicitation, announcement or other advertisement, and which has not been refused when offered to the addressee, may not be refused and returned postage free after delivery has been effected.

Mail that may not be refused and returned unopened to the mail under this provision may be returned to the sender only if enclosed in a new envelope or wrapper with a correct address and new postage.

.113 *Mail Withheld From Delivery.* An addressee may request his postmaster in writing to withhold from delivery for a period not exceeding 2 years any foreign letter or printed matter bearing a specified name or address appearing on the outside. Such mail will be marked REFUSED by the post office and treated as undeliverable.

.114 *Mail of Unknown Addressee.* Where a person claiming to be the addressee of certain mail is unknown to the postmaster, the mail may be withheld pending identification of the claimant.

.115 *Refused Mail as Undeliverable.* Matter refused by the addressee in accordance with 154.111 and 154.112 will be treated as undeliverable. See part 159.

.116 *Remailing of Matter Returned to Sender.* The mailer shall not remail undelivered or refused mail returned to him unless it is enclosed in a new envelope or wrapper with a correct address and new postage.

PART 159—UNDELIVERABLE MAIL

2. In 159.11, amend .111e and add new .111f to read as follows:

159.11 *Reasons for Nondelivery.*

.111 *General Reasons.*

* * * * *

e. Mail refused by the addressee at time of delivery.

f. Mail refused by the addressee after delivery when refusal is authorized under 154.112.

A post office services (Domestic) transmittal letter making changes in the pages of the Postal Service Manual will be published and transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401(2).)

W. ALLEN SANDERS,
Acting Deputy General Counsel.

[FR Doc. 79-5753 Filed 2-26-79; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 0—COMMISSION ORGANIZATION

Editorial Amendment Concerning Deletion of Section 0.332(i)

AGENCY: Federal Communications Commission.

ACTION: Order deleting § 0.332(i) as an obsolete rule.

SUMMARY: Section 0.332(i) provides, to implement Section 1.70, for cooperation between the Chief, Safety and Special Radio Services Bureau and the Office of Chief Engineer concerning proposals involving certain public lands. Section 1.70 was deleted by the Commission in 1977, thereby rendering Section 0.332(i) moot.

EFFECTIVE DATE: February 21, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Newton B. Jaslow, Safety and Special Radio Services Bureau, Phone: (202) 632-7511.

In the matter of deletion of § 0.332(i) of the Commission's Rules with respect to certain actions taken under delegated authority by the Chief, Safety and Special Radio Services Bureau; Order.

Adopted: February 6, 1979;

Released: February 6, 1979.

1. Section 0.332(i) provides that the Chief, Safety and Special Radio Services Bureau, shall establish a working relationship with the Office of Chief Engineer concerning proposals involving transmitter sites or public lands owned or controlled by the Department of Agriculture or Interior. The rule was adopted to implement § 1.70, which dealt with such proposals and established procedures therefore.

2. Section 1.70, however, was deleted by the Commission in 1977 and the procedures were terminated, thereby rendering § 0.331(i) moot. Inadvertently that section was not then deleted. We rectify that omission now.

3. Therefore, *it is ordered,* pursuant to § 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d), of the Commission's Rules, that effective February 21, 1979, § 0.332(i) of the Commission's Rules is deleted.

4. The amendment adopted herein is editorial and nonsubstantive in nature. The prior notice and effective date provisions of 5 U.S.C. Section 553 are therefore not applicable.

5. Further information about this Order may be obtained from Newton B. Jaslow at (202) 632-7511.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION.
RICHARD D. LICHTWARDT,
Executive Director.

[FR Doc. 79-5658 Filed 2-26-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-43 (Sub-No. 7)]

PART 1057—LEASE AND INTERCHANGE OF VEHICLES

Lease and Interchange of Vehicles

AGENCY: Interstate Commerce Commission.

ACTION: Delay of the effective date of the final rules.

SUMMARY: The purpose of this document is to give notice that the effective date of the rules on lease and interchange of vehicles adopted in this proceeding has been extended for 30 days to allow additional time for motor carriers to comply with these rules.

DATES: The final rules adopted in this proceeding become effective on March 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Bruce Kasson, 202-275-7723.

SUPPLEMENTARY INFORMATION: The Commission adopted new leasing rules in *Lease and Interchange of Vehicles,* 131 M.C.C. 141 (1979). Notice of their adoption was published in the FEDERAL REGISTER on January 23, 1979, at 44 FR 4680. The effective date of these rules was to have been February 22, 1979.

North American Van Lines, Inc. has petitioned the Commission to extend the effective date of these rules for 60 days to allow sufficient time in which to comply with the new rules. The petitioner contends that the 30-day period given carriers to comply with the new regulations is inadequate in view of the broad scope of the rules and the substantial changes in the context of leases and in carrier operating procedures which must be implemented.

Information has come to the Commission's attention which does show that leasing contracts will have to be substantially redrafted and that computers will have to be reprogrammed and that operating practices will have to be significantly changed. Consequently, the effective date of these rules is extended until March 26, 1979.

Decided February 13, 1979.

By the Commission, Chairman O'Neal.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-5659 Filed 2-26-79; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

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

PART 26—PUBLIC ENTRY AND USE

Opening of DeSoto National Wildlife Refuge, Iowa and Nebraska, to Public Entry and Use

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to public entry and use of DeSoto National Wildlife 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: See below.

FOR FURTHER INFORMATION CONTACT:

George E. Gage, Refuge Manager, DeSoto NWR, R-1, Box 114, Mis-

souri Valley, Iowa 51555, telephone AC 712-642-4121.

SUPPLEMENTARY INFORMATION: Public use is permitted on the DeSoto National Wildlife Refuge in accordance with 50 CFR Part 26 and the following special regulations. Portions of the refuge which are open to the public are designated by signs and/or delineated on maps. Public use shall be subject to the following conditions:

§ 26.34 Special regulations concerning public access, use and recreation for individual wildlife refuges.

Public recreational activities on DeSoto National Wildlife Refuge, Missouri Valley, Iowa, are permitted from April 15 through September 30, 1979, inclusive. In addition, the refuge may be open for self-guided auto tours from March 17 through March 25, 1979, inclusive, and from October 20 through November 11, 1979, inclusive. Groups may be permitted on the refuge for wildlife observation throughout the year upon written permission from the Refuge Manager. Use of the refuge shall be in accordance with all applicable state regulations and are subject to the following special conditions:

(1) *Authorized Activities.* Public recreational activities are limited to fishing, picnicking, swimming, boating, water skiing, nature observation, photography, mushroom, blackberry and grape picking.

(2) *Open Season and Hours.* The open season for general public recreational use is from April 15, 1979, through September 30, 1979. During this period, the area is open daily from 6:00 a.m. through 10:00 p.m. Admittance onto the refuge is prohibited after 9:00 p.m. The hours for the special spring and fall auto tours will be published in area newspapers. Between the dates of September 16 and September 30, 1979, all water oriented recreational activities, except boat and bank fishing, are prohibited. Boat motors are limited to 25 horsepower or less during this period. Swimming will be permitted from May 26 through September 3, 1979, during the hours posted, and only in the designated beach area. Two separate mushroom picking areas are open daily to the public from April 15 through May 31, 1979, hours of use are the same as for the general use area.

(3) *Open Area.* The area open for general public use including blackberry and grape picking comprises approximately 2,400 acres, and the special mushroom picking areas comprise approximately 1,100 acres. These areas are delineated on a map available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Missouri 64116. Maps of the open areas are also posted or available for handout at entrance points.

(4) *Access.* Entry onto the open area is permitted only at gates or points of entry specifically posted for this purpose.

(5) *Other provisions.* (a) The use of air mattresses, innertubes, beach balls and all other flotation devices, other than life preservers, is prohibited on refuge waters.

(b) The possession of bottles or cans is prohibited on the designated swimming beach.

(c) The use of fire is permitted, but only in grills.

(d) Access to refuge waters with air boats or house boats is prohibited.

(e) During weekends and holidays boats with motors larger than 25 horsepower are prohibited from launching at the ramps south of the Bertrand site.

(f) Boats with toilets that flush directly into the water are not allowed on refuge waters unless such toilets are sealed from use.

(g) The maximum number of power boats greater than 25 horsepower that will be permitted on refuge waters at any one time is 125.

(h) Open alcoholic beverages are prohibited on any mechanically powered boat while the boat is in operation.

(i) Since DeSoto Lake is long and narrow, all boaters must keep to the right and maintain a highway type traffic pattern.

(j) A portion of the refuge lake is posted as a "No Ski Zone". No water skiing is allowed in this area.

(k) All boats are prohibited from loading or unloading passengers from the swimming area.

(l) Operation of boats, excluding sailboats, with persons on deck or gunwales is prohibited.

(m) All boat and bank fishermen will be permitted to use the entire lake.

(n) Domestic animals, including dogs, cats, horses, and cattle are not permitted on the refuge.

(o) Removal of all plant life, including down timber, is prohibited. This restriction does not apply to mushrooms, blackberries, and grapes.

(p) During the special self-guided auto tours, visitors are required to remain in their cars.

(q) Violators of refuge regulations may be required to remove themselves from the area.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

(Sec. 2, 22 Stat. 614, as amended (16 U.S.C. 685); Sec. 5, 43 Stat. 651 (16 U.S.C. 725); Sec. 5, 45 Stat. 449 (16 U.S.C. 690d); Sec. 10, Stat. 1244 (16 U.S.C. 715); Sec. 4, 48 Stat. 402, as amended (16 U.S.C. 664); Sec. 2, 48 Stat. 1270 (43 U.S.C. 315a); Sec. 4, 76 Stat. 654 (16 U.S.C. 460k); Sec. 4, 80 Stat. 927 (16 U.S.C. 668dd); (5 U.S.C. 301); (16 U.S.C. 685, 725, 680d).)

GEORGE E. GAGE,
Refuge Manager.

FEBRUARY 6, 1979.

[FR Doc. 79-5743 Filed 2-26-79; 8:45 am]

[3510-12-M]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 652—SURF CLAM AND OCEAN QUAHOG FISHERIES

Increase of Fishing Time for Surf Clams

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Increase of Fishing Time for Surf Clams.

SUMMARY: This notice increases the allowable fishing time for vessels harvesting surf clams in the Fishery Conservation Zone (FCZ) to 36 hours per week. The reason for issuing this notice is to allow the surf clam industry the opportunity to harvest the quarterly allocation of surf clams and to reduce the potential for serious economic hardship to those vessels which have been unable to go fishing due to inclement weather.

EFFECTIVE DATE: 12:01 a.m., February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert W. Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930, Telephone (617) 281-3600.

SUPPLEMENTARY INFORMATION: Regulations were published on February 17, 1978 implementing the Surf Clam and Ocean Quahog Fisheries Management Plan. Section 652.7(a)(4) provides that if less than 25 percent of the quarterly quota has been caught during the first 45 days of any quarter, the Regional Director may increase the number of days per week for that quarter during which fishing for surf clams is permitted; however, he must determine that the reduced catch rate is not caused by a decline in abundance of stocks of surf clams. The available information indicates that

less than 25 percent of the adjusted surf clam quarterly quota of 300,000 bushels were taken by the end of the fishing day on February 14, 1979 (45 days from the start of the quarter). The Regional Director finds that the reduced catch rate was not caused by a decline in the abundance of surf clam stocks. The primary reason for the industry's inability to harvest a greater portion of the quarterly quota in this period is that a substantial amount of fishing time has been lost due to inclement weather. To allow the surf clam industry the opportunity to harvest the quarterly allocation of surf clams, and to reduce the potential for serious economic hardship to those vessels which have been unable to go fishing due to inclement weather, vessels harvesting surf clams from the FCZ will be permitted to fish for surf clams 36 hours per week beginning at 12:01 a.m., February 26, 1979. Vessels may fish during the periods shown on their letter of authorization for a 36-hour fishing week.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this 22nd day of February 1979.

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

Amend 50 CFR 652.7(a)(1) as follows:

§ 652.7 Effort restriction.

(a) Surf Clams (1) Fishing for surf clams shall be permitted during four days per week, from 12:01 a.m. (0001 hours) Monday to 12 midnight (2400 hours) Thursday. However, no fishing vessels shall engage in fishing for surf clams more than 36 hours in any week. For the period from February 26, 1979 through March 31, 1979 the authorized fishing periods for surf clams for each vessel shall be periods designated in the letter of authorization received from the Regional Director. Such periods shall be 12, 18, 24, or 36 hours in duration and cumulatively cannot exceed 36 hours total in one week. No changes in authorized fishing periods will be permitted once a quarter has commenced. All requests for changes in authorized fishing periods must be received by the Regional Director 15 days prior to the beginning of the next quarter. Fishing during any part of an authorized period will be counted as fishing for the entire period. In this paragraph "fishing" means the actual or attempted catching of fish, but not activities in preparation for fishing, such as traveling to or from the fishing grounds.

* * * * *

[FR Doc. 79-5824 Filed 2-26-79; 8:45 am]

[3510-12-M]

PART 652—SURF CLAM AND OCEAN QUAHOG FISHERIES

Adjustment of Surf Clam Quota

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of Adjustment of Surf Clam Quota.

SUMMARY: This notice adjusts the first quarter surf clam quota (January 1 to March 31, 1979) effective February 26, 1979. The quota is reduced by 50,000 bushels.

EFFECTIVE DATE: 12:01 a.m., February 26, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert W. Hanks, Acting Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, MA 01930, Telephone (617) 281-3600.

SUPPLEMENTARY INFORMATION: The surf clam quota of 387,834 bushels established for the fourth quarter of 1978 (October 1 through December 31) was exceeded. Section 652.6(a)(1) authorizes the Regional Director to subtract the amount of excess from the next succeeding quarter. The Regional Director has determined that 437,834 bushels of surf clams were taken during the fourth quarter, 50,000 bushels in excess of the quarter's quota. Therefore, the quota of 350,000 bushels established for the first quarter of 1979 (January 1 through March 31) is adjusted to 300,000 bushels.

Signed in Washington, DC, this the 22nd day of February 1979.

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

[FR Doc. 79-5825 Filed 2-26-79; 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.

[1505-01-M]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 113]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Miscellaneous Amendments; Proposed Rulemaking

Correction

In FR Doc. 79-4641 appearing at page 10071 in the issue for Friday, February 16, 1979, on page 10073, at the top of the second column, paragraph (a) should be corrected to read:

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

[6714-01-M]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 308]

RULES OF PRACTICE AND PROCEDURE

Proposed Rulemaking

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed Rule.

SUMMARY: The proposal would revise the Federal Deposit Insurance Corporation's regulations governing procedures used by the FDIC in proceedings brought under section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818, under certain other statutes. It is necessary to revise 12 CFR Part 308 because recent congressional enactments (the Financial Institutions Regulatory and Interest Rate Control Act of 1978, the International Banking Act of 1978, and the Securities Acts Amendments of 1975) have changed the FDIC's enforcement powers. This proposal would enable the FDIC to enforce the provisions of new and preexisting law against those persons and companies whom Congress has recently brought within the FDIC's enforcement authority. The proposal would also implement the FDIC's new power to collect fines for some violations of law, to disapprove changes in control of banks under the supervisory authority of the FDIC, and to impose sanctions upon municipal securities dealers and transfer agents under its authority. In addition, the proposal would reorganize Part 308 in certain respects and would correct minor and technical errors.

DATES: Comments must be received on or before March 29, 1979.

ADDRESS: Interested persons are invited to submit written data, views or arguments regarding the proposed regulations to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Werner Goldman, Acting Assistant General Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. (202) 389-4616.

SUPPLEMENTARY INFORMATION: The Federal Deposit Insurance Corporation would make the following changes:

A. CEASE-AND-DESIST ORDERS

Section 107 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 ("FIRIRCA") gives the FDIC the power to initiate cease-and-desist proceedings against directors, officers, employees or agents of, or other persons participating in the control of the affairs of, an insured nonmember bank. The FDIC would revise Part 308 to implement this power.

B. REMOVAL AND SUSPENSION ORDERS

Prior to the enactment of FIRIRCA, the FDIC had the power to initiate removal and suspension proceedings against a director or officer of an insured nonmember bank, upon determinations (a) that the director or officer engaged in the act which was a violation of law, or of a final cease-and-desist order, or an unsafe or unsound practice or a breach of fiduciary duty; (b) that the bank has suffered or would suffer substantial damage, or that the interests of the bank's depositors could be seriously prejudiced by the act committed by the director or officer; and (c) that the act was one involving personal dishonesty.

Section 107 of FIRIRCA broadens the power of the FDIC to remove or suspend directors or officers. The requirement referred to as (b) above can now also be satisfied if the director or officer has received financial gain by reason of his act, and requirement (c) can now also be satisfied if his act demonstrates a willful or continuing disregard for the safety or soundness of the bank.

The FDIC would revise Part 308 to implement its broadened removal and suspension power.

C. SUSPENSION ORDERS WHERE CRIME CHARGED

Section 111 of FIRIRCA requires that suspension of directors, officers, or other personnel of insured nonmember banks under section 8(g) of the Federal Deposit Insurance Act be accompanied by a finding that continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank. The FDIC would revise Part 308 to reflect the need for this additional finding.

Section 111 of FIRIRCA also allows for a hearing at the request of the person suspended under section 8(g). The FDIC would revise Part 308 to provide for a hearing conforming to the requirements of section 111 of FIRIRCA.

D. CIVIL PENALTIES FOR VIOLATION OF A CEASE-AND-DESIST ORDER

Section 107 of FIRIRCA permits the FDIC to collect civil penalties of an insured nonmember bank or person who violates a final cease-and-desist order. The FDIC would expand Part 308 to provide procedures for the assessment and collection of these civil penalties, and for the conduct of agency hearings in regard to the penalties.

E. CIVIL PENALTIES FOR VIOLATION OF CERTAIN STATUTES

Section 108 of FIRIRCA permits the FDIC to collect civil penalties from an insured nonmember bank or person who violates section 22(h) or 23A of the Federal Reserve Act, as made applicable by section 18(j) of the Federal Deposit Insurance Act.

Section 801 of FIRIRCA permits the FDIC to collect civil penalties from an insured nonmember bank or person who violates section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended.

The FDIC would expand Part 308 to provide procedures for the assessment and collection of these civil penalties

and for the conduct of agency hearings in regard to these penalties.

F. CHANGE IN BANK CONTROL ACT

Title VI of FIRIRCA, the Change in Bank Control Act of 1978, empowers the FDIC to disapprove a proposed acquisition of control of an insured nonmember bank, and requires a hearing after disapproval if the party seeking to acquire control requests one. The Change in Bank Control Act also empowers the FDIC to assess civil penalties for the willful violation of the Change in Bank Control Act. The FDIC would expand Part 308 to provide procedures for disapproval and for civil penalties, and to provide for hearings as to each.

G. INTERNATIONAL BANKING ACT OF 1978

Section 6 of the International Banking Act of 1978 makes section 8 of the Federal Deposit Insurance Act generally applicable to foreign banks. The FDIC would revise Part 308 to reflect this.

H. MUNICIPAL SECURITIES DEALERS AND TRANSFER AGENTS

Section 15(b) of the Securities Exchange Act of 1934 gives the FDIC the power, upon certain findings, to censure, limit the activities of, suspend, or revoke the registration of a municipal securities dealer for which the FDIC is the appropriate regulatory agency. Section 17A of that Act gives the FDIC the power, upon certain findings, to deny registration to, censure, limit the activities of, suspend, or revoke the registration of a transfer agent for which the FDIC is the appropriate regulatory agency. The FDIC would expand Part 308, to provide procedures, including hearing procedures, for the imposition of these sanctions.

I. EXEMPTION FROM CERTAIN 1934 ACT REQUIREMENTS

Sections 12(h) and (i) of the Securities Exchange Act of 1934 give the FDIC the authority to exempt by order an issuer, class of issuers, or person from the requirements of sections 12(g), 13, 14(a), 14(c), 14(f), or 16 of that Act. The FDIC would expand Part 308 to provide procedures, including hearing procedures, for granting such an exemption by order.

J. OTHER CHANGES

The FDIC would make other minor changes in Part 308 to bring it into conformity with FIRIRCA and the International Banking Act of 1978.

In addition to the above, the FDIC would provide Part 308 with a definitional section and rules of construction; reletter retained subparts and renumber retained sections as needed; correct various cross-references, grammatical errors, and instances of obscure syntax, diction, and punctuation; and make other cosmetic changes as needed.

It is proposed to revise 12 CFR Part 308 as follows:

PART 308—RULES AND PRACTICE AND PROCEDURE

Subpart A—Definition and Rules of Construction

Sec.
308.1 Definitions.
308.2 Rules of construction.

Subpart B—Rules of Practice Applicable to All Hearings

308.3 Scope.
308.4 Appearance and practice before the Corporation.
308.5 Notice of hearing.
308.6 Answer or exceptions.
308.7 Conduct of hearings.
308.8 Subpenas.
308.9 Rules of evidence.
308.10 Motions.
308.11 Proposed findings and conclusions and recommended decision.
308.12 Exceptions.
308.13 Briefs.
308.14 Oral argument before the Board of Directors.
308.15 Notice of submission to the Board of Directors.
308.16 Decision of Board of Directors.
308.17 Filing papers.
308.18 Service.
308.19 Copies.
308.20 Computing time.
308.21 Documents in proceedings confidential.
308.22 Formal requirements as to papers filed.

Subpart C—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

308.23 Scope.
308.24 Grounds for termination of insurance.
308.25 Extraterritorial acts of foreign banks or their directors or trustees.
308.26 Failure of a foreign bank to secure removal of personnel.
308.27 Notice of intention to terminate insured status.
308.28 Order terminating insured status.
308.29 Consent to termination of insured status.
308.30 Notice of termination of insured status.
308.31 Termination of insured status of banking institution not engaged in the business of receiving deposits other than trust funds.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

308.32 Scope.
308.33 Grounds for cease-and-desist orders.
308.34 Extraterritorial acts of foreign banks or their officials.
308.35 Notice of charges and hearing.
308.36 Issuance of order.
308.37 Effective date.
308.38 Temporary cease-and-desist orders.
308.39 Effective date of temporary order.

Subpart E—Rules and Procedures Applicable to Proceedings Relating to Removal and Suspension Orders

Sec.
308.40 Scope.
308.41 Grounds for removal order.
308.42 Grounds for suspension order.
308.43 Effective date of suspension order.
308.44 Extraterritorial acts of officials of foreign banks.
308.45 Notice of intention to remove and hearing.
308.46 Issuance of removal order and effective date.

Subpart F—Procedures Applicable to Proceedings Pursuant to Section 10(c) of the Federal Deposit Insurance Act

308.47 Scope.
308.48 Confidential proceedings.
308.49 Orders to conduct proceedings.
308.50 Rights of witness.
308.51 Transcripts.
308.52 Service of subpoena.
308.53 Witness fees and mileage.
308.54 Special examination and examinations of closed banks.

Subpart G—Procedures and Standards Applicable to Suspensions and Prohibitions Where Felony Charged

308.55 Scope.
308.56 Rules of practice.
308.57 Notice of suspension or prohibition.
308.58 Removal or permanent prohibition.
308.59 Effectiveness of suspension or removal until completion of hearing.
308.60 Notice of opportunity for hearing.
308.61 Hearing.
308.62 Waiver of hearing.
308.63 Decision of Board of Directors.
308.64 Reconsideration by the Board of Directors.
308.65 Relevant considerations.

Subpart H—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Penalties for the Violation of Cease-and-Desist Orders or Certain Federal Statutes

308.66 Scope.
308.67 Violation of order as ground for assessment.
308.68 Violation of laws limiting insider and affiliate dealings as ground for assessment.
308.69 Violation of laws governing correspondent accounts as ground for assessment.
308.70 Rule of construction.
308.71 Relevant considerations.
308.72 Notice of assessment of civil penalty.
308.73 Period within which civil penaly is payable.
308.74 Notice of opportunity for hearing.
308.75 Request for hearing.
308.76 Hearing and order.

Subpart I—Rules and Procedures Applicable to Proceedings Relating to Disapproval of Acquisition of Control

308.77 Scope.
308.78 Notice of disapproval.
308.79 Notice of opportunity for hearing.
308.80 Request for hearing.
308.81 Hearing and order.
308.82 Grounds for disapproval.

Subpart J—Rules and Procedures Applicable to Proceedings Relating to Assessment of Civil Penalties for Willful Violation of the Change in Bank Control Act

Sec.
308.83 Scope.
308.84 Rules of practice.
308.85 Notice of intention to assess civil penalty.
308.86 Notice of opportunity for hearing.
308.87 Request for hearing.
308.88 Hearing.
308.89 Waiver of hearing.
308.90 Assessment.
308.91 Collection.

Subpart K—Rules and Procedures Applicable to Sanctions Imposed Upon Municipal Securities Dealers or Persons Associated With Them, and Upon Transfer Agents

308.92 Scope.
308.93 Notice of intention to impose sanctions.
308.94 Contents of notice.
308.95 Hearing.
308.96 Issuance of order and effective date.
308.97 Notice and consultation with the Securities and Exchange Commission.

Subpart L—Rules and Procedures Relating to Exemption Proceedings Under Sections 12 (h) and (i) of the Securities Exchange Act of 1934

308.98 Scope.
308.99 Application for exemption.
308.100 Newspaper notice.
308.101 Notice of hearing.
308.102 Hearing.
308.103 Decision.

AUTHORITY: Sec. 2(9), Pub. L. No. 797, 64 Stat. 881 (12 U.S.C. 1819); sec. 18, Pub. L. No. 94-29, 89 Stat. 155 (15 U.S.C. 78w); sec. 801, Pub. L. No. 95-630, 92 Stat. 3641 (12 U.S.C. 1972).

Subpart A—Definitions and Rules of Construction

§ 308.1 Definitions.

(a) For purposes of this part, except where explicitly stated to the contrary,

(1) The term "insured nonmember bank" means any bank, whose deposits are insured by the Federal Deposit Insurance Corporation, and which is neither a national bank, a District bank, nor a member of the Federal Reserve System. The term "insured nonmember bank" includes a foreign bank having an insured branch;

(2) The term "official" means any director, officer, employee or agent of a bank to which reference is being made, or any other person participating in the conduct of the affairs of such a bank;

(3) The term "foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, engaging in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company. "Foreign bank" includes, without limitations, foreign commerical banks, foreign merchant banks and other institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;

(4) The term "insured branch" means a branch of a foreign bank any deposits in which are insured by the Corporation.

(b) For the purposes of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term "officer" as used in Subpart E means an employee or officer with management functions, and the term "director" includes an advisory or honorary director, a trustee of a bank under the control of trustees, or any person who has a representative or nominee serving in any such capacity. For other purposes, the terms "officer" and "director" as used in this part are defined according to common usage in the banking industry.

(c) For purposes of Subpart J (except § 308.88 thereof), the term "person" means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, or any other form of entity.

§ 308.2 Rules of construction.

As used in this part, and unless the context otherwise requires:

(a) The Federal Deposit Insurance Corporation shall be designated as the "Corporation"; and

(b) Terms in the singular number shall include the plural, and terms in the plural number shall include the singular.

Subpart B—Rules of Practice Applicable to All Hearings

§ 308.3 Scope.

(a) This subpart prescribes rules of practice and procedure followed by the Federal Deposit Insurance Corporation in hearings held pursuant to the provisions of the Federal Deposit Insurance Act pertaining to:

(1) Involuntary termination of the insured status of any bank or any insured branch of a foreign bank;

(2) The issuance of cease-and-desist orders against any insured nonmember bank or any official of such a bank;

(3) The assessment of civil penalties against (a) an insured nonmember bank or an official of such a bank, for the violation of a cease-and-desist order which has become final, or (b) an insured State nonmember bank (other than a District bank) or an official of such a bank, for the violation of (i) the provisions of section 22(h) or 23A of the Federal Reserve Act, as made applicable by section 18(j) of the Federal Deposit Insurance Act, or (ii) the provisions of section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended;

(4) The issuance of orders removing or suspending from office or prohibiting from further participation in the conduct of the affairs of the bank, any director or officer of an insured nonmember bank or any other person participating in the conduct of the affairs of such a bank, except where the removal, suspension, or prohibition of such person is within the scope of Subpart G as set forth in § 308.55;

(5) The disapproval of a proposed acquisition of control of an insured State nonmember bank; and

(6) The imposition of sanctions upon any municipal securities dealer for which the Corporation is the appropriate regulatory agency, or upon any person associated or seeking to become associated with such a municipal securities dealer, or upon any transfer agent for which the Corporation is the appropriate regulatory agency (except for hearings on postponement of registration by such transfer agents, pending registration denial proceedings, and for hearings on suspension of registration by such transfer agents, pending registration revocation proceedings).

(b) In connection with any proceeding under Subpart D or E of this part, the Corporation will provide the appropriate State supervisory authority with timely notice of its intent to institute such a proceeding and the grounds therefor. Unless within such time as the Corporation deems appropriate in the light of the circumstances of the case (which time will be specified in the notice) satisfactory corrective action is effectuated by action of the State supervisory authority, the Corporation will proceed as provided in Subparts D and E of this part.

§ 308.4 Appearance and practice before the Corporation.

(a) *Power of attorney and notice of appearance.* Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia, may represent others before the Corporation upon filing with the Executive Secretary a written declaration of current qualification to practice as provided by this paragraph, and is authorized to represent the particular party on whose behalf such person acts. Any other person desiring to appear before, or transact business with, the Corporation in a representative capacity may be required to file with the Executive Secretary of the Corporation a power of attorney showing authority to act in such capacity, and may be required to demonstrate to the satisfaction of the Board of Directors possession of

the requisite qualifications. Attorneys and representatives of parties to proceedings shall file a written notice of appearance with the Executive Secretary or with the administrative law judge.

(b) *Summary suspension.* Contemptuous conduct at an argument before the Board of Directors or at a hearing before an administrative law judge shall be ground for exclusion therefrom and suspension for the duration of the argument or hearing.

§ 308.5 Notice of hearing.

(a) Whenever a hearing within the scope of this subpart is ordered by the Board of Directors, a notice of hearing shall be given by the Executive Secretary of the Corporation or other designated officer acting for the Board of Directors to the party afforded the hearing and to any appropriate supervisory authority. Such notice shall state the time, place, and nature of the hearing, the administrative law judge, and the legal authority and jurisdiction under which the hearing is to be held, and shall contain a statement of the matters of fact or law constituting the grounds for the hearing, and shall be delivered by personal service, by registered or certified mail to the last known address, or by other appropriate means, sufficiently in advance of the date set for hearing to comply with the provisions of the Federal Deposit Insurance Act.

(b) For purposes of this and succeeding sections of this subpart, and unless the context otherwise suggests, the term "party" means a person or agency named or admitted as a party, or any person or agency who has filed a written request and is entitled as of right to be admitted as a party; but a person or agency may be admitted for a limited purpose.

§ 308.6 Answer or exceptions.

(a) *When required.* In any notice of hearing issued by the Board of Directors under this part, the Board of Directors may direct the party afforded the hearing to file an answer to such allegations as are contained in the notice, or, if the Board has issued a notice of hearing pertaining to the disapproval of a proposed acquisition of control of an insured bank, the Board may direct the party who had requested the hearing to file exceptions to the statement of the basis for disapproval; and any party to any proceeding may file an answer or exceptions, as the case may be. Except where a different period of not less than 10 days after service of a notice of hearing is specified by the Board of Directors, a party directed to file an answer or exceptions, or a party who elects to file an answer or exceptions, shall file the same with the Executive Secretary of the Corporation within 20 days after service upon the party of the notice of hearing.

(b) *Requirements of answer; effect of failure to deny.* An answer filed under this section shall specifically admit, deny, or state that the party does not have sufficient information to admit or deny each allegation in the notice of hearing. A statement of lack of information shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a party intends to deny only a part or a qualification of an allegation, so much of it as is true shall be specified and the remainder only shall be denied.

(c) *Admitted allegations.* If a party filing an answer under this section elects not to contest any of the allegations of fact set forth in the notice of hearing, such answer shall consist of a statement that all of the allegations are admitted to be true. Such an answer shall constitute a waiver of hearing as to the facts alleged in the notice, and together with the notice will provide a record basis on which the administrative law judge shall file with the Executive Secretary of the Corporation a recommended decision containing findings of fact, conclusions of law and proposed order. Any such party may, however, upon service of the recommended decision, findings, conclusions and proposed order of the administrative law judge, file exceptions within the time provided in § 308.12(a).

(d) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided shall be deemed to constitute a waiver of the right to appear and contest the allegations of the notice of hearing and to authorize the administrative law judge, without further notice to the party, to find the facts to be as alleged in the notice and to file with the Executive Secretary of the Corporation a recommended decision containing such findings and appropriate conclusions. The Board of Directors or the administrative law judge may, for cause shown, permit the filing of a delayed answer after the time for filing the answer has expired.

(e) *Requirements of exceptions.* Exceptions to a statement of the basis for disapproval, filed under this section, shall specifically designate which portions of the statement the party intends to challenge. Portions not so designated will not be challengeable by that party at the hearing.

(f) *Effect of failure to except.* Failure of a party to file exceptions required under this section within the time provided shall be deemed to constitute a waiver of the party's right to appear and contest the disapproval of the proposed acquisition of control, and to authorize the administrative law judge to proceed with the hearing without further notice to that party. If every party has waived its right of appearance, the administrative law judge is authorized to recommend to the Board that it dispense with further proceedings. The Board of Directors or the administrative law judge may, for cause shown, permit the filing of delayed exceptions after the time for the filing of exceptions has expired.

(g) *Opportunity for informal settlement.* Any interested party may at any time submit to the Executive Secretary of the Corporation, for consideration by the Board of Directors, written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties. No such offer or proposal, or counter-offer or proposal, shall be admissible in evidence over the objection of any party in any hearing in connection with such proceeding. The foregoing provisions of this section shall not preclude settlement of any proceeding through the regular adjudicatory process by the filing of an answer or exceptions as provided in this section, or by submission of the case to the administrative law judge on a stipulation of facts and an agreed order.

§ 308.7 Conduct of hearings.

(a) *Selection of administrative law judge.* Any hearing within the scope of this subpart shall be held before an administrative law judge selected by the Office of Personnel Management and, unless otherwise provided in the notice of hearing, shall be conducted as hereinafter provided.

(b) *Authority of administrative law judge.* All hearings governed by this subpart shall be conducted in accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 554-557). The administrative law judge selected by the Office of Personnel Management to preside at any such hearing shall have complete charge of the hearing, and shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings. The administrative law judge shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpenas and subpenas duces tecum, as authorized by law, and to revoke, quash, or modify any such subpena;

(3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof;

(4) To take depositions or cause depositions to be taken;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To hold conferences for the settlement or simplification of issues or for any other proper purpose; and

(7) To consider and, as justice may require, rule upon all procedural and other motions appropriate in an adversary proceeding, except that an administrative law judge shall not have power to decide any motion to dismiss the proceedings or other motion which results in final determination of the merits of the proceedings.

Without limitation on the foregoing provisions of this paragraph, the administrative law judge shall, subject to the provisions of this part, have all the authority provided in section 556(c) of title 5 of the United States Code.

(c) *Ex parte communications prohibited.* (1) For purposes of this subsection, "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but does not include requests for status reports. The following prohibitions against ex parte communications apply from the time a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions apply from the time of acquisition of such knowledge.

(2) No interested person outside the Corporation shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to anyone who is or may reasonably be expected to be involved in the decisional process.

(3) No person who is or may reasonably be expected to be involved in the decisional process shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to any interested person outside the Corporation.

(4) If an ex parte communication is made, or is knowingly caused to be made, the following will be placed on the public record—

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses and memoranda stating the substance of all oral responses to the materials described in paragraphs (c)(4) (i) and (ii) of this section.

(5) Upon receipt of a communication knowingly made or caused to be made in violation of paragraph (c)(2) of this section the responsible party may be required to show cause why such party's claim or interest should not be dismissed, denied, or otherwise adversely affected. To the extent consistent with the interests of justice and the policy of the Federal Deposit Insurance Act, a knowing violation of paragraph (c)(2) of this section may be grounds for a decision adverse to the responsible party.

(6) Except as authorized by law, the administrative law judge shall not consult any person or party within the Corporation on any fact in issue unless upon notice and opportunity for all parties to participate, and the administrative law judge shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions. Except as authorized by law, no officer, employee or agent engaged in the performance of investigative or prosecuting functions in any case shall, in that case or a factually related case, participate or advise in the decision of the administrative law judge except as a witness or counsel in the proceedings.

(d) *Prehearing conference.* (1) Upon the initiative of the administrative law judge, or at the request of any party, counsel for all parties may be directed to meet at a specified time and place prior to the hearing, or to submit suggestions in writing, for the purpose of considering any or all of the following:

(i) Simplification and clarification of the issues;

(ii) Stipulations, admissions of fact and of contents and authenticity of documents;

(iii) Matters of which official notice will be taken; and

(iv) Other matters which may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

(2) The conference shall, at the request of any party, be recorded and, at its conclusion, the administrative law judge shall enter in the record an order which recites the results of the conference. This order shall include the administrative law judge's rulings upon matters considered at the conference, together with appropriate directions to the parties, if any. The order shall control the subsequent course of the proceedings, unless modified to prevent manifest injustice.

(e) *Attendance at hearings.* A hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel, witnesses while testifying, and other persons having an official interest in the proceedings: *Provided, however,* That on written request by a party or representative of the Board of Directors, or on the Board's own motion, the Board, in its discretion and to the extent permitted by law, may permit other persons to attend or may order the hearing to be public.

(f) *Transcript of testimony.* Hearings shall be recorded and transcripts shall be made available to any party upon payment of the cost thereof and, in the event the hearing is public, shall be furnished on similar payment to other interested persons. A copy of the transcript of the testimony taken at any hearing, duly certified by the reporter, together with all exhibits, all papers and requests filed in the proceeding, shall be filed with the Executive Secretary of the Corporation, who shall transmit the same to the administrative law judge. The Executive Secretary shall promptly serve notice upon each of the parties of such filing and transmittal. The administrative law judge shall have authority to rule upon motions to correct the record.

(g) *Order of procedure.* The counsel for the Corporation shall open and close.

(h) *Continuances and changes or extensions of time and changes of place of hearing.* Except as otherwise expressly provided by law, the Board of Directors may by notice of hearing or subsequent order provide time limits different from those specified in this subpart, and the Board of Directors may, on its own initiative or for good cause shown, change or extend any time limit prescribed by these rules or the notice of hearing, or change the time and place for beginning any hearing hereunder. The administrative law judge may continue or adjourn a hearing from time to time and, as permitted by law or agreed to by the parties, from place to place. Extensions of time for making any filing or performing any act required or allowed to be done within a specified time in the course of a proceeding may be granted by the administrative law judge for good cause shown.

(i) *Call for further evidence, oral argument, briefs, reopening of hearing.* The administrative law judge may call for the production of further evidence upon any issue, may permit oral argument and submission of briefs at the hearing and, upon appropriate notice, may reopen any hearing at any time prior to the certification by the administrative law judge of a recommended decision to the Executive Secretary of the Corporation. The Board of Directors shall render its decision within 90 days after the Executive Secretary of the Corporation has notified the parties, pursuant to § 308.15, that the case has been submitted to the Board of Directors for final decision, unless within such 90-day period the Board of Directors shall order that such notice be set aside and the case reopened for further proceedings.

§ 308.8 Subpenas.

(a) *Issuance.* The administrative law judge, or the Board of Directors in the

event the administrative law judge is unavailable, shall issue subpenas at the request of any party, requiring the attendance of witnesses or the production of documentary evidence at any designated place of hearing; except that where it appears to the administrative law judge or the Board of Directors that the subpena may be unreasonable, oppressive, excessive in scope, or unduly burdensome, the party seeking the subpena may be required, as a condition precedent to the issuance of the subpena, to show the general relevance and reasonable scope of the testimony or other evidence sought. In the event the administrative law judge or the Board of Directors, after consideration of all the circumstances, determines that the subpena or any of the terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, there may be a determination to refuse to issue the subpena, or to issue it only upon such conditions as fairness requires.

(b) *Motion to quash.* Any person to whom a subpena is directed may, prior to the time specified therein for compliance but in no event more than five days after the date of service of such subpena, with notice to the party requesting the subpena, apply to the administrative law judge, or to the Board of Directors if the administrative law judge is unavailable, to revoke, quash, or modify such subpena, accompanying such application with a statement of the reasons therefor.

(c) *Service of subpena.* Service of a subpena upon a person named therein shall be made by delivering a copy of the subpena to such person and by tendering the fees for 1 day's attendance and the mileage as specified in paragraph (d) of this section, except that when a subpena is issued at the instance of the Board of Directors fees and mileage need not be tendered at the time of service of the subpena. If service is made by a U.S. marshal, or a deputy U.S. marshal, or an employee of the Corporation, such service shall be evidenced by the required return thereupon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service is made, and return such affidavit on or with the original subpena. In case of failure to make service, reasons for the failure shall be stated on the original subpena. The original subpena, bearing or accompanied by the required return, affidavit or statement, shall be returned without delay to the administrative law judge.

(d) *Attendance of witnesses.* The attendance of witnesses and the production of documents pursuant to a subpena, issued in connection with a hearing provided for in Subpart C, D, E, H, I, or K of this part, may be required from any place in any State or in any territory at any designated place where the hearing is being conducted. Witnesses subpenaed in any proceeding within the scope of this subpart shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(e) *Depositions.* The Board of Directors or administrative law judge by subpena or subpena duces tecum, may order evidence to be taken by deposition in any proceeding at any stage thereof. Such depositions may be taken by the administrative law judge or before any person designated by the Board of Directors or the administrative law judge and having power to administer oaths. Unless notice is waived, no deposition shall be taken except after at least 5 days' notice to the parties to the proceeding.

(f) *Application and order to take oral deposition.* Any party desiring to take the oral deposition of a witness, in connection with any hearing within the scope of this subpart, shall make application in writing to the administrative law judge, or to the Board of Directors in the event the administrative law judge is unavailable, setting forth the reasons why such deposition should be taken, the name and post office address of the witness, the matters concerning which the witness is expected to testify, the relevancy of these matters, the time and place for taking the deposition, and the name and post office address of the person before whom it is desired the deposition be taken. A copy of such application shall be served upon every other party to the proceeding by the party making such application. Upon a showing that (1) the proposed witness will be unable to attend or may be prevented from attending the hearing because of age, sickness or infirmity, or will otherwise be unavailable at the hearing, and (2) the testimony will be material, and 93) the taking of the deposition will not result in any undue burden to any other party or in undue delay of the proceeding, then the administrative law judge or the Board of Directors, in its discretion, by subpena duces tecum, may order the oral deposition be taken. Such subpena will name the witness whose deposition is to be taken and specify the time and place for taking the deposition, and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is ordered to be taken, may or may not be the same as those named in the application. Notice of the issuance of such subpena shall be served upon each of the parties a reasonable time, and in no event less than five days, in advance of the time fixed for the taking of the deposition.

(g) *Procedure on deposition; objections.* Each witness testifying upon oral deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. Objections to questions or evidence shall be in short form, stating the grounds of objection relied upon; but the person taking the deposition shall not have power to rule upon questions of competency or materiality or relevance of evidence. Failure to object to questions or evidence shall not be deemed a waiver except where the ground of the objection is one which might have been obviated or removed if presented at that time. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate) shall be recorded by the person taking the deposition, or under such person's direction. The deposition shall be subscribed by the witness, unless the parties by stipulation waived the signing, or the witness is ill or cannot be found or has refused to sign, and shall be certified as a true and complete transcript thereof by the person taking the deposition. If the deposition is not subscribed to by the witness, such person shall state on the record this fact and the reason therefor. Such person shall promptly send the original and two copies of such deposition, together with the original and two copies of all exhibits, by registered mail to the Executive Secretary of the Corporation unless otherwise directed in the order authorizing the taking of the deposition. Interested parties shall make their own arrangements with the person taking the deposition for copies of the testimony and the exhibits.

(h) *Introduction as evidence.* Subject to appropriate rulings on such objections to questions of evidence as were noted at the time the deposition was taken or as would be valid were the witness personally present and testifying (except objections waived under the third sentence of paragraph (g) of this section), the deposition or any part thereof may be read in evidence by any party to the proceeding. Only such part or the whole of a deposition as is received in evidence at a hearing shall constitute a part of the record in such proceeding upon which a decision may be based.

(i) *Payment of fees.* Witnesses whose oral depositions are taken shall be entitled to the same fees as are paid for like services in the courts of the United States. Fees of persons taking such depositions and the fees of the reporter shall be paid by the person upon whose application the deposition was taken.

§ 308.9 Rules of evidence.

(a) *Evidence.* All parties shall have the right to present their case or de-

fense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(b) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objections relied upon, and the transcript shall not include argument thereon except as ordered, allowed, or requested by the administrative law judge. Rulings on such objections and on any other matters shall be a part of the transcript. Failure to object to admission or exclusion of evidence or to any ruling shall be considered a waiver of such objection.

(c) *Official notice.* All matters officially noticed by the administrative law judge shall appear on the record.

§ 308.10 Motions.

(a) *In writing.* An application or request for an order or ruling not otherwise specifically provided for in this subpart shall be made by motion. After an administrative law judge has been designated to preside at a hearing and before the filing with the Executive Secretary of the Corporation of the administrative law judge's recommended decision, pursuant to § 308.11, such applications or requests shall be addressed to and filed with the administrative law judge. At all other times motions shall be addressed to the Board of Directors and filed with the Executive Secretary of the Corporation. Motions shall be in writing, except that a motion made at a session of a hearing may be made orally upon the record unless the administrative law judge directs that it be reduced to writing. All written motions shall state with particularity the order or relief sought and the grounds therefor.

(b) *Objections.* Within 5 days after service of any written motion, or within such other period of time as may be fixed by the administrative law judge or the Board of Directors, any party may file a written answer or objection to such motion. The moving party shall have no right to reply, except as permitted by the administrative law judge or the Board of Directors. As a matter of discretion, the administrative law judge or the Board of Directors may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(c) *Oral argument.* No oral argument will be heard on motions except as otherwise directed by the administrative law judge or the Board of Directors. Written memoranda or briefs may be filed with motions or answers or objections thereto, stating the points and authorities relied upon in support of the position taken.

(d) *Rulings on motions.* Except as otherwise provided in this part, the administrative law judge shall rule upon all motions properly submitted and upon such other motions as the Board of Directors may direct, except that if the administrative law judge finds that a prompt decision by the Board of Directors on a motion is essential to the proper conduct of the proceeding, then such motion may be referred to the Board of Directors for decision. The Board of Directors shall rule upon all motions properly submitted to it for decision.

(e) *Appeal from rulings on motions.* All motions and answers or objections thereto and rulings thereon shall become part of the record. Rulings of an administrative law judge on any motion may not be appealed to the Board of Directors prior to its consideration of the administrative law judge's recommended decision, findings and conclusions except by special permission of the Board of Directors; but they shall be considered by the Board of Directors in reviewing the record. Requests to the Board of Directors for special permission to appeal from such rulings of the administrative law judge shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on every other party to the proceeding.

(f) *Continuation of hearing.* Unless otherwise ordered by the administrative law judge or the Board of Directors, the hearing shall continue pending the determination of any motion by the Board of Directors.

§ 308.11 Proposed findings and conclusions and recommended decision.

(a) *Proposed findings and conclusions by parties.* Each party to a hearing shall have a period of 15 days after service of notice by the Executive Secretary of the Corporation that the record has been filed and transmitted, as provided in paragraph (f) of § 308.7, or such further time as the administrative law judge for good cause shall determine, to file with the administrative law judge proposed findings of fact, conclusions of law and order, which may be accompanied by a brief or memorandum in support thereof. Such proposals shall be supported by citation of such statutes, decisions and other authorities, and by page references to such portions of the record, as may be relevant. All such proposals, briefs and memoranda shall become a part of the record.

(b) *Recommended decision and filing of record.* The administrative law judge shall, within 30 days after the expiration of the time allowed for the filing of proposed findings, conclusions, and order, or within such further time as the Board of Directors for good cause shall determine, file with the Executive Secretary of the Corporation and certify to the Board of Directors for decision the entire record of the hearing, which shall include a recommended decision, findings of fact, conclusions of law, and proposed order, the transcript, exhibits (including on request of any of the parties exhibits excluded from evidence or tenders of proof), exceptions, rulings, and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing, the Executive Secretary of the Corporation shall serve upon each party to the proceeding a copy of the administrative law judge's recommended decision, findings, conclusions, and proposed order. The provisions of this paragraph and § 308.12 shall not apply, however, in any case where the hearing was held before the Board of Directors.

§ 308.12 Exceptions.

(a) *Filing.* Within 15 days after service of the recommended decision, findings, conclusions, and proposed order of the administrative law judge, or such further time as the Board of Directors for good cause shall determine, any party (other than a party who has not filed an answer or exceptions in accordance with paragraphs (a) and (d) or (f) of § 308.6, unless no such filing was required of such party by the Board of Directors) may file with the Executive Secretary of the Corporation exceptions thereto or to any part thereof, or to the failure of the administrative law judge to make any recommendation, finding, or conclusion, or to the admission or exclusion of evidence, or other ruling of the administrative law judge, supported by such brief as may appear advisable.

(b) *Waiver.* Failure of a party to file exceptions to the recommended decision, findings, conclusions, and proposed order of the administrative law judge or any portion thereof, or to the administrative law judge's failure to adopt a proposed finding or conclusion, or to the admission or exclusion of evidence or other ruling of the administrative law judge, within the time prescribed in paragraph (a) of this section, shall be deemed to be a waiver of objection thereto.

§ 308.13 Briefs.

(a) *Contents.* All briefs shall be confined to the particular matters in issue. Each exception or proposed finding or conclusion which is briefed shall be supported by a concise argument or by citation of such statutes, decisions or other authorities and by page reference to such portions of the record or recommended decision of the

administrative law judge as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Reply briefs.* Reply briefs may be filed with the Executive Secretary of the Corporation within 10 days after service of briefs and shall be confined to matters in original briefs of opposing parties. Additional briefs may be filed only with the permission of the Board of Directors.

(c) *Delays.* Briefs not filed on or before the time fixed in this subpart will be received only upon special permission of the Board of Directors.

§ 308.14 Oral argument before the Board of Directors.

Upon its own initiative, or upon the written request of any party (made within the time prescribed for the filing of exceptions, a brief in support thereof, or a reply brief, if any) for oral argument on the findings, conclusions, and recommended decision of the administrative law judge, the Board of Directors, if it considers justice will best be served thereby may order the matter be set down for oral argument before the Board of Directors or one or more members thereof. Oral arguments before the Board of Directors shall be recorded unless otherwise ordered by the Board of Directors.

§ 308.15 Notice of submission to the Board of Directors.

Upon the filing of the record with the Executive Secretary of the Corporation, and upon the expiration of the time for the filing of exceptions and all briefs, including reply briefs or any additional briefs permitted by the Board of Directors and upon the hearing of oral argument by the Board of Directors, the Executive Secretary shall notify the parties that the case has been submitted to the Board of Directors for final decision.

§ 308.16 Decision of Board of Directors.

Appropriate members of the staff, who are not participating in the performance of investigative or prosecutorial functions in the case, or in a factually related case, may advise and assist the Board of Directors in the consideration of the case and in the preparation of appropriate documents for its disposition. Copies of the decision and order of the Board of Directors shall be furnished by the Executive Secretary of the Corporation to the parties to the proceedings, to the bank involved and, in the case of a State bank or a State branch of a foreign bank, to the appropriate State supervisory authority. Where the proceedings involve the involuntary termination of the insured status of a bank or of a branch of a foreign bank, copies of the decision and order shall also be furnished to the Board of Governors of the Federal Reserve System in the case of a State member bank, or to the Comptroller of the Currency in the case of a national bank, a District bank, or a Federal branch of a foreign bank.

§ 308.17 Filing papers.

Recommended decisions, exceptions, briefs and other papers required to be filed with the Board of Directors or the Executive Secretary in any proceedings shall be filed with the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429. Any such papers may be sent to the Executive Secretary by mail or express, but must be received in the office of the Corporation in Washington, D.C., or postmarked, within the time limit for such filing.

§ 308.18 Service.

(a) *By the Board of Directors.* All documents or papers required to be served by the Board of Directors upon any party afforded a hearing shall be served by the Executive Secretary of the Corporation unless some other person shall be designated for such purpose by the Board of Directors. Such service, except for service on counsel for the Board of Directors, shall be made by personal service or by registered or certified mail, addressed to the last known address as shown on the records of the Board of Directors, on the attorney or representative of record of such party, provided that if there is no attorney or representative of record, such service shall be made upon such party at the last known address as shown on the records of the Board of Directors. Such service may also be made in such other manner reasonably calculated to give actual notice as the Board of Directors may by regulation or otherwise provide.

(b) *By the parties.* Except as otherwise expressly provided in this part, all documents or papers filed in a proceeding under this subpart shall be served by the party filing the same upon the attorneys or representatives of record of all other parties to the proceeding, or, if any party is not so represented, then upon such party. Such service may be made by personal service or by registered, certified, or regular first class mail addressed to the last known address of such parties, or their attorneys or representatives of record. All such documents or papers shall, when tendered to the Board of Directors or the administrative law judge for filing, show that such service has been made.

§ 308.19 Copies.

Unless otherwise specifically provided in the notice of hearing, an original and seven copies of all documents and papers required or permitted to be filed or served upon the Executive Secretary of the Corporation under this subpart, except the transcript of testimony and exhibits, shall be furnished to the Executive Secretary of the Corporation.

§ 308.20 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this part, the date of the act, event or default from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday, or legal holiday in the District of Columbia, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor such legal holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation, unless the time within which the act is to be performed is 10 days or less in which event Saturdays, Sundays, and legal holidays shall not be included.

(b) *Service by mail.* Whenever any party has the right or is required to do some act, within a period of time prescribed in this part, after the service upon such person of any document or other paper of any kind, and such service is made by mail, 3 days shall be added to the prescribed period from the date when the matter served is deposited in the United States mail.

§ 308.21 Documents in proceedings confidential.

Unless otherwise ordered by the Board of Directors, the notice of hearing, the transcript, the recommended decision of the administrative law judge, exceptions thereto, proposed findings or conclusions, the findings and conclusions of the Board of Directors and other papers which are filed in connection with any hearing shall not be made public, and shall be for the confidential use only of the Board of Directors, the administrative law judge, or other person conducting the hearing, and appropriate supervising authorities.

§ 308.22 Formal requirements as to papers filed.

(a) *Form.* All papers filed under this subpart shall be printed, typewritten, or otherwise reproduced. All copies shall be clear and legible.

(b) *Signature.* The original of all papers filed by a bank shall be signed by an officer thereof, and if filed by another party shall be signed by said party, or by the duly authorized agent or attorney of the bank or other party,

and in all such cases shall contain the signer's address. Counsel for the Corporation shall sign the original of all papers filed on behalf of the Corporation.

(c) *Caption.* All papers filed must include at the head thereof, or on a title page, the name of the Corporation, the name of the party, and the subject of the particular papers.

Subpart C—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

§ 308.23 Scope.

Under the authority of section 8 of the Federal Deposit Insurance Act, the Board of Directors of the Corporation may terminate the insured status of an insured bank or an insured branch of a foreign bank upon the grounds set forth therein and enumerated in § 308.24, § 308.26, and § 308.31. The procedure for terminating the insured status of a bank or a branch as therein prescribed will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart B of this part.

§ 308.24 Grounds for termination of insurance.

Whenever the Board of Directors finds that an insured bank (including a foreign bank having an insured branch) or its directors or trustees have engaged or are engaging in unsafe or unsound practices in conducting the business of such bank, or that such bank is in an unsafe or unsound condition to continue operations as an insured bank, or that such bank or its directors or trustees have violated an applicable law, rule, regulation or order, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the bank, or any written agreement entered into with the Corporation, the Board of Directors will first give to the Comptroller of the Currency in the case of a national bank, a District bank, or an insured Federal branch of a foreign bank, to the authority having supervision of the bank in the case of a State bank or an insured State branch of a foreign bank, and to the Board of Governors of the Federal Reserve System in the case of a State member bank, a statement with respect to such practices or violations for the purpose of securing the correction thereof and will forward a copy thereof to the bank.

§ 308.25 Extraterritorial acts of foreign banks or their directors or trustees.

Except as provided in the following section, an act or practice committed outside of the United States by a foreign bank or its directors or trustees, which act or practice would otherwise be a ground for termination of the insured status of a branch of the foreign bank under this subpart, shall be a ground for such termination only if the Board of Directors finds either (a) that the act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of an act or practice committed within any State of the United States or the District of Columbia which act or practice in and of itself would be an appropriate basis for action by the Corporation, or (b) that the act or practice committed outside of the United States is one which, if proven, would adversely affect the insurance risk assumed by the Corporation.

§ 308.26 Failure of a foreign bank to secure removal of personnel.

If any person associated with a foreign bank fails to appear promptly as a party to a proceeding brought under § 308.41 or § 308.42 for his removal or suspension and to comply with any effective order or judgment issued in such a proceeding, any failure by the foreign bank to secure his removal from office and from any further participation in the bank's affairs shall, in and of itself, be grounds for termination of the insurance of the deposits in any branch of the bank.

§ 308.27 Notice of intention to terminate insured status.

Unless correction of the practices, condition or violations set forth in the statement prescribed in § 308.24 is made within 120 days, or such shorter period not less than 20 days fixed by the Corporation in any case where the Board of Directors in its discretion has determined that the insurance risk of the Corporation is unduly jeopardized, or fixed by the Comptroller of the Currency in the case of a national bank, a District bank, or an insured Federal branch of a foreign bank, or the State authority in the case of a State bank or an insured State branch of a foreign bank, or the Board of Governors of the Federal Reserve System in the case of a State member bank, as the case may be, the Board of Directors, if it determines to proceed further, will give to the bank not less than 30 days' written notice of its intention to terminate the status of the bank as an insured bank, or of the branch as an insured branch, and will fix a time and place for a hearing before an administrative law judge selected by the Office of Personnel Management, at which hearing evidence may be produced; and upon such evidence the Board of Directors will make written findings which shall be conclusive.

§ 308.28 Order terminating insured status.

If the Board of Directors finds that any unsafe or unsound practice or condition of violation specified in such statement has been established and has not been corrected within the time prescribed under § 308.27, in which to make such corrections, the Board of Directors may order that the insured status of the bank or the branch be terminated on a date subsequent to such finding and to the expiration of the time specified in the notice of intention issued under § 308.27.

§ 308.29 Consent to termination of insured status.

Unless the bank appears at the hearing designated in the notice of hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured bank or the status of the branch as an insured branch. In the event the bank fails to appear at such hearing, the administrative law judge shall forthwith report the matter to the Board of Directors and the Board may thereupon issue an order terminating the insured status of the bank or the branch.

§ 308.30 Notice of termination of insured status.

Prior to the effective date of the termination of the insured status of a bank or a branch under section 8(a) of the Federal Deposit Insurance Act and at such time as the Board of Directors shall specify, the bank shall mail to each depositor at his last address of record on the books of the bank or branch and publish in not less than two issues of a local newspaper of general circulation and shall furnish the Corporation with proof of publication of notice of such termination of insured status. The notice shall be as follows:

NOTICE

(Date) ————————.

1. The status of the ————————, as an (insured bank) (insured branch) under the provisions of the Federal Deposit Insurance Act, will terminate as of the close of business on the — day of ————, 19—;

2. Any deposits made by you after that date, either new deposits or additions to existing deposits, will not be insured by the Federal Deposit Insurance Corporation;

3. Insured deposits in the (bank) (branch) on the — day of ————, 19— will continue to be insured, as provided by the Federal Deposit Insurance Act, for 2 years after the close of business on the — day of ————, 19—: *Provided, however,* That any withdrawals after the close of business on the — day of ————, 19—, will reduce the insurance coverage by the amount of such withdrawals.

(Name of banking institution)

(Address)

There may be included in such notice any additional information or advice the banking institution may deem desirable.

§ 308.31 Termination of insured status of banking institution not engaged in the business of receiving deposits other than trust funds.

Whenever the Board of Directors shall have evidence indicating that an insured banking institution is not engaged in the business of receiving deposits, other than trust funds, it will give notice in writing to the banking institution of such fact, and will direct the banking instituion to show cause why the insured status of the banking institution should not be terminated under the provisions of section 8(p) of the Federal Deposit Insurance Act. The banking institution shall have 30 days, or such greater period of time as the Board of Directors shall prescribe, after receipt of such notice to submit affidavits or other written proof that it is engaged in the business of receiving deposits, other than trust funds. The Board of Directors may, in its discretion, upon written request of the banking institution, authorized a hearing before an administrative law judge selected by the Office of Personnel Management. If, upon consideration of the evidence, the Board of Directors finds that the banking institution is not engaged in the business of receiving deposits, other than trust funds, such finding shall be conclusive and the Corporation will notify the banking institution that its insured status will terminate at the expiration of the first full semi-annual assessment period following such notice. Prior to the date of the termination of the insured status of a banking institution under section 8(p) of the Federal Deposit Insurance Act, and within the time specified by the Board of Directors, the banking institution shall mail to each depositor at the last address of record on its books and shall publish in not less than two issues of a local newspaper of general circulation, a notice of such termination in form substantially as follows:

NOTICE

(Date) ————.

The status of the ———— (Name of banking institution), ———— (City or town), ———— (State), as an (insured bank) (insured branch) under the Federal Deposit Insurance Act, will terminate on the — day of ————, 19—, and its deposits will thereupon cease to be insured.

(Name of banking institution)

(Address)

There may be included in such notice any additional information or advice the banking institution may deem desirable.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

§ 308.32 Scope.

(a) The rules and procedures set forth in this subpart are applicable to proceedings by the Board of Directors with a view to ordering an insured nonmember bank or an official of such a bank to cease and desist from practices and violations described in section 8 of the Federal Deposit Insurance Act and enumerated in § 308.33. The procedures for issuing such orders prescribed in section 8 of said Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart B of this part.

