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federal register

WEDNESDAY, MARCH 14, 1979

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
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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Documents Relating to Federal Grant Programs

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

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

[3410-05-M]

Title 7—Agriculture

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regulations, 1978 Crop Wheat Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1978 Crop Wheat Loan and Purchase Program; Corrections

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Correction of final rule.

SUMMARY: This action corrects a previous FEDERAL REGISTER document (FR Doc. 79-1652), beginning at page 3673 of the issue for Thursday, January 18, 1979, which provided the county loan rates for wheat for the 1978 crop. Subparagraph (a) of § 1421.489 appeared incorrectly which necessitates this correction.

EFFECTIVE DATE: January 18, 1979.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7973.

SUPPLEMENTARY INFORMATION: The Commodity Credit Corporation issued a final rule with an effective date of January 18, 1979. The final rule appearing incorrectly in Section § 1421.489(a) is corrected as follows:

§ 1421.489 Loan and purchase rates premiums and discounts.

(a) Basic loan and purchase rates. Basic rates per bushel for loan and settlement purposes for wheat grading U.S. No. 1 are as follows:

1978-CROP WHEAT LOAN AND PURCHASE RATES

County	Rate per bushel
ALABAMA	
Mobile	$2.46
All other counties	2.27
Weighted avg. for State	2.27
ARIZONA	
All counties	2.37
ARKANSAS	
All counties	2.28
CALIFORNIA	
Alameda	2.53
Alpine	2.35
Amador	2.48
Butte	2.42
Calaveras	2.48
Colusa	2.47
Contra Costa	2.48
El Dorado	2.47
Fresno	2.43
Glenn	2.41
Humboldt	2.30
Imperial	2.45
Inyo	2.41
Kern	2.48
Kings	2.45
Lake	2.41
Lassen	2.30
Los Angeles	2.53
Madera	2.46
Marin	2.46
Mariposa	2.46
Mendocino	2.35
Merced	2.49
Modoc	2.30
Monterey	2.43
Napa	2.47
Orange	2.53
Placer	2.47
Plumas	2.30
Riverside	2.45
Sacramento	2.53
San Benito	2.46
San Bernardino	2.54
San Diego	2.53
San Francisco	2.53
San Joaquin	2.53
San Luis Obispo	2.42
San Mateo	2.56
Santa Barbara	2.43
Santa Clara	2.47
Santa Cruz	2.48
Shasta	2.31
Sierra	2.32
Siskiyou	2.30
Solano	2.48
Sonoma	2.45
Stanislaus	2.50
Sutter	2.47
Tehama	2.37
Tulare	2.45
Tuolumne	2.46
Ventura	2.50
Yolo	2.48
Yuba	2.47
Weighted avg. for State	2.46
COLORADO	
Adams	2.17
Alamosa	2.14
Arapahoe	2.17
Archuleta	2.11
COLORADO—Continued	
Baca	2.21
Bent	2.17
Boulder	2.16
Chaffee	2.14
Cheyenne	2.18
Conejos	2.14
Costilla	2.14
Crowley	2.17
Custer	2.16
Delta	2.08
Denver	2.17
Dolores	2.08
Douglas	2.17
Eagle	2.11
Elbert	2.17
El Paso	2.17
Fremont	2.16
Garfield	2.11
Grand	2.14
Huerfano	2.18
Jackson	2.14
Jefferson	2.16
Kiowa	2.18
Kit Carson	2.18
La Plata	2.08
Larimer	2.17
Las Animas	2.20
Lincoln	2.17
Logan	2.17
Mesa	2.08
Moffat	2.14
Montezuma	2.08
Montrose	2.08
Morgan	2.17
Otero	2.17
Ouray	2.08
Phillips	2.17
Pitkin	2.08
Prowers	2.19
Pueblo	2.17
Rio Blanco	2.11
Rio Grande	2.14
Routt	2.14
Saguache	2.14
San Miguel	2.08
Sedgwick	2.17
Summit	2.11
Teller	2.16
Washington	2.17
Weld	2.17
Yuma	2.18
Weighted avg. for State	2.17
CONNECTICUT	
All counties	2.29
DELAWARE	
All counties	2.32
FLORIDA	
All counties	2.26
GEORGIA	
All counties	2.26
IDAHO	
Ada	2.29
Adams	2.29
Bannock	2.27
Bear Lake	2.25
Benewah	2.40
Bingham	2.25
Blaine	2.25
Boise	2.29
Bonner	2.32
Bonneville	2.24
Boundary	2.30
Butte	2.24
Camas	2.26

IDAHO—Continued

Canyon	2.29
Caribou	2.26
Cassia	2.28
Clark	2.22
Clearwater	2.38
Custer	2.24
Elmore	2.28
Franklin	2.28
Fremont	2.23
Gem	2.29
Gooding	2.29
Idaho	2.37
Jefferson	2.24
Jerome	2.29
Kootenai	2.38
Latah	2.40
Lemhi	2.24
Lewis	2.39
Lincoln	2.28
Madison	2.24
Minidoka	2.28
Nez Perce	2.42
Oneida	2.28
Owyhee	2.28
Payette	2.29
Power	2.28
Shoshone	2.38
Teton	2.23
Twin Falls	2.29
Valley	2.28
Washington	2.29
Weighted avg. for State	2.31

ILLINOIS

Adams	2.30
Alexander	2.33
Bond	2.36
Boone	2.38
Brown	2.30
Bureau	2.36
Calhoun	2.37
Carroll	2.35
Cass	2.32
Champaign	2.36
Christian	2.34
Clark	2.32
Clay	2.32
Clinton	2.36
Coles	2.32
Cook	2.38
Crawford	2.31
Cumberland	2.32
De Kalb	2.38
DeWitt	2.32
Douglas	2.33
DuPage	2.38
Edgar	2.34
Edwards	2.32
Effingham	2.34
Fayette	2.35
Ford	2.36
Franklin	2.36
Fulton	2.34
Gallatin	2.29
Greene	2.36
Grundy	2.38
Hamilton	2.30
Hancock	2.30
Hardin	2.29
Henderson	2.32
Henry	2.35
Iroquois	2.38
Jackson	2.35
Jasper	2.31
Jefferson	2.36
Jersey	2.37
Jo Daviess	2.35
Johnson	2.33
Kane	2.38
Kankakee	2.38
Kendall	2.38
Knox	2.34
Lake	2.38
LaSalle	2.38
Lawrence	2.31
Lee	2.37
Livingston	2.37
Logan	2.32
McDonough	2.32
McHenry	2.38
McLean	2.34
Macon	2.32
Macoupin	2.36

ILLINOIS—Continued

Madison	2.37
Marion	2.36
Marshall	2.35
Mason	2.30
Massac	2.32
Menard	2.30
Mercer	2.34
Monroe	2.37
Montgomery	2.36
Morgan	2.34
Moultrie	2.33
Ogle	2.36
Peoria	2.34
Perry	2.36
Piatt	2.32
Pike	2.31
Pope	2.30
Pulaski	2.33
Putnam	2.35
Randolph	2.37
Richland	2.31
Rock Island	2.35
Saint Clair	2.37
Saline	2.30
Sangamon	2.34
Schuyler	2.30
Scott	2.32
Shelby	2.34
Stark	2.34
Stephenson	2.37
Tazewell	2.32
Union	2.33
Vermilion	2.37
Wabash	2.31
Warren	2.34
Washington	2.36
Wayne	2.32
White	2.29
Whiteside	2.36
Will	2.38
Williamson	2.34
Winnebago	2.37
Woodford	2.34
Weighted avg. for State	2.34

INDIANA

Adams	2.31
Allen	2.31
Bartholomew	2.31
Benton	2.36
Blackford	2.31
Boone	2.30
Brown	2.31
Carroll	2.34
Cass	2.34
Clark	2.36
Clay	2.32
Clinton	2.30
Crawford	2.36
Daviess	2.32
Dearborn	2.31
Decatur	2.31
De Kalb	2.31
Delaware	2.31
Dubois	2.33
Elkhart	2.33
Fayette	2.31
Floyd	2.36
Fountain	2.34
Franklin	2.31
Fulton	2.34
Gibson	2.31
Grant	2.30
Greene	2.32
Hamilton	2.31
Hancock	2.31
Harrison	2.36
Hendricks	2.30
Henry	2.31
Howard	2.30
Huntington	2.30
Jackson	2.32
Jasper	2.37
Jay	2.31
Jefferson	2.34
Jennings	2.32
Johnson	2.30
Knox	2.31
Kosciusko	2.34
Lagrange	2.30
Lake	2.38
La Porte	2.38
Lawrence	2.32

INDIANA—Continued

Madison	2.31
Marion	2.31
Marshall	2.34
Martin	2.32
Miami	2.30
Monroe	2.31
Montgomery	2.32
Morgan	2.30
Newton	2.37
Noble	2.31
Ohio	2.31
Orange	2.34
Owen	2.31
Parke	2.34
Perry	2.32
Pike	2.32
Porter	2.38
Posey	2.29
Pulaski	2.37
Putnam	2.30
Randolph	2.31
Ripley	2.31
Rush	2.31
Saint Joseph	2.36
Scott	2.34
Shelby	2.31
Spencer	2.32
Starke	2.37
Steuben	2.31
Sullivan	2.32
Switzerland	2.32
Tippecanoe	2.33
Tipton	2.30
Union	2.31
Vanderburgh	2.31
Vermillion	2.34
Vigo	2.33
Wabash	2.30
Warren	2.36
Warrick	2.32
Washington	2.34
Wayne	2.31
Wells	2.31
White	2.36
Whitley	2.30
Weighted avg. for State	2.32

IOWA

Pottawattamie	2.41
All other counties	2.30
Weighted avg. for State	2.30

Kansas

Allen	2.36
Anderson	2.39
Atchison	2.41
Barber	2.25
Barton	2.25
Bourbon	2.37
Brown	2.39
Butler	2.29
Chase	2.32
Chautauqua	2.32
Cherokee	2.34
Cheyenne	2.18
Clark	2.22
Clay	2.30
Cloud	2.30
Coffey	2.37
Comanche	2.23
Cowley	2.29
Crawford	2.35
Decatur	2.22
Dickinson	2.29
Doniphan	2.39
Douglas	2.40
Edwards	2.25
Elk	2.32
Ellis	2.25
Ellsworth	2.28
Finney	2.22
Ford	2.23
Franklin	2.40
Geary	2.32
Gove	2.22
Graham	2.24
Grant	2.20
Gray	2.22
Greeley	2.18
Greenwood	2.32
Hamilton	2.19
Harper	2.27
Harvey	2.28

Kansas

Haskell	2.21
Hodgeman	2.24
Jackson	2.38
Jefferson	2.40
Jewell	2.29
Johnson	2.41
Kearny	2.20
Kingman	2.28
Kiowa	2.25
Labette	2.34
Lane	2.22
Leavenworth	2.41
Lincoln	2.28
Linn	2.39
Logan	2.19
Lyon	2.34
McPherson	2.28
Marion	2.28
Marshall	2.34
Meade	2.22
Miami	2.40
Mitchell	2.28
Montgomery	2.34
Morris	2.32
Morton	2.21
Nemaha	2.36
Neosho	2.35
Ness	2.24
Norton	2.24
Osage	2.37
Osborne	2.28
Ottawa	2.29
Pawnee	2.25
Phillips	2.25
Pottawatomie	2.36
Pratt	2.25
Rawlins	2.20
Reno	2.28
Republic	2.30
Rice	2.28
Riley	2.34
Rooks	2.26
Rush	2.25
Russell	2.26
Saline	2.29
Scott	2.20
Sedgwick	2.28
Seward	2.21
Shawnee	2.38
Sheridan	2.22
Sherman	2.18
Smith	2.28
Stafford	2.25
Stanton	2.19
Stevens	2.21
Sumner	2.28
Thomas	2.20
Trego	2.24
Wabaunsee	2.35
Wallace	2.18
Washington	2.32
Wichita	2.19
Wilson	2.34
Woodson	2.35
Wyandotte	2.41
Weighted avg. for State	2.26

Kentucky

Jefferson	2.37
All other counties	2.29
Weighted avg. for State	2.29

Louisiana

East Baton Rouge	2.47
Jefferson	2.47
Orleans	2.47
Saint Charles	2.47
West Baton Rouge	2.47
All other counties	2.32
Weighted avg. for State	2.32

Maine

All counties	2.26

Maryland

Baltimore	2.45
All other counties	2.32
Weighted avg. for State	2.32

Massachusetts

All counties	2.28

Michigan

Alcona	2.21
Alger	2.22
Allegan	2.30
Alpena	2.18
Antrim	2.18
Arenac	2.22
Baraga	2.22
Barry	2.29
Bay	2.26
Benzie	2.21
Berrien	2.34
Branch	2.31
Calhoun	2.30
Cass	2.31
Charlevoix	2.17
Cheboygan	2.17
Chippewa	2.22
Clare	2.24
Clinton	2.27
Crawford	2.21
Delta	2.22
Dickinson	2.22
Eaton	2.29
Emmet	2.15
Genesee	2.29
Gladwin	2.24
Gogebic	2.22
Grand Traverse	2.21
Gratiot	2.27
Hillsdale	2.32
Houghton	2.23
Huron	2.28
Ingham	2.29
Ionia	2.27
Iosco	2.22
Iron	2.23
Isabella	2.26
Jackson	2.30
Kalamazoo	2.30
Kalkaska	2.21
Kent	2.27
Keweenaw	2.22
Lake	2.23
Lapeer	2.29
Leelanau	2.20
Lenawee	2.33
Livingston	2.30
Luce	2.22
Mackinac	2.22
Macomb	2.32
Manistee	2.22
Marquette	2.23
Mason	2.25
Mecosta	2.26
Menominee	2.22
Midland	2.26
Missaukee	2.21
Monroe	2.35
Montcalm	2.27
Montmorency	2.18
Muskegon	2.27
Newaygo	2.25
Oakland	2.32
Oceana	2.25
Ogemaw	2.22
Ontonagon	2.22
Osceola	2.23
Oscoda	2.21
Otsego	2.18
Ottawa	2.27
Presque Isle	2.17
Roscommon	2.21
Saginaw	2.29
Saint Clair	2.32
Saint Joseph	2.31
Sanilac	2.29
Schoolcraft	2.22
Shiawassee	2.29
Tuscola	2.29
Van Buren	2.30
Washtenaw	2.32
Wayne	2.32
Wexford	2.21
Weighted avg. for State	2.29

Minnesota

Aitkin	2.53
Anoka	2.53
Becker	2.43
Beltrami	2.46
Benton	2.52
Big Stone	2.44
Blue Earth	2.51
Brown	2.51

Minnesota

Carlton	2.53
Carver	2.53
Cass	2.49
Chippewa	2.47
Chisago	2.53
Clay	2.41
Clearwater	2.45
Cottonwood	2.48
Crow Wing	2.51
Dakota	2.53
Dodge	2.53
Douglas	2.48
Faribault	2.50
Fillmore	2.49
Freeborn	2.49
Goodhue	2.53
Grant	2.46
Hennepin	2.53
Houston	2.46
Hubbard	2.46
Isanti	2.53
Itasca	2.51
Jackson	2.47
Kanabec	2.52
Kandiyohi	2.51
Kittson	2.37
Koochiching	2.47
Lac Qui Parle	2.45
Lake of the Woods	2.41
Le Sueur	2.53
Lincoln	2.43
Lyon	2.46
McLeod	2.53
Mahnomen	2.43
Marshall	2.40
Martin	2.49
Meeker	2.53
Mille Lacs	2.52
Morrison	2.51
Mower	2.51
Murray	2.46
Nicollet	2.53
Nobles	2.45
Norman	2.41
Olmsted	2.51
Otter Tail	2.46
Pennington	2.42
Pine	2.52
Pipestone	2.43
Polk	2.42
Pope	2.49
Ramsey	2.53
Red Lake	2.42
Redwood	2.49
Renville	2.51
Rice	2.53
Rock	2.43
Roseau	2.38
Saint Louis	2.53
Scott	2.53
Sherburne	2.53
Sibley	2.53
Stearns	2.51
Steele	2.51
Stevens	2.47
Swift	2.47
Todd	2.49
Traverse	2.43
Wabasha	2.52
Wadena	2.47
Waseca	2.52
Washington	2.53
Watonwan	2.50
Wilkin	2.43
Winona	2.50
Wright	2.53
Yellow Medicine	2.47
Weighted avg. for State	2.44

Mississippi

Harrison	2.47
Jackson	2.47
All other counties	2.28
Weighted avg. for State	2.28

Missouri

Adair	2.27
Andrew	2.39
Atchison	2.34
Audrain	2.32
Barry	2.29
Barton	2.33
Bates	2.37

MISSOURI—Continued

Benton	2.33
Bollinger	2.32
Boone	2.29
Buchanan	2.41
Butler	2.31
Caldwell	2.38
Callaway	2.32
Camden	2.30
Cape Girardeau	2.33
Carroll	2.36
Carter	2.29
Cass	2.39
Cedar	2.32
Chariton	2.33
Christian	2.26
Clark	2.28
Clay	2.39
Clinton	2.39
Cole	2.30
Cooper	2.30
Crawford	2.32
Dade	2.31
Dallas	2.28
Daviess	2.36
De Kalb	2.38
Dent	2.30
Douglas	2.25
Dunklin	2.32
Franklin	2.36
Gasconade	2.34
Gentry	2.35
Greene	2.28
Grundy	2.33
Harrison	2.35
Henry	2.36
Hickory	2.33
Holt	2.37
Howard	2.32
Howell	2.23
Iron	2.32
Jackson	2.41
Jasper	2.32
Jefferson	2.35
Johnson	2.37
Knox	2.27
Laclede	2.27
Lafayette	2.39
Lawrence	2.29
Lewis	2.29
Lincoln	2.36
Linn	2.33
Livingston	2.35
McDonald	2.29
Macon	2.30
Madison	2.32
Maries	2.32
Marion	2.31
Mercer	2.32
Miller	2.29
Mississippi	2.34
Moniteau	2.30
Monroe	2.31
Montgomery	2.34
Morgan	2.31
New Madrid	2.34
Newton	2.29
Nodaway	2.37
Oregon	2.27
Osage	2.31
Ozark	2.24
Pemiscot	2.32
Perry	2.33
Pettis	2.33
Phelps	2.30
Pike	2.34
Platte	2.39
Polk	2.31
Pulaski	2.28
Putnam	2.29
Ralls	2.32
Randolph	2.30
Ray	2.39
Reynolds	2.30
Ripley	2.29
Saint Charles	2.37
Saint Clair	2.34
Saint Francois	2.33
Sainte Genevieve	2.34
Saint Louis	2.37
Saline	2.34
Schuyler	2.25
Scotland	2.25
Scott	2.34

MISSOURI—Continued

Shannon	2.27
Shelby	2.30
Stoddard	2.33
Stone	2.29
Sullivan	2.30
Taney	2.26
Texas	2.26
Vernon	2.35
Warren	2.36
Washington	2.33
Wayne	2.31
Webster	2.27
Worth	2.35
Wright	2.27
Weighted avg. for State	2.34

MONTANA

Beaverhead	2.23
Big Horn	2.24
Blaine	2.25
Broadwater	2.29
Carbon	2.25
Carter	2.25
Cascade	2.28
Chouteau	2.28
Custer	2.24
Daniels	2.23
Dawson	2.25
Deer Lodge	2.30
Fallon	2.26
Fergus	2.27
Flathead	2.31
Gallatin	2.30
Garfield	2.23
Glacier	2.28
Golden Valley	2.27
Granite	2.30
Hill	2.26
Jefferson	2.30
Judith Basin	2.27
Lake	2.30
Lewis and Clark	2.28
Liberty	2.27
Lincoln	2.31
McCone	2.24
Madison	2.30
Meagher	2.28
Mineral	2.30
Missoula	2.30
Musselshell	2.25
Park	2.29
Petroleum	2.25
Phillips	2.24
Pondera	2.28
Powder River	2.24
Powell	2.30
Prairie	2.25
Ravalli	2.28
Richland	2.25
Roosevelt	2.24
Rosebud	2.23
Sanders	2.30
Sheridan	2.24
Silver Bow	2.30
Stillwater	2.27
Sweet Grass	2.28
Teton	2.28
Toole	2.27
Treasure	2.24
Valley	2.23
Wheatland	2.28
Wibaux	2.26
Yellowstone	2.25
Weighted avg. for State	2.26

NEBRASKA

Adams	2.28
Antelope	2.36
Arthur	2.19
Banner	2.16
Blaine	2.26
Boone	2.36
Box Butte	2.16
Boyd	2.33
Brown	2.26
Buffalo	2.29
Burt	2.41
Butler	2.38
Cass	2.40
Cedar	2.37
Chase	2.18
Cherry	2.22
Cheyenne	2.16

NEBRASKA—Continued

Clay	2.20
Colfax	2.38
Cuming	2.40
Custer	2.26
Dakota	2.40
Dawes	2.16
Dawson	2.28
Deuel	2.17
Dixon	2.37
Dodge	2.40
Douglas	2.41
Dundy	2.16
Fillmore	2.31
Franklin	2.26
Frontier	2.21
Furnas	2.24
Gage	2.34
Garden	2.17
Garfield	2.30
Gosper	2.24
Grant	2.19
Greeley	2.32
Hall	2.30
Hamilton	2.32
Harlan	2.25
Hayes	2.20
Hitchcock	2.20
Holt	2.33
Hooker	2.20
Howard	2.30
Jefferson	2.33
Johnson	2.34
Kearney	2.26
Keith	2.19
Keya Paha	2.28
Kimball	2.16
Knox	2.36
Lancaster	2.37
Lincoln	2.23
Logan	2.23
Loup	2.20
McPherson	2.22
Madison	2.36
Merrick	2.33
Morrill	2.16
Nance	2.34
Nemaha	2.34
Nuckolls	2.28
Otoe	2.37
Pawnee	2.36
Perkins	2.16
Phelps	2.25
Pierce	2.36
Platte	2.36
Polk	2.35
Red Willow	2.21
Richardson	2.37
Rock	2.20
Saline	2.33
Sarpy	2.41
Saunders	2.40
Scotts Bluff	2.16
Seward	2.36
Sheridan	2.17
Sherman	2.29
Sioux	2.14
Stanton	2.38
Thayer	2.31
Thomas	2.23
Thurston	2.40
Valley	2.29
Washington	2.41
Wayne	2.37
Webster	2.28
Wheeler	2.32
York	2.33
Weighted avg. for State	2.24

NEVADA

All counties	2.29

NEW HAMPSHIRE

All counties	2.28

NEW JERSEY

All counties	2.32

NEW MEXICO

All counties	2.34

NEW YORK

Albany	2.45
New York City	2.45
All other counties	2.30
Weighted avg. for State	2.30

NORTH CAROLINA

All counties	2.26

NORTH DAKOTA

Adams	2.25
Barnes	2.38
Benson	2.31
Billings	2.24
Bottineau	2.25
Bowman	2.25
Burke	2.23
Burleigh	2.29
Cass	2.40
Cavalier	2.32
Dickey	2.38
Divide	2.22
Dunn	2.25
Eddy	2.34
Emmons	2.32
Foster	2.35
Golden Valley	2.24
Grand Forks	2.39
Grant	2.27
Griggs	2.38
Hettinger	2.25
Kidder	2.32
La Moure	2.36
Logan	2.34
McHenry	2.26
McIntosh	2.34
McKenzie	2.23
McLean	2.25
Mercer	2.25
Morton	2.28
Mountrail	2.24
Nelson	2.37
Oliver	2.26
Pembina	2.36
Pierce	2.28
Ramsey	2.33
Ransom	2.41
Renville	2.25
Richland	2.42
Rolette	2.28
Sargent	2.41
Sheridan	2.28
Sioux	2.27
Slope	2.25
Stark	2.25
Steele	2.38
Stutsman	2.36
Towner	2.29
Traill	2.39
Walsh	2.38
Ward	2.24
Wells	2.32
Williams	2.23
Weighted avg. for State	2.31

OHIO

Adams	2.32
Allen	2.33
Ashland	2.36
Ashtabula	2.38
Athens	2.35
Auglaize	2.32
Belmont	2.36
Brown	2.32
Butler	2.32
Carroll	2.36
Champaign	2.32
Clark	2.32
Clermont	2.32
Clinton	2.32
Columbiana	2.37
Coshocton	2.36
Crawford	2.35
Cuyahoga	2.36
Darke	2.32
Defiance	2.33
Delaware	2.35
Erie	2.35
Fairfield	2.35
Fayette	2.32
Franklin	2.35
Fulton	2.34
Gallia	2.32
Geauga	2.38
Greene	2.32
Guernsey	2.36
Hamilton	2.32
Hancock	2.35
Hardin	2.35

OHIO—Continued

Harrison	2.36
Henry	2.34
Highland	2.32
Hocking	2.35
Holmes	2.36
Huron	2.35
Jackson	2.32
Jefferson	2.36
Knox	2.36
Lake	2.38
Lawrence	2.32
Licking	2.36
Logan	2.32
Lorain	2.36
Lucas	2.35
Madison	2.32
Mahoning	2.38
Marion	2.35
Medina	2.36
Meigs	2.32
Mercer	2.32
Miami	2.32
Monroe	2.36
Montgomery	2.32
Morgan	2.36
Morrow	2.36
Muskingum	2.36
Noble	2.36
Ottawa	2.35
Paulding	2.32
Perry	2.35
Pickaway	2.35
Pike	2.32
Portage	2.36
Preble	2.32
Putnam	2.34
Richland	2.36
Ross	2.35
Sandusky	2.35
Scioto	2.32
Seneca	2.35
Shelby	2.32
Stark	2.36
Summit	2.36
Trumbull	2.38
Tuscarawas	2.36
Union	2.35
Van Wert	2.32
Vinton	2.35
Warren	2.32
Washington	2.36
Wayne	2.36
Williams	2.32
Wood	2.35
Wyandot	2.35
Weighted avg. for State	2.34

OKLAHOMA

Adair	2.35
Alfalfa	2.32
Atoka	2.37
Beaver	2.27
Beckham	2.36
Blaine	2.36
Bryan	2.37
Caddo	2.37
Canadian	2.37
Carter	2.37
Cherokee	2.35
Choctaw	2.37
Cimarron	2.27
Cleveland	2.37
Coal	2.37
Comanche	2.37
Cotton	2.37
Craig	2.34
Creek	2.36
Custer	2.36
Delaware	2.35
Dewey	2.35
Ellis	2.30
Garfield	2.34
Garvin	2.37
Grady	2.37
Grant	2.32
Greer	2.37
Harmon	2.37
Harper	2.27
Haskell	2.37
Hughes	2.37
Jackson	2.37
Jefferson	2.37
Johnston	2.37

OKLAHOMA—Continued

Kay	2.33
Kingfisher	2.36
Kiowa	2.37
Latimer	2.37
Le Flore	2.37
Lincoln	2.37
Logan	2.36
Love	2.37
McClain	2.37
McCurtain	2.37
McIntosh	2.37
Major	2.34
Marshall	2.37
Mayes	2.35
Murray	2.37
Muskogee	2.37
Noble	2.34
Nowata	2.34
Okfuskee	2.37
Oklahoma	2.37
Okmulgee	2.37
Osage	2.34
Ottawa	2.34
Pawnee	2.34
Payne	2.36
Pittsburg	2.37
Pontotoc	2.37
Pottawatomie	2.37
Pushmataha	2.37
Roger Mills	2.34
Rogers	2.35
Seminole	2.37
Sequoyah	2.37
Stephens	2.37
Texas	2.27
Tillman	2.37
Tulsa	2.35
Wagoner	2.35
Washington	2.34
Washita	2.36
Woods	2.32
Woodward	2.32
Weighted avg. for State	2.34

OREGON

Baker	2.40
Benton	2.46
Clackamas	2.53
Clatsop	2.60
Columbia	2.60
Coos	2.26
Crook	2.44
Curry	2.25
Deschutes	2.44
Douglas	2.30
Gilliam	2.49
Grant	2.44
Harney	2.30
Hood River	2.55
Jackson	2.30
Jefferson	2.47
Josephine	2.30
Klamath	2.38
Lake	2.35
Lane	2.44
Lincoln	2.36
Linn	2.47
Malheur	2.30
Marion	2.51
Morrow	2.47
Multnomah	2.60
Polk	2.49
Sherman	2.49
Tillamook	2.53
Umatilla	2.47
Union	2.42
Wallowa	2.40
Wasco	2.51
Washington	2.53
Wheeler	2.46
Yamhill	2.51
Weighted avg. for State	2.47

PENNSYLVANIA

Philadelphia	2.45
All other counties	2.30
Weighted avg. for State	2.30

RHODE ISLAND

All counties	2.29

SOUTH CAROLINA

Charleston	2.45
All other counties	2.26
Weighted avg. for State	2.26

SOUTH DAKOTA

Aurora	2.38
Beadle	2.37
Bennett	2.25
Bon Homme	2.39
Brookings	2.41
Brown	2.37
Brule	2.35
Buffalo	2.35
Butte	2.23
Campbell	2.30
Charles Mix	2.35
Clark	2.37
Clay	2.41
Codington	2.41
Corson	2.27
Custer	2.17
Davison	2.41
Day	2.41
Deuel	2.44
Dewey	2.27
Douglas	2.37
Edmunds	2.34
Fall River	2.15
Faulk	2.36
Grant	2.44
Gregory	2.32
Haakon	2.30
Hamlin	2.40
Hand	2.37
Hanson	2.38
Harding	2.24
Hughes	2.33
Hutchinson	2.40
Hyde	2.35
Jackson	2.29
Jerauld	2.38
Jones	2.31
Kingsbury	2.38
Lake	2.40
Lawrence	2.23
Lincoln	2.43
Lyman	2.32
McCook	2.41
McPherson	2.34
Marshall	2.41
Meade	2.24
Mellette	2.30
Miner	2.39
Minnehaha	2.42
Moody	2.42
Pennington	2.24
Perkins	2.24
Potter	2.32
Roberts	2.43
Sanborn	2.38
Shannon	2.22
Spink	2.37
Stanley	2.31
Sully	2.32
Todd	2.27
Tripp	2.30
Turner	2.42
Union	2.41
Walworth	2.32
Washabaugh	2.29
Yankton	2.39
Ziebach	2.25
Weighted avg. for State	2.33

TENNESSEE

Shelby	2.38
All other counties	2.27
Weighted avg. for State	2.27

TEXAS

Anderson	2.49
Andrews	2.35
Archer	2.40
Armstrong	2.35
Atascosa	2.49
Bailey	2.35
Bandera	2.45
Bastrop	2.49
Baylor	2.39
Bee	2.57
Bell	2.49
Bexar	2.49
Blanco	2.47
Borden	2.35
Bosque	2.46
Bowie	2.42
Brazos	2.54

TEXAS—Continued

Briscoe	2.35
Brown	2.43
Burleson	2.54
Burnet	2.47
Caldwell	2.49
Calhoun	2.53
Callahan	2.39
Carson	2.35
Castro	2.35
Chambers	2.59
Cherokee	2.51
Childress	2.37
Clay	2.41
Cochran	2.35
Coke	2.36
Coleman	2.40
Collin	2.44
Collingsworth	2.35
Comal	2.49
Comanche	2.44
Concho	2.41
Cooke	2.42
Coryell	2.48
Cottle	2.35
Crosby	2.35
Culberson	2.35
Dallam	2.32
Dallas	2.46
Dawson	2.35
Deaf Smith	2.35
Delta	2.45
Denton	2.44
DeWitt	2.51
Dickens	2.35
Dimmit	2.43
Donley	2.35
Eastland	2.39
Edwards	2.39
Ellis	2.46
El Paso	2.35
Erath	2.44
Falls	2.48
Fannin	2.42
Fisher	2.36
Floyd	2.35
Foard	2.37
Frio	2.47
Gaines	2.35
Galveston	2.59
Garza	2.35
Gillespie	2.43
Glasscock	2.35
Goliad	2.53
Gonzales	2.51
Gray	2.35
Grayson	2.42
Grimes	2.54
Guadalupe	2.49
Hale	2.35
Hall	2.35
Hamilton	2.46
Hansford	2.32
Hardeman	2.37
Harris	2.59
Hartley	2.32
Haskell	2.37
Hays	2.49
Hemphill	2.32
Henderson	2.47
Hill	2.46
Hockley	2.35
Hood	2.43
Houston	2.51
Howard	2.35
Hudspeth	2.35
Hunt	2.45
Hutchinson	2.32
Irion	2.37
Jack	2.41
Jackson	2.49
Jeff Davis	2.35
Jefferson	2.55
Johnson	2.45
Jones	2.37
Karnes	2.53
Kaufman	2.47
Kendall	2.47
Kent	2.35
Kerr	2.43
Kimble	2.41
King	2.35
Kinney	2.39
Knox	2.37

TEXAS—Continued

Lamar	2.42
Lamb	2.35
Lampasas	2.48
Limestone	2.48
Lipscomb	2.32
Live Oak	2.55
Llano	2.45
Loving	2.35
Lubbock	2.35
Lynn	2.35
McCulloch	2.43
McLennan	2.48
Martin	2.35
Mason	2.43
Maverick	2.39
Medina	2.45
Menard	2.41
Midland	2.36
Milam	2.52
Mills	2.44
Mitchell	2.36
Montague	2.41
Moore	2.32
Motley	2.35
Navarro	2.47
Nolan	2.36
Nueces	2.59
Ochiltree	2.32
Oldham	2.35
Palo Pinto	2.41
Parker	2.43
Parmer	2.35
Pecos	2.35
Potter	2.35
Presidio	2.35
Randall	2.35
Real	2.41
Red River	2.42
Reeves	2.35
Refugio	2.56
Roberts	2.32
Robertson	2.51
Rockwall	2.45
Runnels	2.39
San Patricio	2.59
San Saba	2.44
Schleicher	2.37
Scurry	2.36
Shackelford	2.39
Sherman	2.32
Somervell	2.43
Stephens	2.40
Sterling	2.36
Stonewall	2.35
Sutton	2.37
Swisher	2.35
Tarrant	2.46
Taylor	2.37
Terry	2.35
Throckmorton	2.39
Tom Green	2.38
Travis	2.49
Uvalde	2.42
Van Zandt	2.47
Victoria	2.53
Waller	2.54
Ward	2.35
Wharton	2.54
Wheeler	2.35
Wichita	2.39
Wilbarger	2.39
Williamson	2.49
Wilson	2.51
Wise	2.42
Yoakum	2.35
Young	2.40
Zavala	2.43
Weighted avg. for State	2.37

UTAH

All counties	2.29

VERMONT

All counties	2.28

VIRGINIA

Chesapeake (Norfolk)	2.45
All other counties	2.30
Weighted avg. for State	2.30

WASHINGTON

Adams	2.45
Asotin	2.44
Benton	2.47

WASHINGTON	
Chelan	2.47
Clallam	2.39
Clark	2.60
Columbia	2.46
Cowlitz	2.60
Douglas	2.45
Ferry	2.37
Franklin	2.47
Garfield	2.46
Grant	2.45
Grays Harbor	2.52
Island	2.41
Jefferson	2.41
King	2.60
Kitsap	2.42
Kittitas	2.49
Klickitat	2.51
Lewis	2.55
Lincoln	2.43
Mason	2.49
Okanogan	2.43
Pacific	2.52
Pend Oreille	2.32
Pierce	2.60
San Juan	2.41
Skagit	2.49
Skamania	2.55
Snohomish	2.54
Spokane	2.42
Stevens	2.37
Thurston	2.54
Wahkiakum	2.54
Walla Walla	2.47
Whatcom	2.46
Whitman	2.45
Yakima	2.47
WEST VIRGINIA	
All counties	2.31
Weighted avg. for State	2.45
WISCONSIN	
Douglas	2.48
All other counties	2.26
Weighted avg. for State	2.26
WYOMING	
All counties	2.18

Dated: March 2, 1979.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 79-7745 Filed 3-13-79; 8:45 am]

[6450-01-M]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY REGULATORY COMMISSION

SUBCHAPTER G—NATURAL GAS (ECONOMIC REGULATORY ADMINISTRATION)

[Docket No. RM79-5]

PART 580—CURTAILMENT PRIORITIES FOR ESSENTIAL AGRICULTURAL USES

Analysis and Recommendations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Publication of Analysis and Recommendations as required by section 404(b) of the Department of Energy Organization Act.

SUMMARY: On November 22, 1978, the Federal Energy Regulatory Commission (Commission) took referral pursuant to section 404(a) of the Department of Energy Organization Act (DOE Act) of the Economic Regulatory Administration's (ERA) proposed rule relating to the protection of essential agricultural uses from curtailment of natural gas deliveries by interstate pipelines (Docket No. ERA-R-78-22). As required by section 404(b) of the DOE Act, the Commission is now publishing its recommendations along with an explanation of the reason for its actions and an analysis of the major comments, criticisms and alternatives offered during the comment period. The Commission concurs in the adoption of the rule with the changes incorporated into the draft which was attached to the March 2, 1979, letter from the ERA to the Commission.

INTRODUCTION

On November 16, 1978, the Economic Regulatory Administration (ERA) issued a notice of proposed rulemaking and public hearing, 43 FR 54660, November 22, 1978, entitled "Priority for Essential Agricultural Uses of Natural Gas." The proposed rule would protect essential agricultural uses,[1] as required by section 401 of the Natural Gas Policy Act of 1978 (NGPA), by restricting interstate pipelines from curtailing natural gas deliveries for such uses unless: (1) The curtailment does not reduce deliveries below the use requirement certified by the Secretary of Agriculture as necessary for full food and fiber production; (2) such curtailment is necessary to meet the requirements of high-priority users; or (3) the Federal Energy Regulatory Commission (Commission) in consultation with the Secretary of Agriculture finds that other alternative fuels are economically practicable and reasonably available for those uses.

On November 22, 1978, the Federal Energy Regulatory Commission, in the exercise of its discretion under section 404 of the Department of Energy Organization Act (DOE Act), determined that ERA's proposed rule may significantly affect the function within the Commission's jurisdiction pursuant to section 402(a)(1)(E) of the DOE Act. Section 402(a)(1)(E) concerns the establishment, review and enforcement of curtailments of natural gas under the Natural Gas Act. On November 29, 1978, the Commission issued a Notice of Public Hearing and Opportunity for Comment, setting a hearing date of January 10, 1979, and requesting comments no later than January 19, 1979. A hearing was held on January 10 and January 11, 1979. This summary reflects the views expressed in response to the Commission's notice.

[1] "Essential agricultural use" is defined in section 401(f)(1) of the NGPA as the use of natural gas found by the Secretary of Agriculture under section 401(c) of the Natural Gas Policy Act to be necessary for full food and fiber production.

SUMMARY OF COMMENTS

The comments on the proposed rule, both oral and written, focused primarily on: (1) The provisions affecting the priority classification of essential agricultural uses (proposed 10 CFR 580.2(b)(iii)) and high-priority uses (proposed 10 CFR 580.2(c)(2)(i)) in terms of alternative fuel capabilities; (2) the creation of a new priority curtailment plan, seen by some as contrary to Congressional intent and disruptive to existing curtailment plans; (3) the treatment of storage gas; and (4) the method by which essential agricultural and high-priority gas requirements are computed.

Secondary concerns included: (1) Commerical uses related to agriculture which some comments argued should be classified as an essential agricultural use and accorded protection from curtailment under section 401(a); (2) the priority of boiler fuel uses related to agriculture; (3) the possible use of propane as an alternative fuel for purposes of classifying various end-uses; and (4) the rule's lack of specificity in establishing subcategories of priority end-uses within the categories set for the in section 401 of the NGP.

Comments were made by pipelines and distributors, agricultural end-uses within the categories set forth in section 401 of the NGPA.

Comments were made by pipelines and distributors, agricultural end-users or their associations, trade associations whose constituents manufacture agriculture-related or health-related products, and state energy agencies. The level of support for the reorganization of the priority classification of natural gas end-uses varied according to its anticipated effect on existing curtailment plans developed by the interstate pipeline companies and the extent to which the commentor's interests were allied with agriculture.

The higher priority given essential agricultural uses met with universal approval. However, the alternative fuel capability test was attacked by some agricultural users as impractical. They based that position on the presumption that only natural gas is feasible for such uses as irrigation, fertilizer production and agriculture-related packaging and pharmaceutical production. Manufacturers of disposable tableware and flexibile packaging claimed high-priority status for their production for public health reasons and asserted that only gas sufficed to run their plants. The statutory language of the alternative fuel capability test, as adopted in the regulation, (whether another fuel is "economically practicable" and "reasonably available") was viewed as overly inclusive by users and as a probable source of increased food costs if widely applied. Such application, it was argued, was

contrary to Congressional intent. Pipelines and commercial interests generally asserted that application of the test to high-priority uses is inconsistent with Commission policy, the requirements of the NGPA (which does not apply the test to this category), and the Commission's proposed interim regulation. However, agricultural users welcomed application of the test to high-priority users. Concern was expressed about the burden thereby imposed on the Commission to determine precisely who, especially among innumerable small users, has an alternative fuel capability. One state agency proposed five criteria for determining when another fuel is economically practicable and reasonably available: (1) Price of fuels; (2) stability of supply; (3) alternative fuel capability; (4) cost of conversation; and (5) impact on other industries. Finally, depriving high-priority users of access to natural gas who voluntarily develop alternative energy systems and subsequently lose their preferential status was frequently called an unjust penalty.

Gas suppliers generally favored minimum changes to curtailment plans now in place. For this reason, they preferred a general rule with sufficient latitude for pipeline-by-pipeline adjustments in the overall scheme. On the other hand, users generally requested more specificity in the rule, including a specific standard of both technical and financial feasibility for conversion to and use of alternative fuels, and incorporation into the rule of a list of priority uses similar to those contained in the preamble to ERA's proposal. Both sides appeared to want a minimal amount of Commission decision-making regarding which users qualify for the first- and second-priority positions, the utilities desiring continued reliance on the basic design of existing curtailment plans.

Storage gas received attention from utility companies. It was universally argued that gas injected into storage for later distribution should not be reduced to fifth-priority status because storage is not an end-use. Since this gas if often withheld until periods of peak demand (*e.g.*, residential uses in winter) and then "sprinkled" among high-priority users, the low-priority classification for storage gas could hurt those users the curtailment plans are designed to protect. Whether such gas deserves higher priority treatment should depend on case-by-case evaluations of the end-uses, as is currently the practice.

Essential agricultural and related users desired that their gas requirements be determined according to 100% of current need, in one case including demand generated by new and expanded facilities. States, pipelines and distributors favored the present fixed base period approach, pointing to the Congressional intent that reopening of curtailment plans should not result in new base years. The Commission believes that Congress intended to minimize administrative determinations, presumably meaning less litigation over how agricultural requirements are computed and less extensive data gathering and verification. On a related issue, gas suppliers supported computing requirements in terms of individual contract limitations while users maintained that contracts should not be a factor with respect to section 401 protection.

Agricultural users, primarily manufacturers or processors of related products, favored giving boiler fuel employed in their processes a priority status. Pipeline companies maintained that all boiler fuel should retain a low-priority status regardless of the social value which the rule places on the particular agricultural end product.

Those commentors addressing the issue, with the exception of one utility company, stated that propane should not be considered to be an alternative fuel within the meaning of the rule.

Miscellaneous Suggestions

One state regulator maintained that since the Commission has jurisdiction over wholesale gas transactions, the states should set priorities for retail gas allocation and pricing.

Suppliers showed some insecurity about the division of decision-making functions among DOE, the Commission and the Secretary of Agriculture. In order that "essential agricultural uses" not be interpreted too broadly, it was requested that products for export, overproduced agricultural products such as fertilizer, agricultural processes not now using gas and any production leading to unusual stockpiling should not enjoy priority treatment. Basically, non-essential agricultural uses should not pre-empt gas supplies for essential commerical uses, according to the utilities.

Commission Findings and Recommendations

The Commission had examined the proposed rule with a view toward the administrative feasibility of its implementation and has examined the comments received in order to determine whether any formal recommendations should be made to the Secretary of Energy. Based upon such an analysis the Commission by a letter dated February 7, 1979, made several comments to the Secretary, pursuant to section 404(b) of the DOE Act. First the Commission discussed the alternative fuel capability test for high-priority users (Priority I). The Commission took no position but noted that this provision of the rule was a point of sharp controversy.

Second, the Commission agreed with the suggestion of Brooklyn Union Gas Company and the Public Service Commission of New York that storage gas should be given a priority treatment different from that afforded under the ERA rule.

The Commission also suggested to the Secretary that any requests for modifications to a plan established pursuant to the proposed regulations and section 401 of the NGPA should be made to the Commission. The Commission also noted that many persons had requested further specificity regarding the priority categories.

The Commission has received two letters from ERA dated February 27, 1979, and March 2, 1979, wherein the Commission's suggestions were discussed. The alternative fuel test for certain high-priority users was dropped. ERA has revised its rule regarding storage gas to the satisfaction of the Commission.