(b) The rules and procedures of this subpart also apply to proceedings by the Board of Directors with a view to ordering a minicipal securities dealer, or a person associated with a municipal securities dealer, to cease and desist from any violation of law specified in section 15B(c)(5) of the Securities Exchange Act of 1934, as amended, where the municipal securities dealer is an insured State nonmember bank (other than a District bank) or a subsidiary or department or division thereof. For purposes of such a proceeding, the terms "insured nonmember bank" and "bank" as used in this subpart and in § 308.3(a)(2) shall include any municipal securities dealer for which the Corporation is the appropriate regulatory agency, any limitation in § 308.1 notwithstanding; and the term "depositors" as used in § 308.38 shall include the customers of any municipal securities dealer in connection with which the proceeding is being conducted.

(c) The rules and procedures of this subpart also apply to proceedings by the Board of Directors with a view to ordering a clearing agency or transfer agent to cease and desist from failure to comply with the applicable provisions of sections 17, 17A, and 19 of the Securities Exchange Act of 1934, as amended, and the applicable rules and regulations thereunder, where the clearing agency or transfer agent is an insured State nonmember bank (other than a District bank) or a subsidiary thereof. For purposes of such a proceeding, the terms "insured nonmember bank" and "bank" as used in this subpart and in § 308.3(a)(2) shall include any clearing agency or transfer agent for which the Corporation is the appropriate regulatory agency, any limitation in § 308.1 notwithstanding; and the term "depositors" as used in § 308.38 shall include the participants in any such clearing agency and the persons doing business with any such transfer agent.

§ 308.33 Grounds for cease-and-desist orders.

If, in the opinion of the Board of Directors, any insured nonmember bank or official of such a bank is engaging or has engaged, or the Board of Directors has reasonable cause to believe that the bank or the official is about to engage, in an unsafe or unsound practice or has violated, or the Board of Directors has reasonable cause to believe that the bank or the official is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Board of Directors in connection with the granting of an application or other request by the bank, or any written agreement entered into with the Corporation, the Board of Directors may issue and serve upon the bank or the official a notice of charges in respect thereof.

§ 308.34 Extraterritorial acts of foreign banks or their officials.

An act or practice committed outside of the United States by a foreign bank or an official of a foreign bank, which act or practice would otherwise be a ground for issuing a cease-and-desist order under § 308.36, or a temporary cease-and-desist order under § 308.38, shall be a ground for such an order only if the Board of Directors finds either (a) that the act or practice has been, is, or is likely to be a cause of, or carried on in connection with or in furtherance of an act or practice committed within any State of the United States or the District of Columbia which act or practice in and of itself would be an appropriate basis for action by the Corporation, or (b) that the act or practice is one which, if proven, would adversely affect the insurance risk assumed by the Corporation.

§ 308.35 Notice of charges and hearing.

The notice referred to in § 308.33 will contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practices, and fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank or the official. The hearing will be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice, unless an earlier or later date is set by the Board of Directors at the request of any party so served. Unless the party so

served appears at the hearing personally or by a duly authorized representative, such party will be deemed to have consented to the issuance of the cease-and-desist order.

§ 308.36 Issuance of order.

In the event of such consent as referred to in § 308.35, or if upon the record made at any such hearing as referred to in § 308.35, the Board of Directors finds that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board of Directors may issue and serve upon the bank or its officials, an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank or its officials to cease and desist from the same and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

§ 308.37 Effective date.

A cease-and-desist order will become effective at the expiration of 30 days after the service of such order upon the bank or its official (except in the case of a cease-and-desist order issued upon consent, which will become effective at the time specified therein), and will remain effective and enforceable as provided therein, except to the extent that it is stayed, modified, terminated, or set aside by action of the Board of Directors or a reviewing court.

§ 308.38 Temporary cease-and-desist orders.

Whenever the Board of Directors determines that the violation or threatened violation or the unsafe or unsound practice, specified in the notice of charges referred to in § 308.33, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely seriously to weaken the condition of the bank or otherwise seriously to prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to section 8(b)(1) of the Federal Deposit Insurance Act and § 308.33, the Board of Directors may issue a temporary order requiring the bank or its officials to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings.

§ 308.39 Effective date of temporary order.

A temporary order issued under § 308.38 will become effective upon service upon the bank or its officials and, unless set aside, limited, or suspended by a court in proceedings authorized under the Federal Deposit Insurance Act, will remain effective and enforceable pending the completion of the administrative proceedings held pursuant to the notice of charges and until such time as the Board of Directors dismisses the charges specified in such notice, or if a cease-and-desist order is issued against the bank or its officials pursuant to § 308.33, until the effective date of any such order.

Subpart E—Rules and Procedures Applicable to Proceedings Relating to Removal and Suspension Orders

§ 308.40 Scope.

The rules and procedures set forth in this subpart and Subpart B are applicable to proceedings by the Board of Directors to remove or suspend directors or officers of an insured nonmember bank or any other person participating in the conduct of the affairs of such a bank, or to prohibit such director, officer or other person from further participation in the conduct of the affairs of such a bank, upon the grounds set forth in section 8(e) of the Federal Deposit Insurance Act and enumerated in this subpart. The rules and procedure set forth in this subpart and Subpart B are not applicable to suspension, removal, or prohibition proceedings brought upon the grounds set forth in section 8(g) of the Federal Deposit Insurance Act and enumerated in Subpart G.

§ 308.41 Grounds for removal order.

(a) Whenever, in the opinion of the Board of Directors, any director or officer of an insured nonmember bank has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of fiduciary duty as a director or officer, and the Board of Directors determines that the bank has suffered or will probably suffer substantial financial loss or other damage, or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the bank, the Board of Directors may serve upon such director or officer a written notice of its intention to remove such individual from office.

(b) Whenever, in the opinion of the Board of Directors, any director or officer of an insured nonmember bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced unfitness to continue as a director or officer and, whenever, in the opinion of the Board of Directors, any other person participating in the conduct of the affairs of an insured nonmember bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either personal dishonesty or a willful or continuing disregard for the safety and soundness of such insured bank and, in addition, has evidenced unfitness to participate in the conduct of the affairs of such insured bank, the Board of Directors may serve upon such director, officer, or other person a written notice of its intention to remove such individual from office or to prohibit such individual's further participation in any manner in the conduct of the affairs of the bank.

§ 308.42 Grounds for suspension order.

In respect to any director or officer of an insured nonmember bank or any other person referred to in § 308.41(a) or (b) the Board of Directors may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to that effect served upon such director, officer, or other person, suspend such individual from office or prohibit such individual's further participation in any manner in the conduct of the affairs of the bank.

§ 308.43 Effective date of suspension order.

Any suspension or prohibition which is pursuant to the notice prescribed in § 308.42, shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by the Federal Deposit Insurance Act, shall remain in effect pending the completion of the administrative proceedings held pursuant to the notice served under § 308.41(a) or (b) and until such time as the Board of directors shall dismiss the charges specified in such notice, or, if an order or removal or prohibition is issued against a director or officer or other person, until the effective date of any such order. Copies of any such notice will also be served upon the bank of which such individual is a director or officer or in the conduct of whose affairs such individual has participated.

§ 308.44 Extraterritorial acts of officials of foreign banks.

An act or practice committed outside of the United States by a director or officer of a foreign bank, or by any other person participating in the conduct of the affairs of a foreign bank, which act or practice would otherwise be a ground for suspension, removal, or prohibition proceedings under this subpart, shall be a ground for such proceedings only if the Board of Directors finds either (a) that the act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of an act or practice within any State of the United States or the District of Columbia which act or practice in and of itself would be an appropriate basis for action by the Corporation, or (b) that the act or practice is one which, if proven, would adversely affect the insurance risk assumed by the Corporation.

§ 308.45 Notice of intention to remove and hearing.

A notice of intention to remove a director, officer, or other person from office or to prohibit such individual's participation in the conduct of the affairs of an insured nonmember bank, will contain a statement of the facts constituting grounds therefor and will fix a time and place at which a hearing will be held thereon. Such hearing will be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Board of Directors at the request of (a) such director or officer or other person, and for good cause shown, or (b) the Attorney General of the United States. Unless such director, officer, or other person appears at the hearing in person or by a duly authorized representative, such individual shall be deemed to have consented to the issuance of an order of such removal or prohibition.

§ 308.46 Issuance of removal order and effective date.

In the event of such consent as referred to in § 308.45, or if upon the record made at any such hearing as referred to in § 308.45, the Board of Directors finds that any of the grounds specified in the notice have been established, the Board of Directors may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. Any such order shall become effective at the expiration of 30 days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to the extent that it is stayed, modified, terminated, or set aside by action of the Board of Directors or a reviewing court.

Subpart F—Procedures Applicable to Proceedings Pursuant to Section 10(c) of the Federal Deposit Insurance Act

§ 308.47 Scope.

The procedures in this subpart shall be followed in connection with the exercise of those powers specified in section 10(c) of the Federal Deposit Insurance Act. For purposes of this subpart, the exercise of any and all such powers shall be referred to as "proceedings pursuant to section 10(c)." This term shall also be used to refer to any proceedings conducted pursuant to the exercise of such powers. Proceedings pursuant to section 10(c), which may be conducted by the Federal Deposit Insurance Corporation or its designated representative in connection with examinations of insured banks, their affiliates, or institutions making application to become insured banks, include the power to administer oaths and affirmations and to examine and to take and preserve testimony under oath as to any insured bank or affiliate thereof, and to issue subpoenas and subpoenas duces tecum, and, for the enforcement thereof, to apply to the United States District Court for the judicial district or the United States court in any territory in which the main office of the bank or affiliate thereof is located, or in which the witness resides or carriers on business.

§ 308.48 Confidential proceedings.

Unless otherwise provided by § 308.50(c) of this part, all proceedings pursuant to section 10(c) shall be confidential. Information or documents obtained by the Corporation in the course of such proceedings shall be disclosed only in accordance with the provisions for disclosure of such information established by Part 309.

§ 308.49 Orders to conduct proceedings.

A proceeding pursuant to section 10(c) shall be conducted only after the issuance of an order authorizing such proceeding. The order shall designate the persons duly authorized to conduct the proceeding, which persons are authorized, among other things, to issue subpoenas and subpoenas duces tecum, and to administer oaths and receive affirmations as to any matter under examination or investigation by the Federal Deposit Insurance Corporation. Such order may be issued by the Board of Directors, the General Counsel or a designee thereof, the Director of the Division of Bank Supervision or a designee thereof, or each Regional Director, provided that powers relating to the issuance of subpoenas and subpoenas duces tecum and the enforcement thereof shall not be exercised by Regional Directors without prior approval of the Director of the Division of Bank Supervision and the concurrence of the General Counsel. Upon application and for good cause shown, the Board of Directors, or the person issuing such order, may limit, quash, modify, or withdraw such order.

§ 308.50 Rights of witness.

(a) Any person who is compelled or requested to furnish testimony, documentary evidence, or other information with respect to any matter under examination or investigation in a proceeding pursuant to section 10(c) shall upon request be shown the order initiating such a proceeding.

(b) Any person who, in a proceeding pursuant to section 10(c), is compelled to appear and testify or who appears and testifies by request or permission of the Federal Deposit Insurance Corporation may be accompanied, represented, and advised by counsel. The right to be accompanied, represented, and advised by counsel shall mean the right of a person testifying to have an attorney present at all times while testifying and to have said attorney (1) advise such person before, during and after the conclusion of testimony given by such person, (2) question such person briefly at the conclusion of this testimony to clarify any of the answers such person has given, and (3) make summary notes during such testimony solely for the use of such person.

(c) All persons giving testimony in a proceeding pursuant to section 10(c), shall be sequestered. Unless permitted, within the discretion of the designated representative conducting the proceeding, a person or the counsel accompanying a person shall not be present at the testimony of any other person.

(d) If the record developed by the Federal Deposit Insurance Corporation in the course of such proceeding contains allegations of wrongdoing by any person with respect to the affairs of, or ownership of any insured bank or affiliate thereof, or of any institution making application to become an insured bank, such person shall be advised of the nature of the alleged wrongdoing and shall be afforded a reasonable opportunity, consistent with administrative efficiency and with the avoidance of undue delay, to produce evidence in rebuttal. Such evidence may be in documentary form, including depositions and statements under oath, or it may consist of testimony given before the designated representative conducting such a proceed-

ing. All such evidence shall be made on the record developed in the course of the proceeding pursuant to section 10(c).

(e) The designated representative conducting the proceeding pursuant to section 10(c) shall report to the Board of Directors of the Federal Deposit Insurance Corporation any instances where any person has been guilty of dilatory, obstructionist, or contumacious conduct during the course of the proceeding, or any other instance involving a violation of these rules. The Board of Directors will thereupon take such further action as the circumstances may warrant, including exclusion of the offending individual from further participation in the particular proceedings.

§ 308.51 Transcripts.

Transcripts of testimony, if any, shall be recorded solely by the official reporter, or by any other person or means chosen by the person or persons conducting the proceeding pursuant to section 10(c). A person submitting documentary evidence or testimony shall be entitled to obtain a copy of such documentary evidence or a copy of the transcript, if any, of such testimony.

§ 308.52 Service of subpoena.

Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person and by tendering the fees for one day's attendance and for mileage as specified by § 308.53 of this subpart. When the subpoena is issued at the instance of a duly designated representative of the Federal Deposit Insurance Corporation, fees and mileage need not be tendered at the time of service. Delivery of a copy of a subpoena and tender of the fees to a natural person may be made by handling them to the person; or by leaving them at such person's office with someone in charge thereof or, if there is no one in charge, by leaving them in a conspicuous place therein; or by leaving them at such person's dwelling place or usual place of abode with someone of suitable age or discretion and who resides therein; or by mailing them by registered or certified mail to the last known address of such person; or by any method whereby actual notice is given to such person and the fees are made available prior to the return date. When the person to be served is not a natural person, delivery of a copy of the subpoena and tender of the fees may be effected by handing them to a registered agent for service or to an officer, director, or agent in charge of any office of such person, or by mailing them by registered or certified mail to such representative at such person's last known address; or by any method whereby actual notice is given to such representative and the fees are made available prior to the return date.

§ 308.53 Witness fees and mileage.

Witnesses summoned before the Federal Deposit Insurance Corporation shall be paid the same fees and mileage paid to witnesses in the courts of the United States. Witness fees and mileage shall be paid by the party at whose request the witness appears.

§ 308.54 Special examinations and examinations of closed banks.

When proceedings pursuant to section 10(c) are instituted in connection with the special examination of any State member bank, any national or District bank, or any insured Federal branch of a foreign bank, or the examination of any closed insured bank or branch, or in connection with the examination of an affiliate of any of the foregoing, procedures in this subpart shall be followed.

Subpart G—Procedures and Standards Applicable to Suspensions and Prohibitions Where Felony Charged

§ 308.55 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board of Directors (a) to suspend any director or officer of an insured nonmember bank or any other person participating in the conduct of the affairs of such a bank, or to prohibit such director, officer or other person from further participation in the conduct of the affairs of such a bank, where such person is charged in any State, Federal or territorial information or indictment, or charged in any complaint authorized by a United States attorney, with the commission of, or participation in, a crime involving dishonesty or breach of trust which crime is punishable by imprisonment for a term exceeding one year under State or Federal law; and (b) to remove from office any such director, officer, or other person, or to prohibit such director, officer, or other person from further participation in any manner in the conduct of the affairs of the bank except with the consent of the Board of Directors, where a judgment of conviction has been entered against such person for the commission of, or participation in, a crime involving dishonesty or breach of trust which crime is punishable by imprisonment for a term exceeding one year under State or Federal law, and where such judgment of conviction is not subject to further appellate review.

§ 308.56 Rules of practice.

Except as otherwise specifically provided in this subpart, the provisions of § 308.4 ("Appearance and practice before the Corporation"), § 308.5(a) ("Notice of hearing"), § 308.20(a) ("Computing time: General rule"), and § 308.21 ("Documents in proceedings confidential") of Subpart B shall apply to proceedings conducted under this subpart.

§ 308.57 Notice of suspension or prohibition.

Whenever a director or officer of an insured nonmember bank or any other person participating in the conduct of the affairs of such bank, is charged in any State, Federal or territorial information or indictment, or charged in any complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which crime is punishable by imprisonment for a term exceeding one year under State or Federal law, the Board of Directors, upon preliminary determinations that the offense alleged in the information, indictment or complaint involves dishonesty or breach of trust, and that continued service or participation by the director, officer, or other person may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, may, by written notice served upon such director, officer, or other person, suspend such individual from office, or prohibit such individual from further participation in any manner in the affairs of the bank, or both. A copy of the notice of suspension or prohibition shall also be served upon the bank. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of, or until such suspension or prohibition is terminated by the Board of Directors.

§ 308.58 Removal or permanent prohibition.

In the event that a judgment of conviction with respect to a crime referred to in § 308.57 is entered against a director or officer of an insured nonmember bank or any other person participating in the conduct of the affairs of such bank, and at such time as such judgment is not subject to further appellate review, the Board of Directors may, if continued service or participation by the director, officer, or other person may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, issue and serve upon such individual an order removing such individual from office or prohibiting such individual from further participation in any manner in the conduct of

the affairs of the bank except with the consent of the Board of Directors. A copy of such order will also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge will not preclude the Board of Directors from thereafter instituting proceedings to remove such director, officer or other person from office or to prohibit further participation in bank affairs, pursuant to the provisions of Section 8(e) of the Federal Deposit Insurance Act and Subpart E.

§ 308.59 Effectiveness of suspension or removal until completion of hearing.

Any notice of suspension issued under § 308.57, and any order of removal issued under § 308.58, will remain effective and outstanding until the completion of any hearing or appeal authorized under Section 8(g) of the Federal Deposit Insurance Act and this subpart, unless such notice of suspension or order of removal is terminated by the Board of Directors.

§ 308.60 Notice of opportunity for hearing.

(a) Any notice of suspension or prohibition issued pursuant to § 308.57, and any order of removal or prohibition issued pursuant to § 308.58, shall be accompanied by a further notice to the individual that the individual may request in writing a hearing to present evidence and argument that continued service to the bank or participation in the conduct of the affairs of the bank does not, or is not likely to, pose a threat to the interests of the bank's depositors or threaten to impair public confidence in the bank. Any notice of the opportunity for a hearing shall be accompanied by a description of the hearing procedure and the criteria to be considered.

(b) A request for a hearing filed pursuant to paragraph (a) above shall state with particularity the relief desired and the grounds therefor, and shall include, when available, supporting evidence. Such petition and supporting evidence shall be filed in writing with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429.

§ 308.61 Hearing.

(a) After the receipt of a request for a hearing complying with § 308.60, the Executive Secretary will order a hearing to commence within the next succeeding 30 days in Washington, D.C., or at such other place as is designated by the Executive Secretary, before a person designated by the Board of Directors of the Corporation to conduct such hearings. At the request of the director, officer, or other person, the Board of Directors may order the hearing to commence at a time more than thirty days after the receipt of the request for such hearing.

(b) The director, officer, or other person may appear at the hearing personally, through counsel, or personally, with counsel. The director, officer, or other person shall have the right to introduce relevant and material written materials (or, at the discretion of the agency, to introduce oral testimony) and to present an oral argument before the presiding officer. A member of the staff of the Office of the General Counsel of the Corporation may attend the hearing and may participate as a party. Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. §§ 554-557) shall apply to the hearing. The proceedings shall be recorded and a transcript shall be furnished to the director, officer, or other person upon request and after the payment of the cost thereof. The Board of Directors shall have the discretion to permit the presentation of witnesses, within specified time limits, so long as a list of such witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall not be sworn, unless specifically requested by a party or the presiding officer. The presiding officer may ask questions of any witness and each party shall have the opportunity to cross-examine any witness presented by an opposing party. Upon the request of either the director, officer, or other person or the representative of the Office of the General Counsel, the record shall remain open for a period of 5 business days following the hearing, during which time the parties may make any additional submissions to the record. Thereafter, the record shall be closed.

(c) In the course of or in connection with any proceeding under this subpart, the Board of Directors or the presiding officer will have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpoenas and subpoenas duces tecum. The Board of Directors or, if the Board of Directors has decided to permit the presentation of witnesses, the presiding officer, may require the attendance of witnesses from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Witnesses subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States. The Board of Directors or the presiding officer may require the production of documents from any place in any such State, territory, or other place.

(d) The presiding officer will make his recommendations to the Board of Directors, where possible, within 10 days following the close of the record.

§ 308.62 Waiver of hearing.

A director, officer or other person may, in writing, waive an oral hearing and instead elect to have the matter determined by the Board of Directors solely on the basis of written submissions.

§ 308.63 Decision of Board of Directors.

Within 60 days following the hearing, or receipt of the director's, officer's, or other person's written submissions where hearing has been waived pursuant to § 308.62, the Board of Directors shall notify the director, officer or other person whether the suspension or prohibition will be continued, terminated, or otherwise modified, or whether the order or removal or prohibition will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the decision of the Board of Directors, if that decision is adverse to the director, officer or other person. In the case of a decision favorable to such individual, the Board of Directors shall take prompt action to rescind or otherwise modify the order of removal or prohibition.

§ 308.64 Reconsideration by the Board of Directors.

(a) The director, officer, or other person shall have 10 days following receipt of the decision of the Board of Directors in which to petition the Board for initial reconsideration.

(b) The director, officer, or other person, shall also be entitled to petition the Board of Directors for reconsideration of its decision any time after the expiration of a twelve-month period from the date of the Board of Directors' decision, but no petition for reconsideration may be made within 12 months of a previous petition.

(c) Any petition shall state with particularity the basis for reconsideration, the relief sought, and any exceptions the person has to the Board's findings. A petition may be accompanied by a memorandum of points and authorities in support of it and by any supporting documentation the director, officer, or other person may wish to have considered.

(d) No hearing need be granted on such petition for reconsideration. Promptly following receipt of the petition, the Board of Directors shall render its decision whether to grant a hearing.

§ 308.65 Relevant considerations.

(a) In deciding the question of suspension, prohibition, or removal under this subpart the Board of Directors will consider the following:

(1) Whether the alleged offense is a crime: (i) which is punishable by imprisonment for a term exceeding one year under State or Federal law, and (ii) which involves dishonesty or breach of trust;

(2) Whether the continued presence of the director, officer, or other person in a position with an insured bank may pose a threat to the interests or the bank's depositors because of: (i) the nature and extent of the individual's participation in the affairs of the insured bank or (ii) the nature of the offense with which the individual has been charged, or (iii) both paragraphs (a)(2) (i) and (ii) of this section;

(3) Whether there is cause to believe that there may be an erosion of public confidence in the integrity, safety, or soundness of a particular bank or the banking system (either in the general locality or in the particular locality in which the bank is situated) if the director, officer, or other person is permitted to remain with the insured bank; and

(4) Whether the director, officer or other person is covered by the bank's fidelity bond and, if so, whether the bonding company is likely to revoke the bond, or whether coverage under the bond will be affected adversely as a result of the information, indictment, complaint, or judgment of conviction.

(b) The Board of Directors may consider any other factors which, in the specific case, appear relevant to its decision to continue in effect, rescind, terminate, or modify a suspension, prohibition, or removal order, except that it shall not consider the ultimate question of the guilt or innocence of the director, officer of other person, with regard to the crime with which such individual has been charged.

Subpart H—Rules and Procedures Applicable to Proceedings Relating to Assessment and Collection of Civil Penalties for the Violation of Cease-and-Desist Orders or Certain Federal Statutes

§ 308.66 Scope.

The rules and procedures set forth in this subpart and Subpart B are applicable to proceedings by the Board of Directors to assess and collect civil penalties from (a) any insured nonmember bank or official of such bank where such bank or official has violated the terms of any cease-and-desist order which has become final, or (b) any insured State nonmember bank (other than a District bank) or any official of such a bank where such bank or official has violated the provisions of section 22(h) or 23A of the Federal Reserve Act, as made applicable by section 18(j) of the Federal Deposit Insurance Act, or the provisions of section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended.

§ 308.67 Violation of order as ground for assessment.

If, in the opinion of the Board of Directors, any insured nonmember bank or any official of such bank has violated the terms of any order which has become final and which has been issued pursuant to section 8(b) or 8(c) of the Federal Deposit Insurance Act and Subpart D, the Board of Directors may assess upon such bank or official a civil penalty of not more than $1,000 per day for each day during which such violation has continued or continues.

308.68 Violation of laws limiting insider and affiliate dealings as ground for assessment.

If, in the opinion of the Board of Directors, any insured State nonmember bank or any official of such a bank has violated any provision of sections 22(h) or 23A of the Fedreal Reserve Act, as amended, as applicable to such bank or official by reason of section 18(j) of the Federal Deposit Insurance Act, or has violated any lawful regulation issued pursuant to these sections, the Board of Directors may assess upon such bank or official a civil penalty of not more than $1,000 per day for each day during which the violation continues.

§ 308.69 Violation of laws governing corresponding accounts as ground for assessment.

If, in the opinion of the Board of Directors, any insured State nonmember bank or any official of such bank has violated any provision of section 106(b)(2) of the Bank Holding Company Act Amendments of 1970, as amended, the Board of Directors may assess upon such bank or such official a civil penalty of not more than $1,000 per day for each day during which such violation continues.

308.70 Rule of construction.

As used in § 308.67, § 308.68, and § 308.69, the term "has violated" includes, but is not limited to, any action (alone or with another) for or towards causing, bringing about, participating in, counseling, or aiding or abetting a violation.

308.71 Relevant considerations.

In determining the amount of the penalty assessed pursuant to § 308.67, § 308.68, or § 308.69, the Board of Directors will take into account the appropriateness of the penalty with respect to the financial resources and good faith of the insured nonmember bank or official, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

308.72 Notice of assessment of civil penalty.

Civil penalties assessed by the Board of Directors pursuant to § 308.67, § 308.68, or § 308.69 will be by written notice served upon the party assessed. Such notice will state the legal authority under which the civil penalty is assessed, and will contain a statement of the matters of fact or law constituting the grounds for the civil penalty. Such notice will be delivered by personal service, by registered or certified mail to the last known address of the party being assessed, or by other appropriate means.

308.73 Period within which civil peanlty is payable.

The notice of assessment of civil penalty, made pursuant to § 308.72, will state the amount of the civil penalty, and will provide that such amount is payable, and is to be collected, within 90 days of such notice. If the Board of Directors finds that in a specific case, the purposes of the penalty will be better served if the period is shortened or eliminated, the Board may shorten the period or make the civil penalty payable immediately upon a party's receipt of notice thereof, as the case may be. In such case, the notice of assessment will indicate when the civil penalty will be payable. Notwithstanding any other provision of this or any other section of this subpart, if a party has requested a hearing pursuant to § 308.75 to challenge a penalty or a finding antecedent to such a penalty, the party will not be required to make actual payment of the penalty until the Board of Directors issues a final order following such hearing.

308.74 Notice of opportunity for hearing.

The notice of assessment of civil penalty, made pursuant to § 308.72, will be accompanied by a further notice to the party to the effect that if, within ten days after issuance of the notice of assessment, the party in writing requests a hearing, such hearing will be afforded. This notice of opportunity for hearing will be accompanied by a description of the hearing procedure.

308.75 Request for hearing.

A request for a hearing shall be filed in writing with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. If a party does not request a hearing in writing within ten

days after issuance of the notice of assessment of civil penalty, the party will be deemed to have waived the opportunity of hearing, and the notice of assessment will constitute a final and unappealable order.

308.76 Hearing and order.

After the receipt of a request for a hearing pursuant to § 308.75, the Executive Secretary will order a hearing to commence within the next 30 days. The procedures of the Administrative Procedure Act (5 U.S.C. 554-557) and Subpart B will apply to the hearing. If, on the record made at such hearing, the Board of Directors finds that the grounds for having assessed the civil penalty have been established, the Board will issue and cause to be served upon the party, its final order. Such final order will require the civil penalty to be paid as specified in the notice of assessment. In issuing its order the Board may, in its discretion, reduce the amount of the penalty specified in the notice.

Subpart I—Rules and Procedures Applicable to Proceedings Relating to Disapproval of Acquisition of Control

308.77 Scope.

The rules and procedures set forth in this subpart and Subpart B are applicable to proceedings by the Board of Directors in connection with the disapproval by the Board of Directors of a proposed acquisition of control of an insured State nonmember bank (other than a District bank).

§ 308.78 Notice of disapproval.

Within three days of its decision to disapprove a proposed acquisition of control of an insured State nonmember bank (other than a District bank), the Board of Directors will serve written notice of its disapproval upon the party seeking to acquire control of the bank. Such notice will state the legal authority under which the disapproval is made, and will contain a statement of the basis for the disapproval, including a copy of any views and recommendations submitted by the appropriate State bank supervisory agency. Such notice will be delivered by personal service, by registered or certified mail to the last known address of the party being afforded the notice, or by other appropriate means.

§ 308.79 Notice of opportunity for hearing.

The notice of disapproval made pursuant to § 308.78 will be accompanied by a further notice to the party to the effect that if, within 10 days of receiving the notice of disapproval, the party in writing requests a hearing, such hearing will be afforded. This notice of opportunity for hearing will be accompanied by a description of the hearing procedure.

§ 308.80 Request for hearing.

A request in writing for a hearing shall be filed with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. If a party does not, within 10 days of its receipt of the notice of disapproval, request in writing a hearing, the party will be deemed to have waived the opportunity of hearing, and the notice of disapproval will constitute a final and unappealable order.

§ 308.81 Hearing and order.

After the receipt of a request for a hearing pursuant to § 308.80, the Executive Secretary will order a hearing to commence within the next 80 days, or within such longer time as shall be necessary to provide each party with sufficient time to prepare for the hearing. If the appropriate State bank supervisory agency has submitted views and recommendations as to the proposed acquisition, it shall be entitled to appear as a party as of right. The procedures of the Administrative Procedure Act (5 U.S.C. 554-557) and Subpart B will apply to the hearing. If, on the record made at such hearing, and after giving due consideration to any views or recommendations previously submitted by an appropriate State bank supervisory agency, the Board of Directors finds that there are adequate grounds for disapproving the acquisition, the Board shall issue and cause to be served its final order disapproving the acquisition upon the party seeking control of the bank. If the Board finds there are not adequate grounds for disapproval, it shall by order approve the proposed acquisition.

§ 308.82 Grounds for disapproval.

The following are grounds for disapproval under § 308.81:

(a) The proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States;

(b) The effect of the proposed acquisition of control in any part of the United States would be to substantially lessen competition or tend to create a monopoly, or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

(c) The financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank;

(d) The competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit such person to control the bank; or

(e) Any acquiring person neglects, fails, or refuses to furnish to the appropriate Federal banking agency all the information required by such agency.

Subpart J—Rules and Procedures Applicable to Proceedings Relating to Assessment of Civil Penalties for Willful Violation of the Change in Bank Control Act

§ 308.83 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board of Directors to assess civil penalties against any person for the willful violation of any provision of the Change in Bank Control Act of 1978, 12 U.S.C. § 1817(j), or any regulation or order issued pursuant thereto, where the violation is in connection with the affairs of an insured nonmember bank.

§ 308.84 Rules of practice.

Except as otherwise specifically provided in this subpart, the provisions of § 308.4 ("Appearance and practice before the Corporation"), § 308.5(a) ("Notice of hearing"), § 308.20(a) ("Computing time: General rule"), and § 308.21 ("Documents in proceedings confidential") of Subpart B shall apply to proceedings conducted under this subpart.

§ 308.85 Notice of intention to assess civil penalty.

If, in the opinion of the Board of Directors, any person has willfully violated any of the provisions of the Change in Bank Control Act of 1978, 12 U.S.C. § 1817(j), or any regulation or order issued pursuant thereto, in connection with the affairs of an insured nonmember bank, the Board may cause notice to be served upon such person of its intention to asess a civil penalty of not more than $10,000 per day for each day the violation has continued or continues. Such notice will state the legal authority under which the civil penalty is to be assessed and the amount of the intended penalty and will contain a statement of the grounds for assessing the penalty. Such notice will be delivered by personal service, by registered or certified mail to the last known address of

the party being afforded the notice, or delivered by other appropriate means.

§ 308.86 Notice of opportunity for hearing.

The notice of intention to assess a civil penalty, made pursuant to § 308.84, will be accompanied by a further notice to the party to the effect that if, within 10 days after issuance of the notice of intention, the party in writing, requests a hearing, such hearing will be afforded. At such hearing, the party may present evidence and argument as to why no civil penalty should be assessed, or why the penalty should be reduced from the amount stated in the notice. This notice of opportunity for a hearing will be accompanied by a description of the hearing procedure.

§ 308.87 Request for hearing.

A request for a hearing shall be filed in writing with the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. The request for a hearing shall state with particularity the relief desired and the grounds therefor. If a party does not, within 10 days after issuance of the notice of intention, in writing request a hearing, the party will be deemed to have waived the opportunity of hearing. The Board of Directors may, for good cause shown, extend the period for the filing of a request for a hearing.

§ 308.88 Hearing.

After the receipt of a request for a hearing pursuant to § 308.87, the Executive Secretary will order a hearing to commence within 30 days in Washington, D.C., or at such other place as is designated by the Executive Secretary, before a person designated by the Board of Directors to conduct such hearings. The provisions of § 308.61(b) will apply to the hearing.

§ 308.89 Waiver of hearing.

The party may, in writing, waive a hearing and instead have the propriety of the penalty determined by the Board of Directors solely on the basis of written submissions.

§ 308.90 Assessment.

If, after considering the data, views, and arguments presented at the hearing conducted pursuant to § 308.88, any written submissions made pursuant to § 308.88, any written submissions made pursuant to § 308.89, and the gravity of the violation and the financial resources and good faith of the party, the Board of Directors concludes that a civil penalty is warranted, it shall assess against the party a penalty of not more than $10,000 per day for each day during which the violation has continued or continues and cause to be served upon the party a final order of assessment. Based upon the same considerations, the Board may, in its discretion reduce the amount of the penalty from the amount stated in the notice of intention.

§ 308.91 Collection.

The Corporation may collect the civil penalty assessed pursuant to § 308.90 by agreement with the party, or the Corporation may bring an action against the party to recover the amount of the penalty in the appropriate United States District Court.

The Corporation may collect the civil penalty assessed pursuant to § 308.90 by agreement with the party, or the Corporation.

Subpart K—Rules and Procedures Applicable to Sanctions Imposed Upon Municipal Securities Dealers or Persons Associated With Them, and Upon Transfer Agents

§ 308.92 Scope.

The rules and procedures set forth in this subpart and Subpart B are applicable to proceedings by the Board of Directors (a) to censure, limit the activities of, suspend, or revoke the registration of, any municipal securities dealer for which the Corporation is the appropriate regulatory agency; (b) to censure, or to suspend or bar from being associated with such a municipal securities dealer, any person associated with such a municipal securities dealer; and (c) to deny registration to, censure, limit the activities of, suspend, or revoke the registration of, any transfer agent for which the Corporation is the appropriate regulatory agency. Neither this subpart nor Subpart B shall apply to proceedings to postpone or suspend registration of a transfer agent pending final determination of denial or revocation of such registration.

§ 308.93 Notice of intention to impose sanctions.

(a) Whenever, in the opinion of the Board of Directors, any municipal securities dealer for which the Corporation is the appropriate regulatory agency has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of section 15(b)(4) of the Securities Exchange Act of 1934, as amended, or has been convicted of any offense specified in section 15(b)(4)(B) of that Act within 10 years of the commencement of the proceedings under this section, or is enjoined from any action, conduct, or Board of Directors determines that it is in the public interest to censure, place limitations on the activities or functions or operations of, suspend, or revoke the registration of, the municipal securities dealer, the Board of Directors may serve upon the municipal securities dealer a written notice of its intention to impose such a censure, limitation, suspension, or revocation.

(b) Whenever, in the opinion of the Board of Directors, any person associated or seeking to become associated with a municipal securities dealer for which the Corporation is the appropriate regulatory agency, has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of section 15(b)(4) of the Securities Exchange Act of 1934, as amended, or has been convicted of any offense specified in section 15(b)(4)(B) of that Act within 10 years of the commencement of the proceedings under this section, or is enjoined from any action, conduct, or practice specified in section 15(b)(4)(C) of that Act, and the Board of Directors determines that it is in the public interest to censure the person or to suspend or bar the person from being associated with a municipal securities dealer, the Board of Directors may serve upon such person a written notice of its intention to impose such a censure, suspension, or bar.

(c) Whenever, in the opinion of the Board of Directors, any transfer agent for which the Corporation is the appropriate regulatory agency has willfully violated, or is unable to comply with, any applicable provision of sections 17 or 17A of the Securities Exchange Act of 1934, as amended, or any applicable rule or regulation issued under sections 17 or 17A of that Act, and the Board of Directors determines that it is in the public interest to deny registration to, censure, place limitations on the activities or functions or operations of, suspend, or revoke the registration of, the transfer agent, the Board of Directors may serve upon the transfer agent a written notice of its intention to impose such a denial, censure, limitation, suspension, or revocation.

§ 308.94 Contents of notice.

A notice served pursuant to § 308.93 shall contain a statement of the sanction proposed and of the facts constituting grounds for imposition of the sanction, and shall fix a time and place for a hearing to be held thereon.

§ 308.95 Hearing.

The hearing will be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of the notice, unless an earlier or a later date is set by the Board of Directors at the request of the person and for good cause shown. The procedures of Subpart B will apply to the hearing. Unless the persons appear at the hearing either in person or by a duly authorized representative, the person shall be deemed to have consented to

the issuance of the order by the Board of Directors.

§ 308.96 Issuance of order and effective date.

In the event of consent to the issuance of an order, or if upon the record made at the hearing conducted under this subpart the Board of Directors finds that the grounds specified in the notice have been established, the Board may issue an order containing such sanctions as have been specified in the notice. Such order shall become effective upon the expiration of 30 days after service has been made upon the person (except in the case of an order of censure or of denial or revocation of registration, which shall be effective upon service, and except in the case of an order issued upon consent, which shall become effective at the time specified therein). The order will remain effective and enforceable except to the extent that it is stayed, modified, terminated, or set aside by action of the Board of Directors or a reviewing court, except that no order of suspension may continue in effect for a period exceeding twelve months.

§ 308.97 Notice and consultation with the Securities and Exchange Commission.

Before initiating any proceedings under § 308.93(a) or (b), the Board of Directors shall (a) give notice to the Securities and Exchange Commission of the identity of the municipal securities dealer or associated person against whom proceedings are to be initiated, and the nature of and basis for the proposed action, and (b) consult with the Securities and Exchange Commission concerning the effect of the proposed action on the protection of investors and the feasibility and desirability of coordinating the action with any proceeding or proposed proceeding by the Commission against the municipal securities dealer or associated person.

Subpart L—Rules and Procedures Relating to Exemption Proceedings Under Sections 12 (h) and (i) of the Securities Exchange Act of 1934

§ 308.98 Scope.

The rules and procedures of this subpart are applicable to proceedings by the Board of Directors to exempt, in whole or in part, an issuer of securities from the provisions of section 12(g), 13, 14(a), 14(c), 14(d), or 14(f) of the Securities Exchange Act of 1934, as amended, or to exempt an officer, director, or beneficial owner of securities of such an issuer from the provisions of section 16 of that Act.

§ 308.99 Application for exemption.

Any interested person may apply for an exemption under this subpart by filing with the Executive Secretary an application for an exemption. The application shall be in writing and shall be addressed to the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. The application shall specify the type of exemption sought and the reasons therefor, and shall include an explanation of why granting the exemption would not be inconsistent with the public interest or with the protection of investors.

§ 308.100 Newspaper notice.

If the Board of Directors decides to consider the application further, it shall serve upon the applicant instructions to publish one notice in a newspaper of general circulation in the community where the main office of the issuer is located. The notice shall state (a) the name and address of the issuer and the name and title of the applicant, (b) the type of exemption sought, (c) the fact that a hearing will be held, and (d) a statement that interested persons may, within 30 days of publication of the the newspaper notice, submit to the Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429, written comments concerning the application for exemption and a written request for an opportunity to be heard. The applicant shall submit a copy of the newspaper notice to the Executive Secretary.

§ 308.101 Notice of hearing.

Within 10 days after the period for receipt of comments has expired, the Executive Secretary shall serve upon the applicant, and upon any person who has requested an opportunity to be heard, a notice that a hearing will be held. The notice shall indicate the place and time of the hearing, which shall be no more than 30 days after service of the notice of hearing, and the name and address of the presiding officer, and shall contain a statement of the matters to be considered at the hearing.

§ 308.102 Hearing.

Parties to the hearing may appear personally, or through counsel, or personally with counsel. Parties shall have the right to introduce relevant and material written documents and to make an oral statement. Neither the formal rules of evidence, nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. §§ 554-557), no Subpart B shall apply to the hearing. The Board of Directors or the presiding officer shall have the discretion to permit the presentation of witnesses, within specified time limits, so long as a list of such witnesses is furnished to the presiding officer prior to the hearing. Witnesses shall not be sworn. The presiding office may ask questions of any witness and each party shall have the opportunity to cross-examine any witness presented by an opposing party.

§ 308.103 Decision.

If, following the submission of the transcript of the hearing to the Board of Directors, the Board finds that, by reason of the number of public investors, the amount of trading interest in the securities, the nature and extent of the activities of the issuer, the income or assets of the issuer, or otherwise, such exemption is not inconsistent with the public interest or with the protection of investors, the Board may grant the exemption. Any exemption so granted shall be by order, which shall specify the type of exemption granted, the person granted the exemption, the terms and exceptions of the exemption and the period for which the exemption is granted. A copy of the order shall be served upon each party to the proceeding.

By order of the Board of Directors, February 16, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 79-5749 Filed 2-26-79; 8:45 am]

[6720-01-M]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 79-142]

FEDERAL SAVINGS AND LOAN SYSTEM

Limited Area-Wide Branching in Interstate Metropolitan Areas

FEBRUARY 21, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Requests for comments on contemplated rulemaking.

SUMMARY: The Bank Board presently has a general policy of permitting Federal savings and loan associations to branch only within the state in which the home office of the association is located. The Bank Board is considering whether it would be in the public interest to alter this policy to permit some form of interstate branching in the Washington, D.C.-Md.-Va. Standard Metropolitan Statistical Area. This could also serve as a test of the desirability of permitting interstate branching in other interstate SMSAs. The public is invited to comment on this possible change in policy. If the Bank Board decides that such a change in policy should be made, specific regulatory changes will be proposed at a later time.

DATE: Comments must be received by: April 16, 1979.

ADDRESS: Send comments to the Office of the Secretary, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board (202-377-6440) or Marshall A. Kaplan, Director of Special Studies, Office of Economic Research, Federal Home Loan Bank Board (202-377-6770).

SUPPLEMENTARY INFORMATION: The Bank Board presently has a policy which permits Federal savings and loan associations to branch only within the state in which the home office of the association is located. This ban on interstate branching segments, to some degree, the savings market in different portions of Standard Metropolitan Statistical Areas (SMSAs) which cross state lines, and denies many households in these areas any opportunity of having an office of the same association readily convenient to both residence and place of work.

According to a 1976 Bank Board staff study on savings and loan branching conducted for the Senate Committee on Banking, Housing, and Urban Affairs, branching generally benefits consumers. The study also indicates that branching throughout a metropolitan area, which presently occurs in many SMSAs which are wholly intrastate, does not lead to greater economic concentration but fosters competition.

In response to repeated expressions by Federal associations in interstate SMSAs, and particularly the Washington, D.C., SMSA, of interest in branching throughout such areas the Bank Board is considering whether it should permit such branching on a limited test basis. Such a test could provide a factual basis for evaluation of whether interstate SMSA-wide branching would be in the public interest, including evaluation of any positive aspects, such as customer convenience, and any negative aspects, such as any tendency it might have to diminish competition.

In the case of the Washington SMSA, the arguments against the ban on interstate branching seem especially persuasive, because associations whose home offices are in the city are not permitted to branch into the suburban counties of the area, all of which are located in Maryland or Virginia. Although Washington, D.C., is treated like a State for purposes of setting geographic boundaries on branching, it differs from any State in comprising only a highly urbanized city with a geographic area of 61 square miles totally surrounded by Maryland and Virginia. Only 23 percent of the SMSA population currently reside in the city, a percentage which continues to decline as the population of the suburbs grows.

The ban on interstate branching for Washington, D.C., savings and loans prevents associations in the city from expanding into major parts of the metropolitan area, but Federal associations in Maryland and Virginia can branch throughout their respective states, including their state portions of the Washington SMSA, each of which has a larger population than the city itself. As a byproduct of this situation, Washington, D.C., may be at a disadvantage in obtaining mortgage funds for construction and rehabilitation compared to the suburban areas in Maryland and Virginia.

In view of the above considerations the Bank Board is considering whether to authorize branching and establishment of auxiliary offices (branches, satellites, and mobile facilities) across State lines in the Washington SMSA. The effects on competition and convenience to consumers would be monitored and form the basis for future Bank Board consideration of whether SMSA-wide branching should be permitted in other interstate metropolitan areas. Because such a test could lead to a major change in present branching policy, the Bank Board requests comments on the merits of permitting branching across State lines in the Washington SMSA and the specific operational aspects that would govern such branching.

Operational questions that must be considered include the following:

1. To what geographic extent should such branching be allowed? The following are possible options:

a. Branching only for Washington, D.C.-based associations into the Maryland and Virginia portions of the SMSA.

b. Reciprocal branching of Washington, D.C.-based associations into the Maryland and Virginia portions of the SMSA and of associations in the Maryland and Virginia portions of the SMSA into Washington, D.C.

c. Branching by any association with an office in the SMSA into any portion of the SMSA.

2. What methods of branching should be allowed? Options include:

a. Only new branching, i.e. no branch acquisitions through mergers.

b. Savings and loan associations in the three different jurisdictions permitted to sell and swap branches as well as open new branches.

c. Branching permitted by any means, including mergers, as long as such mergers do not result in acquisition of offices outside the Washington SMSA.

3. If interstate branching within the Washington SMSA is permitted, should associations be able to apply for redesignation of their home offices from one jurisdiction to another?

4. If any additional counties or cities are added to or deleted from the official definition of the Washington SMSA, should the market area in which interstate branching is permitted automatically change accordingly?

5. Should a specific period of time elapse before the Bank Board accepts applications for interstate branching within the Washington SMSA?

6. Should the Bank Board delay any policy of permitting interstate branching in the Washington SMSA to allow the Maryland and Virginia legislatures time to enact legislation to give State-chartered associations equivalent branching powers?

7. If some form of interstate branching is permitted in the Washington SMSA, should any limit be placed on the number or permanence of permitted branches?

Comments are invited in response to the above questions and any other matter which the Bank Board should consider in deciding whether or not to permit interstate branching on a test basis in the Washington SMSA.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. § 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR 1943-48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc. 79-5741 Filed 2-26-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 600]

STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS

Proposed Interpretation

AGENCY: Federal Trade Commission.

ACTION: Proposed Interpretation.

SUMMARY: The Commission is seeking comment on a staff proposal for an interpretation of the Fair Credit Reporting Act (FCRA) to clarify when exchanges of information between insurance companies constitute consumer reports.

DATES: The Commission is requesting public comment on the proposed interpretation until April 30, 1979.

FOR FURTHER INFORMATION CONTACT:

Scott Morris and Rena Steinzor, Attorneys, Division of Credit Practices,

Federal Trade Commission, Washington, D.C. 20580, (202) 724-1143 or 724-1144.

BACKGROUND

(1) Late in 1977, the Commission initiated an investigation of the life and health insurance industry's compliance with the Fair Credit Reporting Act (FCRA), 15 U.S.C. 1681 *et seq.* The investigation to date has identified several areas of ambiguity and confusion within the insurance industry concerning the proper application of the FCRA to common industry practices. One of the most problematic and important issues at stake is the application of the Act's requirements to the exchange of applicant information between insurance companies. The following interpretation is proposed to clarify when these exchanges fall within the coverage of the FCRA.

(2) The FCRA provides consumers with certain substantive and procedural protections against reports of inaccurate information which are used to underwrite applications for insurance. The Act requires that an applicant be told the name and address of the source of an underwriting report if that source provided information which led to an adverse decision on the consumer's application and if the source furnishes similar reports on a customary basis. Section 615(a), 15 U.S.C. 1681m(a). The Act also gives applicants the right to require the source to disclose the information reported and to correct inaccuracies. Sections 609 and 611, 15 U.S.C. 1681g and 1681i.

(3) These protections, however, come into play only if: (A) the entity providing the underwriting information is a "consumer reporting agency" within the definition of section 603(f), 15 U.S.C. 1681a(f); and (B) the information exchanged is a "consumer report" within the definition of section 603(f), 15 U.S.C. 1681a(d).

(4) Section 603(f) of the FCRA defines a "consumer reporting agency" as any corporation which for monetary fees, dues or "on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating . . . information on consumers for the purpose of furnishing consumer reports to third parties."

(5) The Commission's investigation of the life and health insurance industry reveals that most insurance companies exchange information about their applicants on a regular cooperative nonprofit basis. Consequently, these companies are subject to regulation as "consumer reporting agencies" if the information exchanged meets the definition of "consumer report".

(6) Section 603(d) defines "consumer report", in pertinent part, as:

> any written, oral, or other communication * * * by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) * * * insurance to be used primarily for personal, family or household purposes * * *. The term does not include * * * any report containing information *solely as to the transactions or experiences between the consumer and the person making the report.* [Emphasis added.]

(7) Thus, when one insurance company communicates information *on its own experiences,* with a consumer to another insurance company, the information furnished does not constitute a consumer report. However, many insurance companies believe that *all* of the information they exchange on consumers is similarly covered by the exemption for transactions and experiences. To resolve this problem, proposed Interpretation 600.9 sets up two tests for the transactions and experiences exemption: (A) the company must obtain the information exchanged from a direct contact with the consumer; and (B) the information exchanged may *not* describe matters predating or occurring independently of the consumer's contacts with the company making the report.

(8) The proposed Interpretation applies these tests to the types of information commonly exchanged by insurance companies. The Interpretation concludes that if an insurance company reports information which it originally obtained from third party sources (i.e., sources other than insurance company employees), the company's report will almost always qualify as a consumer report under the FCRA. This conclusion is based on the fact that the information is not the product of a direct encounter between the consumer involved and the reporting company. Conversely, a report limited to the consumer's dealings with the company after a policy has been issued (e.g. claims experience) will normally *not* be a consumer report because it is the product of a direct encounter between the consumer and the company, within the scope of the insurance relationship. As to reports based on information given by the applicant to the company directly, the Interpretation concludes that they are exempt if they do *not* contain information on matters which predate or occur independently in the insurance application process. For example, information given by the applicant to an insurance company concerning the applicant's employment duties or prior medical history concerns matters which predate or occur independently of the insurance application.

SOURCES AND MEANS OF EXCHANGING INFORMATION USED TO UNDERWRITE INSURANCE

(9) During the course of the life insurance underwriting process, several different types of information about the applicant's insurability are developed and considered. A company will typically rely on some or all of the following sources of information to arrive at the final underwriting decision: (a) The insurance agent who took the application; (b) paramedics or doctors who are employed by the company or are under contract with the company to conduct medical examinations of the consumer; (c) the consumer's attending physician or hospitals or clinics which have treated the consumer; (d) investigative consumer reporting agencies; and (e) the company's own records of claims experience with the consumer.

(10) In addition to, or in lieu of, contacting some of these soures, an insurance company may request information held by another company which previously received an application from the same consumer. The second company's file on the consumer will contain data from the same type of sources as those listed above. The file may even contain information which the second company received from yet another insurer. Requests for another insurance company's information on a consumer can be made through two channels: (1) a direct request from one company to another; or (2) a request from a company to the Medical Information Bureau.

DIRECT CONTACTS BETWEEN INSURANCE COMPANIES

(11) The typical life insurance application asks the consumer to list all insurance companies to which he or she has applied for insurance and/or all insurance companies which have previously denied the applicant's request for insurance. Insurers frequently contact the companies listed by the applicant to obtain further information on his or her insurability when their own investigations have failed to produce satisfactory information.

(12) On occasion, an insurer may even contact at random a company not listed by the applicant on the chance that the company considered a prior request for insurance from the applicant. Companies chosen at random for such inquiries typically include the largest insurers in the business, which process millions of applications each year.

(13) Finally, insurers frequently rely on investigative consumers reporting agencies to provide information concerning the applicant's relationship with other insurers. As part of the investigative consumer reports they pre-

pare for their clients, such companies typically include information concerning other insurance companies which have requested a report on the applicant. (The term "investigative consumer report" is defined in section 603(f) of the FCRA, 15 U.S.C. 1681a(f).) Insurers receiving such reports are then able to query companies which had prior dealings with the applicant concerning his or her insurability.

(14) Practices regarding the nature of information exchanged vary from company to company. A significant number of insurers refuse to disclose the underwriting decisions they made on applications. Many insurers release nothing more than the names and addresses of the persons or agencies from which they obtained their information on particular applicants. Other companies, however, are willing to exchange part or even all of their underwriting files on applicants; copies of medical tests such as brain scans or electrocardiograms (EKGs) are often forwarded by one company to another. Furthermore, most insurers freely exchange information disclosed by the applicant on the application form.

CONTACTS THROUGH THE MEDICAL INFORMATION BUREAU

(15) The Medical Information Bureau (MIB) is a nonprofit association of 700 life insurance companies which keeps computerized records of medical and, to a limited extent, social impairments adversely affecting the insurability of millions of Americans. The impairments are reported by member companies in coded form. They are entered into MIB computers in code and subsequently furnished in code to a member company requesting information about a given applicant. The codes transmitted to companies requesting information do not indicate the identity of the company which initially provided the codes.

(16) MIB rules state that codes are only to be used as an alert to potential problems and never as the basis for an underwriting decision. MIB members are instructed to substantiate coded information through independent investigation of sources such as the applicant, the applicant's doctor, or a consumer reporting agency.

(17) However, if a requesting member has difficulty developing information to substantiate an MIB code, it may return to the MIB and request "details" of the coded information. Upon receiving a request for details, the MIB does not disclose the identity of the reporting company but instead refers the request to the reporting company, leaving the question whether to respond to the request and the manner of any response up to that company's discretaion.

(18) Companies respond to requests for details either by verifying the code in question or by providing the actual information underlying the code. Under MIB rules, if the responding company merely verifies the code, a member may base an adverse decision on that code so long as it also gives the consumer the post-notice required by section 615(a) of the FCRA. The post-notice cites MIB as the consumer reporting agency providing the information upon which the adverse decision was based.

(19) If a responding company elects to furnish details by disclosing the actual information underlying the code, it may refer all or part of its underwriting file to the requesting company. Some companies refuse to disclose their underwriting files but instead furnish only the name of the medical source or consumer reporting agency which generated the information. Even companies following a name and address policy, however, freely exchange any information provided by the applicant and will usually forward copies of tests such as an EKG or a brain scan to the requesting company.

(20) Most MIB codes in use today are based on information concerning the applicant's medical condition. Medical material translated into coded form may be provided with the consumer's consent by medical professionals such as company doctors or paramedics, attending physicans, or hospitals and therefore qualify for treatment as "medical information" under the FCRA (section 603(i), 15 U.S.C. 1681a(i)); or it may be furnished *either* by a medical source *without* the consumer's consent *or* by a lay source such as the applicant (on the applicant form) or an acquaintance of the applicant or proposed insured (in an investigative consumer report). In addition to strictly "medical" codes, MIB reports selected codes concerning an applicant's problems with alcohol, participation in hazardous sports, criminal convictions, and psychoneurotic disorders.

NEED FOR INTERPRETATION 600.9—CONSUMER INJURY ARISING OUT OF INFORMATION EXCHANGES BETWEEN INSURANCE COMPANIES

(21) The nature and scope of consumer injury caused by information exchanges between insurance companies is difficult to measure because consumers typically are not told the reason for the adverse decision and therefore have a difficult time discovering the cause of their problems and addressing complaints to appropriate state and federal agencies. Nevertheless, it appears that once erroneous information enters the insurance company network, it can remain indefinitely. The FCRA requires consumer reporting agencies to purge their files of most types of adverse information if the information concerns matters which occurred more than seven years previously. However, insurance companies do not currently apply this restriction to the information they exchange because they think that these reports always constitute transactions and experiences and are therefore exempt from the FCRA.

(22) Furthermore, in the absence of an FCRA notification that information from another insurance company was used in whole or in part to rate or deny the application, the consumer does not know that the erroneous information exists and therefore cannot challenge and correct it. If the erroneous information is sufficiently adverse to cause the denial of the insurance application, the turn-down can have a snowball effect. Each company which receives an application from the consumer thereafter and learns of the previous denial may contact other companies in the chain requesting a complete report of the (erroneous) adverse information.

(23) The types of information used by insurers which are most susceptible to error include data on the consumer's character, reputation, and social environment. "Habits and morals" information is often solicited from neighbors and acquaintances of the proposed insured and may frequently describe not only the consumer's financial affairs but also the individual's drinking habits and relationships with family, friends and employer. This kind of information plays an important role in the underwriting of insurance, particularly health insurance. No matter how carefully collected, this kind of information also carries the highest potential for error, however, because derogatory comments on an applicant's lifestyle by neighbors or fellow-employees may be based on only partial knowledge, personal dislike, or even some form of social prejudice.

(24) Similarly, medical information may also be subject to accuracy problems. A diagnosis of an applicant's medical or psychological condition may be tentative or may expressly recognize that alternative explanations are possible. Since the insurance company which receives such information will often be less concerned about the likelihood that the applicant will be cured than it is about the risk generally presented by a particular impairment, it may place greater weight on an adverse diagnosis than the physician or psychologist actually intended. Furthermore, different doctors may diagnose those same symptoms differently, so that a favorable decision on the individual's application may depend on his or her ability to furnish

the insurer with more recent and complete diagnoses. Similarly, medical conditions can change with time. A condition which was once considered chronic or degenerative may disappear, suggesting at least the possibility of an inaccurate prognosis.

(25) The FCRA does not require consumer reporting agencies to disclose information furnished by medical sources. Section 609(a)(1), 15 U.S.C. 1681g(a)(1). However, some insurance companies will give such information to an applicant's physician on request. When a company receives adverse medical information from another insurer, consumers currently do not receive the notification telling them that the information exists and was used as a basis for the decision. Consequently, they cannot exercise the option to have the information disclosed to their doctors in order to check its accuracy. During its review of insurance company files, staff noted numerous instances where applicants who had received notices were able to object successfully to adverse underwriting decisions because they were convinced that the companies had based their decisions on erroneous medical data. Without an FCRA notice, however, a consumer must catch such mistakes at their inception or face the prospect of such information entering the insurance information network, never again to be challenged.

It is proposed to amend 16 CFR Chapter I, Subchapter F by adding § 600.9 to read as follows:

§ 600.9 When exchanges of information between insurance companies constitute consumer reports. (Interprets 15 U.S.C. 1681a (1976).)

(a) Insurance companies sometimes underwrite applications for insurance on the basis of information obtained from other insurers which have previously had contacts with the same applicants or proposed insureds. Many insurers respond to requests for information by disclosing any of the following types of information:

(1) Information furnished by a company sales representative in connection with the consumer's application for insurance;

(2) Information furnished by an independent agent in connection with the consumer's application for insurance;

(3) Information furnished by a company paramedic or doctor who has conducted a medical examination of the consumer;

(4) Information obtained by the company from an independent paramedic or doctor who has conducted a medical examination of the consumer at the company's request;

(5) Information obtained by the company from the consumer's attending physician or from hospitals or clinics which have treated the consumer;

(6) Information obtained by the company through consumer reports prepared by inspection bureaus, or other types of consumer reporting agencies;

(7) Information describing the company's experiences in handling claims and providing services (e.g., change of beneficiaries) on a policy which it issued to the consumer.

(b) The exchange of information beyond the insurance company's "transactions or experiences" can constitute a "consumer report" under the Fair Credit Reporting Act if the information is used for underwriting purposes and the insurance company regularly furnishes such information to third parties for monetary fees, dues, or on a cooperative non-profit basis. Section 603(d) of the Act defines "consumer report" as any communication of information "bearing on a consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected for the purpose of serving as a factor in establishing the consumer's eligibility for (1) * * * insurance to be used primarily for personal, family, or household purposes * * * " This section excludes, however, "any report containing information solely as to *transactions or experiences* between the consumer and the person making the report." (emphasis added)

(c) In the Commission's view, the "transactions or experiences" clause suggests that two conditions must be met before it may be invoked. First, the information exchanged must have been obtained through a direct contact between the consumer and the company making the report. Second, the information exchanged must not describe matters that predate or occur independently of the consumer's relationship with the person making the report.

(d) The legislative history of the Fair Credit Reporting Act supports this interpretation:

> [I]f a bank or other insured financial institution made a report consisting of information about an individual with whom they [sic] have had direct financial transactions and part or all of the information pertained to transactions or experiences which were not between such bank or other financial institution and the person on whom the report was made, then such bank, or institution would in fact, be making a consumer report.* * *

116 Cong. Rec. 32627 (1970) (remarks of Senator Proxmire); see also *id.* at 32629 (remarks of Senator Bennett). The quoted language indicates that the exemption was not intended to cover transactions between a consumer and any creditor besides the one reporting even if the consumer listed the other transactions on the credit application and the reporting creditor relied on them when evaluating the consumer's creditworthiness.

(e) Applying these principles to the kinds of disclosures set out above, it is clear that the transactions or experiences exemption would *not* apply to an insurance company's reports if they included information on a consumer obtained from any third party sources such as the Medical Information Bureau, inspection bureaus or other types of consumer reporting agencies, independent agents, independent paramedics or doctors, attending physicians, and hospitals or clinics that have treated the applicant. Conversely, the exemption *does* cover reports confined to descriptions of the insurer's experiences in handling claims or providing services on a policy issued to a consumer. This type of report is not a consumer report within the definition of the Act because it deals exclusively with the insurer's ongoing relationship with the consumer. This result is consistent with the purposes of the Act because the danger of inaccurate reporting is minimized when the report contains information about the insurer's direct experience with the consumer. In such situations, the insurance company is not acting as a clearinghouse for information about the consumer's dealings with others but is simply reporting its own first-hand knowledge of its transactions or experiences with the consumer.

(f) Reports by an insurance company of information obtained initially from within the company itself—i.e., from company sales representatives, company paramedics, or company doctors—are more difficult to classify because several kinds of information may be involved. On one hand, company agents and medical examiners may generate new information about applicants or proposed insureds as a direct result of application interviews or medical examinations. For example, agents are commonly asked to state opinions they have reached from personal contacts with the consumer regarding his or her character and financial stability. Medical examiners typically take blood pressure readings and perform other tests on proposed insureds; they may also develop their own diagnoses from the results of these tests. These kinds of information can be reported under the exemption for transactions or experiences because they pertain exclusively to the, consumer's contracts with insurance company employees and could not be obtained in the absence of such contacts.

(g) On the other hand, an insurer's agents and examiners also provide the company with data on the applicant's or proposed insured's employment, avocations, and medical history; this type of information is usually needed for the completion of policy application forms and medical questionnaires, and it is generally obtained by sales representatives and medical examiners through personal interviews with the applicants or proposed insureds. The Commission believes that a report containing such information is not exempt from the coverage of the Fair Credit Reporting Act. Facts about a consumer's medical history or employment concern matters which predate or occur independently of the individual's contact with the insurance company. An insurer's exchange of such information is equivalent to a creditor's exchange of information on a consumer's financial dealings with other institutions. In neither case does the information focus solely on the consumer's relationship with the person making the report.

(h) Even though an exchange of underwriting information falls outside the scope of the transactions or experiences exemption, it will not be subject to the requirements of the FCRA unless the company which provides the information is itself a "consumer reporting agency" under Section 603(f). A consumer reporting agency is defined as any person or organization which

> for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating * * * information on consumers for the purpose of furnishing consumer reports to third parties * * *

The two channels by which insurance companies exchange underwriting data—direct contacts between companies and contacts made through the Medical Information Bureau (MIB)—both appear to be cooperative nonprofit exchanges. Furthermore, while insurance companies assemble information on applicants primarily for their own underwriting decisions, most companies also have established procedures for transmitting this information to other insurance institutions for use in the underwriting of subsequent applications from the same customers. Thus, many insurance companies appear to assemble underwriting data in part for the purpose of furnishing consumer reports to third parties. To fall within the definition of consumer reporting agency, however, an insurance company must also engage in such practices on a regular basis. Whether a particular company operates in this manner regularly is, of course, a question of fact. It is the Commission's view, however, that any course of conduct involving more than isolated exchanges should be regarded as regular for the purposes of the FCRA.

(i) This interpretation does not preclude an independent insurance agent from transmitting information to an insurance company in connection with an insurance application to that company, nor does it preclude an insurance company from transmitting information to a reinsurer which is participating in the same transaction. In these instances, the agent, the insurer, and the reinsurer would be joint users of the information in connection with a single transaction and its exchange would not constitute a consumer report. Finally, nothing in this interpretation prohibits an insurance company from disclosing information of any type directly to the applicant.

Requests for Information

The Commission will accept written comments on staff's proposed interpretation for a period of sixty (60) days. The Commission is extremely interested in receiving comments to aid it in its consideration of the proposal because it recognizes that staff's proposed interpretation may have a substantial impact on the insurance industry's operating procedures. All comments received will, of course, be given full consideration before any decision is made on the interpretation. Comments may be addressed to any aspect of the proposed interpretation but the Commission requests in particular that responses be submitted to the following specific questions.

(1) Which of the following types of information are regularly exchanged among insurance companies:

> Information provided by consumers in connection with insurance applications.
> Agents' reports.
> Paramedics' or doctors' reports compiled at the request of the insurance company concerning the application.
> Investigative consumer reports.
> Credit reports.
> Motor vehicle reports.
> MIB reports.
> Loss Index reports.
> Attending physicians'.
> Claims reports.

(2) Are there other types of information which are regularly exchanged by insurance companies and which should be specifically discussed in Interpretation 600.9?

(3) What are the policies and practices of insurance companies with respect to exchanges of information which is used or expected to be used to underwrite applications for insurance primarily for personal, family or household purposes? Under what circumstances will insurers contact either MIB or other insurance companies for information about applicants or proposed insureds? To what extent do insurers exchange only the names and addresses of sources of information, as opposed to exchanging the information itself? Are consumers notified that their applications have been rated or denied on the basis of information received from another insurance company? Can a consumer review such information, challenge its accuracy and request that the insurance company reinvestigate it? If the reinvestigation fails to resolve the dispute, can the consumer insert a statement in the insurance company's file?

(4) What is the estimated annual frequency of exchanges of such information through direct contacts between insurance companies?

(5) What is the estimated annual frequency of exchanges of such information through the Medical Information Bureau's procedures for requesting details on reported codes?

(6) What is the estimated annual frequency of exchanges of such information through the auspices of the Insurance Impairment Bureau of other fire, burglary, theft and claim indexes?

(7) What are the policies and practices of insurance companies with respect to providing consumers with the reasons why their applications for insurance are rated or denied or why existing policies are cancelled?

(8) How is information obtained from other insurance companies used in the underwriting of the following types of insurance?

> Life, Health, Automobile, Fire, Theft, Liability;
> Other categories of property and casualty insurance.

(9) To what extent do exchanges of information occur between insurers and reinsurers? What types of information are exchanged? What policies and practices govern such exchanges?

(10) Is the proposed interpretation correct in exempting from the coverage of the FCRA exchanges of information between an agent insurance company and a reinsurer which is participating in the same transaction?

(11) If a reinsurer decides not to participate in the issuance of a policy, or decides to do so only if a rate classification is applied, will it advise the primary insurer of the basis of its decision and the source and nature of the information relied upon? Will this information be conveyed to the consumer if the reinsurer's decision results in the rating or denial of the insurance application?

(12) How often do insurance agents supplement the answers supplied by applicants on standard application forms with their own statements concerning the customer? What kinds of information do agents' statements typically contain? Are the statements primarily factual or evaluative in nature?

(13) What effect will the proposed interpretation have on the types of information exchanged by insurance companies? What, if any, additional costs must be incurred by insurers to comply with the proposed interpretation?

(14) Will the proposed interpretation hinder an insurer's compliance with any state law?

(15) To what extent, if at all, will applicants be disadvantaged by the proposed interpretation's effect on the flow of underwriting information between insurance companies?

(16) Will the proposed interpretation discourage insurance companies from exchanging their reasons for declining or imposing a rate classification on an application? If an insurance company refrains from exchanging such reasons and discloses only its decision to decline or rate an application, will other companies decline or rate subsequent applications from the same consumer based solely on the previously underwriting decision and without developing independent information sufficient to support such a decision under their own standards?

(17) What is the nature and scope of the consumer injury caused by the circulation of erroneous and/or obsolete information between insurance companies without the protections afforded by the Fair Credit Reporting Act?

(18) The proposed interpretation states in part that information does not fall within the transactions or experiences exemption if it describes "matters that predate or occur independently of the consumer's relationship with the person making the report." Is this standard sufficiently clear to be applied by insurance companies? If not, what alternative would be more desirable?

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-5797 Filed 2-26-79; 8:45 am]

[4510-26-M]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Parts 1910, 1913]

[Docket Nos. H-112 and H-112A]

ACCESS TO EMPLOYEE EXPOSURE AND MEDICAL RECORDS CONFIDENTIALITY AND EMPLOYEE MEDICAL RECORDS

Extension of Comment Period

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of time to submit written comments on proposed rules.

SUMMARY: This notice extends the time for written submissions concerning the proposed rules on Access to Employee Exposure and Medical Records (43 FR 31371) and on Confidentiality of Employee Medical Records (44 FR 3994).

DATES: Comments on these proposed rules must be postmarked no later than March 30, 1979.

ADDRESS: Docket Officer, Docket Nos. H-112 or H-112A, as appropriate, Technical Data Center, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210, telephone: 202-523-7894.

FOR FURTHER INFORMATION CONTACT:

Mrs. Flo H. Ryer, Director, Office of Special Standards Programs, Directorate of Health Standards Programs, Occupational Safety and Health Administration, 3rd Street and Constitution Avenue, NW., Room N3663, Washington, D.C. 20210, telephone: 202-523-7174.

SUPPLEMENTARY INFORMATION: On July 21, 1978, OSHA published a proposed rule on Access to Employee Exposure and Medical Records in the FEDERAL REGISTER (43 FR 31371). Because of the widespread interest in the proposal, OSHA scheduled public hearings which were held in Washington, D.C., December 5-8, 1978, and January 3-5, 1979; Chicago, Illinois, December 12-13, 1978, and January 9-10, 1979; and San Francisco, California, December 15, 1978. Participants in the hearings were given until March 1, 1979 to submit post-hearing comments, arguments or briefs (OSHA Docket H-112).

In connection with this rulemaking proceeding, OSHA published a notice of a proposed administrative rule on Confidentiality of Employee Medical Records in the FEDERAL REGISTER, January 19, 1979 (44 FR 3994). This proposal would establish procedures governing OSHA's access to identifiable employee medical records. March 1, 1979 was established as the final date for the submission of comments from interested persons (OSHA Docket H-112A).

Numerous persons participated in the rulemaking hearings and have expressed considerable interest in commenting on the two related proposed rules. In order to allow them sufficient time to analyze the record developed to date, and to provide comments on the issues raised by the proceedings, the post-hearing comment periods for OSHA Dockets H-112 and H-112A have been extended to March 30, 1979.

SUBMISSION OF WRITTEN COMMENTS

Written comments from interested parties must be postmarked no later than March 30, 1979. Comments must be submitted in quadruplicate to the Docket Officer, Docket Nos. H-112 or H-112A, as appropriate, Technical Data Center, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Washington, D.C. 20210, telephone: 202-523-7894.

Signed at Washington, D.C. this 22d day of February, 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-5821 Filed 2-26-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 57]

[FRL 1066-3]

PRIMARY NONFERROUS SMELTER ORDERS

Public Hearings; Clarifications and Corrections; Additions to Docket

AGENCY: U.S. Environmental Protection Agency.

ACTION: Announcement of details of public hearings; corrections and clarifications of proposed rules; and announcement of addition of materials to docket.

SUMMARY: This notice makes corrections to and clarifies the rules proposed by EPA on January 31, 1979 (44 FR 6284) under Section 119 of the Clean Air Act, as amended. That publication contained proposed national rules on the issuance and contents of primary nonferrous smelter orders (NSOs). Today's notice also specifies the times, places, and format of the public hearings on the proposed rules, and announces the addition of certain material to the rulemaking docket.

DATES: Persons wishing to make oral statements at the public hearings should notify Ms. Judith Larsen, at the address and telephone listed below, of their intent to do and of the approximate length of their statements. Notification should be received by 5:00 pm on March 2, 1979.

Public hearings will be held on March 6 and 7, 1979 in Tucson, Arizona; on March 8 and 9, 1979 in Seattle, Washington, and on March 15, 1979 for Washington, D.C.

ADDRESSES: The public hearings will be held at the following places:

City, Hearing Date and Location

Tucson, Arizona: March 6, 1979, 9:00 am-10:00 pm, March 7, 1979, 10:00 am-5:00 pm; First Floor Hearing Rm., New Court

Building, 111 West Congress St., Tucson, Arizona.

Seattle, Wash.: March 8, 1979, 7:00 am-10:00 pm, March 9, 1979, 10:00 am-5:00 pm; Conf. Room 12(a), U.S. EPA, 1200 6th Ave., Seattle, Wash.

Washington, D.C.: March 15, 1979, 10:00 am-10:00 pm; Hospitality House, 200 Jefferson Davis Highway, Arlington, Va.

FOR FURTHER INFORMATION CONTACT:

Ms. Judith Larsen, U.S. Environmental Protection Agency, DSSE (EN-341) 401 M Street, S.W., Washington, D.C. 20460, 202-755-2583.

SUPPLEMENTARY INFORMATION:

A. PUBLIC HEARINGS

EPA will hold informal public hearings on the proposed rules at the times and places stated above. The hearings will be conducted under the provisions of Section 307(d) of the Clean Air Act. These hearings will be of the legislative type. An EPA panel will be present to listen to comments by interested members of the public, and to ask clarifying questions. Cross examination of either the panel or of members of the public will not be permitted, although the record of each hearing will be held open for thirty days following its completion for the submission of rebuttal and supplementary information. Persons wishing to comment on any issues raised at the hearings are encouraged to use this opportunity to do so.

Mr. Edward E. Reich, Director, Division of Stationary Source Enforcement, will act as presiding officer at the hearings. The presiding officer is empowered to issue whatever orders and directions may be necessary to see that the hearings proceed in an orderly fashion. He will attempt, insofar as possible, to arrange the schedule of speakers for the convenience of the public, and to ensure that all who wish to speak have the opportunity to do so.

A transcript will be made of each hearing, and will be added to the docket of this rulemaking (Docket No. DSSE-78-1).

B. CLARIFICATIONS AND CORRECTIONS

A number of minor ambiguities and errors in the proposed rules have come to the Agency's attention since their publication. Below are the pertinent clarifications and corrections, arranged in the same order as the proposed rules

§ 57.103 [Amended]

(1) The nineteenth paragraph of § 57.103 (Definitions) should read as follows:

"Maximum production capacity" means either the maximum demonstrated rate at which a smelter has produced its principal metallic final product under the process equipment configuration and operating procedures prevailing on or before August 7, 1977, or a rate which the smelter is able to demonstrate by calculation is attainable with existing process equipment.

(2) The proposed rules would require the use of ambient air quality continuous monitors as part of a supplementary control system. Section 57.402(a)(4) would require a smelter owner to permit the issuing agency to have access to those monitors to inspect them, verify their calibration, and obtain data from them. This requirement is intended to involve a written consent by the smelter owner to allow that access at reasonable times. A provision requiring written consent to this access should have appeared as part of proposed § 57.403, and would appear there if the proposal is adopted in the final rules.

(3) The provisions of Subpart D (Supplementary Control System Requirements) are intended to require the supplementary control system to operate using a combination of a closed-loop system [the air quality monitoring network described in § 57.402(a)] and an open-loop system [the meteorological network described in § 57.402(b)]. These two elements of the SCS are to be complementary; neither is deemed adequate by itself.

§ 57.403 [Amended]

(4) In proposed § 57.403(a)(1), the term "DLA" should be deleted the second time it appears. The paragraph should read:

(1) Liability for any violation of the NAAQS in the smelter's DLA, except on the grounds that a determination under § 57.402(c)(3) was clearly wrong; or

§ 57.704 [Amended]

(5) The final compliance date required for measures taken to meet the requirements of §§ 57.501 and 57.503 through the additional use of SCS is not clearly stated by proposed § 57.704(b). The final two sentences of that paragraph should therefore be replaced with the following:

The plan shall contain increments of progress providing for completion of the implementation of each additional measure, and for corresponding compliance with the requirements of paragraphs (b) and (c) of § 57.404, within four months of approval of the plan by the issuing agency. The plan shall also provide that within three months after completion of implementation of those additional measures, the smelter shall fully comply with the requirements of §§ 57.401 and 57.501 (including the assumption of liability for violations of NAAQS within its designated liability area), and shall submit an additional SCS report for the approval of the issuing agency. This additional final report shall correspond to that submitted under § 57.405(b)(2), except that it need not contain the 3-month study described in § 57.405(b)(2)(iii).

(6) Section 57.704(c)(1) should be corrected to read:

(1) 30 days after approval of the proposed increments of progress, the smelter shall let contracts or issue purchase orders for construction and installation of necessary equipment.

(7) Schedule D.1, "Base Case Project and Loss Summary," was inadvertently not printed as part of proposed Appendix A. That schedule is printed at the end of this notice.

C. ADDITIONS TO DOCKET

(1) Due to a clerical error, certain information listed in paragraph 2.4 of Appendix A was not placed in the docket until shortly after the publication of the proposal. All of the information listed in that paragraph has now been placed in the docket, with the exception of:

Paragraph 2.4(b)—This data will not be provided; and is unnecessary for use in connection with Appendix A.

Paragraph 2.4(d)—A price index for sulfur will not be provided, and is not necessary for use in connection with Appendix A.

(2) EPA has or will shortly place in the docket transcripts of two meetings held with various groups, at their request, in connection with the proposed rules.

Dated: February 23, 1979.

MARVIN B. DURNING,
Assistant Administrator for Enforcement.

[6560-01-C]

Schedule D.1

Base Pro-Forma Profit and Loss Summary

(Smelter Identification)

		1979	1980	1981	1982	1983	1984	1985	1986
A. Operating Revenues									
1. Primary metal sales	01	$	$	$	$	$	$	$	
2. Co-product & by-product sales	02								
3. Tolling service revenues	03								
4. Other operating revenues	04								
5. Total operating revenues	05	$	$	$	$	$	$	$	
B. Cost of Sales									
1. Concentrates	06	$	$	$	$	$	$	$	
2. Other materials	07								
3. Production labor	08								
4. Production overhead	09								
5. Pollution control costs	10								
6. Total cost of sales	11	$	$	$	$	$	$	$	
C. Gross Operating Profit	12	$	$	$	$	$	$	$	
D. Other Operating Expenses									
1. Selling, general & administrative	13	$	$	$	$	$	$	$	
2. Taxes, other than income tax	14								
3. Exploration & research costs	15								
4. Depreciation & amortization									
a. Pollution control facilities	16								
b. Other smelter facilities	17								
5. Interest on short-term debt	18								
6. Misc. operating expenses	19								
7. Total other operating expenses	20	$	$	$	$	$	$	$	
E. Income from Operations	21	$	$	$	$	$	$	$	
F. Income Taxes									
1. Current	22	$	$	$	$	$	$	$	
2. Deferred	23								
3. Total income taxes	24	$	$	$	$	$	$	$	
G. Net Income from Operations	25	$	$	$	$	$	$	$	

[FR Doc. 79-5838 Filed 2-26-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 720]

[OTS-050002B; FRL 1067-3]

TOXIC SUBSTANCES CONTROL

Premanufacture Notification Requirements and Review Procedures; Notice of Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: On January 10, 1979, the Environmental Protection Agency proposed rules and notice forms that would implement the premanufacture notification requirements of section 5 of the Toxic Substances Control Act concerning new chemical substances (44 FR 2242).

On February 5, 1979, EPA announced that a public meeting would be held in Washington, D.C. on March 7, 1979 (44 FR 6957). This notice supplements the February 5 notice by announcing that the March 7 meeting has been expanded to allow for the presentation of comments on March 8.

DATES: The March 7, 1979, meeting in Washington, D.C. now will be held on March 7 and March 8. The comment period on the January 10 notice of proposed rulemaking ends March 26, 1979.

ADDRESSES: The March 7-8 meeting in Washington, D.C. will be held at: North Building Auditorium, Department of Health, Education and Welfare, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Mr. John B. Ritch, Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460, 800-424-9065 toll free; in Washington, D.C. call 554-1404.

SUPPLEMENTARY INFORMATION: A large number of persons have indicated to EPA a desire to present comments on March 7, and as a result EPA is adding a second day to the March 7 meeting, to accommodate all interested persons.

As described in the preamble to the January 10 notice of proposed rulemaking, the purpose of these meetings is to enable interested persons to provide oral comments on the proposed rulemaking to EPA officials who are directly responsible for developing the rules and notice forms.

On both days, the meetings will begin at 9:00 a.m. and end at 4:30 p.m., with a one-hour recess for lunch. The meetings will start with a short summary by EPA of the proposed rules and notice forms, to be followed by oral presentations from the floor of no more than 10 minutes per person, company, or organization. (Less time may be allotted depending upon the number of presentations.)

Persons who wish to present their comments at either session should contact EPA no later than four days before the meeting date by calling Dr. D. G. Bannerman toll free at 800-424-9065 (in Washington, D.C., call 554-1404), or by writing to the address listed uder "FOR FURTHER INFORMATION." EPA will allot speaking times on a first-come basis, although the Agency reserves the right to alter the order depending upon the nature of the particular comments and other relevant factors. If time permits, following these prepared presentations, EPA will receive any other comments from the floor.

Presenters are urged, but not required to submit copies of their statements on the day of the meeting. All such written materials will become a part of EPA's record for this rulemaking. In addition, the Agency will transcribe each meeting and will include the written transcripts in the public record.

EPA has established a public record for this rulemaking. All written comments will become a part of this public record. Comments should bear the docket number OTS-050002 and should be submitted to the Document Control Officer (TS-793), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460. The public record is available for inspection in the Office of Toxic Substances Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room 710E, 401 M St., S.W., Washington, D.C. 20460).

Dated: February 23, 1979.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc.79-5971 Filed 2-26-79; 11:19 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

DIRECTORS ET AL.

Delegation of Authority To Sign Sight Drafts

In order to provide for the execution of sight drafts in connection with Commodity Credit Corporation transactions at the Agricultural Stabilization and Conservation Service Commodity office, a delegation of authority is provided below, pursuant to authority vested in me by the bylaws of Commodity Credit Corporation.

The authority herein delegated shall be exercised in conformity with the bylaws regulations, and programs of Commodity Credit Corporation, and the policies adopted by the Board of Directors of the Corporation.

The director or Acting Director of the Kansas City Agricultural Stabilization and Conservation Service Commodity Office may sign Commodity Credit Corporation sight drafts issued in disbursement of capital funds of Commodity Credit Corporation. This authority may not be redelegated.

(Sec. 4, 62 Stat. 1070, as amended, 15 U.S.C. 714b. Terminated: Ca-278 (38 FR 32149), published November 21, 1973. Effective Date: February 27, 1979.

Signed at Washington D.C. on February 15, 1979.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-5689 Filed 2-26-79; 8:45 am]

[3410-11-M]

Forest Service

TRANSPORTATION SYSTEM TO AND FROM THE FRANCIS PEAK AIR ROUTE SURVEILLANCE RADAR SITE (ARSR), DAVIS COUNTY, UTAH

Environmental Assessment; Available For Public Review

An environmental assessment that considers the Federal Aviation Agency's request to place an aerial tram from Farmington to their Air Route Surveillance Radar (ARSR) site on Francis Peak was completed and is available for public review at the Salt Lake Ranger District office or Wasatch National Forest Supervisor's Office in Salt Lake City, Utah.

The environmental assessment, which considered five alternatives, does not indicate that there will be any significant effects on the quality of human environment. Therefore, it has been determined that an Environmental Impact Statement is not needed.

The determination was based on the following:

a. The physical and biological effects from the construction of towers, parking, roads, etc., will only directly effect about ¼ acre of land. The effects on the ecosystem will only be slight.

b. The committment of the resource is long term but not considered irreversible. There is no irretrievable loss of any resources such as timber, forage, etc.

c. Adverse cumulative or secondary effects were not found during the assessment process.

d. There are no known effects on unique or rare resources, historical or archelogical sites, floodplains or wetlands within the project area.

Some public concern was expressed about the visual resource and economic evaluation. There has been no major opposition to the construction of the aerial tramway system.

Because this is considered to be a case without precedent (CEQ regulation 1501.4 (2(ii)) a separate finding has been prepared and recorded in the FEDERAL REGISTER. A 30 day review period commences the day this finding is published in the FEDERAL REGISTER.

It is my decision to issue a special use permit for an aerial tramway system which conforms to the selected alternative in the environmental assessment. This action conforms with the goals, objectives, and direction which are established in the Multiple Use Plan for the Salt Lake Ranger District of the Wasatch National Forest.

Implementation of this decision will be delayed until April 15, 1979, which is the anticipated date for implementation of the nonwilderness decision for the RARE II areas.

The Responsible Official is Chandler St. John, Forest Supervisor, Wasatch National Forest. For additional information contact Phillip Glass, Salt Lake District Ranger, 6944 South 3000 East, Salt Lake City, Utah 84121, phone 801-524-5042.

Dated: February 12, 1979.

CHANDLER P. ST. JOHN,
Forest Supervisor,
Wasatch National Forest.

[FR Doc 79-5733 Filed 2-26-79; 8:45 am]

[3410-16-M]

Soil Conservation Service

CASTLEMAN CREEK WATERSHED, TEXAS

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Castleman Creek Watershed, McLennan County, Texas.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project or measure concerns a plan for stabilizing critical sediment source areas. The planned work includes land treatment measures such as shaping, seed-bed preparation, mulching, fertilizing, fencing, and construction of appurtenant grade stabilization structures needed to stabilize about 30 acres.

CASTLEMAN CREEK WATERSHED, TEXAS, NOTICE OF INTENT NOT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building,

Temple, Texas 76501, 817-774-1255. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies, and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 29, 1979.

Dated: February 7, 1979.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

[FR Doc. 79-5693 Filed 2-26-79; 8:45 am]

[3410-16-M]

COMAL RIVER WATERSHED, TEX.

Intent Not To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Comal River Watershed, Comal and Guadalupe Counties, Texas:

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project or measure concerns a plan for stabilizing critical sediment source areas. The planned work includes land treatment measures such as shaping, seed-bed preparation, mulching, fertilizing, fencing and construction of appurtenant grade stabilization structures needed to stabilize about 480 acres.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, Temple, Texas 76501, 817-774-1255. An environmental impact appraisal has been prepared and sent to various Federal, State and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until March 29, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Act, Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: February 7, 1979.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-5694 Filed 2-26-79; 8:45 am]

[3410-16-M]

LITTLE SCHUYLKILL RIVER WATERSHED, PA.

Intent Not To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the remaining project features of Little Schuylkill River Watershed, Schuylkill County, Pennsylvania.

The environmental assessment of this federally assisted action indicates that the action will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The action concerns a plan for watershed protection and flood prevention. The planned works of improvement include a diversion, a dike, a drainage ditch, and approximately 20 percent of the land treatment measures. Project features already installed include four floodwater retarding dams, one floodwater retarding and fish and wildlife dam, and approximately 80 percent of the land treatment measures.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, Federal Building and U.S. Courthouse, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone number (717) 782-2202. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until March 29, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 U.S.C. 1001-1008).

Dated: February 7, 1979.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-5695 Filed 2-26-79; 8:45 am]

[3410-16-M]

POND CREEK WATERSHED, TEX.

Intent Not To File an Environmental Impact Statement for Deauthorization of Funding of the Pond Creek Watershed

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for deauthorization of funding of the Pond Creek Watershed, Bell, Falls, and Milam Counties, Texas.

The environmental assessment of this action indicates that deauthorization of funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this deauthorization.

The project plan provided for application of land treatment measures, installation of 22 floodwater retarding structures, 166,825 feet of channel work and 9 grade stabilization structures.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, P.O. Box 648, 101 South Main Street, Temple, Texas 76501; 817-774-1214. An environmental impact appraisal has been prepared and sent to various

Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests at the above address.

No administrative action on the proposal will be taken until April 30, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 USC 1001-1008.)

Dated: February 14, 1979.

VICTOR H. BARRY, Jr.,
Deputy Administrator for Programs.

[FR Doc. 79-5696 Filed 2-26-79; 8:45 am]

[3410-16-M]

SECOND CREEK WATERSHED, MISS.

Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines, (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an Environmental Impact Statement is being prepared for the construction of one Floodwater Retarding Structure, Drop Structures, Channel Work, and Remaining Land Treatment Measures in Second Creek Watershed, Adams County, Mississippi. The environmental assessment of this federally assisted action indicates that this project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Chester F. Bellard, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The measure concerns a plan for Watershed Protection and Flood Prevention. The planned works of improvement include one Floodwater Retarding Structure, Drop Structures, Channel Work, and Remaining Land Treatment Measures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Chester F. Bellard, State Conservationist, Soil Conservation Service, Room 500, Milner Building, 210 South Lamar Street, Jackson, Mississippi 39205. Telephone 601-969-4335.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Public Law 83-566, 16 U.S.C. 1001-1008.)

Dated: February 7, 1979.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 79-5697 Filed 2-26-79; 8:45 am]

[3410-05-M]

Agricultural Stabilization and Conservation Service

1979 WHEAT PROGRAM

Proposed Determination To Implement a Special Wheat Acreage Grazing and Hay Program

NOTE—This document originally appeared in the FEDERAL REGISTER for Monday, February 26, 1979. It is reprinted in this issue to meet the Tuesday/Friday publication schedule assigned to the Agricultural Stabilization and Conservation Service.

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Proposed Determination.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1979 crop of wheat:

To implement for the 1979 crop of wheat, a special wheat acreage grazing and hay program. Such a program would be the same as for the 1978 crop of wheat except the payment rate would be equal to the 1979 wheat deficiency payment rate with no minimum payment, and no advance payments would be made.

This determination is made in accordance with provisions in Section 109 of the Agricultural Act of 1949, as amended. This notice invites written comments on the proposed determination.

DATES: Comments must be received on or before March 8, 1979.

ADDRESSES: Acting Director, Production Adjustment Division, ASCS-USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Bruce R. Weber (ASCS), (202) 447-7987.

SUPPLEMENTARY INFORMATION: The following determination with respect to the special wheat acreage grazing and hay program (hereinafter referred to as the "special program") is made pursuant to Section 109 of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977 (Pub. L. 95-113).

Under the "special program", producers would be permitted to designate a portion of the acreage on the farm intended to be planted to wheat, feed grains (corn, barley and sorghum), and upland cotton for harvest, not in excess of 40 percent of the total aforementioned acreage or 50 acres, whichever is greater. Designated acreage must be planted to wheat and used by the producer for grazing purposes or hay rather than for commercial grain production. Producers must also comply with set-aside and Normal Crop Acreage (NCA) requirements on their farm (farms) in order to be eligible for the special program. Producers who elect to participate in the "special program" would receive a payment equal to the 1979 wheat deficiency payment rate (to be determined in December 1979) multiplied by the farm program payment yield times the number of acres designated in the "special program".

The "special program" was implemented for the 1978 crop of wheat. Nearly 1.2 million acres of wheat were designated under the program with payments totaling nearly $15 million. The payment rate under the 1978 program was equal to the higher of 50 cents per bushel or the 1978 wheat deficiency payment rate (52 cents, determined as of November 30, 1978). An advance payment equal to one-half of the minimum payment rate was made to producers at signup.

Prior to implementation of the proposed rule change, consideration will be given to any data, views, and recommendations that may be received relating to the above proposal.

Comments will be made available for public inspection at the Office of the Acting Director during regular business hours (8:15 a.m. to 4:45 p.m.).

The signup period for the 1979 wheat program began February 15 and ends April 30. In order to allow farmers sufficient time to base their program participation decisions on the proposed rule change, it is hereby found and determined that compliance with Executive Order 12044 and 5 U.S.C. 553 is impracticable and contrary to the public interest. Accordingly, comments must be received by March 8, 1979, in order to be assured of consideration.

NOTE—This regulation has been determined not significant under USDA criteria implementing Executive Order 12044. The impact analysis statement will be available from Bruce R. Weber (ASCS), (202) 447-7987.

Signed at Washington, D.C. on February 22, 1979.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-5823 Filed 2-23-79; 10:25 am]

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

TECHNOLOGY TRANSFER SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, March 14, 1979, at 1:30 p.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee was initially established on April 10, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Technology Transfer Subcommittee was formed to examine the impact of transferring Automatic Data Processing technology to Communist destinations.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Review of possible future activities for the Subcommittee for 1979.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4) the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and dicussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommitee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on September 14, 1978 (43 FR 41072).

Copies of the minutes of the General Session will be available by calling Ms. Margaret Cornejo, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-2583.

For further information contact Ms. Cornejo either in writing or by phone at the address or number shown above.

Dated: February 23, 1979.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of Trade Regulation.

[FR Doc. 79-5897 Filed 2-26-79; 8:45 am]

[3510-08-M]

National Oceanic and Atmospheric Administration

VIRGIN ISLANDS COASTAL MANAGEMENT PROGRAM

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold a public hearing for the purpose of receiving comments on the Draft Environmental Impact Statement (DEIS) Prepared on the Proposed Virgin Islands Coastal Management Program.

The hearing schedule is: March 13, 1979, 1:00 p.m.-3:00 p.m., Virgin Islands Senate Office Building, St. Thomas, Virgin Islands.

The views of interested persons and organizations on the adequacy of the impact statement and/or the Proposed Virgin Islands Coastal Management Program, are solicited, and may be expressed orally or in written statements. Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235 (phone: 202/634-4253), so that an appearance schedule may be prepared. In addition, requests for presentations will be accepted immediately prior to the hearing. Presentations are scheduled on a first-come, first-served basis, and should be limited to ten minutes in order to assure that all views can be heard. Office of Coastal Zone Management staff may wish to question speakers following the conclusion of his/her statement. If time permits, additional statements (and general discussion) may be scheduled at the conclusion of presentations. No verbatim transcript of the hearing will be maintained; but staff present will record the general thrust of the remarks.

As part of his review of the Proposed Virgin Islands Coastal Management Program, the Assistant Administrator for Coastal Zone Management will consider fully all comments received at these hearings, as well as written statements submitted to, and received by OCZM on or before March 26, 1979. As part of the procedures leading toward approval of this program, a

Final Environmental Impact Statement will be prepared pursuant to the National Environmental Policy Act of 1969 and its implementing guidelines which reflect his consideration of these comments. All written comments received by OCZM prior to the deadline will be included in the FEIS.

Dated: February 23, 1979.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

[FR Doc. 79-5920 Filed 2-26-79; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON AND MAN-MADE FIBER TEXTILE PRODUCTS FROM HAITI

Import Restraint Levels; Correction

FEBRUARY 8, 1979.

On February 1, 1979, there was published in the FEDERAL REGISTER (44 FR 6491) a letter dated January 29, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs establishing levels of restraint for certain cotton and man-made fiber textile products exported from Haiti during the fifteen-month period beginning on January 1, 1978 and extending through March 31, 1979. The level established for Category 636 should have been 124,173 dozen.

EDWARD GOTTFRIED,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-5730 Filed 2-26-79; 8:45 am]

[6810-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Proposed Addition

AGENCY: Committtee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1979 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 28, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severly Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1979, November 15, 1978 (43 FR 53151):

CLASS 7520

Staple Remover, 7520-00-162-6177.

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-5737 Filed 2-26-79; 8:45 am]

[6820-33-M]

PROCUREMENT LIST 1979

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to Procurement List.

SUMMARY: This action adds to Procurement List 1979 a service to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: February 27, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On December 29, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (43 FR 60987) of proposed addition to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1979:

SIC 7349

Custodial Service, Bridge of the Americas, Paso Del Norte, Good Neighbor Bridge Border Stations; Cotton Classing Building, El Paso, Texas.

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-5736 Filed 2-26-79; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

AIR UNIVERSITY BOARD OF VISITORS

Meeting

FEBRUARY 16, 1979.

The Air University Board of Visitors will hold an open meeting at 1:00 p.m. on March 27, 1979, in the Air University Conference Room, Austin Hall (Building 800), Maxwell Air Force Base, Alabama.

The purpose of the meeting is to give the board an opportunity to present to the Commander, Air University, a report of the findings and recommendations concerning Air University educational programs.

For further information on this meeting, contact Dorothy D. Reed, Coordinator, Air University Board of Visitors, Headquarters Air University, telephone (205) 293-5159/6160.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-5757 Filed 2-26-79; 8:45 am]

[3910-01-M]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

FEBRUARY 14, 1979.

The USAF Scientific Advisory Board Aeronautical Systems Division Advisory Group will hold meetings on 22 March 1979 from 8:30 a.m. to 5:00 p.m. and 23 March 1979 from 8:30 a.m. to 5:00 p.m., at Wright-Patterson Air Force Base, Ohio, Room 222, Building 14, Area B.

The Group will receive classified briefings and hold classified discussions on selected programs and projects relating to the mission of the Aeronautical Systems Division.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-5756 Filed 2-26-79; 8:45 am]

[3910-01-M]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

FEBRUARY 15, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Air Force Logistics Command's Long-Range Computer Systems Planning will meet on March 14 & 15, 1979 at Wright-Patterson Air Force Base, Ohio. The purpose of the meeting is to review development plans for AFLC long-range computer system needs. The Committee will meet from 9:00 a.m. to 4:30 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-5755 Filed 2-26-79; 8:45 am]

[3910-01-M]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

FEBRUARY 14, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Cloud Forecasting will meet on 14-15 March 1979 at the World Weather Building, Camp Springs, Maryland. The purpose of this meeting is to review non-military cloud generation and forecasting models. The Panel will meet from 9:00 a.m. to 4:30 p.m. each day.

This meeting will be open to the public. For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

CAROL M. ROSE,
Air Force Federal Register Liaison Officer.

[FR Doc. 79-5735 Filed 2-26-79; 8:45 am]

[3710-08-M]

Department of the Army

PRIVACY ACT OF 1974

Amendment to a System of Records

AGENCY: Department of the Army.

ACTION: Notice of an amendment to a system of records.

SUMMARY: The Army proposes to amend a system of records subject to the Privacy Act. The specific change to a system identifies a location where a decentralized segment of the records has been maintained but information to that effect was not published previously. The specific change is followed by the system of records published in its entirety as amended.

DATES: The system shall be amended as proposed without further notice effective immediately.

ADDRESS: Any comments, including written data, views or arguments concerning the amendment should be addressed to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus H. Fraker, the Adjutant General Center (DAAG-AMR-R), Department of the Army, 1000 Independence Avenue, SW, Washington, DC 20314, telephone 202/693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28225 (42 FR 50396) September 28, 1977
FR Doc. 78-23953 (43 FR 38070) August 25, 1978
FR Doc. 78-22562 (43 FR 40272) September 11, 1978
FR Doc. 78-26732 (43 FR 42026) September 19, 1978
FR Doc. 78-25819 (43 FR 42374) September 20, 1978
FR Doc. 78-26699 (43 FR 43059) September 22, 1978
FR Doc. 78-26996 (43 FR 43539) September 26, 1978
FR Doc. 78-29130 (43 FR 47604) October 16, 1978
FR Doc. 78-29211 (43 FR 48894) October 19, 1978
FR Doc. 78-29982 (43 FR 49557) October 24, 1978
FR Doc. 78-31795 (43 FR 52512) November 13, 1978
FR Doc. 78-34539 (43 FR 58111) December 12, 1978
FR Doc. 78-35523 (43 FR 59869) December 22, 1978

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

FEBRUARY 16, 1979.

AMENDMENT

A0501.08bDAMI

System name:

Technical Surveillance Index (42 FR 50480) September 28, 1977.

Change:

System location:

Delete entry and substitute: "Decentralized locations at Investigative Records Repository, Headquarters, United States Army Intelligence and Security Command (USAINSCOM); Systems Division, Office of the Deputy Chief of Staff, Intelligence, Headquarters, United States Army Europe and Seventy Army (USAREUR), Heidelberg, W. Germany; Office of the Deputy Chief of Staff for Personnel, Headquarters, Department of the Army (HQDA), Pentagon; and Crimes Records Directorate, Ft Holabird, MD."

A0501.08bDAMI

System name:

501.08 Technical Surveillance Index

System location:

Decentralized locations at Investigative Records Repository, Headquarters, United States Army Intelligence and Security Command (USAINSCOM); Systems Division, Office of the Deputy Chief of Staff, Intelligence, Headquarters, United States Army Europe and Seventh Army (USAREUR), Heidelberg, W. Germany; Office of the Deputy Chief of Staff for Personnel, Headquarters, Department of the Army (HQDA), Pentagon; and Crime Records Directorate, Ft Holabird, MD.

Categories of individuals covered by the system:

Persons whose conversations have been intercepted during technical surveillance operations conducted by, or on behalf of the Army.

Categories of records in the system:

File contains individual's name, any associated telephone number, location, date and time of the surveillance activity, and the source document.

Authority for maintenance of the system:

Title 18 U.S.C., Section 2510.2520, Omnibus Control Act.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Use limited to the preparation of court ordered responses to motions for discovery.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storge:

Magnetic tape and paper records.

Retrievability:

USAREUR segment utilizes a computerized retrieval system using name, address, telephone number or case designation. Other segments are retrieved manually by name, address, telephone number or case designation.

Safeguards:

Building employs security guards. Records are maintained in General Services Approved Security Containers and are accessible only to authorized personnel that are properly screened, cleared, and trained.

Retention and disposal:

Records are retained permanently.

System manager(s) and address:

The Assistant Chief of Staff for Intelligence, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

Notification procedure:

Information may be obtained from:

HQDA (DAMI-DOS), Room 2E-463, The Pentagon, Washington, DC 20310, Telephone: Areas Code 202/697-8874.

Record access procedures:

Requests from individuals should be addressed to: Headquarters, Department of the Army (DAMI-DOS), Room 2E-463, The Pentagon, Washington, DC 20310.

Written requests for information should contain the full name of the individual, current address and telephone number.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations may be obtained from HQDA (DAMI-DOS), Washington, DC 20310.

Record source categories:

Army and other investigative agencies.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552a, section (k)(1), (2), and (5). For additional information, contact the System Manager.

[FR Doc. 79-5788 Filed 2-26-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1064-2; OPP-180267]

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Issuance of a Specific Exemption To Use Trifluralin to Control Field Bindweed and Russian Thistle in Asparagus

The Environmental Protection agency (EPA) has granted a specific exemption to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use trifluralin to control field bindweed and Russian thistle in 2,460 acres of asparagus in Monterey County, California. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., S.W., Room E-315, Washington, D.C. 20460.

According to the Applicant, Russian thistle and field bindweed are two of the most serious weed pests in asparagus. The Applicant estimated crop loss due to weed competition of up to 25%. In addition, the extensive root system of these two weeds make from one to three additional irrigations necessary. Heavy weed growth also increases labor costs involved with hand harvesting. Problems with field bindweed and Russian thistle are most serious in Monterey County where approximately 2,460 acres are grown and could result in a loss of $1,347,250, the Applicant stated.

The only registered pesticide for control of field bindweed and Russian thistle is 2,4-D. however, 2,4-D only controls bindweed when it is in full bloom and two or three applications are needed. The Applicant claimed that timing of the applications is crucial since there are only two to three weeks from full bloom in late June until harvesting commences in July. If 2,4-D is applied early, the bindweed will not be controlled; if applied late, 2,4-D will cause twisting of the asparagus spear, according to the Applicant. In addition, moderate to high winds are typical of the Salinas Valley during spring and cause drift of 2,4-D to the adjacent susceptible crops. Generally there are only two to three hours when it is calm enough to apply 2,4-D and these are in the late evening. For the past two years, the Agriculture Commissioner has refused permits to allow the use of 2,4-D due to the winds.

The Applicant proposed to use a single soil incorporated application of two pounds trifluralin in four to fifty gallons of water per acre. The 2,460 acres represent seven percent of California's total asparagus acreage and are in the area adjacent to crops sensitive to 2,4-D.

EPA has established a temporary tolerance for residues of trifluralin in or on asparagus at 0.05 part per million (ppm). EPA has also determined that the use of Treflan EC, which contains the active ingredient trifluralin, should pose no unreasonable risk to the environment.

After reviewing the application and other available information, EPA has determined that (a) pest outbreaks of field bindweed and Russian thistle have occurred; (b) the only pesticide registered and available for use is not practical in the involved area in California; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if field bindweed and Russian thistle are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until March 31, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Treflan EC (EPA Registration No. 1471-35) will be used to treat asparagus;
2. Trifluralin in applications are limited to asparagus fields, with neighboring 2,4-D sensitive crops, located in Monterey County;
3. The dosage rate may not exceed two pounds of actual trifluralin per acre per season;
4. A 30-day pre-harvest interval must be observed;
5. All applicable directions and precautions on the registered label must be followed;
6. Residues of trifluralin resulting from this use should not exceed 0.05 ppm, a level which has been determined adequate to protect the public health. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action;
7. The Applicant is responsible for ensuring that all of the provisions of this specific exemption are met and must submit a report summarizing the

results of this program by September 31, 1979; and

8. The EPA shall be immediatedly informed of any adverse effect resulting from the use of trifluralin in connection with this exemption.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136 *et seq.*).)

Dated: February 15, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-5747 Filed 2-26-79; 8:45 am]

[6560-01-M]

[FRL 1065-8]

ENVIRONMENTAL IMPACT STATEMENTS

Availability

AGENCY: Office of Federal Activities, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of February 12 to February 16, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from February 23, 1979 and will end on April 9, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Federal Activities, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Federal Activities, A-104, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of February 12 to February 16, 1979, the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the FEDERAL REGISTER and the extended date for comments.

Appendix III set forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: February 22, 1979.

WILLIAM N. HEDEMAN, Jr.,
Director,
Office of Federal Activities.

APPENDIX I

EIS'S FILED WITH EPA DURING THE WEEK OF FEBRUARY 12 TO 16, 1979

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965.

FOREST SERVICE

Final

Ochoco-Crooked River PLanning Unit, Ochoco National Forest, Crook, Wheeler, and Grant Counties, Oreg. February 12: Proposed is a land management direction for 544,060 acres of the Ochoco National Forest located in Crook, Wheeler, and Grant Counties, Oregon. Ten land management alternatives are considered which include emphasis on: (1) recreation and maintenance of large blocks of land in a natural condition; (2) use of land for commodity production and big game habitat needs; (3) management that does not favor any single use of the land; and, (4) use of land for commodity production. The preferred land management plan provides for a balance of all forms of current and projected uses within the planning unit. (USDA-FS-R6-FES-(ADM)-78-7). Comments made by: AHP, DOE, GEO, NRC, HUD, HEW, DOI, EPA, state and local agencies, and groups and individuals (EIS Order No. 90164).

Siuslaw National Forest timber management plan, several counties in Oregon. February 15: The proposed action is the development of a ten-year plan for the management of the Siuslaw National Forest timber resource. The forest is located in portions of Benton, Coos, Douglas, Lane, Lincoln, Polk, Tillamook, and Yamhill Counties, Oregon. There are 557,250 acres of regulated commercial forest land. Under the preferred alternative, 264,480 acres will be managed as a standard component; 259,867 acres as a special component; 32,903 acres as a marginal component; and in addition there are 12,436 acres which are unregulated commercial forest land. (USDA-FS-R6-FES-(ADM)-78-11). Comments made by: DOI, DOE, USDA, DOC, EPA, state agencies, and groups and individuals and businesses (EIS Order No. 90175).

RURAL ELECTRIFICATION ADMINISTRATION

Final

115KV Transmission Line, Lake City to Creede, Hinsdale, Chaffee, and Alamosa Counties, Colo. February 12: Proposed is future installation of approximately 44 miles of 115KV Transmission Line to deliver additional power and energy from Lake City, Hinsdale County, to San Luis Valley Rural Electric Cooperative at Monte Vista, Colorado. Due to the present critical demands at Creede and elsewhere in the San Luis Valley it is proposed that the original financing be applied towards an alternate proposal while the Lake City to Creede line is being studied. This statement discusses the original proposal and alternatives. (USDA-REA-EIS-(ADM)-78-8-F). Comments made by: DOI, USDA, EPA, COE, state and local agencies, and individuals (EIS Order No. 90163).

SOIL CONSERVATION SERVICE

Draft

Upper Tampa Bay Watershed, Hillsborough, Pinellas, and Pasco Counties, Fla. February 12: Proposed is s project for watershed protection, flood prevention, and agricultural water management (drainage) in Hillsborough, Pinellas, and Pasco Counties, Florida. Planned channel construction will consist of: (1) enlarging or realigning 13.7 miles of existing channel, (2) 4.4 miles of new channel, and (3) 12.2 miles of clearing and desnagging. Twelve grade stabilization structures, 3 lake level control structures, 134 pipe drop spillways, and 8,000 feet of earthen diking will be installed to stabilize water flow, manipulate water levels, and to store and remove floodwaters. Land treatment measures are also included. (USDA-SCS-EIS-WS-(ADM)-78-1-(D)-FL) (EIS Order No. 90162).

Final

Little Calumet River Watershed, Cook and Will Counties, Ill. February 12: The proposal involves the Little Calumet River Watershed which covers 136,500 acres in southern Cook and northeastern Will Counties, Illinois. This watershed plan has been developed to: (1) provide watershed protection through an accelerated land treatment program; (2) reduce flood damages by implementing (a) floodwater retarding structures, (b) channel work, (c) stream channel maintenance; and (3) provide increase water based recreation. Planned structural measures consist of three single purpose excavated floodwater retarding structures and channel work on 1.99 miles of previously modified stream. (USDA-SCS-EIS-WS-(ADM)-78-1-F-IL). Comments made by: USA, DOI, HEW, HUD, EPA, USDA, DOE, and GLBC (EIS Order No. 90161).

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, (202) 693-6795.

Draft

Middle Rio Grande Flood Protection, Bernalillo, Valencia, and Sandoval Counties, N. Mex. February 12: Proposed is a flood protection plan for areas of the Rio Grande Valley extending from the vicinity of Belen in the counties of Bernalillo, Valencia, and Sandoval, New Mexico. The plan would be achieved largely by rehabilitating and/or raising the existing levee system and installing additional bank protection works. Mitigative and compensatory measures are also included. (Albuquerque District) (EIS Order No. 90165).

Lynnhaven Inlet, bay, and connecting waters, dredging, Chesapeake County, Va. February 15: Proposed is maintenance dredging of Lynnhaven Inlet and bay to authorized dimensions which will require the removal of approximately 100,000 cubic yards at 2-3 year intervals. Disposal will be on a 6-acre portion of a 17-acre site which the city of Virginia Beach, Virginia, is attempting to acquire. The area is designed for use as a permanent dredged material disposal area in conjuction with a State operated boat launching facility. The material placed at the disposal site will be transported by truck to the ocean front at Virginia Beach for the purposes of sand replenishing. (Norfolk District) (EIS Order No. 90178).

Ice Harbor Lock and Dam, operation and maintenance, Snake River, Franklin and Walla Walla Counties, Wash. February 12: Proposed is the operation and maintenance of the Ice Harbor Lock and Dam on the Snake River, Franklin and Walla Walla Counties, Washington. The project is essentially completed with the exception of some continued recreation development and provision for fish and wildlife compensation. The project includes a navigation lock, a six turbine generator unit hydroelectric spillway dam, and lake with associated recreation facilities. Project operation is tied to the system of water resources developments in the Pacific Northwest. (Walla Walla District) (EIS Order No. 90166).

Final

Panama City beaches, erosion, hurricane protection, Bay County, Fla. February 12: The proposed project for beach erosion control and hurricane protection for the Panama City beaches, Florida, would include 18.5 miles of beach restoration plus an artificial dune and berm between Philips Inlet and the entrance channel into Panama City harbor. The work would involve dredging offshore at the 10-fathom contour, which varies between one-half to one mile offshore. There would be an initial need for 7,865,000 cubic yards of sand to construct the entire 18.5-mile project. Renourishment of the beach would require 946,000 cubic yards of sand at 10-year intervals. (Mobile District). Comments made by: EPA, DOI, DOC, USDA, USCG, DOT, HUD, HEW, State agencies, and groups and individuals. (EIS Order No. 90169).

Cayuga Station, permit, Somerset, Niagara County, N.Y. February 16: The proposed action is a permit application for construction and operation of a fossil fuel steam electric generating station at Somerset, New York, by the New York Electric and Gas Corporation (NYSEG). The proposed generating station will utilize one low sulfut coal-fired unit to produce steam for the generation of 850 megawatts of electrical power. The exhaust steam from the turbine generator will be cooled and condensed by using Lake Ontario water pumped to the plant via pipeline and circulated through a once through circulating water system. The electrical power produced under this proposal will be transmitted via high voltage electrical transmission lines to connect with existing ones. Comments made by: EPA, USDA, DOE, DOC, HUD, DOI, GSA, DOT, USCG, AHP, and State and local agencies. (EIS Order No. 90183).

Placing of solid fill, Delaware River, permit, Philadelphia County, Pa. February 16: The Rohm and Haas Company has applied for renewal of a U.S. Army permit to complete filling operations. This action entails depostition of construction rubble by end dumping from trucks, in the Delaware River, off Bridge Street, in front of the Philadelphia plant. This operation was originally approved under a U.S. Army permit issued on 28 January 1971 and approximately 6.5 acres of this area have been completed. Renewal of the permit is required to continue the project. (Phialdelphia District). Comments made by: DOC, HUD, DOI, EPA, USCG, DRBC, State and local agencies, and groups. (EIS Order No. 90182).

Gulf Intracoastal Waterway, Chocolate Bayou, Brazoria County, Tex. February 15: The proposed Federal action is the improvement of the existing Chocolate Bayou navigation channel project in Brazoria County, Texas and construction of a saltwater barrier in the bayou upstream of Liverpool, Texas. The proposed improvements consist of enlargement and all future maintenance of the existing locally constructed shallow-draft channel in Chocolate Bay and the lower reaches of Chocolate Bayou from the Gulf Intracoastal Waterway (GIWW) to channel mile 8.2 and construction of a saltwater barrier in Chocolate Bayou about 16.9 miles above the GIWW. (Galveston District). Comments made by: EPA, DOI, DOC, DOE, DOT, USDA, AHP, and State and local agencies, and groups and individuals. (EIS Order No. 90177).

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.

MARITIME ADMINISTRATION

Final

Tank Vessels Engaged in Domestic Trade, National, February 16: The proposal of this statement would provide assistance in the construction of tank vessels in the guarantee of financial obligations (notes, bonds, etc.) including interest, that are obtained in the private market by U.S. citizens for the construction of such vessels in United States shipyards under Title XI financing. The primary purpose of the program is to promote the growth and modernization of the U.S. Merchant Marine by enabling private owners to obtain long-term financing as is available to the larger, financially stronger corporations. (MA-EIS-7302-79-61-F). Comments made by: DOE, EPA, DOI, and State agencies (EIS Order No. 90180).

DEPARTMENT OF DEFENSE, AIR FORCE

Contact: Dr. Carlos Stern, Deputy for Environmental and Safety, Department of the Air Force, Room 4C885, Pentagon, Washington, D. C. 20330, (202) 697-9297.

Draft supplement

MX: Milestone II, Air Mobile Alternative, Programmatic, February 16: This statement supplements a final filed in October 1978 concerning the MX: Milestone II program. The supplement analyzes the environmental impacts associated with air mobility as an alternative survivable basing mode for MX. The elements of the air mobile alternative as now envisioned consist of a transport aircraft, a missile similar to those already described in the FEIS and a structure of air bases. This alternative is in addition to the buried trench, vertical and horizontal shelters and pool alternatives discussed in the FEIS. (EIS Order No. 90181). The 45-day review period for the above EIS has been waived to 25 days. See appendix II of this notice.

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Bill Geise, Region VIII, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837-4831.

Final

Jackson Wastewater Treatment System, Teton County, Wyo. February 12: Proposed is a wastewater treatment system for the town of Jackson, Teton County, Wyoming. The alternatives considered include alternate interceptor right-of-ways, alternate plant site locations, and alternate treatment techniques which include lagoons and an oxidation ditch followed by either rapid infiltration basins or discharge to the Snake River or Flat Creek. The proposed action involves the construction of an aerated lagoon treatment system with rapid infiltration on approximately 50 acres of the lower bench site. (EPA-908/5-79-001B). Comments made by: USDA, COE, FEA, HEW, HUD, DOI, State and local agencies, and groups and individuals (EIS Order No. 90168).

DEPARTMENT OF HUD

CONTACT: Mr. Richard H. Broun, Director, Office of Environmental Quality, De-

partment of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755-6306.

Draft

The Mesa, Hampton Hills at Aurora, Arapahoe County, Colo., February 15: Proposed is the issuance of HUD home mortgage insurance for the Hampden Hills at Aurora, a part of the Mesa master plan, in Arapahoe county, Colorado. The development will consist of 600 single family houses and lots, 366 cluster houses and 1,201 multi-family units. (HUD-R.O. 8-EIS-79-XI-D) (EIS order No. 90174).

Final

Woodland Hills Development, Woodbury, Washington County, Minn., February 13: The proposed action concerns the issuance of HUD mortgage insurance for Woodland Hills, city of Woodbury, Washington County, Minnesota. The development covers .31 square miles for which appoximately 656 housing units are planned. These units will be designed as single-family detached, duplex, townhouses, condominium dwellings, in addition to a health care facility. Five alternatives are considered which include: (1) delayed staging of development, (2) low or moderater income housing, (3) change in density, (4) other land uses, and (5) no action. (HUD-R05-EIS-78-03-(F)). comments made by: EPA, DOI, and local agencies (EIS order No. 90172).

LaSalle Crossing Subdivision, Montgomery County, Tex., February 15: The proposed action concerns approval of home mortgage insurance for the proposed LaSalle Crossing Subdivision located partly within the extraterritorial jurisdiction of the city of Conrol, Montgomery County, Texas. The project involves the development of 769 single-family residential lots with an extensive recreational amenity site which incorporates two existing man-made lakes. The remainder of the 212 acre site will incorporate street right-of-way, a water well site and a sewage treatment facility. (HUD-R06-EIS-24D). Comments made by: EPA, COE, USDA, AHP, DOT, DOI, HEW, State and local agencies, and groups (EIS order No. 90176).

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental projects, P-518, Washington, D.C. 20555, (301) 492-8446.

Draft supplement

Pilgrim Nuclear Station, Unit 2, alternative sites, Plymouth County, Mass. February 16: This statement supplements a final EIS filed in September 1974. The purpose of this supplement is to comply with the atomic safety and licensing appeal board which concluded that the analysis of alternative sites for the generating station was inadequate under NEPA. The proposed action is the issuance of a construction permit to Boston Edison Company for the construction of Pilgrim Nuclear Power Station, Unit 2, located in Plymouth, Massachusetts. (NUREG-0530) (EIS order No. 90184). The 45-day review period for the above EIS has been waived to 30 days. See Appendix II of this notice.

STATE DEPARTMENT

CONTACT: Mr. Cameron Sanders, Office of Environmental Affairs, Department of State, Washington, D.C. 20520, (202) 632-9169.

Final

Incineration of Wastes at Sea, Ocean Dumping, National, February 14: Proposed is the participation of the U.S. in negotiations to amend the convention on the Prevention of Marine Pollution of Dumping of Wastes and other matter, to establish International Regulations and Guidelines for the Incineration of Wastes at Sea to be enforced nationally. The purpose of the regulations and guidelines is to set standards to minimize adverse impacts on the oceans and the atmosphere from incineration at sea. Five alternatives are considered. Comments made by: DOE, HEW, DOI, DOT, State agencies, and groups (EIS order No. 90173).

DEPARTMENT OF TRANSPORTATION

CONTACT: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Third Street corridor, In-37 to In-45-46 bypasses, Monroe County, Ind. February 16: Proposed is the reconstruction of Third Street between the In-37 bypass and the In-45-46 bypass in Bloomington, Monroe County, Indiana. The facility would be four lanes with a four foot raised median and an additional lane for turns at major intersections. Additional signalization will be installed. Also included is an underpass at the Louisville/Nashville Railroad. (FHWA-IND-EIS-78-03-D) (EIS order No. 90179).

Final

I-380, Waterloo Cedar Falls, Black Hawk County, Iowa. February 12: The proposed action is the extension of I-380 in Black Hawk County, Iowa. The facility would begin at the Junction of proposed Freeway 520 and U.S. Highway 218 in the southeast portion of Waterloo, and proceed northwesterly approximately 8.9 miles to the Junction of U.S. Highway 20 and proposed Freeway 518 in the vicinity of the Waterloo Metropolitan airport. All of the alternatives will require urban developed and undeveloped land, and some alternatives will require land from publicly owned parks. (FHWA-Iowa-EIS-77-03-F). Comments made by: HUD, USDA, DOI, EPA, COE, DOT, State and local agencies, and groups (EIS order No. 90167).

Greenville Railroad Demonstration, US 69 crossing, Hunt County, Tex. February 13: the proposed action involves elimination of existing railroad/community conflicts in the railroad demonstration project in Greenville, Texas. Plans call for the consolidation of the Louisiana and Arkansas Railway Company (L & A) and St. Louis-Southwestern Railway Lines (SSW) to the present SSW alignment, and a grade separation facility between the railroads and U.S. 69. (FHWA-TX-EIS-77-01-F). Comments made by: USDA, COE, EPA, DOI, State agencies, groups, individuals, and businesses (EIS order No. 90170).

VETERANS ADMINISTRATION

CONTACT: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389-2526.

Final

Veteran Administration Medical Center, District of Columbia, February 13: Proposed is the construction of a 120-bed Nursing Home Care Unit (NHCU), Clinical Facilities, and an underground parking garage at the Washington, D.C. Veterans Administration Hospital. The NHCU will consist of two 60-bed wings on one level, clinical Facilities on one level and a basement level. Comments made by: AHP, EPA, VA, DOT, DOI, and local agencies (EIS order No. 90171).

[FR Doc. 79-5802 Filed 2-26-79; 8:45 am]

[6560-01-C]

APPENDIX II

EXTENSION/WAIVER OF REVIEW PERIODS ON EIS'S FILED WITH EPA

FEDERAL AGENCY CONTACT	TITLE OF EIS	FILING STATUS ACCESSION NO.	DATE NOTICE OF AVAILABILITY PUBLISHED IN FR	WAIVER EXTENSION	DATE REVIEW TERMINATES
US DEPARTMENT OF DEFENSE, AIR FORCE					
COL. LUIS F DOMINGUEZ DEPARTMENT OF THE AIR FORCE ROOM 5D431, PENTAGON WASHINGTON, D.C. 20330 (202) 697-7799	MX: MILESTONE II, AIR MOBILE ALTERNATIVE	DRAFT SUPPLEMENT 90181	02/27/79	WAIVER	03/20/79
GENERAL SERVICES ADMINISTRATION MR. ANDREW E. KAUDERS, EXECUTIVE DIRECTOR ENVIRONMENTAL AFFAIRS DIVISION GENERAL SERVICES ADMINISTRATION 18TH AND F STREETS, N.W. WASHINGTON, D.C. 20405 (202) 566-0405	UNION STATION RENOVATION, NASHVILLE	FINAL 81314	12/18/78	EXTENSION	03/05/79
NUCLEAR REGULATORY COMMISSION MR. VOSS A. MOORE ASSISTANT DIRECTOR FOR ENVIRONMENTAL PROJECTS P-518 WASHINGTON, D.C. 20555 (301) 492-8446	PILGRIM NUCLEAR STATION UNIT 2, ALTERNATIVE STATION	DRAFT SUPPLEMENT 90184	02/27/79	WAIVER	03/26/79

APPENDIX III

EIS'S FILED WITH EPA WHICH HAVE BEEN OFFICIALLY WITHDRAWN BY THE ORIGINATING AGENCY

FEDERAL AGENCY CONTACT	TITLE OF EIS	FILING STATUS ACCESSION NO.	DATE NOTICE OF AVAILABILITY PUBLISHED IN FR	DATE OF WITHDRAWAL
US DEPARTMENT OF DEFENSE, NAVY				
MR. ED JOHNSON, HEAD ENVIRONMENTAL IMPACT STATEMENT/ RDT & E BRANCH OFFICE OF THE CHIEF OF NAVAL OPERATIONS DEPARTMENT OF THE NAVY WASHINGTON, D.C. 20350 (202) 697-3689	DREDGING PIER R-3, WORKTOWN NAVAL WEAPONS STATION	DRAFT 80136	02/24/78	12/26/78

APPENDIX IV

NOTICE OF OFFICIAL RETRACTION

FEDERAL AGENCY CONTACT	TITLE OF EIS	STATUS NUMBER	DATE NOTICE PUBLISHED IN FR	REASON FOR RETRACTION
DEPARTMENT OF INTERIOR MR. BRUCE BLANCHARD DIRECTOR, ENVIRONMENTAL PROJECT REVIEW ROOM 4256 INTERIOR BLDG. DEPARTMENT OF THE INTERIOR WASHINGTON, D.C. 20240 (202) 343-3891	HALEAKALA NATIONAL PARK, BOUNDARY EXPANSION	DRAFT SUPPLEMENT 90110	02/13/79	DISTRIBUTION OF THE DRAFT SUPPLEMENT HAS NOT BEEN MADE.