The Commission concurs in the adoption of the ERA rule with the changes that were incorporated in the draft which was attached to ERA's letter to the Commission of March 2, 1979. The following correspondence sets forth the Commission's formal response to ERA.

By the Commission.

Lois D. Cashell,
Acting Secretary.

Federal Energy Regulatory Commission, Washington, D.C.
March 7, 1979.

Mr. Douglas G. Robinson,
Assistant Administrator, Regulations and Emergency Planning,
Economic Regulatory Administration,
Washington, D.C.

Dear Mr. Robinson: This letter is in response to your letter dated February 27, 1979, and March 2, 1979, concerning the Economic Regulatory Administration's (ERA) revised rule on Curtailment Priorities for Essential Agricultural Uses of Natural Gas. This letter is the Federal Energy Regulatory Commission's (Commission) formal response to the rule as required by section 404 of the Department of Energy Organization Act (DOE Act).

Members of the Commission Staff and members of your staff have consulted informally as well as through an exchange of letters. The Commission first notified you of its proposed suggestions to the proposed rule by a letter dated February 7, 1979. The Commission expressed concern about the treatment of certain storage injection gas, and the alternative fuel exclusion for certain high-priority uses. Likewise, the Commission discussed, but did not recommend any action regarding, the establishment of priorities within the category of high-priority users, and the suggestion that applications for modifications to curtailment plans be made to the Commission.

The question that is of greatest concern to the Commission is the treatment of storage

gas. We note that your letter of March 2, 1979, which transmitted ERA's modified rule, satisfactorily addresses the Commission's concerns regarding storage gas.

The Commission, by this letter, concurs in the adoption of the ERA rule with the changes which have been incorporated in the draft which was attached to your letter of March 2, 1979.

Very truly yours,

Secretary.

Attachments.

1. Letter dated March 2, 1979 from Douglas G. Robinson
2. ERA's revised rule on Curtailment Priorities for Essential Agricultural Uses of Natural Gas

DEPARTMENT OF ENERGY,
WASHINGTON, D.C.
March 2, 1979.

MR. KENNETH F. PLUMB,
Secretary,
Federal Energy Regulatory Commission,
Washington, D.C.

DEAR MR. PLUMB: On February 27, 1979 I sent you a letter transmitting our revised Rule on Curtailment Priorities for Essential Agricultural Uses of Natural Gas. The letter also requested the Commission's comments on the revised rule in fulfillment of our mutual consultation responsibilities under Section 404 of the DOE Organization Act.

Based on informal consultation between members of the DOE and FERC staffs, we have made additional revisions to the language in Section 580.03(3)(d) of our rule which concerns the priority treatment of storage injection volumes. Enclosed is a copy of the rule with this additional revision.

Our February 27 letter explained that we were exploring with our legal staff the drafting of administrative procedures to be included in the rule. We have subsequently decided, however, to issue the administrative procedures as a proposed rule at the same time as our final agricultural rule is issued.

We would appreciate knowing as soon as possible the Commission's views on the revised rule so that we can issue it by March 9.

Sincerely,

DOUGLAS G. ROBINSON,
Assistant Administrator, Regulations & Emergency Planning, Economic Regulatory Administration.

Enclosure.

Chapter II of Title 10, Code of Federal Regulations, is amended by establishing a Subchapter G and adding a Part 580 to read as follows:

SUBCHAPTER G—NATURAL GAS (ECONOMIC REGULATORY ADMINISTRATION)

PART 580—CURTAILMENT PRIORITIES FOR ESSENTIAL AGRICULTURAL USES

Sec.
580.01 Purpose.
580.02 Definitions.
580.03 Curtailment Priorities.
580.04 Administrative Procedures [Reserved]

AUTHORITY: Secs. 401, 403, Pub. L. 95-621, 92 Stat. 3394-3395, 3396; Secs. 301(b), 402(a), Pub. L. 95-91, 91 Stat. 578, 594 (42 U.S.C. 7115(b), 7117(a)); E.O. 12009, 42 FR 46267.

§ 580.01 Purpose.

The purpose of this Part 580 is to implement the authority granted to the Secretary of Energy in section 401 of the Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3394-3395 (1978).

§ 580.02 Definitions.

(a) Terms defined in section 2 of the Natural Gas Policy Act of 1978 shall have the same meaning, as applicable, for purposes of this Part 580, unless further defined in paragraph (b) of this section.

(b) The following definitions are applicable to this Part 580:

(1) Commercial establishment—means any establishment, (including institutions and local, state and federal government agencies) engaged primarily in the sale of goods or services, where natural gas is used for purposes other than those involving manufacturing or electric power generation.

(2) Essential agricultural use—means any use of natural gas:

(i) For agricultural production, natural fiber production, natural fiber processing, food processing, food quality maintenance, irrigation pumping, crop drying; or

(ii) As a process fuel or feedstock in the production of fertilizer, agricultural chemicals, animal feed, or food which the Secretary of Agriculture determines is necessary for full food and fiber production.

(3) Essential agricultural user—means any person who uses natural gas for an essential agricultural use as defined in paragraph (b)(2) of this section.

(4) Hospital—means a facility whose primary function is delivering medical care to patients who remain at the facility, including nursing and convalescent homes. Outpatient clinics or doctors' offices are not included in this definition.

(5) High-priority use—means any use of natural gas by a high-priority user as defined in paragraph (a)(6) of this section.

(6) High-priority user—means, in no specific order, any person who uses natural gas:

(i) In a residence, or

(ii) In a commercial establishment in amounts of less than 50 Mcf on a peak day; or

(iii) In any school or hospital; or

(iv) For minimum plant protection when operations are shut down, for police protection, for fire protection, in a sanitation facility, in a correctional facility, or for emergency situations pursuant to 18 CFR 2.78(a)(4)

(7) Interstate pipeline—means any person engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act.

(8) Residence—means a dwelling using natural gas predominately for residential purposes such as space heating, air conditioning, hot water heating, cooking, clothes drying, and other residential uses, and includes apartment buildings and other multi-unit residential buildings.

(9) School—means a facility, the primary function of which is to deliver instruction to regularly enrolled students in attendance at such facility. Facilities used for both educational and non-educational activities are not included under this definition unless the latter are merely incidental to the delivery of instruction.

§ 580.03 Curtailment priorities.

(a) Notwithstanding any provision of law other than section 401(b) of the Natural Gas Policy Act of 1978, or any other rule, regulation, or order of the Department of Energy, the Federal Energy Regulatory Commission or their predecessor agencies, and to the maximum extent practicable, no curtailment plan of an interstate pipeline may provide for curtailment of deliveries of natural gas for any essential agricultural use, unless:

(1) Such curtailment does not reduce the quantity of natural gas delivered for such use below the use requirement certified by the Secretary of Agriculture under section 401(c) of the Natural Gas Policy Act of 1978 in order to meet the requirements of full food and fiber production; or

(2) Such curtailment is necessary in order to meet the requirements of high-priority users; or

(3) The Federal Energy Regulatory Commission, in consultation with the Secretary of Agriculture, determines, by rule or order issued pursuant to section 401(b) of the Natural Gas Policy Act of 1978, that use of a fuel (other than natural gas) is economically practicable and that the fuel is reasonably available as an alternative for such essential agricultural use.

(b) Any essential agricultural user who also qualifies as a high-priority user shall be a high-priority user for purposes of paragraph (a) of this section.

(c) The specific relative order of priority for all uses and users of natural gas, including high-priority and essential agricultural uses and users, shall remain as reflected in effective curtailment plans of interstate pipelines filed with the Federal Energy Regulatory Commission to the extent that the relative order of priorities does not conflict with paragraph (a) of this section.

(d) Nothing in this rule shall prohibit the injection of natural gas into storage by interstate pipelines or deliveries to its customers for their injection into storage unless it is demonstrated to the Federal Energy Regulatory Commission that these injections or deliveries are not reasonably necessary to meet the requirements of high-priority users or essential agricultural uses.

§ 580.04 Administrative Procedures [Reserved]

[FR Doc. 79-7748 Filed 3-13-79; 8:45 am]

[6210-01-M]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC-0155]

PART 226—TRUTH IN LENDING

Final Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final office staff interpretation.

SUMMARY: The Board is publishing in final form official staff interpretation FC-0155 of Regulation Z regarding § 226.8(c) disclosures. The agency is taking this action after reviewing the comments received upon republication of the interpretation.

DATE: Effective March 14, 1979.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-3867.

SUPPLEMENTARY INFORMATION: (1) In FC-0155, the Board staff stated that where various of the credit sale disclosures are repetitive or inapplicable, certain of the terms may be combined or omitted.

(2) FC-0155 was published on October 17, 1978, with an effective date of November 16, 1978. In response to a request for public comment submitted in accordance with § 226.1(d)(3) of Regulation Z, the effective date was suspended and the interpretation was republished for public comment on November 29, 1978.

(3) The request for republication raised three objections to FC-0155: (1) that it would permit the term "amount financed" to be omitted; (2) that it was substantive rather than interpretive in nature; and (3) that its position is contrary to several court cases.

Regarding the first objection, the original interpretation did not approve omission of the term "amount financed." Rather, it approved two methods of disclosure for credit sales involving no § 226.8(c) (4) or (6) charges: (1) combining the "unpaid balance of cash price," "unpaid balance," and "amount financed," and (2) combining the "unpaid balance of cash price" with the "amount financed" and omitting the "unpaid balance." However, the letter did contain some general language that could be read to suggest that the term "amount financed" could be deleted. Therefore, the interpretation has been amended to emphasize that the terms "cash price" and "amount financed" may never be omitted from the credit sale disclosures.

With regard to the second objection, the staff does not believe FC-0155 is substantive in nature. Rather, it interprets the provision in § 226.8(c) that the items specified therein are to be disclosed "as applicable."

With regard to the final objection, although there are courts which apparently have reached decisions contrary to the opinion expressed in FC-0155, the staff does not believe this prevents it from stating its interpretation of the regulatory language. The meaning of the requirement that disclosures be made "as applicable" appears to be the type of question for which an official staff interpretation is appropriate.

(4) Official staff interpretation FC-0155, as revised, is effective immediately.

(5) Authority: 15 U.S.C. 1640(f)

12 CFR Part 226, FC-0155

§ 226.8(c) Where disclosures required by § 226.8(c) are repetitive or inapplicable, the disclosure of such terms may be combined or certain of the terms may be omitted.

FEBRUARY 28, 1979.

This is in response to your letter of * * *, requesting an official staff interpretation of § 226.8(c) of Regulation Z.

You state that your client, a publicly-held corporation owning and operating health spa facilities, offers spa memberships to the public on credit. You indicate that your client imposes a charge for credit and makes credit sale disclosures pursuant to § 226.8(c).

Although disclosure of the "unpaid balance" is required by § 226.8(c)(5), your client omits this disclosure because no other charges, within the meaning of § 226.8(c)(4), are added to the "unpaid balance of cash price" and, consequently, the "unpaid balance" would be indentical to the "unpaid balance of cash price." You state that your client relies on the wording of § 226.8(c) that only applicable items need be disclosed to justify omitting the disclosure of "unpaid balance." In addition, you note that Public Information Letters 213, 536, and 740 support this position. These letters reason that, where certain charges are omitted and required terms are identical in amount, the disclosure of one or more such terms (such as "unpaid balance") may be inapplicable and may be combined or omitted as appropriate. In fact, Letter 536 specifically approved omitting the term "unpaid balance" where there are no other charges to be disclosed pursuant to § 226.8(c)(4) and no prepaid finance charges or required deposit balances to be disclosed pursuant to § 226.8(c)(6).

You request that the staff issue an official interpretation reiterating these informal positions taken previously concerning omission of the term "unpaid balance." In particular, you ask whether it would be proper to make a single disclosure either (a) combining the "unpaid balance of cash price" and the "amount financed" and omitting the "unpaid balance" or (b) combining the "unpaid balance of cash price," the "unpaid balance," and the "amount financed" where there are no § 226.8(c) (4) or (6) charges. The staff believes that the positions taken in the letters previously cited are correct and that either of the combined disclosures which you suggest would be permissible. Futhermore, we believe either of these disclosures is appropriate, whether or not there is a downpayment involved in the transaction. The staff would stress, however, that "cash price" and "amount financed" are terms which may never be omitted from the credit sale disclosures.

However, as you note, there are at least two Federal District Courts which apparently have reached decisions contrary to the opinion expressed in this letter. The effect of an official staff interpretation that is contrary to such decisions is uncertain. Therefore, the staff believes that the most prudent course is to follow the court decisions in those jurisdictions in which a court has addressed the issue.

This is an official staff interpretation of § 226.8(c) of Regulation Z, issued after republication for comment in accordance with § 226.1(d)(2) of the regulation. It will become effective March 14, 1979.

Although you enclosed a copy of your client's disclosure form with your letter, nothing herein should be construed as either a review or approval of any portion of that form.

I trust this is responsive to your inquiry.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, March 6, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-7666 filed 3-13-79; 8:45 am]

[6210-01-M]

[Reg. Z; FC-0160-0161, and -0162]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretations.

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z: FC-0160, regarding methods of satisfying § 226.6(i) (evidence of compliance) requirements; FC-0161, regarding proper disclosures for a credit sale transaction in which the downpayment is separately financed; and FC-0162, regarding application of footnotes 10 and 11 of the regulation to interim student credit transactions requiring credit sale disclosures. The agency is taking this action in response to requests for interpretation of this regulation.

EFFECTIVE DATE: On or after April 13, 1979.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2)(ii). As provided by 12 CFR Part 226.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be post marked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) Authority: 15 U.S.C. 1640(f).

§ 226.6(i) Requirements of § 226.6(i) are satisfied by preserving copies of required disclosures on microfilm, microfische or by any method designed to accurately reproduce business records.

JANUARY 23, 1979.

On * * *, you requested an official staff interpretation of Regulation Z regarding the requirements of § 226.6(i).

Specifically you asked whether the regulation requires a creditor to retain actual copies of disclosure statements or whether photocopies made from microfilm or microfische would be satisfactory evidence of compliance.

As previously indicated in Public Information Letters 99, 188 and 745, the staff is of the opinion that the requirements of § 226.6(i) may be met by preserving copies of required disclosures on microfilm, microfische or by any method designed to accurately reproduce business records.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(2) of the regulation and limited in its applicability to the facts and issues discussed herein. It will become effective on April 13, 1979 unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the Interpretation is suspended because such a request is received. If you have additional questions, please contact this office or Mr. Walker Gordon Smith, Credit and Consumer Affairs Officer, Federal Reserve Bank of San Francisco, San Francisco, California 94102.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

§ 226.8(c) Where the downpayment is separately financed, it may be disclosed as a "cash downpayment" on the credit sale disclosure for the underlying credit transaction.

FEBRUARY 28, 1979.

This will reply to your letter of * * *, and is in substitution of our letter to you dated February 5, 1979. Your inquiry concerns the proper disclosures under Regulation Z for a credit sale transaction in which the downpayment is separately financed. You posit the following situation: a dealer sells an item to a customer pursuant to an instalment sale contract providing for an immediate downpayment and instalment payments over a period of several months. Since the customer does not have sufficient cash to make the full downpayment, he or she is referred by the dealer to a finance company. The customer obtains financing of the downpayment and receives a set of Truth in Lending disclosures for that transaction (hereafter referred to as the "downpayment transaction"), then gives the downpayment to the dealer in cash, receives a set of Truth in Lending disclosures for the underlying credit sale transaction (hereinafter referred to as the "primary transaction"), and signs the retail instalment contract. The dealer then assigns the instalment sale contract to another financial institutions.

You ask whether, in the disclosures for the primary transaction, the separately-financed downpayment may be disclosed as a "cash downpayment" pursuant to § 226.8(c)(2). That section requires disclosure of:

The amount of the downpayment itemized, as applicable, as downpayment in money, using the term "cash downpayment," downpayment in property, using the term "trade-in," and the sum, using the term "total downpayment."

It is staff's opinion that since the dealer receives the downpayment in money it is appropriate for that amount to be included in the "cash downpayment" on the disclosures for the primary transaction.

Although there is a single sale of goods in the situation you pose, there are two credit transactions involved in this sale, and two sets of Truth in Lending disclosures are being given. The fact that the dealer may be a creditor with regard to both of these credit transactions (for example, as either the extender or arranger for the extension of credit with regard to the primary transaction, and as an arranger with regard to the downpayment transaction) does not affect the designation of the amount of the downpayment as a cash downpayment on the disclosures provided in connection with the primary transaction. The downpayment transaction is a separate credit transaction, for which full Truth in Lending disclosures have been given; the fact that the downpayment amount is itself the subject of a credit transaction does not affect its status as a cash downpayment as to the primary transaction. It is still a downpayment that the creditor receives in *money* (as opposed to property) even though payment of that money by the customer is deferred.

This is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d)(2) of the regulation and limited in its applicability to the facts and issues discussed above. It will become effective on April 13, 1979 unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

§ 226.8(b)(3) Application of footnotes 10 and 11 to interim student credit transactions requiring credit sale disclosures. (Applies FC-0151.)

§ 226.8(c) Application of footnotes 10 and 11 to interim student credit transactions requiring credit sale disclosures. (Applies FC-0151.)

FEBRUARY 28, 1979.

This is in response to your letter of * * *, in which you request an official staff interpretation of Regulation Z regarding the application of footnotes 10 and 11 of the regulation to credit sales of goods and services by educational institutions to their students. Your request is prompted by our recent Official Staff Interpretation FC-0151. FC-0151 indicated that, in connection with a federally insured program under which schools provide credit to students for educational purposes, if students do not have the option of directly receiving funds to use as they choose but, rather, simply receive goods and services (e.g. tuition, room, board, books) from the school on credit, credit sale disclosures under §§ 226.8(b) and (c) of Regulation Z are required.

Footnote 10 provides that creditors need not make certain of the disclosures otherwise required by § 226.8(b)(3) of Regulation Z (i.e. the number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments using the term "total of payments") in connection with "interim student loans made pursuant to federally insured student loan programs under Public Law 89-329, Title IV Part B of the Higher Education Act of 1965, as amended." Footnote 11, likewise, exempts such creditors from making the disclosures required by § 226.8(d)(3) of Regulation Z (i.e., the total amount of the finance charge, using the term "finance charge," and where the total charge consists two or more types of charges, a description of the amount of each type) in connection with the same kind of loans. In Interpretation § 226.809 of Regulation Z, the Board stated that footnotes 10 and 11 are also "applicable to other student loans of the same type, including those made to students under federally supported

loan programs of loan guarantee, administered by or under agreement with the U.S. Department of Health, Education, and Welfare." Additionally, the staff has indicated that "a student loan program under which a State agency guarantees repayment of loans to lenders in the event of default" is the "same type" of loan within the meaning of § 226.809.

You assert that the exemptions provided by footnotes 10 and 11 for interim student loans should also apply to interim student credit transactions which, under the rationale of FC-0151, require credit sale disclosures. The staff agrees with your position and is of the opinion that in connection with interim student credit sale transactions under the type of program specified in footnotes 10 and 11, the creditor need not disclose the schedule and total of payments under § 226.8(b)(3). Similarly, the creditor need not make the disclosures required under § 226.8(c)(8)(i) (i.e., the total amount of the finance charge, and where the total consists of two or more types of charges, a description of the amount of each type). It follows from this conclusion that the disclosure of the "deferred payment price," pursuant to § 226.8(c)(8)(ii), is not required since its calculation is dependent upon the computation of the finance charge under § 226.8(c)(8)(i).

The reason for footnotes 10 and 11 was enunciated, as follows, in Public Information Letter 49:

Under the federally supported programs a student signs an interim note which provides that upon graduation or the conclusion of his school attendance he will execute a payout note or otherwise agree to a repayment schedule. Several such interim notes may be consolidated in the ultimate repayment agreement.

Since the period between the execution of the interim note and the point at which repayment terms are finalized is not known when the initial note is signed the total amount of the finance charge cannot be determined at that time. Likewise, since the repayment terms may depend on the amount of consolidated indebtedness resulting from the execution of several interim notes, not only the total amount of finance charge but the number, amount as well due dates or periods of payments may not be known. The inability to determine these items of disclosure at the time of the interim note caused the Board to provide the exceptions from disclosure found in footnotes 10 and 11, as clarified by Section 226.809.

The staff believes that this rationale applies with equal force to interim student credit sale transactions made under programs of the same type as that specified in footnotes 10 and 11. In such credit sale transactions, the creditor is no more able to determine the schedule of payments, total of payments, and finance charge than it would be in the typical interim student loan. The determination of whether a particular program is of the same type described in footnotes 10 and 11 and therefore eligible for the exceptions provided by the footnotes is, however, one that must be made by each creditor in light of the particular features of its program. (See Public Information Letter 1309, a copy of which is enclosed.)

In accordance with your request, this is an official staff interpretation of Regulation Z, issued pursuant to § 226.1(d)(2) of the regulation and limited to the facts and issues discussed above. It will become effective on April 13, 1979 unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended because such a request is received.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, March 6, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 79-7669 Filed 3-13-79; 8:45 am]

[6714-01-M]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 329—INTEREST ON DEPOSITS

Maximum Rates of Interest Payable on Time Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) has amended its regulations to prohibit the compounding of interest by insured nonmember banks on time deposits of $10,000 or more with maturities of 26 weeks whose ceiling rate of interest is keyed to the discount rate on the most recently issued six-month United States Treasury bills (auction average). Insured nonmember banks' advertisements will be required to contain a statement that Federal regulations prohibit compounding of interest during the term of this time deposit category. In addition, the FDIC has reduced the interest rate differential which is normally available to mutual savings banks on these instruments. This reduction begins when the average auction discount rate is greater than 8¾ percent and the differential is eliminated when the average auction rate is 9 percent or greater.

EFFECTIVE DATE: March 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Daniel Wm. Persinger, Assistant General Counsel, (202) 389-4324, or Douglas H. Jones, Attorney (202) 389-4433, Bank Regulation Section, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Effective June 1, 1978, the FDIC's Board of Directors adopted an amendment to the FDIC regulations which authorized insured nonmember banks to offer a new type of six-month money market certificate of deposit. The maximum rate of interest payable on money market certificates by commercial banks is the equivalent of the average auction discount rate payable on United States Treasury bills of six months' (26 weeks) maturity ("Treasury bills"). Savings banks were permitted to pay a rate of interest set at ¼ of one percent higher than the discount rate.

At the time the new money market time deposit category was created, the FDIC indicated that compounding of interest on the new category would be permitted. The FDIC has now determined that effective March 15 insured nonmember banks may not compound interest on such time deposit received on or after that date during the 26 weeks that the time deposit is outstanding.

The FDIC also has determined that the interest rate differential which is available to insured nonmember mutual savings banks must be reduced. The FDIC has determined that where the discount rate for six-month Treasury bills is not less than 8¾ percent and not more than 9 percent, the maximum rate of return which an insured nonmember mutual savings bank may pay shall be 9 percent. If the discount rate exceeds 9 percent, the maximum rate an insured nonmember mutual savings bank shall be permitted to pay is the discount rate of the Treasury bill. Where the discount rate of Treasury bills is less than 8¾ percent, insured nonmember mutual savings banks may continue to pay a maximum rate of ¼ of one percent higher than the discount rate.

Similar action is being taken by the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, and the Administrator of the National Credit Union Administration for depository institutions subject to their respective jurisdictions. The actions are being taken at this time in support of general governmental policies to restrain inflation. The changes are designed to reduce somewhat the attractiveness and costs of money market time deposits. While this will affect the savings flow to mutual savings banks, it will permit them to continue to remain competitive in attracting funds for housing. As a result, these actions will reduce cost pressures on mutual savings banks and over the long run assure the continued availability of mortgage credit. Further, these actions will reduce the likelihood of an excessive concentration of short-term liabilities in mutual savings banks. The FDIC intends to continue to review the development of new savings instruments or the modification

of existing instruments to provide equity for small savers.

Because compounding of interest during the term of the money market time deposit is permitted for all other categories of deposits, the FDIC believes it appropriate for all insured nonmember bank advertisements, announcements, and solicitations, including deposit account brochures and other literature, concerning this deposit category to indicate clearly and conspicuously that Federal regulations prohibit the compounding of interest during the term of this deposit. Such notice would serve to inform prospective depositors of a material difference between the money market time deposit category and other time deposits on which compounding is permitted. Insured nonmember banks may, however, advertise an annual effective rate of interest for money market time deposits based upon reinvestment at maturity of principal and interest earned if such advertisements fully comply with the FDIC's guidelines issued August 11, 1978, concerning the advertising for money market time deposits. The guidelines provide that if a member bank advertises an annual effective rate that assumes reinvestment of principal and interest at maturity, the advertisement, announcement, or solicitation must contain a clear and conspicuous statement such as the following:

This is an annual rate; however, the maturity of the certificate is 26 weeks, and the rate is subject to change at renewal.

In addition, the guidelines indicate that any reference to United States Treasury bills in a money market time deposit advertisement, announcement, or solicitation requires the disclosure that the rate of interest paid on Treasury bills is the discount rate. Any material that makes reference to the insured nonmember bank's annual effective yield and to Treasury bills requires the disclosure of the coupon equivalent yield on Treasury bills computed on a comparable basis. Revised guidelines to take into account the FDIC's present action will be distributed in the near future.

Although compounding of interest during the term of this deposit category is not permitted, the FDIC has determined that insured nonmember banks will continue to be permitted to compute simple daily interest on a 360-, 365-, or, in a leap year, 366-day basis in accordance with the provisions of § 329.3(e) of the FDIC's regulations.

Insured nonmember banks may continue to compound interest and insured nonmember mutual savings banks may continue to pay the interest at the rate of ¼ of one percent higher on money market time deposits issued or renewed prior to the March 15, 1979 effective date of this action. However, upon renewal at maturity, insured nonmember banks may not compound interest on such deposits and insured nonmember mutual savings banks may not offer an interest rate higher than that permitted by these amendments. (In this regard, insured nonmember banks may not extend the maturity of money market time deposits since such obligations must have a maturity of precisely 26 weeks.)

The FDIC's action was taken after consultation with the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, the National Credit Union Administration, and the United States Department of the Treasury. In order to facilitate the achievement of the previously mentioned objectives as rapidly as possible, the FDIC finds that application of the notice and public participation provisions of 5 U.S.C. 553 to these actions would be contrary to the public interest and that good cause exists for making the amendments effective in less than 30 days.

Pursuant to its authority under sections 9 and 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1828(g)), effective March 15, 1979, §§ 329.6 and 329.7 are amended by adding a new last line to § 329.6(b)(5) and by revising § 329.7(b)(7), and § 329.8 is amended by adding a new § 329.8(k), as follows:

§ 329.6 Maximum rates of interest payable on time and savings deposits by insured nonmember banks other than insured nonmember mutual savings banks.[13]

(a) * * *

(b) Deposits of less than $100,000.

(1) * * *

* * * * *

(5) *Variable rate time deposits of less than $100,000.* * * * Nonmember banks may not compound interest during the term of this deposit.

* * * * *

§ 329.7 Maximum rates of interest or dividends payable on deposits of insured nonmember mutual savings banks.[14]

(a) * * *

(b) *Maximum rates payable.* (1) * * *

* * * * *

(7) *Variable rate time deposits of less than $100,000.* Nonmember mutual savings banks may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of six months (26 weeks), at rates not to exceed those set forth below. Rounding any rate to the next higher rate is not permitted. Nonmember mutual savings banks may not compound interest during the term of any such deposit.

(i) If the rate (auction average on a discount basis) for the most recently issued six-month United States Treasury bills is less than 8¾ percent, the applicable maximum rate for the time deposit shall be the discount rate on the Treasury bill plus one quarter of one percent.

(ii) If the discount rate on the most recently issued six-month United States Treasury bills is not less than 8¾ percent and not more than 9 percent, the maximum rate for the time deposit shall be 9 percent.

(iii) If the discount rate on the most recently issued six-month United States Treasury bills is greater than 9 percent, the maximum rate for the time deposit shall be the discount rate for the Treasury bill.

* * * * *

§ 329.8 Advertising of interest or dividends on deposits.

* * * * *

(k) Any advertisement, announcement, or solicitation relating to interest paid by an insured nonmember bank on a time deposit of $10,000 or more with a maturity of 26 weeks at a rate tied to the rate established (auction average on a discount basis) for United States Treasury bills with maturities of six months, as authorized by §§ 329.6(b)(5) and 329.7(b)(7), shall include a clear and conspicuous notice that Federal regulations prohibit the compounding of interest during the term of the deposit.

By order of the Board of Directors dated March 8, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
HOYLE L. ROBINSON,
Acting Executive Secretary.

[FR Doc. 79-7747 Filed 3-13-79; 8:45 am]

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[13] * * *

[14] * * *

[6720-01-M]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 79-171]

PART 526—LIMITATIONS ON RATE OF RETURN

Six Month Certificate Accounts

MARCH 8, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Bank Board has amended its regulations with respect to maximum rates payable by member institutions on six month certificates, commonly known as money market certificates. The amendments continue the maximum rate of annual return on non-negotiable certificates with minimum deposits of $10,000 and maturities of six months (26 weeks) at one-quarter of 1 percent above the auction average on a discount basis on the most recently issued six-month United States Treasury bills, provided such auction average is less than 8¾ percent. However, the annual rate of return on such certificates is limited to the auction average where such auction average exceeds 9 percent. The annual rate of return is limited to 9 percent when such auction average is 8¾ percent or more up to 9 percent. The rates of return on such certificates shall not be compounded. Additionally, the regulations require that any advertisement of the rates of return on such certificates must contain a clear and conspicuous notice that compounding of interest is prohibited during their term.

EFFECTIVE DATE: March 15, 1979.

FOR FURTHER INFORMATION, CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552 (202-377-6440)

SUPPLEMENTARY INFORMATION: Effective June 1, 1978, the Bank Board created a new category of certificate accounts whose ceiling rate is tied to the discount rate on six-month U.S. Treasury bills. The Bank Board's action authorized member institutions to pay interest on such accounts of $10,000 or more with maturities of exactly 26 weeks at a rate of up to one-quarter of one percent above the discount rate (auction average) established for U.S. Treasury bills with maturities of six months that are issued on or immediately prior to the date of deposit. Rounding the rate to the next higher rate is not permitted on this category of deposit.

At the time the new money market certificate category was created, the Board indicated that compounding of interest on the new category would be permitted. The Bank Board has now determined that effective March 15 member institutions may not compound interest on such accounts.

Similar action is being taken by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Administrator of the National Credit Union Administration for depository institutions subject to their respective jurisdictions. The actions are being taken by these agencies at this time in order to reduce the costs being incurred by thrift institutions offering this category of account while at the same time maintaining the flow of mortgage credit available to the housing market.

Because compounding is permitted for all other categories of certificate accounts, the Bank Board believes it appropriate for all member institutions' advertisements, announcements, and solicitations, including certificate account brochures and other literature, concerning this category of certificate account to indicate clearly and conspicuously that Federal regulations prohibit compounding of interest during the term of the account. Such notice will serve to inform prospective account holders of a material difference between the money market certificate account and other certificate accounts on which compounding is permitted.

Member institutions may, however, advertise an annual effective rate of interest for money market certificate accounts based upon reinvestment at maturity of principal and interest, if such advertisements fully comply with the Bank Board's guidelines issued August 8, 1978, concerning the advertising for such accounts. Those guidelines provide that if a member institution advertises an annual effective yield that assumes reinvestment of principal and interest at maturity, the advertisement, announcement, or solicitation must contain a clear and conspicuous statement such as the following: This is an annual effective yield. However, it is subject to change at renewal.

In addition, the guidelines indicate that any reference to U.S. Treasury bills in a money market certificate advertisement, announcement, or solicitation requires disclosure that the rate of interest paid on Treasury bills is the discount rate. Any material that makes reference to the member institution's annual effective yield and to Treasury bills requires disclosure of the coupon equivalent yield on Treasury bills computed on a comparable basis.

Member institutions may continue to compound interest on money market certificate accounts issued or renewed prior to the March 15, 1979, effective date of these amendments. However, upon renewal at maturity, member institutions may not compound interest on those accounts. (In this regard member institutions may not extend the maturity of money market certificate accounts since such accounts must have a maturity of precisely 26 weeks.)

The Bank Board's action was taken at this time after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the United States Department of the Treasury. In order to facilitate achievement of the objectives of these amendments as rapidly as possible, and because it is in the public interest that they become effective without delay, the Bank Board hereby finds that notice and public procedure with respect to such amendments is contrary to the public interest and unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of such amendments for the period of time specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of such amendment would, in the opinion of the Bank Board, likewise be unnecessary for the same reasons, the Bank Board hereby provides that such amendment shall become effective as stated below.

Accordingly, the Bank Board hereby amends Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526) by revising paragraph (b)(2) of § 526.2 and paragraph (a)(8) of § 526.3, and by adding a new paragraph (j) to § 526.6, to read as set forth below.

§ 526.2 Maximum rate of return.

* * * * *

(b) *Exceptions.* Notwithstanding any reduction in such maximum prescribed rates, a member may pay a return on any savings account outstanding on the date of such reduction, as follows:

* * * * * *

(2) *Certificate account.* At the rate specified in the certificate, for such period, including any renewal period, as the account remains outstanding (except that six month (26 weeks) certificate accounts may not be renewed at any rate in excess of the applicable maximum rate provided for under § 526.3(a)(8)).

* * * * *

§ 526.3 Maximum rates of return payable by members on savings accounts.

(a) Except as provided in § 526.3-1 for certificate accounts of $100,000 or

more, no member may pay an annual rate of return on a savings account exceeding the applicable maximum percentage, as follows:

* * * * *

(8)(i) If the discount rate (auction average on a discount basis) for six month United States Treasury bills issued on or immediately prior to the date of deposit is less than 8¾ percent, the applicable maximum percentage shall be one-quarter of one percent above such discount rate on certificate accounts of $10,000 or more having a term of six months (26 weeks). Such applicable maximum rate, which shall not be compounded during the term of deposit, may be rounded off only by rounding down.

(ii) If such discount rate is not less than 8¾ percent and not more than 9 percent, the applicable maximum return shall be 9 percent, which shall not be compounded during the term of the deposit.

(iii) If such discount rate exceeds 9 percent, such discount rate shall be the applicable maximum percentage rate, shall not be compounded during the term of the deposit, and may be rounded off only by rounding down.

§ 526.6 Advertising interest or dividends on savings accounts.

The following rules apply to advertisements, announcements, or solicitations relating to interest or dividends paid on a member's savings accounts:

* * * * *

(j) any advertisement, announcement, or solicitation relating to interest paid by a member on a certificate account of $10,000 or more having a term of six months (26 weeks) at the rates prescribed in § 526.3(a)(8)(i), (ii) or (iii) shall include a clear and conspicuous notice that Federal regulations prohibit the compounding of interest during the term of the account.

(Sec. 4, 80 Stat. 824 (12 U.S.C. 1425b); 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 79-7668 Filed 3-13-79; 8:45 am]

[6720-01-M]

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 79-164]

PART 545—OPERATIONS

Fair Lending Requirements

MARCH 8, 1979.

AGENCY: Federal Home Loan Bank Board ("Bank Board").

ACTION: Final rule.

SUMMARY: This rule does not impose any new obligations. Its purpose is to make clear the Bank Board's intent that Federally-chartered savings and loan associations are to be governed solely by Federal fair lending laws and regulations, notwithstanding any State law to the contrary.

EFFECTIVE DATE: March 14, 1979.

FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel. Telephone (202) 377-6440.

SUPPLEMENTARY INFORMATION: The Bank Board's fair lending regulations and guidelines in 12 CFR Part 528 and § 531.8 were amended on May 18, 1978, by Board Resolution No. 78-302. In the preamble explaining the changes made, the Bank Board expressed its intent that Federally-chartered savings and loans were to be governed solely by such regulations and guidelines. In order to further clarify its regulations, the Bank Board has decided that this intent should be expressly set forth in the Code of Federal Regulations. The Bank Board believes that this regulatory amendment will provide a readily accessible answer to Federal-State jurisdictional questions regarding authority to monitor compliance by Federal associations with fair lending laws and regulations.

Accordingly, the Bank Board hereby amends 12 CFR Part 545 by adding new § 545.6a, effective March 14, 1979, to read as follows:

§ 545.6a Fair Lending Requirements.

Notwithstanding any state law to the contrary, Federal associations are governed solely by the fair lending provisions of Part 528 and § 531.8 of the Rules and Regulations for the Federal Home Loan Bank System and other applicable Federal laws and regulations.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1454). Reorg. Plan No. 3 of 1947, 12 FR 4931; 3 CFR 1943-48 Comp. 1071)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 79-7691 Filed 3-13-79; 8:45 am]

[7535-01-M]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

SHARE ACCOUNTS AND SHARE CERTIFICATE ACCOUNTS

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration has amended its regulations with respect to the maximum dividend rates payable by Federal credit unions on 26 week share certificate accounts. The amendments continue the maximum dividend rate on nonnegotiable share certificates with minimum deposits of $10,000 and maturities of 26 weeks at one-quarter of one percent above the discount rate (auction average on a discount basis) on the most recently issued 26 week United States Treasury bills, provided the discount rate is less than 8¾%. The amendments provide that when the discount rate exceeds 9%, the maximum dividend rate cannot exceed the discount rate; and when the discount rate is between 8¾% and 9%, the maximum dividend rate is 9%. The amendments also provide that the dividends on these share certificate accounts cannot be compounded during their term and notice of this prohibition must be set forth in any advertisements and disclosures relating to these share certificates.

EFFECTIVE DATE: March 30, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street NW., Washington, D.C., 20456.

FOR FURTHER INFORMATION CONTACT:

James L. Skiles, Deputy General Counsel, or James J. Engel, Assistant General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION: Effective November 20, 1978, the National Credit Union Administration created a new category of share certificate accounts whose ceiling rate is tied to the discount rate on 26 week United States Treasury bills. The National Credit Union Administration's action authorized Federal credit

unions to pay dividends on such accounts of $10,000 or more with maturities of exactly 26 weeks at a rate of up to one-quarter of one percent above the discount rate (auction average on a discount basis) established for United States Treasury bills with maturities of 26 weeks that are issued on or immediately prior to the date of the purchase of the share certificate. Rounding off of the rate may be done only by rounding down.

The National Credit Union Administration has now amended its regulations to adjust the maximum dividend rate that may be paid on money market share certificate accounts when the 26 week United States Treasury bill discount rate exceeds 8¾%. When the discount rate is between 8¾% and 9%, the maximum dividend rate that may be paid cannot exceed 9%. When the discount rate exceeds 9%, the maximum dividend rate cannot exceed the discount rate. As in the past, Federal credit unions may continue to pay dividends at one-quarter of one percent above the discount rate, but this now applies only if the discount rate is 8¾% or less.

At the time the new money market share certificate account category was created, the National Credit Union Administration did not preclude the compounding of dividends on the new category. The National Credit Union Administration has now determined that effective March 30, 1979, Federal credit unions may not compound dividends on such an account purchased on or after that date and during the 26 weeks that the account remains outstanding.

Because compounding is permitted for all other categories of share certificate accounts, the National Credit Union Administration believes it appropriate for all Federal credit unions' advertisements, announcements, solicitations and disclosure statements concerning this category of certificate account to indicate clearly and conspicuously that Federal regulations prohibit compounding of interest during the term of the account. Such notice will serve to inform prospective account holders of a material difference between money market share certificate accounts and other share certificate accounts on which compounding is permitted.

Federal credit unions may continue to compound interest on money market share certificate accounts issued or renewed prior to the March 30, 1979, effective date of these amendments. However, upon renewal at maturity after that date, Federal credit unions may not compound dividends on those accounts during the 26 week qualifying period. (In this regard, Federal credit unions may not extend the maturity of money market share certificate accounts because such accounts must have a maturity of precisely 26 weeks.)

Similar action is being taken by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board for depository institutions subject to their respective jurisdictions. The actions are being taken by these agencies at this time in an effort to further restrain inflation. The amendments are designed to somewhat reduce the cost of money market certificates and to moderate the flow of funds into thrift institutions in the current inflationary environment. While this action will effect the savings flows of thrifts, it will permit them to continue to remain competitive in attracting funds for housing.

The National Credit Union Administration's action was taken at this time after consultation with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the United States Department of the Treasury. In order to facilitate achievement of these previously mentioned objectives as rapidly as possible, and because it is in the public interest that they become effective without delay, the National Credit Administration hereby finds that the notice and public participation provisions of 5 U.S.C. 553 would be contrary to the public interest and that good cause exists for making the amendments effective in less than 30 days.

Accordingly, 12 CFR 701.35 is amended as set forth below.

LORENA MATTHEWS,
Acting Administrator.

MARCH 9, 1979.

AUTHORITY: Sec. 107, 91 Stat. 49 (12 U.S.C. 1757), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

§ 701.35 Share accounts and share certificate accounts.

(1) Paragraph (g)(5) is amended to read as follows:

"(5) In the case of a share certificate account of $10,000 or more having a fixed or minimum term or qualifying period of 26 weeks, the maximum dividend rate, which shall not be compounded during the term or qualifying period and may be rounded off only by rounding down, shall be:

(i) One quarter of one percent above the discount rate (auction average on a discount basis) for 26 weeks United States Treasury bills issued on or immediately prior to the date of the purchase of the share certificate if such discount rate is less than 8¾%; or

(ii) 9% if such discount rate is not less than 8¾% and not more than 9%; or

(iii) Equal to the discount rate if such discount rate exceeds 9%."

(2) Paragraph (j)(1) is amended by deleting the word "and" at the end of subparagraph (ii); by deleting the "." at the end of subparagraph (iii) and by inserting "; and" in lieu thereof; and by adding a new subparagraph to read as follows:

"(iv) A clear and conspicuous notice stating that Federal regulations prohibit the compounding of dividends during the qualifying period shall be included in the case of share certificates issued pursuant to paragraph (g)(5)."

(3) Subparagraph (k)(1)(iii) is amended to read as follows:

"(iii) That Federal regulations prohibit payment of dividends in excess of available earnings, and in the case of share certificates issued pursuant to paragraph (g)(5), that Federal regulations prohibit the compounding of dividends during the qualifying period;"..

[FR Doc. 79-7746 Filed 3-13-79; 8:45 am]

[4410-09-M]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Exempt Chemical Preparations

AGENCY: Drug Enforcement Administration.

ACTION: Final rule.

SUMMARY: This rule exempts the below listed chemical preparations and mixtures which contain controlled substances from the application of various provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and from certain Drug Enforcement Administration regulations. This action is in response to applications for exemptions filed with the DEA and is consistent with the needs of researchers, chemical analysts, and suppliers of these products.

DATES: This rule is effective March 14, 1979, subject to being suspended, reinstated, revoked or amended by the Administrator upon consideration of any comments or objections which raise significant issues on any findings of fact or conclusion of law supporting this order, received on or about May 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Chief, Regulatory Control Division, telephone 202-633-1366.

SUPPLEMENTARY INFORMATION: The Administrator of the Drug Enforcement Administration has received applications pursuant to § 1308.23 of Title 21 of the Code of Federal Regulations requesting that several chemical preparations containing controlled substances be granted the exemptions provided for in § 1308.24 of Title 21 of the Code of Federal Regulations.

The Administrator hereby finds that each of the following chemical preparations and mixtures is intended for laboratory, industrial, education, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substances and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse, (b) contains either a narcotic or non-narcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration, that the preparation or mixture does not present any potential for abuse, or (c) the formulation of such preparation or mixture incorporates methods of denaturing or other means so that the controlled substance cannot in practice be removed, and therefore the preparation or mixture does not present any significant potential for abuse. The Administrator further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysts, and suppliers of these products.

Therefore, pursuant to the Act, and regulations of the Department of Justice and the Drug Enforcement Administration, the Administrator of the Drug Enforcement Administration hereby orders that Part 1308 of Title 21 of the Code of Federal Regulations be amended as hereinafter appears.

Dated: March 5, 1979.

PETER B. BENSINGER,
Administrator.