APPENDIX V

AVAILABILITY OF REPORTS/ADDITIONAL INFORMATION RELATING TO EIS'S PREVIOUSLY FILED WITH EPA

FEDERAL AGENCY CONTACT	TITLE OF REPORT	DATE MADE AVAILABLE TO EPA	ACCESSION NO.
GENERAL SERVICES ADMINISTRATION MR. ANDREW E. KAUDERS, EXECUTIVE DIRECTOR ENVIRONMENTAL AFFAIRS DIVISION GENERAL SERVICES ADMINISTRATION 18TH AND F STREETS, N.W. WASHINGTON, D.C. 20405 (202) 566-0405	(SUPPLEMENTAL REPORT) UNION STATION RENOVATION, NASHVILLE, TENNESSEE	02/12/79	90160

APPENDIX VI

OFFICIAL CORRECTION

FEDERAL AGENCY CONTACT	TITLE OF EIS	FILING STATUS ACCESSION NO.	DATE NOTICE OF AVAILABILITY PUBLISHED IN FR	CORRECTION
NONE				

[FR Doc. 79-5802 Filed 2-26-79; 8:45 am]

[6560-01-M]

[FRL 1065-1; OPP-42002C]

GEORGIA

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. § 136) and the implementing regulations of 40 C.F.R. Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On June 16, 1975, the Regional Administrator, EPA, Region IV, approved the Georgia Plan on a contingency basis. Notice of the approval was published in the FEDERAL REGISTER on June 25, 1975 (40 FR 26690). Subsequently, the Georgia Pesticide Control Act of 1976, and the Georgia Pesticide Use and Application Act of 1976 became effective January 1, 1977, and Rules of the Structural Pest Control Act were amended effective February 12, 1979. Having reviewed these regulations and finding all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region IV, gives notice that the Georgia State Plan is now a fully approved State Plan.

Dated: February 20, 1979.

JOHN C. WHITE,
Regional Administrator, Region IV.

[FR Doc. 79-5744 Filed 2-26-79; 8:45 am]

[6560-01-M]

[FRL 1064-3; OPP-62002A]

HERBICIDES: DINITRO TECHNICAL AND ANCRACK HERBICIDE

Extension of Comment Period

By FEDERAL REGISTER notice dated November 1, 1978 (43 FR 50965), the Administrator announced his intent to hold a hearing under section 6(b)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), to determine whether or not the registrations of the herbicides Dinitro Technical, EPA Reg. No. 148-1213, and Ancrack Herbicide, EPA Reg. No. 19713-23,[1] should be cancelled.

The deadline for filing written responses accompanying the notice was December 1, 1978. The deadline for filing such responses is hereby extended to April 1, 1979.

Dated: February 15, 1979.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 79-5745 Filed 2-26-79; 8:45 am]

[1]Dow Chemical Co., in two petitions dated August 8, 1977, and March 29, 1978, petitioned the Administrator for cancellation of the registrations of the herbicides Dinitro Technical and Ancrack Herbicide, respectively. On January 8, 1979, Dow withdrew its March 29, 1978 petition for cancellation of Ancrack Herbicide.

[6560-01-M]

[FRL 1065-2]

SAFE DRINKING WATER ACT

Review of Variances and Exemptions

Notice is hereby given that pursuant to sections 1415(a)(1)(F) and 1416(d) of the Safe Drinking Water Act, the Environmental Protection Agency, Region I, has completed a comprehensive review of variances and exemptions issued (and schedules prescribed pursuant thereto) during the period June 24, 1977 through June 23, 1978 by the Connecticut Department of Health and the Maine Department of Human Services.

EPA found that all variances and exemptions reviewed were issued under conditions and in a manner no less stringent than the conditions under which variances and exemptions may be granted under Sections 1415 and 1416 of the Safe Drinking Water Act and in no case has either State abused its discretion in the issuance of variances and exemptions during the stated review period. EPA Received no comments concerning variances and/or exemptions during the 30-day comment period.

Dated: February 5, 1979.

REBECCA W. HANMER,
Deputy Regional administrator.

[FR Doc. 79-5796 Filed 2-26-79; 8:45 am]

[6560-01-M]

[FRL 1064-8; OPP-180172F]

USE OF FERRIAMICIDE IN MISSISSIPPI

Supplemental Opinion and Order, Under § 18 of the Federal Insecticide, Fungicide, and Rodenticide Act

The Mississippi Authority for the Control of Fire Ants (Mississippi Authority or Authority) has applied for an emergency exemption under Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), 7 U.S.C. 136p, to distribute and use an unregistered pesticide called Ferriamicide for the control of imported fire ants in Mississippi. This Opinion and Order constitute final Agency action by EPA on the Mississippi Authority's application.

I. BACKGROUND

On July 28, 1978, I issued an Opinion and Order (July Order) granting in part and denying in part Mississippi's request for a Section 18 exemption to distribute and use Ferriamicide for the control of imported fire ants.[1] The fire ants pose a serious problem due to their painful bites and the interference their mounds create for agricultural operations. As developed extensively in my July Order, and the earlier March 8, 1978 document,[2] the fire ant problem was exacerbated by the voluntary cancellation of previous formulations of Mirex, which had been used effectively to control fire ants in some situations. The Mississippi Authority developed Ferriamicide, a product whose active ingredient is Mirex, as an alternative which is effective against fire ants but less persistent than Mirex in the environment than previous formulations. My July Order permitted the limited use of Ferriamicide under the following stringent conditions:

1. The bait formulation could contain no more than 0.05 percent Mirex.
2. Ground broadcast was permitted in parks, cemeteries, schoolyards, campgrounds and fairgrounds but only by certified applicators.
3. Mound-to-mound applications were allowed on all other lands (including agricultural lands). Bags of Ferriamicide were to be distributed only to persons who had at least 50 mounds and at least one acre to treat. These persons also were required to read and sign a form containing several warnings before Ferriamicide could be distributed to them.
4. Women of child-bearing age were prohibited from applying Ferriamicide under all circumstances; and certain other conditions were required to be specified on the labeling of the pesticide.
5. Mississippi's request to permit aerial broadcast of the pesticide was denied.

The Environmental Defense Fund (EDF) filed an action in the United States District Court for the District of Columbia asserting that for various reasons the Agency should be enjoined from allowing the Authority to use Ferriamicide. The Court heard oral ar-

[1]The Agency has received requests for Section 18 exemptions to combat the fire ant problem from a number of other Southern states. The Agency is reviewing each application separately and will issue its decisions in due course.

[2]The March 8 document, which authorized the use of Ferriamicide, was not a final order because it left unresolved several issues concerning the terms and conditions under which Ferriamicide could be used.

gument and received extensive briefing on the issues raised. On September 27, 1978, the Court issued its decision granting summary judgment for the Agency on several issues. 458 F. Supp. 650 (D.D.C. 1978). The Court sustained the Agency finding that the fire ant infestation in Mississippi constituted an "emergency" under Section 18, and granted summary judgment as to the Agency's compliance with the National Environmental Policy Act, 42 U.S.C. 4331 *et seq.*, and EPA's alleged consideration of improper political factors.[3]

However, the Court remanded the case to the Agency after finding the decision procedurally defective because the Agency considered certain documents without making them available for public adversarial comment. This decision was based on the Court's finding that the Ferriamicide decision was informal rulemaking and therefore subject to notice and comment procedures under the Administrative Procedure Act, 5 U.S.C. 553. The Court found that the notice published on December 28, 1977, served to formally close the administrative record as of January 23, 1978, and that documents received after that time, but not made available for public comment, constituted improper *ex parte* communications.

The Court stated that if EPA should wish to consider the Authority's application further, it would have to (1) publish in the FEDERAL REGISTER notice of a new comment period, which need not be longer then 10 days, during which interested persons could comment on the documents received by the EPA since January 23, 1978, and introduce any new information relevant to the issues still remaining open; and (2) establish and maintain a file for public inspection with respect to Mississippi's application, containing all material which had been submitted to the Court by the parties and all information which would be received by the Agency during the new comment period.

Although the Agency does not agree with the Court's determination that actions taken under section 18 of FIFRA are subject to the requirements of 5 U.S.C. 553,[4] it decided that proceeding in accordance with the Court's decision would lead to the most expeditious resolution of the still-open issues. Therefore, on October 17, 1978, EPA published a notice reopening the comment period on Mississippi's application, inviting public inspection of all documents which had been submitted and allowing ten days for receipt of additional comments. 43 FR 47774. Because additional information was received after the closing of the re-opened comment period, the Agency announced in the FEDERAL REGISTER on December 27, 1978 that it was providing an additional opportunity for comment which was to terminate on January 3, 1979. 43 FR 60334.[5]

During the period following my July decision, additional information on alternatives to Ferriamicide, the efficacy of Ferriamicide, and the risks of Ferriamicide use has come to the attention of the Agency. This information will be discussed in detail below.

II. THE LEGAL STANDARD

Section 18 allows the Administrator, "to use his discretion" to exempt any federal or state agency from FIFRA requirements "if he determines that emergency conditions exist which require such exemption." Before awarding a Section 18 exemption, the Administrator must make two findings: first that "emergency conditions exist," and second, that the proposed emergency use would not result in unreasonable adverse effects on the environment. This interpretation of the legal test has the approval of the District Court for the District of Columbia. *EDF* v. *Blum, et. al., supra*, 458 F. Supp. at 657.

III. SUPPLEMENTAL FINDINGS

In my July decision I found that "emergency conditions" exist in areas of Mississippi which are heavily infested with fire ants. As discussed extensively therein, I found that fire ants pose serious health and economic problems in Mississippi and that no effective alternative treatment exists for large and heavily infested areas. The District Court sustained, as having a rational basis, my determination that the fire ant problem created "emergency conditions" in Mississippi, within the meaning of Section 18 of FIFRA.

I further concluded that permitting the use of Ferriamicide subject to stringent conditions would not cause unreasonable adverse effects on the environment. I found that Ferriamicide would prove beneficial against the fire ant problem, since it was both efficacious and practical to apply in areas of heavy and widespread infestation. Since I recognized that the compound posed a risk of oncogenic and teratogenic effects, I endeavored to estimate the risk to humans from two exposure routes: dietary exposure and dermal exposure from mound-to-mound application if use directions were completely ignored. I concluded that the cancer risk was very low and could be held to an acceptable level by, as described *supra*, limiting the areas of permissible application and by placing restrictions on application methods. I reduced the teratogenic risk by barring women of child-bearing age from serving as applicators.

Based on the information contained in my July Order, as well as the information that has come to my attention since the July Order, I reaffirm my conclusion that "emergency conditions" exist in Mississippi areas with heavy fire ant infestation, for the reasons stated in the discussion section which follows.

Concerning the benefits of Ferriamicide, the new information coming to my attention has reinforced my conclusion that Ferriamicide will prove efficacious against fire ants. In addition, I reaffirm my conclusion that Ferriamicide is the only compound which is practical to apply in areas of widespread and heavy infestation.

Concerning the hazards of Ferriamicide use, information has come to my attention indicating that this compound poses a risk of liver toxicity and adverse environmental effects, in addition to the oncogenic and reproductive effects considered in my July decision. I have concluded, for the reasons stated in the discussion section, that these additional toxic effects do not create a problem requiring restrictions beyond those imposed in my July Order to reduce the potential of reproductive and carcinogenic adverse effects.

In addition, the Agency staff has developed reasonable worst-case exposure estimates and quantitative risk estimates for persons frequenting areas where ground broadcast was permitted in my July decision. For the reasons discussed *infra*, I have concluded that the risks from applicator exposure, dietary exposure, and ground broadcast exposure can be brought to an acceptable level by the risk reduction measures directed by my July Order.

Accordingly, I have concluded that permitting the use of Ferriamicide subject to the stringent conditions imposed in the July Order would not cause unreasonable adverse effects to humans and the environment. I

[3] EDF filed a notice of appeal on these issues on September 28, 1978.

[4] For a detailed discussion on the Agency's position on this issue, See, 43 FR 47774 (October 17, 1978). In broad summary, the Agency believes that a section 18 exemption is a license and hence falls into the category of an "order," which is defined in the Administrative Procedures Act as final Agency disposition, "other than rulemaking but including licensing." 5 U.S.C. 551.

[5] Following receipt of a submission from Mississippi during the re-opened comment period the Agency requested Mississippi's underlying supporting data, which Mississippi forwarded to the Agency, with copies to EDF, the public interest group most involved in the proceeding. EDF in turn requested the Agency to re-open the comment period to allow it to respond. Thereafter, EPA gave EDF advance notice by hand delivered mail on December 21 that a second re-opening of the comment period would be announced shortly in the FEDERAL REGISTER.

hereby reaffirm the terms of my July Order in all respects, except that I am reducing the amount of Ferriamicide which can be distributed and used by 20 percent. This reduction reflects the fact that one of the two fire ant treatment periods covered by the one-year exemption approved in my July Order has already passed, leaving only Spring 1979 for fire ant treatment with Ferriamicide. Additionally, I am requiring that the label specify that 50-pound bags of Ferriamicide must not be used more than six weeks after manufacture, in order that the pesticide not become sufficiently rancid that its effectiveness as a pesticide is diminished to the point where the benefits no longer outweigh the risks.

IV. Discussion

A. Alternatives to Ferriamicide

In my July Order I concluded that no effective alternative treatment exists for large, heavily infested areas. Since that time no alternatives have been registered that are feasible for use in areas of heavy infestation, and no commentor has uncovered any feasible registered alternatives that I had overlooked. Mound drenches, for the reasons discussed in my July Order, are not feasible alternatives for areas with heavy infestation.

Several commentors urged the Agency to consider a number of unregistered pesticides as alternatives to Ferriamicide. Most of the materials suggested are, like Ferriamicide, pesticides which are still under development; some of them have shown promise in preliminary testing.[6] However, in order for any of them to fairly qualify as an alternative, there must be a sound basis for concluding that the material could be made available to deal with the fire ant problem in Mississippi *this spring*. In fact, the record suggests no basis for concluding that any of these materials could be made available.

First, no one has asked, or indicated even an *inclination* to ask for permission to distribute any of these materials on anything but a very limited basis, pursuant to experimental use permits. Since the Agency itself is not a producer of pesticides, the absence of a willing producer is by itself a telling blow to consideration of any of these materials as a Ferriamicide substitute in Mississippi this spring. Second, the information in the Agency's possession about the risks and benefits of these materials is so fragmentary that it is not possible to predict whether the Agency could find that the benefits associated with the use of any of these materials as a substitute for Ferriamicide outweighed the risks associated with the use of the compound. Thirdly, the lead time necessary to obtain required regulatory clearances and produce and distribute a pesticide is sufficiently long that even an open invitation from the Agency to submit applications for permission to distribute one or more of these materials would not, as a practical matter, place an alternative in the hands of users in Mississippi in time to treat for fire ants this spring.

Finally, any implication that the fire ant problem addressed by the exemption granted in my July Order can wait for a solution until one of the suggested alternatives is available simply misses the point—as I stated in my July Order, and reiterate now, use of Ferriamicide to resolve that problem is only acceptable if the risks associated with use of Ferriamicide for this purpose are lower than the benefits. I found in July (and reiterate today) that the benefits are greater than the risks. If I had concluded then or now that the risks associated with Ferriamicide use were greater than the benefits, then it would have been necessary to leave the problem unresolved until another material offering an acceptable balance between risk and benefits became available. However, if Ferriamicide can be used on a limited basis this spring, subject to severe restrictions, and the benefits of this use outweigh its risks, the fact that another less risky compound may be available next year or the year after is simply irrelevant.

B. Efficacy of Ferriamicide

As noted in my July 28 decision, the main benefits of Ferriamicide are its ease of application in large areas of heavy infestation and its anticipated effectiveness. The conclusion in my July Order that Ferriamicide would be effective against fire ants was based primarily on the knowledge that its active ingredient, Mirex, is effective against fire ants. The low Mirex content in Ferriamicide is made more efficacious by the specific formulation and packaging proposed by the Mississippi Authority, which accelerate photodegradation and maintain attractiveness to insects by retarding rancidity. In addition, the resemblance of Ferriamicide bait to ant foodstuff enhances its efficacy. Foraging ants are likely to carry the poison into the mount where the bait may be fed to other members of the colony, including the queen, with the result being the eventual destruction of the mound. During the comment periods, the additional information discussed below pertaining to efficacy was received, but my basic conclusion that Ferriamicide is effective against fire ants remains unchanged. Hence, I reaffirm my findings about the efficacy of Ferriamicide.

The United States Department of Agriculture has advised EPA that of all the materials tested to date, Ferriamicide is the most effective replacement for the 4X and 10-5 Mirex formulations for fire ant control. At present no field trial data are available to demonstrate the efficacy of Ferriamicide applied either by mound application or by ground broadcast. However, the Mississippi Authority has reported the results of field trails resulted in a 90 percent mound reduction; the Mississippi field trials resulted in an 87.2 percent mound reduction.

EDF has asserted that the field trials do not support my July Order for three reasons: (1) because the formulation used was an old formulation, that is, one different from the one now proposed for use; (2) because aerial broadcast is prohibited by my July Order; and (3) because the one pound application rate used in the trials is lower than the 2½ pounds per acre permitted by my order. I find EDF's criticisms unpersuasive. Regarding the change in formulation, the new formulation contains the same amount of Mirex, mixed with other chemicals to inhibit degradation to Kepone and rancidity. As a result, the new formulation is expected to be more, not less, efficacious than the old formulation. EDF's criticism of the method of application also misses the mark. Put simply, a study using aerial application to show Ferriamicide is efficacious may fairly be used to show Ferriamicide would be efficacious if applied by a method producing approximately the same distribution of the matterial (ground broadcast) or by a more accurate technique (mound-to-mound application). EDF's third contention, in effect, is that if the field trials are a fair predictor of the efficacy of the current formulation of Ferriamicide applied by ground broadcast, then I have permitted an application rate (2½ lbs/acre) which is 2½ times higher than necessary, because the field trials demonstrated that 1 lb/acre was efficacious. This argument is superficially appealing. However, it overlooks the fact that trials are generally run under specialized conditions. Consequently, the results do not reflect differences in efficacy which can be caused by variation in terrain

[6] The pesticides currently under development which were suggested included: American Cynamid's AC 217,300, the polymer toxicants Trichlorfon and Dipterex, Ciba-Geigy's insect growth regulator, Eli Lilly's skeletal inhibitors, a pathogenic yeast product, Stouffer's WV-675, fire ant queen pheromone and parasitic mites.

A bait formulation of Dursban was also suggested. I reject this as an alternative because the Agency has declined to register this pesticide due to deficiencies in the required pre-registration studies which make it impossible to evaluate the efficacy and stability of the product.

and ground cover. Accordingly, it is appropriate to permit somewhat higher *maximum* application rates, to compensate for variations in these factors at application sites. Furthermore, the ground broadcast equipment does not cover one acre evenly when calibrated to distribute one lb/acre. Since even distribution is important, higher application rates are allowed to permit its achievement.[7]

C. HUMAN HEALTH RISKS

As explained in my July Order, there are two key components to a risk assessment: (1) assessment of the *toxicological properties* of a chemical; and (2) assessment of *exposure* to the chenical. The risk assessment itself is a summation of the conclusions in each of these areas. Each component has a key bearing on the conclusion.

For example, a highly toxic chemical may pose low risks if exposure is low; conversely, a compound of low to moderate toxicity may pose high risks if exposure is high. Since the toxic properties of a chemical are rarely alterable, most efforts at chemical regulation involve attempts to control exposure, either by eliminating exposure altogether (by an outright ban on the chemical) or by reducing exposure through regulatory controls short of an outright ban.

The active ingredient in Ferriamicide is Mirex. Ferriamicide, however, differs from previous formulations of Mirex in two key ways, both of which reflect attempts to reduce *exposure* to Mirex, and thereby reduce the risks posed by the pesticide. First, Ferriamicide contains significantly less Mirex than previous bait formulations of Mirex.[8] Second, Ferriamicide contains chemicals (ferrous chloride and propylene glycol) intended to accelerate the degradation of Mirex in the environment. If this can be accomplished, many exposure opportunities can be eliminated. However, as indicated in my July Order, the extent to which Ferriamicide in fact accelerates environmental degradation of Mirex remains an unanswered question.

The Agency's risk assessment of Ferriamicide has focused on Mirex and Kepone, a contaminant or degradation product. In the risk assessment contained in my July Order, I assumed that Ferriamicide was no more toxic than Mirex and that the amount of Kepone involved would not be a threat to the environment. I have found no reason to alter this approach.[9] However, additional information bearing on both toxicity and exposure has come to my attention; this information is discussed and assessed below:

1. Toxicity

In my earlier decision, carcinogenicity and teratogenicity were considered the primary areas of toxicological concern related to Mirex exposure. Since that time, new information has become available which indicates that chronic liver toxicity should also be considered.

(a) Teratogenicity. In my prior decision, I concluded that prenatal exposure to Mirex could result in teratogenicity. New experimental information has become available since then, the weight of which serves to reinforce my earlier finding. The new information showed: (1) Exposure to Mirex during gestation has been shown to result in irregular cardiovascular physiology in rat fetuses, as measured by electrocardiogram analysis. (2) Neonatal exposure to Kepone was found to induce precocious vaginal opening, persistent vaginal estrus and anovulation in rats, indicating estrogenic activity by the pesticide. Mirex did not show similar activity.

The Agency used a study demonstrating the behavorial abnormalities in the offspring of prairie voles fed 0.1 ppm (0.15 mg/kg) as establishing a base line for estimating the teratogenic risk to humans from Mirex exposure. The Mississippi Authority disputed my reliance on the prairie vole study, contending that the study demonstrated no observable effect level (NOEL) at 0.1 ppm for reproductive performance. However, the Authority's argument is invalid, because it ignores the behavorial impairment observed at 0.1 ppm. Accordingly, I believe the Agency properly regarded the 0.1 ppm level as an *effect* level, not a no effect level, for purposes of assessing the teratogenic risk of Mirex. Moreover, the position of the Authority appears to assume that the vole study was the only data supporting the Agency's conclusions regarding teratogenicity. This is incorrect, since the Agency also relied on a recent study on the Swiss mouse which demonstrated significant adverse effects in offspring due to maternal exposure to Mirex.

The possibility of teratogenic effects stemming from male exposure to Mirex was raised by EDF and Rachel Carson Trust. EDF cited a recent article in *Science*,[10] which suggested three possible mechanisms of action for a hypothetical chemical: (1) damage to the sperm itself, (2) transfer to the female system in the semen and (3) as a secondary effect to some other action in the male. The cited article is not an experimental report aout a specific compound and only discusses, in a general fashion, a possibility of what the author himself considered a minor contributor to birth defects. While the Mirex data do not definitively rule out the possibility that the fetal effects observed were caused by exposure to the male voles, there is strong evidence to suggest that the effects in fact were caused by maternal exposure, which is of course the typical route of exposure for fetal effects.[11]

[7] In light of a comment by EDF, I am modifying my order to require that 50-pound bags not be used more than six weeks after manufacture, in order to insure that the product not become rancid to a level where its effectiveness as a fire ant control is decreased. EDF questioned why the 50-pound bag, unlike the one- and five-pound bags, is not required to have oxygen free packaging, since oxygen free packaging increases the shelf life of the product by retarding rancidity. While oxidation is not expected to be a serious problem with the 50-pound bags because they are to be custom manufactured on advance notice, the problem can be minimized by having the bags labeled with an expiration date not to exceed the point at which an unacceptable level of oxidation begins. Based on shelf life studies conducted by USDA, six weeks from date of manufacture seems a reasonable estimate of that point.

[8] There were eight previously registered formulations of Mirex. Of these, seven contained twice as much Mirex as Ferriamicide. The remaining formulation contained 50 percent more Mirex than Ferriamicide. Compare 41 FR 56694, 56697 (December 29, 1976) with 43 FR 47774, 47786 (October 17, 1978).

[9] Since Kepone is one of the degradation products of Mirex, the use of Ferriamicide will result in the introduction of some Kepone into the environment. Whether the Kepone is a degradation product (*i.e.*, produced by decomposition of Mirex in the environment after the use of Ferriamicide) or a contaminant (*i.e.* produced by decomposition of Mirex before the use of Ferriamicide) makes little difference.

For risk assessment purposes, I have concluded that Kepone's contribution to the overall risk posed by Ferriamicide is negligible. First, the Ferriamicide use which I have authorized will result in only a miniscule amount of Kepone going into the environment. The formulation of Ferriamicide has been adjusted to inhibit degradation to Kepone; data produced by the Authority show that the amount of Kepone produced after degradation of Ferriamicide is 0.5 percent of the amount of Mirex contained in the Ferriamicide sample. Since the total amount of Ferriamicide authorized to be distributed will contain only 168 pounds of Mirex, only a very small amount of Kepone will be introduced into the environment.

Moreover, the toxicity of Kepone is generally comparable to the toxicity of Mirex. Their no observed effect levels for chronic effects other than cancer are comparable; therefore for the same amount of exposure their respective margins of safety are similar. Both chemicals are carcinogenic in rodent test systems. Kepone apparently produced a somewhat stronger positive response; however, for quantitative risk extrapolation purposes both compounds would produce risk estimates which are within the same order of magnitude, assuming comparable exposure.

[10] *Teratogens Acting Through Males*, Science, 202:733 (November 17, 1978).

[11] For example, there is strong evidence from maternal feeding studies that Mirex crosses the placenta, accumulates in fetal

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The fact that the data establish a direct link between maternal exposure and birth defects magnifies, in my judgment, the speculative nature of the hypothesis that there is a secondary cause of birth defects, and permits the Agency to disregard this hypothesis as a basis for regulatory action.

(b) Liver Toxicity. Liver toxicity was not included in the Agency's prior hazard assessment. Since that time, information has become available which indicates that exposure to Mirex could result in chronic liver toxicity. In a mouse feeding study, exposure to Mirex resulted in the developmemt of nodules, hypertrophy (with ground-glass appearance of the cytoplasm), altered histochemistry, ultrastructural changes and cell death. The development of nodules may be particularly significant observation, since the liver is the target organ in Mirex induced carcinogenicity. Some of the effects were observed as early as two months after initiation of exposure. The NOEL for these effects appears to be 1 ppm (150 ug/kg).[12]

(c) Carcinogenicity. In my previous decision, I concluded that the evidence from experimental sutdies was sufficient to show that exposure to Mirex could potentially result in an increased incidence of cancer in man. Since that time, the Mississippi Authority has questioned the carcinogenic potential of Ferriamicide and has submitted information to the Agency which showed that Ferriamicide gave negative results in the Ames test. EDF challenged these results as insufficient to prove that Ferriamicide is not mutagenic or carcinogenic. I have been advised by Agency scientists that it is well known that chlorinated hydrocarbons often give false negatives in the Ames test, while giving postive mutagenic or carcinogenic results in laboratory animals. Accordingly, I conclude that the information submitted by the Authority is not a bsisis for reversing my assessment of carcinogenicity, and I threre fore reaffirm my finding that exposure to Mirex could result in cancer.

2. Exposure

My July Order contained detailed exposure estimates for two routes of exposure to Mirex resulting from the use of Ferriamicide: mound-to-mound application (assuming total disregard of simple use instructions) and in the diet of the general public. During the comment periods, I did not receive information pertaining to these routes of exposure requiring a response.

In my July Order, I concluded that ground broadcast could be permitted in parks, playgrounds, and other locations specified in my decision because exposure from that use pattern would be low. This judgment has been confirmed by a worst-case exposure analysis prepared by the Agency staff covering the general population frequenting areas where ground broadcast is allowed.

In deriving its worst-case estimates of possible exposure to Ferriamicide, the Agency made very conservative assumptions about the ways in which people could become exposed to Ferriamicide and the amount of the pesticide to which people would be exposed. For example, in estimating the exposure of mound-to-mound applicators the Agency assumed that the pesticide would be seriously misused. Since the exposure numbers developed rest on very conservative assumptions, the actual exposure could well be lower than the exposure estimates would indicate. Figures based heavily on hypothesis and modeling, as projected exposure estimates often are, have many uncertainties about them. Nevertheless, they are useful in providing a rough measure of the potential exposure from an emergency pesticide exemption.

The Agency's exposure estimate for ground broadcast application is explained in detail in several memoranda which are part of the administrative record concerning this application. In broad summary, the estimate assumes that with uniform mixing, the concentration of Mirex arising from application of 2½ pounds of Ferriamicide per acre is 3.8 ppb in the top one inch of soil. The Agency then assumed that a person visiting treated grounds would have his skin exposed to about one teaspoon or ten grams of soil per day. If 10% of the toxicant were absorbed into the body, the Agency estimated dermal exposure to Mirex as 3.75 ng per day. The Agency also considered the possibility that some small children would put foreign particles in their mouths. Ingestion of one teaspoon of soil was estimated to result in exposure to 43 ng of Mirex; ingestion of 1 grain of bait directly would result in exposure to 1 ug of Mirex. Thus a child coming into both dermal and oral contact with treated soil would be exposed to 46.75 ng. If a child having dermal exposure to the soil, also ate a grain of bait, his exposure would be 1004 ng.

The Mississippi Authority submitted its own evaluation of dermal exposure to children resulting from ground broadcast application. It estimated that broadcast at 2½ pounds per acre would produce a concentration of 15 granules per square foot, with a total amount of toxicant equal to 12.5 ug per square foot. Assuming that with a single dermal exposure a child might absorb 10 percent of the toxicant from 100 square feet of ground, the resultant exposure estimate was 125 ug.[13] The dermal exposure estimate submitted by the Authority, which is larger than the Agency's dermal estimate by factor of 33,000, represents an improbable situation. In effect, the Authority's model assumes that a child, in a single episode, could expose his skin to every grain of bait in a 100 square foot area; that all of the toxicant in each grain of bait would come into contact with the skin; and that 10 percent of this toxicant would be absorbed through the skin and into the child's system. The Agency worst-case estimates have assumed that 10% of the toxicant coming into contact with the skin would be absorbed and accordingly concurs in Mississippi's apparent use of this factor to represent the efficiency of the skin as an absorption membrane.[14] However, assuming that even a totally naked child could have its skin come into contact with 100% of the bait in a 100 square foot area, and that all the toxicant on the bait would come into contact with the skin is simply absurd. Comparing the Authority's figure with the Agency worst-case estimate for mound-to-mound applicators further demonstrates its improbability. There, the Agency assumed that the applicator did not wear gloves and handled a full pound of Ferriamicide with his bare hands. The amount of Ferriamicide on the treated soil for the child to absorb under the Authority's hypothesis is 175 times less than the amount of Ferriamicide in the one-pound bag handled by the applicator, under the Agency's hypothesis. Nevertheless, the Authority's analysis results in exposure that is one half that of an applicator blatantly violating his instructions.

For these reasons, the Agency has decided not to give credit to the Mississippi Authority dermal exposure estimates. While the Agency is conserva-

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tissue and cuases fetal abnormalites. See, Khera, K.S. et al., *Mirex: A Teratogenicity, Dominant Lehtal and Tissue Distribution Study in Rats*, Fd. Cosmet. Toxicol., 14:25-29 (1976); Gaines, T.B. and R.D. Kimbrough, *Oral Toxicity in Mirex in Adult and Suckling Rats*, Arch. Environ. Health, 21: 7-14 (1970).

[12] Fluffs, Jon et al., *Species Differences in the Hepatic Response to Mirex: Ultrastructural and Histochemical Studies*, Ecotox. and Environ. Safety, 1:327-342 (1977).

[13] The figures submitted by the Authority have been corrected to reflect the maximum allowable application rate. The Authority had assumed that only one pound of bait would be applied per acre. The maximum rate allowed by the agency's order is 2½ pounds per acre.

[14] The Agency has used this 10% as a factor in the past in estimating dermal exposure to applicators of liquid sprays. We regard it as a *conservative* estimate of the efficiency of skin as an absorption membrane for liquids. Necessarily, it is even more conservative an estimate for a *dry* formulation like Ferriamicide bait.

tive in estimating potential exposure, it considers the Authority's estimate to be absurdly unrealistic. The Agency has a responsibility to make sound regulatory decisions. Responsible decision-making cannot be based on risk/benefit analyses which rest on fanciful assumptions.

3. Risk Estimates

Any adverse impact ascribed to the use of Ferriamicide must be tempered by the knowledge that Ferriamicide is authorized for less than a year, and that in most instances exposure will not be on a daily basis. Furthermore, the incremental risks due to the allowed amount of Ferriamicide containing 168 pounds of Mirex are negligible when compared to the baseline risks resulting from the past years of extensive and largely indiscriminate use of Mirex in Mississippi.

In my July Order, estimates were given for the teratogenic and carcinogenic risks to mound-to-mound applicators who would be dermally exposed to Ferriamicide. In addition, the carcinogenic risk to the general population from dietary exposure was given. Since that time, the Agency has developed risk estimates which include oral (non-dietary) and dermal exposure resulting from ground broadcast application.

(a) Teratogenicity. In my July Order, I concluded that there was no real margin of safety of pregnant applicators misusing Ferriamicide, because the estimated exposure was only one-third of the dose which caused adverse effects in the prairie vole offspring. Nothing received during the comment period has made me change my views concerning the teratogenic risk posed by Ferriamicide.

Since my prior decision, I have estimated the dermal exposure received by women exposed to areas treated by ground broadcast. The margin of safety for teratogenicity for such women is 200,000. Assuming the same women received both dermal and dietary exposure, the margin of safety would be 38,000. These margins of safety are more than ample.

(b) Liver Toxicity. Since my July Order, the Agency has addressed the potential risk of liver toxicity which might result from exposure to the Mirex in Ferriamicide. Based on an NOEL derived in a mouse chronic feeding study, the Agency has determined that very ample margins of safety exist with respect to this effect.

I base this conclusion on several factors. First, the experiment in which the NOEL was obtained was a chronic study involving lifetime daily dosing. Even minor effects, such as mild hypertrophy, were not observed until after two months of feeding. This represents approximately eight percent of a mouse's life span, a figure comparable to five and a half years for man, or about ten times longer than Ferriamicide will be available for use. Also, relatively minor hepatic effects are often the first non-specific signs of toxicity in an organism, and are generally considered reversible. Second, mound-to-mound applicators, the group which the Agency projected might have the greatest exposure to Mirex in the Agency's risk assessment scenerios (assuming massive disregard of simple use instructions), would receive a far lower lifetime dose of Mirex than was administered to mice demonstrating only a minor adverse effect. When Ferriamicide is used consistent with the label, the resultant exposure would be significantly less. Third, the population frequenting areas where ground broadcast was permitted would be exposed to a lower dose than the applicators receive and over a smaller proportion of their lifetime than that causing reversible effects in mice. Finally, although the potential human dietary exposure to Mirex most closely resembles the protocol used in the mouse study, the risk involved is not significant because (1) the human daily dose is approximately 50,000 times less than the NOEL observed in the mouse, and (2) the relative shortness of the human dosing period.

(c) Carcinogenicity. Before discussing my cancer risk estimates, I think that it is necessary to comment briefly about quantitative assessment of cancer risk generally, in order to put these estimates in proper perspective. The purpose of quantitative assessments of cancer risk is to provide a crude estimate of the magnitude of the cancer risk as one of the many factors involved in making regulatory decisions. The quantitative risk estimates must be qualified by such factors as inaccuracies in the experimental data, the uncertainties of extrapolating human risk from data on laboratory animals, and the lack of knowledge of the cancer causing mechanisms.[15] It has always been Agency policy to use these estimates with caution, keeping in mind their inherent weaknesses and shortcomings. I have adhered to this approach in my consideration of these estimates in conjunction with this decision.

In my July Order, quantitative cancer risk estimates were developed for two groups: (1) mound-to-mound applicators who cavalierly ignore the directions for use and (2) food consumers, exposed through the diet. Since the July Order, the Agency has developed a quantitative assessment of the cancer risk posed to people entering areas treated by ground broadcast method of application. The Agency's exposure assessment with respect to this group is discussed at page 22 *supra*. In summary, the Agency assumed that adults would have 100 dermal exposure incidents, and that children would have 365 dermal exposure incidents. It was also assumed that a child, in addition to his dermal exposure, would eat ten grains of bait and/or ten teaspoons of treated soil. The estimated lifetime risk of cancer for adults is five in 100 million. for children the estimated lifetime risk of cancer from dermal exposure is three in ten million; from eating the bait, two in one million; and from eating the treated soil, one in ten million. The combined total for a child who has repeated dermal contact, who repeatedly eats treated soil, and who eats ten grains of bait is three in one million. Given the conservativeness of the exposure assumptions, the actual risk of cancer is likely to be much lower than these figures would indicate.

I have also decided to combine totals from different routes of exposure to see whether the cumulative risk is within acceptable limits.[16] For applicators whose exposure is estimated to be for one year, the addition of dermal exposure from visiting treated grounds and dietary exposure makes no significant difference in estimated lifetime risk. The combined figure is 2.3 to 2.8 x 10^{-5}.[17] For adults, the cancer risk of exposure from entering areas treated by ground broadcast plus dietary exposure equals 0.8 to 8 x 10^{-6}. For children, the total estimated lifetime cancer risk due to ground broadcast plus diet equals 5 to 14 x 10^{-6}.

D. *Environmental Risks.* In arriving at the earlier decision to allow emer-

[15] For a more detailed discussion, see R. E. Albert, R. E. Train, and E. Anderson, *Rationale Developed by the Environmental Protection Agency for the Assessment of Carcinogenic Roles,* Journal of the National Cancer Institute, 58:1537-1541 (1977). See also, *Health Risk and Economic Impact Assessments of Suspected Carcinogens, Interim Procedures and Guidelines,* 41 FR 21402 (May 25, 1976).

[16] I have developed a dietary exposure estimate for both one year and ten years. For the general population, dietary exposure for one year and ten years is estimated to result in 0.081 and 0.81 additional cases of cancer per year, respectively, out of a population of ten million.

The range in the time frame for estimating dietary exposure reflects the uncertainty as to the extent to which Ferriamicide accelerates the degradation of its ingredient Mirex in the environment. The Mississippi Authority estimates the half-life of Mirex to be 14-15 days; degradation would be complete within one year under that assessment. On the other hand, the half-life of Mirex was given as 12 years in the Mirex cancellation hearing. 41 FR 56691 at 56698 (1976).

[17] The estimate given in the July Order was based on women applicators whose risk potential is greater than that for men. Because women applicators were porhibited in the prior Order, this figure is applicable to male exposure.

gency use of Ferriamicide, I concluded that the proposed limited use would not have a significant adverse impact on the environment. Admittedly, Ferriamicide use is of concern because of the persistence, bioaccumulation and toxicity to non-target species of its Mirex component. At the time of my earlier decision, very little experimental data were available specifically relating to Ferriamicide, but what was available indicated that it was less persistent and less toxic to sensitive species than previous Mirex products. Even if one assumed comparable toxicity, the incremental use of Ferriamicide proposed for Mississippi in 1979 is not likely to contribute significantly to the existing environmental levels of Mirex.

During the comment period, one new issue was raised about the impact of Ferriamicide on the total environment. EDF, Friends of the Earth, and the Houston Audubon Society opposed the use of Ferriamicide because of the value of fire ants as effective predators of cotton pests. I find this argument frivolous for several reasons. First, the amount of Ferriamicide covered by the Order is so small, and the period of time it is permitted to be used is so short that its use is highly unlikely to have any effect on the ecological balance of cotton fields, even if all of the Ferriamicide permitted to be used by the Order were used in cotton fields. Second, use of Ferriamicide on agricultural land is limited to mound-to-mound treatment, a most unlikely methodology for the extensive acreages of cotton fields. Consequently, I expect that very little will be used on cotton.

E. *Conclusions Regarding Unreasonable Adverse Effects and Risk Reduction Measures.* The analysis in the foregoing portions of the discussion section and in my previous order establish that the benefits of Ferriamicide are not without their accompanying risks. However, I concluded in my July Order that these risks were lower than the benefits of Ferriamicide use for control of fire ants in large, heavily infested areas, provided that use in such areas was limited in a number of ways to reduce exposure. Accordingly, I concluded that Ferriamicide could be used to respond to the emergency conditions I found to exist in Mississippi without causing unreasonable adverse effects on the environment, provided that the use was severely limited in the ways prescribed in the Order. The supplemental findings on risks and benefits which I am announcing today do not, in my judgment, in any way significantly change the risk or benefit picture. Accordingly, I reaffirm my finding that the severely restricted uses of Ferriamicide permitted by the July Order will not cause unreasonable adverse effects on the environment. I also reaffirm (with the minor exceptions noted below) the risk-reduction measures and other conditions imposed by my July Order, since they are integral to my finding that the authorized use of Ferriamicide will not cause unreasonable adverse effects on the environment.

The minor modifications to the terms and conditions of distribution and use which I have decided upon are: (1) The 50-pound bags must contain a label statement prohibiting use more than six weeks after manufacture. (The reasons for this restriction are developed at page 14, above). (2) The total amount of Ferriamicide which may be distributed during what remains of the exemption period is reduced by 20%, to reflect the fact that part of the original exemption period has now elapsed. The amount has not been reduced more, because the period that remains covers the spring of 1979; the spring season is the most active period for fire ant control activities employing bait toxicants, since the ants forage most actively during the spring.

ORDER

In accordance with the Order of July 28, 1978, as modified and amended by the foregoing Opinion, I hereby authorize the Mississippi Authority for the Control of Fire Ants (Mississippi Authority) to distribute and use Ferriamicide bait to control fire ants in Mississippi, subject to the following conditions:

(1) Ferriamicide may be used only to treat actively infested areas. Preventative application is prohibited.

(2) The bait formulation may contain no more than 0.05 percent Mirex.

(3) This authorization expires on June 30, 1979.

(4) The Mississippi Authority, through its county agents, shall be responsible for all distribution of the pesticide product and shall monitor all distribution and use to ensure compliance with the terms of this Order.

(5) The Ferriamicide bait shall be manufactured by the process and with the product composition approved in the July Opinion so as to inhibit the degradation to Kepone and maintain the efficacy of the product (after the package is opened) for at least 10 weeks.

(6) All applications are to be made by either ground broadcast or mound-to-mound application.

(7) Ground broadcasts may be performed in parks, cemeteries, campgrounds and fairgrounds, only by certified applicators using properly calibrated equipment, at a rate of 1 to 2½ pounds of Ferriamicide bait per acre. Rubber or plastic gloves must be worn when applying the product. Applicators shall take care to avoid mouth or eye contact with the pesticide.

(8) Mound-to-mound application must be made at a rate of no more than ¼ ounce of Ferriamicide bait per mound. The measuring spoon which is to be provided with the product shall be used to sprinkle the bait on the mound. The applicator must wear rubber or plastic gloves when applying the product. Applicators must take care to avoid contact of the bait with the mouth or eyes.

(9) Women of child-bearing age are prohibited from applying Ferriamicide.

(10) The Mississippi Authority may not distribute more than 336,000 pounds of Ferriamicide bait for use in Mississippi.

(11) Ferriamicide bait shall be packaged in 1-, 5-, and 50-pound bags. The 5-pound and 50-pound bags are to be made available only to certified applicators for ground broadcast and mound-to-mound application.

(12) The one-pound bags shall be used only for mound-to-mound applications, and may only be distributed to persons who have at least 50 mounds and at least one acre to treat.

(13) Before releasing a one-pound bag, the distributor must ensure that the purchaser reads (or has read to him), fills in and signs the document containing the five cautionary statements as required by the Opinion.

(14) Labels shall contain all provisions necessary to ensure they are consistent with the terms of this Order and Opinion. The labels shall contain the provisions previously approved by EPA, with the following changes:

(a) All labels shall contain the following statement in bold-face type, above the caution statement: "Not to Be Used by Women of Child-bearing Age."

(b) The label of the one-pound package shall state that the product may not be used by any person who has less than one acre and fewer than 50 mounds to treat.

(c) The 50-pound package shall be made up only to order and its label shall include the statement:

"DO NOT USE AFTER————"

indicating a date not to exceed six weeks after manufacture.

(15) The Mississippi Authority shall submit all reports required by 40 CFR 166.5.

Dated: January 30, 1979.

BARBARA BLUM,
Deputy Administrator,
Environmental Protection Agency.

[FR Doc. 79-5742 Filed 2-26-79; 8:45 am]

[6714-01-M]

FEDERAL DEPOSIT INSURANCE CORPORATION

[28997]

PRIVACY ACT OF 1974

Notice of Proposed Changes to Existing Systems of Records

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Proposed Changes to Existing Systems of Records.

SUMMARY: The FDIC is proposing several changes to its Privacy Act system of records titled "Changes in Bank Control Ownership Records". The amendments expand the record sources, the categories of records in the system, and the routine uses for which the data in the system may be used without the consent of the individual to whom the data pertains.

ADDRESS: Comments should be addressed to Hoyle L. Robinson, Assistant Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

EFFECTIVE DATE: The changes will become automatically effective March 29, 1979, unless FDIC's Board of Directors acts to withdraw the proposed changes, or to make further changes, and such action is published in the FEDERAL REGISTER before the thirty-day period has expired.

FOR FURTHER INFORMATION CONTACT:

Pamela E. F. LeCren, Attorney, Legal Division (202-389-4453); or Jesse Snyder, Chief, Intelligence Section, Division of Bank Supervision (202-389-4415).

SUPPLEMENTARY INFORMATION: Under the Privacy Act of 1974, the FDIC is required to publish notice of all systems of records it maintains. 5 U.S.C. 552 (e)(4), 88 Stat. 1896, 1899-1900. Pursuant to this requirement, on August 31, 1978, the FDIC published notice in the FEDERAL REGISTER (43 FR 37153) of a system of records titled "Changes in Bank Control Ownership Records." As a result of the passage of Section 602 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (FIRIRCA) which requires certain information on changes in bank ownership to be filed with the FDIC, the FDIC is proposing necessary changes in the system which will reflect an expansion of the categories of records covered, the routine uses of the records maintained in the system, and the categories of record sources.

As section 602 of FIRIRCA is effective on March 10, 1979, FDIC's Board of Directors has voted to make the changes effective as soon as possible thereafter. The Privacy Act requires publication of notice 30 days in advance of any new "routine use" of information in a system of records, and solicitation of public comment, before the information can be routinely disclosed to third parties without the prior consent of the person to whom it pertains. The changes proposed by FDIC include two new "routine uses". Consequently, the changes are being published 30 days prior to their effective date but will become automatically effective at that time unless FDIC's Board of Directors acts beforehand to withdraw the changes or to make further changes in the system of records.

In consideration of the foregoing, the published notices of the FDIC's systems of records will be amended as follows:

1. In the Changes in Bank Control Ownership Records System (30-64-0004), the paragraph entitled *Categories of records in the system,* which read as follows:

Categories of records in the system:

Contains the name of the individual seller or purchaser of shares of stock, the number of shares of stock involved and outstanding, the name of the bank whose control has changed, the purchase price of the stock, the names of beneficial owners if the shares are registered in another name, the total number of shares owned by the seller, purchaser, or beneficial owner both before and after the transaction. In the case of loans, contains the name and location of the lending bank, the name and address of the borrower, the amount of the loan and the name of the bank issuing the stock securing the loan and the number of shares securing the loan.

is revised to read as follows:

Categories of records in the system:

Contains the name of the individual seller or purchaser of shares of stock, the number of shares of stock involved and outstanding, the name of the bank whose control is changing, the purchase price of the stock, the names of beneficial owners if the shares are registered in another name, the total number of shares owned by the seller, purchaser, or beneficial owner, both before and after the transaction, the personal history, business background and experience, and pending legal or administrative proceedings involving each purchaser or beneficial owner, financial and income statements of purchasers or beneficial owners, the source of funds used in the purchase, the identity of any person who will solicit stockholders in connection with the purchase, the terms and conditions of the acquisition, any plans to make a major change to the business or corporate structure of the acquired bank, copies of invitations, tenders, or advertisements used in making tender offers to stockholders, comments by State and Federal regulatory agencies, and changes of directors and chief executive officers within one year of the change in control and a statement of their past and current business and professional affiliations. In the case of loans, contains all of the information listed above, and contains the name and location of the lending bank, the name and address of the borrower, the amount of the loan and the name of the bank issuing the stock securing the loan and the number of shares securing the loan.

2. In the above system, the paragraph entitled *Routine uses of records maintained in the system, including categories of uses and the purposes of such uses,* which read as follows:

Routine uses of records maintained in the system, including categories of uses and the purposes of such uses:

(1) The name of the bank whose control has changed, the seller and purchaser, and the number of shares involved may be distributed to periodicals for publication; (2) in the event that the system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (3) in the event of civil, criminal, or administrative law enforcement proceedings, the relevant records may be disclosed to the appropriate court and/or counsel for purposes of discovery and the development of the proceedings; (4) disclosure may be made to a congressional office from the record of an individual as may be necessary to respond to an inquiry from the congressional office made at the request of the individual.

is revised to read as follows:

Routine uses of records maintained in the system, including categories of uses and the purposes of such uses:

(1) The name of the bank whose control is changing, the seller and purchaser, and the number of shares involved, may be distributed to periodicals for publication; (2) in the event that the system of records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order

issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto; (3) in the event of civil, criminal, or administrative law enforcement proceedings, the relevant records may be disclosed to the appropriate court and/or counsel for purposes of discovery and the development of the proceedings; (4) disclosure may be made to the appropriate State banking authority and the appropriate Federal financial institutions regulatory agency as required by the Change in Bank Control Act of 1978 (section 7(j)(11)) of the Federal Deposit Insurance Act (12 U.S.C. § 1817(j)(11)) as added by section 602 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, 92 Stat. 3686); (5) disclosure may be made to a law enforcement or other government agency, whether Federal or State, for the purpose of identity verification; (6) disclosure may be made to a congressional office from the record of an individual as may be necessary to respond to an inquiry from the congressional office made at the request of the individual.

3. In the above system, the paragraph entitled *Record source categories*, which read as follows:

Record source categories:

The bank in which control has changed and the bank which makes a loan secured by 25 percent or more of the outstanding voting stock of an insured bank.

is revised to read as follows:

Record source categories:

The persons who are acquiring control of an FDIC insured bank, the bank in which control is changing, the bank which makes a loan secured by 25 percent or more of the outstanding voting stock of an insured bank, and state and federal regulatory agencies.

By order of the Board of Directors, February 16, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION.
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 79-5787 Filed 2-26-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

BANK HOLDING COMPANIES

Proposed "De Novo" Nonbank Activities

The bank holding companies listed in this notice have applies, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than March 15, 1979.

A. *Federal Reserve Bank of Cleveland*, 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Clark County Bancorporation, Inc., Winchester, Kentucky (insurance activities; Kentucky): to engage directly in the sale of credit life, accident and health insurance directly related to extensions of credit by its subsidiary bank and in the sale of any insurance to its subsidiary bank. These activities would be conducted from an office on the subsidiary bank's premises in Winchester, Kentucky, and the geographic area to be served is Clark County, Kentucky.

2. Pittsburgh National Corporation, Pittsburgh, Pennsylvania (mortgage banking activities; California): to engage in mortgage banking through its subsidiary, The Kissell Company, including the making, acquiring, and servicing, for its own account or the account of others, loans and other extensions of credit. This activity would be conducted from an office in Upland, California, and the geographic area to be served is southwest San Bernadino County, California.

B. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

First Chicago Corporation, Chicago, Illinois (correction of notice published February 12, 1979, 44 FR8932) (mortgage banking activities; District of Columbia, Maryland, Louisiana, New Mexico, Oklahoma, Pennsylvania, Texas, Virginia): to engage, through its subsidiary, First Chicago Realty Services Corporation, in making, acquiring, and servicing loans and other extensions of credit secured by real estate mortgages. These activities would be conducted from offices in Houston, Texas, and Washington, D.C., and the geographic areas to be served are the District of Columbia, Eastern Maryland, Louisiana, New Mexico, Oklahoma, Eastern Pennsylvania, Texas, and Northern Virginia.

C. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

Patagonia Corporation, Tucson, Arizona (mortgage activities; Arizona): to engage, through its subsidiary, Western American Mortgage Company, in originating residential mortgages for sale to permanent investors. This activity would be conducted from offices in Tucson and Phoenix, Arizona, and the geographic areas to be served are the Tucson and Phoenix, Arizona, areas.

D. *Other Federal Reserve Banks:* None;

Board of Governors of the Federal Reserve System, February 15, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-5683 Filed 2-26-79; 8:45 am]

[6210-01-M]

BANK HOLDING COMPANIES

Proposed "De Novo" Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than March 20, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

1. Citicorp, New York, New York (correction of notice published January 26, 1979, 44 FR 5516) (commercial lending and leasing activities; California, Arizona, Nevada): To engage, through its subsidiary, Citicorp (USA), inc., in commercial lending for its own account (with the intention that Citibank, N.A., Citibank (New York State) N.A., and other commercial banks may participate in the loans); and leasing personal and real property or acting as agent, broker or adviser in leasing such property subject to the conditions of the Board's Regulation Y. These activities would be conducted from an office in Los Angeles, California, and the geographic areas to be served are Santa Barbara, Ventura, Kings, San Bernadino, Los Angeles, Orange, Riverside, Imperial, and San Diego Counties, California; Maricopa and Pima Counties, Arizona; and Clark County, Nevada. *Comments regarding this application must be received no later than March 12, 1979.*

2. Citicorp, New York, New York (financing and insurance activities; Michigan): To engage, through its subsidiary, Person-to-Person Financial Center, Inc., in purchasing and servicing for its own account consumer installment sales finance contracts; and acting as agent or broker for the sale of credit life, accident and health insurance, property and casualty insurance (including liability coverage where such is the general practice), all such insurance being directly related to its extensions of credit. These activities would be conducted from an already existing office in Indianapolis, Indiana that would expand the area it serves to include the State of Michigan.

3. Chemical New York Corporation, New York, New York (insurance activities, New York): To engage, through a proposed subsidiary of its subsidiary, Sunamerica Corporation, to be named Sunamerica Agency, Inc., in the sale of credit life and disability insurance directly related to mortgage lending by Chemical New York Corporation's subsidiary bank, Chemical Bank. These activities would be conducted from an office in Buffalo, New York, and the geographic area to be served is New York State.

B. *Federal Reserve Bank of Cleveland*, 1455 East Sixth Street, Cleveland, Ohio 44101:

Mellon National Corporation, Pittsburgh, Pennsylvania (consumer finance and insurance activities, Florida): To engage, through its subsidiary, Freedom Financial Services Corporation, in making loans and other extensions of credit such as would be made by a consumer finance company; and acting as agent with respect to the sale of credit life, accident and health insurance, all such insurance being directly related to its extensions of credit. These activities would be conducted from an office in Hollywood, Florida, and the geographic area to be served is the Hollywood, Florida area.

C. *Federal Reserve Bank of Richmond*, 701 East Byrd Street, Richmond, Virginia 23261:

Mercantile Bancshares Corporation, Baltimore, Maryland (mortgage and insurance activities; Maryland): To engage, through its subsidiary, Mercantile Mortgage Corporation, in making or acquiring, for its own account and for the account of others, loans and other extensions of credit secured by mortgages or mortgage deeds of trust; and acting as agent or broker for the sale of credit life insurance directly related to such extensions of credit. These activities would be conducted from an office in Gaithersburg, Maryland, and the geographic area to be served is Montgomery County, Maryland.

D. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City, Missouri 64198:

1. Fidelity Bankshares, Inc., Topeka, Kansas (insurance activities; Kansas): To engage directly in the sale of credit life, accident and health insurance, and property and casualty insurance, all such insurance being directly related to extensions of credit by its subsidiary bank. This acitivty would be conducted from an office in Topeka, Kansas, and the geographic area to be served is Shawnee County, Kansas and contiguous counties.

2. Lyons Bankshares, Inc., Lyons, Kansas (insurance activities; Kansas): To engage directly in the sale of credit life, accident and health insurance, and property and casualty insurance, all such insurance being directly related to extensions of credit by its subsidiary bank. This activity would be conducted from an office in Lyons, Kansas, and the geographic area to be served is Rice County, Kansas and contiguous counties.

3. First Newton Bankshares, Inc., Newton, Kansas (insurance activities; Kansas): To engage directly in the sale of credit life, accident and health insurance, and property and casualty insurance, all such insurance being directly related to extensions of credit by its subsidiary bank. This activity would be conducted from an office in Newton, Kansas, and the geographic area to be served is Harvey County, Kansas and contiguous counties.

E. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

Bankamerica Corporation, San Francisco, California (leasing activities; National): To engage, through its subsidiary, Western American Financial, Inc., ("WAFI") in leasing real and personal property, and acquiring whole or partial interests in special purpose leasing corporations to facilitate such transactions. WAFI will also acquire BA Facilities Leasing, Inc., which will engage in the same activites as WAFI. These activities will be conducted from an office in Oakland, California and the geographic area to be served is national.

Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, February 21, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 79-5794 Filed 2-26-79; 8:45 am]

[6210-01-M]

ELLIS BANKING CORP.

Acquisition of Bank

Ellis Banking Corporation, Bradenton, Florida, 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 96 per cent or more of the voting shares of Pan American Bank of Volusia County, N.A., DeBary, Florida. 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 At-

lanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 12, 1979. 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, February 15, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-5684 Filed 2-26-79; 8:45 am]

[6210-01-M]

ELLIS BANKING CORP.

Acquisition of Bank

Ellis Banking Corporation, Bradenton, Florida, 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 per cent of the voting shares of Pan American Bank of Altamonte Springs, Altamonte Springs, Florida. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 12, 1979. 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, February 15, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-5685 Filed 2-26-79; 8:45 am]

[6210-01-M]

ELLIS BANKING CORP.

Acquisition of Bank

Ellis Banking Corporation, Bradenton, Florida, 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 96 percent or more of the voting shares of Pan American Bank of Ormond Beach, N.A., Ormond Beach, Florida. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 12, 1979. 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, February 15, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-5686 Filed 2-26-79; 8:45 am]

[6210-01-M]

FIRST STATE BANCORP OF HARVEY

Formation of Bank Holding Company

First State Bancorp of Harvey, Harvey, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First State Bank of Harvey, Harvey, Illinois. 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 Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 13, 1979. 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, February 15, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-5687 Filed 2-26-79; 8:45 am]

[6210-01-M]

MID-AMERICA BANCSHARES, INC.

Acquisition of Bank

Mid-America Bancshares, Inc., Pleasant Hill, Missouri, 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 50.03 per cent or more of the voting shares of Goppert Bancshares, Inc., Kansas City, Missouri. 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 Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than March 14, 1979. 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, February 15, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-5688 Filed 2-26-79; 8:45 am]

[6210-01-M]

SOUTHWEST BANCSHARES, INC.

Acquisition of Bank

Southwest Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less director's qualifying shares) of the successor by merger to Lewisville National Bank, Lewisville, Texas. The factors that are considered in acting on the application are set forth in section 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 Dallas. 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 March 16, 1979. 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, February 16, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-5795 Filed 2-26-79; 8:45 am]

[6820-25-M]

GENERAL SERVICES ADMINISTRATION

[Temp. Reg. F-482]

FEDERAL PROPERTY MANAGMENT REGULATIONS

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government in a telephone rate proceeding.

Effective date. This regulation is effective immediately.

3. *Delegation.*

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Public Utility Commission of Ohio involving an investigation of the impact of measured telephone rates on non-profit business customers.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials and employees thereof.

Dated: February 14, 1979.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 79-5729 Filed 2-26-79; 8:45 am]

[6820-34-M]

PRIVACY ACT OF 1974

Amended System of Records

AGENCY: General Services Administration.

ACTION: Notification of amended system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to amend a system of records that is maintained by GSA. The system of records, Security Management System GSA/FPA-12, will be amended to increase the categories of individuals covered by the system and to change the record storage medium from paper to computer. An amended system report was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on January 11, 1979.

DATES: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before March 29, 1979. The amendments shall become effective as proposed without further notice on March 29, 1979, unless comments are received which would result in a contrary determination.

ADDRESS: Address comments to General Services Administration (BR), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT:

Mr. William Hiebert, Records Management Branch, Paperwork Management Division, (202) 566-0673.

BACKGROUND

The Federal Preparedness Agency (FDA) system of records, Security Management System, is being amended as follows:

a. The categories of individuals covered by the system will be increased. The present system covers Federal Preparedness Agency employees. The categories to be added are other Federal Agency employees, State employees, and contract employees. These changes are necessary to control the access of these individuals to classified areas. It is estimated that the number of individuals covered by this system of records will increase from 733 to 5,500.

b. The record storage medium will be changed from paper to computer. A computer system is necessary due to the increased number of individuals that will be covered by the system of records. The use of computers will reduce the staff time required to maintain the records and also provide instant access to clearance information.

The full text of the amended notice of the system of records, Security Management System, is as follows:

GSA/FPA-12 (23-00-0067)

System name:

Security Management System.

System location:

Records are maintained at the following offices of the Federal Preparedness Agency, General Services Administration:

Central Office—General Services Building, 18th and F Streets NW., Washington, DC 20405.
Region 1—805 John W. McCormack Post Office and Courthouse, Boston, MA 02109.
Region 2—26 Federal Plaza, Room 2836, New York, NY 10007.
Region 3—William J. Green, Jr., Federal Building, 600 Arch Street, Room 7248, Philadelphia, PA 19106.
Region 4—1776 Peachtree Street NW., Atlanta, GA 20309.
Region 5—John C. Kluczynski Federal Building, Room 3714, 230 South Dearborn Street, Chicago, IL 60604.
Region 6—811 Grand Avenue, Room 132, Kansas City, MO 64106.
Region 7—Federal Building, Room 7C52, 1100 Commerce Street, Dallas, TX 75242.
Region 8—Building No. 41, Denver Federal Center, Denver, CO 80225.
Region 9—525 Market Street, San Francisco, CA 94105.
Region 10—Room 686, Federal Building, 915 Second Avenue, Seattle, WA 98174.

Categories of individuals covered by the system:

GSA Federal Preparedness Agency employees, other Federal agency employees, State employees, and contract employees

Categories of records in the system:

Security records for the purpose of in-house agency official' use, based upon a need-to-know requirement, in maintaining office security for sensitive data and facilities. These records include: Statement of personal history; personal data (e.g., name, address, telephone number) contained on security clearance forms, rosters, lists, and forms for record container combinations; and other related records. Records do not contain investigatory material.

Authority for maintenance of the system:

Executive Order 11051, September 27, 1962.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

An employee's level of security clearance may be reported at the employee's request to another agency for the purpose of interagency security administration. Additional routine uses are contained in the appendix following the GSA notices.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Mag-tape, drum, disc, and paper.

Retrievability:

Records are indexed by name.

Safeguards:

Personnel screening: hardware and software computer security measures; and paper records stored in a lockable container in a room or facility guarded to prevent unauthorized access.

Retention and disposal:

Retention of records shall be for duration of employment. Disposition of records shall be in accordance with the HB, GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager and address:

Executive Director, Federal Preparedness Agency (EE), General Services Administration, Washington, DC Mailing address: General Services Administration (EE), Washington, DC 20405.

Notification procedures:

Individuals may obtain information about whether they are part of this system of records from the official cited above. An inquiry from an individual employee needs only the employee's name in order to ascertain whether the system contains a record about him or her.

Record access procedures:

GSA procedures for record access are contained in 41 CFR 105-64.

Contesting record procedures:

GSA rules for contesting records and for appealing initial determinations are contained in 41 CFR 105-64.

Record source categories:

Information in this system comes from the individual to whom the record pertains.

Dated: February 7, 1979.

JANICE K. MENDENHALL,
Controller Director of Administration.

[FR Doc. 79-5789 Filed 2-26-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

RADIOLOGICAL HEALTH ADVISORY COMMITTEES

Request for Nomination for Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document requests nominations for new members for the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC) and the Medical Radiation Advisory Committee (MRAC).

DATE: Nominations must be reeived by April 13, 1979.

ADDRESSES: Nominations should be submitted to the appropriate contact person listed below.

FOR FURTHER INFORMATION CONTACT:

For the Technical Electronic Product Radiation Safety Standards Committee: Michael S. Terpilak, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3429.

For the Medical Radiation Advisory Committee: Gordon C. Johnson, Bureau of Radiological Health (HFX-4), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6220.

SUPPLEMENTARY INFORMATION: The Secretary of Health, Education, and Welfare and, by delegation, the Commissioner of Food and Drugs and the Director of the Bureau of Radiological Health, are charged with the administration of those portions of the Public Health Service Act (sections 222, 354, 358 (42 U.S.C. 217a, 263b, 263f)) that are designed to protect the public health from hazardous radiation emissions form electronic products.

The Technical Electronic Product Radiation Safety Standards Committee, established by the Secretary under section 358(f)(1)(A) of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f(f)(1)(A)), must be consulted before the Secretary prescribes any performance standard for electronic product radiation safety.

The Medical Radiation Advisory Committee was established under the name "Medical X-Ray Advisory Committee" on October 31, 1963, under section 222 of the Public Health Service Act. It was renamed the Medical Radiation Advisory Committee on June 25, 1970. The committee advises and consults with the Commissioner on the formulation of policy and development of a coordinated national program relating to application of radiation to obtain maximum diagnostic information and therapeutic benefit per unit of radiation exposure to the public.

NOMINATIONS, DUE DATE, AND ACCOMPANYING INFORMATION

All interested persons are invited to nominate qualified candidates for consideration as members to these two committees. To be considered for either of these two committees, each nomination of a qualified person must be received by April 13, 1979, and be accompanied by a curriculum vitae that states where the nominee may be contacted and provides detailed evidence of the nominee's qualifications, including current employment and professional affiliations. This information should be sent to the Executive Secretary of the committee for which the person is being nominated (addresses below). Nominations must also state that the person nominated is aware of the nomination, is interested in becoming involved in the effort, and appears to have no conflict of interest. Potential candidates will be asked by the Food and Drug Administration (FDA) to provide detailed information concerning financial holdings, consultancies, and research grants or contracts, to permit evaluation of possible sources of conflict of interest.

FDA has a special interest in ensuring that women and minority groups are adequately represented on advisory committees and therefore extends particular encouragement for nominations of appropriately qualified female and minority candidates.

Further information on requirements fo eligibility for membership on each committee is provided below, under the respective committee description.

The Commissioner requested, in a notice published in the FEDERAL REGISTER of March 14, 1978 (43 FR 10623), nominations of qualified persons to replace members of TEPRSSC and MRAC whose terms expired in 1978. Eligible individuals nominated in response to that publication who did not receive committee appointments will be reconsidered for a period of 2 years after nomination along with those newly nominated for vacancies. The following are names and affiliations of those appointed as a result of the March 14, 1978 request for nominations:

New members on TEPRSSC are:

(1) *Public sector.* Dr. Valerie A. Brookeman, Associate Professor, Radiology Department, University of Florida College of Medicine, Gainesville, FL.

(2) *Industrial sector.* Mr. Howard A. Johnson, Staff Vice President of Product Safety, RCA Corporation, Camden, NJ; Mr. Gerald A. Richardson, Technical Director, Irex Medical Systems Corporation, Upper Saddle River, NJ.

(3) *Government.* Mr. Gerald S. Parker, Director, Radiation Control Program, Massachusetts Department of Public Health, Boston, MA; and Lt. Col. Thomas L. Pitchford, Radiological Hygiene Consultant, U.S. Army Health Services Command, Ft. Sam Houston, San Antonio, TX.

New member appointees to MRAC have not been announced.

TECHNICAL ELECTRONIC PRODUCT RADIATION SAFETY STANDARDS COMMITTEE

Since its inception in 1969, TEPRSSC has provided valuable technical and scientific advice to the

Bureau of Radiological Health, FDA, on the development of electronic product radiation safety performance standards. Thus far, regulatory performance standards have been issued under 21 CFR Chapter I, Subchapter J, for television receivers, cold-cathode gas discharge tubes, microwave ovens, diagnostic x-ray systems and their major components, cabinet x-ray equipment (including x-ray baggage inspection devices for use at airports and similar facilities), laser products, and ultrasound therapy equipment. A standard has been proposed for sunlamp products and the final rule will be issued soon. The committee meets approximately twice each year and occasionally reviews documents transmitted by mail.

Other electronic products for which performance standards may be issued in the future include equipment used for microwave diathermy and other forms of radiation therapy, and general area, commercial, and industrial illumination.

Under section 358(f) of the Radiation Control for Health and Safety Act, members will be appointed by the Commissioner after consultation with public and private agencies concerned with the technical aspect of electronic product radiation safety. Each member shall be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety. As required by that act, the committee is composed of 15 members selected as follows:

1. Five from governmental agencies, including State and Federal governments;
2. Five from the affected industry, after consultation with industry representatives; and
3. Five from the general public, of which at least one shall be representative of organized labor. The representative of organized labor must also be technically qualified by education or experience in one or more fields of electronic product radiation safety.

Effective December 31, 1979, two members from industry, two members from the public sector, and one member from the governmental sector will complete their terms and may be replaced.

Nominations are solicited for engineers or scientists qualified in electronic product radiation safety to fill these vacancies for a 4-year term. Nominations are invited from consumer, industry, government, and professional organizations, and should be sent with accompanying curriculum vitae and other pertinent information, on or before April 13, 1979, to Michael S. Terpilak, Acting Executive Secretary, TEPRSSC, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

MEDICAL RADIATION ADVISORY COMMITTEE

MRAC meets approximately twice each year and has provided advice to the Bureau of Radiological Health, FDA, on programs related to medical and dental use of x-ray equipment, training of medical radiation users, nuclear medicine, and the development of policy statements on the effective use of medical radiation.

Among its current activities, the committee reviews qualifications of operators of x-ray equipment; reviews radiological training programs; advises on equipment requirements, guidelines, and standards; and considers efficacy in relation to the reduction of unnecessary radiological examinations.

The committee consists of 13 members, including the chairperson. Members are selected and the chairperson is appointed by the Commissioner from those nominees who have expertise in the fields of medicine, dentistry, health sciences, engineering, public health, or related technology. For the 1979 membership, MRAC will have particular need for candidates with knowledge of medical diagnosis, diagnostic technology, medical epidemiology, and radiation therapy. Members are invited to serve 4-year terms. Effective July 1, 1979, there will be a total of 3 vacancies on this committee.

Interested persons are invited to submit, on or before April 13, 1979, names of qualified candidates and accompanying curriculum vitae and other pertinent information to Dr. Gordon C. Johnson, Executive Secretary, MRAC, Bureau of Radiological Health (HFX-4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Dated: February 21, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-5660 Filed 2-26-79; 8:45 am]

[4110-84-M]

Health Services Administration

NATIONAL ADVISORY COUNCIL ON MIGRANT HEALTH

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of March 1979:

Name: National Advisory Council on Migrant Health.

Date and Time:
March 5, 1979—9:30 a.m.-9:00 p.m.
March 6, 1979—9:30 a.m.-5:00 p.m.
March 7, 1979—9:30 a.m.-12:00 noon.

Place: Sheraton Harlingen Inn, Expressway 83 and Stewart Place Road, Harlingen, Tex. 78550.

Open for entire meeting.

Purpose: The Committee is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 329 (formerly section 319) of the Public Health Service Act.

Agenda: Agenda items include: (1) Review of actions taken on the Council's October meeting recommendations; (2) discussions on new National Migrant Referral System and Migrant Assurance Program; (3) Site visit to Su Clinica Familiar in Harlingen to see their Birthing Clinic in operation, and the El Valle Prepaid Ambulatory and Inpatient Health Care Plan which serves about 2,500 migrants on a year around basis in the homebase and upstream area; (4) meeting with representative governing board members from Migrant Health Centers in the area to discuss policy issues impacting on their projects; and (5) presentations by local organizations addressing problems in the areas of: Water, sewage, housing and environmental problems impacting on the health of the migrant families, and field visits to see their living and working conditions in this home-base area.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. Jamie Manzano, Bureau of Community Health Services, Room 7A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-1153.

Agenda items are subject to change as priorities dictate.

Date: February 15, 1979.

WILLIAM H. ASPDEN, Jr.,
Associate Administrator for Management.

NOTE.—This notice of meeting was delayed due to the hazardous weather conditions in the Washington, D.C. metropolitan area during the week of February 18.

[FR Doc. 79-5862 Filed 2-26-79; 8:45 am]

[4110-08-M]

National Institutes of Health

BIOASSAY OF O-TOLUIDINE HYDROCHLORIDE FOR POSSIBLE CARCINOGENICITY

Availability of Report

o-Toluidine hydrochloride (CAS 636-21-5) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of o-toluidine hydrochloride for possible carcinogenicity was conducted by administering the test chemical in feed to F344 rats and B6C3F1 mice. Applications of the chemical include use as an intermediate in the manufacture of dyes.

Under the conditions of this bioassay, o-toluidine hydrochloride was carcinogenic in both male and female F344 rats and B6C3F1 mice, producing a significant increased incidence of one or more types of neoplasms.

Single copies of the report, Bioassay of o-Toluidine Hydrochloride for Possible Carcinogenicity (T.R. 153), are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Maryland 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research)

Dated: February 14, 1979.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 79-5675 Filed 2-26-79; 8:45 am]

[4110-08-M]

ANIMAL RESOURCES REVIEW COMMITTEE

Amended Notice of Meeting

Notice is hereby given of a change in the agenda of the meeting of February 28-March 1, 1979, Room 4A, Building 31, National Institutes of Health, Bethesda, Maryland, which was published in the FEDERAL REGISTER on February 13, 1979 (44 FR 9427).

This committee was to have reviewed, discussed, and evaluated individual grant applications submitted to the Laboratory Animal Sciences Program during the closed portion of the meeting. The committee will review, in addition, a contract proposal.

This meeting will be open to the public from 1:00 p.m. on February 28 to recess and on March 1, from 8:30 a.m. to 5:00 p.m.

(Catalog of Federal Domestic Assistance Programs No. 13.306, National Insitutes of Health)

Dated: February 15, 1979.

SUZANNE L. FREMEAU,
NIH Committee
Management Officer.

[FR Doc. 79-5676 Filed 2-26-79; 8:45 am]

[4110-08-M]

MICROBIOLOGY AND INFECTIOUS DISEASES ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Advisory Committee, National Institute of Allergy and Infectious Diseases on March 11, 12, 13, and 14, 1979, at the National Institutes of Health, Building 31, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. until 10:15 a.m. on March 12 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 6:30 p.m. until 10:00 p.m. on March 11, from 10:15 a.m. until recess on March 12, from 8:30 a.m. until recess on March 13, and from 8:30 a.m. to adjournment on March 14 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of Health, Building 31, Room 7A32, Bethesda, Maryland 20014, (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Thelma N. Fisher, Executive Secretary, Microbiology and Infectious Diseases Advisory Committee, NIAID, National Institutes of Health, Westwood Building, Room 706, Bethesda, Maryland 20014, (301) 496-7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health.)

Dated: February 14, 1979.

SUZANNE L. FREMEAU,
Committee Management
Officer, NIH.

[FR Doc. 79-5677 Filed 2-26-79; 8:45 am]

[4110-08-M]

CLINICAL APPLICATIONS AND PREVENTION ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, March 29-30, 1979, Federal Building, Conference Room 6C01, Bethesda, Maryland.

This meeting will be open to the public on March 29, from 1:30 p.m. to 4:00 p.m. when the current progress of the Hypertension Detection and Follow-Up Program will be discussed. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 30, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual contract renewal proposals. The proposals and the discussions could reveal confidential trade secrets and personal information such as privileged unblinded medical data about individuals associated with the proposals.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of meetings and rosters of committee members. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 216, Bethesda, Maryland 20014, phone (301) 496-4323, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health)

Dated: February 15, 1979.

SUZANNE L. FREMEAU,
Committee Management
Officer, NIH

[FR Doc. 79-5678 Filed 2-26-79; 8:45 am]

[4110-08-M]

TRANSPLANTATION BIOLOGY AND IMMUNOLOGY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases on April 5, 1979, at the Holiday Inn Downtown, Dallas, Texas.

This meeting will be open to the public from 8:30 a.m. until 12:00 Noon to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 1:00 p.m. until adjournment for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20014, telephone (301) 496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496-7465 will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health.)

Dated: February 14, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 79-5679 Filed 2-26-79; 8:45 am]

[4110-08-M]

BIOTECHNOLOGY RESOURCES REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is given of the meeting of the Biotechnology Resources Review Committee, Division of Research Resources, April 26 and 27, 1979, Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20014.

This meeting will be open to the public on April 26 from 8:30 a.m. to recess and on April 27 from 8:30 a.m. until adjournment for reports and discussions on opportunities and needs for biotechnology resources, and development of recommendations for future initiatives.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Room 5B-13, National Institutes of Health, Bethesda, Maryland 20014, telephone area code 301 496-5545, will provide summaries of meetings and rosters of Committee members.

Dr. Charles L. Coulter, Executive Secretary, Biotechnology Resources Review Committee, Division of Research Resources, Bldg. 31, Rm. 5B-41, National Institutes of Health, Bethesda, Maryland 20014, telephone area code 301 496-5411, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.371, National Institutes of Health)

Dated: Feb 15, 1979.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 79-5680 Filed 2-26-79; 8:45 am]

[4110-02-M]

Office of Education

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Meeting

AGENCY: National Advisory Council on Extension and Continuing Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Ad Hoc Committee on International Dimensions of Continuing Education. It also describes the functions of the Council. Notice of meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend the meeting.

DATE: Meeting: March 11-12, 1979.

ADDRESS: The Washington Hotel, Fifteenth Street and Pennsylvania Avenue NW., Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT:

William G. Shannon, Executive Director, National Advisory Council on Extension and Continuing Education, 425 Thirteenth Street NW., Suite 529, Washington, D.C. 20004, Telephone: (202) 376-8888.

The National Advisory Council on Extension and Continuing Education is authorized under Pub. L. 89-329. The Council is required to report annually to the President, the Congress, the Secretary of HEW, and the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Part A of Title I (HEA) including policies and procedures governing the approval of State plans under Section 105; and to advise the Assistant Secretary of HEW on Part B (Lifelong Learning Activities) of the title. The Council is required to review the administration and effectiveness of all Federally supported extension and continuing education programs.

The meetings of the Council are open to the public. However, because of limited space, those interested in attending any meeting are asked to call the Council's office beforehand. Available seats will be assigned on a first-come basis. The meeting of the Ad Hoc Committee on International Dimensions of Continuing Education will begin on March 11, 1979 at 6:30 p.m., recessing at 9:00 p.m. It will resume on March 12 at 9:00 a.m. and adjourn around 5:00 p.m.

The agenda will include consideration of:

a. the report of previous meeting
b. current Federal legislation
c. a report from the Office of Education
d. proposed action and recommendations.

All records of the Council proceedings are available for public inspection at the Council's staff office, located in Suite 529, 425 Thirteenth Street NW., Washington, D.C.

Dated: February 23, 1979.

WILLIAM G. SHANNON,
Executive Director.

[FR Doc. 79-5885 Filed 2-26-79; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Portland Area Office Redelegation Order]

SUPERINTENDENT, NORTHERN IDAHO AGENCY

Delegation of Approval Authority—Membership Rolls

This delegation is issued under the authority delegated to the Assistant Secretary—Indian Affairs from the Secretary of the Interior in 230 DM 1 and 2 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3.

The Portland Area Office Redelegation Order 3 was published beginning at page 15813 of the October 14, 1969, Federal Register. Section 3.20, *Functions Relating to Tribal Programs*, of the order is being amended by the addition of the Superintendent of Northern Idaho Agency to that provision. The revision of Section 3.20 gives the Superintendent of the Northern Idaho Agency the authority to approve membership rolls of the Nez Perce, Coeur d'Alene, and Kootenai Tribes of Indians.

As amended, Part 3 reads as follows:

PART 3—AUTHORITY OF SPECIFICALLY DESIGNATED EMPLOYEES

Subject to the provisions of Part 1, the following employees may exercise the authority of the Area Director.

* * * * *

FUNCTIONS RELATING TO TRIBAL PROGRAMS

Sec. 3.20 Approval of membership rolls. The Superintendents of Colville, Northern Idaho, Warm Springs and Western Washington may approve membership rolls for tribes under their jurisdiction.

* * * * *

VINCENT LITTLE,
Area Director.

[FR Doc. 79-5728 Filed 2-26-79; 8:45 am]

[4310-84-M]

Bureau of Land Management

[SAC 054898]

CALIFORNIA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal; Correction of Omission

FEBRUARY 15, 1979.

IN FEDERAL REGISTER Document 77-27667, appearing on Page 47883 of the Thursday issue of September 22, 1977, add T. 32 N., R. 7 W., Sec. 10, NE¼SE¼ after Mount Diablo Meridian, California.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 79-5727 Filed 2-26-79; 8:45 am]

[4310-84-M]

[23734]

COLORADO

R/W Application for Pipeline

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, P. O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for approximately 2.349 miles of natural gas pipeline to collect and deliver gas into the North Douglas Creek Gathering System on the following public land:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 1 S., R. 102 W.,
Sec. 22, NE¼NE¼, W½E½, NE¼NW¼ SE¼SW¼
Sec. 27, NE¼NW¼, W½NW¼
Sec. 28, SE¼NE¼

The expansion of the above-named gathering system will enable the applicant to collect and deliver natural gas.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions, (2) to give all interested parties the opportunity to comment on the application and (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation*. Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-5726 Filed 2-26-79; 8:45 am]

[4310-84-M]

[NM 35773]

NEW MEXICO

Application

FEBRUARY 14, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Southern Union Gathering Company has applied for three 4-inch natural gas pipelines right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29N., R. 9W.,
Sec. 22, W½SW¼ AND SE¼SW¼;
Sec. 25, lot 13;
Sec. 26, lots 11, 12, 14, 15 and 16;
Sec. 27, W½NE¼, SE¼NE¼, NE¼NW¼ and NE¼SE¼;
Sec. 28, SE¼NW¼, N½SW¼ and SE¼;
Sec. 33, NW¼NE¼;
Sec. 34, NE¼NE¼.

These pipelines will convey natural gas across 4.273 miles of public land in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to expresss their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-5698 Filed 2-26-79; 8:45 am]

[4310-84-M]

[NM 36020, 36021, 36022, 36023, 36024, 36025, 36026, and 36028]

NEW MEXICO

Applications

FEBRUARY 14, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for eight 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 6 W.,
Sec. 8, S½SE¼.
T. 28 N., R. 7 W.,
Sec. 9, SE¼SE¼.
T. 30 N., R. 7 W.,
Sec. 10, S½SW¼;
Sec. 15, N½NW¼.
T. 32 N., R. 7 W.,
Sec. 10, lot 8;
Sec. 14, NW¼SW¼;
Sec. 15, lots 5 and 7;
Sec. 23, E½SW¼ and S½SE¼.

These pipelines will convey natural gas across 1.499 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land

Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-5699 Filed 2-26-79; 8:45 am]

[4310-84-M]

[NM 35765]

NEW MEXICO

Application

FEBRUARY 16, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for four 4-inch natural gas pipelines right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 27 N., R. 9 W.,
Sec. 7, lots 3 and 4
Sec. 18, lots 1, 2, 4, SW¼NE¼, SE¼NW¼, E½SW¼ and NW¼SE¼.
T.27 N., R. 10 W.,
Sec. 12, lot 4
Sec. 13, lot 1.

These pipelines will convey natural gas across 2.235 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

PAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-5700 Filed 2-26-79; 8:45 am]

[4310-84-M]

[NM 35959,35973, 35978, 36034, 36058, 36062, 36063]

NEW MEXICO

Applications

FEBRUARY 12, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for seven 4¼-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 28 N., R. 6 W.,
Sec. 13, SW¼NE¼ and E½NW¼.
T. 28 N., R. 7 W.,
Sec. 9, lot 1 and S½SE¼.
Sec. 16, NE¼.
T. 29 N., R. 7 W.,
Sec. 33, SW¼SE¼.
T. 29 N., R. 8 W.,
Sec. 30, N½SE¼.
T. 31 N., R. 9 W.,
Sec. 6, lot 21.
T. 29 N., R. 10 W.,
Sec. 18, lot 5.
T. 28 N., R. 11 W.,
Sec. 28, NE¼SW¼.
T. 30 N., R. 13 W.,
Sec. 3, SW¼SW¼;
Sec. 10 N½NW¼.

These pipelines will convey natural gas across 2.047 miles of public lands in Rio Arriba and San Juan Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-5701 Filed 2-26-79; 8:45 am]

[4310-84-M]

[NM 36003]

NEW MEXICO

Application

FEBRUARY 12, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for one 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 28 E.,
Sec. 12, W½NE¼, SE¼NE¼ and NE¼SE¼.
T. 18 S., R. 29 E.,
Sec. 7, lot 3, E½SW¼ and SW¼SE¼.

This pipeline will convey natural gas across 1.421 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-5702 Filed 2-26-79; 8:45 am]

[4310-84-M]

[NM 36057]

NEW MEXICO

Application

FEBRUARY 14, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Company of New Mexico has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 30 E.,
Sec. 14, W½SE¼;
Sec. 23, W½E½;
Sec. 26, W½NE¼.

This pipeline will convey natural gas across 1.880 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-5703 Filed 2-26-79; 8:45 am]

[4310-84-M]

[NM 35988]

NEW MEXICO

Application

FEBRUARY 13, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for one 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 28 E.,
Sec. 35, SE¼SW¼ and W½SE¼.,
T. 22 S., R. 28 E.,
Sec. 3, E½SE¼.
Sec. 10, N½NE¼, SW¼NE¼, SE¼NW¼ and NE¼SW¼.

This pipeline will convey natural gas across 1.67 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P. O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc 79-5704 Filed 2-26-79; 8:45 am]

[4310-84-M]

SUSANVILLE DISTRICT GRAZING ADVISORY BOARD

Meeting

FEBRUARY 12, 1979.

Notice is hearby given in accordance with Pub. L. 92-463 that a meet of the Susanville District Grazing Advisory Board will be held on March 28, 1979.

The meeting will begin at 10:00 a.m. in the conference room at the Bureau of Land Management Office at 705 Hall St., Susanville, California.

The Agenda for the meeting will include: (1) Discussion of the function of the board; (2) election of officers; (3) predator control as related to allotment management plans and advisory board funds; (4) a review of the current policy and programs relating to allotment management plans including the ongoing and future grazing environmental statement efforts; (5) water quality (Sec. 208) best management practices as related to allotment management plans and range betterment funds; (6) wilderness as it affects allotment management plans; (7) expenditures of range betterment funds; (8) expenditures of advisory board funds County by County.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. or file a written statement for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 705 Hall St., P.O. Box 1090, Susanville, California 96130, by March 21, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established.

Summary minutes of the board meeting will be maintained in the District office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

C. REX CLEARY,
District Manager, Susanville.

[FR Doc. 79-5725 Filed 2-26-79; 8:45 am]

[4310-84-M]

[Wyoming 66356]

WYOMING

Application

FEBRUARY 6, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of the Salt Lake City, Utah filed an application for a right-of-way to contruct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 92 W.,
Sec. 2, S½S½ and NW¼SW¼;
Sec. 12, N½N½.

The pipeline is a proposed addition to their gathering system transporting natural gas from a well in NE¼NE¼ section 12 into an existing pipeline in the NW¼SE¼ of section 3, T. 18 N., R. 92 W., in Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Mineral Operations.

[FR Doc. 79-5705 Filed 2-26-79; 8:45 am]

[4310-84-M]

DOMESTIC LIVESTOCK GRAZING, CALIENTE AREA, LAS VEGAS DISTRICT, NEVADA

Draft Environmental Statement

FEBRUARY 12, 1979.

In accordance with Section 102 (2) (C) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has begun preparation of a draft environmental statement on proposed livestock grazing in the Caliente Resource area of the Las Vegas District, Nevada.

The proposal involves domestic livestock grazing management on about 3.4 million acres of public land in the Caliente area. The statement will analyze potential impacts on human environment of implementing a forage allocation program. Available forage will be allocated on land suitable for grazing, by allotment to be used at a specified time of year by livestock, wild horses and burros, mule deer, bighorn sheep, and antelope.

An interdisciplinary team has been assembled in Las Vegas for the purpose of preparing the environmental statement. Anyone wishing to comment or make suggestions on the project, or those desiring more information, should contact the Caliente Environmental Statement Team, BLM, P.O. Box 5400, Las Vegas, Nevada 89102.

E. I. ROWLAND,
State Director, Nevada.

[FR Doc. 79-5738 Filed 2-26-79; 8:45 am]

[4310-84-M]

[U-42307]

UTAH

Application

FEBRUARY 12, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

SALT LAKE MERIDIAN, UTAH

T. 20 S., R. 24 E.,
Sec. 17, NW¼NE¼.

The needed right-of-way is a portion of the applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the bueau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the

application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, UT 84532.

DELL T. WADDOUPS,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-5734 Filed 2-26-79; 8:45 am]

[1505-01-M]

[Wyoming 66237]

WYOMING

Application

Correction

In FR Doc. 79-2310 appearing at page 4759 in the issue for Tuesday, January 23, 1979, the serial number in the heading is incorrect. The corrected serial number is set forth in the heading above.

[4310-53-M]

Fish and Wildlife Service

TEXAS

Application

Notice is hereby given that under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (37 Stat. 576), Seagull Pipeline Corporation has applied for an 8-inch natural gas and oil pipeline right-of-way that will cross that part of the San Bernard National Wildlife Refuge located in Brazoria County, Texas.

The pipeline will convey natural gas across 2 miles of the San Bernard National Wildlife Refuge beachfront area.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views, should do so within thirty (30) days and send their name and address to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

THOMAS E. SMITH,
Regional Director, Fish and Wildlife Service.

JANUARY 10, 1979.

[FR Doc. 79-5706 Filed 2-26-79; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before February 16, 1979. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by March 9, 1979.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALABAMA

Montgomery County

Montgomery, *Davis, Jefferson, Hotel,* Catoma and Montgomery Sts.
Montgomery, *Lower Commerce Street Historic District,* roughly bounded by RR tracks, Commerce, N. Court and Bibb Sts.

GEORGIA

Fulton County

Atlanta, *Ansley Park Historic District,* Ansley Park

Oconee County

Watkinsville, *South Main Street Historic District*

IOWA

Dallas County

DeSoto vicinity, *Wilson, John, House,* SW of DeSoto

Des Moines County

Burlington, *Church of St. John, the Baptist,* 712 Division St.

Johnson County

Iowa City, *Woodlawn Historic District,* irregular pattern along Woodlawn Ave.

Muscatine County

Muscatine, *Warde, J. C. B., House,* 205 Cherry St.

Plymouth County

Le Mars, *Le Mars Public Library,* 200 Central Ave., SE.

Polk County

Des Moines, *St. Ambrose Cathedral and Rectory,* 607 High St.

Scott County

Le Claire, *Gamble, James, House,* 527 Wisconsin Ave.

Wayne County

Corydon, *Tedford, W. H., House (Poston House)* 312 S. West St.

KENTUCKY

Boone County

Burlington vicinity, *Dinsmore House,* W. of Burlington on KY 18

Boyd County

Ashland, *Ashland Multiple Resource Area,* various locations in Ashland

Magoffin County

Salyersville, *Gardner, Judge, D. W., House* (Greencrest) KY 7

MISSISSIPPI

Adams County

Natchez, *Koontz House,* 303 S. Rankin St.
Natchez, *Lisle-Shields Town House,* 701 N. Union St.
Natchez, *Pleasant Hill,* 310 Pearl St.
Natchez, *Shadyside,* 107 Shadyside St.

Jefferson County

Church Hill, *Cedar Grove Place,* MS 553

Leflore County

Greenwood vicinity, *Point Leflore,* N. of Greenwood off MS 7

Lowndes County

Columbus, *Cedars, The,* 1311 Military Rd.
Columbus, *Symons House,* 304 4th Ave. South

Madison County

Canton, *Madison County Jail,* 234 E. Fulton St.

Warren County

Vicksburg, *Beck House,* 1101 South St.

MISSOURI

Pettis County

Sedalia, *Missouri, Kansas and Texas Railroad Depot,* 600 E. 3rd St.

St. Louis County

Grantwood, *White Haven,* 9060 Whitehaven Dr.
Manchester, *Lyceum, The,* 920 Manchester Rd.

Shannon County

Eminence vicinity, *Alley Spring Roller Mill,* W. of Eminence off MO 106

NEW HAMPSHIRE

Carroll County

North Conway, *North Conway Depot and Railroad Yard,* Norcross Circle

NEW JERSEY

Essex County

Montclair, *Shultz, Charles S., House,* 30 N. Mountain Ave.

Mercer County

Trenton, *Pennsylvania Railroad Bridge,* spans Delaware River (also in Bucks County, PA)

OREGON

Marion County

Salem, *Starkey-McCully Block*, 223-233 Commercial St., NE.

Multnomah County

Portland, *Piggott, Charles, House*, 2591 SW. Buckingham Ter.

PENNSYLVANIA

Covered Bridges of Juniata and Snyder Counties Thematic Group
Covered Bridges of Washington and Greene Counties Thematic Group

Allegheny County

Coraopolis, *Coraopolis Railroad Station*, Neville Ave. and Mill St.
Pittsburgh, *Carnegie Institute and Carnegie Library*, 4400 Forbes Ave.

Bucks County

Spinnerstown, *Spinner House*, Spinnerstown and Sleepy Hollow Rds.

Centre County

Aaronsburg, *Aaronsburg Historic District*, PA 45
Lemont, *Lemont Historic District*,
Spring Mills vicinity, *Waggoner, Daniel, Log House and Barn*, SW of Spring Mills
State College, *Camelot*, 520 S. Fraser St.

Clearfield County

Clearfield, *Murray, Thomas, House*, 120 S. 2nd St.
Clearfield, *Old Town Historic District*, irregular pattern along Front St.

Delaware County

Haverford, *Allgates*, Coopertown Rd.

Erie County

Erie, *Main Library*, 3 S. Perry St.

Franklin County

Chambersburg vicinity, *Brotherton-McKenzie Farm*, SW of Chambersburg on Falling Spring Rd.
Mercersburg vicinity, *Mansfield*, SE of Mercersburg

Indiana County

Indiana, *Breezedale (Sutton-Elkin House)* Indiana University of Pennsylvania campus

Lancaster County

Columbia, *Bachman and Forry Tobacco Warehouse*, 125 Bank Alley

Mifflin County

Lewistown vicinity, *Old Stone Arch Bridge*, S of Lewistown on Jack's Creek Rd.

Montgomery County

Bryn Mawr, *Bryn Mawr College Historic District*, Morris Ave., Yarrow St., and New Gulph Rd.
Bryn Mawr, *Bryn Mawr Hotel (Baldwin School)* Morris and Montgomery Aves.

Philadelphia County

Philadelphia, *Pine Street District*, 4039-4041 Baltimore Ave. and 4000-4018 Pine St.
Philadelphia, *Lits Department Store*, Market between 7th and 8th Sts.
Philadelphia, *Poth, Frederick A., Houses*, 3301-3311 and 15 Powelton Ave.
Philadelphia, *St. Stephen's Episcopal Church*, 19 S. 10th St.

Schuylkill County

Pottsville, *Yuengling, Frank D., Mansion*, 1440 Mahantongo St.

Union County

Mifflinburg, *Heiss, William A., House and Buggy Shop*, 523 Green St.

Westmoreland County

Irwin, *Irwin, John, House*, 624 Main St.

York County

East Prospect vicinity, *Burgholtshouse*, S of East Prospect on PA 124

TENNESSEE

Davidson County

Nashville, *Gilbert Mansion*, 1906 W. End Ave.

Shelby County

Capleville, *Capleville Methodist Church*, 5053 Shelby Dr.
Memphis, *Shrine Building*, 66 Monroe Ave.

TEXAS

Colorado County

Columbus vicinity, *Zimmerscheidt-Leyendecker House*, S of Columbus on FR 109 At Redgate Creek

Galveston County

Galveston, *Kempner, Daniel Webster, House*, 2504 Avenue 0

Hidalgo County

Linn vicinity, *El Sal del Rey Archeological District*, E of Linn

Palo Pinto County

Mineral Wells, *First Presbyterian Church*, 410 NW. 2nd St.

Travis County

Austin, *Youth Council Site*, Barton Springs Rd. and S. Lamar Blvd.

[FR Doc. 79-5752 Filed 2-26-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-47]

CERTAIN FLEXIBLE FOAM SANDALS

Notice and Order of Termination of Investigation

Upon consideration of the presiding officer's recommended determination and the record in this proceeding, the Commission orders the termination of investigation No. 337-TA-47, Certain Flexible Foam Sandals, on the basis of a unanimous Commission determination that a violation of section 337 of the Tariff Act of 1930, as amended, exists. The Commission has ordered that sandals made in accordance with claims 1-4, 6-9, 11 and 16-22 of U.S. Letters Patent 3,978,596 be excluded from entry into the United States for the term of said patent, except under license of the patent owner.

The Commission further orders that the articles ordered to be excluded from entry are entitled to entry into the United States under bond in the amount of 250 percent of the value of the articles concerned, f.o.b. foreign port, with said bond to be in effect from the day after the day this order is received by the President pursuant to section 337(g) of the Tariff Act of 1930, as amended, until such time as the President notifies the Commission that he approves this action or disapproves this action, but, in any event, not later than sixty (60) days after such day of receipt.

This Commission order is effective on Februay 26, 1979. Any party wishing to petition for reconsideration must do so within fourteen (14) days of service of the Commission determination. Petitions must be in accord with § 210.56 of the Commission rules (19 CFR 210.56). Any person adversely affected by a final Commission determination may appeal such determination to the United States Court of Customs and Patent Appeals.

Copies of the Commission's determination, order, and memorandum opinion (USITC Publication No. 947, February 1979) are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161. Notice of the institution of the Commission's investigation was published in the FEDERAL REGISTER of February 17, 1978 (43 FR 7060).

Issued: February 21, 1979.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-5800 Filed 2-26-79; 8:45 am]

[7020-02-M]

[303-TA-8]

CERTAIN GLOVES AND GLOVE LININGS OF FUR ON THE SKIN FROM BRAZIL

Determination of No Injury or Likelihood Thereof

On the basis of information developed during the course of investigation No. 303-TA-8, undertaken by the United States International Trade Commission under section 303(b) of the Tariff Act of 1930, as amended, the Commission determines unanimously[1] that an industry in the

[1] Chairman Joseph O. Parker, Vice Chairman Bill Alberger and Commissioners

Footnotes continued on next page

United States is not being injured, is not likely to be injured, and is not prevented from being established, by reason of the importation of gloves and glove linings of fur on the skin from Brazil, provided for in item 705.30 of the Tariff Schedules of the United States (TSUS), upon which the Department of the Treasury has determined that a bounty or grant is being paid within the meaning of section 303 of the Tariff Act of 1930, as amended.

On November 22, 1978, the U.S. International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to gloves and glove linings of fur on the skin imported from Brazil that are entered under TSUS item 705.30. Accordingly, the Commission, on December 4, 1978, instituted investigation No. 303-TA-8 under section 303(b) of the Tariff Act of 1930, as amended, to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Notice of institution of the investigation and public hearing was published in the FEDERAL REGISTER of December 13, 1978 (43 FR 58233). On January 9, 1979, a public hearing was held in Washington, D.C., at which any person interested in the proceeding was given the opportunity to appear by counsel or in person, to present information, and to be heard.

The Treasury investigation resulting in the countervailing duty determination was initiated as a result of a petition filed with the Treasury Department on November 7, 1977, by the Amalgamated Clothing and Textile Workers Union, Washington, D.C.

STATEMENT OF REASONS OF CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS GEORGE M. MOORE AND CATHERINE BEDELL

On November 22, 1978, the United States International Trade Commission received advice from the Department of the Treasury that a bounty or grant is being paid with respect to gloves and glove linings of fur on the skin imported from Brazil, entered under item 705.30 of the Tariff Schedules of the United States (TSUS) and accorded duty-free treatment under section 501 of Title V (Generalized System of Preferences (GSP)) of the Trade Act of 1974. Accordingly, on December 4, 1978, the Commission instituted investigation No. 303-TA-8 under section 303(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.

DETERMINATION

On the basis of evidence developed during this investigation we determine that an industry in the United States is not being and is not likely to be injured, and is not prevented from being established, by reason of the importation of gloves and glove linings of fur on the skin from Brazil, entered under item 705.30 of the TSUS and accorded duty-free treatment under section 501 of the Trade Act of 1974, upon which Treasury has determined a bounty or grant is being paid within the meaning of section 303 of the Tariff Act of 1930, as amended.

THE SUBJECT IMPORTS

The imports which are the subject of this investigation are gloves and glove linings of fur on the skin imported from Brazil under TSUS item 705.30 which entered duty-free under the GSP and upon which Treasury has determined a bounty or grant is being paid. Such gloves and glove linings of fur on the skin, however, have not been imported from Brazil for at least four years. No domestic producer entered an appearance at the hearing held in conjunction with this investigation and the National Association of Glove Manufacturers, the Department of Commerce, and the U.S. Embassy in Brazil were unable to provide the Commission with any information regarding possible future exports of these items from Brazil. Indeed, the Commission has no information that these items are being or will be produced in Brazil.

THE U.S. INDUSTRY

At the time of the institution of the instant investigation, information available to the Commission indicated that gloves and glove linings of fur on the skin were not being produced in the United States. After contacting over 50 domestic dress glove producers, the National Association of Glove Manufacturers, the Department of Commerce, and several dress glove retailers, however, the Commission was able to locate six domestic producers of gloves and glove linings of fur on the skin. The Commission sent questionnaires to these six producers. Three questionnaires were completed and returned. The other three producers were contacted by telephone.

The domestic producers of glove linings of fur on the skin indicated that the domestic industry has been declining over the years because of competition from synthetic and other linings which are sturdier, warmer, and less bulky than fur linings. All fur linings in the United States are made from imported rabbit furskins. Domestic producers of fur gloves indicated that these gloves are fad items which are not now popular. The producers of gloves and glove linings of fur on the skin had no information about present or future imports from Brazil.

The petitioner in this investigation, the Amalgamated Clothing and Textile Workers Union, stated at the public hearing that imports from Brazil of gloves and glove linings of fur on the skin "do not cause a problem to the U.S. domestic industry." No witnesses appeared at the public hearing held in Washington, on January 9, 1979, and no briefs were filed in conjunction with this investigation. At the time of the institution of this investigation, the Union was unable to supply the Commission with information about the domestic industry or possible exports from Brazil. The domestic producers did not join the Union in the complaint.

VIEWS OF COMMISSIONERS ALBERGER AND STERN

In order for the Commission to make an affirmative determination in an investigation under Section 303(b) of the Tariff Act of 1930, as amended, it is necessary to find that an industry in the United States is being or is likely to be injured, or is prevented from being established,[1] *and* the injury or likelihood thereof must be by reason of the importation into the United States of duty-free merchandise found by the Department of the Treasury (Treasury) to be receiving a bounty or grant from the exporting country.

DETERMINATION

On the basis of information obtained in this investigation, we determine that an industry in the United States is not being and is not likely to be injured, by reason of the importation of gloves and glove linings of fur on the skin from Brazil, upon which Treasury has determined a bounty or grant is being paid by the government of Brazil.

THE PRODUCT AND THE DOMESTIC INDUSTRY

This investigation covers gloves and glove linings of fur on the skin. Six domestic firms are known to produce gloves and glove linings of fur on the skin. Five of these producers are located near Gloversville, New York, the center of the domestic dress-glove industry. All fur linings in the United

Footnotes continued from last page

George M. Moore, Catherine Bedell, and Paula Stern concurred in the negative determination.

[1] Prevention of establishment of an industry in this investigation is not in question and will not be discussed further in these views.

States are made from imported rabbit furskins. Domestic producers of fur gloves indicated that these gloves are fad items which are not now popular.

NO INJURY OR LIKELIHOOD THEREOF BY REASON OF SUBSIDIZED IMPORTS

For at least four years, there have been *no* imports of gloves or glove linings of fur on the skin from Brazil. Neither domestic producers, the National Association of Glove Manufacturers, the U.S. Department of Commerce, nor the U.S. Embassy in Brazil were able to provide the Commission with any information regarding possible future exports of these items from Brazil. The Commission has no information that these items are being or will be produced in Brazil. However, the domestic producers contacted by the Commission indicated that the domestic industry has been declining for several years due to competition from synthetic and other linings which are known to be sturdier, warmer, and less bulky than fur linings.

Furthermore, there appears to be no likelihood of future injury to the domestic industry from subsidized imports of gloves or glove linings of fur on the skin from Brazil, since the Commission found no tangible evidence that such an industry in Brazil is about to materialize. U.S. producers did indicate, however, that they would be threatened by such imports should competition of this sort actually develop.

This investigation resulted from a petition filed by the Amalgamated Clothing and Textile Workers Union covering men's and boys' wearing apparel and a multitude of textile mill products from eight countries, including Brazil. Apparently, Treasury listed the relevant products and corresponding TSUSA item numbers, but this list was not adequately researched to reflect the specific interest of the petitioner. The petitioner in this investigation stated at the public hearing that gloves and glove linings of fur on the skin "do not cause a problem to the U.S. domestic industry." Further, no witnesses spoke at the public hearing and no briefs were filed in response to the petition. At the outset of this investigation, the Union was unable to supply the Commission with information about the domestic industry or exports from Brazil. The domestic producers did not join the Union in its petition.

Clearly, this investigation has been a significant loss of government time and taxpayers' money, and should not have occurred. Procedures must be established to avoid such waste in the future.

Issued: February 22, 1979.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-5801 Filed 2-26-79; 8:45 am]

[4410-18-M]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

ADVISORY COMMITTEE OF THE NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Meeting

Notice is hereby given that the Advisory Committee of the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, will meet on March 8, 1979 from 9:00 a.m. to 4:30 p.m. and on March 9, 1979 from 9:00 a.m. to 12:00 m. at the Marriott Dulles Hotel, Dulles Airport, 331 West Service Road, Chantilly, Virginia.

The major topic of discussion will concern the research agenda for FY80.

The meeting will be open to the public.

For further information, please contact Blair G. Ewing, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, D.C. 20531 (301/492-9108).

BLAIR G. EWING,
Acting Director, NILECJ.

[FR Doc. 79-5707 Filed 2-26-79; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[79-20]

SPACE SCIENCE STEERING COMMITTEE, PHYSICAL SCIENCE SPACELAB AND LDEF AD HOC ADVISORY SUBCOMMITTEE

Meeting

The Physical Science Spacelab and the LDEF Ad Hoc Advisory Subcommittee of the Space Science Steering Committee will meet at NASA Goddard Space Flight Center at Greenbelt, MD on March 12-16, 1979. The meeting will be held in Room 205 of Building 26 from 8:30 a.m. to 4:30 p.m. on each day. The Subcommittee will discuss, evaluate, and categorize the proposals submitted to NASA in response to the Announcement of Opportunity for Physics, Astronomy and Planetary Science Spacelab and Long Duration Exposure Facility (LDEF) payloads. Public discussion of the professional qualifications of the proposers and their potential scientific contributions to Space Science would invade the privacy of the proposers and the other individuals involved. Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), as described above, it has been determined that the sessions should be closed to the public.

For further information, please contact Dr. M. A. Mitz, NASA Headquarters, Washington, DC area code 202/755-3790.

ARNOLD W. FRUTKIN,
Associate Administrator for External Relations.

FEBRUARY 16, 1979.

[FR Doc. 79-5731 Filed 2-26-79; 8:45 am]

[4510-28-M]

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The thirteenth meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Hollenden House, East 6th & Superior, Cleveland, Ohio in East Ballroom A on June 7, 8, and 9. The meeting will begin at 10:00 a.m. and conclude at 5:30 p.m. each day.

Requests for presenting testimony must be submitted 30 days prior to the meeting date and must indicate the topics to be discussed. Individuals and organizations requesting time must limit oral testimony to not more than ten minutes. Forty copies of written testimony must be submitted, but oral testimony should summarize any written testimony. Depending upon the number of persons and organizations requesting the opportunity to testify at a meeting, and the topics to be discussed, individuals and organizations will be notified of time and place allocated for testimony. Whenever feasible, individuals and organizations presenting similar views will be grouped together and will be handled as a panel in order to enable discussion, questioning, and responses to be developed with a view to assisting the Commission to deal with the mandate established by the Congress.

Telephone inquiries and communications concerning this meeting should be directed to:

James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, 1815 Lynn Street, Room 440, Rosslyn, Virginia 22209 (702) 235-2782.

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

JAMES M. ROSBROW,
Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-5584 Filed 2-26-79; 8:45 am]

[7537-01-M]

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

ARCHITECTURE, PLANNING, & DESIGN PANEL (COMMUNICATION & RESEARCH AND SERVICES TO THE FIELD)

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Architecture, Planning, and Design Panel (Communication and Research and Services to the Field) will be held March 19 and 20, 1979, from 9:00 a.m. to 5:30 p.m., in room 1130, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9 (B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

FEBRUARY 16, 1979.

[FR Doc. 79-5708 Filed 2-26-79; 8:45 am]

[7537-01-M]

ARCHITECTURE, PLANNING & DESIGN PANEL (CULTURAL FACILITIES RESEARCH AND DESIGN)

Meeting

Pursuant to Section 10 (a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Architecture, Planning, & Design Panel (Cultural Facilities Research and Design) will be held March 22 and 23, 1979, from 9:00 a.m. to 5:30 p.m., in room 1130, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on March 22, 1979, from 4:00 p.m. to 5:30 p.m. The topic of discussion will be a meeting with Visual Arts representatives on the Works of Art in Public Places program.

The remaining sessions of this meeting on March 22, 1979, from 9:00 a.m. to 4:00 p.m., and March 23, 1979, from 9:00 a.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

FEBRUARY 16, 1979.

[FR Doc. 79-5709 Filed 2-26-79; 8:45 am]

[7537-01-M]

ARCHITECTURE, PLANNING, & DESIGN PANEL (LIVABLE CITIES)

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Architecture, Planning, & Design Panel (Livable Cities) will be held March 15 and 16, 1979, from 9:00 a.m. to 5:30 p.m., in room 1130, Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

FEBRUARY 16, 1979.

[FR Doc. 79-5710 Filed 2-26-79; 8:45 am]

[7537-01-M]

ARCHITECTURE, PLANNING, & DESIGN PANEL (PROFESSIONAL FELLOWSHIPS IN DESIGN & DESIGN PROJECT FELLOWSHIPS)

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Architecture, Planning & Design Panel (Professional Fellowships in Design and Design Project Fellowships) will be held March 12, 1979 and March 13, 1979, from 9:00 a.m. to 5:30 p.m., in room 1130, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

FEBRUARY 16, 1979.

[FR Doc. 79-5711 Filed 2-26-79; 8:45 am]

[7537-01-M]

EXPANSION ARTS PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Panel will be held, March 20, 1979 and March 21, 1979, from 9:00 a.m. to 5:30 p.m., and on March 22, 1979, from 9:00 a.m. to 4:30 p.m., in room 1340, Columbia Plaza Office

Building, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on March 20, 1979, from 9:00 a.m. to 12:00 p.m. New panelists will be introduced and a film will be presented.

The remaining sessions of this meeting on March 20, 1979, from 12:00 a.m. to 5:30 p.m., March 21, 1979, from 9:00 a.m. to 5:30 p.m., and March 22, 1979, from 9:00 a.m. to 4:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

FEBRUARY 16, 1979.

[FR Doc. 79-5712 Filed 2-26-79; 8:45 am]

[7537-01-M]

FEDERAL GRAPHICS EVALUATION ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal Graphics Evaluation Advisory Panel to the National Endowment for the Arts will be held on March 2, 1979, from 9:30 a.m. to 4:30 p.m., in room 1125, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

This meeting will be open to the public on a space available basis. Accommodations are limited. Interested persons may submit written statements to the panel.

The agenda for this meeting will include a discussion of graphics and related material of the Small Business Administration.

Further information with reference to this meeting can be obtained from Mr. Jerome Perlmutter, Coordinator of Federal Graphics, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-4286.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

FEBRUARY 16, 1979.

[FR Doc. 79-5713 Filed 2-26-79; 8:45 am]

[7537-01-M]

FEDERAL-STATE PARTNERSHIP PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Federal-State Partnership Advisory Panel to the National Council on the Arts will be held March 14, 1979, from 9:00 a.m. to 9:00 p.m., March 15, 1979, from 9:00 a.m. to 5:30 p.m., and March 16, 1979, from 9:00 a.m. to 5:00 p.m., in room 1422, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on March 14, 1979, from 9:00 a.m. to 9:00 p.m., March 15, 1979, from 9:00 a.m. to 5:30 p.m., and March 16, 1979, from 9:00 a.m. to 11:00 a.m. and from 1:00 p.m. to 5:00 p.m. Topics to be discussed are guidelines, policy, and panel review.

The remaining sessions of this meeting on March 16, 1979, from 11:00 a.m. to 1:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applications. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9 (b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

FEBRUARY 16, 1979.

[FR Doc. 79-5714 Filed 2-26-79; 8:45 am]

[7537-01-M]

MEDIA ARTS PANEL (CHALLENGE)

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (challenge) to the National Council on the Arts will be held March 12, 1979, from 10:00 a.m. to 4:00 p.m., in the 13th floor Conference room, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations National Endowment for the Arts.

FEBRUARY 16, 1979.

[FR Doc. 79-5715 Filed 2-26-79; 8:45 am]

[7537-01-M]

MUSIC ADVISORY PANEL (COMPOSER/LIBRETTIST)

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composer/Librettist) to the National Council on the Arts will be held on March 15, 16, 17 and 18, 1979, from 9:00 a.m. to 5:30 p.m., in room 1422, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

A portion of this meeting will be open to the public on March 17, 1979, from 9:00 a.m. to 12:30 p.m. The topic of discussion will be guidelines.

The remaining sessions of this meeting on March 15, 1979, from 9:00 a.m. to 5:30 p.m., March 16, 1979, from 9:00 a.m. to 5:30 p.m., March 17, 1979, from 12:30 p.m. to 5:30 p.m., and March 18, 1979, from 9:00 a.m. to 5:30 p.m., are

for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

FEBRUARY 16, 1979.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-5716 Filed 2-26-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

ADVISORY COMMITTEE ON OIL AND GAS ACCOUNTING

Meetings

ACTION: Notice of Meetings of the Securities and Exchange Commission Advisory Committee on Oil and Gas Accounting.

SUMMARY: Five meetings of the Securities and Exchange Commission Advisory Committee on Oil and Gas Accounting have been scheduled. Each meeting will be held at the Commission's headquarters in Washington, D.C., beginning at 9:30 a.m., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

James L. Russell, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-755-0222).

SUPPLEMENTARY INFORMATION: The next meeting of the Securities and Exchange Commission Advisory Committee on Oil and Gas Accounting has been scheduled to be held in Room 776 of the Commission's headquarters office at 500 North Capitol Street, Washington, D.C. 20549 on Tuesday, March 13, 1979, beginning at 9:30 a.m. The summarized agenda for this meeting is as follows:

1. Presentations by the Advisory Committee's working groups on measurement, disclosure and reserve estimates.

2. Further discussion of issues relating to the preparation of the proposed supplemental earnings summary.

Meetings of the Advisory Committee have also been scheduled for May 1, 1979, June 19, 1979, July 31, 1979, and September 11, 1979.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-5964 Filed 2-26-79; 11:06 am]

[1505-01-M]

TENNESSEE VALLEY AUTHORITY

PUBLIC UTILITY OF REGULATORY POLICIES ACT OF 1978

Consideration of Service Practice Standards

Corrections

In FR Doc. 79-938 appearing at page 2448 in the issue for Thursday, January 11, 1979, on page 2449, third column, the date for the meeting in Chattanooga, Tennessee should read "March 15, 1979" and the date for the meeting in Paducah, Kentucky should read "March 20, 1979".

[8120-01-M]

PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978; CONSIDERATION OF SERVICE PRACTICE STANDARDS

Hearing Date Change

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Change of hearing date.

SUMMARY: Notice that the Tennessee Valley Authority is considering adopting for itself and distributors of TVA power certain service practice standards was published in the FEDERAL REGISTER January 11, 1979 (44 FR 2448). In that notice it was announced that a public hearing respecting the standards would be held in Tupelo, Mississippi, on February 27, 1979. The purpose of this notice is to announce that the date and place of the hearing in Tupelo has been changed. The hearing has been changed to March 22, 1979, at Bel Air Center, Bel Air Park, Country Club Road, Tupelo. As previously announced the hearing will be at 9 a.m. and 7 p.m. This change in hearing date will not affect the date on which the record of the proceedings will close, which remains April 5, 1979.

HEARING DATE: March 22, 1979.

FOR FURTHER INORMATION CONTACT:

Dawn S. Ford, Tennessee Valley Authority, 400 Commerce Avenue, E12A2, Knoxville, Tennessee 37902, telephone (615) 632-4402.

Dated: February 15, 1979.

LEON E. RING,
General Manager.

[FR Doc. 79-5791 Filed 2-26-79; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 79-66]

TEXTILES AND TEXTILE PRODUCTS FROM REPUBLIC OF KOREA, THE PHILIPPINES, TAIWAN AND INDIA

Desire to Contest Final Countervailing Duty Determinations

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

ACTION: Notice of desire to contest determinations made by the Secretary of the Treasury under 19 U.S.C. 1303.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has received notification from the Amalgamated Clothing and Textile Workers Union of its desire to contest the final determinations that bounties or grants are not being paid or bestowed with respect to textiles and products imported from Korea, the Philippines, Taiwan and India.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

R. Theodore Hume, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue, N.W. Washington, D.C. 20229 (202) 566-5476.

SUPPLEMENTARY INFORMATION: On November 16, 1978, "Final Countervailing Duty Determinations" relating to textiles and textile products from Korea, the Philippines, Taiwan and India were published in the FEDERAL REGISTER (43 FR 53524, 53527-30). It was stated in these determinations that bounties or grants were not being paid or bestowed, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), on the manufacture, production or exportation of textiles and textile products from the above-mentioned countries.

Notification was received by the Secretary of the Treasury on December 15, 1978, of the desire of the Amalgamated Clothing and Textile Workers Union to contest in the United States Customs Court the Secretary's determinations that bounties or grants were not bestowed by the above-noted countries on the manufacture, production or exportation of textiles and textile products.

In accordance with the provisions of section 516 of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516), notice is hereby given that the Amalgamated Clothing and Textile Workers Union has informed the Secretary that it desires to contest the determinations with respect to textiles and textile products from Korea, the Philippines, Taiwan and India.

The Department does not consider the Amalgamated Clothing and Textile Workers Union to be an American manufacturer, producer or wholesaler, so as to have standing to contest the determinations in question pursuant to 19 U.S.C. 1516. However, this notice is being published so as not to frustrate any effort to seek judicial review of this issue or the determinations themselves.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: February 16, 1979.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 79-5758 Filed 2-26-79; 8:45 am]

[4810-22-M]

[T.D. 79-67]

TEXTILES AND TEXTILE PRODUCTS FROM ARGENTINA AND COLOMBIA

Desire To Contest Final Countervailing Duty Determinations

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

ACTION: Notice of desire to contest determinations made by the Secretary of the Treasury under 19 U.S.C. 1303.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has received notification from the Amalgamated Clothing and Textile Workers Union of its desire to contest the final determinations that certain practices did not constitute the payment or bestowal of bounties or grants on the manufacture of specific textile products imported from Argentina and Colombia.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

R. Theodore Hume, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202) 566-5476.

SUPPLEMENTARY INFORMATION: On November 16, 1978, "Final Countervailing Duty Determinations" were published in the FEDERAL REGISTER (43 FR 53421 and 53525). While both determinations were affirmative, it was determined that with regard to certain programs and their application to specific products, bounties or grants were not being paid or bestowed, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), on the manufacture, production or exportation of textiles and textile products from the above-mentioned countries. The Colombian merchandise found to benefit from the bounties or grants enters the United States duty-free. Accordingly, pursuant to section 303(a)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), this case has been referred to the U.S. International Trade Commission for a determination as to whether an industry in the United States is being, or is likely to be, injured. Pending the Commisson's decision, liquidations on the duty-free apparel in question have been suspended.

Notification was received by the Secretary of the Treasury on December 15, 1978, of the desire of the Amalgamated Clothing and Textile Workers Union to contest in the United States Customs Court the Secretary's determinations that bounties or grants were not bestowed by Argentina and Colombia on the manufacture, production or exportation of certain textiles and textile products.

In accordance with the provisions of section 516 of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516), notice is hereby given that the Amalgamated Clothing and Textile Workers Union has informed the Secretary that it desires to contest the determinations with respect to textiles and textile products from Argentina and Colombia.

The Department does not consider the Analgamated Clothing and Textile Workers Union to be an American manufacturer, producer or wholesaler, so as to have standing to contest the determinations in question pursuant to 19 U.S.C. 1516. However, this notice is being published so as not to frustrate any effort to seek judicial review of this issue or the determinations themselves.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: February 16, 1979.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc. 79-5759 Filed 2-26-79; 8:45 am]

[4810-22-M]

Office of the Secretary;

VISCOSE RAYON STAPEL FIBER FROM ITALY

Antidumping; Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that viscose rayon staple fiber from Italy is being sold at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. The case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW, Washington, D.C. (202-566-5492).

SUPPLEMENTARY INFORMATION: On March 28, 1978, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc., Valley Forge, Pennsylvania, a domestic producer of the subject merchandise alleging that viscose rayon staple fiber from Italy is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) ("the Act"). An "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19491). A "Withholding of Appraisement Notice" was published in the FEDERAL REGISTER on November 16, 1978 (43 FR 53532).

For purposes of this investigation, the term "viscose rayon staple fiber" refers to viscose rayon staple fiber in noncontinuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in the Customs investigation and for the reasons noted below, I hereby determine that viscose rayon staple fiber from Italy is being, or is

likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160 (a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

A. *Scope of the Investigation.* Virtually all of the imports of the subject merchandise from Italy were exported to the United States by Italviscosa. The investigation was therefore limited to sales by Italviscosa.

B. *Basis of Comparison.* For purposes of this determination, the proper basis of comparison is between exporter's sales price and the home market price of such or similar merchandise. Exporter's sales price, as defined in section 204 of the Act (19 U.S.C. 163), was used since all export sales by Italviscosa were made to a related importer in the United States, Snia Viscosa, Inc. (U.S.A.). Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis for comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States and in the home market during the period November 1, 1977, through April 30, 1978.