§ 1308.24 [Amended]

a. Section 1308.24(l) is amended by deleting the following:

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Abbott Laboratories	Barbital-Acetate Buffer Powder with 1 g. Sodium Azide, NDG 0074-7591-12.	Plastic bag: 16.24 g. per bag.	03-24-75.
Abbott Laboratories	Polyethylene Glycol 6000, 16% solution in 0.09 *M* barbital buffer, No. 7541.	Plastic bottle: 150 ml., 100 ml.	09-21-77.
Chemed Corp. (Dearborn Chemical Div.).	Zinc Reagent No. 2, No. 704	Pillow: 10 mg. each	06-23-71.
Curtis Nuclear Corp	FeRRONEX Kit No. 00250	Vial: 8 ml	09-19-73.
Hyland—Division Travenol Laboratories, Inc.	T-1	Vial: 50 ml	01-13-77.
Do	T-2	Vial: 20 ml	Do.
Do	T-3	do	Do.
Do	T-5	do	Do.
Do	T-6	Vial: 50 ml	Do.
Do	T-7	Vial: 20 ml	Do.
Do	T-8	do	Do.
Do	T-10	do	Do.
Do	T-13	do	Do.
Do	T-15	do	Do.
Do	T-16	Vial: 50 ml	Do.
Do	T-17	Vial: 20 ml	Do.
Do	T-18	do	Do.
Do	T-20	do	Do.
Lederle Laboratories, Division of American Cyanamid Co.	(Delete this company and all entries for this company from 21 CFR 1308.24(l).)		
Lederle Laboratories	(Delete this company and all entries for this company from 21 CFR 1303.24(l).)		
LKB Instruments, Inc	Barbital Buffer PH 8.6 No. LKB-5104-180.	Vial: 290 ml	01-03-74.
Microbiological Associates, Division of Whittaker Corp.	Veronal Buffer (5 x concentrated for LBCF test) Product No. 17-744.	Glass bottle: 500 ml., 100 ml.	10-18-76.
New England Nuclear	Dihydromorphine [7,8-3H(N)] Catalog No. NET-418.	Combi-vial: 250 uCi, 1 mCi.	08-25-75.
Do	5-Ethyl-5-phenylbarbituric Acid (3H(G)), Catalog No. NET-401.	Combi-vial: 250 uCi, 5 mCi, 1 mCi.	Do.
Do	5-Ethyl-5-phenylbarbituric Acid (ring-2-14C) Catalog No. NEC-337.	Screwcap bottle: 250 uCi, 50 uCi.	Do.
Do	5-Ethyl-5-(1 methylbutyl) barbituric Acid (ring-2-14C) Catalog No. NEC-389.	Screwcap bottle: 500 uCi, 100 uCi, 1 mCi.	Do.
Do	5-Cyclohexenyl-3, 5-dimethyl barbituric Acid (2-14C), Catalog No. NEC-653.	Screwcap bottle: 250 uCi 50 uCi.	Do.
Nichols Institute Diagnostics	Parathyroid Hormone (PTH) Radioimmunoassay.	Kit: 100 tests	10-18-77.
Do	Reagent A	Glass bottle: 50 ml	Do.
Do	Reagent B	Glass bottle: 15 ml	Do.
Do	Reagent Blank	Glass bottle: 5.0 ml	Do.

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Do	PTH Standards	do	Do.
Do	PTH Controls	do	Do.
Nuclear Diagnostics, Inc.	TETRIA-P.E.G. Reagent Catalog No. 16100.	Polypropylene bottle: 105 ml.	07-08-77.
Searle Diagnostics Inc. Subsidiary of G. D. Searle & Co.	T-3 RIA reagent set Catalog No. 61113.	Kit: 100 tests	03-14-77.
Do	T-3 RIA isotope reagent composition.	Amber glass bottle: 4 oz.	Do.
Do	T-3 antibody reagent composition	do	Do.
Do	T-4 RIA reagent set Catalog No. 611114.	Kit: 200 tests	Do.
Do	T-4 RIA isotope reagent composition.	Amber glass bottle: 4 oz.	Do.
Do	T-4 RIA antibody reagent composition.	do	Do.
Do	T-3 Uptake Reagent Catalog No. 61133.	Kit: 50 tests	03-28-77.
E. R. Squibb & Sons, Inc.	Thryostat-4 Kit Catalog No. 09125 to include:		
	(a) Thyrostat-4 Standard Solution.	Vial: 7 ml	02-26-73.
	(b) Thyrostat-4 Buffer Solution	Bottle: 60 ml	
Wien Laboratories, Inc.	ANS buffer pH 8.6 Catalog J-5144	Plastic bottle: 100 ml	05-14-75.
Do	Diluent Buffer pH 8.3 Catalog No. U-1213.	Bottle: 750 ml	02-24-75.
Do	Diluent Buffer pH 8.3 Catalog No. U-1213B.	Bottle: 3,000 ml	02-24-75.
Do	Diluent Buffer pH 8.6	Vial: 15 ml	Do.

b. Section 1308.24(i) is amended by adding the following:

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Abbott Laboratories	Polyethylene Glycol 6000, 16% Solution in 0.09 M Barbital Buffer, No. 7541.	Plastic bottle: 300 ml., 150 ml.	09-21-77.
Do	SLCG RIA Diagnostic Kit No. 5768	Kit: 300 tests, 100 tests.	04-07-78.
Do	CG RIA Diagnostic Kit No. 7815	Kit: do	Do.
Do	^{125}I-Cholylglycyltyrosine Reagent Solution, No. 7816.	Plastic bottle: 20 ml	Do.
Do	Cholylglycine Antiserum (Rabbit) Reagent Solution No. 7817.	do	Do.
Do	Barbital Buffer, 0.06 M Reagent Solution No. 7824.	Plastic bottle: 2.5 ml	Do.
Amersham Corp.	TSH RIA Test Kit: Code IM.1000, Code IM.1001.	Kit: 50 tests, 100 tests.	03-09-78.
Do	I 125-TSH	Vial: 10 ml	Do.
Do	Anti-TSH Serum	do	Do.
Do	Second Antibody Reagent	do	Do.
Do	T-3 Uptake (Sorbent) Kit	Kit: 100 tests	03-15-78.
Do	I 125 Triiodothyronine Solution	Bottle: 250 ml	Do.
Becton, Dickinson & Co.	T_4 Tracer Solution Catalog No. 232611.	White NALGENE polypropylene bottle: 125 ml.	02-13-78.
Do	Antibody Coated Tubes Catalog No. 232718.	Cardboard box: 2½"x3¾", 100 tubes.	Do.
Do	Solid Phase T_4 Radioimmunoassay Kit /125I/ Catalog No. 232513, Catalog No. 232530, Catalog No. 232521.	Kit: 100 tests, 200 tests, 400 tests.	03-09-78.
Bio-Rad Laboratories	Quantimune T-4 RIA Test Kit	Kit: 5000 tests, 100 tests.	05-31-78.
Do	Quantimune T-3 RIA Test Kit	Kit: 500 tests, 100 tests.	Do.
Do	Quantimune Neonatal T-4 RIA Test Kit.	Kit: 250 tests	Do.
Do	Quantimune Barbital Buffer	Plastic bottle: 1000 ml., 250 ml., 200 ml.	Do.
Bio-RIA (USA)	Sodium Barbital Buffer PH3	Glass vial: 100 ml., 50 ml.	08-16-78.
Do	125I-Cortisol Radio-Immunoassay Kit.	Kit: 200 tests, 100 tests.	Do.
Burroughs Wellcome Co., Wellcome Reagents Div.	Wellcomtrol[R] Assayed ONE Catalog No. BC01.	Glass bottle: 30 ml	02-01-78.
Do	Wellcomtrol[R] Assayed TWO Catalog No. BC02.	do	Do.
Do	Wellcomtrol[R] Assayed THREE Catalog No. BC03.	do	Do.
Do	Wellcomtrol[R] Unassayed ONE Catalog No. BC11.	do	Do.
Do	Wellcomtrol[R] Unassayed TWO Catalog No. BC12.	do	Do.
Do	Wellcomtrol[R] Unassayed THREE Catalog No. BC13.	do	Do.

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Diagnostics Div. Fisher Scientific Co..	Serum Toxicology Control No. 2940-69.	Vial: 10 ml	04-06-78.
Do	Urine Chemistry Control (Human) Level II No. 2935-80.	Vial: 25 ml	Do.
Do	Urine Toxicology Control No. 2950-61.	do	Do.
Dupont & Co	'nca' PHNO Analytical test pack	Carton: 40 tests packs.	08-25-77.
Hoffman-La Roche, Inc	Abuscreen Radioimmunoassay for Phencyclidine.	Kit: 2500 tests, 100 tests.	08-29-78.
HYLAND Division Travenol Laboratories., Inc.	T-1	Vial: 50 ml	01-13-78.
Do	T-2	Vial: 20 ml	Do.
Do	T-3	do	Do.
Do	T-5	do	Do.
Do	T-6	Vial: 50 ml	Do.
Do	T-7	Vial: 20 ml	Do.
Do	T-8	do	Do.
Do	T-10	do	Do.
Do	T-13	do	Do.
Do	T-15	do	Do.
Do	T-16	Vial: 50 ml	Do.
Do	T-17	Vial: 20 ml	Do.
Do	T-18	do	Do.
Do	T-20	do	Do.
Do	TM-1	Vial: 10 ml	05-19-78.
Do	TM-2	do	Do.
Do	TM-5	Vial: 20 ml	Do.
Do	TM-6	do	Do.
Do	TM-7	do	Do.
Do	TM-8	do	Do.
Do	TM-9	Vial: 10 ml	Do.
Do	TM-10	do	Do.
Do	TM-12	do	Do.
Do	Therapeutic Drug Monitoring Control, Normal, Unassayed (Human).	Amber bottle: 20 ml., 40 bottles per box.	08-28-78
Do	Therapeutic Drug Monitoring Control, Elevated Unassayed (Human).	do	Do.
LKB Instruments, Inc	Tris-barbiturate Buffer pH 8.6	Packet: each 6.788 g. 20 packets per box.	05-15-78.
Lyne Laboratories	LiquiSol T_4 125, Mini-Pak Catalog No. 9032.	Kit: 25 tests	01-26-78.
Do	LiquiSol T_4 125, Kit Catalog No. 9009.	Kit: 100 tests	Do
Do	LiquiSol T_4 125, Bulk Pak Catalog No. 9031, Catalog No. 9010.	Kit: 250 tests, 500 tests.	Do
Do	LiquiSol T_4 125, Reagent Buffer Catalog No. 9032, Catalog No. 9009, Catalog No. 9031, Catalog No. 9010.	Amber Wheaton glass vial: 12.5 ml., 50 ml., 85 ml., 85 ml.	Do.
Do	LiquiSol T_4 125, Wash Solution Catalog No. 9032, Catalog No. 9009, Catalog No. 9031.	Clear Wheaton glass vial: 12.5 ml., 50 ml., 65 ml.	Do.
Do	LiquiSol T_4 125, Wash Concentrate Catalog No. 9010.	Clear Wheaton glass vial: 65 ml.	Do.
Millipore Corp. (Worthington Diagnostics Div).	Alpha-1-Antitrypsin Electroimmunoassay Reagent Set Catalog No. DR0047307.	Kit: 60 ml	01-27-78.
Do	C3 Electroimmunoassay Reagent Set Catalog No. DR0047307.	do	Do.
Do	Transferrin Electroimmunoassay Reagent Set Catalog No. DR0047306.	do	Do.
Do	Haptoglobin Electroimmunoassay Reagent Set Catalog No. DR0047306.	do	Do.
Do	IgA Electroimmunoassay Reagent Set Catalog No. DR0047301.		do
Do	Electroimmunoassay Buffer	Foil pouch 10.2 gm	Do.
Do	Electroagaroslide	Plate: 3¼"×2¼"×⅛"×.	Do.
Monobind	T3 Uptake Tracer Reagent	Glass bottle: 55 ml., 30 ml., Plastic bottle: 125 ml.	05-15-78.
Do	T3 Adsorbent Reagent	Glass bottle: 110 ml., 50 ml. Plastic bottle: 260 ml.	Do.
Nichols Institute	Parathyroid Hormone (PTH) Radioimmunoassay.	Kit: 100 tests	10-17-77.
Do	Reagent A	Glass bottle: 50 ml.	Do.
Do	Reagent B	Glass bottle: 15 ml.	Do.
Do	Reagent blank	Glass bottle: 5.0 ml	Do.
Do	PTH standards	do	Do.
Do	PTH controls	do	Do.
Nuclear Diagnostics, Inc.	TETRIA® P.E.G. Reagent Catalog No. 16100R.	Polypropylene bottle: 55 ml.	03-10-78.
Do	TETRA® P.E.G. Antiserum Catalog No. 16100A.	do	Do.
Do	SPINSEP-T4 Reagent Catalog No. 14100.	Polyethylene bottle: 105 ml.	04-13-78.
Do	TIBC Buffer Solution Catalog No. 350B.	Plastic bottle: 60 ml	06-09-78.
E. R. Squibb & Sons, Inc	Thyrostat-4/FTI Diagnostic Test Kit.	Kit: 25 tests	01-30-78.

Manufacturer or supplier	Product name and supplier's catalog No.	Form of product	Date of application
Do.	Thyrostat-4 Standard Solution 18 μg.	Glass vial-1.2 ml	Do.
Do.	Thyrostat-4 Standard Solution 12μg	do	Do.
Do.	Thyrostat-4 Standard Solution 6μg	do	Do.
Supelco, Inc	Mescaline	Glass Ampul: 1000 micrograms.	03-08-78.
Warner-Lambert Research Institute.	Antiepileptic Drug Level Quality Control Program.	Amber glass serum bottle: 10 ml.	04-13-78.
Wien Laboratories, Inc	ANS Buffer pH 8.6 Catalog No. T-5144.	Plastic bottle: 100 ml	05-14-75.
Do.	T, Buffer Reagent Catalog No. T-5156.	Plastic vial: 20 ml	09-13-78.

[FR Doc. 79-7306 Filed 3-13-79; 8:45 am]

[4830-01-]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER C—EMPLOYMENT TAXES

[T.D. 7600]

PART 31—EMPLOYMENT TAXES; APPLICABLE ON OR AFTER JANUARY 1, 1955

Definition of Compensation for Purposes of the Railroad Retirement Tax Act

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the definition of compensation for purposes of the Railroad Retirement Tax Act. Changes to the applicable tax law were made by the Act of October 18, 1976. These regulations provide necessary guidance to comply with that Act and would affect employees, employee representatives, and employers to whom the Railroad Retirement Tax Act applies.

DATE: The regulations are effective for compensation paid after December 31, 1954, with respect to services performed after that date.

FOR FURTHER INFORMATION CONTACT:

Leonard T. Marcinko of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T, 202-566-3459).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 1, 1978, the FEDERAL REGISTER published proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under section 3231 (e) of the Internal Revenue Code of 1954 (43 FR 39149). These amendments were proposed to conform the regulations to section 4 (b) and (c) (2) of the Act of October 18, 1976 (90 Stat. 2526). No comments were received with respect to the proposed amendments, and no public hearing was requested or held. The proposed amendments are adopted by this Treasury decision without change.

EXPLANATION

Public Law 94-547 amends section 3231 (e) of the Internal Revenue Code by excluding two types of payments from the definition of compensation for purposes of the Railroad Retire-

ment Tax Act. First, the statute excludes from compensation payments (including amounts paid for insurance) to an employee or his dependents because of sickness or accident disability, or for medical and hospital expenses in connection with sickness or accident disability. Second, Pub. L. 94-547 also excludes from the definition of compensation amounts paid specifically, either as advances or reimbursements or allowances, for traveling or other bona fide and necessary expenses incurred in the business of the employer. The regulations provide several rules for applying these amendments made to the definition of compensation by the statute.

The regulations adopted by this Treasury decision impose no new reporting burdens or recordkeeping requirements. The principal effect of the final regulations is to conform existing regulations under section 3231 (e) of the Code to changes made by the Act of October 18, 1976. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

DRAFTING INFORMATION

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

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the amendments to 26 CFR Part 31 published as a notice of proposed rulemaking in the FEDERAL REGISTER for September 1, 1978 (43 FR 39149), are hereby adopted as proposed.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: March 7, 1979.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

Paragraph 1. Section 31.3231(e) and the historical note thereto are deleted.

Par. 2. Section 31.3231(e)-1 is amended by revising subparagraph (3) of paragraph (a), by revising subparagraph (2) of paragraph (b), by deleting subparagraph (3) of paragraph (b) and redesignating subparagraphs (4), (5), (6), and (7), and (8) of paragraph (b) as subparagraphs (3), (4), (5), (6), and (7), respectively, and by revising redesignated subparagraph (4) of paragraph (b). These revised provisions read as follows:

§ 31.3231(e)-1 *Compensation.*

(a) *Definitions.* * * *

(3) The term "compensation" does not include the following items:

(i) The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment) made to, or on behalf of, an employee or any of his dependents under a plan or system established by an employer which makes provision for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of sickness or accident disability or medical or hospitalization expenses in connection with sickness or accident disability. Payments under a plan or system established by an employer solely for the dependents of his employees are not within this exclusion from compensation. Dependents of an employee include the employee's husband or wife, children, and any other members of the employee's immediate family. It is immaterial for purposes of this exclusion whether the amount or possibility of such benefit payments is taken into consideration in fixing the amount of an employeees remuneration or whether such payments are required, expressly or impliedly by the contract of service.

(ii) Tips, except as provided in section 3231(e)(3) of the Code.

(iii) The voluntary payment by an employer, without deduction from the remuneration of the employee, of the tax imposed on such employee by section 3201.

(iv) An amount paid specifically—either as an advance as reimbursement or allowance—for traveling or other bona fide and necessary expenses incurred or reasonably expected in be incurred in the business of the employer, provided any such payment is identified by the employer either by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment. In determining whether any taxes paid under the Railroad Retirement Tax Act are to be adjusted by reason of subdivision (i) or (iv) of this subparagraph, if the applicable period of limitation of the filing of a claim for credit or refund of such taxes expires after October 18, 1976, and before April 18, 1977, such period of limitation is considered to expire on April 18, 1977.

* * * * *

(b) *Items included as compensation.* * * *

(2) Vacation allowances or back pay upon reinstatement after wrongful discharge.

* * * * *

(4) Amounts paid as allowance or reimbursement for traveling or other expenses incurred in the business of the employer if such amounts are not identified by the employer by a separate payment or by specifically indicating the separate amounts where both wages and expense reimbursement or allowance are combined in a single payment.

* * * * *

[FR Doc. 79-7741 Filed 3-13-79; 8:45 am]

[1505-01-M]

Title 30—Mineral Resources

CHAPTER VII—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

SURFACE COAL MINING AND RECLAMATION OPERATIONS

Permanent Regulatory Program

Correction

In FR Doc. 79-7547 appearing at page 14902 in the issue for Tuesday, March 13, 1979, the following correction should be made. The effective date paragraph which reads:

EFFECTIVE DATE: April 12, 1977, except as stated below in Paragraph 8 under discussion of "Approval of Other Agencies."

is corrected to read as follows:

EFFECTIVE DATE: April 12, 1979, except as stated below in Paragraph 8 under discussion of "Approval of Other Agencies."

[4310-03-M]

Title 36—Parks, Forests, and Public Property

CHAPTER XII—HERITAGE CONSERVATION AND RECREATION SERVICE, DEPARTMENT OF THE INTERIOR

PART 1228—URBAN PARK AND RECREATION RECOVERY ACT OF 1978

Appendix A—Criteria for Eligibility

Appendix B—List of Eligible Jurisdictions

AGENCY: Heritage Conservation and Recreation Service, U.S. Department of the Interior.

ACTION: Interim rule.

SUMMARY: This rule prepared by the Heritage Conservation and Recreation Service is published to announce eligible jurisdictions, and the criteria used in determining eligibility for grants under the Urban Park and Recreation Recovery Program, which is Title X of the National Parks and Recreation Act of 1978, P.L. 95-625. Section 1005(a) of Title X states that "Within 120 days after the effective date of this title, the Secretary shall publish in the FEDERAL REGISTER, a list of the local governments eligible to participate in this program, to be accompanied by a discussion of criteria used in determining eligibility. 'Such criteria shall be based upon factors which the Secretary determines are related to deteriorated recreational facilities or systems, and physical and economic distress.'" *This interim rule meets that requirement.*

DATES: These regulations are effective March 14, 1979. Comments on this interim rule will be accepted and considered. Comments must be received in writing on or before May 20, 1979.

ADDRESSES: Written comments should be addressed to the Chief, Urban Programs Task Force, Heritage Conservation and Recreation Service, 440 G Street, N.W., Box A, Room 205, Washington, D.C. 20243.

FOR FURTHER INFORMATION CONTACT:

Mr. Sam Hall, or Sandy Rives, Urban Programs Task Force, Heritage Conservation and Recreation Service, 440 G Street, N.W., Box A, Room 205, Washington, D.C. 20243; 202/343-5971.

SUPPLEMENTARY INFORMATION: In his policy message of March 27, 1978, President Carter proposed a new federal grant program for urban communities to compete for funds to revive and rebuild parks and recreation facilities. On October 13, 1978, the National Parks and Recreation Act of 1978, P.L. 95-625, was passed by the Congress, and on November 10, 1978, the President signed the bill into law. Title X, the Urban Park and Recreation Recovery Act (UPARR) of 1978, authorized the Secretary of the Interior to establish a five-year program to provide Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas and facilities, and the development of improved recreation programs. The Secretary of the Interior has delegated the responsibility for developing the Urban Park and Recreation Recovery Program to the Director, Heritage Conservation and Recreation Service.

Within 120 days after the effective date of this Act, the Secretary of the Interior was directed to publish in the FEDERAL REGISTER a list of those cities eligible to participate in the program, together with a discussion of the criteria used in their selection. To meet the statutory requirement, the Secretary has determined that it is impracticable to publish this list and criteria as a notice of proposed rulemaking, and that it is necessary to except this publication from the procedures for development of significant rules established by the Department of the Interior. Therefore, pursuant to the exceptions provided for in the Administrative Procedure Act in 5 U.S.C. Sec. 553(b)(B) and the Departmental regulations on rulemaking in 43 CFR 14.3(f), this list and eligibility criteria are published as interim rules effective immediately. The Director has determined that it is in the public interest to allow interested persons to submit written comments pertaining to these regulations. All relevant materials received on or before May 20, 1979, will be considered. Following the close of the comment period, the regulations will be revised, as warranted by public comments received. It is intended that any revision of the regulations arising from these comments will be published as a final rule 30 days after the close of the comment period.

The Heritage Conservation and Recreation Service is committed to review the eligibility factors and jurisdiction list one year after the issuance of the first grants. The Department will be publishing regulations relating to program administration, the application process and project requirements, within approximately 90 days from the date of this interim rule.

PROGRAM INFORMATION

Program regulations will be published 90 days from the date of this interim rule. A total of $730 million is authorized for five years; $151 million for FY 1979 through 1982 and $126 million for 1983. Grants for all projects in any one State shall not exceed 15 percent of the total funds authorized to be appropriated in any fiscal year. There are three types of grants available under this program; each has its own matching requirements.

1—*Recovery Action Program Grants.* As a requirement for project approval, a local government must submit a Recovery Action Program which demonstrates its commitment to overall improvements in its recreation system. The Secretary of the Interior is authorized to provide up to 50 percent matching grants for the preparation of Recovery Action Programs. These Action Programs should not require lengthy and expensive planning efforts, but are intended to be vehicles for documentation of local objectives and priorities for recreation system recovery, and for citizen participation and interagency coordination in development of a recovery program and projects. Their primary purpose will be the formal expression of local commitments to ongoing programs, including necessary planning, staffing and budgeting to insure continued recovery. Up to 3 percent of the total funds authorized in any fiscal year may be used for Recovery Action Program grants.

2—*Innovation Grants.* Seventy percent matching grants are authorized to local governments for projects which will address widespread coordination, management and access problems through innovative and cost-effective approaches such as joint use of facilities, recycling of non-recreation facilities, contracting for services with other public or private recreation providers, and mobile recreation to service neighborhoods lacking adequate facilities. The intent of innovation grants is to demonstrate, to communities throughout the country, cost-effective ways of translating physical recreation resources, such as land and buildings, into actual recreation opportunities for neighborhood residents. Annual reports from the Department of the Interior on innovative program achievements are also required to ensure widespread dissemination of the results of successful projects, so that they may be adapted to similar situations in other localities.

Up to 10 percent of the total funds authorized in any fiscal year may be used for innovation grants. As an incentive to State involvement in the recovery of urban recreation systems, the Federal Government will provide a dollar-for-dollar match to State contributions to the local share of the cost of any innovation project, up to 15 percent of the total cost of the project. The total Federal share, however,

is limited to 85 percent of the project costs.

3—*Rehabilitation Grants.* The program provides for a 70 percent Federal match for rehabilitating existing recreation facilities and areas. Rehabilitation grants will be used for rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities. Projects may include improvements in park landscapes, building, and support facilities; but exclude routine maintenance and upkeep activities.

Up to 100 percent of the total funds authorized in any fiscal year may be used for rehabilitation grants. As an incentive to State involvement in the recovery of urban recreation systems, the Federal Government will provide a dollar-for-dollar match to State contributions to the local share of the cost of any rehabilitation project, up to 15 percent of the total cost of the project. The total Federal share, however, is limited to 85 percent of the project costs.

a—*Pass-through Funding.* At the discretion of the eligible general purpose local governments, and if consistent with an approved application, rehabilitation and innovation grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or county or regional park authorities.

b—*Insular Areas.* Insular areas—Guam, the Virgin Islands, American Samoa and the Northern Mariana Islands—are each authorized the sum of $250,000 for each of the fiscal years 1979 through 1983. These sums will not be subject to the matching provisions of the other grants, and may only be subject to such conditions, reports, plans, and agreements, if any, as determined by the Secretary.

Action Program Requirement

To apply for a grant, an eligible local government or discretionary applicant must submit evidence of its ongoing commitment to planning, rehabilitation, and operation of its urban park and recreation system. The submission is to be in the form of a Recovery Action Program. Local governments may satisfy this requirement initially by submitting preliminary plans which briefly define park and recreation system priorities, and commit the applicant to a schedule of further Action Program development. The Heritage Conservation and Recreation Service will issue planning guidelines in the Spring of 1979 for preliminary Action Programs and for five-year Action Programs required under the Act.

A five-year Action Program should demonstrate: (a) objectives, priorities, and strategies for implementing the local park and recreation recovery program; (b) plans for rehabilitating specific areas and facilities, along with projected costs; (c) plans for the adequate maintenance of any facilities provided or improved under the Urban Park and Recreation Recovery Program; (d) intent to maintain local appropriations for parks and recreation at previous year's level (except where reductions are proportionate to overall spending reductions); and (e) relationship of the local park and recreation recovery program to overall community development and urban revitalization efforts.

The action program should identify specific needs for park and recreation facilities and programs throughout the system, with special emphasis on areas of high population and economic distress. It should identify public and private resources actually or potentially available to meet identified needs, and define approaches to coordinating these resources.

Action programs should also pinpoint ongoing or planned local commitments to innovative and cost-effective programs such as: (a) recycling abandoned schools for recreation purposes; (b) using transportation vehicles or other methods to improve neighborhood access to park and recreation facilities; (c) integrating local park and recreation programs with other federally-assisted local projects; (d) converting available land for neighborhood recreation use; and (e) encouraging the private sector to provide park and recreation facilities and programs.

Project Selection

The selection of proposals for grant awards will be based on national merit and need with the best selected. Factors to be considered include but are not limited to: (1) population; (2) condition of existing park and recreation facilities; (3) deficiencies in recreation opportunities at the neighborhood level, particularly for minority and lower income residents; (4) public participation in determining park and recreation rehabilitation and development needs; (5) extent to which the project complements overall local community development and urban revitalization programs; (6) extent to which the project provides employment opportunities for youth, minority, and lower income residents; (7) extent to which the project provides for the involvement of neighborhood organizations and community groups; and (8) amount of State and private support for the project.

Local, State and Federal Coordination

The Urban Park and Recreation Recovery Program will contribute to the Nation's total urban recovery effort by working with other Federal and State agencies that administer programs affecting urban areas. These programs are in a variety of fields including housing, urban development, employment, transportation, community services, voluntary action, and natural resources management.

It is anticipated that state governments will coordinate with local applicants on related state assistance programs, including Land and Water Conservation Fund, Historic Preservation Fund Grants, State Comprehensive Outdoor Recreation Plans, and other State assistance programs to local governments. The role of State governments in providing financial and technical assistance will vary depending on their level of interest in, and commitment to, cities. The Heritage Conservation and Recreation Service will work with State governments to help ensure maximum coordination between the Urban Park and Recreation Recovery Program and State urban and recreation assistance efforts.

Statement on Significance

The Department of the Interior has determined that this document is a significant rule but that it does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Authorship Statement

The primary writers of these regulations were Mr. Sandy Rives and Mr. Sam Hall of the Heritage Conservation and Recreation Service.

Dated: March 8, 1979.

Bob Herbst,
Assistant Secretary for Fish and Wildlife and Parks.

In consideration of the foregoing, Part 1228 is added, consisting at this time of Appendix A and Appendix B, to 36 CFR Chapter 12, to read as follows:

PART 1228—URBAN PARK AND RECREATION RECOVERY ACT OF 1978

Sec.

* * * * *

Appendix A—Criteria for Eligibility.
Appendix B—List of Eligible Jurisdictions.

Authority: Section 1005(a) of title X, National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 2504.

PART 1228—URBAN PARK AND RECREATION RECOVERY PROGRAM

Appendix A—Criteria for Eligibility

Jurisdictions were considered for eligibility if they were functioning general purpose local governments in one of three categories:

1. Central cities of Standard Metropolitan Statistical Areas in either 1970 or 1976 (1970 data derived from U.S. Bureau of the Census, Census of Population: 1970, 1976 data derived from U.S. Bureau of the Census, 1976 Revenue Sharing Estimates File).

2. Cities and townships with populations of 40,000 or more in either 1970 or 1976 (1970 data derived from U.S. Bureau of the Census, Census of Population: 1970, 1976 data derived from U.S. Bureau of the Census, 1976 Revenue Sharing Estimates File).

3. Counties with populations of 250,000 or more in either 1970 or 1976 (1970 data derived from U.S. Bureau of the Census, Census of Population: 1970; 1976 data derived from 1976 Revenue Sharing Estimates File).

Indicators (variables) of distress and need were selected to determine eligibility for the program, and were chosen for timeliness, reliability, and relevance to the Act. Certain variables were not used due to duplication, others because they were not available for all jurisdictions, and some because they were unrelated to the purposes of the Act. (Section 1002 of the Act states that the Congress finds that (a) the quality of life in urban areas is closely related to the availability of fully functional park and recreation systems including land, facilities, and service programs; (b) residents of cities need close-to-home recreational opportunities that are adequate to specialized urban demands, with parks and facilities properly located, developed, and well maintained; (c) the greatest recreational deficiencies with respect to land, facilities, and programs are found in many large cities, especially at the neighborhood level; (d) inadequate financing of urban recreation programs due to fiscal difficulties in many large cities has led to the deterioration of facilities, nonavailability of recreation services, and an inability to adapt recreational programs to changing circumstances; and (e) there is no existing Federal assistance program which fully addresses the needs for physical rehabilitation and revitalization of these park and recreation systems.)

The Heritage Conservation and Recreation Service asked the Bureau of the Census to assist in the analysis of national data in order to ensure that reliable, timely and applicable indicators of distress were used in determining eligibility for the program. HCRS received comments from a number of interested individuals on what they considered, in their best judgment, to be the criteria that should be used in the program. HCRS also received numerous position papers from national interest groups on what they thought were suitable indicators for the program. HCRS then began a narrowing process intended to select the most appropriate criteria for eligibility in the program.

Listed below are the six variables selected for eligibility criteria:

POPULATION PER SQUARE MILE

This variable is commonly termed population density, and it is defined as the number of persons per square mile of land. It provides an indication of the extent to which an area is urbanized. Highly urbanized areas are most lacking in land set aside for recreation and park facilities and are experiencing difficulty in maintaining existing facilities. Highly dense areas tend to have the greatest need for assistance in revitalization of their neighborhood park and recreation facilities. Therefore, jurisdictions having high values for density would be favored by this variable, based on 1975 data of the U.S. Bureau of the Census.

NET CHANGE IN PER CAPITA INCOME, 1969–1975

Per capita income is the estimated average amount of total money income per person. It is derived by dividing the total income of a particular group by the total population in that group. Comparison of change in per capita income between urban jurisdictions provides an indication of each jurisdiction's economic growth. If the income of a city is growing more slowly than another city, the city with slower growth is in a relatively weaker economic position. As cited in the "Report on the Fiscal Impact of the Economic Stimulus Package on 48 Large Urban Governments (1978)," income growth is a determinant of taxable wealth and level of economic activity, and indicates a jurisdiction's capability to finance its own recreation and other projects. This measure of financial capacity is related to the Act which stipulates that the Secretary of the Interior consider factors related to economic distress. Therefore, jurisdictions with either negative or low relative growth in per capita income would be favored by this variable, based on 1976 data of the U.S. Bureau of the Census.

PERCENT UNEMPLOYED, 1977

Percent unemployed, commonly termed the unemployment rate, is defined as the number of people unemployed as a percent of the civilian labor force. The unemployment data are the product of a Federal/State cooperative program in which State Employment Security agencies prepare labor force and unemployment estimates using concepts, definitions, and technical procedures established by the Bureau of Labor Statistics. The *National Urban Recreation Study* found that recreation and leisure time opportunities are most limited for the economically disadvantaged, including the unemployed. The 17 field studies of the *National Urban Recreation Study* reveal that low-income neighborhoods have less program diversity, little, if any, commercial recreation opportunities, and fewer year-round programs than higher income neighborhoods. Consideration of this variable is consistent with the mandate of the Act which requires that criteria be considered related to physical and economic distress. Therefore, this variable would tend to favor jurisdictions having high unemployment rates.

PERCENT OF HOUSEHOLDS WITHOUT AUTOMOBILES AVAILABLE, 1970

Automobile availability, as defined by the Bureau of the Census, represents the number of passenger automobiles, including station wagons, which are owned or regularly used by any member of the household and which are ordinarily kept at home. Taxicabs, pickups, or larger trucks were not counted. Lack of automobile availability is closely related to lack of recreation opportunity. The Recreation Access Study (U.S. Department of Transportation, 1975) found that access to a diversity of recreation opportunities is generally assured for those who have automobiles and are willing to travel reasonable distances, but such opportunities are often severely limited for people without cars. In addition, the 17 field studies of the *National Urban Recreation Study* concluded that most recreation opportunities for those without access to a personal auto is limited to immediate neighborhoods or place of residence. This variable is relevant to the Act in that the transportation disadvantaged households are the group that has the greatest need for expanded opportunities to enjoy their close to home resources.

Therefore, jurisdictions having a high proportion of households without automobiles would be favored by this variable, based on 1970 data of the U.S. Bureau of the Census.

TOTAL POPULATION UNDER 18 YEARS OF AGE, AND 60 YEARS AND OVER, 1970

This variable identifies those people most likely to be the most frequent users of public park and recreation facilities. While many senior citizens have adequate incomes, they tend to be considerably less affluent and less mobile than the general population. Younger and older children also need public recreation facilities, especially in highly urbanized areas, where recreation facilites are most lacking. This variable was selected to favor areas with greater concentrations of the dependent population where need for recreation would be the greatest, and

where rehabilitation of existing facilites the most pressing, in accordance with the Act. The variable was used in its absolute rate to give an indication of the size of the client populations in each jurisdiction, based on 1970 data of the U.S. Bureau of the Census.

PERCENT PERSONS WITH INCOME BELOW 125 PERCENT POVERTY LEVEL, 1970

In 1970, percent of population below poverty level was calculated by the Bureau of the Census as the proportion of the total population which reported income below the poverty level. This variable is the most current available indicator of poverty status for the jurisdictions in question. To accommodate the needs of economically disadvantaged people whose incomes are somewhat above the poverty level, such as those employed part-time, or those in very low-paid jobs, persons with incomes up to 125% of poverty are included in this variable. The poor and near-poor have the greatest need for public recreation opportunities and services in proximity to their homes. This variable is also related to that part of the Act which stipulates that the Secretary of the Interior consider "deficiencies in access to neighborhood recreation facilities, particularly for . . . low- and moderate-income residents," and the extent to which park and recreation recovery efforts would provide employment opportunities for low- and moderate-income residents. Rehabilitation of parks is a relatively labor intensive activity having the potential for providing short-term jobs with low-skill requirements. Persons with poverty level incomes tend to lack skills and jobs. Therefore, this variable was selected to favor jurisdictions having a large percentage of its population in poverty. The poverty level of income is based on an index developed by the Social Security Administration in 1964 and subsequently modified by a Federal Interagency Committee. In 1969, the poverty thresholds ranged from $1,487 for a female unrelated individual 65 years old and over living on a farm to $6,116 for a nonfarm family with a male head and with seven or more persons. The average poverty threshold for a nonfarm family of four headed by a male was $3,745.

DETERMINATION OF ELIGIBILITY

The method used to combine the variables had four steps. First, all values for each of the six variables were expressed in common or standard units. Second, for each jurisdiction, the standardized values for the six variables were added to produce a score. Third, the scores were ranked from high values (most eligible) to low values (least eligible). Fourth, jurisdictions having scores above the median score for all jurisdictions were designated "eligible."

COUNTY ELIGIBILITY

The Administration stated before the Senate Subcommittee on Parks and Recreation on June 27, 1978, that it would ensure fair consideration of urban counties for eligibility under the Urban Park and Recreation Recovery Program. The Administration has kept this commitment by subjecting urban county data to the same eligibility standards as cities and including urban counties which meet those standards on the eligibility list. All urban counties with a population over 250,000 were considered under the same criteria (indicators of distress and need) as the city counterparts. Counties within an SMSA not on the eligibility list may compete for assistance as discretionary applicants.

The history of the Administration's UPARR proposal clearly indicates that this program is part of an overall national urban policy. Therefore, in accordance with the legislative mandate, project selection criteria will require that county projects be justified in terms of direct service to identifiable urban neighborhoods (residential areas), and that there must be evidence of cooperation between a county and its major city. Specific project selection and approval requirements will be published in the FEDERAL REGISTER as part of overall program regulations.

DISCRETIONARY GRANTS

Section 1005(b) of the Bill states that at the Secretary's discretion, up to 15 percent of the program funds annually may be granted to local governments which do not meet eligibility criteria, but are located in Standard Metropolitan Statistical Areas, provided that these grants to general purpose governments are in accord with the intent of the program. These governments may apply for grants under the program regardless of whether or not they are included on the list of eligible jurisdictions. Specific procedures on discretionary applications and funding will be published in the FEDERAL REGISTER when the program regulations are published.

NOTICE TO TOWNSHIPS IN THE UNITED STATES AND MUNICIPIOS IN PUERTO RICO

The law states that eligibility of general purpose local governments under Pub. L. 95-625 shall be considered. The Department made every effort to consider these jurisdictions, but found that all the variables used in the formula were not available for townships in the United States and municipios in the Commonwealth of Puerto Rico. We will consider townships and municipios, but the 120 day statutory limitation did not allow for special tabulations of the data and the development of estimation procedures to enable the computation on a similar basis as all other considered jurisdictions in the United States. The Secretary will, therefore, determine on an individual application basis those jurisdictions eligible for funding under the Program. Those general purpose urban jurisdictions over 40,000 population size for townships in the U.S. and municipios in the Commonwealth of Puerto Rico that request eligibility will be analyzed on a similar basis as all jurisdictions in the Program. This will require special tabulations and estimates, but the intent is to be equitable and fair in meeting the intent of the law. This procedure is not meant to favor or discriminate against townships and municipios, but the data are not readily available and a special procedure had to be developed. In considering townships, as prescribed in the law, only those townships having general purpose governmental functions will be considered. We do know that a number of townships in the U.S. are not governmental units having a park and recreation function or police or fire protection authority. It is not within the intent of the law to place a jurisdiction on a listing of eligibility where no general purpose governmental authority exists. These jurisdictions would, however, be eligible for the pass-through funding authority outlined in Section 1006(a)1 of Pub. L. 95-625. Townships requesting consideration should submit evidence of their governmental authority. Letters requesting consideration should be sent to Chief, Urban Programs, Heritage Conservation and Recreation Service, Pension Building, 440 G Street, N.W., Room 205, Box S, Washington, D.C. 20243.