C. *Exporter's Sales Price.* For purposes of this determination, the exporter's sales price was calculated on the basis of the resale price of the imported merchandise in accordance with section 204 of the Act. Adjustments were made for lading, ocean freight, factoring costs, brokerage, duty, warehouse costs, inland freight in both the home market and the United States, and pier usage charges, since these costs and charges are incident to bringing the merchandise from the place of shipment in Italy to the place of delivery in the United States. Further, selling and administrative expenses incurred in the United States were deducted as charges incurred in the resale of the merchandise, pursuant to section 204 of the Act. Pursuant to section 204 of the Act, an addition was made for a duty rebate which reflected customs duties refunded to the manufacturer upon exportation of the merchandise to the United States.

D. *Home Market Price.* For purposes of this determination, the home market price has been calculated on the basis of the weighted average price in the home market to unrelated purchasers during the investigative period. Deductions were made for a discount and inland freight. A deduction was also made for selling expenses, including a commission, incurred on the Italian home market sales. Since the amount of selling expenses and commission incurred in the home market was less than the selling expenses incurred on sales to the United States, which were deducted from exporter's sales price, the actual amount claimed was allowed, pursuant to § 153.10, Customs Regulations (19 CFR 153.10). No other adjustments were claimed or made.

E. *Cost of Production.* The petition contained a sufficient allegation of sales at less than the cost of production, pursuant to section 205(b) of the Act (19 U.S.C. 164(b)). Therefore, information was obtained concerning the production costs of viscose rayon staple fiber in Italy. The cost of production was calculated on the basis of the cost of materials, cost of labor, and general expenses, incurred in the manufacture and sale of the merchandise, as provided for in § 153.5, Customs Regulations (19 CFR 153.5).

On the basis of the information submitted, it has been determined that Italviscosa is not selling viscose rayon staple fiber in the home market at less than the cost of producing the merchandise.

With respect to the issue of possible sales below cost, the petitioner argued that an adjustment should be made for sales of "off-quality" fiber in calculating whether the weighted-average selling price in the home market was equal to or greater than the cost of producing the merchandise in question. This claim was based on the fact that although "off-quality" material was sold for less, it cost no less to produce. An adjustment for this factor was made, which resulted in a slight reduction in the weighted-average home market selling price that was compared to the average cost of production during the period of investigation. In addition, petitioner claimed that certain general and administrative expenses attributed to Italviscosa's parent company should instead be allocated to Italviscosa because, petitioner alleged, those expenses were incurred on Italviscosa's behalf. However, it has been concluded that all general and administrative expenses incurred on behalf of Italviscosa were reported and were included in the calculation of cost of production. Further, a claim was made that cost information should be developed for the period January-April 1978 to coincide with the period for which prices were compared, rather than to use cost data based upon an earlier period. However, under section 205(b) of the Act, the cost to produce the "merchandise in question" must be ascertained. Nevertheless, further cost information was obtained, which indicated that there were no significant cost increases during 1978 and that there were no sales below cost regardless of the period selected.

F. *Results of Fair Value Comparisons.* Using the above criteria, comparisons were made on virtually all sales of the subject merchandise to the United States during the period of investigation. These comparisons indicated that the exporter's sales price of viscose rayon staple fiber from Italy was less, or likely to be less, than the home market price of such or similar merchandise. Margins were found on all of the sales compared, ranging from 17.5 to 19.7 percent. A weighted average margin of approximately 18.6 percent was found on all sales compared.

The Secretary has provided an opportunity to known interested parties to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40).

The U.S. International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

FEBRUARY 15, 1979.

[FR Doc. 79-5760 Filed 2-26-79; 8:45 am]

[8320-01-M]

VETERANS ADMINISTRATION

REPLACEMENT MEDICAL CENTER, JOHN L. McCLELLAN MEMORIAL VETERANS' HOSPITAL, VAMC, LITTLE ROCK, ARK.

Availability of Draft Environmental Impact Statement

Notice is hereby given that a document entitled "Draft Environmental Impact Statement for the John L. McClellan Memorial Veterans' Hospital, Veterans Administration Medical Center, Little Rock, Arkansas," dated February 1979, has been prepared as required by the National Environmental Policy Act of 1969.

The preferred location of the Medical Center is on a 23.3 acre parcel adjacent to the University of Arkansas Medical Center, Little Rock, Arkansas. The Medical Center will have 505 hospital beds and the necessary outpatient and support functions. The facility will replace the outmoded Veterans Administration Medical Center on Roosevelt Road, Little Rock, Arkansas.

The Draft Statement discusses the environmental impact of the Replacement Medical Center for the preferred alternative and discusses the other viable alternatives including "No Action". The document is being placed for public examination in the Veterans Administration office in Washington, D.C. Persons wishing to examine a

copy of the document may do so at the following office: Mr. Willard Sitler, Director, Environmental Affairs Office (66), Room 950, Veterans Administration, 1425 K Street, N.W., Washington, D.C. 20420, (202-389-2526).

Single copies of the Draft Statement may be obtained on request to: Director, Environmental Affairs Office (66) Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Dated: February 21, 1979.

By direction of the Administrator.

MAURY S. CRALLE, Jr.,
Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-5740 Filed 2-26-79; 8:45 am]

[4510-43-M]

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-79-11-C]

CONSOLIDATION COAL CO.

Petition for Modification of Application of Mandatory Safety Standards

Consolidation Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241, has filed a petition to modify the application of 30 CFR 75.1101 (water sprinkler systems) to its following mines: Renton UG, Pittsburgh, Pa.; Westland, Washington, Pa.; Westland #2 UG, Westland, Pa.; Montour #4, Lawrence, Pa.; Montour #10, Library, Pa.; Shoemaker UG, Moundsville, W. Va.; McElroy UG, Moundsville, W. Va.; Ireland UG, Moundsville, W. Va.; Harmar, Pittsburgh, Pa.; Oakmont, Pittsburgh, Pa.; Mathies UG, Finleyville, Pa.; Hillsboro Mine, Coffeen, Ill.; Rose Valley #6 UG, Cadiz, Oh.; Franklin #125, Cadiz, Oh.; Franklin Highwall #65 UG, Cadiz, Oh.; Oak Park #7 UG, Cadiz, Oh.; Robinson Run #98 UG, Fairmont, W. Va.; Williams #98 UG, Fairmont, W. Va.; Consol #20 UG, Fairmont, W. Va.; Loveridge, Fairmont, W. Va.; Arkwright #1 UG, Osage, W. Va.; Humphrey #7 UG, Osage, W. Va.; Pursglove #15 MG, Osage, W. Va.; Osage #3 UG, Osage, W. Va.; Blacksville #1 UG, Wana, W. Va.; Blacksville #2 UG, Wana, W. Va.; Dents Run, Morgantown, W. Va.; Consol #9, Fairmont, W. Va.; Maitland UG, Welch, W. Va.; Eckman #11 UG, Eckman, W. Va.; Jenkinjones #7 UG, Pocahontas, Va.; Turkey Gay, Dott, W. Va.; Eckman-Page, UG, Eckman, W. Va.; Crane Creek #6, Mccomas, W. Va.; Rowland #3 UG, Beckley, W. Va.; Rowland #4, Beckley, W. Va.; Rowland #9, Beckley, W. Va.; Rowland #10 UG, Beckley, W. Va.; Beech Fork Mine, Amonate, Va.; Amonate #31 UG, Amonate, Va.; Jenkinjones #4 UG, Pocahontas, Va.; Crane Creek #11 UG, Mccomas, W. Va.; Eckman #9 UG, Eckman, W. Va.; Rowland #6 UG, Beckley, W. Va.; Rowland #11 UG, Beckley, W. Va.; Rowland #15 UG, Beckley, W. Va.; Bishop #24 UG, Bishop, Va.; Itmann No. 1, Itmann, W. Va.; Itmann No. 3, Itmann, W. Va.; Itmann No. 2, Itmann, W. Va.; Bishop 33-37, Bishop, Va.; Bishop #36, Bishop Va.; Dry Forks, Bishop, Va.; Matthews, Millesboro, Ky.; and Emery Mine, Emery, Ut. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The petitioner requests permission to use a single line of automatic sprinklers for its fire protection system on the main and secondary belt-conveyor drives in its mines. Automatic sprinklers with actuation temperatures between 200° F and 230° F would be located on ten-foot centers with water pressure equal to or greater than 10 psi. The discharge of water would spread over the belt drive, belt take-up electric control and gear reducing unit.

2. In support of the effectiveness of a single-line system, the petitioner cites a USBM study on "Suppression of Fires on Underground Coal Mine Conveyor Belts," NTIS PB250 368 Final Report on USBM Contract No. H0122086.

3. The petitioner claims that systems with a second branch line as required by the standard would be less reliable since a second branch line is vulnerable to damage from material which may fall off the belt.

4. By reducing the amount of piping needed, the proposed system makes it practical to fully fill the system with antifreeze. Such protection is critical in the petitioner's mines because winter air temperatures can fall below freezing.

5. The petitioner states that the alternative will at all times guarantee no less than the same measure of protection given miners by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before March 29, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 15, 1979.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-5792 Filed 2-26-79; 8:45 am]

[4510-43-M]

[Docket No. M-79-10-C]

KEYSTONE COAL MINING CORP.

Petition for Modification of Application of Mandatory Safety Standard

Keystone Coal Mining Corporation, Post Office Box 729, Indiana, Pennsylvania 15701, has filed a petition to modify the application of 30 CFR 75.1101 (sprinkler systems) to its Emilie #4 Mine in Armstrong County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

1. The petitioner requests permission to use a single branch line of sprinklers for its fire protection system on the main and secondary belt-conveyor drives in its mine. Nozzles would be installed at eight-foot intervals at or above the plane of the top belt and offset to the side, allowing water to spread over the top and bottom surfaces of the top belt and top surface of the bottom belt.

2. In support of the effectiveness of a single-line system, the petitioner refers to a preliminary report of MESA's Technical Support group which concluded that a single-line sprinkler system of the type proposed by the petitioner is as efficient for safety purposes as the branch line system required by the standard.

3. The petitioner states that its proposed system will improve reliability while providing no less than the same protection given miners by use of the dual branch system.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before March 29, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 15, 1979,

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc 79-5793 Filed 2-26-79; 8:45 am]

[4510-28-M]

Office of the Secretary

APPLICATION FOR WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon recipot of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitions meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 12, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 12, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of February 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Diversified Southern Industries (company).	High Point, North Carolina.	2/9/79	2/5/79	TA-W-4,813	Men's, ladies' and children's blue jeans.
Eastern Laminating Corporation (company).	Elmwood Park, New Jersey.	2/12/79	1/30/79	TA-W-4,814	Processing and laminating of textiles.
Farah Manufacturing Company, Inc. (ACTWU).	El Paso, Texas	2/12/79	2/7/79	TA-W-4,815	Men's pants, vests and sport coats; also boy's garments.
Jones & Laughlin Steel Corp. (USWA).	Aliquippa, Pennsylvania	2/9/79	2/6/79	TA-W-4,816	Tin mill and tin mill products, hot and cold rolled sheet, electrolytic tin plate, carbon steel wire and rods.
Mr. Casuals #1 (company)	Elk Creek, Virginia	2/9/79	2/5/79	TA-W-4,817	Men's, ladies' and children's blue jeans.
Mr. Jeans, Inc. (company)	Randleman, North Carolina.	2/9/79	2/5/79	TA-W-4,818	Men's, ladies' and children's blue jeans.
Pecos Trail Jeans (company)	Santa Fe, New Mexico	2/9/79	2/5/79	TA-W-4,819	Men's ladies' and children's blue jeans.
Rola Company (USWA)	Punxsutawney, Pennsylvania.	2/9/79	2/6/79	TA-W-4,820	Electronic loud speakers and components.
Rola Company (USWA)	Hawthorn, Pennsylvania	2/9/79	2/6/79	TA-W-4,821	Electronic loud speakers, and components.
U.S. Stove Company (Stove, Furnace & Allied Appliance Workers Union).	Chattanooga, Tenn	2/6/79	2/2/79	TA-W-4,822	Assembling wood and coal stoves.
U.S. Stove Company Bridgeport Divison (Stove, Furnace & Allied Appliance Workers Union).	Bridgeport, Alabama	2/6/79	2/2/79	TA-W-4,823	Assembling wood and coal stoves.
U.S. Stove Company South Pittsburgh Division (Stove Furnace & Allied Appliance Workers Union).	South Pittsburg, Tenn	2/6/79	2/2/79	TA-W-4,824	Assembling wood and coal stoves.

[FR Doc. 79-5786 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4514]

ALLIS-CHALMERS CORP., TRACTOR DIVISION, WEST ALLIS, WIS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4514: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 14, 1978 in response to a worker petition received on December 8, 1978 which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers producing agricultural tractors at Allis-Chalmers Corporation Tractor Division, West Allis, Wisconsin.

The Notice of Investigation was published in the FEDERAL REGISTER on De-

cember 26, 1978 (44 FR 60243). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Allis-Chalmers Corporation, its customers, the Farm and Industrial Equipment Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Tractor Division of Allis-Chalmers produces agricultural tractors of various sizes over 60 horsepower.

U.S. imports of agricultural tractors over 35/40 horsepower increased from 18,385 in 1976 to 24,973 in 1977 and decreased from 22,450 in the first 11 months of 1977 to 13,548 in the first 11 months of 1978. Relative to domestic production imports decreased from 18.1 percent in the first 11 months of 1977 to 10.5 percent in the first 11 months of 1978.

Allis-Chalmers imports agricultural tractors. These imported tractors are all 50 horsepower or less, and were never produced domestically by Allis-Chalmers. Imports of tractors by Allis-Chalmers increased in quantity in 1977 from 1976 and decreased in quantity in 1978 from 1977.

Allis-Chalmers sells primarily to exclusive dealers. A Department Survey of a sample of Allis-Chalmer's customers verified this fact. The survey also indicated that those customers who were not exclusive dealers of Allis-Chalmers did not purchase significant numbers of imported tractors in the over 60 horsepower sizes. Only one customer purchased imported tractors over 60 horsepower and that was a special order for a relatively small four-wheel drive tractor of which none are produced domestically.

CONCLUSION

After careful review, I determine that all workers of Allis-Chalmers Corporation Tractor Division, West Allis, Wisconsin are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. on February 15, 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5761 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4539]

ALMET DISTRIBUTING CO., INC., LOS ANGELES, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4539: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 19, 1978 in response to a worker petition received on December 18, 1978 which was filed on behalf of workers and former workers engaged in the partial assembly, testing, packaging, sales, and distribution of sewing machines and sewing machine cabinets at Almet Distributing Company, Inc., Los Angeles, California. The Department's investigation revealed that partial assembly involved adjustment of screws prior to packaging.

The Notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978 (43 FR 61039). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Almet Distributing Company, Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of section 222(3) of the Act and that independent firms for which the subject firm provides such services cannot be considered to be "the workers firm".

Almet Distributing Company, Inc., was founded in 1964 and incorporated in the State of California. Almet operated in a leased facility which included a warehouse, service shop, office, assembly line, and a show room. Almet terminated its operations on December 29, 1978.

Almet imported sewing machines from manufacturers in the Far East. The workers of Almet Distributing Company removed the machines from their original boxes, tightened or loosened particular screws, tested the machines and then placed the sewing machines in cases. The workers would then package the machines for distribution. The workers were also involved in the distribution of the domestically produced sewing machine cabinets. Workers at Almet Distributing Company are engaged in the testing, packaging, distribution and sales of sewing machines and sewing machine cabinets and do not produce an "article" within the meaning of section 222(3) of the Act.

The petition alleges that imports of sewing machines and sewing machine cabinets contributed to the declines in employment at Almet. However, Almet does not produce these articles. Furthermore, Almet itself purchases imports; increased imports of sewing machines would increase business at Almet.

Neither Almet Distributing Company nor its suppliers or customers have any controlling interest in each other.

All workers engaged in testing packaging, distribution and sales of sewing machines and sewing machine cabinets at Almet Distributing Company are employed by that firm. All personnel actions and payroll transactions are controlled by Almet. All employee benefits are provided and maintained by Almet. Workers are not at anytime under employment or supervision by customers or suppliers of Almet. Thus, Almet Distributing Company must be considered "the workers firm".

CONCLUSION

After careful review, I determine that all workers of Almet Distributing Company, Inc., Los Angeles, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-5762 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4360]

ANITA FOUNDATIONS, INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4360: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November, 13, 1978 in response to a worker petition received on November 9, 1978 which was filed by International Ladies' Garment Workers Union on behalf of workers and former workers

producing brassieres, girdles and other sundries at Anita Foundations, New York City, New York. The investigation revealed that Anita Foundations primarily produces girdles and brassieres.

The Notice of Investigation was published in the FEDERAL REGISTER on November 24, 1978 (43 FR 55012). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Anita Foundations, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of corsets and girdles increased from 231 thousand dozen in 1976 to 269 thousand dozen in 1977 and increased the first nine months of 1978 to 294 thousand dozen from 188 thousand dozen during the same period in 1977.

U.S. imports of brassieres, bralettes and bandeaux increased from 8,751 thousand dozen in 1976 to 9,507 thousand dozen in 1977 and increased in the first nine months of 1978 to 7,918 thousand dozen from 7,067 thousand dozen during the same period in 1977.

A Departmental survey of the customers of Anita Foundations, Incorporated revealed that some customers decreased purchases from the subject firm in 1977 compared to 1976 and in January-November 1978 compared to January-November 1977 and increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girdles and brassieres produced at Anita Foundations, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Anita Foundations, Incorporated, New York, New York who became totally or partially separated from employment on or after April 30, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-5763 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4500]

D&M FASHIONS, ESCONDIDO, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4500: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 12, 1978 in response to a worker petition reveived on December 8, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at D&M Fashions, Escondido, California.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59180-1). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of D&M Fashions, its customers (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales and/or production.

The Department surveyed the major manufacturers for whom D&M Fashions performed contract work in 1977 and 1978. These manufacturers decreased imports of ladies' coats in 1978 compared to 1977 and increased contract work with D&M Fashions over the same period. The manufacturers ceased importing in the third quarter of 1978. Decreases in contract work awarded to D&M in the fourth quarter of 1978 are attributable to the seasonal pattern of production typical to the ladies' cost industry.

CONCLUSION

After careful review, I determine that all workers of D&M Fashions, Escondido, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. on February 21, 1979.

HARRY J. GILMAN
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-5764 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4568]

DICKMAN LUMBER CO., TACOMA, WASH.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4568: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 2, 1979 in response to a worker petition received on December 27, 1978 which was filed on behalf of workers and former workers cutting logs into lumber for flooring, railroad ties, door stock etc. at Dickman Lumber Company, Tacoma, Washington. The investigation revealed that the plant primarily produced softwood lumber products.

The Notice of Investigation was published in the FEDERAL REGISTER on January 9, 1979 (44 FR 2033). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Dickman Lumber Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The closure of Dickman Lumber Company can be attributed to the loss

of export sales by the company. Prior to the mill shutdown, domestic sales of lumber by Dickman Lumber Company were increasing.

The petition alleges that exports of logs drove up the prices for raw material, and as a result, Dickman Lumber Company could not compete in the market.

Dickman Lumber purchased logs and cut them to various lengths and widths. Lumber products were sold domestically or were exported. The mill shut down in September 1977.

Domestic sales by Dickman Lumber increased from 1975 to 1976 and in the first six months of 1977 compared to the same period in 1976. Export sales by Dickman Lumber decreased in the first six months of 1977 compared to the same period in 1976. Export sales, as a percentage of total sales, declined substantially from 1975 through the first six months of 1977.

Dickman Lumber's loss of lumber export can be related to the increase in log exports from the United States. Foreign manufacturers can increase their own lumber production (finished product) by buying logs (raw material) in the U.S. and producing lumber in their own country, rather than purchasing lumber in the U.S. The resultant increase in log exports as opposed to lumber exports from the U.S. could subsequently injure domestic producers of lumber, as the purchase requirements of lumber from U.S. firms were reduced.

Since the loss of sales by Dickman Lumber occurred only in the area of export sales, imports of lumber cannot be considered to have contributed importantly to the plant shut down.

CONCLUSION

After careful review, I determine that all workers of Dickman Lumber Company, Tacoma, Washington are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5765 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4555]

DUCHESS FOOTWEAR CORP., SALEM, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4555: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribe in section 222 of the Act.

The investigation was initiated on December 28, 1978 in response to a worker petition received on December 26, 1978 which was filed on behalf of workers and former workers producing women's shoes at the Salem, Massachusetts plant of the Duchess Footwear Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1485). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Duchess Footwear Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

> That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The average number of production workers at the Salem plant increased in the last quarter of 1977 compared with the same period of 1976 and in 1978 compared with the same period of 1977. Average quarterly employment increased in every quarter when compared with the same quarter of the previous year from the fourth quarter of 1977 through the fourth quarter of 1978.

The average weekly hours worked per full-time employee did not change significantly from 1977 to 1978. The average total hours worked per week at the Salem plant increased from 1977 to 1978.

There is no immediate threat of separations of workers at this plant. Sales of Duchess Footwear increased from 1977 to 1978.

CONCLUSION

After careful review, I determine that all workers at the Salem, Massachusetts plant of the Duchess Footwear Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-5766 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4504]

EL-JO STYLES, SAN DIEGO, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4504: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 12, 1978 in response to a worker petition received on December 8, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats at El-Jo Styles, San Diego, California.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59180-1). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of El-Jo Styles, its customers, (manufacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

> That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales and/or production.

Average employment and total earnings for production workers at El-Jo Styles, San Diego, California increased in 1978 compared to 1977. Average employment of production workers and total earnings increased in the fourth quarter of 1977 compared to the like quarter of 1976, and in the second and third quarters of 1978 compared to the like quarters in 1977, respectively. Employment remained constant in the fourth quarter of 1978, while earnings increased compared to the fourth quarter of 1977. Employment and

earnings decreased in the first quarter of 1978 because of the seasonal nature of the ladies' coat industry.

CONCLUSION

After careful review, I determine that all workers of El-Jo Styles, San Diego, California are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-5767 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4563]

F/V SAILOR'S CHOICE, GLOUCESTER, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4563: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 28, 1978 in response to a worker petition received on December 22, 1978 which was filed on behalf of workers and former workers catching and selling fish on the F/V Sailor's Choice, Gloucester, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1485). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of F/V Sailor's Choice, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

> That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Total crewmen's earnings aboard the F/V Sailor's Choice increased in 1977 compared to 1976, and in 1978 compared to 1977.

CONCLUSION

After careful review, I determine that all workers of F/V Sailor's Choice, Gloucester, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-5768 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4527]

F. W. FISCHER COMPANY, INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4527: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1978 in response to a worker petition received on December 11, 1978 which was filed on behalf of workers and former workers producing children's coats at F. W. Fischer Company, Incorporated, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978 (43 FR 61038). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of F. W. Fischer Company, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's coats and jackets increased absolutely and relatively in 1977 compared to 1976.

A survey of customers of the subject firm revealed that several customers increased purchases of imported children's coats, while decreasing purchases from the subject firm in 1977 compared to 1976 and in 1978 compared to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with children's coats produced at F. W Fischer Company, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

> All workers of F. W. Fischer Company, Incorporated, New York, New York engaged in employment related to the production of children's coats who became totally or partially separated from employment on or after December 7, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-5769 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4548]

GOODYEAR TIRE AND RUBBER CO., NORTH CHICAGO, ILL.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4548: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 21, 1978 in response to a worker petition received on December 18, 1978 which was filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing automotive hoses, textile hoses and wire braid hoses at the North Chicago, Illinois plant of the Goodyear Tire and Rubber Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 9, 1979 (44 FR 2033-4). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Goodyear Tire and Rubber Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act

must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed in the course of the investigation indicated that all rubber hose production at the North Chicago, Illinois plant of the Goodyear Tire and Rubber Company is being transferred to other domestic facilities of the company.

Adjusted sales and production of rubber hoses for both the Goodyear Tire and Rubber Company and the North Chicago plant increased in 1977 compared to 1976 and increased in 1978 compared to 1977.

Goodyear announced in August 1978 that the North Chicago, Illinois plant would be shut down permanently on February 28, 1979. All production at the North Chicago plant has been or will be transferred to other existing domestic facilities and to a new domestic plant that will begin production by mid-1979.

CONCLUSION

After careful review, I determine that all workers at the North Chicago, Illinois plant of the Goodyear Tire and Rubber Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-5770 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4532, 4533, 4534; 4532A]

HARWOOD COMPANIES, INC., ET AL.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4532, 4533, 4534 and 4532A: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1978 in response to a worker petition received on December 11, 1978 which was filed on behalf of workers and former workers of the Marion-Harwood Manufacturing Company producing the following products at the following plants: men's, boys' and infants' pajamas at the Marion Plant, Marion, Virginia; men's pajamas and robes at the Holston Plant, Marion, Virginia; and men's pajamas and men's and boys' undershorts and sport shorts at the Abingdon, Virginia plant. The investigation revealed that the Marion-Harwood Manufacturing Company is part of Harwood Manufacturing Company Division of The Harwood Companies, Inc.

The investigation was expanded to include the Alfredo Manufacturing Corporation, which is also part of the Harwood Manufacturing Company Division. The Alfredo Manufacturing Corporation, Rio Grande, Puerto Rico is also known as the JRN Manufacturing Corporation and the Rio Monte Manufacturing Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978 (43 FR 61038-9). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Harwood Manufacturing Company Division of the Harwood Companies, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. With respect to workers at the Division's Shipping Department located at the Marion Plant, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Evidence developed in the course of the investigation revealed that the average number of workers in the Shipping Department increased from 1977 to 1978. The average hours worked per employee also increased during this period. There is no immediate threat of separations in that department.

With respect to workers producing pajamas at the Holston Plant, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that the production of pajamas at the Holston Plant increased in 1978 compared with 1977. Production increased substantially in each of the last three quarters of 1978 compared with the like quarters of 1977. The decline in employment at the Holston plant is attributable to declining production of robes.

With respect to workers producing robes at the Holston Plant, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that customers who decreased purchases of robes from the Division and increased imports of robes were insignificant in relation to the Division's total sales of this product. Total Division sales of robes in terms of quantity increased in 1978 compared with 1977. The difference between production of robes at the Holston Plant and Division sales is accounted for by Division purchases from outside domestic sources.

With respect to workers producing undershorts at the Abingdon, Virginia plant, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that undershorts are produced by only two plants in the Harwood Manufacturing Company Division: the Abingdon Plant and a Puerto Rican facility. The increase in production of undershorts at the Puerto Rican facility exceeded the decline in production at the Abingdon Plant in 1978 compared with 1977. Total sales and production of undershorts for the Division increased in 1978 compared with 1977.

With respect to workers producing sport shorts at the Abingdon Plant, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation revealed that the plant has been producing this product for less than thirteen months. Production began in November 1977. Division sales of the product began in February 1978. Sales of sportshorts are seasonal. Due to the short term of production of

this product, it is not possible to discount the seasonal influence on sales, production and employment or to statistically measure the impact of imports.

With respect to workers producing pajamas at the Marion Plant, Marion, Virginia and Abingdon, Virginia Plant of the Marion-Harwood Manufacturing Company and at the Alfredo Manufacturing Corporation, Rio Grande, Puerto Rico, all of the group eligibility requirements of section 222 of the Act have been met.

U.S. imports of men's and boys' pajamas increased from 458 thousand dozen in 1976 to 621 thousand dozen in 1977. Imports increased from 423 thousand dozen in the first three quarters of 1977 to 495 thousand dozen in the first three quarters of 1978. The ratio of imports to domestic production increased from 13.9 percent in 1976 to 17.7 percent in 1977.

The investigation revealed that major customers who decreased purchases of pajamas from the Harwood Manufacturing Company Division in 1978 compared to 1977 increased imports of this product during the same time period. These customers accounted for the majority of the decline in the Division's sales of pajamas.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's and boys' pajamas produced at the Marion Plant, Marion, Virginia and the Abingdon, Virginia plant of the Marion-Harwood Manufacturing Company, and the Alfredo Manufacturing Corporation, Rio Grande, Puerto Rico contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certification:

"All workers of the plants, listed below, of the companies in the Harwood Manufacturing Company Division of the Harwood Companies, Incorporated engaged in employment related to the production of men's and boys' pajamas who became totally or partially separated from employment on or after the respective impact dates are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Company	Plant-location	Impact date
Marion-Harwood Mfg. Co	Marion, Plant, Marion, Virginia (excluding the Division's Shipping Department).	Sept. 2, 1978.
Marion-Harwood Mfg. Co	Abingdon, Virginia	Sept. 2, 1978.
Alfredo Mfg. Corp. (also known as JRN Mfg. Corp. and Rio Monte Mfg. Corp.).	Rio Grande, Puerto Rico	Dec. 7, 1977.

I further determine that the worker groups at the following plants of the Marion-Harwood Manufacturing Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974: workers of the Harwood Manufacturing Company Division's Shipping Department located at the Marion Plant, Marion, Virginia; all workers of the Holston Plant, Marion, Virgina; and workers solely engaged in employment related to the production of men's and boys' undershorts and sport shorts at the Abingdon, Virginia Plant.

Signed at Washington, D.C. this 16th day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5771 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4506]

INTERNATIONAL SHOE CO., RUSSELLVILLE, ARK.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4506: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 12, 1978 in response to a worker petition received on December 11, 1978 which was filed by the United Shoe Workers of America on behalf of workers formerly producing children's shoes at the Russellville, Arkansas plant of the International Shoe Company.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59180-81). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of International Shoe Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmaive determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of children's nonrubber footwear, except athletic, increased relative to domestic production each year from 1973 to 1977 before decreasing in the first three quarters of 1978 compared to the same period in 1977.

A Department survey, conducted with customers who purchased children's shoes produced by International Shoe Company, revealed that customers increased imports of children's shoes in the first ten months of 1978 compared to the same period of 1977, while decreasing purchases from International Shoe Company.

Workers at the Russellville, Arkansas plant of International Shoe Company were certified as eligible to apply for trade adjustment assistance on December 3, 1976 (TA-W-1068). That certification expired on December 3, 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with children's shoes produced at the Russellville, Arkansas plant of International Shoe Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Russellville, Arkansas plant of the International Shoe Company who became totally or partially separated from employment on or after December 3, 1978 and before February 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after February 1, 1979 are denied eligibility."

Signed at Washington, D.C. this 21st day of February 1979.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-5772 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4550]

JULIET FOOTWEAR, INC., ELMWOOD PARK, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4550: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 21, 1978 in response to a worker petition received on December 18, 1978 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing men's working, casual, and golf shoes at Juliet Footwear, Incorporated, Elmwood Park, New Jersey. The investigation revealed that the subject firm produces men's casual and golf shoes and does not produce work shoes.

The Notice of Investigation was published in the FEDERAL REGISTER on January 9, 1979 (44 FR 2033-2034). No public hearing was requested and none was held.

The detemination was based upon information obtained principally from officials of Juliet Footwear, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's dress and casual footwear, except athletic, increased both absolutely and relative to domestic production in 1977 from 1976 and decreased slightly during the first three quarters of 1978 compared to the same period in 1977. The ratio of imports to domestic production exceeded 75 percent during 1976, 1977, and the first three quarters of 1978.

A survey of customers of Juliet Footwear, Incorporated, revealed that several surveyed customers reduced purchases from the subject firm and increased purchases of imported men's casual footwear in 1978 compared to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's casual and golf shoes produced at Juliet Footwear Incorporated, Elmwood Park, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Juliet Footwear Incorporated, Elmwood Park, New Jersey, who became totally or partially separated from employment on or after December 14, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-5773 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4509]

MAYFAIR COAT AND SUIT CO., LOS ANGELES, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4509: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 12, 1978 in response to a worker petition received on December 8, 1978 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' coats for Mayfair Coat and Suit Company, Los Angeles, California.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59180). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mayfair Coat and Suit Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

Mayfair Coat and Suit Company experienced a reduced annual average number of production workers during 1978, when compared with 1977, due to natural attrition. Several senior employees retired from the production staff, some during the latter half of 1977 and some during January of 1978. Annual average hours worked per production worker increased from 1977 to 1978.

Company sales increased in the last quarter of 1977 when compared with the same period of 1976. Company sales increased January through November of 1978 when compared with January through November of 1977. Company production increased in 1978 compared with 1977.

CONCLUSION

After careful review, I determine that all workers of Mayfair Coat and Suit Company, Los Angeles, California, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5774 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4465]

MR. CASUALS, INC., TROUT DALE, VA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4465: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 6, 1978 in response to a worker petition received on December 4, 1978 which was filed on behalf of workers and former workers producing men's, women's and children's jeans and vest, and women's and girls' skirts at the Trout Dale, Virginia plant of Mr. Casuals, incorporated. The investigation revealed that the plant primarily produces men's, women's and children's jeans.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Mr. Casuals, Incorporated, Diversified Southern Industries, Omnico, its customers, manufacturers, the National Cotton Council of Amer-

ica, the American Apparel Manufacturers Association, Incorporated, the American Textile Manufacturers' Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' jeans and dungarees increased absolutely and relatively in 1977 compared to 1976 and further increased in the first nine months of 1978 compared to the same period of 1977. U.S. imports of women's, misses' and children's slacks and shorts increased in 1977 compared to 1976 and further increased in the first nine months of 1978 compared to the same period of 1977.

A Survey of customers of the subject firm revealed that customers, representing a significant proportion of company sales, increased purchases of imported jeans while decreasing purchases from the subject firm in 1977 compared to 1976 and in 1978 compared to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's and children's jeans produced at Trout Dale, Virginia plant of Mr. Casuals, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Trout Dale, Virginia plant of Mr. Casuals, Incorporated engaged in employment related to the production of men's, women's and children's jeans who became totally or partially separated from employment on or after November 29, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-5775 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4542]

NORTH AMERICAN REFRACTORIES CO., MT. UNION, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4542: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 19, 1978, in response to a worker petition received on December 14, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing refractories and silica refractories brick at the North American Refractories Company, Mt. Union, Pennsylvania. The investigtion revealed that silica brick is the only type of refractory product produced at the Mt. Union plant.

The notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978 (43 FR 61039). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the North American Refractories Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of silica refractory brick increased absolutely and relatively in 1977 compared to 1976 and increased absolutely and relatively in the first nine months of 1978 compared to the same period of 1977.

Refractory products are produced according to contracts awarded by customers on a competitive bid basis. Evidence developed during the course of the investigation revealed that bids lost by North American Refractories to foreign refractory producers in 1978 were a significant factor in the decline in production at the Mt. Union plant that year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with silica refractory brick produced at the Mt. Union, Pennsylvania plant of the North American Refractories Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Mt. Union, Pennsylvania plant of the North American Refractories Company engaged in employment related to the production of silica refractory bricks who became totally or partially separated from employment on or after November 15, 1977 are eligible to apply for adjustment assistance under Title II, Chapter II of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-5776 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4562]

PARISI SPORTSWEAR COMPANY, INC., NEWARK, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4562: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 28, 1978 in response to a worker petition received on December 26, 1978 which was filed on behalf of workers and former workers producing men's tennis shorts at Parisi Sportswear Company Incorporated, Newark, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1485). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Parisi Sportswear Company, Incorporated, its customers, manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of men's and boys' tennis shorts increased from 732 thousand units in 1976 to 764 thousand units in 1977.[1] Imports increased to 724 thousand units in the first three quarters of 1978 compared to 544 thousand units in the first three quarters of 1977. The ratio of imports to domestic production decreased from 40.9 percent in 1976 to 38.0 percent in 1977.

The results of the Department's survey of manufacturers for whom Parisi Sportswear produced showed that these manufacturers did not import or contract with foreign sources for the production of men's tennis shorts. Where a manufacturer's own sales had decreased, the Department's survey of the manufacturer's retail customers indicated that retail customers did not import men's tennis shorts.

CONCLUSION

After careful review, I determine that all workers of Parisi Sportswear Company, Incorporated, Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this February 21, 1979.

HARRY J. GILMAN,
Acting Director, Office of Foreign Economic Research.

[FR Doc. 79-5777 Filed 2-26-79; 8:45 am]

[1]Figures are derived from percentages of imports of men's and boys' dress and sports trousers and shorts estimated to be imports of men's and boys' tennis shorts.

[4510-28-M]

[TA-W-4459]

PUTNAM-HERZL FINISHING CO., INC., PUTNAM, CONN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4459: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 30, 1978 in response to a worker petition received on November 6, 1978 which was filed by the Amalgamated Clothing and Textile Worker's Union on behalf of workers and former workers engaged in the finishing, dyeing and coating of synthetic material at Putnam-Herzl Finishing Company, Incorporated, Putnam, Connecticut. The investigation revealed that the workers finish all types of woven fabric.

The Notice of Investigation was published in the FEDERAL REGISTER on December 8, 1978 (43 FR 57692-3). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Putnam-Herzl Finishing Company, Incorporated, its customers, the American Textile Manufacturer's Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of customers of Putnam-Herzl was conducted. Results of the survey indicated that customers which decreased business with Putnam-Herzl did not import finished fabric.

U.S. imports of finished fabric decreased from 464 million square yards in 1976 to 453 million in 1977 and increased to 386 million square yards in the first 9 months of 1978 compared to 341 million in the first 9 months of 1977. The ratio of imports to domestic production was 1.8 percent in 1976 and 1.9 in 1977.

CONCLUSION

After careful review, I determine that all workers of Putnam-Herzl Finishing Company, Incorporated, Putnam, Connecticut are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-5778 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4705]

RIEGEL TEXTILE CORP., WARE SHOALS DIVISION, FORK SHOALS PLANT, FORK SHOALS, S.C.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4705: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 15, 1979 in response to a worker petition received on January 9, 1979 which was filed on behalf of workers and former workers producing cotton yarn at the Riegel Textile Corporation, Ware Shoals Division, Fork Shoals Plant, Fork Shoals, South Carolina. The investigation revealed that cotton yarn produced at the Fork Shoals Plant was used by another division of Riegel Textile Corporation in the manufacture of diapers.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Riegel Textile Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

The Fork Shoals plant produced cotton yarn which was woven into fabric, and made into diapers within the Riegel Textile Corporation. Imports of diapers were negligible from 1976 through 1978 according to industry sources and officials of the U.S. Customs Service.

CONCLUSION

After careful review, I determine that all workers of Riegel Textile Corporation, Ware Shoals Division, Fork Shoals Plant, Fork Shoals, South Carolina are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-5779 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4320]

ROBERTSON FACTORIES, INC. BAIRDFORD, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4320: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 31, 1978 in response to a worker petition received on October 27, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing ready-made draperies at the Bairdford, Pennsylvania plant of Robertson Factories, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on November 7, 1978 (43 FR 51865). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Robertson Factories, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that U.S. imports of curtains and draperies declined absolutely from 1976 to 1977.

The ratio of U.S. imports to domestic production of curtains and draperies was less than one tenth of one percent in each year from 1973 through 1977.

The low level of U.S. imports of curtains and draperies may be attributed to the fact that a minimal amount of labor cost is entailed in the drapery production process. When this low labor component is viewed in relationship to transportation costs, off-shore production of draperies does not maintain an advantage over domestic production.

CONCLUSION

After careful review, I determine that all workers of the Bairdford, Pennsylvania plant of Robertson Factories, Incorporated are denied eligibility to apply for adjustment assistance under Title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-5780 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4496]

SANYO MANUFACTURING CORP., FORREST CITY, ARK.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4496: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 8, 1978 in response to a worker petition received on December 7, 1978 which was filed by the International Union of Electrical, Radio and Machine Workers on behalf of workers former workers producing cabinets and assembling component parts into finished color television receivers at Sanyo Manufacturing Corporation, Forrest City, Arkansas.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59179-59180). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Sanyo Manufacturing Corporation, its customers, the Electronic Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmaive determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and the absolute decline in sales or production.

The quantity and value of U.S. imports of color television receivers declined absolutely and relative to domestic production in 1977 from 1976. Imports decline relative to domestic production during January-September 1978 compared to January-September 1977.

The Department surveyed customers accounting for a significant portion of 1977 and 1978 sales by Sanyo Manufacturing Corporation. The survey revealed that customers increased purchases of television receivers from Sanyo Manufacturing Corporation and from other domestic sources in the January-November 1978 period compared to the same period in 1977 and decreased purchases of imported television receivers during the same period.

CONCLUSION

After careful review, I determine that all workers of Sanyo Manufacturing Corporation, Forrest City, Arkansas are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 22nd day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-5781 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4726]

SEILER CORP., NORWICH, CONN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4726: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 18, 1979 in response to a worker petition received on January 15, 1979 which was filed on behalf of workers and former workers engaged in preparing meals and sandwiches, serving morning breads and lunch hours, and stocking vending machines at the cafeteria of Seiler's Corporation located at the Norwich, Connecticut plant of Capehart Corporation. The investigation revealed that the formal name of the company is the Seiler Corpoation.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The detemination was based upon information obtained principally from

officials of the Seiler Corporation and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm".

The Seiler Corporation was founded in 1955, and incorporated in Massachusetts. The company operates cafeterias in various locations throughout the United States, especially in the Northeast. The petitioning workers are employed at Seiler's cafeteria located at the Norwich, Connecticut plant of the Capehart Corporation, a manufacturer of stereo equipment.

Workers of the Seiler's cafeteria at the Capehart Corporation plant are engaged exclusively in the preparation and serving of food, the servicing of vending machines, cashiering, and other cafeteria-related services, and do not produce an article within the meaning of section 222(3) of the Act.

The Seiler Corporation and the Capehart Corporation have no controlling interest in one another.

All workers engaged in providing cafeteria services at the Seiler Corporation cafeteria at the Norwich, Connecticut plant of the Capehart Corporation are employed by the Seiler Corporation. All personnel actions and payroll transactions are controlled by the Seiler Corporation. All employee benefits are provided and maintained by the Seiler Corporation. Workers are not, at any time, under employment or supervision by the Capehart Corporation. Thus, the Seiler Corporation must be considered to be the "workers' firm".

CONCLUSION

After careful review, I determine that all workers of the cafeteria of the Seiler Corporation located at the Norwich, Connecticut plant of the Capehart Coroporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-5782 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4537]

VALLEY KNITTING MILLS, INC., HASKELL, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4537: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 15, 1978 in response to a worker petition received on December 11, 1978 which was filed on behalf of workers and former workers producing women's sweaters at Valley Knitting Mills, Incorporated, Haskell, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978 (43 FR 61038-39). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Valley Knitting Mills, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's, misses' and childrens' sweaters in both absolute and relative terms have increased constantly from 1974 thru 1976 and remained high in 1977. The ratio of imports to domestic production have exceeded 140 percent in both 1976 and 1977.

A Department survey revealed that retail customers of Valley Knitting Mills increased purchases of imported women's sweaters in 1977 compared with 1976 and in the first nine months of 1978 compared with the same period in 1977. These customers decreased their purchases from Valley Knitting Mills during the same periods of comparison.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's sweaters produced at Valley Knitting Mills, Incorporated, Haskell, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Valley Knitting Mills, Incorporated, Haskell, New Jersey engaged in employment related to the production of women's sweaters who became totally or partially separated from employment on or after December 7, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-5783 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4135]

WELFAB STEEL, PRODUCTS, INC., CARTERET, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4135: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 5, 1978 in response to a worker petition received on September 5, 1978 which was filed on behalf of workers and former workers producing large pollution control equipment at Welfab Steel Products, Incorporated, Carteret, New Jersey. The investigation revealed that the plant produces air pollution control equipment (bag house type).

The Notice of Investigation was published in the FEDERAL REGISTER on September 26, 1978 (43 FR 43589). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Welfab Holding Company, Limited, of Montreal, Canada, its manufacturers, Portner, Toscano and San Filippo, CPA firm, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations,

or threat thereof, and to the absolute decline in sales or production.

Welfab Steel Products, Incorporated, Carteret, New Jersey as formed in February 1976. At the time it was founded, Welfab received a long-term contract from a single manufacturer. When this contract was completed in late 1977, the manufacturer did not provide Welfab with any new orders. Rather, the manufacturer utilized other domestic contracting firms to satisfy its needs in 1978. The manufacturer did not import air pollution control equipment nor did it employ any foreign contractors for the fabrication of such equipment during 1978.

CONCLUSION

After careful review, I determine that all workers of Welfab Steel Products, Incorporated, Carteret, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-5784 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4487]

WENDY WATTS, INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4487: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 6, 1978 in response to a worker petition received on December 4, 1978 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's sportswear and suits at Wendy Watts, Incorporated, New York, New York. The investigation revealed that the plant primarily produces women's suits (including pantsuits), women's sweaters and blouses and women's coats.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165-19166). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Wendy Watts, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all or the requirements have been met.

January-September 1978 import levels of women's, misses', and children's suits (including pantsuits and jumpsuits) increased absolutely compared to import levels in the first three quarters in 1977.

Imports of women's, misses, and children's coats and jackets increased absolutely and relative to domestic production in 1977 compared to 1976.

Imports of women's, misses', and children's blouses and shirts have increased absolutely in each year since 1974. January-September 1978 imports increased over January-September 1977 import levels.

Several customers of Wendy Watts who were surveyed reduced purchases from the subject firm while increasing purchases of imported suits and sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's sportswear and suits produced at Wendy Watts, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Wendy Watts, Incorporated, New York, New York who became totally or partially separated from employment on or after November 27, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5785 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4530]

KAWECKI BERYLCO INDUSTRIES, ZIRTECH DIVISION, ALBANY, OREGON

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4530: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1978 in response to a worker petition received on December 11, 1978 which was filed on behalf of workers and former workers producing tubing for airline and aerospace industries, of titanium, zirconium and copper beryllium at the Albany, Oregon plant of the Zirtech Division of Kawecki Berylco Industries. The investigation revealed that the plant primarily produces titanium tubing.

The Notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978 (43 FR 61038-61039). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Kawecki Berylco Industries, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Titanium tubing is used primarily in military aircraft, where its superior performance and relatively maintenance free operation are deemed desirable. Use of titanium tubing in military aircraft is limited by federal law to tubing produced domestically. Therefore, imports of such tubing are negligible.

A survey of customers of the Zirtech Division revealed that customers who purchase titanium tubing do not purchase imported titanium tubing.

CONCLUSION

After careful review, I determine that all workers of the Zirtech Division of Kawecki Berylco Industries, Albany, Oregon are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5612 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4473]

L. C. MAE OF HOLLYWOOD, INC., LOS ANGELES, CALIFORNIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4473: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 6, 1978 in response to a worker petition received on November 27, 1978 which was fided by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at L.C. Mae, Los Angeles, California. The investigation revealed that the correct name of the company is L.C. Mae of Hollywood, Incorported.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of L.C. Mae of Hollywood, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have beent met.

U.S. imports of women's, misses' and children's coats and jackets increased absolutely from 1976 to 1977 and then declined absolutely in the January-September 1978 period compared to the same period in 1977. U.S. imports relative to domestic production increased from 48.3 perecnt in 1976 to 54.9 percent in 1977.

The Department conducted a survey of customers with declining purchases from L.C. Mae in 1978. These customers increased purchases of imported ladies' coats and decreased purchases from L.C. Mae and other domestic sources in the first eleven months of 1978 compared to the like period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' coats produced at L.C. Mae of Hollywood, Incorporated, Los Angeles, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of L.C. Mae of Hollywood, Incorporated, Los Angeles, California who became totally or partially separated from employment on or after January 25, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-5614 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4440]

MANISTEE, INC., WORCESTER, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4440: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1978 in response to a worker petition received on November 6, 1978 which was filed on behalf of workers and former workers producing men's slippers, casual shoes, boots and sandals at Capitol Footwear Company, Worcester, Massachusetts. The investigation revealed that the name of the firm is Manistee, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on December 5, 1978 (43 FR 56953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Manistee, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's dress and casual footwear, except athletic, increased in absolute terms from 1976 to 1977 and decreased in the first nine months of 1978 compared with the first nine months of 1977. The ratio of imports to domestic production increased from 1976 to 1977 and decreased in the first nine months of 1978 when compared with the first nine months of 1977.

The International Trade Commission recently found that certain footwear articles, including men's dress and casual footwear, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to domestic producers. The ratio of imports to domestic production of men's dress and casual footwear has been greater than 75 percent since the beginning of 1976.

A survey of customers of Manistee, Incorporated revealed that several had reduced purchases from Manistee and had increased purchases of imported men's footwear in the last half of 1978 when compared with the last half of 1977.

On April 22, 1977 the Office of Trade Adjustment Assistance issued a certification applicable to the petitioning group of workers (TA-W-1568). The certification covered only workers whose separation had occurred on or after December 10, 1975 and before April 17, 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's slippers, casual shoes, boots and sandals produced at Manistee, Incorporated, Worcester, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation or workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Manistee, Incorporated, Worcester, Massachusetts who became totally or partially separated from employment on or after January 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-5615 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4494]

MINNESOTA MINING & MANUFACTURING CO., FREEPORT, ILL.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4494: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 8, 1978 in response to a worker petition received on December 7, 1978 which was filed by the United Paperworkers International Union on behalf of workers and former workers producing cellulose printing mats at the Freeport, Illinois plant of the Minnesota Mining and Manufacturing Company.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59179-59180). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Minnesota Mining and Manufacturing Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Production at Freeport ceased in November, 1978. In February, 1978, 3M entered into a licensing agreement with a Swiss firm. In August, 1978, 3M advised its remaining customers of its decision to terminate stereotype mat production and that future supplies of such mats could be arranged with the Swiss supplier.

There have been no imports of cellulose printing mats, however, since 1972. Technological advances in the domestic printing and publishing industry are causing the printing processes requiring mats to be phased out.

A survey of customers who purchased mats produced at the Freeport plant was conducted by the Department. All responding customers reported that they have not purchased imported mats. Most respondents have either already phased out the use of cellulose printing mats or are planning to do so in the near future.

CONCLUSION

After careful review, I determine that all workers of the Freeport, Illinois plant of the Minnesota Mining and Manufacturing Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5587 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4551]

NORTH AMERICAN REFRACTORIES CO., WOMELSDORF, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4551: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 21, 1978, in response to a worker petition received on December 18, 1978, which was filed by the United Steelworkers of America on behalf of workers and former workers producing refractory bricks at the Womelsdorf, Pennsylvania plant of the North American Refractories Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 9, 1979 (44 FR 2033-2034). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the North American Refractories Company, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Evidence developed during the course of the investigation revealed that the average number of workers employed at the Womelsdorf, Pennsylvania plant of the North American Refractories Company increased in the fourth quarter of 1977 compared to the same quarter of 1976 and increased in 1978 compared to 1977. Further analysis revealed that the average number of workers employed at Womelsdorf increased in each quarter of 1978 compared to the same quarter of 1977. The average number of weekly hours worked per employee at Womelsdorf increased in the fourth quarter of 1977 compared to the same quarter of 1976 and decreased insignificantly in 1978 compared to 1977. There is no immediate threat of separation to workers at the Womelsdorf plant.

CONCLUSION

After careful review, I determine that all workers of the Womelsdorf, Pennsylvania plant of the North American Refractories Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5588 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4619]

RANGER FUEL CORP., BOLT, W. VA.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 8, 1979 in response to a worker petition received on December 18, 1978 which was filed on behalf of workers and former workers mining coal at the A-Bolt Mine, Bolt, West Virginia of Ranger Fuel Corporation, a subsidiary of The Pittston Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 19, 1978 (44 FR 4029-30). No public hearing was requested and none was held.

During the course of the investigation, it was established that there has been no employment at the A-Bolt Mine of Ranger Fuel Corporation since it permanently closed in September, 1977. Section 223(b) of the Trade Act of 1974 states that no certification under this section may apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than one year prior to the date of the petition.

The date of the petition in this case is December 13, 1978 and, thus, workers terminated prior to December 13, 1977 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. The investigation is therefore terminated.

Signed at Washington, D.C. this 14th day of February 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-5589 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4543]

ROBERTS CONSOLIDATED INDUSTRIES, INC., PIQUA, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4543: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 19, 1978 in response to a worker petition received on December 14, 1978 which was filed by the United Paperworkers International Union on behalf of workers and former workers producing carpet tack strips. The investigation revealed that the plant primarily produces Smoothedge Carpet Grippers which are also known and popularly called carpet tack strips.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 61039). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Roberts Consolidated Industries, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of Carpet tackless strips increased absolutley and relative to domestic production in 1977 compared to 1976 and increased absolutely in 1978 compared to 1977.

Total company operations closed on November 15, 1978 and moved to Mexicali, Mexico; Roberts Condolidated Industries, Incorporated began importing Smoothedge Carpet Grippers September 1978 and the company plans to move its production of all the Smoothedge Carpet Grippers offshore by 1980.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with Smoothedge Carpet Grippers produced at the Piqua, Ohio plant of Roberts Consolidated Industries, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation or workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Piqua, Ohio plant and warehouse of Roberts Consolidated Industries, Incorporated who became totally or partially separated from employment on or after November 30, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5590 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4716]

ROMAN CERAMICS CORP., MAYFIELD, KY.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4716: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979 in response to a worker petition received on January 15, 1979 which was filed by the International Brotherhood of Pottery and Allied Workers on behalf of workers and former workers producing custom pottery (ceramic containers) at Roman Ceramics Corporation, Mayfield, Kentucky.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5534). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Roman Ceramics Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production, or both, of the firm or subdivision have decreased absolutely.

Roman Ceramics Corporation produces ceramic containers for liquor and cosmetics and other custom pottery items. Production is based on orders received; sales and production are approximately equal.

Total company sales, in terms of value, increased from 1977 to 1978. Total production in terms of units produced is not a relevant measure, as units can range in size from very small cosmetic containers to very large liquor bottles or cookie jars. There is no common denominator. Liquor containers have constituted the major proportion of sales from 1975 through 1978. The quantity of liquor containers produced increased from 1977 to 1978.

CONCLUSION

After careful review, I determine that all workers of Roman Ceramics Corporation, Mayfield, Kentucky are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5591 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4560]

ROTH LECOVER OF CALIFORNIA, INC. LOS ANGELES, CALIF.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W4560: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 28, 1978 in response to a worker petition received on December 26, 1978 which was filed by the Los Angeles Joint Board of the International Ladies' Garment Workers' Union of behalf of workers and former workers producing women's suits and dresses at Roth LeCover of California, Incorporated in Los Angeles, California. The investigation revealed that the plant primarily produces women's dresses but also produces some pantsuits.

The Notice of Investigation was published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1485). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Roth LeCover of California, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's and misses' dresses increased from 645 thousand dozen in 1975 to 659 thousand dozen in 1976 and then decreased to 587 thousand dozen in 1977. Imports for the first three quarters of 1978 were 534 thousand dozen compared to 471 thousand dozen for the first three quarters of 1977.

U.S. imports of women's, misses' and children's suits (including pantsuits and jumpsuits) increased from 201 thousand dozen in the first three quarters of 1977 to 318 thousand dozen in the first three quarters of 1978.

Roth LeCover began to import women's dresses and suits in July of 1976. These imports increased by 22.0 percent from 1977 to 1978. Company imports of dresses and suits have reflected an increasing proportion of total company sales over the period 1976 through 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's dresses, suits and pantsuits produced at Roth LeCover of California, Incorporated, Los Angeles, California contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Roth LeCover of California, Incorporated, Los Angeles, California who became totally or partially separated from employment on or after March 18, 1978 ar eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5613 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4520]

STANCO MANUFACTURING CO., BROOKLYN, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of labor herein presents the results of TA-W-4520: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 14, 1978 in response to a worker petition received on December 11, 1978 which was filed on behalf of workers and former workers producing ladies' knitted sweaters at Stanco Manufacturing Company, Brooklyn, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 26, 1978 (43 FR 60243). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Stanco Manufacturing Company, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment asistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased from 1975 to 1976. In 1977, imports of sweaters increased 9.0 percent over the average level of imports for the years 1973 through 1976. The ratio of imports of sweaters to domestic production in 1977 was above the import to domestic production ratio recorded in each year in the 1973 to 1975 time period.

A Departmental survey was conducted of manufacturers for whom Stanco Manufacturing Company performed contractual work. Several manufacturers stated that imports of ladies' sweaters by retail customers had reduced their sales in 1978 as compared to 1977 to a point where they had to eliminate all domestic contract work. A secondary survey of retail customers of these manufacturers revealed that several retailers decreased purchases from domestic manufacturers and increased imports of ladies' sweaters in 1978 as compared to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' knitted sweaters produced at Stanco Manufacturing Company, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Stanco Manufacturing Company, Brooklyn, New York who became totally or partially separated from employment on or after December 8, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

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

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5592 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4655]

STOUFFER'S MANAGEMENT FOOD SERVICE, INC., YOUNGSTOWN, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4655: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 10, 1979 in response to a worker petition received on January 2, 1979 which was filed on behalf of workers and former workers preparing food for the Youngstown Sheet and Tube cafeteria of Stouffer's Management Food Service, Inc., Cleveland, Ohio. The investigation revealed that the petitioning workers were employed in the kitchen and employees' cafeteria in the Headquarters Building of the Youngstown Sheet and Tube Company, in Youngstown, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on January 19, 1979 (44 FR 4039). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Stouffer Corporation and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of Section 222 of the Act, and that independent firms for which the subject firm pro-

vides services cannot be considered to be the "workers' firm."

Stouffer's Management Food Service, Inc., incorporated in Delaware, is a subsidiary of the Stouffer Corporation. The Stouffer Corporation was founded in 1929 and incorporated in the State of Ohio. The Stouffer Corporation is a wholly owned subsidiary of Nestle, S.A., a Swiss corporation. The Stouffer Corporation operates numerous hotels and restaurants in approximately 22 states.

Workers of Stouffer's Management Food Service were engaged in the preparation and serving of meals in the employees' cafeteria and did not produce an article within the meaning of Section 222(3) of the Act.

Stouffer's Management Food Service, Inc., and the Youngstown Sheet and Tube Company have no controlling interest in one another.

All workers engaged in the preparation and serving of meals at Stouffer's Management Food Service, Inc., Youngstown, Ohio were employed by that firm. All personnel actions and payroll transactions were controlled by Stouffer's Management Food Service, Inc. All employee benefits were provided and maintained by Stouffer's Management Food Service, Inc. Workers were not, at any time, under employment or supervision by Youngstown Sheet and Tube Company. Thus, Stouffer's Management Food Service, Inc., must be considered to be the "workers' firm".

CONCLUSION

After careful review, I determine that all workers of the Youngstown, Ohio cafeteria of Stouffer's Management Food Service, Inc., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-5593 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4522]

WASHINGTON STOVE WORKS, EVERETT, WASH.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4522: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 14, 1978 in response to a worker petition received on December 11, 1978 which was filed by the International Molders and Allied Workers Union on behalf of workers and former workers producing Franklin stoves and parlor stoves at Washington Stove Works, Everett, Washington. The investigation revealed that the plant produces various types of cast iron stoves.

The Notice of Investigation was published in the FEDERAL REGISTER on December 26, 1978 (43 FR 60243). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Washington Stove Works, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of cast iron household stoves increased both absolutely and relative to domestic production in 1977 and in 1978 when compared to the previous year.

U.S. imports of castings for cast iron household stoves increased in absolute terms in 1978 when compared to the previous year.

Washington Stove Works imports iron castings for assembly at its Everett, Washington plant. These company imports increased in both quantity and value in 1977 compared to 1976. In 1978, the level of imported castings also exceeded the 1976 level.

Finished cast iron stoves are also imported by Washington Stove Works. These company imports increased, in value, in 1978 when compared to 1977. The imports of stoves increased relative to production of stoves by Washington Stove Works in 1978 when compared to 1977. Washington Stove also increased its reliance on imported finished stoves to meet their domestic demand as imported stoves took over a greater share of the company's sales from 1977 to 1978.

The increased import penetration of the domestic market as shown by the aggregate import data for both cast iron household stoves and castings for cast iron household stoves contributed to Washington Stove Works' declining sales. Washington Stove, in the face of increasing competition from imported cast iron stoves, attempted to compete by importing both finished stoves and iron castings for stoves. This effort to compete in an import impacted market in turn led to the decline in both production and employment at Washington Stove Works.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with cast iron household stoves produced at Washington Stove Works, Everett, Washington contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Washington Stove Works, Everett, Washington who became totally or partially separated from employment on or after December 30, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 14th day of February 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-5594 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4486]

WAVERLY FASHIONS, INC., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4486: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 6, 1978 in response to a worker petition received on December 4, 1978 which was filed on behalf of workers and former workers producing ladies' coats at Waverly Fashions, Incorporated, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 19, 1978 (43 FR 59165). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Waverly Fashions, Incorporated, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Aggregate imports of women's, misses', and children's coats and jackets increased absolutely and relative to domestic production in 1977 compared to 1976.

A customer of Waverly who was surveyed reduced purchases from Waverly in 1977 while increasing purchases of imports. Two other surveyed customers increased purchases of imported coats following the closure of Waverly in December 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats produced at Waverly Fashions, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Waverly Fashions, Incorporated, New York, New York who became totally or partially separated from employment on or after November 30, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5595 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-3847 and 3847A]

WHITIN-ROBERTS CO., CHARLOTTE, N.C., SANFORD, N.C.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-3847: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 14, 1978 in response to a worker petition received on June 9, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing textile machinery and parts at the Charlotte, North Carolina plant of the Whitin-Roberts Company. The investigation was expanded to include workers producing textile machinery at the Sanford, North Carolina plant of Whitin-Roberts Company.

The Notice of Investigation was published in the FEDERAL REGISTER on June 27, 1978 (43 FR 27924). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Whitin-Roberts Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With respect to workers engaged in employment related to the production of textile preparatory machinery at the Sanford, North Carolina plant, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Employment of production workers increased in 177 compared to 1976 and in the first 8 months of 1978 compared to the like period in 1977. Employment also increased in each quarter of 1977 and 1978 when compared to the same quarter of the previous year. Average weekly hours per worker increased in 1977 compared to 1976 and remained unchanged in the first eight months of 1978 compared to the like period of 1977.

There is no immediate threat of separation of workers at this plant.

With respect to workers engaged in employment related to the production of parts for textile machinery at the Charlotte, North Carolina plant, it is concluded that all of the requirements have been met.