APPENDIX B—LIST OF ELIGIBLE JURISDICTIONS

The following are those jurisdictions eligible for the Urban Park and Recreation Recovery Program:

CITIES ELIGIBLE FOR THE URBAN PARKS AND RECREATION RECOVERY PROGRAM

Akron, Ohio
Albany, Georgia
Albany, New York
Alexandria, Louisiana
Alhambra, California
Allentown, Pennsylvania
Altoona, Pennsylvania
Anniston, Alabama
Asbury Park, New Jersey
Asheville, North Carolina
Athens, Georgia
Atlanta, Georgia
Atlantic City, New Jersey
Auburn, Maine
Augusta, Georgia
Baldwin Park, California
Baltimore, Maryland
Baton Rouge, Louisiana
Battle Creek, Michigan

Bay City, Michigan
Bayonne, New Jersey
Bellflower, California
Bellingham, Washington
Berkeley, California
Biloxi, Mississippi
Binghamton, New York
Birmingham, Alabama
Bloomfield, New Jersey
Bloomington, Indiana
Boston, Massachusetts
Bradenton, Florida
Bridgeport, Connecticut
Bridgeton, New Jersey
Bristol, Tennessee
Brockton, Massachusetts
Brownsville, Texas
Buffalo, New York
Cambridge, Massachusetts
Camden, New Jersey
Canton, Ohio
Carson, California
Charleston, South Carolina
Charlottesville, Virginia
Chattanooga, Tennessee
Chester, Pennsylvania
Chicago, Illinois
Chicopee, Massachusetts
Chula Vista, California
Cicero, Illinois
Cincinnati, Ohio
Clarksville, Tennessee
Cleveland, Ohio
Cocoa, Florida
Columbia, South Carolina
Columbus, Georgia
Columbus, Ohio
Compton, California
Corpus Christi, Texas
Covington, Kentucky
Danville, Illinois
Danville, Virginia
Dayton, Ohio
Daytona Beach, Florida
Denison, Texas
Denver, Colorado
Detroit, Michigan
District of Columbia
Dothan, Alabama
Duluth, Minnesota
Durham, North Carolina
East Chicago, Indiana
East Lansing, Michigan
East Orange, New Jersey
East Providence, Rhode Island
East St. Louis, Illinois
Easton, Pennsylvania
Edinburg, Texas
El Monte, California
El Paso, Texas
Elizabeth, New Jersey
Elmira, New York
Erie, Pennsylvania
Evanston, Illinois
Evansville, Indiana
Everett, Washington
Fall River, Massachusetts
Fayetteville, North Carolina
Flint, Michigan
Florence, Alabama
Ft. Myers, Florida
Fresno, California
Gadsden, Alabama
Gainesville, Florida
Galveston, Texas
Gary, Indiana
Gastonia, North Carolina
Grand Rapids, Michigan
Greenville, Mississippi
Greenville, South Carolina
Gulfport, Mississippi
Hamilton, Ohio
Harlingen, Texas
Harrisburg, Pennsylvania
Hartford, Connecticut
Hattiesburg, Mississippi
Haverhill, Massachusetts
Hawthorne, California
Hazelton, Pennsylvania
Hialeah, Florida
High Point, North Carolina
Holyoke, Massachusetts
Hopkinsville, Kentucky
Huntington, West Virginia
Indianapolis, Indiana
Inglewood, California
Irvington, New Jersey
Jackson, Michigan
Jackson, Mississippi
Jackson, Tennessee
Jacksonville, Florida
Jersey City, New Jersey
Johnson City, Tennessee
Joplin, Missouri
Kalamazoo, Michigan
Kankakee, Illinois
Kansas City, Kansas
Kansas City, Missouri
Kenner, Louisiana
Kenosha, Wisconsin
Killeen, Texas
Knoxville, Tennessee
Kokomo, Indiana
La Crosse, Wisconsin
Lafayette, Louisiana
Lake Charles, Louisiana
Lakeland, Florida
Lakewood, Ohio
Lancaster, Pennsylvania
Lansing, Michigan
Laredo, Texas
Las Cruces, New Mexico
Lawrence, Massachusetts
Lawton, Oklahoma
Lewiston, Maine
Lima, Ohio
Lompoc, California
Long Beach, California
Long Branch, New Jersey
Los Angeles, California
Louisville, Kentucky
Lowell, Massachusetts
Lynchburg, Virginia
Lynn, Massachusetts
Macon, Georgia
Malden, Massachusetts
Manchester, New Hampshire
Mansfield, Ohio
Marietta, Ohio
Marion, Indiana
Marshall, Texas
McAllen, Texas
Medford, Massachusetts
Memphis, Tennessee
Meriden, Connecticut
Meridian, Mississippi
Miami, Florida
Miami Beach, Florida
Middletown, Ohio
Millville, New Jersey
Milwaukee, Wisconsin
Minneapolis, Minnesota
Mobile, Alabama
Modesto, California
Monroe, Louisiana
Montgomery, Alabama
Moss Point, Mississippi
Mount Vernon, New York
Muncie, Indiana
Muskegon, Michigan
Muskegon Heights, Michigan
Muskogee, Oklahoma
National City, California
New Bedford, Massachusetts
New Britain, Connecticut
New Brunswick, New Jersey
New Haven, Connecticut
New London, Connecticut
New Orleans, Louisiana
New Rochelle, New York
New York, New York
Newark, New Jersey
Newport News, Virginia
Niagara Falls, New York
Norfolk, Virginia
North Chicago, Illinois
Norwalk, California
Norwich, Connecticut
Oak Park, Illinois
Oakland, California
Oceanside, California
Ogden, Utah
Omaha, Nebraska
Ontario, California
Orange, Texas
Orlando, Florida
Oshkosh, Wisconsin
Oxnard, California
Panama City, Florida
Pasco, Washington
Passaic, New Jersey
Paterson, New Jersey
Pawtucket, Rhode Island
Pensacola, Florida
Perth Amboy, New Jersey
Petersburg, Virginia
Pharr, Texas
Philadelphia, Pennsylvania
Phoenix, Arizona
Pico Rivera, California
Pine Bluff, Arkansas
Pittsburgh, Pennsylvania
Pittsfield, Massachusetts
Plainfield, New Jersey
Pomona, California
Pontiac, Michigan
Port Arthur, Texas
Portland, Maine
Portland, Oregon
Portsmouth, Virginia
Poughkeepsie, New York
Providence, Rhode Island
Provo, Utah
Pueblo, Colorado
Quincy, Illinois
Quincy, Massachusetts
Rantoul, Illinois
Reading, Pennsylvania
Revere, Massachusetts
Richmond, California
Richmond, Indiana
Richmond, Virginia
Roanoke, Virginia
Rochester, New York
Rome, New York
Rosemead, California
Sacramento, California
Saginaw, Michigan
St. Joseph, Missouri
St. Louis, Missouri
St. Paul, Minnesota
St. Petersburg, Florida
Salinas, California
San Antonio, Texas
San Benito, Texas
San Bernardino, California
San Diego, California
San Francisco, California
Santa Ana, California
Santa Cruz, California
Santa Fe, New Mexico
Santa Maria, California
Santa Monica, California
Sarasota, Florida
Savannah, Georgia
Schenectady, New York

Scranton, Pennsylvania
Seaside, California
Seattle, Washington
Shreveport, Louisiana
Somerville, Massachusetts
South Gate, California
Spartanburg, South Carolina
Spokane, Washington
Springfield, Massachusetts
Springfield, Ohio
Springfield, Oregon
Steubenville, Ohio
Stockton, California
Suffolk, Virginia
Superior, Wisconsin
Syracuse, New York
Tacoma, Washington
Tampa, Florida
Taunton, Massachusetts
Terre Haute, Indiana
Texarkana, Arkansas
Texarkana, Texas
Titusville, Florida
Toledo, Ohio
Trenton, New Jersey
Troy, New York
Tucson, Arizona
Tuscaloosa, Alabama
Union City, New Jersey
Urbana, Illinois
Utica, New York
Vineland, New Jersey
Waco, Texas
Waltham, Massachusetts
Warren, Ohio
Waterbury, Connecticut
West Haven, Connecticut
West Palm Beach, Florida
Wheeling, West Virginia
Wilkes-Barre, Pennsylvania
Williamsport, Pennsylvania
Wilmington, Delaware
Wilmington, North Carolina
Winston-Salem, North Carolina
Winter Haven, Florida
Woonsocket, Rhode Island
Worcester, Massachusetts
Yakima, Washington
Yonkers, New York
York, Pennsylvania
Youngstown, Ohio

COUNTIES ELIGIBLE FOR THE URBAN PARKS AND RECREATION RECOVERY PROGRAM

Alameda Co., California
Allegheny Co., Pennsylvania
Bernalillo Co., New Mexico
Bexar Co., Texas
Bristol Co., Massachusetts
Camden Co., New Jersey
Charleston Co., South Carolina
Cook Co., Illinois
Cuyahoga Co., Ohio
Dade Co., Florida
El Paso Co., Texas
Erie Co., New York
Essex Co., Massachusetts
Essex Co., New Jersey
Franklin Co., Ohio
Fresno Co., California
Fulton Co., Georgia
Hamilton Co., Ohio
Hamilton Co., Tennessee
Hampden Co., Massachusetts
Hillsborough Co., Florida
Hudson Co., New Jersey
Jackson Co., Missouri
Jefferson Co., Alabama
Kern Co., California
Los Angeles Co., California
Lucas Co., Ohio
Luzerne Co., Pennsylvania
Mahoning Co., Ohio
Maricopa Co., Arizona
Middlesex Co., Massachusetts
Milwaukee Co., Wisconsin
Mobile Co., Alabama
Nassau Co., New York
Nueces Co., Texas
Oneida Co., New York
Onondaga Co., New York
Orange Co., Florida
Passaic Co., New Jersey
Pinellas Co., Florida
Plymouth Co., Massachusetts
Polk Co., Florida
Riverside Co., California
St. Clair Co., Illinois
San Bernardino Co., California
San Diego Co., California
San Joaquin Co., California
Shelby Co., Tennessee
Sonoma Co., California
Suffolk Co., New York
Wayne Co., Michigan
Worchester Co., Massachusetts

[FR Doc. 79-7897 Filed 3-13-79; 8:45 am]

[8320-01-M]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

OVERPAYMENTS; WAIVER OR RECOVERY

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: Although the law states that a school may be held liable in certain instances for overpayments of educational assistance made to veterans and eligible persons, it is essential that the school not be held liable without adequate due process of law. The regulation dealing with this matter has been amended to strengthen and broaden due process.

Specifically, the concept of prima facie evidence of school liability, requiring rebutal by a school, has been eliminated and replaced by the concept that a school may be found potentially liable for an overpayment. A Committee on School Liability is established in each VA field station having jurisdiction over schools with approved courses. Schools are entitled to hearings before these committees as well as prehearing conferences. Schools are given the right to appeal the decisions made by these committees. A School Liability Appeals Board is established in the VA (Veterans Administration) Central Office for the purpose of considering these appeals. This Board replaces the Central Office School Liability Review Board.

This regulation strengthens and broadens due process to a school when the VA finds potential liability for overpayments of educational assistance made to veterans and other eligible persons.

EFFECTIVE DATE: March 8, 1979.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, Washington, DC 20420. (202-389-2092)

SUPPLEMENTARY INFORMATION: On pages 45399 and 45400 of the FEDERAL REGISTER of October 2, 1978 there was published a notice of proposed regulatory development to amend Part 21 relative to school liability for overpayments of educational assistance made to veterans and eligible persons. Interested persons were given until November 28, 1978 to submit comments, suggestions, or objections regarding the proposed regulation. Nineteen persons submitted comments.

Several comments apparently stemmed from the mistaken notion, expressed by one commenter, that the purpose of this regulation is to supersede the recommended procedures in school liability cases which were published on pages 2635 through 2637 of the FEDERAL REGISTER of January 18, 1978. Instead this regulation will provide the framework in the Code of Federal Regulations which will support similar procedures which will be published in the FEDERAL REGISTER shortly.

Three persons, for example, suggested that the regulation state that a school has the right to present its case and to cross-examine witnesses at the hearing before the station Committee on School Liability. The recommended procedures, to be published separately, allow for this. The VA does not believe that the regulation needs to include all the details of the recommended procedures. Two people suggested that the regulation state that the burden of proof in liability cases rests with the VA. The recommended procedures will require the VA to establish a case, and to present it before the hearing panel. Since the regulation is intended only to provide a framework for this procedure, the VA does not believe that this should be made part of the regulation.

Thirteen comments included suggestions that an educator or other person be placed on either the Committees on School Liability, the School Liability Appeals Board, or both. The VA has chosen not to adopt this proposal.

These committees are making internal administrative decisions. The recommended procedures eliminate from the hearing panel any person from the Finance activity of a field station as well as anyone who was involved in the decision-making regarding the determination of potential liability. Furthermore, under these procedures schools will be allowed to challenge the qualifications of panel members. This is sufficient to ensure that impartial decisions are made.

Three persons suggested that the regulation provide for judicial review. The purpose of this regulation is to provide for administrative proceedings within the VA concerning school liability. It would not be appropriate for the VA to go beyond this and regulate in the area of judical review.

Eleven persons suggested that the regulations be amended to provide that a school's liability for an overpayment be waived if the liability of the veteran or eligible person for the debt is also waived. A veteran or eligible person is assumed to be liable for his or her indebtedness to the United States, and must submit evidence which establishes that the indebtedness should be waived before he or she can receive a waiver. Under certain circumstances this may be done without affecting whether a school is liable for the overpayment. For example, an overpayment of educational assistance may result from a school's submission of a false certification. The affected veteran may establish, pursuant to 38 U.S.C. 3102 and the regulations contained in Part 1, Title 38, Code of Federal Regulations that the debt was incurred without fraud, misrepresentation of material fact, material fault or lack of good faith on his or her part and that recovery of the debt would create an undue hardship on the veteran. Consequently, the veteran would be entitled to a waiver. The fact these circumstances exist for the veteran has no bearing on whether the school submitted a false certification and should be held liable for the overpayment. Furthermore, 38 U.S.C. 3102 allows for waiver of debts only for payees or individual persons. Therefore, the VA has decided not to make the suggested amendment.

It was the opinion of three persons that paragraph (b) of the section is worded too loosely. They suggested that before a school could be held liable for negligent failure to make reports, the terms used in that paragraph would have to be defined further. The VA believes that no simple error rate can be given which would define negligent reporting. Instead, it must be determined if a school has failed to exercise reasonable care in making timely and accurate certifications to the VA. Paragraph (b) is structured so as to allow for this. Therefore, the VA has decided not to accept this suggestion. However, the VA will provide guidelines to its field stations which they may consider when they apply this paragraph.

Two persons suggested that the regulation provide a discovery procedure. The recommended procedures to be published shortly will include an administrative discovery procedure in the prehearing phase. Since this regulation is providing the framework for these procedures, the VA does not believe that this detail needs to be included in the regulation.

Another person commenting objected to the time limits included in the regulation. The VA believes, however, that the time limits set forth in the regulation are long enough to allow the school to prepare itself for participation in the procedure, while at the same time they are short enough to assure that school liability matters are handled expeditiously.

One person suggested that the VA do more research before making this regulation final. The VA has been developing this regulation for nearly 2 years. While the VA is always ready to adjust its regulations on the basis of administrative experience, when the law allows this, the VA believes that this is sufficient time to enable the agency to make the regulation final now.

Several school officials in commenting on the regulation stated that their school is a nonprofit school, and does not gain when a veteran is overpaid. They thought that this exempts their school from the possibility of being held liable for an overpayment.

The culpability of a school for actions which result in overpayments is not affected by whether the school profits from those actions. All schools are subject, therefore, to this regulation.

The proposed changes to § 21.4009 are deemed proper and are hereby adopted.

Approved: March 8, 1979.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

1. In § 21.4009, paragraphs (b) through (i) are revised and paragraph (j) is added so that the revised and added material reads as follows:

§ 21.4009 Overpayments; waiver or recovery.

* * * * *

(b) *Reporting.* If a school is required to make periodic or other certifications, failure to report, or to report timely, facts which resulted in an overpayment may be considered in determining whether a school is potentially liable for the overpayment. Similarly the submission of an incorrect certification as to fact may be considered in determining whether a school is potentially liable for the overpayment. In either instance consideration will be given to other pertinent factors such as allowing for occasional clerical error or occasional administrative error; the school's past reliability in reporting; the adequacy of the school's reporting system; and the extent of noncompliance with reporting requirements.

(c) *Committee on School Liability.* Each Veterans Administration field station having jurisdiction over schools with courses approved under chapters 32, 34, 35 and/or 36, title 38, United States Code shall establish a Committee on School Liability. The Committee or a panel designated by the Committee chairperson and drawn from the Committee, is authorized to find whether a school is liable for an overpayment.

(d) *Initial determination.* The Adjudication Officer of the Veterans Administration field station of jurisdiction will determine whether there is evidence that would warrant a finding that the school is potentially liable for an overpayment. When the decision is in the affirmative, the Finance Officer of the Veterans Administration field station of jurisdiction will notify the school in writing of the Veterans Administration's intent to apply the liability provisions of paragraph (a) of this section. The notice will identify the students overpaid and will set out in each student's case the actions or omissions by the school which resulted in the finding that the school was potentially liable for the overpayment. The notice will also state that a determination of liability will be made on the basis of the evidence of record, unless additional evidence or a request for a hearing is received within 30 days of the date of receipt of such notice by the school.

(e) *Hearings.* A school is entitled to a hearing before a panel drawn from the Committee on School Liability before a decision is made as to whether it is liable for an overpayment. Every hearing will be preceded by a prehearing conference unless the conference is waived by the school. The Committee on School Liability will consider all evidence and testimony presented at the hearing.

(f) *Extent of liability.* Waiver of collection of an overpayment as to a veteran or eligible person will not relieve the school of liability for the overpayment. Recovery in whole or in part from the veteran or eligible person will limit such liability accordingly. If an overpayment has been recovered from the school and the veteran or eligible person subsequently repays the

amount in whole or in part, the amount repaid will be reimbursed to the school.

(g) *Notice to school.* The school shall be notified in writing of the decision of the Committee on School Liability. If the school is found liable for an overpayment, the school also will be notified of the right to appeal the decision to the Central Office School Liability Appeals Board within 60 days from the date of the letter to the school containing notice of the decision. The 60-day time limit may be extended to 90 days at the discretion of the chairperson of the Committee on School Liability. The appeal must be in writing setting forth fully the alleged errors of fact and law. If an appeal is not received within the 60-day time limit, the Committee decision is final.

(h) *Appeals.* An appeal will be forwarded to Central Office where it will be considered by the School Liability Appeals Board. The Board's decision will serve as authority for instituting collection proceedings, if appropriate, or for discontinuing collection proceedings instituted on the basis of the original decision of the Committee on School Liability in any case where the Board reverses a decision made by the Committee that the school is liable.

(i) *Review.* Review by the School Liability Appeals Board is limited to the issues raised by the school and shall be on the record and not de novo in character. The Board may affirm, modify or reverse a decision of the Committee on School Liability or may remand an appeal for further consideration by the appropriate Committee on School Liability. If new and material evidence is discovered while the School Liability Appeals Board is considering a case, the Board may remand the case to the appropriate Committee on School Liability.

(j) *Finality of decisions.* The School Liability Appeals Board has authority to act for the Administrator in deciding appeals concerning a school's liability for an overpayment. There is no right of additional administrative appeal of a decision of the School Liability Appeals Board.

§ 21.4009 [Amended]

2. The cross-reference following § 21.4009 is deleted.

[FR Doc. 79-7690 Filed 3-13-79; 8:45 am]

[6560-01-M]

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1063-4]

PART 65—DELAYED COMPLIANCE ORDERS

Delayed Compliance Order for Guardian Industries Corporation, Huntington, Ind.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: By this rule, the Administrator of U.S. EPA approves a Delayed Compliance Order to Guardian industries. The Order requires the Company to bring air emissions from its mineral wool insulation plant at Huntington, Indiana, into compliance with certain regulations contained in the federally approved Indiana State Implementation Plan (SIP). Guardian Industries Corporation's compliance with the Order will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered in the Order.

DATES: This Rule takes effect March 14, 1979.

FOR FURTHER INFORMATION CONTACT:

Anne Swofford, Attorney, United States Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 353-2082.

SUPPLEMENTARY INFORMATION: On September 7, 1978, the Acting Regional Administrator of U.S. EPA's Region V Office published in the FEDERAL REGISTER (43 FR 39834) a notice setting out the provisions of a proposed State Delayed Compliance Order for Guardian Industries. The notice asked for public comments and offered the opportunity to request a public hearing on the proposed Order. No public comments and no request for a public hearing were received in response to the notice.

Therefore, a Delayed Compliance Order effective this date is approved to Guardian Industries Corporation by the Administrator of U.S. EPA, pursuant to the authority of section 113(d)(2) of the Clean Air Act, 42 U.S.C. 7413(d)(2). The Order places Guardian Industries on a schedule to bring its mineral wool insulation plant at Huntington, Indiana, into compliance as expeditiously as practicable with Regulations APC-3 and APC-5, a part of the federally approved Indiana State Implementation Plan. Guardian Industries Corporation is unable to immediately comply with these regulations. The Order also imposes interim requirements which meet Sections 113(d)(1)(c) and 113(d)(7) of the Act, and emission monitoring and reporting requirements. If the conditions of the Order are met, it will permit Guardian Industries Corporation to delay compliance with the SIP regulations covered by the Order until June 30, 1979.

Compliance with the Order by Guardian Industries Corporation will preclude Federal enforcement action under Section 113 of the Act for violations of the SIP regulations covered by the Order. Citizen suits under Section 304 of the Act to enforce against the source are similarly precluded. Enforcement may be initiated, however, for violations of the terms of the Order, and for violations of the regulations covered by the Order which occurred before the Order was issued by U.S. EPA or after the Order is terminated. If the Administrator determines that Guardian Industries Corporation is in violation of a requirement contained in the Order, one or more of the actions required by Section 113(d)(9) of the Act will be initiated. Publication of this notice of final rulemaking constitutes final Agency action for the purpose of judicial review under section 307(b) of the Act.

U.S. EPA has determined that the Order shall be effective upon publication of this notice because of the need to immediately place Guardian Industries Corporation on a schedule for compliance with the Indiana State Implementation Plan.

(42 U.S.C. 7413(d), 7601).

Dated: February 28, 1979.

DOUGLAS M. COSTLE,
Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

1. By amending § 65.191 to read as follows:

§ 65.191 U.S. EPA Approval of State Delayed Compliance Order issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source: Guardian Industries Corporation.
Location: Huntington, Indiana.
Date of Federal Register Proposal: September 7, 1978.
SIP regulation involved: APC-3, APC-5.
Final compliance date: July 1, 1979.

In the matter of Air Pollution Control Board of the State of Indiana (Plaintiff) vs. Guardian Industries Corp. (Respondent). Cause No. A-120.

FINDINGS OF FACT

1. That the Air Pollution Control Board of the State of Indiana ("the Board") is an agency of the State of Indiana duly empowered pursuant to IC 13-1-1 and IC 13-7 to promulgate regulations related to the control of air pollution, to act on complaints of alleged air pollution, and to enter such orders and determinations as may be necessary to prevent or abate air pollution.

2. Respondent, Guardian Industries Corporation, has exercised an option to purchase a mineral wool insulation manufacturing plant in Huntington, Indiana, formally operated by Keene Corporation.

3. Respondent is, with respect to the operation of the insulation plant, subject to the jurisdiction of the Indiana Air Pollution Control Board.

4. The Board issued an Agreed Order on December 15, 1972, wherein Keene Corporation was ordered to reduce particulate emissions from the subject plant to comply with Indiana Regulation APC-5.

5. Before the completion of the particulate emission reduction measures required by the Agreed Order, as amended, Keene Corporation ceased operating the subject plant on or about January 31, 1976, and the plant did not operate again until April 3, 1978.

6. Respondent, as a prospective purchaser of the subject plant from Keene Corporation, applied for and was granted on April 3, 1978, a one-year variance by the Board as authorized by IC 13-7-7-6 to operate the plant in excess of the particulate emission limitation of Regulations APC-3 and APC-5 while respondent installs a baghouse on lines 1 and 2, to control the cupola emissions which are part of the manufacturing process and were improperly controlled as formally operated by Keene Corporation.

7. If Respondent elects to install a third line equipped with electric melting equipment, such installation shall comply with all applicable State and Federal air pollution laws.

8. The Board and respondent agree that electric melting equipment represents innovative technology for the manufacturer of mineral wool insulation.

9. On March 1, 1978, Respondent submitted plans and specifications for construction of a baghouse. On July 1, 1978, Respondent placed purchase orders.

10. In the interim respondent will be allowed to operate the existing lines with a one-year variance from the particulate emissions limitations of Regulations APC-3 and APC-5 commencing April 3, 1978, and expiring April 2, 1979, as there are no interim control measures practicable for respondent.

11. Monitoring of fly wool emissions is not technologically feasible.

12. On January 25, 1978, the Board adopted a valid Order between the respondent and the Board. That Order represents the best efforts of both the respondent and the Board to comply with the requirements for drafting a Delayed Compliance Order as set forth in the August 7, 1977, Clean Air Act Amendments.

13. Despite these best efforts the Order may have been deficient in some areas with respect to the Clean Air Act Amendment Requirements.

14. In order to comply with the Delayed Compliance Order requirements set forth in the August 7, 1977 Clean Air act Amendments both respondent and the Board desire that these Findings of Fact and Recommended Order supersede the Order issued January 25, 1978, and that this document be the sole document controlling all matters between the respondent and the Board with respect to the facilities set forth herein.

15. After a through investigation of all relevant facts, including public comment, it is determined that respondent is presently unable to comply with Indiana Regulations APC-3 and APC-5, that the schedules for compliance set forth in this Order is as expeditious as practicable and that this Order complies with the requirements in Section 113(d) of the Clean Air Act.

RECOMMENDED ORDER

The Board having jurisdiction over the subject matter of this action and the parties hereto, IT IS HEREBY ORDERED:

1. That respondent, Guardian Industries Corporation, shall install a baghouse on its mineral wool insulation lines at the Huntington, Indiana plant in accordance with the following schedule.

a. Commence construction of the baghouse by December 1, 1978.

b. Complete installation of the baghouse by April 1, 1979.

c. Achieve Final Compliance with Regulations APC-3 and APC-5 by May 1, 1979.

d. Start up and submit test results demonstrating final compliance with Indiana Regulations APC-3 and APC-5 by June 30, 1979.

2. That respondent shall eliminate all fly wool emissions from the plant by the use of fly wool screens or recirculation ducting of exhaust fans before the commencement of operations of the existing mineral wool producing process and at all times during the operations of said process.

3. That respondent shall install and utilize an in-stack continuous monitor on the baghouse by April 1, 1979.

4. That beginning August 1, 1978, respondent shall make quarterly written progress reports to the Indiana Air Pollution Control Division. Beginning August 1, 1979, Respondent shall also report on a quarterly basis, any excursions about the 40 percent opacity limitation of Indiana Regulation APC-3. All submittals and notification pursuant to this Order shall be made to the Director of the Indiana Air Pollution Control Division, State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

5. That failure to meet the dates specified in this Order including interim dates constitutes a violation of this Order. Failure of the facility subject to this Order to achieve Final Compliance with Indiana Regulations APC-3 and APC-5, the applicable portion of the Indiana Implementation Plan, by July 1, 1979, will subject respondent to a claim for a noncompliance penalty in accordance with Section 120 of the Clean Air Act, 42 USC 7420 and any state regulations that may be submitted to and approved by the Administrator in accordance with that Section unless exempted under Section 120(a)(2)(d) or (C).

6. That the Board hereby vacates the Order issued to Keene Corporation in Cause No. A-17 and all subsequent amendments to that Order with respect to operation of the mineral wool insulation plant at Huntington, Indiana.

I have reviewed the above Findings of Fact and Recommended Order and hereby recommend that the Air Pollution Control Board adopt this as its Final Order.

Dated: July 21, 1978.

HARRY D. WILLIAMS,
Director,
Air Pollution Control Division.

I am duly authorized to legally bind Guardian Industries Corporation in this matter and have reviewed the above Findings of Fact and Recommended Order and agree to be bound by said Order when issued by the Indiana Air Pollution Control Board.

Dated: July 17, 1978.

Guardian Industries Corporation by:
GLENN A. PATRICK.

[FR Doc. 79-7417 Filed 3-13-79; 8:45 am]

[1505-01-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

Medicaid; Fiscal Disallowance for Erroneous Payment

Correction

In FR Doc. 79-6788, appearing in the issue of Wednesday, March 7, 1979, on page 12585, the following correction should be made to the preamble:

DATE: Effective on March 7, 1979.

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[S.O. No. 1366]

PART 1033—CAR SERVICE

Consolidated Rail Corp. et al.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order, Service Order No. 1366.

SUMMARY: Because of severe shortages of 50-ft. plain boxcars for loading

by shippers served by the Maine Central Railroad, the Consolidated Rail Corporation is ordered to deliver one hundred fifty (150) fifty-ft. plain boxcars per week to the Boston and Maine Corporation and the Boston and Maine Corporation is ordered to deliver one hundred fifty (150) fifty-ft. plain boxcars per week to the Maine Central Railroad. The cars to be delivered are to be suitable for transporting newsprint paper.

DATES: Effective 11:59 p.m., March 9, 1979. Expires 11:59 p.m., April 1, 1979.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The order is printed in full below.

Decided March 8, 1979.

An acute shortage of boxcars for transporting shipments of paper exists on the Maine Central Railroad Company (MeC), in spite of efforts of the Car Service Division of the Association of American Railroads to expedite the return of MeC boxcars to that line. The Consolidated Rail Corporation (CR), by reason of its location and traffic flows, has a large number of 50-ft. plain boxcars of railroad ownership and similar cars owned by private car companies of railroad ownership and control on its line. Its use of cars owned by other railroads and of railroad controlled private cars exceeds CR's ownership of 50-ft. cars.

In the opinion of the Commission an emergency exists requiring redistribution of a portion of the boxcars located on CR in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1366 Service Order No. 1366.

(a) *Consolidated Rail Corporation ordered to deliver empty boxcars to Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, trustees (BM); BM ordered to deliver empty boxcars to Maine Central Railroad Company.* Each common carrier by raiload subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) The Consolidated Rail Corporation (CR) shall deliver to the Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees (BM), a weekly total of one hundred fifty (150) empty plain boxcars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" and having inside length 49-ft. 8-in. and less than 59-ft. 8-in., and bearing reporting marks assigned to a railroad other than the Maine Central Railroad Company, or to a railroad controlled private car company. The cars delivered by CR to the BM must be suitable for loading with newsprint paper, the BM to be the judge.

(2) The BM shall deliver to the Maine Central Railroad Company (MeC) a weekly total of one hundred fifty (150) empty plain boxcars of the type described in paragraph (1) of this section. The cars delivered by the BM to the MeC must be suitable for loading with newsprint paper, the MeC to be the judge.

(3) Cars furnished and loaded under the provisions of this order must be routed to destination entirely over domestic routes. All loaded movements must comply with Car Service Rules 1 and 2.

(b) This order shall not apply to cars of Mexican and Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' Orders requiring return of cars to owners.

(c) The rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each seven days the full delivery required for that period shall have been made.

(d) Cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(e) The carriers delivering the empty boxcars as described above must advise Joel E. Burns, Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423 each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(f) The carriers receiving the cars described above must advise Joel E. Burns, Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423 each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(g) *Regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(h) *Effective date.* This order and direction shall become effective at 11:59 p.m., March 9, 1979.

(i) *Expiration date.* This order and direction shall expire at 11:59 p.m., April 1, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-7743 Filed 3-13-79; 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 Certain National Wildlife Refuges to Public Access, Use, and Recreation in Arizona, California, New Mexico, Oklahoma, and Texas

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public access, use, and recreation of certain national wildlife refuges in Arizona, California, New Mexico, Oklahoma, and Texas is compatible with the objectives for which the areas were established, and will provide additional recreational opportunity to the public through a nonconsumptive use. This document establishes special regulations effective for the upcoming public entry and use season.

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

FOR FURTHER INFORMATION CONTACT:

The Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

GENERAL

Public access, use, and recreation is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR 26 and the following Special Regulations. Portions of refuges which are open to public access, use and recreation are designated by signs and/or delineated on maps available from addresses indicated below.

No vehicle travel is permitted except on designated, maintained roads and trails. Special conditions applying to individual refuges are listed on leaflets available at refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary purpose for which the areas were established, and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

Public entry shall be in accordance with all applicable Federal and State laws and regulations subject to the following conditions:

§ 26.34 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

Public access, use, and recreation is permitted on the following areas:

ARIZONA

Cabeza Prieta National Wildlife Refuge, P.O. Box 418, Ajo, Ariz. 85321. Contract Roger C. DiRosa, Acting Refuge Manager at 602-387-6483. Special condition:

(1) For purposes of protecting human safety as well as the fragile environment of the 860,000-acre refuge, all entry, vehicular or otherwise into the refuge, is subject to the possession of a valid permit. Permits must be obtained in person at the refuge office at 1611 2nd Avenue, Ajo between the hours of 8 a.m. and 5 p.m., Mondays through Fridays (except holidays). Permits may also be obtained at the Yuma, Ariz. office at 356 First Street during the same office hours.

Kofa National Wildlife Refuge, P.O. Box 1032, Yuma, Ariz. 85364. Contact Milton K. Haderlie, Refuge Manager at 602-726-2619. Special conditions:

(1) For purposes of protecting wildlife habitat and the fragile environment of the 660,000-acre refuge, camping is limited for each person to 14 days during any 12-month period.

(2) Recreational (non-commercial) rockhounding, including digging with simple hand tools, is permitted only in the designated area know as Crystal Hill, described as follows:

GILA AND SALT RIVER-MERIDIAN

T. 2 N., R. 18 W.,
Sec. 2, lots 3 and 4, S½NW¼ and SW¼;
Sec. 3, lots 1 to 4, inclusive, S½N½ and S½;
Sec. 4, lots 1 to 4, inclusive, S½N½ and S½;
Secs. 9 and 10;
Sec. 11, W½;
Sec. 14, NW¼;
Sec. 15, N½.

The areas described aggregate 3,684.39 acres.

(3) On the remainder of the Kofa National Wildlife Refuge outside the designated Crystal Hill area, collecting of rocks or minerals, or both, is restricted to materials that are exposed and collectible without the use of tools. Digging, including the use of simple hand tools, is prohibited except in the designated area known as Crystal Hill.

(4) Pets are permitted only if they are confined or kept on a leash, not to exceed 10 feet in length, one end of which is secured so as to restrict the movement of the animal.

(5) No hunting is permitted inside the area designated as the Crystal Hill campground.

ARIZONA AND CALIFORNIA

Cibola National Wildlife Refuge, Box AP, Blythe, Calif. 92225. Contact Wesley V. Martin, Refuge Manager at 714-922-4433. Special conditions:

(1) The minimum altitude for aircraft flying over the Cibola National Wildlife Refuge shall be 2,000 feet above ground elevation This regulation is meant to prevent harassment of wildlife and to promote quality recreational experiences for the visiting public.

(2) Wildlife observation, photography, and hiking are permitted.

(3) Possession of all handguns and all .22 caliber rimfire firearms is prohibited. Rifled firearms of legal caliber are permitted on refuge lands during the State deer hunting season.

(4) Carrying, possessing, or discharging firearms on the refuge is prohibited, except that firearms legal for a particular refuge hunt may be used during that open hunting season in designated areas.

(5) Open campfires are permitted only on the ends of unvegetated jetties. Charcoal fires are permitted only if contained in grills or similar equipment and all vegetation is cleared within an area scribed by a 10-foot radius of the fire. Fires must be closely attended and extinguished before leaving the site.

(6) Waterskiing is prohibited in the Old River Channel section of the Colorado River north of Walter's Camp. This closure is due to submersed hazards to skiers and for the protection of wildlife values. The above-described waters lie north of the common line between Secs. 13 and 14, T. 2 S., R. 24 W.

(7) Waterskiing is permitted in the Cibola Dry Cut section of the Colorado River.

(8) Motorized vehicles, including motorcycles, are permitted only on designated developed roads. Motorized vehicles must be licensed and registered and in compliance with State vehicle codes, and vehicle operators must possess a valid State driver's license. Driving off roads, or on roads closed by signs or barrier, or across farmlands is prohibited.

The degree of public access, use, and recreational activities permitted on Cibola National Wildlife Refuge is described below for the three refuge public use zones.

Zone I. This area is designated on the refuge recreation leaflet map and is marked by signs and described as including all lands bordered on the north by Baseline Road, on the east by the refuge boundary, on the south by an unimproved dirt road one-fourth mile above the Bishop Ranch, and on the west by the centerline of the Colorado River. The above-described lands include all refuge lands east of the Cibola Dry Cut section of the Colorado River lying within Secs. 1, 2, 11, 12, 13, 14, 23 and 24, T. 1 S., R. 24 W., and Secs. 6, 7, 18 and 19, T. 1 S., R. 23 W. Zone I is closed to hunting. Also closed to public entry and use in Zone I is that area within the above-described zone that lies east of the Bureau of Reclamation tie-back levee as marked by signs and as designated on the refuge recreational leaflet map.

Zone II. This area is marked by signs and described as all refuge lands west of the Cibola Dry Cut section of the Colorado River and north of Zone III, and all refuge lands east of the Dry Cut, south of Zone I and north of Zone III. Zone II is open to public recreation throughout the year under provisions and special conditions listed

above in Special Conditions 1 through 9.

Zone III. This area is marked by signs and described as including all lands bordered by the refuge boundary on the east and south, the centerline of the New River Channel and Old River Channel sections of the Colorado River in the west, and the Hartmine Wash Levee which follows the east-west quarter section line that bisects Secs. 7 and 8, T. 2 S., R. 23 W. The above-described lands include all refuge lands east of the center of the Cibola Dry Cut section of the Colorado River lying within Secs. 7, 13, 19, 24, 30 and 31, T. 2 S., R. 23 W. Zone III is closed to hunting. It is also closed to fishing, boating, and hiking from January 1 through March 14, 1979, and from September 6 through December 31, 1979. Wildlife observation and photography are permitted from vehicles traveling on established roads and from boats traveling on the Colorado River channel during this period. Zone III is open to fishing, boating, hiking, wildlife observation, and photography from March 15 through September 5, 1979.

Havasu National Wildlife Refuge, P.O. Box A, Needles, Calif. 92363. Contact Tyrus W. Berry, Refuge Manager at 714-326-3853. Special conditions:

(1) The minimum altitude for aircraft flying over the Havasu National Wildlife Refuge shall be 2,000 feet above ground elevation. This regulation is meant to prevent harassment of wildlife and to promote quality recreational experiences for the visiting public.

(2) Waterskiing is permitted only on the channelized segment of the Colorado River except for that portion of the river called "Topock Gorge", which is designated by buoys and signs as being "Closed to Waterskiing." The north buoy line is located between the I-40 highway bridge and the A.T. & S.F. Railroad bridge. The south buoy line is located on an imaginary line between a point one-fourth mile south of the southern entrance to Jops Landing on the Arizona shoreline and a point one-fourth mile south of the southern entrance to Clear Bay on the California shoreline.

(3) The observer of a person(s) in tow behind a boat shall continuously observe the person(s) being towed and shall display a flag immediately after the towed person(s) falls into the water and during the time preparatory to skiing while the person(s) is still in the water. Such flag shall be a bright or brilliant orange or red color, measuring no less than twelve inches on each side, mounted on a handle, and displayed as to be visible in every direction.

(4) Camping is restricted to tent and boat camping along the Arizona shoreline below the buoy line designating the southern entrance to Topock Gorge. Camping is also prohibited at Mesquite Bay, located within this stretch of shoreline.

(5) Boating is permitted in all waters of the refuge except where restricted by appropriate signs. Wakeless speed only is permitted east of the buoys on the Bill Williams River and within the harbors of Five Mile Landing and Catfish Paradise. In these "No Wake" areas the boat speed may not exceed 5 mph and the wake must be held to a low, non-cresting roll.

(6) All wheeled vehicles, including motorbikes, are permitted on developed roads and parking areas only. Driving off roads or on roads closed by sign or barrier is prohibited.

(7) Swimming, wading, scuba diving and skin diving are permitted except where restricted by signs.

(8) Fires may be built only in areas where camping is allowed.

(9) Litter facilities are provided only for recreational users who are swimming, boating, picnicking, fishing, hunting, hiking or camping.

(10) Additional attachments to mobile homes and travel trailers located at refuge concessions must be limited to cabanas, awnings, or similar types of shades that are easily removable, portable and not permanently fixed to the ground. They may be equipped with windbreaks of a similar portable nature that do not completely enclose the sides, but may not be utilized for regular living or sleeping space or to house household equipment other than lounge furniture.

(11) Residents are required to maintain their lots and trailers in a neat, orderly and hazard-free condition. Trailer slabs, porches, and cabanas are not to be used for permanent living space, storage of household goods or other miscellaneous items with the exception of lounge furniture. No storage will be allowed under the mobile home, travel trailer or porch area. The interior of the mobile home, travel trailer, storage shed or storage yard are the only authorized storage areas.

(12) Concession operators and tenants will maintain their facilities and residences in accordance with Title 25, Housing and Community Development; Chapter 5, Mobile Home Parks, Special Occupancy Trailer Parks and Campgrounds; California Administration Code; State of California.

(13) All trailers, attachments, and other structures on the lots must be capable of being removed within 24 hours of notice. All tires must remain on the mobile home or travel trailer at all times.

(14) The mooring of unattended boats is allowed *only* at designated boat slips at Five Mile Landing and Catfish Paradise concessions.

(15) Concession residents who repeatedly violate refuge regulations can and will be barred from living on or using refuge lands and facilities.

Imperial National Wildlife Refuge, P.O. Box 2217, Martinez Lake, Ariz. 85304. Contact Gerald E. Duncan, Refuge Manager at 602-783-3400. Special conditions:

(1) An area on the west end of Martinez Lake, consisting of approximately 175 acres and an area of approximately 1,400 acres in the north end of Ferguson Lake, shall be closed to public entry during the periods from January 1 through March 1, 1979, and from October 1 through December 31, 1979.

(2) Waterskiing and towing of any device with a person(s) aboard, for recreational purposes, is prohibited on certain sections of the main stream (channel) of the Colorado River where designated by signs. Backwaters are closed to waterskiing.

(3) Boating is permitted in all waters of the refuge except where prohibited by appropriate signs and in those areas closed to public entry.

(4) Blocking of boat ramps or routes of public access is prohibited.

(5) Hiking, sightseeing, and photography are permitted except in those areas closed to public entry.

(6) The removal or disturbance of sand, gravel or rock is prohibited.

(7) Camping; i.e., overnight camping is prohibited. It has been determined that camping is detrimental to the accomplishment of refuge wildlife ecological objectives.

(8) The removal or disturbance of deadwood is prohibited.

(9) Pets are permitted only if they are confined or kept on a leash not to exceed 10 feet in length, one end of which is secured so as to restrict the movement of the animal.

(10) The minimum altitude for aircraft flying over the Imperial National Wildlife Refuge shall be 2,000 feet above ground elevation. This regulation is meant to prevent harassment of wildlife and to promote quality recreational experiences for the visiting public.

NEW MEXICO

Bitter Lake National Wildlife Refuge, P.O. Box 7, Roswell, N. Mex. 88201. Contact LeMoyne B. Marlatt, Refuge Manager at 505-622-6755. Special conditions:

(1) All visitors are required to register before entry into the South Unit public use area.

(2) Sightseeing, nature observation, photography and hiking are permitted year-round within designated areas.

(3) The refuge public use areas are open from one hour before sunrise to one hour after sunset only, unless otherwise posted.

(4) Picnicking is permitted in conjunction with the above-listed recreational activities at designated sites.

(5) Fires are permitted in the picnic grills only. Only dead and fallen brush and trees may be taken for firewood.

(6) Boating is permitted only within designated waterfowl hunting areas and designated seasons.

The following special conditions apply to the Salt Creek Wilderness portion of the refuge:

(1) Entry is limited to foot travel and horseback riding.

(2) Overnight camping is permitted, but only after obtaining written permission from the Refuge Manager.

(3) Camping is limited to 3 consecutive nights, after which the Refuge Manager must be notified of departure.

(4) Open campfires are permitted, but must be left cold and completely buried in the ground after use so as to leave no evidence.

(5) All trash must be hauled out of the wilderness area, not buried or otherwise left behind.

Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801. Contact Ronald L. Perry, Refuge Manager at 505-835-1828. Special conditions:

(1) Sightseeing, nature study, photography, and wildlife observation is permitted year-round.

(2) Vehicular access to refuge roads open to the public is permitted through the headquarters entrance only. The refuge is open to public access and use from 7 a.m. to one-half hour after sunset only.

(3) In the wilderness areas, entry is limited to foot travel only. Fires will be limited to self-contained camp stoves; open fires are not permitted. Only backpack-type camping is permitted. Horses are not permitted. Dogs may be used while hunting quail and doves; at all other times dogs and other pets must be on a leash and under the owner's physical control.

OKLAHOMA

Salt Plains National Wildlife Refuge, Route 1, Box 76, Jet, Okla. 73749. Contact Ronald S. Sullivan, Refuge Manager at 405-626-4794. Special conditions:

(1) The public is permitted to enter upon the Great Salt Plains from the west along designated routes of travel to collect gypsum (selenite) crystals from April 1 through October 15, 1979, and only on Saturdays, Sundays, and holidays.

(2) For the purpose of collecting selenite crystals, vehicles will be allowed only along such travel lands and parking areas as are posted for such activity.

(3) Each individual may collect for his/her personal use up to a maximum of 10 pounds plus one selenite crystal or selenite crystal cluster per day.

(4) Digging for selenite crystals will be confined to areas posted for such activity.

Sequoyah National Wildlife Refuge, P.O. Box 695, Vian, Okla. 74962. Contact John R. Akin, Refuge Manager at 918-773-5251. Special conditions:

(1) An area of approximately 2,200 acres, south of Vian Creek and east of the refuge tour road shall be closed, as posted, to all public access during the periods January 1 through March 15, 1979, and October 1 through December 31, 1979. This land is set aside to provide an area of minimum disturbance for waterfowl and other wildlife during the winter months.

(2) Some refuge roads may be closed to vehicle entry from January 1 through March 15, 1979, and from October 1 through December 31, 1979, as posted, to prevent disturbance of wintering and migrating waterfowl.

(3) Sightseeing, nature observation, photography and hiking are permitted.

(4) Picnicking is permitted only at the Vian Creek Recreation Area. Picnic fires may be built at the recreation area only in fire grills provided or in camp stoves or charcoal grills.

(5) Overnight camping is not permitted except for youth conservation groups supervised by adults. Permits must be obtained in advance from the Refuge Manager at the refuge headquarters, 4 miles south of Vian, Okla. All other recreational uses are restricted to the period 5 a.m. to 9 p.m. daily.

(6) Firearms are prohibited except during authorized hunting seasons when only shotguns are permitted. Firearms being transported in a motor vehicle must be unloaded and dismantled or cased. Possession of any firearm on the refuge at night or in refuge areas closed to hunting is prohibited. Long bows and arrows are permitted only as authorized in current refuge hunting and State fishing regulations.

(7) Boating is permitted in accordance with Federal and State regulations.

(8) Waterskiing is prohibited in all refuge waters.

(9) Pets must be kept in a vehicle or on a leash. Dogs may be used for hunting in accordance with refuge hunting regulations.

(10) Pecan picking is limited to one gallon per person per day.

Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Okla. 73460. Contact Joshua J. Harman, Refuge Manager at 405-371-2402. Special conditions:

(1) Wildlife observation, photography, sighteeing, boating, and picnicking and camping incidental to wildlife-oriented activities, as posted and/or indicated on the refuge leaflet and map, are permitted.

(2) Boating is permitted on waters of the refuge and the Tishomingo Wildlife Management Unit, other than Lake Texoma and the Washita River, and otherwise open to boating is limited to no-wake speeds.

(3) Dogs, cats and other pets must be leashed or otherwise confined. Pets must be prevented from harassing or disturbing wild life or the visiting public.

(4) The Tishomingo National Wildlife Refuge and the Tishomingo Wildlife Management Unit will be closed to all general recreational uses during the fall special controlled deer hunts, as posted.

Washita National Wildlife Refuge, Route 2, Box 100, Butler, Okla. 73625. Contact Evan V. Klett, Refuge Manager at 405-473-2205. Special conditions:

(1) Wildlife/wildland observation and photography are permitted from the observation platform located in Owl Cove Recreation Area and from vehicles using established routes of travel. Visitors may walk into other areas of the refuge during the public use season, from April 1 through October 14, 1979.

(2) Parking is permitted only in locations designated by signs in hunter access and recreation areas.

(3) Boating is permitted from April 1 through October 14, 1979.

(4) Swimming, waterskiing and overnight camping are prohibited.

(5) Overnight stays for organized youth and education groups, with adult supervision, involved in wildlife/wildland-associated activities are permitted.

(6) Camp stoves, charcoal burners and portable heaters may be used in recreation areas. Open fires are prohibited.

(7) Dogs, cats and other pets must be leashed or otherwise confined.

Wichita Mountains Wildlife Refuge, P.O. Box 448, Cache, Okla. 73527. Contact Robert A. Karges, Refuge Manager at 405-429-3222. Special conditions:

(1) Sightseeing, nature observation, and photography are permitted only during daylight hours.

(2) Hiking and backpacking are permitted only during daylight hours.

(3) Camping is permitted only in recreational areas designated for that use, at the entrance, by sign. Exceeding posted capacities is prohibited. A written permit is required for stays exceeding 7 days. No person other than campers shall enter or remain in a camping area between the hours of 10 p.m. and 6 a.m.

(4) Back-country camping is permitted in the Charons Gardens Wilderness Area by permit only. The length

of stay is limited to three days, with a maximum of 10 people camping in the area at any one time.

(5) Picnicking with food and drink is permitted only in recreation areas designated for that use, at the entrance, by sign. Exceeding posted visiting hours or posted unit capacities is prohibited.

(6) Fires are permitted only in recreation areas where camping or picnicking is allowed and only at such times or hours that the areas are open to these uses. Dead fallen timber may be used and only in the campfire grills or rings provided at each site for this purpose.

(7) Gasoline, electric, oar, or hand-powered boating is permitted only on Elmer Thomas Lake; hand-powered boats only on Jed Johnson, Rush, Quanah Parker and French Lakes. Boating is prohibited in marked scuba diving and swimming areas.

(8) Swimming, wading, snorkeling, and skin diving are permitted only at swimming beaches designated by sign, and only when these beaches are manned by refuge supervised lifeguards. Lifejackets and buoyant vests may be worn while swimming. Food, beverages and pets are prohibited on swimming beaches. Beach users must comply with all official beach signs posted on the area and with the directions of authorized lifeguards. The use of any alcoholic beverage by anyone at a designated swimming beach or beach parking area is prohibited.

(9) Scuba diving is permitted only on Elmer Thomas Lake and only during daylight hours. Diving areas must be marked by appropriate warning flags when outside marked swimming areas. Flags must be removed before leaving the area. Inflatable vests may be worn while diving.

(10) Pets are permitted only if they are confined or kept on a leash not to exceed 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

(11) Parking or leaving unattended any vehicle is permitted only in areas designated for that purpose by sign or on refuge maps available to the public and only for the purpose of authorized activities. Vehicles found parked in any closed areas, or any area not designated as a parking area or in any area after the hours of authorized activities, may be removed from the refuge. Any charges or expenses incurred by such removal, including storage fees, shall be borne by the owner of the vehicle.

(12) Possession or use of any alcoholic beverage, including beer containing 3.2% (or less) alcoholic content by weight, by persons under 18 years of age is prohibited.

(13) The laws and regulations of the State of Oklahoma pertaining to the transportation of any alcoholic beverage, including beer containing 3.2% (or less) alcoholic content by weight, in any moving vehicle shall govern traffic and the operation and use of vehicles within the boundary of the refuge. Such State laws and regulations which are now or may hereafter be in effect are hereby adopted and made a part of the regulations in this part.

(14) The open display or consumption of alcoholic beverages, including beer containing 3.2% (or less) alcoholic content by weight, is prohibited between the hours of 10 p.m. and 8 a.m.

(15) Any activity that emits sound beyond the immediate campsite between the hours of 10 p.m. to 8 a.m. is prohibited. No person shall use electrical speakers at a volume which emits sound beyond the individual camp or picnic site without the permission of the refuge manager.

TEXAS

Anahuac National Wildlife Refuge, P. O. Box 278, Anahuac, Tex. 77514. Contact Russel W. Clapper, Refuge Manager at 713-267-3337. Special conditions:

(1) Overnight camping is permitted only adjacent to the shoreline of East Bay. Camping is limited to 3 days and 3 nights.

(2) Campfires are permitted only adjacent to the shoreline of East Bay.

(3) Boats may be launched from the refuge into East Bay.

Aransas National Wildlife Refuge, P. O. Box 100, Austwell, Tex. 77950. Contact Frank Johnson, Refuge Manager at 512-286-3559. Special conditions:

(1) Camping is permitted only for organized youth groups that have obtained a special permit.

(2) Touring, sightseeing, hiking, nature observation, photography, and sound recording of wildlife are permitted along designated routes of travel except where restricted by appropriate signs.

(3) Dogs and other pets are permitted only if they are confined or kept on a leash not to exceed 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

(4) The refuge is open for public use from sunrise to sunset.

(5) Visitors must register upon arrival.

(6) Special conditions for the Matagorda Island Unit of the Aransas National Wildlife Refuge are (a) sightseeing, hiking, nature observation, beachcombing, camping, photography and sound recording of wildlife are permitted in areas so designated; (b) visitors have access to surf fishing and swimming; (c) dogs and other pets are permitted only if they are confined or kept on a leash not to exceed 10 feet in length, one end of which is secured so as to restrict the movements of the animal; and (d) visitors must register upon arrival.

Buffalo Lake National Wildlife Refuge, P.O. Box 228, Umbarger, Tex. 79091. Contact Allen C. Jones, Refuge Manager, Muleshoe National Wildlife Refuge, P.O. Box 549, Muleshoe, Tex. 79347; telephone number 806-946-3341. Special conditions:

(1) Touring, sightseeing, hiking, nature observation, photography and sound recording of wildlife are permitted along designated routes of travel except where restricted by appropriate signs.

(2) Camping is not permitted.

(3) Dogs and other pets are permitted only if they are confined or kept on a leash not to exceed 10 feet in length, one end of which is secured so as to restrict the movement of the animal.

Hagerman National Wildlife Refuge, Route 3, Box 123, Sherman, Tex. 75090. Contact Bert E. Blair, Jr., Refuge Manager at 214-786-2826. Special conditions:

(1) Touring, sightseeing, nature study, photography and sound recording of wildlife are permitted along designated routes of travel except where restricted by appropriate signs.

(2) Picnicking is permitted and fires may be built in access area fireplaces only and must be extinguished before leaving the area.

(3) Pecan picking is permitted in areas not closed to access and is limited to one gallon per person per day.

(4) Overnight camping is prohibited.

(5) Dogs and pets are permitted only if they are confined or kept on a leash not to exceed 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Laguna Atascosa National Wildlife Refuge, P.O. Box 2683, Harlingen, Tex. 78550. Contact Robert H. Stratton, Jr., Refuge Manager at 512-748-2426. Special conditions:

(1) Touring, sightseeing, hiking, nature observation, photography and sound recording of wildlife are permitted along designated routes of travel, except where restricted by appropriate signs.

(2) Camping is not permitted.

(3) Dogs and other pets are permitted only if they are confined or kept on a leash not to exceed 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Muleshoe National Wildlife Refuge, P.O. Box 549, Muleshoe, Tex. 79347. Contact Allen C. Jones, Refuge Manager at 806-946-3341. Special conditions:

(1) Access for wildlife observation, nature study and photography is permitted by motor vehicle, foot, or

horseback along designated routes of travel except where restricted by appropriate signs.

(2) Groups of 10 or more people must register in advance to use the refuge.

(3) Camping is permitted in designated sites only.

(4) Dogs and other pets are permitted only if they are confined or kept on a leash not to exceed 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

Santa Ana National Wildlife Refuge, Route 1, Box 202A, Alamo, Tex. 78516. Contact Arthur R. Rauch, Refuge Manager at 512-787-3079. Special conditons:

(1) The refuge is open to visitation daily from sunrise to sunset.

(2) Vehicular access is restricted to the scenic drive during the hours of 8 a.m. to 6 p.m.

(3) Motorcycles are prohibited on the refuge except that portion of the scenic drive from the north entrance to the headquarters parking lot.

(4) Camping is permitted only by groups participating in environmental education or educational field trip activities on a reservation basis. Applications for reservations should be sent to the above address.

(5) Pets are permitted only if they are confined or kept on a leash not to exceed 10 feet in length, one end of which is secured so as to restrict the movements of the animal.

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.

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

W. O. NELSON, Jr.,
Regional Director,
Albuquerque, New Mexico.

MARCH 7, 1979.

[FR Doc. 79-7672 Filed 3-13-79; 8:45 am]

[4310-55-M]

Title 50—Wildlife and Fisheries

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

SUBCHAPTER H—NATIONAL WILDLIFE MONUMENTS

PART 96—ALASKA NATIONAL WILDLIFE MONUMENTS

Final Interim Rule

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

ACTION: Final interim rule.

SUMMARY: By this emergency rulemaking, the United States Fish and Wildlife Service establishes interim procedures governing access for mining purposes in the Yukon Flats and Becharof National Wildlife Mounments in Alaska. This rulemaking creates an exception to the general access provisions published on December 26, 1978, in the emergency management regulations established for these two National Wildlife Monuments. 43 FR 60255. Under this revision of the general access regulations, persons seeking to continue mining operations that require access through a National Wildlife Mounment must apply for and obtain a special mining access permit from the Alaska Area Director for the United States Fish and Wildlife Service. Based upon the minimal information requested on the proposed mining operations and routes and methods of access, the Area Director will decide whether to issue a mining access permit, and if so, under what reasonable restrictions or conditions. It is necessary to implement this abbreviated procedure on an emergency basis, effective immediately, because of the rapidly approaching, but brief, field season for mining.

EFFECTIVE DATE: March 14, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith Schreiner, Area Director, United States Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503 (907) 276-3800; or Mr. Donald Barry, Room 6551, Office of the Solicitor, United States Department of the Interior, 18th and C Streets, N.W. Washington, D.C. 20240 (202) 343-2172.

SUPPLEMENTARY INFORMATION: On December 1, 1978, President Carter established seventeen new National Monument areas in Alaska and, subject to valid existing rights, withdrew them from further appropriation under the public land laws, including the Mining Law of 1872. 30 U.S.C. 22 *et seq.* Two of these areas, the Becharof and Yukon Flats National Monuments, were subsequently placed under the jurisdiction of the United States Fish and Wildlife Service and have come to be called National Wildlife Monuments. On December 26, 1978, the Fish and Wildlife Service published emergency interim management regulations for these two areas. (43 FR 60255) These interim regulations will govern the management of the two Wildlife Monuments pending the development of permanent final regulations.

Section 96.5 of the interim management regulations set forth the general provisions governing access within and across National Wildlife Monuments. Basically, that Section provides that public access would be allowed to continue without a permit where it could be established that such access was traditional and established or reasonable and appropriate in exercise of a valid property right. Access for mining purposes was not specifically addressed in the interim emergency regulations.

It soon became apparent, however, that permanent management regulations could not be developed and published prior to the beginning of the next field season for mining. Because of the potential adverse impacts upon the Monument from uncontrolled access for mining purposes, the Fish and Wildlife Service concluded that emergency mining access regulations should be added to the existing set of interim management regulations for the two National Wildlife Monuments. These emergency mining access regulations ultimately will be replaced by permanent management regulations which are expected to be published in final form by early fall of this year.

It should be noted that on February 28, 1979, the Fish and Wildlife Service undertook the first step in developing these permanent management regulations with the publication of a "Notice of Intent to Propose Rules" in the FEDERAL REGISTER. (44 FR 11247). This Notice of Intent solicited public advice on a number of management issues including the control of access and development for mining purposes. Public comment on the Notice of Intent will be taken into account in the preparation of proposed management regulations which will also be published for public comment. The general public will thus have two opportunities to participate in the development of permanent management regulations on mining which will replace the interim regulations published today.

Scope of Interim Regulations—The interim regulations prohibit a person without a mining access permit from crossing by methods of surface transportation, or from landing aircraft upon, lands, waters, or interests therein owned or controlled by the Federal Government within a Wildlife Monu-

ment, for purposes of conducting mining operations. Any form of access for mining operations on unpatented claims within the monuments would be subject to this permit requirement regardless of whether aircraft or surface forms of transportation were to be employed. An access permit would also be required if a person wanted to cross Federal property within a Wildlife Monument by means of surface transportation to conduct mining operations either outside of the Monument or on patented claims or private or state property within the Monument. An access permit would not be required for the use of aircraft on patented claims or private or state property within a Wildlife Monument, nor would it be required to authorize flights over a Monument for purposes of conducting mining operations outside of the Monument. Thus, with respect to methods of transportation, the new access permit requirements can be summarized as follows: the use of surface means of transportation over unpatented claims or other Federal property interests within a Wildlife Monument will always require an access permit, as will the landing of aircraft on such claims or interests within a Monument.

Mining access permit applications shall be sent to the Alaska Area Director of the United States Fish and Wildlife Service. In order to expedite the review of access permit requests for the upcoming field season, the Fish and Wildlife Service is requiring the submission of a minimal amount of mining information and data with the permit application. It is the position of the Service that this procedure will facilitate the exercise of valid existing rights by those claimants who hold them.

It has previously been noted that subject to valid existing rights, the public lands within the Wildlife Monuments have been withdrawn from further location and appropriation under the Mining Law of 1872. As regards unpatented claims within the Monument, a person must have both located and discovered a valuable mineral deposit prior to the date of the withdrawal, in order to have established a valid existing right. *See Cameron* v. *United States*, 252 U.S. 540 (1920). Claimants who have failed to satisfy both tests are now precluded from conducting further mining operations on unpatented claims, including prospecting and exploration.

Based upon the information contained in the mining access permit application, the Area Director will make a preliminary determination as to whether it is likely that the holder of an unpatented mining claim has established rights against the Federal Government which were preserved under the terms of the withdrawal. Mining access permits will only be issued for mining operations on unpatented claims if it is determined to be likely that the applicant made a valuable discovery prior to the date of withdrawal. By conforming the grant of access to the withdrawal language of the Proclamations, the Service will have a rational basis for avoiding the adverse impacts of unregulated access for mining while recognizing plausible, valid existing rights through the expedited process of making preliminary determinations of validity.

Since the claimant is in the best position to provide the necessary mining information, it is obvious that he has a significant role to play in the preliminary determination of the validity of his rights against the Federal Government. It is thus in the claimant's best interest to provide as much of the requested information as possible with the initial permit application. Recognizing the potential commercial value of some of the requested mineral information, the Fish and Wildlife Service intends to maintain the confidentiality of such data pursuant to applicable law. *See, e.g.*, Department's regulations implementing the Freedom of Information Act at 43 CFR Part 2.

Finally, it should be noted that the issuance of a mining access permit does not preclude the Secretary from examining, and where appropriate, contesting the validity of an unpatented claim at some later date. The mere issuance of an access permit cannot render valid any right in a claim which is not otherwise valid under applicable law. All permits are to be issued subject to this proviso.

This amendment to 50 CFR Part 96 is promulgated as an emergency final rule without notice and public comment pursuant to 5 U.S.C. 553. Because of the pressing need to have final procedures in effect immediately to allow claimants to begin seeking compliance, and in recognition of the practice of moving equipment into the field before the spring thaw, it is found to be impractical and contrary to the public interest to delay the publication of this rule. For the same reasons it was determined that good cause existed for making these interim regulations effective immediately upon publication.

AUTHORITY

The Antiquities Act of 1906, 16 U.S.C. 432; 16 U.S.C. 742(f); Presidential Proclamations of December 1, 1978 (43 FR 57009).

DRAFTING INFORMATION

The primary author of this document was Donald Barry, Office of the Solicitor, Department of the Interior.

IMPACT ANALYSIS

Because of the emergency need to establish access regulations governing mining operations within the National Wildlife Monuments in Alaska, the Department has determined that compliance with the procedures for developing regulations under Executive Order 12044, including a determination of significance and the need for a regulatory analysis, is impractical and contrary to the public interest. This determination was made pursuant to Section 6 of Executive Order 12044.

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.

Dated: March 9, 1979.

LYNN A. GREENWALT,
Director, United States Fish and Wildlife Service.

Therefore, effective immediately, 50 CFR Part 96 is amended by adding the following:

1. Amend 50 CFR § 96.2 by adding alphabetically the following words to the existing list of definitions:

§ 96.2 Definitions.

Claim. Any valid patented or unpatented mining claim, mill or tunnel site, or other site of mining operations, whether on Federal, State or Private lands.

Mining operations—All functions, work and activities in connection with mining on claims, including: prospecting, exploration, surveying, development and extraction; dumping mine waste and stockpiling ore; transport or processing of mineral commodities; reclamation of the surface disturbed by such activities; and all activities and uses reasonably incident thereto regardless of whether such activities and uses take place on Federal, State or private land;

Person—Any individual, partnership, corporation, association or other entity.

2. Amend 50 CFR Part 96 by establishing a new § 96.9 which reads as follows:

§ 96.9 Mining access permits.

(a) *General rule*—Notwithstanding the provisions of Section 96.5, no person shall enter, cross by surface transportation, or land aircraft upon, lands, waters or interests therein owned or controlled by the United States within a National Wildlife Monument for purposes of conducting mining operations, except in accordance with the provisions of a mining access permit issued by the Area Director. The issuance of a mining access permit shall not be interpreted as excusing the permittee from compliance

with other existing State or Federal laws applicable to mining operations, and shall not be deemed to render valid any claim which is not otherwise valid under applicable law. Accordingly, the issuance of a mining access permit for mining operations on the claim shall not be deemed a waiver of the Secretary's authority to examine, and where appropriate, to contest the validity of unpatented claims.

(b) *Permit Application*—In applying for a mining access permit, each applicant shall set forth the following information concerning the proposed mining operations in a sworn statement which acknowledges that providing false information in support of the permit application is a violation of section 1001 of Title 18 of the United States Criminal Code:

(1) The name, mailing address and phone number of the permit applicant;

(2) The claim(s) name and description of type of claim (e.g. patented claim, mill site, unpatented claim etc.);

(3) A map with a scale of not less than ½ inch to a mile (1:125,000) showing the survey or protraction grids on which there will be depicted the location of the claim(s). Contiguous claims and groups of claims in the same general area may be depicted on a single map so long as the individual claims are clearly identified;

(4) The date(s) of location along with a copy of location notice(s);

(5) The date and place of recordation and book and page number of recordation;

(6) The kind of mine and minerals produced (e.g. placer, lode, copper, gold);

(7) A description of the proposed mining operations, the proposed routes and methods of access, period of intended occupancy and operation at claim site, and major equipment to be used in the operations.

(8) A brief environmental summary which: (i) analyzes the environmental impacts of the proposed mining operations and routes and methods of access and the environmental impacts of any alternative routes and methods of access; and (ii) describes those measures which will be incorporated into the proposed mining operations and the construction and use of access routes to minimize the anticipated adverse impacts upon the Wildlife Monument and its related values.

(9) For unpatented claims within the Wildlife Monument the additional information shall be provided:

(i) The last year in which there was production from this claim or claim group and the amount of production (e.g. pounds, tons, market value etc.);

(ii) The person or company to whom the ore or concentrates were shipped;

(iii) The quantity of known reserves on the claim remaining to be mined (e.g. cubic yards, tons etc.) plus a description of the tests conducted and documents which support this estimation of quantity;

(iv) The grade or quality of the known reserves on the claim remaining to be mined (e.g. ounces per cubic yard, assay etc.) plus a description of the tests conducted and documents which support this estimation of grade or quality.

If the permit applicant requests a single mining access permit for contiguous unpatented claims or a group of unpatented claims in the same general area, it shall be stated to what extent the mineral data requested in question 9 of this Subsection exists for each separate claim to be covered by the permit. Permit applications shall be sent to the Area Director, United States Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99503.

(c) *Issuance criteria*—(1) Within 45 days of receiving a mining access permit application containing the information required in Subsection (b) of this Section, the Area Director shall consider the following factors and decide whether to grant the permit, and if so under what conditions or restrictions:

(i) For unpatented claims within the Wildlife Monument whether the supplied mineral data supports a preliminary determination that the permit applicant is the holder of a valid existing right in the specified mining claim(s);

(ii) The anticipated environmental impact of the proposed mining operations and routes and methods of access upon the Wildlife Monument and its related values;

(iii) The existence of reasonable and prudent alternatives to the proposed routes and methods of access which could minimize or avoid the adverse impacts of such access upon the Wildlife Monument and its related values;

(iv) The existence of other proposed mining operations on valid mining claims in the same general area and the possibility of consolidating routes and methods of access among such claims;

(v) Whether an Environmental Impact Statement must be prepared prior to the issuance of the access permit.

If the review of the permit application cannot be completed within 45 days after its receipt, the Area Director shall notify the applicant and set forth the reasons why an additional period of time, not to exceed 30 days, is required to complete the review.

(2) A mining access permit shall not be granted if:

(i) in the case of unpatented mining claims within the Wildlife Monument, it is the preliminary determination of the Area Director that the permit applicant is not the holder of valid existing rights in the claims; or

(ii) the Area Director concludes that the proposed routes and methods of access would constitute a nuisance or would significantly injure or adversely affect the Wildlife Monument and its related values, and that such nuisance, injury or effect could not be adequately mitigated through the imposition of reasonable conditions or restrictions in the mining access permit;

(iii) a reasonable and prudent alternative exists to the proposed routes and methods of access which could minimize or avoid the adverse impacts upon the National Wildlife Monument and its related values; or

(iv) it is determined that an Environmental Impact Statement must be prepared prior to the issuance of a mining access permit.

(d) *Appeals process*—(1) Any permit applicant aggrieved by a decision of the Area Director in connection with the issuance or denial of a mining access permit may file with the Area Director a written statement setting forth in detail the respects in which the decision is contrary to, or in conflict with, the facts, the law, these regulations, or is otherwise in error. No such appeal will be considered unless it is filed with the Area Director within thirty (30) days after the date of notification to the permit applicant of the action or decision complained of. Upon receipt of the written statement from the permit applicant, the Area Director shall promptly review the action or decision and either reverse or reaffirm the original decision. If the Area Director reaffirms his original decision, he shall set forth the reasons therefor and forward his decision and the record on appeal to the Director, United States Fish and Wildlife Service, for review and final decision. Copies of the Area Director's decision on appeal shall be furnished to the permit applicant who shall have 20 days within which to file exceptions to the Area Director's decision. The Fish and Wildlife Service retains the discretion to initiate a hearing before the Office of Hearing and Appeals in a particular case. (See 43 CFR 4.700.)

(2) The Official files of the Fish and Wildlife Service on the proposed mining operations and routes and methods of access, and any testimony and documents submitted by the parties on which the decision of the Area Director was based, shall constitute the record on appeal. The Area Director shall maintain the record under separate cover and shall certify at the time it is forwarded to the Director of the Fish and Wildlife Service that it is

the record on which his decision was based. The Fish and Wildlife Service shall make the record available to the permit applicant upon request.

(3) If the Director considers the record inadequate to support the decision on appeal, he may request the production of such additional evidence or information as may be appropriate, or may remand the case to the Area Director, with appropriate instructions for further action.

(4) Within forty-five (45) days of receipt of the permit applicant's exceptions to the Area Director's decision, the Director shall make his final decision in writing; *Provided, however,* That if more than forty-five (45) days are required for a decision after the exceptions are received, the Director shall notify the parties to the appeal and specify the reasons for delay. The decision of the Director shall include (1) a statement of facts, (2) conclusions, and (3) reasons upon which the conclusions are based. The decision of the Director shall be the final administrative action on the mining access permit application.

(5) A decision of the Area Director from which an appeal is taken shall not be automatically stayed by the filing of a statement of appeal. A request for a stay may accompany the statement of appeal or may be filed with the Director. The Director shall promptly rule on requests for stays. A decision of the Director on request for a stay shall constitute a final administrative decision.

(e) *Public inspection of documents*—Any permit application and accompanying documentation submitted pursuant to the regulations of this Section shall be made available for public inspection at the Office of the Area Director. The availability of such records shall be governed by the rules and regulations found at 43 CFR Part 2, including the provisions therein regarding the confidentiality of commercial and financial information.

(f) *Penalties*—Undertaking any proposed mining operation in violation of the provisions of this Section shall be deemed a trespass against the United States and the enforcement provisions of § 96.8 of this Part shall not apply.

[FR Doc. 79-7667 Filed 3-13-79; 8:45 am]

[8010-01-M]

Title 50—Wildlife and Fisheries

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

PART 611—FOREIGN FISHING

PART 671—TANNER CRAB OFF ALASKA

Fishery Management Plan Amendments and Final Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Fishery Management Plan Amendments and Final Regulations.

SUMMARY: On January 25, 1979, two amendments to the fishery management plan for Tanner crab off Alaska (FMP) were given preliminary approval under section 304 of the Fishery Conservation and Management Act, as amended (see 44 FR 5168, January 25, 1979). The amendments increase the optimum yield (OY) for Tanner crab and expand the area in which foreign vessels may fish for Tanner crab off Alaska. Comments on the amendments and proposed implementing regulations were solicited until March 7, 1979. No adverse comments were received.

EFFECTIVE DATE: These regulations are effective March 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Harry Rietze, Director, Alaska Region, National Marine Fisheries Service, Box 1168, Juneau, Alaska 99802, Telephone: 907-586-7221.

SUPPLEMENTARY INFORMATION: The FMP for Tanner crab off Alaska was prepared by the North Pacific Fishery Management Council and approved by the Assistant Administrator for Fisheries on behalf of the Secretary of Commerce, on April 18, 1978 (see 43 FR 21170, May 16, 1978) under authority of the Fishery Conservation and Management Act, as amended (the Act) (16 U.S.C. 1801 et seq). Final regulations applicable to vessels of the United States were promulgated on December 6, 1978 (43 FR 57149), and final regulations applicable to vessels of foreign nations for the remainder of 1978 were promulgated on December 19, 1978 (43 FR 59075). Regulations governing foreign vessels for 1979 were published on December 19, 1978 (41 FR 79292, and 59320). An approved plan amendment extending the FMP through October 31, 1979, was approved by the Secretary and published for public comment on November 3, 1978 (43 FR 52034). No comments were received, and a notice of extension of effective date of the regulations was published in final form on January 4, 1979 (44 FR 1115).

On November 27, 1978, the Council submitted two amendments to the FMP to the Assistant Administrator for Fisheries for review under section 304 of the Act. The first amendment increases the OY for the Kodiak district from 25 million pounds to 35 million pounds for 1979. This amendment is based on current information which indicates that earlier stock assessments underestimated the amount of Tanner crab available for harvest in the Kodiak district.

The second amendment extends the area in which foreign crab fishing in the Bering Sea is permitted by allowing foreign vessels to fish in the area between 54° N latitude and 58° N latitude, west of 173° W longtitude. The purpose of the amendment is to allow full utilization of available Tanner crab resources by providing access to fishing grounds which are ice-free early in the season. The amendment allows foreign vessels to retain only C. opilio Tanner crab, and restricts harvest between 54° N latitude and 58° N latitude west of 173° W longitude to 2,500 metric tons (mt) of the total allowable level of foreign fishing (TALFF) of 15,000 mt.

The amendment also facilitates enforcement of the 2,500 mt limitation. No foreign processing vessel when north of 58° N latitude may receive crabs caught south of 58° N latitude. Conversely, no foreign processing vessel when south of 58° N latitude may receive crabs caught north of 58° N latitude.

These amendments and proposed implementing regulations were published for public comment on January 25, 1979 (44 FR 5168). No comments were received.

An environmental impact statement for the FMP, and a negative assessment of environmental impact of these amendments, are on file with the Environmental Protection Agency.

The Assistant Administrator for Fisheries has determined under sections 304 and 305(c) of the Act that the amendments are consistent with the National Standards, the Act and other applicable law. The Administrator, NOAA, has concurred in an initial determination made by the Assistant Administrator that these proposed regulations are not significant regulations under Executive Order 12044.

A 30 day "cooling off" period is not required for the regulations implementing these amendments. The Administrative Procedures Act does not require this period for regulations which "* * * relieve a restriction" (5 U.S.C. 553). Each of these amendments relieves restrictions on some vessels fishing for Tanner crab and imposes no additional restraints upon

other persons subject to the regulations.

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

JACK W. GEHRINGER,
Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

AMENDMENT TO THE FMP

The FMP for the Tanner Crab Fishery off the Coast of Alaska (43 FR 21174) is amended as follows:

1. Section I.C (43 FR 21176)—Management Measures and Rationale for Foreign Fishing—*Delete* the last three sentences and *substitute:*

Crab fishing by foreign nations is prohibited south of 58°N latitude except west of 173°W longitude. Crab fishing is prohibited east of 164°W longitude north of 58°N latitude. The allocation to foreign pot fisheries directed at Tanner crab will be set at 15,000 mt (33,096,000 lbs.) * * *;

2. Section 8.3.2 Foreign (43 FR 21200)—*Delete* the first paragraph and *substitute:*

That portion of the *Preliminary Management Plan for King and Tanner Crab of the Eastern Bering Sea* which deals with the Tanner crab fishery will remain in force except that: (1) the area of legal fishing shall be north of 58°N latitude and west of 164°W longitude, and south of 58°N latitude west of 173°W longitude in the Bering Sea; and (2) for the Bering Sea management area, see section F.8.3.2 of this Plan. (The referenced Preliminary Management Plan appeared in the FEDERAL REGISTER on February 11, 1977. See Appendix 11.6.) * * *;

3. Section D.3.2.1.3 *Catch Trends* (43 FR 21229)—*Delete* the last two sentences and *substitute:*

In 1978 a harvest guidelines range of 15-25 million pounds was set. The actual harvest was 33.1 million pounds. A mid-season adjustment of the harvest range was made by ADF&G based on a high CPUE and the stock assessments during the fishery. The data indicates the harvest range should be set at 20-35 million pounds with the expectation that the resource can sustain a catch in the upper end of that range. The catch history thru 1977 is documented in Table D1 * * *;

(4) Section D.3.3.2 *Guideline harvest levels* (43 FR 21231)—*Add* the following after the last sentence of the 3rd paragraph:

High CPUE during the 1978 season (January-April) and high stock levels as indicated by stock indexing studies led to a midseason change in harvest range with the catch ultimately totaling 33.1 million pounds. The guideline harvest level is therefore set at 20-35 million pounds with the expectation that catches can be safely taken near the top of that range * * *;

(5) Section D.4.7.1 *Maximum Sustainable Yield* (MSY) (43 FR 21232)—*Delete* the first paragraph and *substitute:*

Because of insufficient research data, no estimate of a MSY can be developed using generally accepted population dynamics models. However, an estimate of MSY of 25 million pounds (11,333 mt) has been derived by using the average catch of 25.1 million pounds (11,385 mt) for the seasons 1972/73 through 1975/76.

Analysis of commercial catch and assessment data obtained during 4 years of intensive fishing prior to the 1977 season when the average catch was 25.1 million pounds (11,385 mt) indicates that the current exploitation level has not significantly affected brood stock capacity or caused a decline in crab abundance * * *;

(6) Section D.4.7.3 *Acceptable Biological Catch (ABC)* (43 FR 21232)—*Delete* the paragraph and *substitute:*

Based upon the average catch since the 1972/73 season and current biological information, an acceptable biological catch of 20 to 35 million pounds (9,066 to 15,865 mt) has been established * * *;

(7) Section D.5.3 *Expected Domestic Annual Harvest (DAH)* (43 FR 21232)—*Delete* both paragraphs and *substitute:*

The DAH is approximately 1.8 times the 1977 harvest of 20.7 million pounds (9,399 mt). The low price received per pound and increased handling and sorting costs limited participation in the 1977 fishery.

With an increase in the ex-vessel price to approximately 40 cents per pound, 110 to 120 vessels harvested 33.1 million pounds (15,005 mt) in 1978. It is expected that catches near the upper end of the harvest range (20-35 million pounds) will be sustained * * *;

(8) Section D.6.3 *Optimum Yield (OY)*, (43 FR 21232)—*Delete* the paragraph and *substitue:*

Optimum yield for the Kodiak management area is set at 35 million pounds (15,865 mt). * * *;

(9) Section F.3.2.1.3 *Catch Trends* (43 FR 21238)—*Delete* the paragraph and *substitute:*

U.S. fishermen caught 18,000 pounds (8.2 mt) of Tanner crab in 1968, 22.3 million pounds (10,115 mt) in 1976, 51.5 million pounds (23,400 mt) in 1977 and 68 million pounds in 1978. Annual Harvests are shown in Table 1. * * *;

(10) Section F.7.0. *Total Allowable Level of Foreign Fishery* (43 FR 21250)—(a) *Delete* the last sentence of the first paragraph and *substitute:*

For this reason and in order to prevent gear conflicts and a foreign by catch of *C. bairdi* crab, any foreign harvest of Tanner crab has been restricted to two areas: (1) north of 58°N latitude and west of 164°W longitude and (2) south of 58°N latitude and west of 173°W longitude * * *;

(b) *Add* at the end of the third paragraph:

Not more than 2,500 mt (5,515,000 pounds) of the TALFF can be taken from area (2), south of 58°N latitude and west of 173°W longitude and no. *C. bairdi* crab can be retained in that area. Foreign fishing has been allowed in that area primarily to provide ice free fishing grounds early in the season * * *;

(11) Section F.8.3.2 *Foreign* (43 FR 21250)—*Delete* the entire text of the section and *substitute:*

See statewide Section 8.3.2 Management measures governing foreign fishing are as follows:

(1) The total allowable foreign catch shall not exceed 15,000 mt of snow (Tanner) crab from that portion of the Bering Sea over which the United States exercises fishing jurisdiction. Of that amount not more than 2,500 mt may be taken in the areas south of 58°N latitude and west of 173°W longitude.

(2) It shall be unlawful for any foreign fishing vessel to fish for crab at any time east of 164°W longitude and south of 58°N latitude except that they may fish for Tanner crab *C. opilio* species in the area south of 58°N latitude and west of 173°W longitude. No Tanner crab species *C. bairdi* may be retained in that area.

(3) When south of 58°N latitude and west of 173°W longitude no foreign processing ship may receive crabs from any catcher boat that are caught north of 58°N latitude. No foreign processing ship when north of 58°N latitude may receive crabs caught south of 58°N latitude.

FINAL REGULATIONS

50 CFR 671 and 611 (see 43 FR 59320, December 19, 1978) are amended as follows:

§ 611.91 [Amended]

1. Section 611.91(b)(2) is amended as follows: *Add* the following sentence: "No more than 2,500 metric tons of the TALFF set forth in that table may be taken south of 58°N latitude."

2. Section 611.91 is further amended by revising paragraphs (d) and (f)(1) and by adding a new paragraph(f)(5) to read as follows:

§ 611.91 Tanner crab fishery.

* * * * *

(d) *Closed areas.* No foreign vessel may engage in fishing for Tanner crab:

(1) Within 12 nautical miles of the baseline used to measure the U.S. territorial sea;

(2) South of 58°N latitude, except west of 173°W longitude;

(3) South of 54°N latitude; or

(4) East of 164°W longitude.

* * * * *

(f) *Other Restrictions.* (1) *Non-retention.* No foreign vessel may retain:

(i) Any female or soft shell Tanner crab;

(ii) Any Tanner crab of the species *C. bairdi* caught south of 58°N latitude; or

(iii) Any species of crab other than the genus *Chionoecetes.* All crabs whose retention is prohibited by this paragraph (f)(1) shall be returned im-

mediately to the sea in a manner which: (A) minimizes handling mortality, and (B) is in accordance with section 611.13 of this Part.

* * * * *

(5) *Fishing Location.* (i) A foreign processing vessel located south of 58°N latitude and west of 173°W longitude is prohibited from receiving from any foreign catcher vessel Tanner crab caught north of 58°N latitude.

(ii) A foreign processing vessel located north of 58°N latitude is prohibited from receiving from any foreign catcher vessel Tanner crab caught south of 58°N latitude.

* * * * *

§ 611.20 [Amended]

3. Section 611.20(c), Table I, is amended as follows:

a. In the line beginning "Crab * * * Crab, Tanner," add footnote "6" after footnote "3" and before "15,000," to read "[3,6] 15,000."

b. Add a new footnote "6" to read: [6] Of this TALFF, not more than 2,500 mt may be taken south of 58°N latitude.

§ 671.21 [Amended]

4. Section 671.21(a), Table I, is amended as follows:

In line 8 ("Kodiak district") *delete* "11,340" and *substitute* "15,876".

(Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq*)

[FR Doc. 79-7670 Filed 3-9-79; 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.

[6702-01-M]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Parts 575, 576, 577 and 578]

[No. 79-162]

RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

Proposed Rule

MARCH 8, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: Title XII of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (Act of November 10, 1978, Pub. L. No. 95-630, 92 Stat. 3641), which becomes effective on March 10, 1979, authorized the Bank Board to issue, if not in contravention of State law, Federal charters to existing State-chartered mutual savings banks, and to provide for the examination, operation, and regulation of such banks which convert to Federal charter. Accordingly, the Board proposes to adopt regulations covering applications for Federal mutual savings bank charters, the issuance of such chargers and accompanying bylaws, the organization of mutual savings banks upon receipt of a Federal charger, and certain general requirements to which such converted institutions will be subject.

Proposed forms of a Federal mutual savings bank charter and accompanying bylaws, of an application for issuance of a Federal mutual savings bank charter, of a notice of the filing of such an application, and of an Outline of Information to be submitted in support of applications for such charters, are also included in this proposal.

DATE: Comments must be received on or before April 13, 1979.

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

FOR FURTHER INFORMATION, CONTACT:

Loren J. Friesen, Attorney, Federal Home Loan Bank Board 202-377-6454, at the above address.

SUPPLEMENTARY INFORMATION: Title XII authorizes the Board to charter existing State-chartered mutual savings banks and to provide for their examination, operation and regulation, provided that the conversion of any such bank to Federal charter may not be in contravention of State law, and that a bank may not convert to a stock form of ownership. In issuing such charters the Board is under a mandate to give primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States. More specifically, Title XII provides that, to the extent authorized by the Board, a converted savings bank may continue to carry on any activities it was engaged in on December 31, 1977, and retain or make any investment of a type held on that date, except that its equity, corporate bond, and consumer loan investments may not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of the conversion application. Moreover, a converted savings bank may only be permitted to establish branch offices and other facilities in accordance with the limitations, other than numerical, of State law, except that it may, in any event, if authorized by the Bank Board, establish branch offices and other facilities in its own SMSA, county, or within 35 miles of its home office, but only if any such office or facility will also be located within the bank's State of domicile. Finally, Title XII provides that converted savings banks will be subject to the requirements of State law, in effect at the time of the conversion, which pertain to discrimination in the extension of home mortgage loans or adjustment in terms of mortgage instruments based on neighborhood or geographical area, or which pertain to the Consumer Credit Protection Act, if the Board determines that the State law (including regulations) imposes more stringent requirements than Federal law and regulations.

By notice published in the FEDERAL REGISTER (see 43 FR 60999 (1978)) the Board announced that hearings would be held on January 26, 1979, to solicit the views and comments of all interested parties on the manner in which the board should exercise the authority and responsibility conferred by Title XII. That notice also solicited written views and comments on the same subject.

Dicussed below are the key questions which emerged from the Board's study of the Federal chartering of mutual savings banks, including consideration of testimony at the January 26 hearings.

A. *What criteria should apply to applicants for Federal mutual savings bank charters?*

The criteria by which the Board proposes to evaluate mutual savings bank applications are set forth in Section 576.1(b) of the proposed regulations. That paragraph generally provides that the Board, when acting on such applications, will look into the financial soundness, housing investment commitment, and character of management of the respective applicants.

What appears to be the chief concern of at least most of the nonsavings bank industry representatives who testified at the hearings or who submitted written comments, is that Federal mutual savings banks have a sufficient commitment to the financing of homes. A repeated recommendation was that the Board require some kind of quantitative home-financing test. In view of Title XII's legislative history, however, the Board does not believe that it has the authority to impose such a test and, in any event, a rigid quantitative home-financing test would prevent the Board from taking into account local circunstances and conditions.

In effect, what the Board has decided to propose is that it will determine on a case-by-case basis whether an applicant's home-financing record, policy, and commitment is adequate under the circumstances that exist within the community or communities wherein it operates. Exhibit E of the "Outline of Information to be submitted in Support of an Application for Issuance of a Federal Mutual Savings Bank Charter" requires the submission of information bearing on the above.

B. *Should Federal mutual savings banks be required to permit depositor and borrower voting privileges and participation in membership meetings?*

The general pattern is that mutual savings banks are directed by a board (frequently by what is called a board of trustees) which elects their own members or who are elected by a separate group of corporators. Section

5(b)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)) provides that "[h]olders of savings accounts and obligors of an association [redefined by Title XII, Section 1201, to include mutual savings banks] shall, to such extent as may be provided by its charter or by regulation of the Board, be members of the association, and shall have such voting rights and such other rights as are thereby provided". In view thereof, and in light of modern concepts calling for broadened participation in, and accountability by, both public and private institutions, the form of charter proposed for Federal mutual savings banks would provide for voting rights as enjoyed by depositor-borrower members of Federal mutual savings and loan associations.

The Board recognizes, however, that since charters will be issued only to operating and established institutions, it could be unnecessarily disruptive of management if the entire board of trustees of a converted Federal mutual savings bank were required to stand immediately for reelection by vote of the members. Therefore, although section 6 of the proposed charter provides for depositor and borrower voting, the Board is proposing a phase-in period for the election of members of the board of trustees by the voting membership. Specifically, under § 576.4(a)(2)(i) of the proposed regulations, applicants will be permitted to submit a plan which provides that members of their existing governing boards may continue to serve, provided that within two years of the issuance of a Federal charter at least one-fifth of the board will be elected by vote, either in person or by proxy, of the applicant's membership as provided in its Federal charter, and that within three years of the issuance of its Federal charter at least two-fifths, within four years at least three-fifths, within five years, at least four-fifths, and within six years the entire board of trustees of the bank shall have been so elected. In deciding whether to approve any such plan § 576.4(a)(2)(ii) of the proposed regulations provides that the Board will take into account whether the applicant's governing board is broadly based and representative of the community or communities in which the applicant operates.

C. *In general what rules and regulations should apply to Federal mutual savings banks?*

Savings banks who are Bank members are already subject to the Regulations for the Federal Home Loan Bank System (12 CFR Part 521 *et seq.*) and such regulations will also apply to Federal mutual savings banks as they will be required under section 5(f) of the Home Owners' Loan Act (12 U.S.C. 1464(f)) as amended by Title XII, to be Bank members. In addition, however, the Board has decided to propose that, except as otherwise provided, Federal mutual savings banks would generally also be subject to the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 541 *et seq.*), and the Rules and Regulations for Insurance of Accounts (12 CFR Part 561 *et seq.*).

Section 578.1 of the proposed regulations sets forth the above, while § 578.2 provides for the Board's authority, under Title XII, to grandfather certain activities and investments engaged in and held by mutual savings banks prior to conversion to Federal charter. Because such activities and investments may not all be of a kind permitted for Federal savings and loan associations, Board approvals of applications for Federal mutual savings bank charters may be subject, in individual cases, to an applicant's agreement to comply with special prescribed conditions.

Specifically with respect to branch offices and other facilities for Federal mutual savings banks, Section 578.3 of the proposed regulations provides that, except for those restrictions set forth in Title XII, applications for branch offices and other facilities and the operation of such shall be subject to the rules and regulations which apply to applications for branch offices and other facilities by Federal savings and loan associations. Section 578.4 sets forth circumstances where Federal mutual savings banks may be subject, as required by Title XII, to the requirements of certain State laws and regulations.

Accordingly, the Board proposes to adopt the following rules and regulations:

SUBCHAPTER E—RULES AND REGULATIONS FOR FEDERAL MUTUAL SAVINGS BANKS

PART 575—DEFINITIONS

Sec.
575.1 General
575.2 Act.
575.3 Federal mutual savings bank.

AUTHORITY: Section 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.)

§ 575.1 General.

Unless the context indicates otherwise, and except as provided in this Part, definitions that appear elsewhere in this Chapter shall be applicable to this Subchapter.

§ 575.2 Act.

The Home Owners' Loan Act of 1933, as amended.

§ 575.3 Federal mutual savings bank.

A mutual savings bank chartered by the Board under section 5 of the Act.

PART 576—APPLICATION, ISSUANCE OF CHARTER AND BYLAWS, ORGANIZATION

Sec.
576.1 Application for conversion to Federal charter.
576.2 Issuance of charter and bylaws, incorporation.
576.3 Membership in Federal home loan bank and insurance of accounts.
576.4 Organization.

AUTHORITY: Section 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.)

§ 576.1 Application for conversion to Federal charter.

(a) *General.* Questions regarding this section shall be directed to the Board's Supervisory Agent of the district in which the applicant is located. Recommendations by Supervisory Agents and officers and employees of the Board regarding applications for issuance of Federal mutual savings bank charters are privileged, confidential, and subject to § 505.6 of this Chapter.

(b) *Eligibility and criteria by which applicant institutions will be evaluated.* Federal mutual savings bank charters may be issued only to existing State-chartered mutual savings banks located in States where conversion to Federal charter would not be in contravention of State law. In acting on applications for conversion to such Federal charters the Board will give primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States. In particular, the board will consider the financial history and condition of the applicant banks, the adequacy of their capital structure, their future earnings prospects, the general character of their management, their home-financing record and policy, their indicated commitment to home-financing and their performance in helping to meet the credit needs of their local communities.

(c) *Form; supporting information.* State-chartered mutual savings banks applying for Federal charter shall obtain Board-approved application and notice forms and any related instructions from the Supervisory Agent. Completed applications along with all required supporting information shall be submitted, together with evidence of appropriate corporate authorization, to the supervisory Agent. An application shall be deemed filed when four copies of all required materials are delivered to the Supervisory Agent, and shall be deemed complete when the Supervisory Agent deter-

mines that all required information has been submitted. Additional information may be requested at any time by the Board or its staff.