U.S. imports of textile preparatory machinery and parts increased in value from 1976 to 1977 and in the first three quarters of 1978 compared to the same period in 1977. The ratio of imports to domestic production increased from 1976 to 1977. U.S. imports of textile preparatory machinery increased in quantity and value from 1976 to 1977 and in the first 6 months of 1978 compared to the same period in 1977. U.S. imports of textile machinery parts decreased in value in 1977 compared to 1976 and increased in the first 9 months of 1978 compared to the same period in 1977.

The Department conducted a survey of the customers of the Whitin-Roberts Company who represent a significant percent of the company's sales. The results of the survey indicated that some of the customers have decreased purchases of textile machinery and replacement parts from Whitin-Roberts and increased purchases of imported textile machinery and replacement parts from 1976 to 1977 and in the first 6 months of 1978 compared to the same period in 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the textile machinery parts produced at the Charlotte, North Carolina (Summit Avenue) plant of Whitin-Roberts Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Charlotte, North Carolina (Summit Avenue) plant of Whitin-Roberts Company who became totally or partially separated from employment on or after February 18, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers of the Sanford, North Carolina plant of Whitin-Roberts Company, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

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

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-5596 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4140]

UFI RAZOR BLADES, INC., NEW YORK CITY, N.Y.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4140: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 6, 1978 in response to a worker petition received on August 28, 1978 which was filed by the Distributive Workers of America on behalf of workers and former workers producing razor blades at UFI Razor Blades, Incorporated, New York, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on September 29, 1978 (43 FR 44935-44936). No public hearing was requested and none was held.

The determinations were based upon information obtained principally from officials of UFI Razor Blades, Incorpo-

rated, Wilkinson Sword, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

With respect to workers engaged in employment related solely to the production of carbon steel razor blades, or packaging of stainless or carbon steel razor blades, without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales and/or production.

Carbon steel razor blades produced by UFI Razor Blades are used for industrial purposes, such as scraping paint. The company does not import carbon steel blades. The Department conducted a survey of customers of UFI who purchase carbon steel blades. The survey revealed that these customers did not purchase imported carbon steel blades in 1976, 1977 or the first nine months of 1978.

UFI Razor Blades, Incorporated does not import packaged razor blades. All packaging of both domestically produced blades and imported blades is performed at domestic facilities. Packaging of all stainless steel razor blades at the UFI plant in New Jersey was transferred to Wilkinson Sword, Incorporated, of Berkley Heights, New Jersey, in May, 1978.

With respect to workers producing or assembling stainless steel razor blades, it is concluded that all of the requirements have been met.

U.S. imports of razor blades increased both absolutely and relatively from 1975 to 1976, and decreased absolutely and relatively from 1976 to 1977. Imports increased absolutely in the first nine months of 1978 compared to the first nine months of 1977.

Both UFI and its parent firm Wilkinson Sword import assembled and unassembled blades. UFI increased its imports of assembled blades in 1977 compared to 1976.

Wilkinson Sword's imports of assembled blades increased as a percentage of its total sales in fiscal year 1978 (April, 1977 to March, 1978) compared to fiscal year 1977 (April, 1976 to March, 1977). In the January-May, 1978 period, Wilkinson's imports of assembled blades increased both absolutely and relative to its total sales, when compared to the same period in 1977. Imports will account for all of Wilkinson's sales, when inventories of domestically produced blades are depleted.

UFI's imports of unassembled stainless steel razor blades increased in the first nine months of 1978 compared to the first nine months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with stainless steel razor blades produced at UFI Razor Blades, Incorporated, New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of UFI Razor Blades, Incorporated, New York, New York producing or assembling stainless steel razor blades who became totally or partially separated from employment on or after August 22, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further determine that all workers or UFI Razor Blades, Incorporated, New York, New York engaged in production related solely to the production or assembly of carbon steel razor blades or packaging of stainless or carbon steel razor blades are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of February 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-5597 Filed 2-26-79; 8:45 am]

[4510-28-M]

[TA-W-4141]

UNITED PLASTIC, INC., CHAMPAIGN, ILLINOIS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4141: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on September 6, 1978 in response to a worker petition received on September 5, 1978 which was filed on behalf of workers and former workers producing disposable polyethylene aprons and gloves at United Plastic, Inc., Champaign, Illinois.

The Notice of Investigation was published in the FEDERAL REGISTER on September 29, 1978 (43 FR 44935-6). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of United Plastic, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of rubber or plastic apparel, which includes disposable aprons, increased from 75,004,000 in the first three quarters of 1977 to 86,404,000 in the same period of 1978.

U.S. imports of disposable gloves increased from 42,725,000 in 1976 to 83,621,000 in 1977 and increased from 57,025,000 in the first three quarters of 1977 to 70,249,000 in the same period of 1978.

The Department conducted a survey of customers of United Plastics. The survey revealed that some customers decreased purchases from United Plastics and increased purchases of imported disposable polyethylene aprons and gloves.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with disposable polyethylene (plastic) aprons and gloves produced at United Plastic, Inc., Champaign, Illinois contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of United Plastic, Inc., Champaign, Illinois who became totally or partially separated from employment on or after August 30, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of February 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-5598 Filed 2-26-79; 8:45 am]

[4510-26-M]

Occupational Safety and Health Administration

[V-78-7]

UNITED STATES STEEL CORP.

Withdrawal of Variance Application; Cancellation of Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of intention to withdraw variance application; cancellation of hearing.

SUMMARY: On November 21, 1978, a notice was published in the FEDERAL REGISTER (43 FR 54306) announcing a hearing on the application for variance submitted by U.S. Steel Corporation. The Variance was requested form 29 CFR 1910. 1029(g)(2)(ii) concerning respirator selection for coke oven emissions.

On February 2, 1979 a notice was published in the FEDERAL REGISTER (44 FR 6795) changing the dates of the hearing.

On January 26, 1979, the Agency sent a letter of clarification to the Applicant explaining OSHA enforcement policies concerning the regulation. Copies of this letter are available upon request.

In a letter dated February 9, 1979 addressed to the Administrative Law Judge by Counsel for the United States Steel Corporation, there was enclosed a Notice of Intention to Withdraw the Application for Variance and a withdrawal of the request for a hearing. On February 22, 1979, the Administrative Law Judge remanded the matter to the Occupational Safety and Health Administration for appropriate disposition of the withdrawal request.

In light of the above, the hearing previously scheduled for March 6, 1979 is hereby cancelled.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Room N-3668, Washington, D.C. 20210. Telephone: (202) 523-7121.

Signed at Washington, D.C., this 26th day of February, 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-5970 Filed 2-26-79; 8:45 am]

[6450-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

ALLOCATION OF SYNTHETIC NATURAL GAS FEEDSTOCKS TO COLUMBIA LNG CORP.

Public Hearing

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) will hold a Public Hearing on the Columbia LNG Corporation (Columbia) application for permanent assignment of supplier and base period use of synthetic natural gas (SNG) feedstock.

DATES: Public hearing will be held on March 14, 1979, beginning at 9:30 a.m. and will be continued, if necessary, at the same time on March 15 and 16, 1979.

ERA has requested comments pertaining to the hearing to be submitted by March 21, 1979. Questions to be submitted by March 6, 1979. Responses to questions to be provided on March 14, 1979 at the hearing location. Requests to speak by March 8, 1979.

FURTHER INFORMATION CONTACT:

Richard Johnson, Economic Regulatory Administration, Office of Fuels Regulation, Room 6318, 2000 M St., N.W., Washington, D.C. 20461, telephone 202-254-3330.

Joel Yudson, Office of General Counsel, 1000 Independence Avenue S.W., Rm. 6A127, Forrestal Building, Washington, D.C. 20461, telephone 202-252-6744.

ADDRESSES: Send written comments (15 copies) to Department of Energy, Public Hearings Management, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, Box Number WZ.

Hearing location will be in Room 2105, 2000 M Street, NW., Washington, D.C. 20461.

Questions for participants (see Conduct of Hearing Section) to be sent (15 copies) to the Department of Energy, Public Hearings Management, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, Box Number WZ. Questions for a particular participant (one copy) should also be submitted directly to the participant at the address set forth in ERA's Service Requirements list that was sent to each participant and which is available from Richard Johnson, Office of Fuels Regulation, ERA.

SUPPLEMENTARY INFORMATION: On November 24, 1975, the Federal Energy Administration (FEA) (a predecessor agency of DOE) issued a decision and order assigning Columbia a base period use of 6,125,000 barrels of propane, butane, or natural gasoline per quarter, designating Dome Petroleum, Ltd., as a supplier for 3,500,000 barrels, and permitting Columbia to obtain the remainder of the feedstock from imported non-Canadian sources, to draw from its inventory or, if approved by FEA, from surplus domestic product. This assignment was effective through December 31, 1976. On June 9, 1976, Columbia submitted a supplemental petition requesting a permanent base period assignment at the same level of 6,125,000 barrels of propane, butane or natural gasoline for each quarter corresponding to a base preiod. At that time, FEA initiated a review to determine whether various allocation levels, if granted, would significantly affect the quality of the human environment. Pending completion of ERA's environmental review, Columbia was given feedstock allocations through September 30, 1978.

On September 30, 1978, ERA issued a decision and order to Columbia permitting operation of the Green Springs plant at 100 percent of historical levels for a period of six months. This order assigned Dome Petroleum, Ltd. as Columbia's base period supplier for 4,500,000 barrels of propane, butane or natural gasoline per quarter.

As set forth in the September 30 order, ERA is currently evaluating the supply/requirements situation of each natural gas distribution company which purchases SNG from Columbia and is convening a non-evidentiary public hearing. In this connection, ERA has requested data from each of Columbia's 59 SNG customers regarding projected supplies of natural gas and updated customer requirements, as opposed to contractural commitments, through 1982. Complete information has been received from 38 customers and served on the interested parties on Columbia's service list. All data received from Columbia's SNG customers will be available for inspection at the Freedom of Information Office prior to the public hearing.

A file containing all pertinent information and data filed to date in conjunction with Columbia's petition, other than confidential information which ERA has determined to be exempt from the disclosure requirements of 5 U.S.C. 522, is available for public inspection and copying at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

MANDATORY ATTENDANCE

ERA has directed representatives of the following 14 firms, which in the aggregate purchase more than 96 percent of Columbia's SNG, to be present at the hearing to answer any questions that may be asked by ERA of that company:

Columbia Gas of Kentucky, Inc.
Columbia Gas of Maryland, Inc.
Columbia Gas of New York, Inc.
Columbia Gas of Ohio, Inc.
Columbia Gas of Pennsylvania, Inc.
Columbia Gas of West Virginia, Inc.
Baltimore Gas and Electric Co.
Washington Gas Light Co.
Cincinnati Gas and Electric Co.
Union Light, Heat and Power Co.
Dayton Power and Light Co.
West Ohio Gas Co.
UGI Corporation
Orange and Rockland Corp.

In the event such representatives should desire to make oral presentations, the procedures set forth in this notice should be followed.

PROCEDURE FOR REQUEST TO MAKE ORAL PRESENTATION.

Interested persons who would like to present an oral statement at this hearing should contact Public Hearings Management office in writing or by telephone request no later than March 8, 1979, (202-254-5201). Written requests should provide a telephone number where we may contact you through the day before the hearing.

Participants should submit 100 copies of their oral testimony and each exhibit to be presented at the hearing by 4:30 p.m. on March 13, 1979. ERA will notify each person selected to be heard before 4:30 p.m. on March 12, 1979.

CONDUCT OF THE HEARING

ERA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited based on the number of persons requesting to be heard. Cross-examination of the participants by other participants will not be permitted.

An ERA official will be designated to preside at the hearing. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statments will be given in the order in which the initial statments were made and will be subject to time limitations.

Interested parties may submit questions to be asked of any person participating in this proceeding to the address indicated in the Addresses section of this notice before 4:30 p.m. on March 7, 1979. One copy of the questions shall also be servied on and be received by the person to whom the questions are directed not later than 4:30 p.m. March 7, 1979. Certification of such service shall accompany the copies of the questions submitted to ERA. Respondents to the questions have been directed to bring 50 copies of their responses to the hearing location on the day of the hearing.

If you wish to have a question asked at the hearing, you may submit the question in writing to the presiding officer. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether the time limiations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of a hearings will be announced by the presiding officer.

Transcripts of the hearing will be made and the entire record of the hearing will be retained by the ERA and made available for inspection.

Issued in Washington, D.C. February 26, 1979.

DORIS J. DEWTON,
Deputy Assistant Administrator, Office of Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-5972 Filed 2-26-79; 8:45 am]

[6450-01]

FUEL OIL MARKETING ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the Fuel Oil Marketing Advisory Committee will hold meetings in accordance with the schedule set forth below.

In response to congressional, industry, and public interest in the impact of escalating fuel oil prices on individuals with low-incomes, DOE is taking steps to determine what can be done to assist low-income individuals in coping with the price increases which are occurring during this heating season. DOE plans to brief the White House regarding its findings before the end of the heating season. In this regard DOE has determined that it should seek the advice and recommendations of the Fuel Oil Marketing Advisory Committee. Due to the immediacy of the difficulties facing low-income individuals and the need for prompt action less that the normal 15-day notice is being given for the first meeting.

Meetings will be held as follows:

Monday, March 5, 1979, 8:00 a.m., Room 2105, 2000 M Street, NW., Washington, D.C.

Agenda: There will be a review of a proposal that would provide assistance to low-income people experiencing difficulty paying energy bills.

- An Assessment of the Need for the Program
- A Review of the Program Design
- A Review of Proposed Legislative Action
- A Review of Plans for a Subsequent Meeting Which will serve as a Forum for comments on the Proposed Program.

Thursday, March 29, 1979, the Assembly Room, Sheraton-Park Hotel, 2660 Woodley Road, NW., Washington, D.C., 9:00 a.m.

Agenda: The meeting will serve as a forum for public comments on the committee's proposal to provide assistance to low-income people experiencing difficulty paying their energy bills.

The meetings are open to the public. the chairman of the committee is empowered to conduct the meetings in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the committee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements pertaining to the agenda should inform Georgia Hildreth, Director, Advisory Committee Management Office, (202) 252-5187, at least 5 days prior to the meetings and reasonable provision will be made to include their presentation on the agenda.

Minutes of the meetings will be available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. An Executive Summary of the meetings may be obtained by calling the Advisory Committee Management Office at the number above.

Issued at Washington, D.C. on February 23, 1979.

GEORGIA HILDRETH,
Director, Advisory Committee Management.

[FR Doc. 79-5973 Filed 2-26-79; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., February 27, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Delegation of Commission authority under the new Minimum Financial Requirements; 2. Gold and Silver Leverage Transactions.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-376-79 Filed 2-23-79; 10:23 am]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., February 27, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C. 5th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement and Registration Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-377-79 Filed 2-23-79; 10:23 am]

[6351-01-M]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., March 2, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-378-79 Filed 2-23-79; 10:10 am]

[6712-01-M]

4

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, February, 21, 1979 (CANCELLED).

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Closed Commission Meeting, Wednesday, February 21, 1979 CANCELLED and Rescheduled for Thursday, February 22, 1979 at 2 p.m.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

Complaints & Compliance—1—Field investigation into the operation of Radio Stations WDAS and WDAS-FM, Philadelphia, Pennsylvania, licensed to Max M. Leon, Inc.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone number (202) 632-7260.

Issued: February 22, 1979.

[S-373-79 Filed 2-23-79; 9:06 am]

[6712-01-M]

5

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, February 21, 1979 (CANCELLED)

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Special Open Commission Meeting, Wednesday, February 21, 1979, CANCELLED and Rescheduled for Thursday, February 22, 1979 at 2:00 p.m.

MATTERS TO BE CONSIDERED:

Agenday, Item No., and Subject

Common Carrier—1—Translantic Communications Facilities Construction and Use Plan submitted by the U.S. International Service Carriers on December 15, 1978 in Docket No. 18875.

Common Carrier—2—Implementation of requirements of the International Maritime Satellite Telecommunications Act, termination of Docket No. 20281.

Additional information concerning this meeting may be obtained from the FCC Public Information Office, telephone number (202) 632-7260.

Issued: February 22, 1979.

[S-374-79 Filed 2-23-79; 9:06 am]

[6735-01-M]

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FEBRUARY 22, 1979.

TIME AND DATE: 10 a.m., February 23, 1979.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: This meeting may be closed.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following additional agenda items:

Jim Walter Resources Inc., v. Secretary of Labor, Mine Safety and Health Administration, BARB 78-638 (Petition for Discretionary Review)

Secretary of Labor v. Youghiogheny and Ohio Coal Co. VINC 78-463 (Petition for Discretionary Review)

It was determined by unanimous vote of the Commissioners that Commission busi-

ness required that these items be added to the February 23 agenda and that no earlier announcement was possible.

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

[S-385-79 Filed 2-23-79; 2:49 pm]

[6735-01-M]

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

FEBRUARY 23, 1979.

TIME AND DATE: 10 a.m., February 23, 1979.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Closed (pursuant to 5 U.S.C. 552b(c)(10)).

MATTER CONSIDERED: Part of this meeting involved the Commission's participation in an adjudicatory proceeding, namely, *Secretary of Labor* v. *Kaiser Steel Corporation* DENV 77-13-P. 29 CFR 2701.2 (43 FR 53470);

VOTE: Voting to close that part of the meeting: Commissioners Waldie (Chairman), Jestrab, Lawson, Nease and Backley. It was determined by their vote that Commission business required that this meeting be closed.

ATTENDANCE: Present at that closed part of the meeting were: commissioners Waldie (Chairman), Jestrab, Lawson, Nease, and Backley; Al Treherne; Robert Phares; James Lastowka; Arthur Sapper, Daniel Delacey; Phil Paschall, Penny Stetina, Carolyn Crittendon, Cris Gilbert and Joanne Kelley.

CONTACT FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

[S-386-79 Filed 2-23-79; 2:49 pm]

[6210-01-M]

8

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, March 2, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Rederal Reserve System employees; 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: February 22, 1979.

THEODORE E. ALLISON,
Secretary of the Board.

[S-379-79 Filed 2-23-79; 10:35 am]

[7035-01-M]

9

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, February 27, 1979.

PLACE: Hearing Room "C", Interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open Special Conference.

MATTER TO BE CONSIDERED: Railroad Policy Discussion.

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, Telephone: 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-375-79 Filed 2-23-79; 9:38 am]

[4910-58-M]

10

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Monday, February 26, 1979 [NM-79-7]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: Open.

MATTER CONSIDERED: A majority of the Board has determined by recorded vote that the business of the Board required that the following item be discussed on this date and that no earlier announcement was possible. *Marine Accident Report*—Collision of Argentina Freighter M/V SANTA CRUZ II and U.S. Coast Guard Cutter CUYAHOGA in the Chesapeake Bay at the Mouth of the Potomac River, Maryland, October 20, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-369-79 Filed 2-23-79; 9:06 am]

[4910-58-M]

11

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 2 p.m., Wednesday, February 28, 1978 [NM-79-8]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Ave., S.W., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A majority of the Board has determined by recorded vote that the business of the Board required that the following items be discussed on this date and that no earlier announcement was possible.

Briefing by the Federal Highway Administration on its Safety Programs.

Briefing by Staff on the current status of FAA's RENOT issued on June 26, 1978, regarding air traffic control procedures.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-370-79 Filed 2-23-79; 9:06 am]

[7590-01-M]

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: February 20, 1979.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open (CHANGES)

TUESDAY, FEBRUARY 20, 10 A.M.

1. *Continuation of Briefing on Draft Report; "Regulation of Federal Radioactive Waste Activities.* (Approximately 2 hours—Public Meeting.)

NOTE.—This meeting was previously scheduled for 10 a.m., February 21.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: February 16, 1979.

ROGER M. TWEED,
Office of the Secretary.

[S-371-79 Filed 2-23-79; 9:06 am]

[7590-01-M]

13

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, February 28 & Thursday, March 1, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

WEDNESDAY, FEBRUARY 28, 2 P.M.

1. Discussion of Personnel Matter (Approximately 1½ hours—Postponed from February 22, 1979) (Closed—Exemption 6).

THURSDAY, MARCH 1, 3 P.M.

1. Discussion of Legislative Proposals (Approximately 1½ hours—Public Meeting).
2. Affirmation Session (Approximately 10 minutes—Public Meeting). Order in ALAB-502 (Rochester G&E) (Tentative).

ADDITIONAL INFORMATION: The Briefing on Regulation of Federal Radioactive Waste Activities was rescheduled from February 20, 1979 to 3:30 p.m., February 22, 1979.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

FEBRUARY 22, 1979.

[S-372-79 Filed 2-23-79; 9:06 am]

[7600-01-M]

14

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: March 2, 1979, at 9:30 a.m.

PLACE: Room 1101, 1825 K Street, N.W., 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 PERSONS FOR MORE INFORMATION:

Mrs. Patricia Bausell, 202-634-4015.

Dated: February 23, 1979.

[S-381-79 Filed 2-23-79; 2:19 pm]

[7600-01-M]

15

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m. on March 6, 1979.

PLACE: Duquesne University Law School, Moot Courtroom, 7th Floor, Rockwell Hall, 600 Forbes Avenue, Pittsburgh, Pennsylvania.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED: The Commissioners will hear and consider oral argument from the parties in the matter of *Secretary of Labor* v. *University of Pittsburgh*, OSHRC Docket No. 77-1290.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Patricia Bausell, 202-634-4015.

Dated: February 23, 1979.

[S-382-79 Filed 2-23-79; 2:19 pm]

[7600-01-M]

16

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on March 8, 1979.

PLACE: Room 1101, 1825 K Street, N.W., 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:

Mrs. Patricia Bausell, 202-634-4015.

Dated: February 23, 1979.

[S-383-79 Filed 2-23-79; 2:19 pm]

[7600-01-M]

17

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on March 15, 1979.

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:

Mrs. Patricia Bausell, 202-634-4015.

Dated: February 23, 1979.

[S-384-79 Filed 2-23-79; 2:19 pm]

[8010-01-M]

18

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of February 26, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, February 28, 1979, at 10:00 a.m. An open meeting will be held on Thursday, March 1, 1979, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans and Pollack determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Wednesday, February 28, 1979, will be:

Access to investigate files by Federal, State, or Self-Regulatory Authorities.

Litigation matters.

Access to investigative files by Federal, State or Self-Regulatory Authorities and other litigation matter.

Formal order of investigation and access to investigative files by Federal, State or Self-Regulatory Authorities.

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Authorization to discuss settlement of possible enforcement action.

Freedom of Information Act appeals.

Institution and settlement of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, March 1, 1979, will be:

1. Consideration of a request by Mr. Louis A. Brusati that the Commission review the Division of Corporation Finance's determination concerning certain shareholder proposals submitted by Mr. Brusati to the General Electric Company. For further information, please contact William E. Morley at (202) 755-1240.
2. Consideration of an application by Morton Kantrowitz for relief pursuant to Rule 252(f) of Regulation A under the Securities Act of 1933. For further information, please contact Ruth A. Appleton at (202) 755-1290.
3. Consideration of a release which would amend Rules 144 and 148 under the Securities Act of 1933 and rescind in its entirety Rule 155 under the Act. The proposed amendments to Rules 144 and 148 would

permit persons who have held certain securities covered by the rules for a specified period of time to sell such securities without any amount limitation, provided such persons are not affiliates of the issuer of the securities. The proposed rescisssion of Rule 155 would enable certain persons who hold convertible securities to resell them without the restrictions formerly imposed by the rule. For further information, please contact Peter J. Romeo at (202) 755-1240.

4. Consideration of a request for a waiver of certain provisions of the Commission's Conduct Regulation (relating to outside practice) in connection with the temporary employment of Richard L. Teberg, Esquire, on matters relating to the Special Study of the Options Market. For further information, please contact Irving Placard at (202) 755-1238.

5. Consideration of a notice of the filing of an application by McDermott, Will and Emery ("Firm"), an Illinois law firm organized as a partnership, requesting that the Commission exercise its authority under Section 3(a)(2) of the Securities Act of 1933 ("Act") to exempt interests in the Firm's profit-sharing plan from the registration requirements of Section 5 of the Act. For further information, please contact Mary A. Cole at (202) 755-0233.

6. Consideration of an application by Templeton Growth Fund, Ltd., an investment company incorporated in Canada which is registered under the Investment Company Act of 1940, to permit an increase in Canadian citizens on its board of directors so that Canadians will constitute a majority as required by Canadian law and to permit maintenance of the Company's Japanese securities in the custody of a United States bank in Japan. For further information, please contact H. R. Hallock, Jr. at (202) 755-1648.

7. Consideration of a New York Stock Exchange rule proposal establishing standards for reallocation of specialists books. For further information, please contact Theodore W. Urban (202) 755-1378.

FOR FURTHER INFORMATION, CONTACT:

Beverly Rubman at, 202-755-1103.

FEBRUARY 22, 1979.

[S-368-79 Filed 2-23-79; 9:06 am]

[8240-01-M]

19

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: February 28, 1979, 6:00 p.m.

PLACE: Board Room, Room 2-500, Fifth Floor 955 L'Enfant Plaza North, S.W., Washington, DC. 20595.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS:

Portion closed to the public (6 p.m.)

1. Review of Conrail proprietary and financial information for monitoring and investment purposes.

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow, 202-426-4250.

[S-380-79 Filed 2-23-79; 11:38 am]

federal register

TUESDAY, FEBRUARY 27, 1979

PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES * 1934 *

FEDERAL TRADE COMMISSION

■

INDUSTRY GUIDES

Recodification of Eight Parts and Removal of Obsolete Sections in Those Parts

[6750-01-M]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER B—GUIDES

RECODIFICATION OF EIGHT PARTS AND REMOVAL OF OBSOLETE SECTIONS IN THOSE PARTS

AGENCY: Federal Trade Commission.

ACTION: All remaining industry trade practice rules in Subchapter B have been reclassified as guides and recodified. Sections containing obsolete rules have been eliminated.

SUMMARY: On September 28, 1978, (43 FR 44483) the Commission published in the FEDERAL REGISTER a notice in which it rescinded 34 obsolete parts of title 16, each of which contained a set of industry trade practice rules. Seven parts containing industry rules were then left in effect. Six of those seven parts are herein revised and recodified under new part numbers and one is revised under the same part number. The rules in those parts are now reclassified as guides. Obsolete sections have been removed and eliminated. Part 17—Application of Guides in Preventing Unlawful Practices—is revised with the obsolete paragraphs removed.

EFFECTIVE DATE: February 27, 1979.

FOR FURTHER INFORMATION CONTACT:

Henry B. Cabell, Chief Presiding Officer, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-724-1045.

SUPPLEMENTARY INFORMATION: The Commission has completed its review of trade practice rules to eliminate the obsolete and keep only those provisions considered useful in obtaining compliance with laws it administers.

This document deals with the Commission's final action regarding the remaining seven parts in Subchapter B that contained sets of trade practice rules, and one part formerly entitled "Applications and Definitions."

In a notice on June 21, 1977 (42 FR 31457), the Commission invited comments concerning proposed rescissions or revisions of the then remaining 41 listed sets of trade practice rules. Comments were received and carefully considered and placed on the public record.

In a notice on September 28, 1978 (43 FR 44483), the Commission rescinded 34 of the 41 parts of Subchapter B containing sets of trade practice rules. Only seven parts then remained containing such rules.

The Commission herein below recodifies the seven remaining sets of rules, six of which are assigned new part numbers and one retains the same number. In addition, Part 17—Application of Guides in Preventing Unlawful Practices (formerly, Application and Definitions), is revised to that of guides and obsolete paragraphs have been eliminated.

All references to Group I and Group II rules have been removed as such references are no longer useful. Stereotype sections (commercial bribery, sales below cost, prohibited discrimination) are removed because acts and practices covered are not limited to particular industries.

References in the text to rules, or trade practice rules, have been changed to guides. With the elimination of such references the title of Subchapter B is changed to Guides (formerly, Guides and Trade Practice Rules).

A detailed explanation of the action the Commission takes with respect to each of the eight parts affected is as follows:

Part 17—Application and Definitions. The title of this part is changed to Application of Guides in Preventing Unlawful Practices. Only Paragraph (a) of § 17.1 is retained and in the same language. The remainder of the part has been eliminated. The paragraph designation (a) is eliminated as the part now contains only the one paragraph.

Part 23—Jewelry Industry. The title of this part is changed to Guides for the Jewelry Industry, and the part number is retained. 22 of its 40 sections have been retained and renumbered as necessary to maintain the same chronological order. Also the Appendix has been retained, with the sections referred to renumbered to agree with above.

Part 34—Nursery Industry. The title is changed to Guides for the Nursery Industry, and the part number is changed to Part 18. Sections 34.0 to 34.5, 34.8, 34.9 and 34.13 have been recodified in the same sequence under Part 18. The note under § 34.2 and the note under § 34.4 have been revised and now appear under §§ 18.2 and 18.4.

Part 60—Metallic Watch Band Industry. This title is changed to Guides for the Metallic Watch Band Industry and the part number is changed to Part 19. Sections 60.0 to 60.4 have been recodified in the same sequence under Part 19. Sections 60.5 to 60.12 have been eliminated.

Part 62—Rebuilt, Reconditioned and other Used Automotive Parts Industry. The title is changed to Guides for the Rebuilt, Reconditioned and other Used Automotive Parts Industry, and the part number is changed to Part 20.

Part 118—Mirror Industry. The title is changed to Guides for the Mirror Industry, and the part number is changed to Part 21. Sections 118.0 to 118.2 have been recodified in the same sequence under Part 21. Sections 118.3 to 118.17 have been eliminated.

Part 152—Hosiery Industry. The title is changed to Guides for the Hosiery Industry, and the part number is changed to Part 22. Sections 152.0 to 152.5 have been recodified in the same sequence under Part 22. Section 152.9 has been recodified under § 22.6. Sections 152.6 to 152.8, 152.10 to 152.15 and 152.101 have been eliminated.

Part 154—Luggage and Related Products Industry. The title is changed to Guides for the Luggage and Related Products Industry, and the part number is changed to Part 24. Sections 154.0 to 154.5 are recodified in the same sequence under Part 24. Sections 154.6 to 154.27 have been eliminated.

Accordingly, the Commission hereby amends Title 16, Chapter I of the Code of Federal Regulations by removing in full the following six parts:

Part 34—Nursery Industry.
Part 60—Metallic Watch Band Industry.
Part 62—Rebuilt, Reconditioned and other Used Automotive Parts Industry.
Part 118—Mirror Industry.
Part 152—Hosiery Industry.
Part 154—Luggage and Related Products Industry.

The Commission further amends Title 16, Chapter I of the Code of Federal Regulations by adding the following six parts:

Part 18—Guides for the Nursery Industry.
Part 19—Guides for the Metallic Watch Band Industry.
Part 20—Guides for the Rebuilt, Reconditioned and other Used Automotive Parts Industry.
Part 21—Guides for the Mirror Industry.
Part 22—Guides for the Hosiery Industry.
Part 24—Guides for the Luggage and Related Products Industry.

The Commission further amends Title 16, Chapter I of the Code of Federal Regulations by amending the following two parts:

Part 17—Application of Guides in Preventing Unlawful Practices.
Part 23—Guides for the Jewelry Industry.

The full text of the added six parts and the amended two parts follow:

PART 17—APPLICATION OF GUIDES IN PREVENTING UNLAWFUL PRACTICES

NOTE.—Industry guides are administrative interpretations of laws administered by the Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. They provide the basis for voluntary and simultaneous abandon-

ment of unlawful practices by members of industry. Failure to comply with the guides may result in corrective action by the commission under applicable statutory provisions. Guides may relate to a practice common to many industries or to specific practices of a particular industry.

(Sec. 6(g), 38 Stat. 722; (15 U.S.C. 46(g)).)

PART 18—GUIDES FOR THE NURSERY INDUSTRY

Sec.
18.0 Definitions.
18.1 Deception (general).
18.2 Deception through use of names.
18.3 Substitution of products.
18.4 Size and grade designations.
18.5 Deception as to blooming, fruiting, or growing ability.
18.6 Plants collected from the wild state.
18.7 Misrepresentation as to character of business.
18.8 Deception as to origin or source of industry products.

AUTHORITY: Secs. 6, 5, 38 Stat. 721, 719; 15 U.S.C. 46, 45.

§ 18.0 Definitions.

Industry products. As used in this part, the term "industry products" includes all types of trees, small fruit plants, shrubs, vines, ornamentals, herbaceous annuals, biennials and perennials, bulbs, corms, rhizomes, and tubers which are offered for sale or sold to the general public. Included are products propagated sexually or asexually and whether grown in a commercial nursery or collected from the wild state. Such products are customarily used for outdoor planting. Not included are florists' or greenhouse plants solely for inside culture or use and annual vegetable plants.

Industry members. Any person, firm, corporation, or organization engaged in the sale, offering for sale, or distribution in commerce of industry products, as defined above.

Lining-out stock. Includes all plant material coming from propagating houses, beds, or frames, and young material such as seedlings rooted or unrooted cuttings, grafts or layers, of suitable size to transplant either in the nursery row or in containers for "growing on."

Nursery-grown stock. Plants propagated and grown under cultivation, or plants transplanted from the wild and grown under cultivation for at least one full growing season.

§ 18.1 Deception (general).

(a) It is an unfair trade practice to sell, offer for sale, or distribute industry products by any method, or under any circumstance or condition, which has the capacity and tendency or effect of deceiving pruchasers or prospective purchasers as to quantity, size, grade, kind, species, age, maturity, condition, vigor, hardiness, number of times transplanted, growth ability, growth characteristics, rate of growth or time required before flowering or fruiting, price, origin or place where grown, or in any other material respect.

(b) The inhibitions of this section shall apply to every type of advertisement or method of representation, whether in newspaper, periodical, sales catalog, circular, by tag, label or insignia, by radio or television, by sales representatives, or otherwise.

(c) Among practices inhibited by the foregoing are direct or indirect representations:

(1) That plants have been propagated by grafting or bud selection methods, when such is not the fact.

(2) That industry products are healthy, will grow anywhere without the use of fertilizer, or will survive and produce without special care, when such is not the fact.

(3) That plants will bloom the year round, or will bear an extraordinary number of blooms of unusual size or quality, when such is not the fact.

(4) That an industry product is a new variety, when in fact it is a standard variety to which the industry member has given a new name.

(5) That an industry product cannot be purchased through usual retail outlets, or that there are limited stocks available, when such is not the fact.

(6) That industry products offered for sale will be delivered in time for the next (or any specified) seasonal planting when the industry member is aware of factors which make such delivery improbable.

(7) That the appearance of an industry product as to size, color, contour, foliage, bloom, fruit or other physical characteristic is normal or usual when the appearance so represented is in fact abnormal or unusual.

(8) That the root system of any plant is larger in depth or diameter than that which actually exists, whether accomplished by excessive packaging material, or excessive balling, or other deceptive or misleading practice.

(9) That bublets are bulbs.

(10) That an industry product is a rare or unusual item when such is not the fact. [Guide 1]

§ 18.2 Deception through use of names.

(a) In the sale, offering for sale, or distribution of an industry product, it is an unfair trade practice for any industry member to use a name for such product which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to its true identity.

(b) Subject to the foregoing:

(1) When an industry product has a generally recognized and well-established common name, it is proper to use such name as a designation therefor, either alone or in conjunction with the correct botanical name of the product.

(2) When an industry product has a generally recognized and well-established common name, it is an unfair trade practice for an industry member to adopt and use a new name for the product unless such new name is immediately accompanied by the generally recognized and well-established common name, or by the correct botanical name, or by a description of the nature and properties of the product which is of sufficient detail to prevent confusion and deception of purchasers or prospective purchasers as to the true identity of the product.

(3) When an industry product does not have a generally recognized and well-established common name, and a name other than the correct botanical name of the product is applied thereto, such other name shall be immediately accompanied by either the correct botanical name of the product, or a description of the nature and properties of the product which is of sufficient detail as to prevent confusion and deception of purchasers and prospective purchasers as to the true identity of the product.

NOTE.—*Industry recommendation.* The industry recommends that in administering the guide in this section the Commission give consideration to the use of plant names listed in such works as Checklist of Woody Ornamenatal Plants of California, 1977, University of California; Hillier's Manual of Trees and Shrubs, 1971, Hillier & Sons; Manual of Cultivated Conifers, 1965, P. Den Ouden & B. K. Boom; Hortus III, 1976, L. H. Bailey Hortorium; Naming and Registering New Cultivars, 1974, American Association of Nurserymen, Inc.; and to plant name lists periodically published by the plant societies and the horticultural organizations selected as international and national cultivar registration authorities as enumerated in Appendix of Naming and Registering New Cultivars. [Guide 2]

§ 18.3 Substitution of products.

With respect to industry products offered for sale by an industry member, it is an unfair trade practice for any member of the industry:

(a) To ship or deliver industry products which do not conform to representations made prior to securing the order or to specifications upon which the sale is consummated, without advising the purchaser of the substitution and obtaining his consent thereto prior to making shipment or delivery, where such practice has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers; or

(b) To falsely represent the reason for making a substitution: *Provided, however,* That nothing in this section is intended to inhibit the shipment of products different from those ordered,

prior to obtaining the purchaser's consent to such substitution, when the order is received by the industry member near the close of the planting season for the products ordered and the substitution involved relates but to a product or products the total price of which is comparatively small, and when:

(1) At the commencement of the planting season for the products ordered the industry member had a supply of such products sufficient to meet normal and reasonably expected orders therefor, and such supply has been exhausted; and

(2) The products substituted are of similar variety and of equal or greater value to those ordered by the purchaser and no additional charge is made therefor; and

(3) Notice of the substitution, with adequate identification of the substituted item or items, and with commitment of the industry member to refund any purchase price received for the substituted products if such products are not acceptable to the purchaser and to compensate the purchaser for any expense involved in the return of the substituted products if refund is conditioned on the return thereof, is given the purchaser at the time of his receipt of such products: *And provided further,* That nothing in this section is to be construed as sanctioning the dissemination of an advertisement of an industry product or products or the personal solicitation of orders therefor unless at the time of such dissemination or solicitation the industry member has a supply of such product or products sufficient to meet normal and reasonably expected orders therefor. [Guide 3]

§ 18.4 Size and grade designations.

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for an industry member to use any term, designation, number, letter, mark or symbol, as a size or grade designation for any industry product in a manner or under any circumstance having the capacity and tendency or effect of deceiving purchasers or prospective purchasers with respect to the actual size or grade of such products.

(b) Under this section industry members offering lining-out stock for sale shall specify conspicuously and accurately the size and age of such stock when failure to do so has the capacity and tendency or effect of deceiving purchasers or prospective purchasers.

(c) Nothing in this section is to be construed as inhibiting the designation of the size or grade of an industry product by use of a size or grade designation for which a standard has been established which is generally recognized in the industry when the identity of such standard is conjunctively disclosed, the product qualifies for the designation under such standard, and no deception of purchasers or prospective purchasers results in the use of such designation.

NOTE.—It is the consensus of the industry that the grade and size standard set forth in the current edition of American Standard for Nursery Stock, ANSI Z60.1, as approved by the American National Standard Institute, Inc., is generally recognized in the industry, and that use of the size and grade designation therein set forth, in accordance with the requirements of the standard for the designations, in the marketing of industry products to which such standard relates, will prevent deception and confusion of purchasers and prospective purchasers of such products. [Guide 4]

§ 18.5 Deception as to blooming, fruiting, or growing ability.

In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for any industry member to deceive purchasers or prospective purchasers as to the ability of such products:

(a) To bloom, flower, or fruit within a specified period of time; or

(b) To produce crops within a specified period of time, or to give multiple crops each year, or to produce crops in unfavorable climatic regions; or

(c) To bear fruit through self-pollinization; or

(d) To grow, flourish, and survive irrespective of the climatic conditions, the care exercised in or after planting, or the soil characteristics of the locality in which they are to be planted.

NOTE 1.—Under this section, when flower bulbs are of such immaturity as not reasonably to be expected to bloom and flower the first season of their planting, such fact shall be clearly and conspicuously disclosed in all advertisements and sales promotional literature relating to such products: *Provided, however,* That such disclosure need not be made when sales are confined to nurseries and commercial growers for their use as planting stock.

NOTE 2.—Under this section, in order to avoid deception of purchasers and prospective purchasers thereof, when rose bushes have been used in a greenhouse for the commercial production of cut flowers, they shall be tagged or labeled so as to clearly, adequately and conspicuously disclose such fact, and such tags and labels shall be so attached thereto as to remain thereon until consummation of consumer sale. A similar disclosure shall be made in all advertising and sales promotional literature relating to such products. And when, by reason of such previous greenhouse use or their condition at the time of removal therefrom or their handling during or subsequent thereto, there is probability that such rose bushes will not satisfactorily thrive and produce flowers when replanted outdoors, or will satisfactorily thrive and produce flowers outdoors only if given special treatment and attention during and after their replanting, such fact shall also be clearly, conspicuously, and nondeceptively disclosed in close conjunction with, and in the same manner as, the aforesaid required disclosure that such products have been used in a greenhouse for the commercial production of cut flowers. [Guide 5]

§ 18.6 Plants collected from the wild state.

It is an unfair trade practice to sell, offer for sale, or distribute industry products collected from the wild state without disclosing that they were collected from the wild state: *Provided, however,* That if collected plants are grown in the nursery row for at least one growing season before being marketed, such disclosure is not required. [Guide 6]

§ 18.7 Misrepresentation as to character of business.

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for any industry member to represent or imply that he is a grower or propagator of such products or any portion thereof, or that he has any other experience or qualification either relating to the growing or propagation of such products or which enables him to be of assistance to purchasers or prospective purchasers in the selection by them of the kinds or types of products or the placement thereof when such is not the fact, or in any other manner to misrepresent the character, nature, or extent of his business.

NOTE.—Among practices subject to the inhibitions of this section are representations by an industry member to the effect that he is a landscape architect when his training, experience, and knowledge do not qualify him for such representation.

(b) It is also an unfair trade practice for an industry member to use the word "guild," "club," "association," "council," "society," "foundation," or any other word of similar import or meaning, as part of a trade name, or otherwise, in such a manner or under such circumstances as to indicate or imply that his business is other than a commercial enterprise operated for profit, unless such be true in fact, or so as to deceive purchasers or prospective purchasers in any other material respect. [Guide 7]

§ 18.8 Deception as to origin or source of industry products.

(a) It is an unfair trade practice to sell, offer for sale, or advertise an industry product under any representation which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the origin or source of such product (e.g., by use of the term "Holland" to describe bulbs which were grown in the U.S.A.): *Provided, however,* That when a plant has an accepted common name which incorporates a geographical term and such term has lost its geographical significance as so used, the

mere use of such common names does not constitute a misrepresentation as to source or origin (e.g., "Colorado Blue Spruce," "Arizona Cypress," "Black Hills Spruce," "California Privet," "Japanese Barberry," etc.).

(b) It is also an unfair trade practice to advertise, sell, or offer for sale an industry product of foreign origin without adequate and nondeceptive disclosure of the name of the foreign country from which it came, where the failure to make such disclosure has the capacity and tendency or effect of deceiving purchasers or prospective purchasers. [Guide 8]

PART 19—GUIDES FOR THE METALLIC WATCH BAND INDUSTRY

Sec.
19.0 The industry and its products defined.
19.1 Deception (general).
19.2 Deception as to metallic content.
19.3 Misuse of "corrosion proof," "noncorrosive," "corrosion resistant," "rust proof," "rust resistant," etc.
19.4 Deceptive as to origin or place of manufacture.

AUTHORITY: Secs. 6, 5, 38 Stat. 721, 719; 15 U.S.C. 46, 45.

§ 19.0 The industry and its products defined.

Members of this industry are persons, firms, corporations, or organizations which engage in the manufacture, sale, offering for sale or distribution of industry products as the term "industry products" is defined in the paragraph which immediately follows. The term "industry products," as used in the foregoing paragraph and in the following rules, includes any kind of metallic wrist bands which are designed for holding wrist watches to the wrists of human beings and which are not permanently attached to the cases of such watches.

§ 19.1 Deception (general).

(a) It is an unfair trade practice for any industry member to sell or offer for sale any industry product under any representation, circumstance, or condition having the capacity and tendency or effect of deceiving purchasers or prospective purchasers in any material respect.

(b) The prohibitions of this section are applicable to all forms of advertising, whether in periodicals, on the radio or television, and whether written or oral, and to any form of marking or labeling of the products, or their containers or display cards. [Guide 1]

§ 19.2 Deception as to metallic content.

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to:

(1) Misrepresent the kind, quantity, quality, fineness, thickness, or manner of application, of any metal or metal alloy contained in an industry product or part thereof; or

(2) Fail to adequately and nondeceptively disclose the metallic composition of an industry product, or part thereof, which has an exposed surface of the appearance of gold and is not throughout of pure (24 Kt.) gold.[1]

(3) Use the words "gold," "karat," "carat," "silver," "solid silver," "sterling," "sterling silver," "coin," "coin silver," "platinum," "iridium," "palladium," "ruthenium," "rhodium," or "osmium," or any abreviation thereof, either alone or in conjunction with the words "plated," "plate," "filled," "overlay," "electroplate," "electroplated" or any abbreviation thereof, except in accord with requirements and provisions relating thereto which are hereinafter set forth.

(b) Use of "Silver," "Solid Silver," "Sterling," "Sterling Silver," "Coin," and "Coin Silver": Industry products or parts thereof shall not be marked, described, or otherwise represented as being "silver," "solid silver," "sterling," or "sterling silver," unless they are throughout of silver of not less than 925/1000ths fineness. Nor shall they be marked, described, or otherwise represented as being "coin" or "coin silver" unless they are throughout of silver of not less than 900/1000ths fineness. The terms "sterling" and "coin" shall not be used as a marking on, or as descriptive of, products or parts which are of base metal on a surface or surfaces of which there has been applied a plating or coating of silver. When an industry product or part is marked or described as "silver plated" or "silver plate," all significant surfaces thereof shall have a plating or coating of silver of a high degree of fineness, and such plating or coating shall be of substantial thickness. Abbreviations of any of the mentioned terms are to be regarded as subject to the same requirements. (Additional requirements for use of these terms as markings on products are set forth in paragraph (g) of this section.)

(c) Use of "Platinum," "Iridium," "Palladium," "Rhodium," "Ruthenium," and "Osmium": These words, and their abbreviations, shall not be used in any manner, or under any circumstance or condition, having the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the true metallic composition of an industry product or part thereof.

NOTE.—Commercial Standard, CS66-38, issued by the National Bureau of Standards of the U.S. Department of Commerce, covers the marking of articles made wholly or in part of platinum, and markings on industry products which are in compliance with applicable provisions of said CS66-38, and the additional requirements of paragraph (g) of this section, will be considered as proper.

(d) Use of "Gold," "Karat," "Carat," "Gold Filled," "Gold Plated," "Gold Plate," "Gold Overlay," "Rolled Gold Plated," "Rolled Gold Plate," "Gold Electroplated," "Gold Electroplate," "Heavy Gold Electroplated," and "Heavy Gold Electroplate": Industry members shall not use any of these words or terms, or any abbreviations thereof, under any circumstances or condition, or in any manner, which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to presence of gold or gold alloy in any industry product or part thereof, or as to the extent or fineness of gold or gold alloy in any industry product or part thereof, and shall regard, as among the practices prohibited, the following:

(1) Use of the unqualified word "Gold," or any abbreviation thereof, as descriptive of any industry product, or part thereof, which is not composed throughout of fine (24 karat) gold.

(2) Use of the word "Gold," or any abbreviation thereof, as descriptive of any industry product, or part thereof, which is composed throughout of an alloy of gold, unless a correct designation of the karat fineness of the alloy immediately precedes the word "Gold," or abbreviation thereof, and such fineness designation is of at least equal conspicuousness therewith.

(3) Use of the word "Gold," or any abbreviation thereof, as descriptive of any industry product, or part thereof, which is not composed throughout of gold or gold alloy, but is surface-plated or coated with gold alloy, unless the word "Gold," or abbreviation thereof, is so qualified as adequately and nondeceptively to disclose that the product or part is but surface-plated or coated with an alloy of gold; and, when such plating has been mechanically applied, unless such word "Gold," or abbreviation thereof, is im-

[1] Such disclosure shall be in the form of a legible and permanent marking on the product which is so positioned, and of such conspicuousness, as to conform with the requirements relating to quality markings which are set forth in paragraph (g) of this section. When the composition is wholly of a base metal having the appearance of gold, the marking may be either "Base Metal" or by use of a generally understood identification of the kind of base metal present (such as, "Anodized Aluminum"; "Brass"; etc.). When of a base metal having a surface plating or coating of gold alloy, a marking of "Gold Filled", "Gold Plated", "Gold Plate", "Gold Overlay", "Rolled Gold Plated", "Rolled Gold Plate", "Gold Electroplated", "Gold Electroplate", "Heavy Gold Electroplated", or "Heavy Gold Electroplate", will be considered adequate when the use of such term is in full accord with the respective requirements and provisions relating thereto which are set forth in paragraphs (d), (e), (f), and (g), of this section.

mediately preceded by a correct designation of the karat fineness of the alloy and such fineness designation is of at least equal conspicuousness therewith.

NOTE.—See acceptable forms of markings and descriptions for such products set out in paragraph (e)(2) of this section.

(4) Use of the terms "Gold Filled," "Rolled Gold Plate," "Rolled Gold Plated," "Gold Overlay," "Gold Plated," or "Gold Plate," as descriptive of an industry product or part thereof, unless such product or part contains a surface-plating of gold alloy applied by a mechanical process which is of such thickness and extent of surface coverage that use of the term as descriptive of the product or part will not have the capacity and tendency of deceiving purchasers or prospective purchasers, and unless the term is immediately preceded by a correct designation of the karat fineness of the alloy and such designation is of at least equal conspicuousness as the term used.

NOTE: See acceptable forms of markings and descriptions for such products set out in paragraph (e)(2) of this section.

(5) Use of the term "Gold Electroplate," or "Gold Electroplated," as descriptive of any industry product or part thereof, unless such product or part is plated or coated with gold or a gold alloy and such plating or coating is of such karat fineness, thickness, and extent of surface coverage that the use of the term will not have the capacity and tendency of deceiving purchasers or prospective purchasers.

NOTE: See acceptable forms of markings and descriptions for such products set out in paragraph (e)(3) of this section.

(6) Representing, directly or by implication, by use of any name, terminology, or otherwise, that an industry product is equal or superior to, or different than, a known and established type of industry product with reference to its gold content or method of manufacture, unless the representation is true in fact (namely, that it is equal or superior to or different than the established type in the respects represented or implied).

NOTE: Requirements for use of the word "Gold," or any abbreviation thereof, as above set forth, are applicable to "Duragold," "Diragold," "Noblegold," "Goldine," or any words or terms of similar import.

NOTE: See also paragraph (g) of this section entitled "Additional Requirements Relating to Markings."

(e) Markings and descriptions of industry products or parts thereof will be considered as proper when meeting applicable requirements of paragraph (g) of this section and in conformity with the following:

(1) An industry product or part thereof composed throughout of an alloy of gold of not less than 10 karat fineness may be marked and described as "Gold" when such word "Gold," wherever appearing, is immediately preceded by a correct designation of the karat fineness of the alloy and such karat designation is of equal conspicuousness as the word "Gold" (as, for example, "14 Karat Gold"; "14 K. Gold"; and "14 Kt. Gold"). Such a product may also be marked and described by a designation of the karat fineness of the gold alloy unaccompanied by the word "Gold" (as, for example, "14 Karat," "14 Kt.," and "14 K.").

NOTE: When the term "Gold," or any abbreviation thereof, is used as descriptive of any product or part of a product which is composed throughout of gold alloy but contains a concealed hollow center or interior, the term or its abbreviation shall also be immediately accompanied by a disclosure of the fact that the product or part contains a hollow center or interior (as, for example, "14 Karat Gold-hollow Center" and "14 K. Gold Tubing," when of a gold alloy tubing of such a karat fineness), when the failure to make such disclosure has the capacity and tendency or effect of deceiving purchasers or prospective purchasers. Such products must not be marked or described as "solid" or as being solidly of gold or of a gold alloy. For example, though the composition of such product is 14 karat gold alloy, it shall not be described or marked as either "14 Kt. Solid Gold" or as "Solid 14 Kt. Gold."

(2) An industry product or part thereof on which there has been affixed on all significant surfaces, by soldering, brazing, welding, or other mechanical means, a plating of gold alloy of not less than 10 karat fineness which is of substantial thickness [2] may be marked or described as "Gold Filled," "Gold Plate," "Gold Plated," "Gold Overlay," "Rolled Gold Plate," or adequate abbreviations thereof, when such plating constitutes at least 1/20th of the weight of the metal in the entire article, and when the term is immediately preceded by a designation of the karat fineness of the plating which is of equal conspicuousness as the term used (as, for example, "14 Kt. Gold Filled," "14 Kt. G.F.," "14 Kt. Gold Plated," "14 Kt. G.P.," and "14 Kt. Gold Overlay"). When conforming to all such requirements except the specified minimum 1/20th of the weight of the metal in the entire article, the terms "Gold Plate," "Gold Plated," "Rolled Gold Plate," and "Gold Overlay" may be used when the karat fineness designation is immediately preceded by a fraction which accurately discloses the portion of the weight of the metal in the entire article accounted for by the plating, and when such fraction is of equal conspicuousness as the term used (as, for example, "1/40 12 Kt. Rolled Gold Plate," and "1/40 12 Kt. R.G.P.").

Examples of Proper Markings for Expansion Bands of Specified Composition and Construction. A substantial portion of metallic watch bands are of the expansion type and consist of a skeleton (containing links, springs, rivets, and other small parts) of a base metal; top caps and end pieces which are of a base metal and to the exterior surfaces of which there have been affixed, by a mechanical process, platings of yellow gold alloy of 10 karat fineness; and bottom caps which are of stainless steel and which do not have the appearance of yellow gold.

When such platings of the top caps and end pieces are of substantial thickness and account for not less than 1/20th of the total weight of the base metal and gold alloy in each such cap and end piece, a proper marking on the band would be—

"10 Karat Gold Filled Top Caps and End Pieces

"Stainless Steel Bottom Caps"

or

"10 K.G.F. Top Caps and End Pieces"

or

"10 K.G.F. Top Caps"

and when such platings of the top caps and end pieces are of substantial thickness and account for 1/30th of the total weight of the base metal and gold alloy in each such top cap and end piece, a proper marking on the band would be—

"1/30 10 Karat Rolled Gold Plate Top Caps and End Pieces—Stainless Steel Bottom Caps"

or

"1/30 10 K.R.G.P. Top Caps and End Pieces"

or

"1/30 10 K.R.G.P. Top Caps"

Provided, however, That the size and placement of any such markings shall conform to the requirements of paragraph (g) of this section.

NOTE: When the plated top caps are affixed, by swedging or otherwise, to a base metal reinforcement lining, the weight of such lining shall be included in the weight used for determining the weight ratio and proper term to be used.

(3) An industry product or part thereof, all significant surfaces on which there has been affixed by an electrolytic process a coating or plating of gold, or of a gold alloy of not

[2] As here used, the term "substantial thickness" is to be construed as requiring that all areas of the plating be of such thickness as to assure of a durable coverage of the base metal to which it has been affixed. Since industry products embrace items having surfaces and parts of surfaces which are subject to different degrees of wear, this requirement of substantial thickness may not necessitate uniformity of thickness of plating for all items or for different areas of the surface or surfaces of individual items.

less than 10 karat fineness, the minimum thickness throughout of which is equivalent to 7/1,000,000ths of an inch of fine gold, may be marked or described as "Gold Electroplate" or "Gold Electroplated." When the coating or plating meets the minimum fineness, but not the minimum thickness, above specified, the marking or description may be "Gold Flashed" or "Gold Washed," and when the minimum fineness above specified and of a minimum thickness throughout which is equivalent to 100/1,000,000ths of an inch of fine gold, the marking or description may be "Heavy Gold Electroplate" or "Heavy Gold Electroplated." When coatings or platings qualify for the term "Gold Electroplate" (or "Gold Electroplated"), or the term "Heavy Gold Electroplate" (or "Heavy Gold Electroplated"), and have been applied by use of a special kind of electrolytic process, the designation for which the coating or plating is qualified may be accompanied by an identification of the process used, as for example, "Gold Electroplated (X Process)"; "Heavy Gold Electroplated (Y Process)."

(f) Tolerances and exemptions: The requirements of this section relating to markings and descriptions of industry products and parts thereof are subject to the tolerances applicable thereto under the National Stamping Act (15 U.S. Code, sections 294, et seq.). Such requirements are also subject to exemptions applicable thereto under section 10(a) of Commercial Standard CS 67-38, relating to articles made of karat gold, and under section 12(a) of Commercial Standard CS 47-34, relating to articles having mechanically-applied surface platings of gold alloy; and also to the exemptions applicable thereto enumerated in section 8 of Commercial Standard CS 118-44 (relating to marking of Jewelry and Novelties of Silver) and section 8(a) of Commercial Standard CS 51-35 (relating to marking of articles made of silver in combination with gold).

(g) Additional requirements relating to markings. As used in this paragraph, the term "quality marking" means any marking on an industry product which indicates or suggests that the product contains precious metal or an alloy thereof. Included are the words "gold", "karat", "carat", "duragold", "diragold", "noblegold", "goldine", "silver", "sterling", "coin", "coin silver", "platinum", "iridium", "palladium", "ruthenium", "Rhodium", and "osmium", and any abbreviation of any such word, whether used alone or in conjunction with such terms as "filled", "plated", "overlay", "electroplated", or any abbreviation thereof.

(1) *Markings to be legible, conspicuous, and of adequate permanency.* Quality markings on industry products shall be legible and of such degree of permanency as to remain on the products until consummation of consumer sale thereof. They shall also be of such size and conspicuousness as to likely be observed and read by purchasers and prospective purchasers making casual inspection of the products: *Provided, however,* That when markings of such size and conspicuousness would seriously impair the appearance of the product, they may be of less size and conspicuousness if also appearing on a tag or label attached or affixed to the product in such a manner as to remain thereon until consummation of consumer purchase and of such size and conspicuousness as to be likely observed and read by purchasers and prospective purchasers. When the marking on or attached to the product is concealed or obscured because of the manner in which the product is packaged, or mounted in a container or on a display card, and is offered for consumer sale in such form with consequence of likely deception of purchasers or prospective purchasers as to the true metallic composition of the product, the marking shall also appear on the outside of the packaging, or on the container or display card on which the product is mounted, in such a position as to be clearly applicable to the product and in such size and conspicuousness as to be likely observed and read by purchasers and prospective purchasers.

(2) *Deception by reason of difference in size of letters or words in the markings.* Words and letters in quality markings shall not appear in larger type than other words and letters in such markings when such size difference has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the true metallic content of the product. (An example of such improper marking is where the product is marked as gold electroplate with the word "GOLD" in large type and the word "electroplate" in small type.)

(3) *When exposed parts are of similar appearance but of different composition.* When watch bands contain two or more parts having exposed surfaces of the same composition appearance but which in fact are of different composition, any marking as to the composition of one of such parts shall be accompanied by a disclosure of the composition of the other part or parts. Thus, when a band has top caps and end pieces of 14 karat yellow gold and bottom caps of yellow gold electroplate, a proper marking would be "14 K Gold Top Caps and End Pieces. Gold Electroplated Bottom Caps"; and when the top caps and end pieces are 14 karat white gold, and the bottom caps are of stainless steel which has the appearance of white gold, a proper marking would be "14 K. White Gold Top Caps and End Pieces. Stainless Steel Bottom Caps." [Guide 2]

§ 19.3 Misuse of "corrosion proof," "noncorrosive," "corrosion resistant," "rust proof," "rust resistant," etc.

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice:

(1) To use the terms "corrosion proof," "noncorrosive," "rust proof," or any word or term of equivalent import, as descriptive of an industry product, unless all parts thereof will be immune from rust and other forms of corrosion during the life expectancy of the product; or

(2) To use the terms "corrosion resistant," "rust resistant," or any word or term of equivalent import, as descriptive of an industry product unless all parts of the product are of such composition as to not be subject to material damage by corrosion or rust during the major portion of the life expectancy of the product under normal conditions of use.

(b) Among the metals which may be considered as corrosion (and rust) resistant are:

Pure Nickel.
Gold Alloys of not less than 10 Kt. fineness.
Austenitic stainless steels. [Guide 3]

§ 19.4 Deception as to origin or place of manufacture.

In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice:

(a) To misrepresent the origin or place of manufacture of an industry product or any part thereof; or

(b) Subject to the exemptions hereinafter specified, to fail to adequately disclose to purchasers and prospective purchasers that an industry product, or substantial part thereof [3] is of foreign origin, or has been manufactured, processed, or assembled in a foreign country.

NOTE: The disclosure required by paragraph (b) of this section shall be in the form of a legible marking or stamping on the industry product, or on a label or tag affixed thereto, which is of such degree of permanency as to remain on or attached to the product, in legible form, until consummation of the consumer sale thereof, and of such conspicuousness as to be likely observed and read by purchasers and prospective purchasers making casual inspection of the product; and if such industry product is packaged, or mounted in a container, or on

[3] Parts which are to be considered as substantial include the skeletons or interliners of the expansion type bands, whether of the entire length of the band or but a substantial portion of such length, and whether caps and end pieces are affixed thereto before or after the importation of such skeletons or interliners.

a display card, and is offered for consumer sale in such form, then the marking or stamping shall also appear on the front or face of such packaging, container, or display card, and be so positioned as to clearly have application to the product so packaged or mounted, and shall also be of such degree of permanency as to remain thereon until consummation of consumer sale of the product, and of such conspicuousness as to be likely observed and read by purchasers and prospective purchasers making casual inspection of the product as so packaged or mounted. The disclosure shall name the foreign country of origin or manufacture, and when not applicable to the entire product shall specify the part or parts to which it has applicability.

Exemptions. To be regarded as exempt from the disclosure requirements of paragraph (b) of this section are:

Sheet, strip, wire, tubing, and similar basic material when imported in that form:

Parts of industry products which after their importation are subjected to processing or manufacturing in this country, or are merged with another or other parts of domestic manufacture, and as a consequence of such processing, manufacturing, or merger, no longer retain the appearance and essential characteristics possessed by them at the time of their importation.