(d) *Procedure on applications.* Processing of an application under this Section shall follow the procedures set forth in § 543.2(c), (d), (e), and (f) of this Chapter, except that (1) notice of the filing of an application required under § 543.2(d)(3) shall be given to the State official who supervises mutual savings banks, (2) the term "new association" as used in § 543.2(d)(3) shall be deemed to include a "Federal mutual savings bank", and (3) the requirement in said paragraph (d)(3) that notice of the application shall be given to persons who have made timely requests for announcements under § 563e.6 of this Chapter shall be deemed to refer to any such requests made pursuant to public notice requirements of the Federal Deposit Insurance Corporation.

(e) *Approval.* Decisions on all applications for issuance of Federal mutual savings bank charters will be made by the board. Approvals may be conditioned upon any requirements the Board may impose.

§ 576.2 Issuance of charter and bylaws, incorporation.

Upon submission of evidence of compliance with any conditions prescribed by the Board, a charter and bylaws will be issued in the forms provided in § 577.1 and § 577.2 of this Subchapter, or as otherwise approved by the Board.

Issuance of a charter to a Federal mutual savings bank constitutes its incorporation by the Board.

§ 576.3 Membership in Federal home loan bank and insurance of accounts.

Upon issuance of a Federal charter, the applicant bank shall have qualified as a member of a Federal home loan bank, and shall have met all requirements necessary to obtain insurance of its accounts by the Federal Savings and Loan Insurance Corporation.

§ 576.4 Organization.

(a) *Organization meeting.* (1) Except as provided in subparagraph (2) below, promptly upon receipt of a charter the officers of the Federal mutual savings bank shall call a meeting of the members. Notice for, and conduct of, such meeting shall be in accordance with the bank's Federal charter and bylaws. Business to be transacted at the organization meeting shall include the election of trustees and any other matters permitted by the charter and bylaws. Any action taken at such meeting shall be deemed an acceptance of the charter and bylaws issued pursuant to § 576.2 above.

(2)(i) An applicant for a Federal mutual savings bank charter may submit a plan which provides that each member of its governing board, *i.e.*, board of trustees, managers, or directors, may continue to serve, provided that within two years of the issuance of a Federal charter at least one-fifth of the members of such board shall have been elected by vote, either in person or by proxy, of the bank's membership as provided in its Federal charter, that within three years of the issuance of its Federal charter at least two-fifths of the members of such board shall have been elected by such a membership vote, that within four years of the issuance of its Federal charter at least three-fifths of the members of such board shall have been elected by such a membership vote, that within five years of the issuance of its Federal charter at least four-fifths of the members of such board shall have been elected by such a membership vote, and that within six years of the issuance of its Federal charter all of the members of such board shall have been elected by such a membership vote. The plan shall provide that after receipt of a Federal charter the bank's trustees will be elected to terms of no more than three years, and the plan may provide that the bank be organized by its existing governing board which is to be known as the board of trustees.

(ii) In considering whether to approve a plan submitted pursuant to this subparagraph (2), the Board will take into account whether the applicant's governing board is broadly based and representative of the community or communities in which the applicant operates.

(iii) Except to the extent that the Board approves a plan under this subparagraph which is inconsistent with other provisions of this § 576.4, a Federal mutual savings bank shall in all respects comply with those other provisions.

(b) *First meeting of trustees.* Upon election, the board of trustees shall hold a meeting to elect the officers of the bank in accordance with its Federal charter and bylaws, and to take other action necessary to permit the operation of the bank in accordance with section 5 of the Home Owners' Loan Act of 1933, as amended, the bank's charter and bylaws, these rules and regulations, and orders of the Board.

PART 577—CHARTER AND BYLAWS

Sec.
577.1 Prescribed form.

BYLAWS

577.2 Prescribed form.
577.2-1 Amendment to bylaws.

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

§ 577.1 Prescribed form.

A Federal mutual savings bank shall operate under the following charter (language in brackets, however, shall be applicable to individual institutions only as specifically approved by the Board) until such charter has been amended under the procedure therein prescribed:

CHARTER B

Section 1. *Corporate Title.* The full corporate title of the bank is——.

Section 2. *Office.* The home office of the bank shall be located in the County of——————, State (Territory, Possession or District) of——————.

Section 3. *General Objects and Powers.* The bank is a mutual thrift institution established for the primary purpose of providing people with a convenient and safe place to invest their funds and to provide for the financing of homes, and is chartered under Section 5 of the Home Owners' Loan Act of 1933, as amended, and has and may exercise all the express, implied and incidental powers conferred thereby and by all acts amendatory thereof and supplemental thereto, subject to the Constitution and laws of the United States as they are now in effect, or as they may hereafter be amended, and subject to all lawful and applicable rules, regulations, and orders of the Federal Home Loan Bank Board ("Bank Board").

Section 4. *Duration.* The duration of the Bank is perpetual.

Section 5. *Capital.* The bank may raise capital by accepting payments on deposit savings accounts [and on deposit checking accounts] and by any other means (except capital stock) as may be authorized by the Bank Board.

Section 6. *Members.* All holders of the bank's savings accounts and all borrowers therefrom are members. In the consideration of all questions requiring action by the members of the bank each holder of a savings account shall be permitted to cast one vote for each $100 or fraction thereof, of the withdrawal value of his or her account. A borrowing member shall be permitted, as a borrower, to cast one vote, and to cast the number of votes to which he or she may be entitled as the holder of a savings account. No member, however, shall cast more than 400 votes. Voting may be by proxy. Any number of members present at a regular or special meeting of the members shall constitute a quorum. Except as otherwise provided by this charter or required by the Bank Board, a majority of all votes cast at any meeting of members shall determine any question.

The members who shall be entitled to vote at any meeting of the members shall be those owning savings accounts and borrowing members of record on the books of the bank at a date set by the board of trustees not less than 20 days and not more than 50 days prior to the date of such meeting. The numbers of votes which each member shall be entitled to cast at any meeting of the members shall be determined from the books of the bank as of such record date. Any member at such record date who ceases

to be a member prior to such meeting shall not be entitled to vote thereat.

Section 7. *Trustees.* The bank shall be under the direction of a board of trustees of not less than 7, as fixed in the bank's bylaws or, in the absence of any such bylaw provision, as from time to time expressly determined by resolution of the bank's members. Each trustee of the bank shall be a member of the bank, and a trustee shall cease to be a trustee when he ceases to be a member. Trustees of the bank shall be elected by its members by ballot; *Provided,* That in the event of a vacancy in the board of trustees, including vacancies created by an increase in the number of trustees, the board of trustees may fill such vacancy by electing a trustee to serve until the next annual meeting of the members. Trustees shall be elected for periods of 3 years and until their successors are elected and qualified, but provision shall be made for the election of approximately one-third of the board of trustees each year.

Section 8. *Withdrawals.* Each withdrawal from a savings account shall be governed by this section except to the extent that a member's account book or other written evidence of the member's savings account contains additional requirements in accordance with regulations made by the Bank Board. The bank shall have the right to pay the withdrawal value of its savings accounts at any time upon application therefor and to pay the holders thereof the withdrawal value thereof. Upon receipt of a written request from any holder of a savings account of the bank for the withdrawal value thereof, the bank shall within 30 days pay the amount requested; *Provided,* That if the bank is unable to pay all withdrawals requested at the end of 30 days from the date of such requests, it shall then proceed in the following manner while any withdrawal request remains unpaid for more than 30 days:

Withdrawal requests shall be paid in the order received and if any holder of a savings account or accounts has requested the withdrawal of more than $1,000, he or she shall be paid $1,000 in order when reached and his or her withdrawal request shall be charged with such amount as paid and shall be renumbered and placed at the end of the list of withdrawal requests, and thereafter, upon again being reached, shall be paid a like amount, but not exceeding the withdrawal value of his or her savings account, and until such withdrawal request shall have been paid in full, shall continue to be so paid, renumbered, and replaced at the end of the withdrawal requests of file: *Provided,* That when any such request is reached for payment, the bank shall so advise the holder of such savings account by registered or certified mail to his or her last address as recorded on the books of the bank and unless such holder shall apply in person or in writing for the payment of such withdrawal request within 30 days from the date of the mailing of such notice, no payment on account of such withdrawal request shall be made and such request shall be cancelled: *And provided further,* That the board of trustees shall have the absolute right to pay on an equitable basis an amount not exceeding $200 to any holder of a savings account or accounts in any calendar month and without regard to any other provision of this section.

When the bank is unable to pay all withdrawal requests within a period not exceeding 30 days from the date of receipt of written request therefor it shall allot to the payment of such requests the remainder of the bank's receipts from all sources after deducting from total receipts appropriate amounts for expenses, required payments on indebtedness, earnings distributable in cash to holders of savings accounts, and a fund for general corporate purposes equivalent to not more than 20 percent of the bank's receipts from holders of its savings [and of its checking accounts] and from its borrowers.

Section 9. *Redemption.* At any time sufficient funds are on hand, the bank shall have the right to redeem, by lot or other non-discriminatory manner as the board of trustees may determine, all or any part of any of its savings accounts, except fixed rate-fixed term certificates fo deposit, by giving 30 days' notice of such redemption by registered mail addressed to the holder of each such savings account at his or her last address as recorded on the books of the bank. The bank may not redeem any of its savings accounts when there is an impairment of its capital or when it has any request for withdrawal which has been on file and unpaid for more than 30 days. The redemption price of each savings account redeemed shall be the full value thereof, as determined by the board of trustees, but in no event shall the redemption price be less than the withdrawal amount of such savings account. If a savings account which is redeemed is entitled to participate in any reserve for bonus, the amount in such reserve for bonus which is properly allocable to such savings account shall be paid as part of the redemption price thereof. If any notice of redemption shall have been duly given, and if the funds necessary for such redemption shall have been set aside so as to be and to continue to be available for that purpose, earnings upon such account shall cease to accrue from and after the date specified as the redemption date and all rights with respect to each such account shall forthwith, after such redemption date, terminate, except only the right of the holder of record of such savings account to receive the redemption price thereof without earnings.

Section 10. *Loans, Investments, other Activities.* The bank may make any loan or investment and engage in such other activities [,including offering savings bank life insurance,] authorized by the Bank Board *provided,* that the bank's equity, corporate bond, and consumer loan investments may in no event exceed —— percent of its total assets.

Section 11. *Reserves, Distribution of Earnings, and Liquidation.* The bank shall maintain general reserves for the sole purpose of meeting losses in at least such amounts as may be required by the Bank Board; such reserves shall include the reserve required for insurance of accounts. Any losses may be charged against general reserves.

The bank shall distribute net earnings on its savings deposit on such basis and in accordance with such terms and conditions as may from time to time be authorized by the Bank Board, provided, however, that the bank shall not be required to distribute earnings on short-term savings accounts or on accounts of ten dollars or less.

All holders of savings [and checking] accounts of the bank shall be entitled to equal distribution of assets, pro rata to the value of their accounts, in the event of voluntary or involuntary liquidation, dissolution, or winding up of the bank. Moreover, in any such event or in any other situation in which the priority of such savings [and checking] accounts is in controversy, all such accounts shall, to the extent of their withdrawal value, be debts of the bank having the same priority as the claims of general creditors of the bank not having priority (other than any priority arising or resulting from consensual subordination) over other general creditors of the association.

Section 12. *Amendment of Charter.* No amendment, addition, alteration, change, or repeal of this charter shall be made, unless such is first proposed by the board of trustees of the bank, approved by the Bank Board, and thereafter approved by the members by a majority of the votes cast at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon shall be filed with the Bank Board and shall be effective as of the date approved by the bank's membership.

Federal Home Loan Bank Board.

By ——————————

(*Chairman*).

Attest:

——————————

(*Secretary*).

BYLAWS

§ 577.2 Prescribed form.

A Federal mutual savings bank shall operate under the following bylaws, until such bylaws are amended under the procedure therein prescribed:

Section 1. *Annual and special meetings of members.*

(a) *Date, purpose.* (i) The annual meeting of the members of the bank for the election of trustees and for the transaction of any other business of the bank shall be held at its home office on —————— (insert a date no earlier than 15 days after the annual closing of the bank's books and not later than 3 months and 15 days after such closing of the bank's books) of each year if not a Sunday or legal holiday, or, if a Sunday or a legal holiday, then on the next succeeding day not a Sunday or a legal holiday. The annual meeting may be held at such other place in the same community as the board of trustees may determine. In lieu of the date specified in the first sentence of this subparagraph, such annual meeting in any year may be held on another date which is not a Sunday or a legal holiday and which is not earlier than 15 days after the annual closing of the bank's books and not later than 3 months and 15 days after such closing of the bank's books, if the following requirements are met:

(1) The board of trustees determines the date by resolution adopted at least 2 months before the annual closing of the books for the year preceding the year in which the annual meeting is to be held; and

(2) Notice of said date is continuously posted in a conspicuous place in each of the offices of the bank during the 50 days immediately preceding the date so determined. At each annual meeting, the officers shall make a full report of the financial condition

of the bank and of its progress for the preceding year, and shall outline a program for the succeeding year.

(ii) Special meetings of the members of the bank may be called at any time by the president or the board of trustees, and shall be called by the president, a vice president, or the secretary upon the written request of members holding of record in the aggregate at least one-tenth of the votes eligible to be cast. Such written request shall state the purposes of the meeting and shall be delivered at the home office of the bank addressed to the president.

(b) *Notice of meetings of members.* Notice of each annual or special meeting shall be either published once a week for the two consecutive calendar weeks (in each instance on any day of the week) immediately prior to the week in which any such meeting shall convene, in a newspaper printed in the English language and of general circulation in the city or county in which the home office of the bank is located, or mailed postage prepaid at least (insert number not less than 15) days and not more than (insert number not more than 45) days prior to the date on which any such meeting shall convene to each of its members of record at his or her last address appearing on the books of the bank. Such notice shall state the name of the bank, the place of the annual meeting, the time when it shall convene, and, in the case of special meetings, shall state the purpose or purposes for which the meeting has been called. A similar notice shall be posted in a conspicuous place in each of the offices of the bank during the 14 days, except as otherwise provided in Section 1 of these bylaws, immediately preceding the date on which any such meeting shall convene. If any member, in person or by attorney thereunto authorized, shall waive in writing notice of any annual meeting of members, notice thereof need not be given to such member.

(c) *Rules governing conduct of meetings.* Annual and special meetings of members shall be conducted in accordance with the most current edition of Roberts' Rules of Order.

(d) *Nominating committee.* The president, at least 30 days prior to the date of each annual meeting, shall appoint a nominating committee of three persons who are members of the banks. Such committee shall make nominations of trustees in writing, and deliver to the secretary such written nominations at least 15 days prior to the date of the annual meeting, which nominations shall forthwith be posted in a prominent place in the home office for the 15 days' period prior to the date of the annual meeting. Provided such committee is appointed and makes such nominations, no nominations for trustees except those made by the nominating committee shall be voted upon at the annual meeting unless other nominations by members are made in writing and delivered to the secretary of the bank at least 10 days prior to the date of the annual meeting, which nominations shall forthwith be posted in a prominent place in the home office for the 10 days' period prior to the date of the annual meeting. Ballots bearing the names of all persons nominated by the nominating committee and by other members prior to the annual meeting shall be provided for use by the members at the annual meeting. If at any time the president shall fail to appoint such nominating committee, or the nominating committee shall fail or refuse to act at least 15 days prior to the annual meeting, nominations for trustees may be made at the annual meeting by any member and shall be voted upon.

(e) *New business.* Any new business to be taken up at the annual meeting, including any proposal to increase or decrease the number of trustees of the bank, shall be stated in writing and filed with the secretary of the bank on or before 30 days before the date of the annual meeting, and all business so stated, proposed and filed shall be considered at the annual meeting, but no other proposal shall be acted upon at the annual meeting. Any member may make any other proposal at the annual meeting and the same may be discussed and considered, but unless stated in writing and filed with the secretary 30 days before the meeting such proposal shall be laid over for action at an adjourned, special or regular meeting of the members taking place 30 days or more thereafter. This provision shall not prevent the consideration and approval or disapproval at the annual meeting of the reports of officers and committees, but in connection with such reports no new business shall be acted upon at such annual meeting unless stated and filed as herein provided.

(f) *Voting by proxy.* Voting at any annual or special meeting of the members may be made by proxy, it being provided that no proxies shall be voted at any meeting unless such proxies shall have been placed on file with the secretary of the bank for verification, at least 5 days prior to the date on which such meeting shall convene.

Section 2. *Communication between bank members.* The right and manner of communications between bank members shall be subject to any Bank Board rules or regulations applicable to any such communications.

Section 3. *Board of trustees.*

(a) *Number.* The number of trustees of the bank shall be No.

(b) *Meetings.* The board of trustees shall meet regularly without notice at the home office of the bank at least once each month at the hour and date fixed by resolution of the board of trustees, provided that the place of meeting may be changed by the trustees. Special meetings of the board of trustees may be held at any place in the territory in which the bank may make loans specified in a notice of such meeting and shall be called by the secretary upon the written request of the president, or of three trustees. All special meetings shall be held upon at least 3 days' written notice to each trustee unless notice be waived in writing before or after such meeting. Such notice shall state the place, time, and purposes of such meeting. A majority of the trustees shall constitute a quorum for the transaction of business. The act of a majority of the trustees present at any meeting at which there is a quorum, unless governing law, rules or regulations require otherwise, shall be the act of the board of trustees. All meetings of the board of trustees shall be conducted in accordance with the most current edition of Roberts' Rules of Order.

(c) *Resignations.* Any trustee may resign at any time by sending a written notice of such resignation to the office of the bank delivered to the secretary. Unless otherwise specified therein such resignation shall take effect upon receipt thereof by the secretary. More than three consecutive absences from regular meetings of the board of trustees, unless excused by resolution of the board of trustees, shall automatically constitute a resignation, effective when such resignation if accepted by the board of trustees.

(d) *Powers.* The board of trustees shall have power:

(1) To appoint and remove by resolution the members of an executive committee, the members of which shall be trustees, which committee shall have and exercise the powers of the board of trustees between the meetings of the board of trustees;

(2) To appoint and remove by resolution the members of such other committees as may be deemed necessary and prescribe the duties thereof;

(3) To fix the reasonable compensation of trustees, including advisory trustees and trustees emeriti, officers, and employees; and to remove any officer or employee at any time with or without cause;

(4) To extend leniency and indulgence to borrowing members who are in distress and generally to compromise and settle any debts and claims;

(5) To limit payments on capital which may be accepted;

(6) To reject any application for savings [or checking] accounts or membership; and

(7) To exercise any and all of the powers of the bank not expressly reserved by the charter to the members.

Section 4. *Officers, employees and agents.* Annually at the meeting of the board of trustees of the bank next following the annual meeting of the members of the bank, the board of trustees shall elect a president, one or more vice presidents, a secretary, and a treasurer. The offices of secretary and treasurer may be held by the same person, and a vice president may also be either the secretary or the treasurer. The board of trustees may appoint such additional officers and such employees and agents as it may from time to time determine. The term of office of all officers shall be one year or until their respective successors are elected (or appointed) and qualified. However, the board of trustees may authorize the bank to enter into an employment contract with any officer in accordance with regulations of the Federal Home Loan Bank Board ("Bank Board"); but no such contract shall impair the right of the board of trustees to remove any officer at any time. In the absence of designation from time to time of powers and duties by the board of trustees, officers shall have such powers and duties as generally pertain to their respective offices.

Any indemnification by the bank of the bank's personnel is subject to any applicable Bank Board rules or regulations.

Section 5. *Execution of instruments, generally.* All documents and instruments or writings of any nature shall be signed, executed, verified, acknowledged, and delivered by such officers, agents, or employees of the bank or any one of them and in such manner as from time to time may be determined by resolution of the board of trustees. All notes, drafts, acceptances, checks, endorsements, and all evidences of indebtedness of the bank whatsoever shall be signed by such officer or officers or such agent or agents of the bank and in such manner as the board of trustees may from time to time determine. Endorsements for deposit to the credit of the bank in any of its duly author-

ized depositaries shall be made in such manner as the board of trustees may from time to time determine. Proxies to vote with respect to shares or accounts of other banks or associations or stock of other corporations owned by or standing in the name of the bank may be executed and delivered from time to time on behalf of the bank by the president or a vice president and the secretary or an assistant secretary of the bank or by any other person or persons thereunto authorized by the board of trustees.

Section 6. *Amendment.* These bylaws may be amended at any time by a two-thirds affirmative vote of the entire board of trustees, or by a vote of the members of the bank. Each and every amendment shall, however, be subject to the approval of the Bank Board, and shall be ineffective until such approval has been given.

§ 577.2-1 Amendment to bylaws.

This section constitutes approval by the Board of the following amendments to the bylaws of a Federal mutual savings bank provided that they, or any one of them, are adopted by a two-thirds affirmative board of trustees vote, of by a vote of the bank's membership, and that any bylaw so adopted is properly filed with the Board.

(a) *Age limitation on trustees.* No person shall be eligible for election, reelection, appointment, or reappointment to the board of trustees of the bank if such person is then more than (fill in any age from 70 or above) years of age. No trustee shall serve beyond the annual meeting of the bank immediately following his attainment of (fill in the same age from 70 or above as used above) years of age; except that any such trustee serving on (fill in date of adoption of bylaw) may complete the unexpired portion of his or her term being served on such date. This age limitation shall not apply to a person serving as an advisory trustee or trustee emeritus of the bank.

(b) *Age limitation on officers.* No person shall be eligible for election, reelection, appointment or reappointment as an officer of the bank if such person is then more than (fill in any age from 70 or above) years of age. No officer shall serve beyond the annual meeting of the bank immediately following his attainment of (fill in the same age from 70 or above used above) years of age; except that any such officer serving on (fill in date of adoption of bylaw) may complete the unexpired portion of his or her term being served on such date.

PART 578—OPERATIONS

Sec.
578.1 General.
578.2 Investments and activities.
578.3 Branch offices and other facilities.
578.4 Applicability of State laws and regulations.

AUTHORITY: Section 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.)

§ 578.1 General.

Except as otherwise provided in this Subchapter or by specific Board orders, or except to the extent as may be otherwise inconsistent with this Subchapter or with the Act, as determined by the Board's Office of the General Counsel, a Federal mutual savings bank shall be subject to the Rules and Regulations for the Federal Savings and Loan System (Part 541 *et seq.* of this Chapter) and to the Rules and Regulations for Insurance of Accounts (Part 561 *et seq.* of this Chapter), just as if it were a Federal savings and loan association. The trustees of each mutual savings bank shall be subject to all of the above rules and regulations that pertain to directors of Federal savings and loan associations just as if they were directors.

As a member of a Federal Home Loan Bank, a Federal mutual savings bank shall also be subject to the Regulations for the Federal Home Loan Bank System (Part 521 *et seq.* of this Chapter).

§ 578.2 Investments and activities.

To the extent authorized by Board rules, regulations, or orders, a Federal mutual savings bank will be permitted to continue to carry on any activities it was engaged in on December 31, 1977, as a State-chartered savings bank, and to retain or make any investment of a type it held on that date, except that its equity, corporate bond, and consumer loan investments will not be permitted to exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of the conversion application.

§ 578.3 Branch offices and other facilities.

(a) Federal mutual savings banks will be permitted to establish branch offices and other facilities only in accordance with the limitations of State law, except that (1) such banks shall be exempt from any numberical limitations of State law on the establishment of such offices and other facilities, and (2) the Board may, in any case, authorize such banks to establish branch offices and other facilities in their own Standard Metropolitan Statistical Area, county, or within 35 miles of their home office, but only if any such office or facility also will be located within the bank's State of domicile.

(b) Subject to the restrictions in paragraph (a) above, applications for branch offices and other facilities and the operation of such shall be subject to the rules and regulations which apply to applications for such branch offices and other facilities by Federal savings and loan associations, and to any rules and regulations which apply to the operation of branch offices and other facilities by such associations.

§ 578.4 Applicability of State laws and regulations.

Mutual savings banks permitted to convert to Federal charter will be subject, as enforced and supervised by the Board, to the requirements of State law (including any regulations promulgated thereunder and any sanction for the violation of any such law or regulation) in effect at the time of conversion, pertaining to discrimination in the extension of home mortgage loans or adjustment in terms of mortgage instruments based on neighborhood or geographical area, or to the Consumer Credit Protection Act (15 U.S.C. 1601 *et seq.*), if the Board determines that the State law imposes more stringent requirements than Federal law and regulations.

APPLICATION FOR A FEDERAL MUTUAL SAVINGS BANK CHAPTER

Date _____.

To: Federal Home Loan Bank Board, Washington, D.C.

The undersigned hereby applied for a Federal Mutual savings bank charter to be issued with the full corporate title of _____, or such other name as the Bank board may deem appropriate, to be located at _____, and in support of which the applicant states and represents that:

(1) It will pay the cost of all examinations ordered by the Bank Board, including any required eligibility examination, audits, appraisals, and character-credit-financial reports, whether or not it withdraws the application, or whether or not the application is approved;

(2) It will permit the Bank Board to have access to any information or report with respect to any examination made by any regulatory authorities and will furnish any additional information with respect thereto as the Bank Board may require, and will furnish such additional information with respect to its operations as requested by the Bank Board; and

(3) All of the information submitted in support of this application, and which is attained hereto, is in all respects accurate and consistent with the facts.

_____
(Applicant)

_____
(Street)

_____
(City and State)

By _____
(President)

Attest: [SEAL]
_____
(*Secretary.*)

INSTRUCTIONS

(1) Applicant's proposed corporate title following issuance of a Federal charter shall

include the words "Federal mutual savings bank", or a suitable abbreviation thereof.

(2) Attached to this application shall be:

(a) A copy of a resolution, duly certified by the applicant's secretary, of the applicant's board of trustees, managers, or directors, authorizing the execution of the application and its submission, along with all required supporting information, to the Bank Board. In the case of corporator savings banks, evidence of action of the corporators authorizing this application shall also be attached.

(b) All of the information required by the Bank Board's "Outline of Information to be Submitted in Support of an Application for Issuance of a Federal Mutual Savings Bank Charter".

(3) Four copies of this application, properly executed, and of all required supporting information, shall be filed with the appropriate Federal Home Loan Bank.

NOTICE OF FILING OF APPLICATION FOR A FEDERAL MUTUAL SAVINGS BANK CHAPTER

This is to inform the public that under § 567.1 of the Rules and Regulations for Federal Mutual Savings Banks, (fill in the name of applicant), of ———(street address), (city), (state), has filed an application for a Federal mutual savings bank charter.

Any person may file a written communication in favor or protest of the application. Communications may be based on but are not limited to a discussion of local community credit needs. Four copies must be submitted to the Supervisory Agent, located at the Federal Home Loan Bank of (city), (address), (state), by (insert appropriate date). An additional 20 days to submit comments may be obtained by filing a written request with the Supervisory Agent by (same date as above). The application and all communications so filed will be available for inspection by any person at the Federal Home Loan Bank of (city), unless application information is excepted by law from public disclosure.

FEDERAL HOME LOAN BANK BOARD, WASHINGTON, D.C.

OUTLINE OF INFORMATION TO BE SUBMITTED IN SUPPORT OF AN APPLICATION FOR ISSUANCE OF A FEDERAL MUTUAL SAVINGS BANK CHARTER

Applications for issuance of a Federal mutal savings bank charter, in the form of FHLBB , shall be supported by the information outlined below and, when completed, four copies of all of the required material shall be filed with the Supervisory Agent at the Federal Home Loan Bank of the District wherein the applicant mutual savings bank is located.

All of the information should be bound, and organized and labeled in the same manner as the outline. Copies of documents making up Exhibits A, F1, and F2, shall be duly certified as true by the applicant's Secretary.

The application form, and all information submitted in support thereof will be available for public inspection, unless a request is received and granted for confidential treatment of any information excepted by law from public disclosure.

EXHIBIT A

Applicant shall submit, as applicable, copies of its:

(1) Charter or articles of incorporation, and bylaws or constitution, together with any outstanding amendments thereof;

(2) Savings and demand account forms of all types, and of any such forms which the applicant proposes to issue following conversion to Federal charter;

(3) Proposed membership (if not contained in such forms above), and proxy forms;

(4) Borrower security forms of all types;

(5) Latest State examination report together with copies of all the State supervisor's correspondence in reference thereto;

(6) Latest examination report of the Federal Deposit Insurance Corporation together with copies of all correspondence from such Corporation in reference thereto;

(7) Financial reports filed within the past year with State and Federal regulatory authorities;

(8) Latest audit report by independent public accountants; and

(9) Latest published financial report.

EXHIBIT B

Applicant shall supply a list of the addresses of all of its branch offices and other facilities.

EXHIBIT C

A confidential biographical and financial report, in the form of FHLBB Form 139, Rev. March 1977, shall be submitted for each member of the applicant's governing board, *i.e.*, board of trustees, managers, or directors, and for each of its senior managing officers.

EXHIBIT D

Applicant shall submit copies of all State laws and regulations which pertain to discrimination in the extension of home mortgage instruments based on neighborhood or geographical area, or which pertain to the Consumer Credit Protection Act (15 U.S.C. 1601 *et seq.*).

EXHIBIT E

Applicant shall submit a copy of its latest Community Reinvestment Act Statement, amended as may be necessary to comply with this paragraph. Those applicants who have not been required to prepare such a statement should prepare one in a form consistent with § 563e.4 of the Rules and Regulations for Insurance of Accounts (12 CFR 563e.4). All applicants should ensure that the statements they submit clearly show their specific intention and commitment to be home-financing institutions, and they should verify that the statements have been adopted by their governing boards. Also, as part of this Exhibit, applicants should indicate how their ratio of home-financing investments to total assests compares with such ratio of other thrift institutions in the community or communities within which they operate, should comment on the character of the local home-financing market(s), and should describe their loan underwriting standards.

EXHIBIT F

Applicant shall specifically set forth: 1. Those activities that it was engaged in on December 31, 1977, the types of investments it held on that date, and the statutory and/or regulatory basis for each of such, and shall indicate which of such activities and types of investments that it proposes to engage in and to make following conversion to Federal charter. In this connection applicant should document the extent to which it was engaged in such activities on December 31, 1977, and/or the amount of such investments it held on that date. Any activities or investments not specifically authorized by applicable Bank Board regulations, rules, or orders, may not be continued or held following conversion to Federal charter.

2. Its average ratio of equity, corporate bond, and consumer loan investments to its total assets for the five-year period immediately preceding the filing of the application. In this connection the applicant should document how it computed the ratio, and should supply copies of the applicable parts of its financial reports from which the figures making up the ratio were taken.

EXHIBIT G

Applicant shall set forth the manner in which it proposes to provide for depositor and borrower voting privileges consistent with the prescribed Federal mutual savings bank charter form (12 CFR 577.1), or meeting at least those minimum requirements set forth in 12 CFR 576.4(a)(2). In the case of the latter, the applicant shall provide information showing how broadly based and representative of the community or communities in which it operates is its governing board, *i.e.*, board of trustees, managers or directors.

EXHIBIT H

Applicant shall set forth any requirements of State law applicable to its proposed conversion to Federal charter, and shall indicate what steps it has taken to comply with such requirements. Applicant shall also indicate what effect, if any, its conversion to Federal charter will have upon creditor, borrower, or accountable rights.

Evidence of any State action on applicant's proposal to convert to Federal charter shall be submitted. A Federal charter will not be issued if such action would be in contravention of State law.

(Section 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.

J. J. FINN,
Secretary.

[FR Doc. 79-7742 Filed 3-13-79; 8:45 am]

[7535-01-M]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Parts 740, 745]

ADVERTISEMENT OF INSURED STATUS; CLARIFICATION AND DEFINITION OF ACCOUNT INSURANCE COVERAGE

Proposed Rulemaking

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend Parts 740 and 745 of the NCUA Rules and Regulations to state that Federally insured credit unions need not display the official "Advertisement of Insured States" sign, or make available a brochure of questions and answers on insurance of member share accounts or deposits at locations where members conduct business with the credit union through the use of shared or unshared automated teller machines or point of sale terminals.

DATES: Comments must be received on or before May 7, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Layne L. Bumgardner, Office of Examination and Insurance, at the above address. Telephone: (202) 254-8760.

SUPPLEMENTAL INFORMATION: The National Credit Union Administration has required display of the official sign for all insured credit unions at locations where members obtained credit union service through the use of automated teller machines and/or point of sale terminals. This requirement was imposed because of the language in Section 740.3(a) of the NCUA Rules and Regulations. "Each insured credit union shall continuously display an official sign as hereinafter prescribed at each station or window where insured shares or deposits are usually and normally received in its principal place of business and in all its branches."

Section 740.3(c) of the NCUA Rules and Regulations also specifically imposed additional requirements concerning identification of insured and uninsured financial institutions in service centers or branches.

After conducting a number of pilot programs, the Administration believes that the advertising requirement for display of an official insurance sign should not apply to automated teller machines or point of sale terminals, because of the confusion caused in situations where several insured institutions share equipment, and each is insured by several different State and Federal agencies. Furthermore, the Administration finds no need to require display of the official sign in proprietary automated teller machine and point of sale terminal operations.

Section 745.13 of the NCUA Rules and Regulations requires that a brochure of questions and answers on insurance of deposits be made available at each teller's station or window to credit union members whose accounts are insured by the National Credit Union Share Insurance Fund. For the same reasons expressed concerning requiring display of the official sign, the Administration believes this requirement should be eliminated.

LAWRENCE CONNEL,
Administrator.

MARCH 7, 1979.

AUTHORITY: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

Accordingly, it is proposed that 12 CFR 740 be amended by adding the following paragraph after the end of § 740.3(d):

§ 740.3 Mandatory requirements with regard to the official sign and its display.

* * * * *

(e) Automated teller machine and point of sale terminal exception. For purposes of this section the terms "branch," "station," "teller station," and "window" do not include automated teller machines or point of sale terminals.

And it is proposed that 12 CFR 745 be amended by adding the following sentence at the end of § 745.13:

§ 745.13 Notification of depositors/shareholders.

* * * For purposes of this section the terms "teller station" and "window" do not include automated teller machines or point of sale terminals.

[FR Doc. 79-7752 Filed 3-13-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Proposed Rule To Establish a Size Standard for a Small Coal Mining Firm for Purposes of Small Business Set-Aside Leases on Federal Coal Land

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: On December 8, 1978, the SBA published in the FEDERAL REGISTER (43 FR 57611) an advance notice of proposed rulemaking to determine the maximum allowable firm size for bidders to be eligible as small businesses for set-asides of Government-owned land containing coal. The notice included an extensive description of the coal mining industry, considerations for making a size standard, and a proposal of from 50 to 250 employees per firm as the range from within which a size standard might be chosen. This present action is intended to indicate a specific proposed size standard of 250 employees and to solicit any further public comment.

DATE: All comments must be received on or before April 13, 1979.

ADDRESS: Send all comments to:

Kaleel C. Skeirik, Director, Size Standards Division, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Harvey D. Bronstein, (202) 653-6373.

SUPPLEMENTARY INFORMATION: The advance notice of proposed rulemaking (December 8, 1978) stimulated little public response. The Agency received only one comment, and it suggested 1 million tons of coal output per year rather than number of employees as a size standard. We believe that the employee measure of firm size is preferable because it can account for all activities of a firm, not just its coal production.

The Agency's concern in establishing this size standard is to make it low enough so that it excludes large firms, yet high enough so that the firms designated as small are capable of mining a sizeable tract of land. For this reason and the reasons described in our December 8, 1978, submission to the FEDERAL REGISTER, we propose a small business size standard of 250 employees for firms to be eligible to bid for leases on set-asides of Government land.

Accordingly, pursuant to authority contained in section 5(b)(6) of the Small Business Act, as amended, 15 U.S.C. 634 et seq., Section 3 of Part 121, Chapter I of Title 13, Code of Federal Regulations, is proposed to be amended by changing the title of Section 121.3-9 and adding a new paragraph (d) as follows:

§ 121.3-9 Definition of small business for sales or lease of Government property.

* * * * *

(d) Any firm bidding to lease Government land for purposes of coal mining is classified as small if:

(i) It is independently owned and operated;

(ii) It is not dominant in its field of operation;

(iii) Together with its affiliates, its number of employees does not exceed 250 persons during any pay period for the last 12 months; and

(iv) Any transfer of the lease from the holder of the original set-aside must be to another small business within the meaning of this paragraph.

Dated: March 7, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-7737 Filed 3-13-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 440]

HEARING AID INDUSTRY

Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Reopening the post-record comment period.

SUMMARY: On March 6, 1979 the Federal Trade Commission voted to reopen for fifteen days the period during which comments concerning the Staff Report and the Report of the Presiding Officer on the Hearing Aid Industry may be filed. Post-record comments will, therefore, be accepted for the public record if received within fifteen days after the date of publication of this notice; that is, on or before March 29, 1979.

DATES: Comments on or before March 29, 1979.

ADDRESSES: Comments should be sent to: Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

James Skiles, 202-724-1511, Deputy Assistant Director for Food and Drug Advertising, Federal Trade Commission/PF, Washington, D.C. 20580, or Robert L. Patterson, 202-724-1497, Attorney, Division of Food and Drug Advertising, Federal Trade Commission/PF, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On November 20, 1978 the Director of the Bureau of Consumer Protection published a notice of the issuance of the Staff Report on the Hearing Aid Industry in the FEDERAL REGISTER, at 43 FR 54103. Pursuant to § 1.13(h) of the Commission's rules of practice, the issuance of this report commenced the final sixty-day period within which comments on both the Staff Report and the Report of the Presiding Officer (*see* 42 FR 43867, August 31, 1977) could be filed. Therefore, the notice indicated that public comments would be accepted if received on or before January 19, 1979.

In response to two requests for extensions of the time within which to file post-record comments, on December 28, 1978 the Commission extended the comment period by thirty days, through February 19, 1979. Inadvertently, a notice to this effect was not published in the FEDERAL REGISTER. It is consequently possible that some interested persons may not have been aware that the comment period had been extended. In order to insure that all interested persons have an adequate opportunity to present their comments on the Staff Report and the Report of the Presiding Officer, the Commission has determined that the post-record comment period should be reopened for an additional fifteen days. Therefore, comments on these reports will now be accepted if received on or before march 29, 1979. Comments should be identified as "Comments on Staff and Presiding Officer Reports, Hearing Aid Industry TRR," and addressed to the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580. When feasible, five copies should be submitted.

The following documents can be requested from the Commission: The Report of the Presiding Officer; the Rule recommended by the Staff, together with a brief summary of the Staff Report; and the Staff Report, together with Appendices A through F thereto. Requests for copies of these documents should be sent to the Distribution Branch, Room 720, Federal Trade Commission/SSD, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

The Commission cautions all concerned that the Staff Report has not been reviewed or adopted by the Commission, and that its publication should not be interpreted as reflecting the present views of the Commission, or of any individual member thereof.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc. 79-7739 Filed 3-13-79; 8:45 am]

[7710-12-M]

POSTAL SERVICE

[39 CFR Part 111]

POSTAGE METERS AND METER STAMPS

Computerized Remote Postage Meter Resetting System

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule would permit the user of a specially equipped postage meter to reset the meter at his place of business, thereby eliminating the need for the meter user to take his meter to the licensing post office to have additional postage set in it. This would result in greater customer convenience and possibly encourage increased use of postage meters.

DATE: Comments must be received on or before March 26, 1979.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Room 1610, 475 L'Enfant Plaza SW, Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Office of Mail Classification, Room 1610, 475 L'Enfant Plaza, SW, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Mr. F. E. Gardner, (202) 245-4529.

SUPPLEMENTARY INFORMATION: On December 12, 1978 the Postal Service issued the following press release explaining the proposed Computerized Remote Postage Meter Resetting System:

U.S. POSTAL SERVICE INTRODUCES COMPUTERIZED POSTAGE METER RESETTING

Washington, D.C., December 12—The U.S. Postal Service and Pitney Bowes today unveiled a new system which enables companies to reset their postage meters by a telephone-to-computer link-up.

Pitney Bowes calls the new system, which it developed, the Remote Meter Resetting System. It will be introduced in early 1979.

Customers will be able to reset postage meters in their own offices by means of a telephone call to a computer center, eliminating trips to the post office for meter resetting. Funds for resetting additional postage are predeposited in a trustee bank account.

Postmaster General William F. Bolger said that computerized meter resetting systems offer distinct benefits for the postal customer and the Postal Service.

"This computerized meter resetting system will provide added convenience to the mailer, who no longer will have to take his meter to the post office periodically for resetting. It will allow the Postal Service to reduce its cost associated with meter setting," Mr. Bolger said.

The system is expected to accelerate the collection of payments for meter postage. In 1977, $6.1 billion of Postal Service revenue was collected through postage meter settings.

Pitney Bowes said its RMRS system represents the most dramatic breakthrough in postage meter technology since it pioneered the metered mail system in 1920.

"Postal Service approval was granted on the basis of two years of field tests at customer sites, laboratory analysis of the RMRS meter, and a

review of our funds-transfer procedures," Fred T. Allen, chairman and president of the business systems and equipment company, said. He explained that before postage meters are approved by the Postal Service, they must meet stringent requirements for reliability and fool-proof operation to protect postal revenues.

"The RMRS system represents the first successful attempt to link the familiar postage meter with computer technology," Mr. Allen said.

To reset a meter under the RMRS system, the meter user telephones the Pitney Bowes computer center and enters the required code information as requested by a voice response activated by the computer. If the data is accurate and acceptable, the user is then issued a unique resetting number which activates a special unlocking mechanism and permits crediting of the meter with a specified amount of postage.

Postage continues to be paid to the Postal Service as it has in the past. Funds deposited by customers in the trustee accounts will be transferred to the Postal Service Federal Reserve account on a daily basis to cover meter resettings. Postage meters for the new system have been designed for single and multiple increments of $200 and $2,000.

Pitney Bowes plans to introduce its RMRS system in other countries when post office approvals are obtained and the necessary equipment manufactured. A field test of the system is being planned for 1979 in the United Kingdom.

* * * * *

Because of the wide and favorable publicity given this release, and the desire to put the new system into operation as soon as possible, the Postal Service is publishing the following implementing regulations with a period for public comment shorter than is usually provided. However, comments received after the comment deadline or after the expected adoption of the final rules will be considered and acted upon as appropriate in any future revisions of the rules.

Although exempt from the requirements of the Administrative Procedure Act (5 USC 553(b), (c)) regarding proposed rulemaking by 39 USC 410(a), the Postal Service invites public comments on the following proposed amendments of the Postal Service Manual:

PART 144—POSTAGE METERS AND METER STAMPS

1. In 144.3 add new .39 reading as follows:

144.3 Setting Meters

* * * * *

.39 COMPUTERIZED REMOTE POSTAGE METERS RESETTING.

The computerized remote postage meter resetting system permits the users of certain postage meters with specially designed locking mechanisms to have such meters electronically reset at their places of business. The system employs a postage meter equipped with a resetting mechanism which contains a lock that operates with unique one-time use combinations. The customer obtains the correct combination from the manufacturer's data center, keys it into the lock, and then is able to add an amount of postage to the meter after he has made an advance deposit for the payment of postage at a designated trustee bank. To obtain the combination, the customer communicates with the manufacturer's data center and provides identifying data and meter register readings. The data center verifies the data and checks the status of the customer's advance deposit account balance at a trustee bank, before providing the customer with the combination. The customer's advance deposit account at the trustee bank is charged following notification of the transaction by the manufacturer. The bank wires payment for the postage to the Postal Service Federal Reserve Bank Account. The manufacturer provides required information to the customer for each meter resetting and is responsible for ensuring that funds are transferred to the Postal Service's account during the morning of the following banking day.

.391 CHECK IN PROCEDURES.

a. A customer shall not have a meter equipped with this electronic device in his possession until it has been checked into service by the licensing post office. However, no postage is to be set in these meters by the licensing post office. The manufacturer will bring the meter to the post office where it is to be examined prior to delivery to the customer unless it is initially checked into service in accordance with 144.381b.

b. When the manufacturer brings a meter to the licensing post office for the initial check-in, the postal employee shall:

(1) Perform the physical inspection in accordance with 144.341c;

(2) Enter the date, the ascending and descending register readings and control total on a Form 3610;

(3) *Not* make any adjustments to the meter registers. (Settings will be done by the customer using the computer-provided combinations); and

(4) Retain the Form 3610 in a separate section of the file from other meter records.

.392 VERIFICATION AND EXAMINATION.

a. Customers shall bring meters to the licensing post office every six months for examination. The manufacturer shall notify customers of the dates on which meter examinations are due. Combinations for resetting shall not be provided by the manufacturer if the meters are not brought in for examination within two weeks after the due date. The manufacturer may call the licensing post office to request confirmation that a meter has not been submitted for examination as required by this section.

b. The manufacturer shall send a current machine generated Form 3610 to the licensing post office for each customer every six months (see 144.976e). In addition to the required data, the date of each phone call received from the licensing post office under 144.392c(3), as well as the control total which was given to the postal clerk on that call shall be recorded and kept on file by the manufacturer to allow for a cross check of the physical examination records of the post office with those of the manufacturer.

c. When the customer brings a meter into the licensing post office for the six-month examination, an authorized postal employee shall:

(1) Perform the physical inspection in accordance with 144.341;

(2) Enter the date, the ascending and descending register readings and the control total in the post office copy of the Form 3610;

(3) Verify the control total of the meter by:

(a) Telephoning the manufacturer's data center on the manufacturer's toll-free number;

(b) Identifying his post office branch or station finance number and requesting the register total of the meter, which he shall identify by its serial number;

(c) Entering the control total given by the manufacturer's data center on the Form 3610, below the control total which he has taken in accordance with 144.392c(2). The customers Form 3602A, Record of Meter Settings, will also be updated to show the verification.

d. If there is any difference between the totals which cannot be immediately resolved, the meter shall be checked out of service in accordance with 144.352.

.393 CUSTOMER ADVANCE DEPOSITS.

An advance deposit of funds covering the desired postage increments must be on deposit in the customer's account at the trustee bank prior to each resetting transaction call. The trustee bank shall notify the manufacturer of the amounts received from

each customer each day. The manufacturer shall ensure that its data center computer will be updated to reflect each new customer deposit.

.394 SETTING AND PAYMENT.

For each request for a postage meter resetting, the customer shall provide the manufacturer with the meter serial number, the customer account number, and the meter's ascending and descending register readings. The manufacturer shall verify that the information provided the customer is consistent with its records, and that there are adequate funds in the customer's account to cover the postage setting requested before providing an appropriate lock combination. If the customer desires additional pre-determined increments of postage, he may request and receive additional lock combinations, provided sufficient funds are on deposit. Immediately following each resetting, the manufacturer shall direct the trustee bank to charge the customer's account for the amount of the postage reset. After the completion of each transaction, the manufacturer shall promptly provide the customer with a statement of account documenting the transaction and the balance remaining in the customer's trust account.

2. In 144.9 redesignate .97 as .98 and add new .97 reading as follows:

144.9 Manufacture and Distribution of Postage Meters.

* * * * *

.97 COMPUTERIZED REMOTE POSTAGE METER RESETTING.

.971 DEPOSIT WITH POSTAL SERVICE.

Each manufacturer leasing meters equipped with computerized resetting equipment shall maintain on deposit an amount, to be held in a Postal Service account, which represents the average daily postage set on these meters during the most recently concluded Postal Service accounting quarter. The amount of this deposit shall be calculated by dividing the total value of the manufacturer's computerized settings during the last quarter by the number of Postal Service working days in that quarter. The deposit shall be adjusted to reflect each such calculation within thirty days after the close of each Postal Service quarter.

.972 BOND.

The manufacturer shall provide an indemnity bond equal to an average day's computerized resettings as determined for the calculation of the advance deposit pursuant to 144.971, provided, however, that this bond shall not be less than $10,000. The purpose of this bond is to indemnify the Postal Service for loss of postal revenues resulting from erroneous or unauthorized meter settings.

.973 REVENUE PROTECTION.

The Postal Service and the manufacturer will conduct periodic assessments of the revenue protection features in the system. If the results of such reviews indicate either a loss of postal revenue or non-prepayment of postage, resulting from the use of the system, the manufacturer shall take appropriate corrective measures.

.974 EQUIPMENT.

The postage meters, used in the computerized resetting system must conform to the specifications in 144.92, be tested in accordance with 144.93, and conform to the safeguards, distribution, and maintenance requirements of 144.94, 144.95 and 144.96 so as to protect the Postal Service against loss of revenue from fraud, manipulation, misoperation, or breakdown.

.975 OPERATION.

a. The manufacturer shall establish a trustee account at a bank or banks approved by the Postal Service to handle the deposits of customers. The manufacturer shall make arrangements with such banks under which the banks will inform the manufacturer of the amounts of customer funds received each banking day.

b. The manufacturer shall require each customer to deposit and maintain funds in his account which are adequate to cover the desired postage increment prior to each resetting transaction call. The manufacturer shall require each trustee bank to notify the manufacturer daily of the amounts received from each customer. The manufacturer shall ensure that its data center computer is programmed to reflect each customer deposit.

c. The manufacturer shall require each customer requesting that his meter be reset to provide the meter serial number, the customer account number, and the meter's ascending and descending register readings. Before providing an appropriate lock combination, the manufacturer shall verify that the information provided by the customer is consistent with its records, and that there are adequate funds in the customer's account to pay the postage setting requested. Immediately following each such resetting, the manufacturer shall direct the trustee bank to charge the customer's account for the amount of the postage reset. After the completion of each transaction, the manufacturer shall promptly provide the customer with a statement of account documenting the transaction and stating the balance remaining in the customer's account.

d. The manufacturer shall make appropriate arrangements with the trustee banks for the daily transfer of funds from customer deposit accounts to the Postal Service's account in a Federal Reserve Bank. The manufacturer shall not have access to funds on deposit at trustee banks except for purposes of refunding trust account deposits to customers and transferring payments for postage to Postal Service accounts.

e. The manufacturer shall ensure that each customer transaction is registered as a computer entry transferring an appropriate dollar amount from the customer's deposit account to a postal payment due account. The manufacturer shall make a payment from its own funds to the appropriate Postal Service account for each transaction not fully covered by an advance deposit in the customer's account.

f. Each banking day, the manufacturer shall request the trustee banks to transfer, by 1000 hours local trustee bank time, amounts payable to the Postal Service as a result of the transactions during the previous day to a designated Postal Service account at a designated Federal Reserve Bank.

.976 REPORTS.

The manufacturer shall provide the following reports. The licensing post office, branch or station shall be identified in such reports by finance number and station branch code. The information that shall be provided in each report is specified below:

a. The daily *Funds Transfer Report* shall provide a summary of the total reset activity for each business day. It will be used to confirm the daily funds authorized for transfer from the trustee bank to the designated Federal Reserve Bank.

The report shall include the following information:

(1) The identification of the report and the date of the activity being reported;

(2) The time the funds were authorized for transfer; and,

(3) The amount of the funds authorized for transfer to the Postal Service Federal Reserve Bank account.

b. The daily *Detail Transaction Log*, available to the Postal Service on request, will detail the total activity for a given business day, and must include:

(1) The identification of the report and the date of the activity being reported;

(2) The identification of individual transactions; Each entry must show the following information:

(a) The transaction number—A sequential number which identifies each item entered into the transaction log;

(b) The customer's name;

(c) The meter serial number;

(d) The post office branch or station finance number and station/branch code;

(e) The control totals—both for before and after transaction, the difference being the amount of the reset increment; and,

(f) The transaction amount—The value of postage set into each custom-

er's meter for each transaction using the combination(s) issued.

(3) A report of the meters checked into and out of service; and,

(4) The clearing transaction—This total will be the amount of money authorized for transfer from the trustee bank to the Postal Service for the period being reported.

c. *The Accounting Period, Revenue by Accountable Post Office/Meter Report File* shall be submitted at the end of each accounting period to each accountable post office. It shall include post office finance account numbers, meter serial numbers, customer names, and the amount of resettings that have taken place for each meter during the accounting period being reported. Total postage set into CMR meters during that period for that post office shall also be shown in the report file.

d. *The Commerical Meter Resetting System Revenue Summary by Accountable Post Office Report File* shall be submitted to the designated Postal Data Center at the end of each accounting period. The manufacturer shall incorporate all resetting transaction data into one accounting period summary report file identifying the revenue for each accountable post office, by finance number.

e. A Form 3610, *Record of Postage Meter Settings*, for each meter. This report will be forwarded to each licensing post office approximately three weeks prior to, and in conjunction with, each meter's scheduled six month examination due date. It will serve in part as notification to the licensing post office that a physical examination is due for a given meter within the subsequent three week period and will contain a record of the last physical examination if any. It will also contain the same information which is kept by the post office meter clerk for all meters and summarizes customer meter activity during the quarter.

.977 INSPECTION OF RECORDS AND FACILITIES.

The manufacturer shall make its facilities involved in the operation of the computerized resetting system and all records concerning the operation of the system available for inspection by representatives of the Postal Service at all reasonable times.

3. Amendments to make the non-computerized meter resetting regulations of the Postal Service consistent with those proposed here will be published at the time of adoption of this proposal.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401(2), 404 (a)(2), (4)).

W. ALLEN SANDERS,
Acting Deputy General Counsel.

[FR Doc. 79-7699 Filed 3-9-79; 3:48 pm]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 86]

[FRL-1076-5 Docket No. OMSAPC-78-3]

PARTICULATE REGULATIONS FOR LIGHT-DUTY DIESEL VEHICLES

Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: General Motors Corporation (GM) has asked for an opportunity to make a presentation to EPA concerning a proposed concept for (944 FR 6650, February 1, 1979) for light-duty diesel vehicle particulate emission control in which a manufacturer would be allocated a total allowable tonnage of particulate emissions for his light-duty diesel fleet. EPA has ageed to GM's request on the condition that its presentation be open to the public and be transcribed for inclusion in the record of the rulemaking described below. This notice announces the time and place for that meeting.

DATE: Friday, March 16, 1979.

ADDRESS: The meeting will be held in the conference room of the EPA Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan. It will start at 1:00 p.m. and will last approximately two hours.

FOR FURTHER INFORMATION CONTACT:

Paul A. J. Wilson,
Regulatory Management Staff,
Office of Mobile Source Air Pollution Control
Environmental Protection Agency,
401 M Street, SW.,
Washington, D.C. 20460,
Telephone: 202-755-0596.

SUPPLEMENTARY INFORMATION: On February 1, 1979. EPA published a notice of proposed rulemaking (NPRM) in the FEDERAL REGISTER (44FR 6650) which proposed standards for particulate emissions from diesel-fueled light-duty vehicles and light-duty trucks. In the preamble to that NPRM, EPA invited public comments on an alternative to the proposed emission standards which was suggested by a manufacturer of light-duty diesel vehicles. That alternative, which was recommended for consideration by GM, proposes that EPA allocate each light-duty diesel manufacturer a fixed total of permissible particulate emissions for a given model year rather than setting a single emission standard which all vehicles would be required to meet. Within that corporate emissions allotment, a manufacturer would be able to vary his product mix in response to marketing or other demands.

GM has asked EPA to provide an opportunity for the company to present a discussion of this alternative particulate control concept prior to the public hearing on the proposed regulation [which is scheduled for March 19, 1979, see 44 FR 11802 (March 2, 1979)]. EPA has agreed to provide an opportunity for GM's presentation in a public meeting. This meeting will be recorded, and a transcript, as well as copies of any exhibits presented by GM, will be entered into the record of this rulemaking and will be available in the public docket (OMSAPC-78-3).

Dated: March 9, 1979.

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

[FR Doc 79-7799 Filed 3-13-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[46 CFR Part 502, 503]

[Docket No. 79-13]

FEES FOR SERVICES

Proposed Rulemaking

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: In accordance with guidelines of the Office of Management and Budget, the Federal Maritime Commission is updating existing fees and charges and establishing new fees to recover the costs incurred by the Federal government for specific services rendered to identifiable individuals that are not offered to the public as a whole. Periodical reassessment of fees is called for by these guidelines.

DATES: Comments on or before April 27, 1979.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: In the provisions of Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483(a)), hereinafter referred to as "Title V," Congress has stated that "any work, services, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility performed, furnished, provided, granted, prepared, or issued by any Federal agency * * * to or for any person * * * shall be self-sustaining to the full extent possible." In order to bring about the accomplishment of this objective, Title V authorizes the head of each agency to prescribe by regulation such fees and charges as he shall determine * * * "to be fair and equitable taking into consideration direct and indirect cost to the government, value to the recipient, public policy or interest served and other pertinent facts."

This enabling legislation also provides that the fees and charges shall be as uniform as practicable and subject to such policies as the President may prescribe. On September 23, 1959, the Bureau of the Budget, now the Office of Management and Budget, issued Circular No. A-25, which sets forth general policies for developing a fair, equitable and uniform system of charges for certain government services and property so as to implement the applicable provisions of Title V. Essentially, Circular No. A-25 requires that a reasonable charge be made to each recipient for a measurable unit or amount of Federal Government service from which he derives a benefit in order that the Government recover the full cost of rendering that service. The Circular further calls for a periodical reassessment of costs, with related adjustment of fees, if necessary, and the establishment of new fees where none exists.

Pursuant to these guidelines, the Commission proposes to adopt a schedule which will prescribe new fees for certain services and also to update existing fees and charges, adjusted to reflect the increased costs to the Commission. In considering the amount of the individual fees, the Commission has endeavored, by determining the cost to the Commission in providing the service, the value of the service to the recipient, and the public interest served, to determine the fair and equitable share of costs, which in the judgment of the Commission, should be borne by those who request the services and benefit from them. The costs of labor, supplies, and printing overhead were included in order to project the costs to the Commission.

Therefore, pursuant to the provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553) and Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483(a)), as implemented by Budget Circular No. A-25, dated September 23, 1959, and Rule 52 of the Commission's Rules of Practice and Procedure, 46 CFR 502.52, notice is hereby given that the Federal Maritime Commission proposes:

§ 502.27 [Amended]

I. To amend the second sentence of 46 CFR 502.27 to read as follows: "Applications by persons not attorneys at law for admission to practice before the Commission shall be made on the forms prescribed therefor, which may be obtained from the Secretary of the Commission, shall be addressed to the Federal Maritime Commission, Washington, D.C. 20573, and shall be accompanied by a fee as required by § 503.43(h) of this Chapter."

II. To revise Subpart E of Part 503, Title 46 of the Code of Federal Regulations to read as follows:

Subpart E—Fees

§ 503.41 Policy and Services Available.

Pursuant to policies established by the Congress, the Government's costs for special services furnished to individuals or firms who request such service are to be recovered by the payment of fees (Act of Aug. 31, 1951—5 U.S.C. 140).

(a) Upon request the following services are available upon the payment of the fees hereinafter prescribed:

(1) Copying records/documents.

(2) Certification of copies of documents.

(3) Records search.

(b) Fees shall also be assessed for the following services provided by the Commission:

(1) Subscriptions to Commission publications.

(2) Placing one's name, as an interested party, on the mailing list of a docketed proceeding.

(3) Processing nonattorney applications to practice before the Commission.

§ 503.42 Payment of fees and charges.

The fees charged for special services may be paid through the mail by check, draft, or postal money order, payable to the Federal Maritime Commission, except for charges for transcripts of hearings. Transcripts of hearings, testimony, and oral argument are furnished by a nongovernmental contractor, and may be purchased directly from the reporting firm.

§ 503.43 Fees for services.

The basic fees set forth below provide for documents to be mailed with postage prepaid. If copy is to be transmitted by registered, certified, air, or special delivery mail, postage therefor will be added to this basic fee. Also, if special handling or packaging is required, costs thereof will be added to the basic fee.

(a) Photo-copying of records and documents performed by requesting party will be available at the rate of 5 cents per page (one side), limited to size 8¼" × 14" or smaller.

(b) The certification and validation (with Federal Maritime Commission seal) of documents filed with or issued by the Commission will be available at $3.00 for each such certification.

(c) To the extent that time can be made available, records and information search and/or copying will be performed by Commission personnel for reimbursement at the following rates:

(1) By clerical personnel at a rate of $5.00 per person per hour.

(2) By professional personnel at an actual hourly cost basis to be established prior to search.

(3) Minimum charge for record and information search, $5.00.

(4) Minimum charge for copying services performed by Commission personnel, $1.00.

(5) *Exceptions.* No charge for copying or searching will be made for providing a single copy of a tariff page on file with the Commission.

(d) Annual subscriptions to Commission publications for which there are regular mailing lists are available at the charges indicated below for calendar year terms. Subscriptions for periods of less than a full calendar year will be prorated on a quarterly basis. No provision is made for refund upon cancellation of subscription by a purchaser.

(1) Orders, notices, rulings, and decisions (initial and final) issued by Administrative Law Judges and by the Commission in all formal docketed proceedings before the Federal Maritime Commission are available at an annual subscription rate of $175.

(2) Final decisions (only) issued by the Commission in all formal docketed proceedings before the Commission are available at an annual subscription rate of $50.

(3) General Orders of the Commission are available at the following rates: 1) initial set including all current General Orders for a fee of $12.50, and 2) an annual subscription rate of $2 for all amendments to existing Geneal Orders and any new General Orders issued.

(4) *Exceptions.* No charge will be made by the Commission for notices, decisions, orders, etc., required by law to be served on a party to any proceeding or matter before the Commission. No charge will be made for single copies of the above Commission publications individually requested in person or by mail. In addition, a sub-

scription to Commission mailing lists will be entered without charge when one of the following conditions is present:

(i) The furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization.

(ii) The recipient is another governmental agency, Federal, State, or local, concerned with the domestic or foreign commerce by water of the United States or, having a legitimate interest in the proceedings and activities of the Commission.

(iii) The recipient is a college or university.

(iv) The recipient does not fall into paragraphs (d)(4)(i), (ii), or (iii) of this section but is determined by the Commission to be appropriate in the interest of its program.

(e) To have one's name and address placed on the mailing list of a specific docket as an interested party to receive all issuances pertaining to that docket, costs $3.00 per proceeding.

(f) The Commission publication entitled "Automobile Manufacturers' Measurements" is available on a fiscal year subscription basis, including any supplements issued during the fiscal year in which purchased, for a fee of $5.00.

(g) Loose-leaf reprint of the Commission's complete, current Rules of Practice and Procedure for an initial fee of $2.50. Future amendments to the reprint are available at an annual subscription rate of $1.50.

(h) Applications for admission to practice before the Commission for persons not attorneys at law must be accompanied by a fee of $10.00 pursuant to § 502.27 of this Chapter.

(i) Upon a determination by the Commission that waiver or reduction of the fees prescribed in this section is in the public interest because the information furnished has been determined to be of primary benefit to the general public, such information shall be furnished without charge or at a reduced charge in the discretion of the Commission.

(j) Additional issuances, publications and services of the Commission may be made available for fees to be determined by the Managing Director, which fees shall not exceed the cost to the Commission for providing them.

Interested persons may participate in this rulemaking proceeding by filing with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 27, 1979 an original and 15 copies of their views or arguments pertaining to the proposed rules. All suggestions for changes in text should be accompanied by drafts of the language thought necessary to accomplish the desired change.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-7738 Filed 3-13-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-355; RM-3055]

INQUIRY ON PART-TIME PROGRAMMING

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Radio Foundation Inc., which proposed brokered part-time programming on a nonprofit basis, sought a month's extension of the deadline for reply comments imposed by the Notice of Inquiry in the proceeding in BC Docket 78-355. This action extends the deadline from February 23, 1979, to March 12, 1979.

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

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

FOR FURTHER INFORMATION CONTACT:

Stanley Wiggins, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

FEDERAL COMMUNICATIONS COMMISSION

ORDER EXTENDING TIME FOR FILING REPLY COMMENTS

Adopted: February 28, 1979.

Released: March 7, 1979.

By the Chief, Broadcast Bureau:

In the Matter of Notice of Inquiry on Part-Time Programming; BC Docket No. 78-355; RM-3055.

On October 31, 1978, the Commission issued a *Notice of Inquiry* on Part-Time Programming, 43 FR 55804, November 29, 1978, in this proceeding. The *Inquiry* is directed to possible Commission action to encourage part-time programming of broadcast facilities by parties other than the licensee, as well as the gathering of information on the experience of licensees currently involved in such activities. The date for filing comments has expired and the date for filing reply comments was February 23, 1979.

2. On February 16, the Radio Foundation, Inc., a not-for-profit New York corporation, petitioned for an extension of the reply comment deadline until March 26. The Foundation has informally explained that the filing of its request was delayed by severe inclement weather which has also delayed staff consideration of this request. In any event, the request is timely filed under Section 1.46 of our Rules. Foundation states in support of its request that its president has been engaged in visits to public radio stations and conferences, and has been unable to review initial comments in this *Inquiry* at the Commission's offices in Washington. Foundation further states that it intends to engage in brokered programming on either a commercial or public station, and that the complex issues involved in such use of radio for part-time programming require it to conduct substantial legal and economic research studies.

3. We believe that good cause for an extension has been demonstrated by the Foundation, and that their proposed submission should be considered as part of this proceeding to ensure the fullest consideration of various aspects of part-time programming. However, we consider that a 15-day extension should be adequate for preparation of reply comments, where the party involved is clearly conversant with the radio industry. Absent extraordinary circumstances, we contemplate no further extensions of time for filings in this proceeding.

4. Accordingly, *It is ordered,* That the date for filing reply comments in BC Docket 78-335 (RM-3055) IS EXTENDED to and including March 12, 1979.

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

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

[FR Doc. 79-7692 Filed 3-13-79; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11-M]

DEPARTMENT OF AGRICULTURE

Forest Service

NATIONAL GRASSLANDS GRAZING FEES

Notice

Notice is hereby given that the Forest Service, Department of Agriculture, has developed a National Grasslands grazing fee system which will be effective on March 1, 1979.

The grazing fee system establishes an economic value (EC) for grazing using a formula containing adjustment indexes for Forage Value, Beef Cattle Prices, and Prices Paid. The grazing fee system uses a 1966 base of $1.33 per animal month for the 17 National Grasslands in the 9 Plains States and $1.23 for the 2 National Grasslands in Oregon and Idaho. The 1979 economic value for 17 of the National Grasslands is $2.85 per animal month, and for the other 2 National Grasslands, the economic value is $2.03.

Annual increases or decreases in the grazing fee for any given year are limited to plus or minus 25 percent of the previous year's fee.

The formula use is similar to the formula established by the Public Rangelands Improvement Act of 1978 (Pub. L. 95-514) for the National Forests and the Bureau of Land Management administered lands in the 16 contiguous western States. The data used in the formula for the Forage Value and Beef Cattle Price Indexes, however, are specific to the National Grassland areas.

For the 17 National Grasslands in the 9 Plains States of Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas, the Forage Value and Beef Cattle Prices Indexes are compiled using data from the same 9 States. For the two National Grasslands in Oregon and Idaho, data from the 11 western States are used to develop the Forage Value and Beef Cattle Prices Indexes. A single Prices Paid Index is used for all National Grasslands. For 1979, the adjustment indexes in the 9 Plains States are: Forage Value Index=241, Beef Cattle Prices Index=219, Prices Paid Index=246. The 1979 adjustment indexes from the National Grasslands in Oregon and Idaho are: Forage Value Index=195, Beef Cattle Prices Index=216, Prices Paid Index=246.

The formula used in computing the National Grasslands fee follows:

$$EC = Base \times \frac{FVI + (BCPI - PPI)}{100}$$

EC=Economic Value
FVI=Forage Value Index
BCPI=Beef Cattle Prices Index
PPI=Prices Paid Index

Grazing fees for 1978 and 1979, and the 1979 economic value per animal month are shown below.

National grassland	Dollars per animal month		
	1978 grazing fee	1979 economic value	1979 grazing fee
Black Kettle	2.99	2.85	2.85
Buffalo Gap	3.44	2.85	2.85
Caddo	2.37	2.85	2.85
Cedar River	2.61	2.85	2.85
Cimarron	3.44	2.85	2.85
Comanche	2.64-2.80	2.85	2.85
Fort Pierre	3.44	2.85	2.85
Grand River	2.61	2.85	2.85
Kiowa	2.98-3.00	2.85	2.85
Little Missouri	1.94	2.85	2.42
Lyndon B. Johnson	2.37	2.85	2.85
McClellan Creek	2.99	2.85	2.85
Oglala	3.51	2.85	2.85
Pawnee	2.80	2.85	2.85
Rita Blanca	3.22	2.85	2.85
Sheyenne	2.11	2.85	2.64
Thunder Basin	2.25	2.85	2.81
Crooked River (Oregon)	1.57	2.03	1.96
Curlew (Idaho)	1.58-1.66	2.03	1.98-2.03

The National Grasslands grazing fee system is the result of a review started in early 1978. The review included an initial information collection and public participation period during June and July. A proposal was developed and made available for public review on November 9, 1978. The adopted procedures are a modification of the November 9, 1978, proposal.

An information package containing evaluation of alternatives and explanation of the fee system may be obtained by writing to:

Forest Supervisor, Custer National Forest, Box 2556, Billings, Mont. 59103.
Forest Supervisor, Cibola National Forest, 10308 Candelaria NE., Albuquerque, N. Mexico 87112.
Forest Supervisor, Ochoco National Forest, Federal Building, Prineville, Oreg. 97754.
Regional Forester, 11177 West Eighth Ave., Box 25127, Lakewood, Colo. 80225.
Forest Supervisor, Caribou National Forest, 250 S. 4th Avenue., Pocatello, Idaho 83201.
Forest Supervisor, National Forests in Texas, Federal Building, Box 960, Lufkin, Tex. 75901.

Dated: March 7, 1979.

JOHN R. MCGUIRE,
Chief, Forest Service,
U.S. Department of Agriculture.

[FR Doc. 79-7651 Filed 3-13-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Order No. 79-3-42]

EXCHANGE OF DISHONORED CHECK DATA

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-42.

SUMMARY: The Board adopted Order 79-3-42 which approved, with conditions an amendatory agreement for the exchange of dishonored check data among certain airlines. This action is in response to an application of the Air Transport Association (ATA) for prior approval of the Agreement CAB 26159-A1, Docket 29836. The parties have designed the agreement to stem their losses for the acceptance of "bad" checks. We have conditioned the agreement to protect consumers. We intend that these measures will provide airline customers with the ability to correct check data errors and minimize the possibility of their occurrence.

FOR FURTHER INFORMATION CONTACT:

Bernard F. Diederich, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, Washington, D.C., (202) 673-5327.

SUPPLEMENTARY INFORMATION: We have approved Agreement CAB 26159-A1, signed by Allegheny Airlines, Braniff Airways, Delta Air Lines, Eastern Air Lines, Hughes Airwest, National Airlines, Northwest Airlines, Ozark Air Lines, Trans World Airlines, United Air Lines, and Western Air Lines, subject to the following conditions:

(a) The carrier transmitting information about a dishonored check shall furnish that information to the customer and, at that time, clearly inform the customer of his right to make a statement disputing the dishonored check data;

(b) any carrier using dishonored check data in refusing to accept a check shall notify the customer, at that time, that the refusal was based on that data and shall also, at that time, clearly inform the customer of his right to make a statement disputing the data;

(c) unless the carrier has reasonable grounds to believe that a dispute by a customer is frivolous, it shall promptly investigate and correct or delete any data found to be inaccurate or which cannot be verified and delete any information whose transmission is found not to be justified; the carrier shall transmit deletions, corrections, and customers' explanatory statements to all other parties in the system, to be recorded and used with the underlying data;

(d) The carrier shall delete adverse check data on transactions more than seven years old, except for data concerning checks in amounts of $50,000 or more;

(e) As additional carriers signify their intent to participate in the agreement, they shall advise the Board by filing with it two copies of a signed counterpart.

The complete text of Order 79-3-42 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request for Order 79-3-42 to the Distribution Section.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-7703 Filed 3-13-79; 8:45 am]

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

CABOT KNITTING MILLS, INC., ET AL.

Notice of Petitions by Eight Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from eight firms: (1) Cabot Knitting Mills, Inc., 1410 Broadway, New York, New York 10018, a producer of women's sweaters, pants, blouses and dresses (accepted March 1, 1979); (2) Jacobs Brothers Industries, Inc., 230 Moonachie Avenue, Moonachie, New Jersey 07074, a producer of women's and children's coats and jackets (accepted March 2, 1979); (3) Brade Sportswear, Inc., 161 Market Street, Perth Amboy, New Jersey 08861, a producer of women's coats and sportswear (accepted March 2, 1979); (4) Davenshire, Inc., 930 South Rolff Street, Davenport, Iowa 52802, a producer of women's pants, skirts, shorts and other apparel (accepted March 5, 1979); (5) Middletown Leather Company, Inc., 200 Valentine Street, P.O. Box 30, Hackettstown, New Jersey 07840, a producer of finished leather (accepted March 5, 1979); (6) Western Trails, Inc., 61331 South Highway 97, Bend, Oregon 97701, a producer of insulated outerwear, sleeping bags and rainwear (accepted March 6, 1979); (7) Shindana Toys, Inc., 6107 South Central Avenue, Los Angeles, California 90001, a producer of dolls (accepted March 6, 1979); and (8) Corporate Leasing, Inc., 345 Eldert Street, Brooklyn, New York 11227, a producer of women's sweaters (accepted March 7, 1979). The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (P.L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceeding may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of March 24, 1979.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79-7664 Filed 3-13-79; 8:45 am]

[3510-22-M]

National Oceanic and Atmospheric Administration

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: (1) Decision elements for snapper/grouper fishery management plan (FMP): (2) king and spanish mackeral/spiny lobster FMP's; (3) National Marine Fisheries Service vessel enumeration/trip ticket system; (4) review foreign fishing permits, if any, and (5) other management business.

DATES: The meeting will convene on Tuesday, March 27, 1979, at 1:30 p.m. and will adjourn on Thursday, March 29, 1979, at approximately 12:00 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at Council Headquarters 1 Southpark Circle, Suite 306, Charleston, South Carolina.

FOR FURTHER INFORMATION CONTACT:

South Atlantic Fishery Management Council, Council Headquarters, 1 Southpark Circle, Suite 306, Charleston, South Carolina, Telephone: (803) 571-4366.

Dated: March 8, 1979.

JACK W. GEHRINGER,
Deputy Assistant Administrator for Fisheries.

[FR Doc. 79-7631 Filed 3-13-79; 8:45 am]

[3510-22-M]

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

AGENCY: National Marine Fisheries, NOAA.

SUMAMRY: The Gulf of Mexico Fishery Management Council was established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) and will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other fishery management business.

DATES: The meeting will convene on Tuesday, April 3, 1979, at 1:30 p.m. and will adjourn at 5 p.m.; on Wednesday, April 4, 1979, convene at 8:30 a.m. and will adjourn at 5 p.m.; and on Thursday, April 5, 1979, convene at 8:30 a.m. and will adjourn at approximately 12:00 noon. The meeting is open to the public.

ADDRESS: The meeting will take place will take place in Gulf Rooms C&D of the Sheraton-Biloxi Motor Inn, 3634 West Beach, Biloxi, Mississippi.

FOR FURTHER INFORMATION CONTACT:

Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228-2815.

Dated: March 8, 1979.

JACK W. GEHRINGER,
Deputy Assistant Administrator for Fisheries.

[FR Doc 79-7635 Filed 3-13-79; 8:45 am]

[3510-22-M]

PACIFIC FISHERY MANAGEMENT COUNCIL AND SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meeting with Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Pacific Fishery Management Council and its Scientific and Statistical Committee will conduct a series of meetings.

DATES: April 11-13, 1979.

ADDRESS: The meetings will take place at the Cosmopolitan Hotel, 1030 N.E. Union, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT:

Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and the Council has established a Scientific and Statistical Committee to assist in carrying out its responsibilities.

Meeting Agendas follow:

Scientific and Statistical Committee (open meeting) April 11-12, 1979, (1:30 p.m. to 5 p.m. on April 11; 10 a.m. to 5 p.m. on April 12).

Agenda: Discussion of development of fishery management plans, including comprehensive salmon, squid, groundfish, billfish, dungeness crab, jack mackerel, pink shrimp and anchovy; conduct a public comment period beginning at 3:30 p.m. on April 11, 1979, and conduct other committee business. *Council* (open meeting) April 12-13, 1979, (10 a.m. to 5 p.m. on April 12; 8 a.m. to 5 p.m. on April 13).

Agenda: Open Session—Review of FMPS; conduct other fishery management business, and conduct a public comment period beginning at 4 p.m. on April 12. *Council* (partially closed meeting) on April 12. (8 a.m. to 10 a.m.).

Agenda: Closed Session—Discuss classified material on the status of current maritime boundary and resource negotiations between the U.S. and Canada and to discuss pesonnel matters concerning appointments to vacancies on subpanels and teams. Only those Council members and related staff having security clearance will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce with the concurrence of its General Counsel, formally determined on February 23, 1979, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public transportation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c) (1) and (6), as information which is properly classified pursuant to Executive Order. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce).

Dated: March 8, 1979.

JACK W. GEHRINGER,
Deputy Assistant Administrator for Fisheries.

[FR Doc 79-7636 Filed 3-13-79; 8:45 am]

[3510-17-M]

Office of the Secretary

[Department Organization order 25-5B; Amdt. 2; Transmittal 442]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

This order effective January 28, 1979 further amends the materials appearing at 43 FR 51438 of November 3, 1978 and 44 FR 3303 of January 16, 1979.

Effective date: January 28, 1979.

Department Organization Order 25-5B, dated October 16, 1978, is hereby further amended as shown below. The purpose of this amendment is to (1) abolish the Office of Ocean Management and transfer its functions to the Assistant Administrator for Coastal Zone Management, and (2) to assign functions authorized by the Outer Continental Shelf Lands Act Amendments of 1978 (Pub. L. 95-372).

1. *Section 7. Office of Ocean Management.* Section 7. is deleted. In pen and ink, renumber the existing Sections 8. through 15. as Sections 7. through 14., respectively.

2. *Section 9. Assistant Administrator for Fisheries.* Paragraph .02 is amended by inserting the following before the word "and" in the fourth line on page 5: "shall manage the Fishermen's Contingency Fund;".

3. Section 10, is revised to read as follows:

"Section 10. Assistant Administrator for Coastal Zone Management.

"The *Assistant Administrator for Coastal Zone Management* shall administer and establish policy for NOAA's Coastal Zone Management activity which includes the following programs: State Programs of Coastal Zone Management; Marine and Estuarine Sanctuary Programs; Coastal Energy Impact Program; and closely related programs. The Assistant Administrator for Coastal Zone Management shall serve as the primary program policy officer with authority and responsibility for implementing the programs authorized in the Coastal Zone Management Act of 1972, as amended; the Marine Sanctuaries Programs of the Marine Protection, Research and Sanctuaries Act of 1972; and NOAA's responsibilities pursuant to the Deep Water Ports Act of 1974. To carry out these responsibilities, the Assistant Administrator shall have and direct the follow units:

".01 The *Office of the Assistant Administrator for Coastal Zone Management* shall manage and direct the Office of Coastal Zone Management; formulate, recommend, and execute basic policies relative to Coastal Zone and Ocean Management; and provide advice to the Administrator on NOAA's coastal zone and ocean area management effort. The Office shall develop NOAA policy, promulgate regulations, and implement procedures necessary for Federal review and approval of state coastal management programs and the execution of Federal consistency provisions which then come into force. It shall serve as the focal point for Federal interagency coordination and Federal-State consultation efforts on all matters relating to the management of the Nation's coastal and ocean areas. The Office shall serve as the Federal Government focal point regarding the operation of the Federal programs affecting the Nation's coastal zones and the consistency of these programs with the policies contained in the Coastal Zone Acts of 1972 and 1976. The Office shall develop policies and guidelines, and administer the Marine and Estuarine Sanctuary and Shorefront Access programs, and shall administer and monitor grants to states in support of these programs. it shall serve as NOAA's focal point, direct and coordinate assessments of the impact of alternative uses for intensely used ocean and adjacent areas, and develop and recommend policies on actions which will result in maximum benefit for the Nation.

".02 The *Office of Coastal Zone Management Programs* shall develop policies and guidelines on a continuing basis to assist state and local governments in the effective management and, where possible, the restoration and enhancement of the land and

water resources of the coastal zone of the Nation. The Office shall administer and monitor grants to states in support of the development and administration of coastal zone management programs.

".03 The *Office of Coastal Energy Impact Programs* shall develop policies and guidelines on a continuing basis to assist State and local governments in planning for the consequences of, and impacts on, the Nation's coastal zones due to accelerated energy development activities. The Office shall administer and monitor an energy impact financial assistance program consisting of loans, bond guarantees, planning grants, environmental grants, and formula grants, each subject to specified conditions, for the purpose of meeting needs of state and local governments resulting from new or expanded energy activity in, or affecting, the coastal zone.

".04 The *Office of Sanctuary Programs* shall develop policies and guidelines on a continuing basis to assist states and other governmental entities in the effective acquisition, conservation and protection of marine and estuarine sanctuary, wetlands, and waterfront areas. The Office shall administer and monitor grants to states in support of the development of and administration of sanctuary and waterfront access programs.

".05 The *Office of Resource Use Assessment and Coordination* shall identify and assess impacts of present or proposed uses of critical ocean and adjacent areas, and develop and recommend policies or proposals which will result in optimum benefit for the Nation. It directs and coordinates assessment of potential impacts of proposed human activity including outer continental shelf use, deep water ports offshore oil and gas development, power generation, ocean dumping and recreation."

4. *Section 12. Assistant Administrator for Research and Development.* Subparagraph .03a. is amended by inserting the following after the semicolon and before the word "and" in the seventh line of the subparagraph: "conducts studies of underwater diving techniques and equipment suitable for protection of human safety and improvement of diver performance;".

5. The organization chart, Exhibit 1, attached to this amendment, supersedes the organization chart dated November 14, 1978. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

JAMES P. WELLS,
Acting Administrator, National Oceanic and Atmospheric Administration.

Approved:

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-7610 Filed 3-13-79; 8:45 am]

[3510-17-M]

[Department Organization Order 5-1; Amdt. 1; Transmittal 444]

UNDER SECRETARY OF COMMERCE

This order effective February 23, 1979 amends the material appearing at 34 FR 6707 of April 19, 1969.

Effective Date: February 23, 1979.

Department Organization Order 5-1 of April 3, 1969, is hereby amended as shown below. The purpose of this amendment is to remove the position of Deputy Under Secretary of Commerce from this Order. (This position is continued under DOO 10-11.)

In pen and ink, delete Section 3. *Section 3. Deputy Under Secretary of Commerce.*, and renumber Section 4. as Section 3..

JUANITA M. KREPS,
Secretary of Commerce.

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc 79-7639 Filed 3-13-79; 8:45 am]

[3510-17-M]

[Department Organization Order 25-6B; Transmittal 439]

UNITED STATES FIRE ADMINISTRATION

This order effective February 6, 1979 supersedes the material appearing at 41 FR 8520 of February 27, 1976.

Effective Date: February 6, 1979.

Section 1. Purpose.

.01 This Order prescribes the organization and assignment of functions within the United States Fire Administration (USFA). The Scope of authority and functions of the USFA are set forth in Department Organization Order 25-6A.

.02 This revision reflects the change of the name of the National Fire Prevention and Control Administration to the United States Fire Administration, as provided in the Federal Fire Prevention and Control Act of 1974, as amended, 15 U.S.C., 15 U.S.C. 2201, 92 Stat. 932; clarifies the functions of the Office of the Chief Counsel (paragraph 3.03); establishes the Office of Program Planning and Evaluation, and assigns responsibility for the NBS consultation and coordination functions in that Office (paragraph 3.06); establishes the Office of Technology Utilization (paragraph 3.07); clarifies the functions of the National Academy for Fire Prevention and Control in regard to arson prevention, detection and control training (section 4.); retitles the Public Education Office as the Office of Planning and Education and gives the Associate Administrator responsibility for encouraging and assisting local jurisdictions in the development of master plans for fire prevention and control, and developing and administering an arson prevention and control program (Section 5.); gives the Associate Administrator of the National Fire Data Center added responsibility for development of equipment for use by the fire services, fire and building code review, administration of the Fire Safety Effectiveness Statement Program, assisting the Consumer Product Safety Commission upon request, conducting research on management studies for the fire service, providing assistance to the National Institutes of Health on burn research, formulating methods for collection of arson data to be compatible with methods of collection used for the uniform crime statistics of the Federal Bureau of Investigation, and developing programs for improved collection of nationwide arson statistics (Section 6.); and abolishes the National Fire Safety and Research Office.

Section 2. Organization structure.

The principal organization structure and line of authority shall be as depicted in the attached organization chart. A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

Section 3. Office of the Administrator.

.01 The *Administrator*, USFA, formulates policies and programs for achieving the objectives of USFA, directs the execution of these programs, and assigns other responsibilities as required.

.02 The *Deputy Administrator* assists the Administrator in formulating policies and programs and in managing the USFA, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the Office of the Administrator.

.03 The *Office of the Chief Counsel* shall provide legal services to all components of USFA, to include consultation on policy matters, subject to the overall authority of the Department's General Counsel as provided in Department Organization Order 10-6. The Chief Counsel shall administer the claims program prsecribed by Section 11 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 *et seq.*, 278f.) (the "Act"), review and give clearance within USFA to contracts, grants, agreements, deeds, leases, administrative orders, regulations, executive orders, codes, standards, and related documents; be responsible for the preparation of all

legislative proposals emanating from any component of USFA, for the expression of USFA's views as to the merits of proposed or pending legislation, and for statements concerning pending legislation to be made before committees of Congress, and perform such other functions as may be assigned.

.04 The *Office of Administration* shall develop and maintain the internal administrative management control systems of the USFA; perform budget formulation and management functions; perform evaluative, analytic, and developmental work on administrative systems and procedures; arrange for and facilitate the provision of administrative services from the Department as required; and perform such other administrative management functions as the Administrator shall assign.

.05 The *Office of Information Services* shall coordinate nonprogrammatic information activities within USFA; maintain liaison with the communications media; advise the Administrator and other USFA officials on all news media, public communication and information policies and techniques; and perform such other functions as the Administrator shall assign. These information activities will be carried out in collaboration with the Departmental Office of Public Affairs.

.06 The *Office of Program Planning and Evaluation* shall, under the direction of the Deputy Administrator, conduct studies to evaluate the effectiveness of operating programs in accomplishing established objectives; develop and maintain the USFA program management system including multiyear program analysis and evaluation; direct and coordinate the development and operation of a system of management by objectives, including identification of program objectives and measurement of accomplishments against these objectives; formulate, recommend, and operate a management information system; analyze fiscal and program plans and reprogramming proposals for conformance with established policies; in coordination with the National Fire Data Center, determine intervention strategies based on national fire data and advise the Administrator on the integration of these strategies into the USFA programs; consult and coordinate with the National Bureau of Standards Center for Fire Research on the conduct of basic and applied research as prescribed in the Act; maintain a continuous review of the status of resource investments and program performance in relation to fiscal plans; and perform such other functions as the Administrator shall assign.

.07 The *Office of Technology Utilization* shall provide assistance to the Administrator and all components of USFA in technology transfer and utilization, and provide a central point of contact within USFA for users of fire prevention and control technology; formulate, recommend and maintain a national policy for fire research and technology, and ensure coordination with fire-related national policies such as science and technology policy and standards policy; and perform such other functions as the Administrator shall assign.

Section 4. National Academy for Fire Prevention and Control.

.01 The National Academy for Fire Prevention and Control (the "Academy"), shall be headed by a Superintendent (appointed by the Secretary of Commerce) who shall report and be subject to the direction of the Administrator.

.02 The Academy shall:

a. Advance the professional development of fire service personnel and of other persons engaged in fire prevention and control activities;

b. Encourage new programs and recommend strengthening of existing programs of education and training at State and local levels and through private institutions by providing assistance as prescribed by the Act;

c. Provide training and instructional materials in the skills and knowledge necessary to assist Federal, State, and local fire service and law enforcement personnel in arson prevention, detection, and control, and

d. Perform other functions as prescribed by the Act or as the Administrator shall assign.

Section 5. Office of Planning and Education.

The Office of Planning and Education, headed by an Associate Administrator who shall report and be responsible to the Administrator, shall:

a. Educate the public and overcome public indifference to fire and fire prevention;

b. Provide specialized fire education information to those groups particularly vulnerable to fire hazards;

c. Conduct research, testing, and experimentation to determine the most effective means of public education;

d. Encourage and assist local jurisdictions in the development of master plans for fire prevention and control;

e. Develop arson detection techniques to assist Federal agencies and State and local jurisdictions in improving arson prevention, detection, and control;

f. Develop programs for public education on the extent, causes, and prevention of arson;

g. Develop handbooks to assist Federal, State, and local fire service law enforcement personnel in arson prevention and detection; and

h. Perform such other functions as the Administrator shall assign.

Section 6. National Fire Data Center.

The National Fire Data Center, headed by an Associate Administrator who shall report and be responsible to the Administrator, shall:

a. Operate directly, or through contracts or grants, a comprehensive system for the selection, analysis, publication, and dissemination of information related to the prevention, occurrence, control, and results of fires of all types;

b. Encourage and assist State, local, and other agencies, public and private, in developing and reporting information;

c. Develop standardized data reporting methods;

d. Make full use of existing data sources;

e. Effect maximum dissemination of the data collected and developed by the Center in appropriate forms to Federal agencies, State and local governments, private organizations, industry, business, and other interested parties;

f. Plan and direct a continuous program of development, testing, and evaluation of equipment for use by the Nation's fire, rescue, and civil defense services;

g. Review, evaluate, and suggest improvements in State and local fire prevention codes, building codes and regulations;

h. Administer the Fire Safety Effectiveness Statement Program as described in the Act;

i. Upon request, assist the Consumer Product Safety Commission in the development of fire safety standards or codes for consumer products;

j. Directly, or through contracts or grants, conduct research as authorized; conduct studies of the operations and management aspects of fire services and of the productivity and efficiency of fire service personnel; sponsor demonstration projects to introduce and encourage acceptance of new technology, standards, operating methods, command techniques, and management systems by fire services; and measure and evaluate, on a cost-benefit basis, the effectiveness of the programs of individual fire services;

k. Provide assistance to the National Institutes of Health in establishing an expanded program of research on burns, treatment of burn injuries, and rehabilitation of victims of fires;

l. Formulate methods for collection of arson data which would be compatible with methods of collection used for the uniform crime statistics of the Federal Bureau of Investigation;

m. Develop and implement programs for improved collection of nationwide

arson statistics within the National Fire Incident Reporting System; and

n. Perform other functions as the Administrator shall assign.