NOTE: The affixing in this country of domestically manufactured caps and end pieces to imported skeletons of expansion type bands is not to be regarded as so changing the appearance and essential characteristics of such skeletons as to exempt them from the disclosure requirements of paragraph (b) of this section.

Rivets, springs, screws, bolts, washers, and similar small parts which are imported in an unassembled state;

Natural stones and cultured pearls which are used as decorative settings of industry products.

NOTE: Nothing in this section is to be construed as relieving any industry member from compliance with the requirements of custom laws of the U.S. having application to industry products and parts imported from a foreign country. [Guide 4]

PART 20—GUIDES FOR THE REBUILT, RECONDITIONED AND OTHER USED AUTOMOBILE PARTS INDUSTRY

Sec.
20.0 Definitions.
20.1 Deception as to previous use of products.
20.2 Deception as to identity of rebuilder, remanufacturer, reconditioner or reliner.
20.3 Misrepresentation as to condition of products and misuse of the terms "rebuilt," "factory rebuilt," "remanufactured," etc.

AUTHORITY: Secs. 6, 5, 38 Stat. 721, 719; 15 U.S.C. 46, 45.

§ 20.0 Definitions.

Industry member. Any person, firm, corporation or organization engaged in the sale or distribution of any industry product as defined below.

Industry products. Industry products are automotive parts and automotive assemblies which have been used or which contain used parts, whether such parts or assemblies have been rebuilt, remanufactured, reconditioned, relined, or otherwise. The term "automotive assemblies" as herein used mean any part or assembly designed for an automobile, truck, motorcycle, tractor or similar self-propelled vehicle. Industry products include, but are not limited to, armatures, generators, starters, carburetors, clutches, distributors, connecting rods, crankshafts, cylinder blocks, engine assemblies, fuel pumps, brakes, master and wheel brake cylinders, power brakes, shock absorbers, starter drives, solenoids, automatic transmissions, regulators, spark plugs, springs, windshield wiper motors and water pumps. Automobile tires are not products of the industry.

§ 20.1 Deception as to previous use of products.

(a) It is an unfair trade practice to represent, directly or by implication, that any industry product is new or unused, or that any part of an industry product is new or unused when such is not the fact, or to misrepresent the extent of previous use thereof.

(b) It is an unfair trade practice for an industry member to offer for sale or sell any industry product unless a clear and conspicuous disclosure that such product has been used or contains used parts is made in all the industry member's advertising, sales promotional literature and invoices concerning the product, on the container in which the product is packed and if the product has been rebuilt, remanufactured, reconditioned or has the appearance of being new, on the product with sufficient permanency to remain thereon after installation for a reasonable period of time under ordinary conditions of use, and in such manner that said disclosure cannot be easily removed or obliterated.

(1) *Form of disclosure.* The disclosure that an industry product has been used or contains used parts as required by this section may be made by use of a word such as, but not limited to, "Used," "Secondhand," "Repaired," "Remanufactured," "Reconditioned," "Rebuilt," or "Relined," whichever is applicable to the product involved. On invoices to the trade only the disclosure required by this section may be made by use of any number, mark, or other symbol which is clearly understood by all purchasers receiving such invoices as meaning that the products, or parts thereof, identified on the invoices have been used.

(2) *Conspicuousness of disclosure.* The disclosure required by this section shall be of such size or color contrast and so placed as to be readily noticeable to purchasers or prospective purchasers reading advertising, sales promotional literature, or invoices containing same, or reading any representation as to content on the container in which an industry product is packed, or inspecting an industry product before installation, or with a minimum of disassembly after installation.

(c) It is an unfair trade practice to place any means or instrumentality in the hands of others whereby they may mislead purchasers or prospective purchasers as to the previous use of industry products or parts thereof. [Guide 1]

§ 20.2 Deception as to identity of rebuilder, remanufacturer, reconditioner or reliner.

(a) It is an unfair trade practice to misrepresent the identity of the rebuilder, remanufactures, reconditioner or reliner of an industry product.

(b) In connection with the sale or offering for sale of an industry product if the identity of the original manufacturer of the product, or the identity of the manufacturer for which the product was originally made, is revealed and the product was rebuilt, remanufactured, reconditioned or relined by other than the manufacturer so identified, it is an unfair trade practice to fail to disclose such fact wherever either of said manufacturers is identified in advertising and sales promotional literature concerning the product, on the container in which the product is packed, and on the product, in close conjunction with, and of the same permanency and conspicuousness as, the disclosure of previous use of the product required by this section. Examples of disclosures considered to be in compliance with the requirements of this section are as follows:

(1) Disclosure of the identity of the rebuilder as, for example:

Rebuilt by John Doe Co.

(2) Disclosure that the product was rebuilt by an independent rebuilder as, for example:

Rebuilt by an Independent Rebuilder

(3) Disclosure that the product was rebuilt by other than the manufacturer so identified as, for example:

Rebuilt by other than XYZ Motors

(4) Disclosure that the product was rebuilt for the identified manufacturer, if such is the case, as for example:

Rebuilt for XYZ Motors

[Guide 2]

§ 20.3 Misrepresentation as to condition of products and misuse of the terms "rebuilt," "factory rebuilt," "remanufactured," etc.

(a) It is an unfair trade practice to use, or cause or promote the use of, any statement or representation in advertising, on containers, on industry products, or elsewhere, which has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the condition of an industry product, or the extent that an industry product has been repaired or reconstructed.

(b) It is an unfair trade practice to use the words "Rebuilt," "Remanufactured," or words of similar import, as descriptive of an industry product which, since it was last subjected to any use, has not been dismantled and reconstructed as necessary, all of its internal and external parts cleaned and made free from rust and corrosion, all impaired, defective or substantially worn parts restored to a sound condition or replaced with new, rebuilt[1] or unimpaired used parts, all missing parts replaced with new, rebuilt[1] or unimpaired used parts, and such rewinding or machining and other operations performed as are necessary to put the industry product in sound working condition.

(c) It is an unfair trade practice to represent an industry product as "Factory Rebuilt" unless the product was rebuilt as described in paragraph (b) of this section at a factory generally engaged in the rebuilding of such products. (See also § 20.2) [Guide 3]

PART 21—GUIDES FOR THE MIRROR INDUSTRY

Sec.
21.0 Definitions.
21.1 Deception (general).
21.2 Misrepresentation of kind or type of industry products.

AUTHORITY: Secs. 6, 5, 38 Stat. 721, 719; (15 U.S.C. 46, 45.)

§ 21.0 Definitions.

As used in this part the terms "Industry Member" and "Industry Products" shall have the following meaning:

(a) *Industry member.* Any person, firm, corporation or organization (including manufacturers, wholesalers, jobbers, importers, retailers, etc.) engaged in the manufacture, sale, offering for sale, or distribution of industry products as defined below:

(b) *Industry products.* All kinds and types of mirrors both utilitarian and decorative.

(c) For the purposes of this part the following definitions shall apply:

Plate glass: A transparent glass, the two surfaces of which are flat and parallel so that they give clear and undistorted vision and reflection, manufactured either by floating hot glass in ribbon form upon a heated liquid of greater density than that of glass or by grinding and polishing a ribbon of glass formed between two rolls.

Window glass: A transparent glass which has been drawn or rolled, has glossy, fire polished surfaces and a characteristic waviness of its surfaces which is visible when viewed at an acute angle or in reflected light. Window glass is sometimes referred to in the industry as sheet or shock glass.

§ 21.1 Deception (general).

It is an unfair trade practice for any industry member in connection with the sale, offering for sale, or distribution of industry products to use any advertisement[1] or representation which is false, or which by failure to disclose material facts has the capacity, tendency or effect of misleading purchasers or prospective purchasers with respect to the type, grade, quality, quantity, use, size, design, material, finish, strength, backing, silvering, thickness, composition, origin, preparation, manufacture, value, or distribution of any product of the industry, or in any other material respect. [Guide 1]

§ 21.2 Misrepresentation of kind or type of industry products.

It is an unfair trade practice for any member of the industry to sell, offer for sale, or distribute any industry product under any representation or circumstance having the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers in any respect with regard to the kind or type of glass contained in any industry product, or the kind or type of backing affixed thereto.

(a) *Misrepresentation as to kind or type of glass.* (1)(i) It is an unfair trade practice to sell, offer for sale, or distribute any industry product containing "window glass" unless such product is marked, labeled, or stamped so as to reveal that the glass is "window glass."

(ii) The disclosure required by this section must be made on the product and be of such conspicuousness and legibility as to readily come to the attention of the casual observer, and of such permanence, and so affixed, as to remain on the product until consummation of consumer sale thereof. Such disclosure is not required upon industry products 72 square inches or less in size.

(2) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to represent that a product contains "crystal" or "crystale" glass, when, contrary to the representation, such product contains a different glass, e.g., "plate glass" or "window glass."

(3) In the sale, offering for sale, or distribution of industry products it is an unfair trade practice to represent window glass as "distortion free," or to represent any other kind of glass as "distortion free," when such is not the fact.

(4) In the sale, offering for sale, or distribution of industry products it is an unfair trade practice to describe the glass contained in an industry product as "shatter proof" unless the glass is so constituted or treated so as in fact to prevent, in the event of breakage, the shattering and dispersal of particles of the glass.

(b) *Misrepresentation as to backing.* (1) In the sale, offering for sale, or distribution of industry products it is an unfair trade practice to represent that an industry product is "copper backed", or is backed with "metallic copper" or has a "copper electroplated" back, or to similarly use any other word, term or legend of like import as descriptive of the backing of an industry product, unless the electroplating of the copper backing is accomplished by an electrolytic process.

NOTE: For the purposes of this section it is established that both the "galvanic," or "contact" method, of electroplating (i.e., the plating method using a self induced electric current), and the method using an external source of current, are truly electroplating processes. Both processes are equally well defined by the definition of Electroplating established by the American Society for Testing Materials, as follows:

"Electroplating: The electro-deposition of an adherent metallic coating upon an electrode for the purpose of securing a surface with properties or dimensions different from those of the basic metal."

No useful purpose can be served by attempting to establish a differentiation between the mirror backing produced by these two methods.

(2) Nothing in this section shall be construed as prohibiting the use of representations that any backing on products of the industry contains copper, which has been applied mechanically or by means other than the use of electric current when such is the fact, provided that a clear and conspicuous disclosure is made in conjunction with such representations as to the manner of application of the backing, as for example, "window glass mirror, painted back."

(3) The disclosure of the kind or type of glass and the kind and type of backing thereof required under this

[1] In accord with the provisions of this paragraph (b).

[1] The word "advertisement" as here used includes any written or verbal statement, notice, presentation, illustration, or depiction which directly or indirectly promotes the sale of any industry product, or creates an interest in the purchase of any such product, whether same appears in a newspaper, magazine, catalog, letter, sales promotional literature, radio or television broadcast, or in any other media.

section may be in the form of a stamp, tag, mark or label on or attached to the product and shall be of such size type and so situated that it will come to the attention of the casual observer and be so affixed as to remain on the product until consumption of consumer sale.

(4) The following are examples of the marks, stamps or labels which will be regarded as meeting the requirements of this section: An industry product containing "plate glass," copper backed by an electrolytic process may be marked or described "plate glass-copper electroplated," or "float glass-copper backed"; an industry product containing window glass backed by an electrolytic process may be marked or described "window glass-copper plated back" or "sheet glass-copper plated back," or an article containing plate glass backed with a copper plating which has been applied mechanically or by means other than the use of electric current may be marked or described as "plate glass-painted back." [Guide 2]

PART 22—GUIDES FOR THE HOISERY INDUSTRY

NOTE: Nothing in this part is to be construed as relieving anyone of the necessity of complying with the requirements of the Wool Products Labeling Act of 1939 or the requirements of the Textile Fiber Products Identification Act or with the rules and regulations issued under such Acts.

Sec.
22.0 Definitions.
22.1 Scope of guides in this part; imports and exports.
22.2 Deception (general).
22.3 "Lisle."
22.4 "Irregulars" or "seconds".
22.5 Removal, obliteration, or alteration of marks.
22.6 Size markings and designations.

AUTHORITY: Secs. 6, 5, 38 Stat. 721, 719; 15 U.S.C. 46, 45.

§ 22.0 Definitions.

As used in this part the terms "industry member" and "industry products" shall have the following meaning:

Industry member.—Any person, firm, corporation, or organization (including manufacturers, wholesalers, jobbers, importers, retailers, etc.) engaged in the sale, offering for sale, or distribution, in commerce, of industry products as defined below.

Industry products.—Hosiery for men, women and children, including all types and kinds of hose, stockings, socks, anklets, and other related products of the Hosiery Industry.

§ 22.1 Scope of guides in this part; imports and exports.

(a) *Applicability.* Except where otherwise required by law, the guides in this part shall apply to all hosiery produced in the United States or offered for sale, sold or distributed in the American market.

(b) *Imports.* Imported hosiery is subject to the guides in this part (and the marking requirements herein specified) the same as domestic hosiery, irrespective of whether the hosiery was originally manufactured in the United States and exported and thereafter imported; or whether it was manufactured in a foreign country and imported from such foreign country or another country into the United States; or whether the hosiery, foreign or domestic, was introduced into the American market in any other way.

(c) *Exports.* Hosiery produced in the United States for export to a foreign country need not be marked in accordance with the requirements of the guides in this part, except:

(1) Where such hosiery, although intended for export, or actually exported, is subsequently offered for sale or sold for use, consumption or resale within the United States or place subject to its jurisdiction; or

(2) Where such hosiery manufactured in the United States for export, or sold for export, is marked, sold or exported in such manner or under such conditions as to involve fraud or deception, or an unfair method of competition against an American competitor engaged in export trade, or a matter otherwise contrary to the public policy of the United States; or

(3) Where required by the Wool Products Labeling Act or by other provisions of law. [Guide 1]

§ 22.2 Deception (general).

It is an unfair trade practice to sell, offer for sale, or distribute industry products by any method, or under any representation, description, circumstance or condition which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the grade, character, construction, origin, denier, size, style, fashion, gauge, twist of yarn, quality, quantity, value, price, serviceability, resistance to snagging or the development of runs, holes or breaks in the fabric, strength, stretch, length, color, finish, manufacture, or distribution of any product of the industry or component part of such product, or in any other material respect. [Guide 2]

§ 22.3 "Lisle."

(a) It is an unfair trade practice to use the term "lisle" or word, term, or representation of similar import, as descriptive of hosiery or any part thereof, under any condition having the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers. For purposes of this section the term "lisle" as descriptive of hosiery, or part thereof, is considered as representing that such hosiery is made of yarn composed of two or more ply of combed long staple cotton fiber, the ply twist of which is not less than the turns per inch indicated in the following table:

Count	2-ply		3-ply		4-ply	
	Minimum twist	Approximate twist multiplier	Minimum twist	Approximate twist multiplier	Minimum twist	Approximate twist multiplier
30	16	4¼	13	4⅛	11	4
40	19	4¼	15	4⅛	13	4
50	21	4¼	17	4⅛	14	4
60	23	4¼	18	4⅛	15	4
70	25	4¼	20	4⅛	17	4
80	27	4¼	21	4⅛	18	4
90	28	4¼	23	4⅛	19	4
100	29	4¼	24	4⅛	20	4
120	31	4¼	26	4⅛	22	4
140 and higher	33	4¼	28	4⅛	24	4

NOTE.—The minimum twist of intermediate counts not given should be in proportion to those given in the table. The average results of tests for number of turns of twist in a yarn shall be reported to the nearest whole number.

Yarns having more than 4 plies shall have not less than the number of turns given for the 4-ply yarn, minus 1 turn for each additional ply above 4; that is, for each additional ply above 4, 1 turn per inch may be deducted from the minimum number of turns given for the 4-ply yarn.

(b) The term "long staple cotton fiber" as used in this section is understood to mean cotton fiber which is not less than 1⅛" in length of staple: *Provided, however,* That nothing in this section shall be construed as prohibiting the use of cotton fiber which is not less than 1 1/16" in length of

staple for the counts of 35 and less above referred to. [Guide 3]

§ 22.4 "Irregulars" or "seconds".

(a) It is an unfair trade practice to fail to disclose on industry products and in all advertising and promotional material relating thereto that such products are "irregulars" or "seconds," when such is the case.

(b) It is an unfair trade practice to cause any industry products to be falsely or deceptively marked, advertised, described or otherwise represented, either as not being or as being "irregulars" or "seconds," when such is not the fact.

(c) For the purpose of this section "irregulars" shall be considered as including all hosiery which is not of first quality but which contains only minor imperfections limited to irregularities in dimensions, size, color or knit, and without the presence of any obvious mends, runs, tears or breaks in the fabric or any substantial damage to the yarn or fabric itself. "Seconds" shall be considered as including all hosiery which is not of first quality, does not qualify as "irregulars" and which contains runs, obvious mends, irregularities, substantial imperfections, or defects in material, construction or finish.

(d) The marking of hosiery under this section shall be made in a conspicuous and non-deceptive manner with sufficient permanency or indelibility to carry through the channels of trade to the ultimate consumer in a clearly legible condition. The words "irregulars" or "seconds" as the case may be shall be set out distinctly by transfer or other marking on the fabric of each stocking, sock or other unit, whether sold in pairs, threes or otherwise. In addition, if the hosiery is packaged in any manner so as to conceal the disclosures required by this section then such disclosures shall also be made on such packaging in a conspicuous and non-deceptive manner. The required disclosures in advertising and other promotional material that industry products are "irregulars" or "seconds," must also be made in a conspicuous and non-deceptive manner. [Guide 4]

§ 22.5 Removal, obliteration, or alteration of marks.

It is an unfair trade practice for any manufacturer, converter, processor, dyer, finisher, distributor, dealer, importer or vendor, or person acting for or in collusion with any concern or vendor, (a) to remove, obliterate, deface, change, alter, conceal, or make illegible any information required by the guides in this part to be disclosed on industry products, without replacing the same before sale, resale or distribution for sale with a proper mark meeting the requirements of the guides in this part; or (b) to sell, resell, or distribute any industry product without its being marked and described in accordance with the requirements of the guides in this part.

NOTE: Hosiery which has been redyed shall be re-marked in accordance with the requirements of the guides in this part. Hosiery found to contain a false or deceptive mark, or a mark contrary to the requirements of the guides in this part, shall be remarked in accordance with the guides in this part. [Guide 5]

§ 22.6 Size markings and designations.[1]

In connection with the sale or offering for sale of industry products, it is an unfair trade practice:

(a) To mark or otherwise represent any industry product as being of a certain size which is not in fact the true and normal size thereof; or

(b) To alter the true and normal size of industry products by stretching or manipulation so as to deceive purchasers or prospective purchasers as to such size; or

(c) To fail to disclose on industry products the true and normal size thereof when the failure to make such disclosure has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the size of such products.

NOTE: So-called "stretch" hose (which is represented as being suitable for more than one size foot) should be marked so as to clearly disclose the minimum and the maximum sizes for which such hose is in fact suitable, and the range should be limited to the sizes which such hose will comfortably fit without undue looseness or tension. [Guide 6]

PART 23—GUIDES FOR THE JEWELRY INDUSTRY

Sec.
23.0 Definitions.
23.1 Deception (general).
23.2 Misleading illustrations.
23.3 Misrepresentation as to origin and disclosure of foreign origin.
23.4 Misuse of terms "hand-made," "hand-polished," etc.
23.5 Misrepresentation as to gold content.
23.6 Misrepresentation as to silver content.
23.7 Misuse of words "platinum," "iridium," "palladium," "ruthenium," "rhodium," and "osmium."
23.8 Additional requirements relating to quality marks.
23.9 Misuse of the word "diamond."
23.10 Misuse of word "perfect," etc.
23.11 Misuse of term "blue white."
23.12 Misuse of the term "properly cut," etc.
23.13 Misuse of the words "brilliant" and "full cut."
23.14 Misuse of the term "clean," etc.
23.15 Misuse of the word "pearl."
23.16 Misuse of terms "cultured pearl," "cultivated pearl," "seed pearl," "Oriental pearl," "Oriental," "natura," and "kultured."
23.17 Misrepresentation as to cultured pearls.
23.18 Deception as to precious and semiprecious stones.
23.19 Misuse of words "ruby," "sapphire," "emerald," "topaz," "stone," "birthstone," etc.
23.20 Misuse of words "real," "genuine," "natural," etc.
23.21 Misuse of words "gem," "reproduction," "replica," "synthetic," etc.
Appendix—Listing and classification of guides for convenient reference by industry members.

AUTHORITY: Sec. 6, 5, 38 Stat. 721, 719; 15 U.S.C. 46, 45.

§ 23.0 Definitions.

As used in the guides in this part, the terms hereinafter set forth shall be understood to have the following meanings:

Diamond. A diamond is a natural mineral consisting essentially of pure carbon crystalized in the isometric system and is found in many colors. Its hardness is 10; its specific gravity approximately 3.52; and it has a refractive index of 2.42.

Pearl. A calcareous concretion consisting essentially of alternating concentric layers of carbonate of lime and organic material formed within the body of certain mollusks, the result of an abnormal secretory process caused by an irritation of the mantle of the mollusk consequent on the intrusion of some foreign body inside the shell of the mollusk, or due to some abnormal physiological condition in the mollusk, neither of which has in any way been caused or induced by man.

Cultured pearl. The composite product created when a nucleus (usually a sphere of calcareous mollusk shell) planted by man inside the shell or in the mantle of a mollusk is coated with nacre by the mollusk.

Imitation pearl. A manufactured product composed of any material or materials which simulates in appearance a pearl or cultured pearl.

§ 23.1 Deception (general).

(a) It is an unfair trade practice for an industry member to sell or offer for sale any industry product under any representation, description, circumstance, or condition having the capacity and tendency or effect of deceiving purchasers or prospective purchasers thereof as to the type, kind, grade, quality, quantity, metallic content, size, weight, cut, color, character, substance, durability, serviceability, origin, price, value, preparation, production, manufacture or distribution of such industry product or which has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public in any other material respect.

[1] Commercial Standard CS 46-49, "Hosiery Lengths and Sizes" is recognized as a proper method to follow in determining measurements and sizes of hosiery.

(b) The inhibitions of this section are applicable to all forms of advertising, whether in periodicals, on the radio or television, and whether written or oral, and to any form of marking or labeling of products or their containers. [Guide 1]

§ 23.2 Misleading illustrations.

It is an unfair trade practice, in connection with the offering for sale, sale, or distribution of industry products, to use, as part of any packaging material, label, advertisement, or other sales promotion matter, any visual representation, picture, illustration, diagram or other depiction which, either alone or in conjunction with any accompanying words or phrases, has the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers concerning the type, kind, grade, quality, quantity, metallic content, size, weight, cut, color, character substance, durability, serviceability, origin, preparation, production, manufacture, or distribution of any industry product, or which has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public in any material respect.

NOTE: Among practices inhibited by this section are illustrations and depictions of diamonds in greater than actual size without a clear and conspicuous disclosure of the fact that the illustrations or depictions are enlargements, when the failure to make such disclosure has the capacity and tendency or effect of deceiving purchasers or prospective purchasers of such diamonds or any products containing same. [Guide 2]

§ 23.3 Misrepresentation as to origin and disclosure of foreign origin.

(a) It is an unfair trade practice to misrepresent the place of origin, production, or manufacture of industry products or their components.

(b) It is an unfair trade practice to offer for sale, sell, or distribute any industry product manufactured or produced in a foreign country, or any industry product containing a part or parts manufactured or produced in a foreign country, without affirmatively and clearly disclosing thereon, or in immediate conjunction therewith, by a truthful and nondeceptive mark, stamp, brand, or label, the country of origin of such product or part, where failure to so disclose the country of origin has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public in any material respect.

NOTE: Nothing in paragraph (b) of this section shall be construed as requiring disclosure as to the foreign origin of such small and primarily functional parts as rivets, screws, bolts, washers, springs, spring bars and spring rings; or as to the foreign origin of pearls, cultured pearls, diamonds, or any other precious or semi-precious stones, or glass insets which imitate precious or semi-precious stones, when same are primarily obtained from sources outside the United States and its territories and possessions; or as to the foreign origin of any other part or parts which, by reason of further processing in this country, no longer retain the appearance and essential characteristics possessed by them at the time of their importation. Disclosure of the foreign origin of imitation pearls which have not been subjected to processing in this country to the extent of losing the appearance and essential characteristics possessed by them at the time of their importation must be made though such imitation pearls after importation have been strung and made into necklaces in this country. [Guide 3]

§ 23.4 Misuse of terms "hand-made," "hand-polished," etc.

(a) It is an unfair trade practice to represent, directly or by implication, that any industry product is hand-made or hand-wrought unless the entire shaping and forming of such product from raw materials and its finishing and decoration were accomplished by hand labor and manually-controlled methods which permit the maker to control and vary the construction, shape, design, and finish of each part of each individual product.

NOTE: As used here, "raw materials" include bulk sheet, strip, wire, and similar items that have not been cut, shaped, or formed into jewelry parts, semi-finished parts, or blanks.

(b) It is an unfair trade practice to represent, directly or by implication, that any industry product is hand-forged, hand-engraved, hand-finished, or hand-polished, or has been otherwise hand-processed, unless the operation described was accomplished by hand labor and manually controlled methods which permit the maker to control and vary the type, amount, and effect of such operation on each part of each individual product. [Guide 4]

§ 23.5 Misrepresentation as to gold content.

(a) It is an unfair trade practice to sell or offer for sale any industry product under any trade or product name or designation or other representation having the capacity and tendency or effect of deceiving purchasers or prospective purchasers thereof as to the presence of gold or gold alloy in the product, or as to the quantity or fineness of gold alloy contained in the product, or as to the fineness, thickness, weight ratio, or manner of application of any gold or gold alloy plating, covering, or coating on any surface of any industry product or part thereof.

(b) The following practices are among those to be regarded as inhibited by paragraph (a) of this section:

(1) Use of the unqualified word "Gold," or any abbreviation thereof, as descriptive of any industry product, or part thereof, which is not composed throughout of fine (24 karat) gold.

(2) Use of the word "Gold," or any abbreviation thereof, as descriptive of any industry product, or part thereof, which is composed throughout of an alloy of gold, unless a correct designation of the karat fineness of the alloy immediately precedes the word "Gold," or abbreviation thereof, and such fineness designation is of at least equal conspicuousness therewith.

(3) Use of the word "Gold," or any abbreviation thereof, as descriptive of any industry product, or part thereof, which is not composed throughout of gold or gold alloy, but is surface-plated or coated with gold alloy, unless the word "Gold," or abbreviation thereof, is so qualified as adequately and nondeceptively to disclose that the product or part is but surface-plated or coated with an alloy of gold; and, when such plating has been mechanically applied, unless such word "Gold," or abbreviation thereof, is immediately preceded by a correct designation of the karat fineness of the alloy and such fineness designation is of at least equal conspicuousness therewith.

NOTE.—See acceptable forms of markings and descriptions for such products set out in paragraph (c)(2) of this section.

(4) Use of the terms "Gold Filled," "Rolled Gold Plate," "Rolled Gold Plated," "Gold Overlay," "Gold Plated," or "Gold Plate," as descriptive of any industry product or part thereof, unless such product or part contains a surface-plating of gold alloy applied by a mechanical process which is of such thickness and extent of surface coverage that use of the term as descriptive of the product or part will not have the capacity and tendency of deceiving purchasers or prospective purchasers, and unless the term is immediately preceded by a correct designation of the karat fineness of the alloy and such designation is of at least equal conspicuousness as the term used.

NOTE.—See acceptable forms of markings and descriptions for such products set out in paragraph (c)(2) of this section.

(5) Use of the term "Gold Electroplate," or "Gold Electroplated," as descriptive of any industry product or part thereof, unless such product or part is plated or coated with gold or a gold alloy and such plating or coating is of such karat fineness, thickness, and extent of surface coverage that the use of the term will not have the capacity and tendency of deceiving purchasers or prospective purchasers.

NOTE.—See acceptable forms of markings and descriptions for such products set out in paragraph (c)(3) of this section.

(6) Representing, directly or by implication, by use of any name, terminology, or otherwise, that an industry product is equal or superior to, or different than, a known and established type of industry product with reference to its gold content or method of manufacture, unless the representation is true in fact (namely, that it is equal or superior to or different than the established type in the respects represented or implied).

NOTE.—Requirements for use of the word "Gold," or any abbreviation thereof, as above set forth, are applicable to "Duragold," "Diragold," "Noblegold," "Goldine," or any words or terms of similar import.

NOTE.—See also § 23.8 entitled "Additional requirements relating to quality marks."

(7) Use of the word "Gold," or any abbreviation thereof, as descriptive of any industry product, or part thereof, which is composed throughout of an alloy of gold of less than 10 karat fineness.

(c) Markings and descriptions of industry products or parts thereof will be considered as meeting the requirements of this section when in conformity with the following:

(1) An industry product or part thereof composed throughout of an alloy of gold of not less than 10 karat fineness may be marked and described as "Gold" when such word "Gold," whether appearing, is immediately preceded by a correct designation of the karat fineness of the alloy and such karat designation is of equal conspicuousness as the word "Gold," (as, for example, "14 Karat Gold," and "14 K. Gold," and "14 Kt. Gold"). Such product may also be marked and described by a designation of the karat fineness of the gold alloy unaccompanied by the word "Gold" (as, for example, "14 Karat," "14 Kt.," and "14 K.").

NOTE.—When the "Gold," or any abbreviation thereof, is used as descriptive of any product or part of a product which is composed throughout of gold alloy but contains a concealed hollow center or interior, the term or its abbreviation shall also be immediately accompanied by a disclosure of the fact that the product or part contains a hollow center or interior (as, for example, "14 Karat Gold-Hollow Center" and "14 K. Gold Tubing," when of a gold alloy tubing of such a karat fineness), when the failure to make such disclosure has the capacity and tendency or effect of deceiving purchasers or prospective purchasers. Such products must not be marked or described as "solid" or as being solidly of gold or of a gold alloy. For example, though the composition of such a product is 14 karat gold alloy, it shall not be described or marked as either "14 Kt. Solid Gold" or as "Solid 14 Kt. Gold."

(2) An industry product or part thereof on which there has been affixed on all significant surfaces, by soldering, brazing, welding, or other mechanical means, a plating of gold alloy of not less than 10 karat fineness which is of substantial thickness,[1] may be marked or described as "Gold Filled," "Gold Plate," "Gold Plated," "Gold Overlay," "Rolled Gold Plate," or adequate abbreviations thereof, when such plating constitutes at least 1/20th of the weight of the metal in the entire article, and when the term is immediately preceded by a designation of the karat fineness of the plating which is of equal conspicuousness as the term used (as, for example, "14 Kt. Gold Filled," "14 Kt. G. F.," "14 Kt. Gold Plated," "14 Kt. G. P.," and "14 Kt. Gold Overlay"). When conforming to all such requirements except the specified minimum of 1/20th of the weight of the metal in the entire article, the terms "Gold Plate," "Gold Plated," "Rolled Gold Plate," and "Gold Overlay" may be used when the karat fineness designation is immediately preceded by a fraction which accurately discloses the portion of the weight of the metal in the entire article accounted for by the plating, and when such fraction is of equal conspicuousness as the term used (as, for example, "1/40 12 Kt. Rolled Gold Plate," and "1/40 12 Kt. R. G. P.").

(3) An industry product or part thereof, all significant surfaces on which there has been affixed by an electrolytic process a coating or plating of gold, or of a gold alloy of not less than 10 karat fineness, the minimum thickness throughout of which is equivalent to 7/1,000,000ths of an inch of fine gold, may be marked or described as "Gold Electroplate" or "Gold Electroplated." When the coating or plating meets the minimum fineness, but not the minimum thickness, above specified, the marking or description may be "Gold Flashed" or "Gold Washed," and when of the minimum fineness above specified and of a minimum thickness throughout which is equivalent to 100/1,000,000ths of an inch of fine gold, the marking or description may be "Heavy Gold Electroplate" or "Heavy Gold Electroplated." When coatings or platings qualify for the term "Gold Electroplate" (or "Gold Electroplated"), or the term "Heavy Gold Electroplate" (or "Heavy Gold Electroplated"), and have been applied by use of a special kind of an electrolytic process, the designation for which the coating or plating is qualified may be accompanied by an identification of the process used, as for example, "Gold Electroplated (X Process)"; "Heavy Gold Electroplated (Y Process)."

[1] As here used, the term "substantial thickness" is to be construed as requiring that all areas of the plating be of such thickness as to assure of a durable coverage of the base metal to which it has been affixed. Since industry products embrace items having surfaces and parts of surfaces which are subject to different degrees of wear, this requirement of substantial thickness may not necessitate uniformity of thickness of plating for all items or for different areas of the surface or surfaces of individual items.

(d) The requirements of this section relating to markings and descriptions of industry products and parts thereof are subject to the tolerances applicable thereto under the National Stamping Act (15 U.S. Code, sections 294, et seq.) and to the exemptions applicable thereto under section 10 of Commercial Standard CS 67-38, relating to marking articles made of karat gold, and under section 12(a) of Commercial Standard CS 47-34 (including supplement thereof effective February 25, 1939), relating to marking of gold filled and rolled gold plate articles other than watch cases.

(e) The exemption provisions of Commercial Standard CS 67-38, mentioned in paragraph (d) of this section, are as follows:

10. Exemptions recognized in the jewelry trade and not to be considered in any assay for quality include springs, posts, and separable backs of lapel buttons, posts and nuts for attaching interchangeable ornaments, and wire pegs or rivets used for applying mountings and other ornaments, which mountings or ornaments shall be of the quality marked.

(f) The exemption provisions of Commercial Standard CS 47-34, mentioned in paragraph (d) of this section, are as follows:

12(a). Exemptions recognized in the jewelry trade and not to be considered in any assay for quality include joints, catches, screws, pin stems, pins of scarf pins, hat pins, etc., field pieces and bezels for lockets, posts and separate backs of lapel buttons, springs, and metallic parts completely and permanently encased in a nonmetallic covering. Field pieces of lockets are those inner portions used as frames between the inside edges of the locket and the spaces for holding pictures. Bezels are the separable inner metal rings used to hold the pictures in place. [Guide 5]

§ 23.6 Misrepresentation as to silver content.

(a) It is an unfair trade practice to misrepresent in any way the silver content or fineness of silver content of any industry product, or to represent such product as having a silver content, plating, electroplating, or coating, when such is not the fact.[2]

[2] The requirements of this section relating to markings and descriptions of industry products and parts thereof are subject to the tolerances applicable thereto under the National Stamping Act (15 U.S. Code, sec-

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(b) It is an unfair trade practice to mark, describe, or otherwise represent, any industry product, or part thereof, as "silver," "solid silver," "Sterling," or "Sterling Silver," unless it is at least 925/1,000ths pure silver.

(c) It is an unfair trade practice to mark, describe, or otherwise represent, any industry product, or part thereof, as "coin" or "coin silver," unless it is at least 900/1,000ths pure silver.

(d) It is an unfair trade practice to apply the term "Sterling" or "coin," either alone or in conjunction with any other word or words, in any manner to a silver-plated article or to the plating thereon.

(e) It is an unfair trade practice to mark, describe, or otherwise represent, any industry product, or part thereof, as being plated or coated with silver, unless all significant surfaces of the product or part contain a plating or coating of silver which is of substantial thickness.

NOTE.—See also § 23.8 entitled "Additional requirements relating to quality marks." [Guide 6]

§ 23.7 Misuse of words "platinum," "iridium," "palladium," "ruthenium," "rhodium," and "osmium."

It is an unfair trade practice to use the words "platinum," "iridium," "palladium," "ruthenium," "rhodium," or "osmium," or any abbreviations thereof, as a marking on, or as descriptive of, any industry product or part thereof, under any circumstance or condition having the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the true composition of such product or part.

NOTE.—Commercial Standard CS66-38, issued by the National Bureau of Standards of the U.S. Department of Commerce, covers the marking of articles made wholly or in part of platinum. Markings on industry products which are in compliance with the requirements of CS66-38 will be regarded as among those fulfilling the requirements relating thereto which are contained in this section.

NOTE.—See also § 23.8 entitled "Additional requirements relating to quality marks." [Guide 7]

§ 23.8 Additional requirements relating to quality marks.

As used in this section, the term "quality mark" means any letter, figure, numeral, symbol, sign, word, or term, or any combination thereof, which has been stamped, embossed, inscribed, or otherwise placed, on any industry product and which indicates or suggests that any such product is composed throughout of any precious metal or any alloy thereof or has a surface or surfaces on which there has been plated or deposited any precious metal or alloy thereof. Included are the words "gold," "karat," "carat," "silver," "sterling," "platinum," "iridium," "palladium," "ruthenium," "rhodium," or "osmium," or any abbreviation thereof, whether used alone or in conjunction with the word "filled," "plated," "overlay," "electroplated," or any abbreviation thereof. Requirements of this section are additional to those provided for in §§ 23.5, 23.6, and 23.7.

(a) *Deception as to applicability of marks.* (1) It is an unfair trade practice to sell, offer for sale, or distribute any industry product on which a quality mark appears when by reason of the location of such mark, the failure to conjunctively identify the part or portion of the product to which same is applicable (or part or portion to which same is inapplicable), or otherwise, such mark has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the metallic composition of the product or any part thereof.

(2) When a quality mark has proper application but to one or more parts of an industry product and not to another part or parts thereof which are of similar surface appearance, each quality mark should be closely accompanied by an identification of the part or parts to which the mark is applicable.

(b) *Deception by reason of difference in the size of letters or words in a marking or markings.* It is an unfair trade practice to sell, offer for sale, or distribute any industry product on which there appears a quality mark in which words or letters appear in greater size than other words or letters of the marking, or when different markings placed on the product have different applications and are in different sizes, when any such marking has the capacity, tendency, or effect of deceiving purchasers or prospective purchasers of the product as to the metallic composition of such product or any part thereof. (An example of improper marking subject to the inhibitions of this paragraph would be the marking of a gold electroplated product with the word "electroplate" in small type and the word "gold" in larger type, with the result that purchasers and prospective purchasers of the product would observe the word "gold" of the marking and unlikely observe the word "electroplate".)

NOTE.—*Legibility of markings.* Quality markings on industry products should be of sufficient size type as to be legible to persons of normal vision, and be so placed as likely to be observed by purchasers or prospective purchasers thereof. When such size marking cannot be achieved without injury to the appearance of the article, a tag or label on which the marking appears in type which is readable by persons of normal vision should be attached to the product and remain thereon until consumer purchase.

NOTE.—*Disclosure of identity of manufacturers, processors, or distributors.* It is the consensus of the members of this industry that all quality markings on industry products should be accompanied by the name, or other adequate identification, of the manufacturer, processor, or distributor responsible for such marking. Quality markings include those in which the words or terms "gold," "karat," "silver," "platinum" (or platinum related metals), or their abbreviations, are included, either separately or as suffixes, prefixes, or syllables. [Guide 8]

§ 23.9 Misuse of the word "diamond."

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice for any industry member to use the unqualified word "diamond" as descriptive of, or as an identification for, any object or product not meeting the requirements specified in the definitions of diamond hereinabove set forth, or which, though meeting such requirements, has not been symmetrically fashioned with at least seventeen (17) polished facets.

(b) The foregoing provisions of this section have application to the unqualified use of the word "diamond." They are not to be construed as inhibiting:

(1) The use of the words "rough diamond" as descriptive of, or as a designation for, uncut or unfaceted objects or products meeting the requirements specified in the mentioned definition of diamond; or

(2) The use of the word "diamond" as descriptive of, or as a designation for, objects or products meeting the requirements of said definition of diamond but which have not been symmetrically fashioned with at least seventeen (17) polished facets when in

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tion 294, et seq.) and to the exemptions applicable thereto under section 8 of Commercial Standard CS 118-44 (Marking of Jewelry and Novelties of Silver), and section 8(a) of Commercial Standard CS 51-35 (Marking Articles Made of Silver in Combination with Gold).

The exemption provisions of Commercial Standard CS 118-44, above mentioned, are as follows:

8. Exemptions: The only exemptions recognized and not to be included in any assay for quality include screws, rivets, springs, spring pins for wrist watch straps; posts and separable backs of lapel buttons; wire pegs, posts and nuts used for applying mountings or other ornaments, which mountings or ornaments shall be of the quality marked; pin stems of badges, brooches, emblem pins, hat pins, and scarf pins; levers for belt buckles; and blades and skeletons of pocket knives.

The exemption provisions of Commercial Standard CS 51-35, above mentioned, are as follows:

8(a). Unless otherwise required by the National Stamping Act, exemptions recognized in the jewelry trade and not to be considered in any assay for quality include joints, catches, screws, pin stems, pins of scarf pins, hat pins, etc., posts and separable backs of lapel buttons, springs, and metallic parts completely and permanently encased in a nonmetallic covering.

immediate conjunction with the word "diamond" there is either a disclosure of the number of facets and shape of the diamond or the name of a type of diamond which denotes shape and which usually has less than seventeen (17) facets (e.g., "rose diamond").

NOTE.—Additional requirements relating to imitation and synthetic diamond representations and misuse of words "reproduction," "replica," "gem," "real," "genuine," "natural," etc., are set forth in §§ 23.19, 23.20 and 23.21. [Guide 9]

§ 23.10 Misuse of word "perfect," etc.

(a) It is an unfair trade practice to use the word "perfect," or any other word, expression, or representation of similar import, as descriptive of any diamond which discloses flaws, cracks, carbon spots, clouds, or other blemishes or imperfections of any sort when examined in normal daylight, or its equivalent, by a trained eye under a ten-power, corrected- diamond eye loupe or other equal magnifier.

NOTE.—The use, with respect to a stone which is not perfect, of any phrase (such as "commercially perfect") containing the word "perfect" or "perfectly" is regarded as misleading and in violation of this section.

Paragraph (a) of this section shall not be construed as approving the use of the word "perfect," or any word or representation of like import, as descriptive of any diamond that is of inferior color or make.

Nothing in this section is to be construed as inhibiting the use of the word "flawless" as descriptive of a diamond which meets the requirements for "perfect" set forth in paragraph (a) of this section.

(b) It is an unfair trade practive, in connection with the offering of any ring or rings or other articles of jewelry having a perfect center stone or stones, and side or supplementary stones which are not of such quality, to use the word "perfect" without clearly disclosing that such description applies only to the center stone or center stones. [Guide 10]

§ 23.11 Misuse of term "blue white."

It is an unfair trade practice to use the term "blue white," or any other term, expression, or representation of similar import, as descriptive of any diamond which under normal, north daylight or its equivalent, shows any color or any trace of any color other than blue or bluish.

NOTE.—For additional requirements respecting artificially colored diamonds, see the note immediately following § 23.18 [Guide 11]

§ 23.12 Misuse of the term "properly cut," etc.

It is an unfair trade practice to use the terms, "properly cut," "proper cut," "modern cut," "well made," or expressions of similiar import, to describe any diamond that is lopsided, or so thick or so thin in depth as materially to detract from the brilliance of the stone.

NOTE.—This section prohibits the commonly called "fisheye" or "old mine" stone from being offered as "properly cut," "modern cut," etc. [Guide 12]

§ 23.13 Misuse of the words "brilliant" and "full cut."

It is an unfair trade practice to use the unqualified expressions "brilliant," "brilliant cut," or "full cut" to describe, identify, or refer to any diamond except a round diamond which has at least thirty-two facets plus the table above the girdle and at least twenty-four facets below.

NOTE.—Such terms should not be applied to single or rose-cut diamonds, either with or without qualification. They may be applied to emerald- (rectangular) cut, pear-shaped, heart-shaped, oval-shaped, and marquise- (pointed oval) cut diamonds meeting the above-stated facet requirements when, in immediate conjunction with the term used, disclosure is made of the fact that the diamond is of such form. [Guide 13]

§ 23.14 Misuse of term "clean," etc.

It is an unfair trade practice to use the term "clean," "eye clean," "commercially clean," "commercially white," or any other term, expression, or representation of similar import, in advertising, labeling, representing, or describing any diamond, when such terms are used for the purpose, or with the capacity and tendency or effect, of misleading or deceiving purchasers, prospective purchasers, or the consuming public. [Guide 14]

§ 23.15 Misuse of the word "pearl."

(a) It is an unfair trade practice to use the unqualified word "pearl," or any other word or phrase of like meaning or connotation, to describe, identify, or refer to any object or product which is not in fact a pearl as defined hereinabove.

(b) It is an unfair trade practice to use the word "pearl" to describe, identify, or refer to a cultured pearl unless it is immediately preceded, with equal conspicuity, by the word "cultured" or "cultivated," or by some other word or phrase of like meaning and connotation, so as to indicate definitely and clearly that the product is not a pearl.

(c) It is an unfair trade practice to use the word "pearl" to describe, identify, or refer to an imitation pearl unless it is immediately preceded, with equal conspicuity, by the word "imitation" or "simulated," or by some other word or phrase of like meaning and connotation, so as to indicate definitely and clearly that the product is not a pearl.

NOTE.—The placing of an asterisk next to the word "pearl," which asterisk makes reference to a footnote explanation of the fact that the product is an imitation or cultured pearl, is not regarded as compliance with the requirements of this section. [Guide 15]

§ 23.16 Misuse of terms "cultured pearl," "cultivated pearl," "seed pearl," "Oriental pearl," "Oriental," "natura," and "kultured."

(a) It is an unfair trade practice to use the term "cultured pearl," "cultivated pearl," or any other word, term, or phrase of like meaning or connotation, to describe, identify, or refer to any imitation pearl.

(b) It is an unfair trade practice to use the term "seed pearl," or any word, term, or phrase of like meaning or connotation, to describe, identify, or refer to any cultured pearl or imitation pearl.

(c) It is an unfair trade practice to use the term "Oriental pearl," or any word, term, or phrase of like meaning or connotation, to describe, identify, or refer to any product of the industry other than a pearl taken from a salt water mollusk and of the distinctive appearance and type of pearls obtained from mollusks inhabitating the Persian Gulf and recognized in the jewelry trade as Oriental pearls.

(d) It is an unfair trade practice to use the word "Oriental" to describe, identify, or refer to any cultured or imitation pearl.

(e) It is an unfair trade practice to use the word "natura," or any word, term, or phrase of like meaning or connotation, to describe, identify, or refer to a cultured or imitation pearl.

(f) It is an unfair trade practice to use the word "kultured," or any word, term, or phrase of like meaning or connotation, to describe, identify, or refer to an imitation pearl. [Guide 16]

§ 23.17 Misrepresentation as to cultured pearls.

It is an unfair trade practice, in connection with the distribution, sale, or offering for sale of industry products, to make, publish, or disseminate, or cause to be made, published, or disseminated, any false, misleading, or deceptive statement, representation, or illustration concerning the matter in which cultured pearls are produced, the size of the nucleus artificially inserted in the oyster and included in cultured pearls, the length of time that such products remained in the oyster, the thickness of the nacre coating, the value and quality of cultured pearls as compared with the value and quality of pearls and imitation pearls or concerning any other material matter relating to the formation, structure, properties, characteristics, and qualities of cultured pearls.

NOTE.—Additional requirements relating to misuse of the words "real," "genuine," "natural," "reproduction," "replica," "synthetic," "gems," etc., are set forth in §§ 23.20 and 23.21 [Guide 17]

§ 23.18 Deception as to precious and semi-precious stones.

It is an unfair trade practice, in connection with the offering for sale, sale, or distribution of precious or semi-precious gem stones, to use or cause or promote the use of any trade promotional literature, advertising matter, mark, brand, label, trade name, picture, design or device, or other type of oral or written representation, however, disseminated or published, which has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public in any other material respect.

NOTE.—One of the practices to be considered as inhibited by this section is as follows: The sale, or offering for sale, of any diamond or other natural precious or semi-precious stone which has been artificially colored or tinted by coating, irradiating, or heating, or by use of nuclear bombardment, or by any other means, without disclosure of the fact that such natural stone is colored, and disclose that such artificial coloring or tinting is not permanent if such is the fact. [Guide 18]

§ 23.19 Misuse of words "ruby," "sapphire," "emerald," "topaz," "stone," "birthstone," etc.

(a) It is an unfair trade practice to use the unqualified words "ruby," "sapphire," "emerald," "topaz," or the name of any other precious or semi-precious stone, as descriptive of any product which is not in fact a natural stone of the type described.

(b) It is an unfair trade practice to use the words "ruby," "sapphire," "emerald," "stone," "birthstone," or the name of any other precious or semi-precious stone, as descriptive of a synthetic stone or an imitation or simulated stone unless such word or name is immediately preceded, with equal conspicuity, by the word "synthetic," or by the word "imitation" or "simulated," whichever is applicable, or by some other word or phrase of like meaning, so as clearly to disclose the nature of such product and the fact that it is not a natural stone.

NOTE.—The placing of an asterisk next to the word "stone" or "birthstone," or the name of any natural stone referring to a footnote explanation that the product is a synthetic or imitation is not to be regarded as compliance with the requirements of this section. [Guide 19]

§ 23.20 Misuse of words "real," "genuine," "natural," etc.

It is an unfair trade practice to use the words "real," "genuine," "natural," or similar terms, as descriptive of any article or articles which are manufactured or produced synthetically or artificially, or artificially cultured or cultivated, with the capacity and tendency or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public. [Guide 20]

§ 23.21 Misuse of words "gem," "reproduction," "replica," "synthetic," etc.

(a) It is an unfair trade practice to use the word "gem" or similar terms to describe, identify, or refer to a pearl, cultured pearl, diamond, ruby, sapphire, emerald, topaz, or other product of the industry, which does not possess the beauty, symmetry, rarity, and value necessary for qualification as a gem.

(b) It is an unfair trade practice to use the word "gem" as descriptive of any synthetic industry product unless the product meets the requirements of paragraph (a) of this section and unless such word is immediately accompanied, with equal conspicuity, by the word "synthetic," or by some other word or phrase of like meaning, so as clearly to disclose the fact that it is not a natural gem.

NOTE.—Use of the word "gem" with respect to cultured pearls and synthetic stones should be avoided since few cultured pearls or synthetic stones possess the necessary qualifications to properly be termed "gems." Imitation pearls, imitation diamonds, and other imitation stones cannot be described as "gems" under any circumstances. Not all diamonds or natural stones, including those classified as precious stones, possess the necessary qualifications to properly be termed "gems."

(c) It is an unfair trade practice to use the words "reproduction," "replica," or similar terms, to describe, identify, or refer to a cultured or imitation pearl, or to any imitation of precious or semi-precious stones.

(d) It is an unfair trade practice to use the word "synthetic" as descriptive of cultured or imitation pearls, or to use the word "synthetic" with the name of any natural stone as descriptive of any industry product, unless such industry product has essentially the same optical, physical, and chemical properties as the stone named. [Guide 21]

Appendix—Listing and Classification of Guides for Convenient Reference by Industry Members

Category I. Guides in this part having application to all industry products regardless of their composition:

Sec.
23.1 Deception (general).
23.2 Misleading illustrations.
23.3 Misrepresentation as to origin and disclosure of foreign origin.
23.4 Misuse of terms "hand-made," "hand-polished," etc.

Category II. Guides in this part having application to industry products composed in whole or in part of a precious metal or metals:

23.5 Misrepresentation as to gold content.
23.6 Misrepresentation as to silver content.
23.7 Misuse of words "platinum," "iridium," "palladium," "ruthenium," "rhodium," and "osmium."
23.8 Additional requirements relating to quality marks.

Category III. Guides in this part having application to industry products containing diamonds or imitations thereof:

23.9 Misuse of the word "diamond."
23.10 Misuse of word "perfect," etc.
23.11 Misuse of term "blue white."
23.12 Misuse of the term "properly cut," etc.
23.13 Misuse of the words "brilliant" and "full cut."
23.14 Misuse of the term "clean," etc.

NOTE.—These guides also have application to diamonds which are sold in the loose and unset state.

Category IV. Guides in this part having application to industry products containing pearls, cultured pearls, or imitations thereof:

23.15 Misuse of the word "pearl."
23.16 Misuse of terms "cultured pearl," "cultivated pearl," "seed pearl," "Oriental pearl," "Oriental," "natura," and "kultured."
23.17 Misrepresentation as to cultured pearls.

NOTE.—These guides also have application to pearls, cultured pearls, and imitation pearls sold in the loose (unstrung and unset) state.

Category V. Guides in this part having application to industry products containing rubies, sapphires, and emeralds and other precious or semi-precious stones, and synthetic and imitation stones:

Sec.
23.18 Deception as to precious and semi-precious stones.
23.19 Misuse of words "ruby," "sapphire," "emerald," "topaz," "stone," "birthstone," etc.
23.20 Misuse of words "real," "genuine," "natural," etc.
23.21 Misuse of words "gem," "reproduction," "replica," "synthetic," etc.

NOTE.—Industry products covered by the guides in Categories II through V are also subject to the guides in Category I.

PART 24—GUIDES FOR THE LUGGAGE AND RELATED PRODUCTS INDUSTRY

Sec.
24.0 Definitions.
24.1 Deception (general).
24.2 Deception as to composition.
24.3 Deceptive practices as to aniline finish, graining, embossing and processing.
24.4 Deception as to hardware, frame or box.
24.5 Misuse of the terms "waterproof," "dustproof," "warpproof," "scuffproof" and "scratchproof."

AUTHORITY: Secs. 6, 5, 38 Stat. 721, 719, 15 U.S.C. 46, 45.

§ 24.0 Definitions.

Industry member. Any person, firm, corporation or organization engaged in

the manufacture, sale or distribution of any industry products as defined below.

Industry products. Industry products consist of all kinds and type of trunks, suitcases, traveling bags, sample cases, instrument cases, brief cases, ring binders, billfolds, wallets, key cases, coin purses, card cases, french purses, dressing cases, stud boxes, tie cases, jewel boxes, travel kits, gadget bags, camera bags, and similar articles, of any composition. Ladies' handbags are not included.

§ 24.1 Deception (general).

It is an unfair trade practice to sell, offer for sale, or distribute industry products by any method, or under any circumstance or condition which has the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public with respect to the kind, grade, quality, quantity, material content, thickness, finish, serviceability, durability, price, origin, size, weight, ease of cleaning, construction, manufacture, processing, or distribution of any product of the industry or part thereof, or in any other material respect. [Guide 1]

§ 24.2 Deception as to composition.

(a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to misrepresent the composition of any industry product or part thereof, or to fail to disclose, in the manner hereinafter set forth (see paragraph (b)(9) of this section), material facts concerning the composition of an industry product when the failure to do so has the capacity and tendency or effect of deceiving purchasers or prospective purchasers.

(b) The foregoing provisions of this section are to be construed as, but not limited to:

(1) *Split leather.* Requiring disclosure[1] of the fact that an industry product, or part thereof, is made of split leather if the split leather is visible or if any representation is made as to the composition thereof. For example, a disclosure such as,

Split Cowhide

NOTE.—For purposes of this part leather from portions of hides or skins which have been split into two or more thicknesses, other than the grain or hair side, shall be considered split leather.

(2) *Imitation or simulated leather.* Requiring that when an industry product or part thereof is made of nonleather material which has the appearance of leather, disclosure[1] be made either of the fact that the material is not leather, or of the general nature of the material as will clearly show that it is not leather, as, for example:

Not leather
Imitation leather
Simulated leather
Vinyl
Vinyl coated fabric
Plastic

(3) *Embossed or processed leather.* Requiring disclosure[1] of the kind and type of leather which an industry product or part thereof is made when such leather has been embossed, dyed, or otherwise processed, so as to simulate the appearance of a different kind or type of leather, as, for example:

(i) An industry product made wholly of top grain cowhide which has been processed so as to imitate pigskin may be represented as being made of:

Top Grain Cowhide

(ii) Any additional representation as may be made concerning the simulated appearance of an industry product composed of leather shall be immediately accompanied by the required disclosure of the kind and type of leather in the product, as, for example:

Top Grain Cowhide
Simulated Pigskin Grain

(4) *Backing material.* Requiring disclosure[1] that any material in an industry product is backed with another kind of material when the backing is not apparent to purchasers or prospective purchasers upon casual inspection of the product, or when representations are made which, in the absence of such disclosure, would be deceptive as to the composition of the product. For example, disclosures such as,

Top Grain Cowhide Backed With Split Cowhide; or
Split Cowhide Backed With Simulated Leather; or
Vinyl Backed With Other Material.

If the different backing material used is visible and is split leather, nonleather material which has the appearance of leather, or leather processed so as to simulate a different kind of leather, disclosure as is required by subparagraphs (1), (2) or (3) of this paragraph, whichever is applicable, must also be made.

(5) *Fictitious animal designations.* Prohibiting any representation or implication that an industry product is made in whole or in part from the skin or hide of an animal which in fact is nonexistent.

(6) *Misuse of trade names, etc.* Prohibiting the use of any trade name, coined name, trade-mark, or other word or term, or any depiction or device, which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers into believing that an industry product is made in whole or in part from the skin or hide of an animal or that material in an industry product is leather, top grain leather, split leather, plastic, fiber-glass, nylon or other material, when such is not the case. This prohibition shall include, among other practices, the use of a stamping, tag, label, card, or other device in the shape of a tanned hide or skin or in the shape of a silhouette of an animal in connection with any industry product having the appearance of leather but which is not made wholly or in substantial part from the skin or hide of an animal.

(7) *Misrepresentation that product is wholly of a particular composition.* Prohibiting any representation or implication that an industry product is made wholly of a particular composition when such is not the case. A representation as to the composition of a particular part of a product must clearly indicate the part to which the representation is properly applicable.

(i) Where a product is made principally of top grain leather or of split leather with the exception of certain non-leather parts thereof which have the appearance of leather, the product may be described as made of top grain leather or split leather, as the case may be, except for such designated non-leather parts when accompanied by disclosure G21 either of the fact that the designated parts are not leather or of the general nature of such parts as will clearly show that they are not leather. For example: A brief case made of top grain cowhide except for frame covering, gussets and partitions which are made of plastic but have the appearance of leather may be described as—

Top Grain Cowhide With Plastic Frame Covering, Gussets and Partitions; or
Top Grain Cowhide With Gussets, Frame Covering and Partitions Made of Non-leather Material.

A zipper binder made throughout, except for hardware, of vinyl backed with split cowhide may be described as—

Vinyl Backed With Split Cowhide

(See also disclosure requirements concerning use of backing material set forth in subparagraph (4) of this paragraph.) A billfold made of top grain cowhide except for partitions and stay which are made of plastic coated fabric but have the appearance of leather may be described as—

Top Grain Cowhide With Partitions and Stay Made of Non-leather Material; or
Top Grain Cowhide With Partitions and Stay Made of Plastic Coated Fabric.

(ii) Where a product is made principally of top grain leather and the only other parts thereof which have the appearance of leather are made of split leather, the product may be described as made of top grain leather except

[1] See subparagraph (9) of this paragraph.

for the designated parts made of split leather when accompanied by disclosure [1] that such parts are made of split leather. For example: A brief case made of top grain cowhide except for frame covering, gussets and partitions which are made of split cowhide may be described as—

Top Grain Cowhide With Split Cowhide Frame Covering, Gussets and Partitions.

(8) *Ground, pulverized or shredded leather.* Prohibiting any representation directly or by implication that a material in an industry product is leather, if such material contains ground, pulverized or shredded leather and thus is not wholly the hide of an animal. This provision shall not be construed as preventing an accurate representation as to the ground, pulverized or shredded leather content of the material. However, if the material has the appearance of being leather it must be accompanied by disclosure [1] as is required by subparagraph (2) of this paragraph. For example: A brief case made of a composition material consisting of shredded leather fibers held together with a rubber adhesive and coated with vinyl may be described as—

Composition Material Containing Shredded Leather Fibers, Rubber Adhesive and Vinyl Coating

(9) *Form of required disclosures under this section.* All disclosures required by provisions of this section shall appear in the form of a stamping on the product, or on a tag, label, or card attached thereto, and be affixed with such degree of permanence as to remain on or attached to the product until it is received by the consumer purchaser. All disclosures so required on industry products shall also appear in all advertising of such products irrespective of the media used whenever statements, representations or depictions appear in such advertising which in the absence of such disclosures serve to create a false impression that the products, or parts thereof, are of a certain kind of composition. The disclosures affixed to products and made in advertising must be of such conspicuousness and clarity as to be noted by purchasers and prospective purchasers casually inspecting the products or casually reading, or listening to, such advertising. A disclosure required in connection with any representation must be in close conjunction therewith. [Guide 2]

[1] See subparagraph (9) of this paragraph.

§ 24.3 Deceptive practices as to aniline finish, graining, embossing and processing.

In the sale, offering for sale or distribution of industry products, it is an unfair trade practice to represent, directly or by implication:

(a) That any such product is colored, finished, or dyed with aniline dye when such is not true in fact; or

(b) That any such product or any part thereof is dyed, embossed, grained, processed, finished or stitched in a certain manner when such is not true in fact. [Guide 3]

§ 24.4 Deception as to hardware, frame or box.

In the sale, offering for sale or distribution of industry products, it is an unfair trade practice to represent, directly or by implication:

(a) That the hardware or any item thereof contained in an industry product is brass, solid brass, or some other designated material when such is not true in fact or when such hardware is only plated or coated with the material designated and the remaining metal therein is of a different kind; or

(b) That the box or frame of an industry product is made in whole or in part of a certain kind of material when such is not true in fact. [Guide 4]

§ 24.5 Misuse of the terms "waterproof," "dustproof," "warpproof," "scuffproof" and "scratchproof."

It is an unfair trade practice to:

(a) Use the term "Waterproof" as descriptive of an industry product or the material of which an industry product is made unless such product or material, whichever is so designated is impermeable to water and moisture.

(b) Use the term "Dustproof" as descriptive of an industry product unless such product is so constructed that when it is closed dust cannot enter the product.

(c) Use the term "Warpproof" as descriptive of an industry product or part thereof unless the product or part so designated is such that it cannot warp.

(d) Use the term: "Scuffproof" or "Scratchproof" as descriptive of an industry product unless the outside surface of the product is immune to scratches or scuff marks. [Guide 5]

Promulgated by the Federal Trade Commission.

Effective February 27, 1979.

CAROL M. THOMAS,
Secretary.

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