JOSEPH A. MORELAND,
Administrator, United States Fire Administration.

Approved:

GUY W. CHAMBERLIN, Jr.,
Acting Assistant Secretary for Administration.

[FR Doc. 79-7641 Filed 3-13-79; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CHANGES IN OFFICIALS OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AUTHORIZED TO ISSUE EXPORT VISAS AND CERTIFICATIONS FOR EXEMPT TEXTILE PRODUCTS FROM THE PHILIPPINES

MARCH 9, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Four officials of the Government of the Republic of the Philippines have been authorized to issue export visas and certifications for exempt cotton, wool and man-made fiber textile products from the Philippines.

SUMMARY: The Government of the Republic of the Philippines has notified the United States Government that, effective on January 3, 1979, the following officials are authorized to issue export visias and certifications for exempt textile products exported to the United States:

Troadio T. Quiazon, Jr.
Conrado Sanchez, Jr.
Eduardo G. Sanchez
Alicia L. de la Cruz

EFFECTIVE DATE: March 9, 1979.

FOR FURTHER INFORMATION CONTACT: Judith L. McConahy, International Trade Specialist, Office of Textiles, U. S. Department of Commerce, Washington, D. C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On September 9, 1976, a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the FEDERAL REGISTER (41 FR 38205), which established an export visa requirement and certification for exemption of cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported to the United States. One of the requirements is that the visas and certifications for exemption must be signed by an official authorized by the Government of the Republic of the Philippines. The Government of the Republic of the Philippines has requested that four officials be recognized as authorized to issue export visas and certifications for exemption.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 79-7770 Filed 3-13-79; 8:45 am]

[3510-25-M]

TEXTILE PRODUCTS FROM THE DOMINICAN REPUBLIC

Announcing Import Restraint Level for Certain Man-Made Fiber

MARCH 12, 1979.

On December 7, 1978, there was published in the FEDERAL REGISTER (43 FR 57327) a notice dated November 30, 1978, announcing forthcoming consultations concerning exports to the United States of man-made fiber brassieres in Category 649, produced or manufactured in the Dominican Republic.

During the period February 23-March 1, 1979, the United States Government held consultations with the Government of the Dominican Republic concerning a bilateral agreement, including an import restraint level for Category 649. No agreement was reached on a solution to this problem. Recent data confirm that imports have continued to cause disruption to the U.S. market.

Under the terms of Article 3 and Annex B of the Arrangement Regarding International Trade in Textiles, the Committee for the Implementation of Textile Agreements has informed the Government of the Dominican Republic that, beginning on November 1, 1978, and extending through October 31, 1979, imports of man-made fiber textile products in Category 649 will be limited to 1,134,636 dozen.

Accordingly, there is published below a letter of March 12, 1979, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that, effective on March 15, 1979, and for the twelve-month period beginning on November 1, 1978, and extending through October 31, 1979, the amounts of man-made fiber textile products in Category 649, produced or manufactured in the Dominican Republic that may be entered into the United States for consumption or withdrawn from warehouse for consumption shall be limited to the designated level.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

March 12, 1979.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 14, 1977 and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on March 15, 1979, and for the twelve-month period beginning on November 1, 1978 and extending through October 31, 1979 to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 649, produced or manufactured in the Dominican Republic, in excess of 1,134,636 dozen.[1]

Man-made fiber textile products in Category 649 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), and January 2, 1979 (44 FR 94).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Dominican Republic and with respect to imports of man-made fiber textile products from the Dominican Republic have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-7899 Filed 3-13-79; 8:45 am]

[1] The level of restraint has not been adjusted to reflect any imports after October 31, 1978.

[6351-01-M]

COMMODITY FUTURES TRADING COMMISSION

PROPOSED FUTURES CONTRACTS

Availability

In the two documents appearing on page 12477 in the FEDERAL REGISTER of March 7, 1979, the telephone number for the Executive Secretariat is incorrect. The correct telephone number is (202) 254-6314.

Dated: March 9, 1979.

GARY L. SEEVERS,
Acting Chairman.

[FR Doc. 79-7684 Filed 3-13-79; 8:45 am]

[3710-92-M]

DEPARTMENT OF DEFENSE

Department of the Army

SHORELINE EROSION ADVISORY PANEL

Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Shoreline Erosion Advisory Panel on 4-5 April 1979.

The meeting will be held in the Howard Johnson Hotel, 314 Miracle Strip Parkway, SW, Fort Walton Beach, Florida, from 0830 hours to 1600 hours on 4 April 1979 and from 0830 hours to 1600 hours on 5 April 1979.

The 4 April session will be devoted to briefing and field trip to the Basin Bayou, Florida, demonstration site to view and discuss the erosion control devices installed at this site; the 5 April session will be devoted to discussions and presentations from the various Districts and the Office Chief of Engineers personnel on the status of the other demonstration projects with individual reports on the Roanoke Island, NC site; the Fontainebleau, LA site; the Ninilchik, Alaska site, and the Stuart-Jensen Causeways, Florida, site. There will also be a report by the Coastal Engineering Research Center on the status of the contract for analysis of monitoring data for the program.

Participation by the public is scheduled for 1100 hours on 5 April 1979.

The meeting will be open to the public subject to the following:

1. Since seating capacity of the meeting room at the Howard Johnson Hotel is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel John H. Cousins, Executive Secretary, Shoreline Erosion Advisory Panel, Kingman Building, Fort Belvoir, VA 22060; Telephone (202) 325-7000.

By authority of the Secretary of the Army,

Dated: February 28, 1979.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 79-7674 Filed 3-13-79; 8:45 am]

[3810-70-M]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON ENDURING STRATEGIC COMMAND CONTROL AND COMMUNICATIONS

Meeting

The Defense Science Board Task Force on Enduring Strategic Command Control and Communications will meet in closed session on April 10-11, 1979 in Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs to the Department of Defense.

A meeting of the Task Force on Enduring Strategic Command Control and Communications has been scheduled for April 10-11, 1979 to develop solution sets and draft report to the Secretary of Defense.

In accordance with 5 U.S.C. App. I § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

MARCH 9, 1979.

H. E. LOFDAHL,
Deputy Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-7702 Filed 3-13-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 79-05-NG]

GREAT LAKES TRANSMISSION CO. FOR EMERGENCY AUTHORIZATION TO IMPORT CANADIAN NATURAL GAS INTO THE UNITED STATES

Order Granting Request

On February 12, 1979, the Great Lakes Gas Transmission Company (Great Lakes) filed with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) an application for emergency authorization to import to 3 billion cubic feet (Bcf) (84.951 Mm^3) of natural gas from its Canadian supplier, TransCanada Pipelines Limited (TransCanada).

Great Lakes states that the natural gas is needed to meet an emergency situation which has developed in natural gas markets served by Peoples Natural Gas Division (Peoples) of Northern Natural Gas Company (Northern). Northern is a customer of Great Lakes.

On February 22, 1979, ERA issued a notice of receipt of Great Lakes' application, intent to issue an expedited order, and invitation to submit petitions to intervene and briefs on the merits of the request (44 FR 10863, February 23, 1979). In response to that notice, ERA received written comments from certain industrial customers of Peoples which confirmed the emergency situation described by Great Lakes and supported the application of Great Lakes. ERA received no request for a hearing and no comments in opposition to Great Lakes' application.

Great Lakes states that the 3 Bcf (84.951 Mm^3) of natural gas:

Would be in addition to its existing import authorization,

Would be required only during the current contract year to meet the emergency,

Would use existing pipelines and interconnections and would not require additional or new facilities,

Would not interfere with Great Lakes' ability to supply natural gas to any of its customers,

Would be purchased at the current import price of $2.16 per million British thermal units (MMBtu) ($2.047 per Gigajoule) as authorized by the Canadian National Energy Board (NEB) and previously approved by the Federal Energy Regulatory Administration (FERC).

Great Lakes states that it has been informed by TransCanada that TransCanada has sufficient additional gas supply and capacity, and can promptly obtain approval from the NEB, to make the additional volumes available for export to the United States.

The emergency Great Lakes describes results from the colder-than-normal temperatures which Peoples' service area has experienced during the 1978–1979 winter heating season. In a letter from Peoples to Great Lakes dated February 13, 1979, and submitted to ERA by Great Lakes on that date, Peoples states that the service of its supplier, Northern, experienced temperatures 18.8 percent below normal from October 1978 to January 1979. The month of January 1979 was 25.7 percent colder than normal.

During the first part of January, Peoples was advised by some of its customers of a need for emergency gas to offset curtailed volumes of natural gas. Those customers included firm industrial plants in Minnesota and Michigan which use natural gas in the processing of taconite ore for the steel industry. Without this gas, the applicant and commenters have stated that there exists the possibility of plant shutdowns with a resulting increase in unemployment. The total work force of the taconite plants in question, according to Peoples, is approximately 10,500. Peoples accordingly requested Great Lakes to supply 60-day emergency volumes of gas under the provisions of the Natural Gas Policy Act of 1978 (NGPA). Volumes requested were up to 60,000 Mcf per day, which began flowing into Northern's system for redelivery to Peoples on January 26, 1979. These were provided under Great Lakes' existing import license. Great Lakes advised Peoples that no additional volumes would be available after February 20, 1979, without the relief requested in this application. Consequently, applicant has stated that it will only need to import the gas requested in the instant application through March 27, 1979.

The letter from Peoples includes details on the fuel needs of various industrial customers. The substance of the account is that, due to natural gas curtailments, the industrial firms have had to bring in fuel oil by truck, sometimes over considerable distances and under hazardous driving conditions. A portion of the fuel oil is of Canadian origin with substantial quantities of domestic Number 2 fuel oil also being used.

Peoples states that, with the emergency supply of natural gas through March 27, 1979, it will also be able to serve its presently curtailed lower-priority (Priorties 7 through 10) boiler fuel customers and thereby further offset oil imports and draw down of middle distillate stocks. The following is Peoples' estimate of the volumes of Number 2 fuel oil which could be offset based upon favorable action on Great Lakes requests:

Priority 3 taconite processor requirements in Minnesota and Michigan—208,570 barrels (of which 32,476 barrels is Canadian).
Other industrial requirements in Minnesota, Iowa and Nebraska supplied by U.S. refineries—260,714 barrels.
Total potential offset—469,284 barrels.

On January 3, 1979, ERA issued a "Proposed Special Rule for Temporary Public Interest: Exemption for Use of Natural Gas by Existing Powerplants under the Powerplant and Industrial Fuel Use Act of 1978" (44 FR 1694–1696, January 5, 1979). The intent of the Special Rule was to encourage short-term switching to natural gas and propane by industrial and utility powerplants which are burning fuel oil. The purpose was to take advantage of the current surplus of domestic natural gas and propane to help reduce imports of oil and depletion of stocks of middle distillate.

The request of Great Lakes is in some respects consistent with the objectives of the Special Rule. While the gas to be used would be foreign rather than domestic, a portion of the oil which would be offset by use of the gas is also imported. What portion of the gas which would offset use of domestic distillate would also have the effect of offsetting oil imports, though not as directly. It would, however, help ease the pressure on domestic stocks of distillate available for home heating and other high priority uses.

Because the policy embodied in the Special Rule contemplates the substitution of domestic rather than imported gas for fuel oil, ERA has investigated the extent to which domestic rather than Canadian gas would be available in the present case. In that regard, Great Lakes submitted to ERA a letter from Peoples on February 15, 1979, which stated:

> * * * Peoples * * * asked its supplier, Northern Natural Gas Company, to act as agent to invistigate available supplies of emergency volumes. Northern's investigation encompassed traditional domestic gas supply areas in the United States, such as Oklahoma Natural Gas, Producers Gas, Houston Natural Gas, and others. Peoples was advised by Northern, that after a thorough canvas of potential sources, taking into account interconnections of facilities, transportation arrangements, compatibility of those arrangements and avalaible volumes, with Northern's existing system conditions, that none was available this late in the heating season.

On February 23, 1979, Great Lakes submitted additional information to ERA indicating that two potential sources of domestic gas close to Peoples' service area also were unable to supply gas during the period in question in lieu of the Canadian gas requested. The two sources were Michigan Consolidated Gas Company and Michigan Wisconsin Pipe Line Company. In addition to information supplied by Great Lakes, Peoples, and industrial customers of Peoples in Minnesota, ERA has received independent information from the Minnesota Energy Agency that there is a serious shortage of Number 1 and Number 2 fuel oil in the state. (Telephone communication to ERA on Februray 22, 1979.)

In view of these assertions, and in light of the apparent emergency situation which exists, ERA finds that in this instance the importation of limited quantities of Canadian gas for a short period is consistent with DOE's efforts to reduce the use of oil by substituting natural gas and is "not inconsistent with the public interest."

The present application presents ERA with an emergency situation in which prompt regulatory action is required. Great Lakes has requested, in view of the emergency, that ERA waive the procedural requirements for import applications prescribed in Part 153 of the Regulations under the Natural Gas Act (Title 18 CFR). In the absence of any objections on the record in response to ERA's notice in the FEDERAL REGISTER, ERA finds it in the public interest to waive those requirements, including 18 CFR 153.2, which provides that applications must be filed thirty days prior to the date of importation. Although ERA hereby waives the procedural requirements for good cause shown, ERA conditions this authorization to import upon Great Lakes' complying with the terms of Part 153 as set forth below. It should also be noted that the emergency application has been judged solely on its merits and that ERA's order in this case will have no bearing on any other proceedings in which Great Lakes, Northern, TransCanada, or Peoples may be involved before ERA.

Order:

1. Great Lakes is hereby authorized to commence immediately the importation of up to 3 Bcf (84.951 Mm^3) of natural gas from Canada for a period to end no later than March 27, 1979, upon the terms and conditions outlined below.

2. The applicant shall file within fourteen (14) days of the issuance of this order an application complying with the terms of Part 153 of Title 18 CFR including the submission of all relevant contracts pertaining to the importation of this natural gas.

3. DOE shall cause prompt notice of the issuance of this order to be published in the FEDERAL REGISTER and may rescind the import authority granted herein if further proceedings appear warranted and result in a determination that this authorization is inconsistent with tne public interest.

Issued in Washington, D.C., on March 5, 1979.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 79-7713 Filed 3-13-79; 8:45 am]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. CP78-453]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Tariff Filing

MARCH 8, 1979.

Take notice that on February 16, 1979, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing the following sheets of its FERC Gas Tariff, Original Volume No. 2:

Original Sheet Nos. 1632 through 1643 constituting Rate Schedule X-177, a transportation agreement dated June 21, 1978, between Transco and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee).

Transco states that the subject transportation arrangement was authorized by the Commission in a certificate issued in Transco Docket No. CP78-453 by order dated November 22, 1978, and that copy of the instant filing has been served upon Tennessee.

The tariff sheets are proposed to become effective November 22, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 14, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 79-7694 Filed 3-13-79; 8:45 am]

[6450-01-M]

Office of Assistant Secretary for International Affairs

PEACEFUL USES OF ATOMIC ENERGY

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Governments of the Republic of Austria, Japan, and Sweden.

The subsequent arrangement to be carried out under the above mentioned agreement involves the following retransfers of U.S origin material:

(1) RTD/AT(EU)-50 Retransfer from West Germany to Austria of 20g Uranium, containing 4g U-235, for analysis at Seibersdorf, Austria.

(2) RTD/EU(SW)-42 Retransfer from Sweden to West Germany of 412g Uranium, containing 8g U-235 and 2g produced Plutonium for post-irradiation examination and then to waste disposal.

(3) RTD/SW(JA)-1 Retransfer from Sweden to Japan of 1,920g Uranium, containing 61.5g U-235 for irradiation experiment to examine the pellet-clad interaction failure of pressurized reactor fuel at various burn-up levels.

(4) RTD/SW(EU)-95 Retransfer from West Germany to Sweden of 17,390 kgs Uranium, containing 556.480 kgs U-235, for fuel elements for the Ringhals II reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approvals of these retransfers of nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: March 8, 1979.

HAROLD D. BENGELSDORF,
Director for Nuclear Affairs, International Programs.

[FR Doc. 79-7637 Filed 3-13-79; 8:45 am]

[6450-01-M]

Western Area Power Administration

COLORADO RIVER STORAGE PROJECT (CRSP)

Allocation of Peaking Power

AGENCY: Western Area Power Administration (WAPA), Department of Energy.

ACTION: Allocation of Peaking Power.

SUMMARY: Notice of a Proposed Allocation of Peaking Power was published in the FEDERAL REGISTER, Volume 43, No. 121, Thursday, June 22, 1978, pp. 26793-26796. After receipt and analysis of comments from interested parties as well as acceptances, rejections, and requests for additional power from allottees and reallocation of rejected amounts, the Western Area Power Administration presents herein the final allocation of Colorado River Storage Project long-term peaking power.

DATE: This allocation will become effective at the beginning of the April 1979 billing period.

FOR FURTHER INFORMATION CONTACT:

Mr. A. M. Gabiola, Area Manager, Western Area Power Administration, Salt Lake City Area Office, 175 North 2400 West, Salt Lake City, Utah 84147, (801) 524-5493.

SUPPLEMENTARY INFORMATION: Pursuant to Pub. L. 84-485, April 11, 1956 (70 Stat. 105), the Reclamation Project Act of 1939 (53 Stat. 1187, 1194, 1198), and Pub. L. 95-91, August 4, 1977 (91 Stat. 565), the Administrator of WAPA hereby allocates additional power from CRSP to be marketed as peaking power (without energy). As indicated in the FEDERAL REGISTER Notice dated June 22, 1978, allottees may place their allocations of long-term peaking power under contract in time for delivery at the beginning of the 1979 summer season. Where possible, this will be done by means of a long-term contract; otherwise for an Interim Period, from the start of the April 1979 billing period to the effective date of each allottee's long-term contract for peaking power, this will be done by means of a letter of agreement.

Allottees may elect to defer their purchase of long-term peaking capacity (during the Interim Period) until the effective date set forth in the long-term power sales contracts for peaking power to be provided each allottee in accordance with the provisions of the FEDERAL REGISTER Notice dated February 9, 1978. Allottees so electing may request, and upon request, will receive permission in the

form of a temporary waiver to delay the purchase of this power.

Long-term power sales contracts will be sent to all allottees as soon as possible and will terminate concurrently with the customer's firm power sales contract, but not later than the end of the 1989 summer season.

INTRODUCTION

The purpose of this allocation of peaking power is to establish the amounts of CRSP peaking power the preference customers listed herein can place under long-term contract, thereby enabling the CRSP power marketing program to go forward in an orderly manner.

BACKGROUND

Power produced at CRSP powerplants has been marketed as long-term firm power with energy since 1963. Certain additional amounts have been offered for sale in the past on a season-by-season basis as excess capacity. Additional amounts of power are now available on a long-term basis due in part to the completion of the Crystal Dam and Powerplant on the Gunnison River in Western Colorado, which also has the effect of increasing the marketable capacity produced at the Morrow Point Powerplant. Because of hydrological conditions, the power available from these sources can only be offered as long—term peaking capacity without energy. This allocation is based on the principles which were negotiated with the Basin-Wide Preference Customer Group and supersedes and replaces the allocations previously proposed in the FEDERAL REGISTER Notices of December 23, 1975, August 25, 1976, and June 22, 1978.

DISCUSSION OF PUBLIC COMMENTS

Comments on the allocation and/or the power marketing plan for the sale of peaking power were received from seven entities, two of which, although entitled to preference customer status, are not purchasing long-term firm power from the Storage Project. A synopsis of the major points raised by the entities, followed in each instance by our response is set forth below:

1. One entity wished to transfer certain amounts of its entitlement to peaking power from one season to another. Such deviation cannot be accommodated since all available power in each season will be placed under contract and such a step would leave the Storage Project short of capacity in one season.

2. One of the entities not presently purchasing long-term firm power commented that the basis of the allocation (existing customer's firm contract rates of delivery) denied it the opportunity to purchase peaking power and is, therefore, inequitable. Initially, it was anticipated that the power being offered as peaking capacity would be available at an earlier time to be offered on a continuing basis to customers in significant amounts sufficient to effect a meaningful contribution to the customers' purchase power requirements. It was not felt then, and it is not presently deemed prudent, to enter into an allocation of power to all entities entitled to preference in the market area. Such an allocation would necessarily be related to an entity's load with a few large entities predictably obtaining the right to purchase a major share of the available peaking capacity, while leaving a considerably smaller amount for allocation to a large number of smaller entities. In this matter, which has been studied at great length, it was determined to allocate peaking power first to existing customers since we believe this to be the most equitable method of allocating the relatively small amounts of peaking power available for sale.

3. The other entity not presently purchasing long-term firm power from the Storage Project related its comments on not receiving an allocation of CRSP peaking power to need and to certain historical conditions. The response to Comment No. 2 above is germane to this comment also. We regret that sufficient power was not available to grant all interested parties their desired amounts of peaking power. An allocation was required and, necessarily, guidelines were established to proceed with such an allocation, and were published in the FEDERAL REGISTER Notice of February 9, 1978, regarding the announcement of the General Power Marketing Criteria. Item 4C of the February 9, 1978, Notice provides that "Long term peaking . . . will be offered first to preference customers having long-term firm power contract commitments."

4. One entity was interesting in reaching an understanding on the manner in which energy associated with peaking capacity could be returned, as a condition of purchasing peaking capacity. The Storage Project is presently purchasing large amounts of firming energy to honor its firm contract commitments. It has been deemed unwise, therefore, to obligate the Storage Project to deliver additional amounts of energy, which would increase the already large purchase of energy by the Storage Project. For this reason, the capacity allocated herein has been offered as peaking capacity without energy. It is contemplated that the customer will reduce its load factor on its firm purchases from the Storage Project sufficient to accept peaking power and remain within the energy obligation associated with its firm capacity.

5. One customer wished to have a 6-year prior notice should WAPA intend to terminate or extend firm power and long-term peaking power deliveries. Article 8D of the Criteria provides for a 5-year notice, which was arrived at in discussions with a Basin-wide customer group. Discussions regarding the future sale of CRSP power will begin by January 1979, and we believe that discussions in the ensuing 5 years will probably provide a substantial awareness of change that may be anticipated to occur during the next contracting period (beyond 1989).

6. One customer sent a letter which commented as follows:

a. Objection was raised as to the manner in which amounts of peaking power allocated to Principals (in a principal-agency relationship) were presented in the June 22, 1978, FEDERAL REGISTER Notice. The letter also referenced four prior letters, requesting they be made a part of the record. While those referenced letters (and an accompanying statement) include many observations and suggestions in certain instances about prior allocation and policies, the major additional comments regarding this matter seemed to be as follows:

b. Long-term peaking power should be sold with energy.

c. Sale of peaking power to privately-owned utilities should be on a temporary basis.

d. It is difficult to blend firm and peaking power.

These comments are responded to in the order presented:

a. The presentation of the Principal's entitlement to long-term peaking power as a lump sum amount for the designated agent was deemed to be satisfactory. However, it is anticipated that the United States-Agent contract will contain in an exhibit an indication as to the derivation of the amount of peaking power each Principal is entitled to.

b. The response to Comment No. 4 above is germane to this comment also.

c. As the allocation indicates, all available long-term peaking power has been allocated to preference customers so that arrangements for sale to privately-owned utilities need not be discussed.

d. We recognize that certain complexities exist regarding the commingling of firm and peaking power. However, in almost every instance, preference customers will be scheduling the load patterned amounts of both firm and peaking power they are entitled to, which considerably simplifies the matter and removes most of the economic hazards that may have arisen if a different set of circumstances existed.

7. One entity expressed concern that provisions in its firm power sales contract may be altered as a condition of placing long-term peaking power under contract.

When power sales contracts for Storage Project power are "opened" for purposes of placing additional power under contract or to extend the term of contract or for other reasons, certain other changes will be required. Such changes are generally designed to recognize changes in conditions that have taken place during the period from the time the contract was last "opened" to the present time and are necessary to the prudent operation of the project.

A tabulation of the allocations is reproduced below and is also available at the following WAPA offices:

Area Manager, Western Area Power Administration, Department of Energy, P.O. Box 200, Boulder City, NV 89005 (702) 293-8475.

Area Manager, Western Area Power Administration, Department of Energy, 175 North 2400 West, Salt Lake City, UT 84147 (801) 524-5493.

Area Manager, Western Area Power Administration, Department of Energy, P.O. Box 3403, Golden, CO 80401 (303) 231-1628.

Dated: February 14, 1979.

ROBERT L. MCPHAIL,
Administrator.

[6450-01-C]

WESTERN AREA POWER ADMINISTRATION
Colorado River Storage Project
Peaking Power Allocation (kilowatts)

11/28/78

	Summer Season					Winter Season				
			Peaking Power Allocation					Peaking Power Allocation		
	Maximum Firm CRSD	Initial Proposed Allocation	Amt. of Initial Accepted	Additional	Total	Maximum Firm CRSD	Initial Proposed Allocation	Amt. of Initial Accepted	Additional	Total
					Northern Division					
Arizona										
Navajo Tribal Utility Authority	18,000	1,350	1,350	55	1,405	18,000	4,840	4,840	3,528	8,368
Page	6,300	470	470	0	470	6,400	1,720	1,720	0	1,720
Subtotal	24,300	1,820	1,820	55	1,875	24,400	6,560	6,560	3,528	10,088
Colorado										
Center	1,000	80	0	0	0	1,500	400	0	0	0
Colorado Springs	15,000	1,130	1,130	49	1,179	50,000	13,440	13,440	6,560	20,000
Delta	1,000	80	0	0	0	1,000	270	0	0	0
Fleming	80	10	10	0	10	50	10	10	10	20
Fort Morgan	7,900	590	590	0	590	6,900	1,860	1,860	0	1,860
Frederick	40	10	10	0	10	40	10	10	8	18
Gunnison	4,550	340	0	0	0	6,000	1,610	0	0	0
Haxtun	520	40	40	0	40	400	110	110	0	110
Holyoke	1,470	110	110	5	115	1,500	400	400	200	600
Intermountain REA	17,350	1,300	0	0	0	20,900	5,620	0	0	0
Lamar	2,000	150	150	7	157	2,000	540	540	0	540
Oak Creek	300	20	20	1	21	360	100	100	50	150
Platte River Power Authority	116,800	8,770	8,770	378	9,148	134,900	36,270	36,270	26,443	62,713
Pueblo Army Depot	9,000	680	0	0	0	9,000	2,420	0	0	0
Silt Water Conservancy District	700	50	50	0	50	0	0	0	0	0
Wray	470	40	40	0	40	840	220	230	0	230
Yuma	1,125	80	80	0	80	1,070	390	290	0	290
Subtotal	179,305	13,480	11,000	440	11,440	236,460	63,550	53,260	33,271	86,531
Wyoming										
Cody	2,750	200	200	9	209	2,650	710	710	0	710
Consumer Light & Power Assn.	20	10	10	0	10	60	20	20	0	20
Fort Laramie	40	10	10	0	10	70	20	20	14	34
Guernsey	360	30	30	0	30	400	210	110	0	110
Lingle	80	10	10	0	10	100	30	30	20	50
Lusk	320	20	20	0	20	1,000	270	270	0	270
Pine Bluffs	85	10	10	0	10	180	50	50	36	86
Torrington	1,760	130	130	6	136	935	250	250	183	433
Wheatland	960	70	70	3	73	930	240	240	176	416
Willwood Light & Power Coop.	50	10	10	0	10	30	10	10	6	16
Subtotal	6,425	500	500	18	518	6,325	1,710	1,710	435	2,145
Colorado & Wyoming										
Tri-State G.& T. Assn.	252,000	18,930	18,930	817	19,747	179,000	48,120	0	0	0
Subtotal	252,000	18,930	18,930	817	19,747	179,000	48,120	0	0	0
Utah										
Brigham City	7,700	580	580	0	580	11,000	2,960	1,000	0	1,000
Defense Depot-Ogden	3,900	290	290	0	290	3,700	1,000	600	0	600
Intermountain Consumer Power Assn. 1/	196,150	14,760	14,760	636	15,396	212,420	57,030	57,030	3/ 6,695	63,775
Levan	405	30	30	1	31	405	110	110	0	110
Manti	1,320	100	100	0	100	1,620	430	430	0	430
Nephi	3,400	260	260	11	271	2,700	730	730	500	1,230
Provo	65,600	4,920	4,920	0	4,920	65,600	17,640	17,640	0	17,640
St. George	18,000	1,350	1,350	0	1,350	24,000	6,450	6,450	0	6,450
Strawberry Water Users Assn.	14,520	1,090	1,090	47	1,137	18,770	5,050	0	0	0
Weber Basin Water Cons. Dist.	390	30	0	0	0	0	0	0	0	0
Subtotal	311,395	23,410	23,380	695	24,075	340,215	91,450	84,040	7,195	91,235
New Mexico										
Aztec	1,920	140	140	6	146	2,225	600	600	300	900
Albequerque Opn. Office, DOE 2/	14,600	15,000	15,000	47	15,047	14,600	15,000	15,000	2,862	17,862
Farmington	15,000	1,130	1,130	49	1,179	15,000	4,040	4,040	2,941	6,981
Plains G.& T. Cooperative	113,400	8,520	8,520	368	8,888	133,000	35,760	35,760	14,240	50,000
Truth or Consequences	3,600	270	270	12	282	5,500	1,480	1,480	1,078	2,558
Subtotal	148,520	25,060	25,060	482	25,542	170,325	56,880	56,880	21,421	78,301
TOTAL Northern Division	921,935	83,200	80,690	2,510	83,200	956,725	268,300	202,450	65,850	268,300

1/ ICPA - Includes Murray
2/ Formerly Energy Research and Development Administration.
3/ Bountiful City is only ICPA principal requiring additional winter capacity. Amount is based on Bountiful CRSD only.

WESTERN AREA POWER ADMINISTRATION
SOUTHERN DIVISION
Colorado River Storage Project
Peaking Power Allocation (Kilowatts)

11/28/78

	Summer Season					Winter Season				
			Peaking Power Allocation					Peaking Power Allocation		
	Maximum Firm CROD	Initial Proposed Allocation	Amt. of Initial Accepted	Additional	Total	Maximum Firm CROD	Initial Proposed Allocation	Amt. of Initial Accepted	Additional	Total
	Southern Division									
Arizona										
AK-Chin Indian Community	4,500	460	460	0	460	3,300	340	0	0	0
Arizona Elec. Power Corp.	13,850	1,430	1,430	3,112	4,542	1,650	170	170	0	170
Chandler Heights Citrus I.D.	450	50	50	0	50	200	20	20	0	20
Colorado River Indian Agency	750	80	80	0	80	400	40	40	0	40
Electrical District # 2 (Pinal)	11,350	1,170	1,170	2,551	3,721	4,500	470	470	0	470
Electrical District # 3	9,450	980	0	0	0	1,650	170	0	0	0
Electrical District # 4	5,750	590	590	1,292	1,882	2,450	250	0	0	0
Electrical District # 5 (Pinal)	3,550	370	0	0	0	1,750	180	0	0	0
Electrical District # 5 (Maricopa)	1,850	190	0	0	0	800	80	0	0	0
Electrical District # 6	6,850	710	710	1,539	2,249	0	0	0	0	0
Electrical District # 7	5,400	560	0	0	0	800	80	0	0	0
Littlefield Elect. Corp.	250	30	30	56	86	150	20	20	42	62
Maricopa County M.W.C.D.	6,350	650	0	0	0	1,500	160	0	0	0
Mesa	5,250	540	540	1,180	1,720	2,300	240	240	0	240
Navajo Tribal Utility Authority	2,700	280	280	606	886	1,150	120	120	327	447
Ocotillo Water Cons. Dist.	1,300	130	0	0	0	600	60	0	0	0
Queen Creek Irrigation Dist.	2,000	210	210	449	659	0	0	0	0	0
Roosevelt Irrigation Dist.	5,650	580	580	520	1,100	1,150	120	0	0	0
Roosevelt Water Cons. Dist.	2,700	280	280	606	886	1,100	110	0	0	0
Safford	1,300	130	130	150	280	400	40	40	50	90
Salt River Project	111,250	11,500	0	0	0	38,250	3,960	0	0	0
San Carlos Irrigation Project	1,900	200	0	0	0	1,000	100	0	0	0
San Tan Irrigation Dist.	950	100	100	0	100	0	0	0	0	0
Thatcher	600	60	60	0	60	250	30	30	0	30
Willton-Mohawk I.D.D.	300	30	30	68	98	150	20	20	0	20
Williams Air Force Base	2,400	250	250	540	790	650	70	70	186	256
Yuma Proving Ground	450	50	50	101	151	250	30	30	0	30
Subtotal	209,100	21,610	7,030	12,770	19,800	66.400	6,880	1,270	605	1,875
Nevada										
Division of Colo. River Res.	30,900	3,190	3,190	1,810	5,000	17,600	1,820	1,820	5,005	6,825
Subtotal	30,900	3,190	3,190	1,810	5,000	17,600	1,820	1,820	5,005	6,825
TOTAL Southern Division	240,000	24,800	10,220	14,580	24,800	84,000	8,700	3,090	5,610	8,700
TOTAL Customer CROD (long-term firm)	1,161,935					1,040,725				
TOTAL Customer Peaking Allocation Priority uses 4/	55,000				108,000	6,000				277,000
TOTAL	1,216,935	108,000	90,910	17,090	108,000	1,046.725	277,000	205,540	71,460	277,000

4/ Navajo Agricultural Products Industry Contract signed September 6, 1977, for 12000-87000kW through 1989.

[FR Doc. 79-6928 Filed 3-8-79; 3:39 am]

[6450-01-M]

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS REVIEW OF ADVISORY COMMITTEES

The Department of Energy (DOE) is conducting a comprehensive review of its advisory committees in accordance with Office of Management and Budget Circular No. A-63, Transmittal Memorandum No. 5. Public comment is invited.

All agencies have been directed to conduct this review for each committee to determine (a) whether such committee is carrying out its purpose; (b) whether consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised; (c) whether it should be merged with other advisory committees; or (d) whether it should be abolished.

DOE is now in the process of conducting this review for the following advisory committees:

Consumer Affairs Advisory Committee
Energy Research Advisory Board
Environmental Advisory Committee
Food Industry Advisory Committee
Fossil Energy Advisory Committee
Fuel Oil Marketing Advisory Committee
Gasoline Marketing Advisory Committee
High Energy Physics Advisory Panel
Inertial Fusion Advisory Committee
National Energy Extension Service Advisory Board
National Industrial Energy Council
National Petroleum Council
Personnel Security Review Board Panel
Study Group on Global Effects of Carbon Dioxide

DOE is required to complete its review and submit its determination to the Committee Management Secretariat, GSA, not later than April 16, 1979. Therefore, any public comments and recommendations should be provided to DOE not later than March 28, 1979. Interested persons should direct their comments to Georgia M. Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G-031, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Issued at Washington, D.C. on March 9, 1979.

PHILLIP S. HUGHES,
Assistant Secretary, Intergovernmental and Institutional Relations.

[FR Doc. 79-7714 Filed 3-13-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1075-1]

SCIENCE ADVISORY BOARD; HOUSTON AIR QUALITY SUBCOMMITTEE

Open Meeting

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Houston Air Quality Subcommittee of the Science Advisory Board will be held beginning at 9:00 a.m., March 30, 1979, in Tanglewood Room of Holiday Inn-Medical Center, 6701 S. Main St., Houston, Texas 77430.

This is the first meeting of the Houston Air Quality Subcommittee. The agenda includes review and discussion of the proposed Environmental Protection Agency/Office of Research and Development Research plan for Air Quality and Health Effects Studies.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. Douglas Seba, Executive Secretary or Ms. Sarah Mills, Staff Assistant, Houston Air Quality Subcommittee (703) 557-7720 by March 23, 1979.

Dated: March 7, 1979.

RICHARD M. DOWD,
Staff Director, Science Advisory Board.

[FR Doc. 79-7693 Filed 3-13-79; 8:45 am]

[6560-01-M]

[FRL 1075-5; OPP-180264A]

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

Specific Exemption To Use Permethrin To Control "Heliothis" Species

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 permethrin to control *Heliothis* species (budworm) on a maximum of 42,000 acres of winter lettuce in two California counties. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements 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 Street, S.W., Room E-315, Washington, D.C. 20460.

According to the Applicant, approximately 42,000 acres of winter lettuce are grown in Riverside and Imperial counties with an estimated value of $63,500,000; all of this acreage is infested with budworm, a serious pest of lettuce. Without some type of effective controls, *Heliothis* species can be expected to cause total loss of some fields, the Applicant stated. Currently registered materials, including methomyl, parathion, and acephate, have not provided adequate control of this pest, even at maximum application rates and frequencies.

The Applicant availed itself of a crisis exemption and so notified the Administrator on November 17, 1978. Notification of this crisis exemption was published in the FEDERAL REGISTER on February 14, 1979 (44 FR 9623). The Applicant also requested a specific exemption since treatment was needed beyond the fifteen days of the crisis exemption. The Applicant proposed to continue to use permethrin in the same manner as it did under the crisis exemption.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of budworm has occurred; (b) there is no effective pesticide presently registered and available for use to control the budworm in California; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the budworm is 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 December 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. The permethrin products Ambush and Pounce may be used at a dosage rate of 0.2 pound active ingredient per acre;
2. Applications are limited to 42,000 acres of lettuce in the counties named above;
3. A maximum of five applications may be made per season at 5- to 7-day intervals with a 7-day pre-harvest interval;
4. Applications may be made by either air or ground equipment;
5. The feeding of lettuce trimmings from treated fields to livestock is prohibited;
6. All applicable directions, restrictions, and precautions on the product label must be followed;

7. This pesticide is extremely toxic to fish and aquatic invertebrates. Care must be used when applying it in areas adjacent to any body of water. It may not be applied when weather conditions favor run-off or drift. It must be kept out of lakes, streams, and ponds. Care must be taken to prevent contamination of water by cleaning of equipment or disposal of wastes;

8. Permethrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which an economically significant number of bees are actively foraging. Protective information may be obtained from the California Cooperative Extension Service;

9. Laboratory and field testing with permethrin indicate that permethrin is highly toxic to acquatic organisms. Due to the proximity of lettuce-growing areas to aquatic habitats, contamination of and disturbance to aquatic ecosystems is likely to occur. For this reason, environmental monitoring must be conducted to provide quantitative data on fish and aquatic invertebrate survival in treated and control areas. These data may be required to support full registration for use of permethrin on lettuce;

10. A 60-day crop rotation period is imposed;

11. Only fields where registered alternatives have been applied and a knowledgeable expert has determined that control has not been achieved may be treated under this exemption;

12. The EPA shall be immediately informed of any adverse effects resulting from the use of permethrin in connection with this exemption;

13. Lettuce with residue levels of permethrin not exceeding 10 parts per million may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

14. The Applicant must coordinate this exemption with the California Department of Fish and Game to provide the Department of Fish and Game with an opportunity to monitor the effects of permethrin on fish and wildlife; and

15. The Applicant is responsible for insuring that all the provisions of this specific exemption are met and must submit a report summarizing the results of the program by January 1, 1980.

(Section 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).)

Dated: March 7, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-7719 Filed 3-13-79; 8:45 am]

[6560-01-M]

[FRL 1075-6 OPP-50406]

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 42627-EUP-1. Forest Service, U.S. Department of Agriculture, Corvallis, Oregon 97331. This experimental use permit allows the use of 37.4 pounds of the insecticide Z and E-9-dodecenyl acetate on national forests to evaluate control of the western pine shoot borer. A total of 3,000 acres is involved; the program is authorized only in the States of California, Oregon, and Washington. The experimental use permit is effective from February 27, 1979 to February 27, 1980. (PM-17; Room: E-229, Telephone: 202/426-9425)

No. 41326-EUP-1. Texas A&I University Citrus Center, Weslaco, Texas 78596. This experimental use permit allows the use of 675 pounds of the insecticide/nematocide aldicarb on grapefruit to evaluate control of certain insect pests. A total of 90 acres is involved; the program is authorized only in the States of California, Florida, and Texas. The experimental use permit is effective from February 6, 1979 to February 6, 1980. A temporary tolerance for residues of the active ingredient in or on grapefruit has been established. (PM-12; Room: E-229; Telephone: 202/426-9425)

No. 10065-EUP-13. Fisons Corp., Bedford, Massachusetts 01730. This experimental use permit allows the use of 3,200 pounds of the insecticide bendiocarb on corn to evaluate control of the northern, western, and southern corn rootworms. A total of 3,200 acres is involved; the program is authorized only in the States of Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, New York, North Carolina, Ohio, Pennsylvania, South Dakota, and Wisconsin. The experimental use permit is effective from February 22, 1979 to February 22, 1980. This permit is being issued with the limitation that all treated crops are destroyed or used for research purposes only. (PM-12; Room: E-229; telephone: 202/426-9425)

Interested parties wishing to review the experimental use permits are referred to the designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460. The descriptive paragraph for each permit contains a telephone number and room number for information purposes. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. The files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

(Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: March 7, 1979.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc. 79-7720 Filed 3-13-79; 8:45 am]

[6560-01-M]

[FRL 1076-1, OPP-31024]

PESTICIDE PROGRAMS

Receipt of Application to Register Pesticide Product Entailing a Changed Use Pattern

Monsanto Company, Agricultural Products, St. Louis, MO 63166, has submitted to the Environmental Protection Agency (EPA) an application to amend the registration of the pesticide product ROUNDUP (EPA Reg. No. 524-308) which contains 41.0% of the active ingredient isopropylamine salt of glyphosate (*N*-phosphonomethyl glycine). The application received proposes that the use pattern of this pesticide be changed to include use in aquatic sites. The application also proposes that the product be classified for general use.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW, Washington DC 20460. The comments must be received within 30 days from the date of publication of this notice in the FEDERAL REGISTER and should bear a notation indicating the EPA Registration Number "524-308". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concern-

ing this application and the data submitted should be directed to Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, at the above address or by telephone at 202/755-2196. The label furnished by Monsanto Co., as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Notice of approval or denial of this application to register ROUNDUP will be announced in the FEDERAL REGISTER. Except for such material protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136), the test data and other information submitted in support of registration as well as other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedures for requesting such data will be given in the FEDERAL REGISTER if an application is approved.

Dated: March 7, 1979.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 79-7717 Filed 3-13-79; 8:45 am]

[6560-01-M]

[FRL 1075-8; PF-122]

PESTICIDE PROGRAMS

Filing of Feed Additive Petition

Dow Chemical USA PO Box 1706, Midland, MI 48640, has submitted a petition (FAP 9H5205) to the Environmental Protection Agency (EPA) which proposes that 21 CFR 561 be amended by establishing a regulation permitting residues of the insecticide chlorpyrifos [0,0-diethyl 0 (3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolite 3,5,6-tricholoro-2-pyridinol in or on the animal feed dried citrus pulp with a tolerance limitation of 15.0 parts per million (ppm). Notice of this submission is given pursuant to the provisions of Section 409(b)(5) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Program Support Division (TS-757), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St., SW, Washington DC 20460. Inquiries concerning this petition may be directed to Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, at the above address, or by telephone at 202/426-9425. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: March 7, 1979.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 79-7721 Filed 3-13-79; 8:45 am]

[6560-01-M]

[FRL 1057-7, PP 7G1998/T187]

PESTICIDE PROGRAMS

Extension of a Temporary Exemption from the Requirement of a Tolerance; Hirsutella thompsonii

On April 18, 1978, the Environmental Protection Agency (EPA) gave notice (43 FR 16404) that in response to a pesticide petition (PP 7G1998) submitted to the Agency by Abbott Laboratories, 14th Street and Sheridan Road, North Chicago, IL 60064, a temporary exemption from the requirement of a tolerance was established for residues of the mycocaracide *Hirsutella thompsonii* in or on the raw agricultural commodities citrus and small fruits. This temporary exemption expired February 24, 1979.

Abbott Laboratories requested a one-year extension of this exemption from the requirement of a temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit (275-EUP-20) that has been extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that an extension of the temporary exemption from the requirement of a tolerance would protect the public health. Therefore, the temporary exemption has been extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Abbott Laboratories must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to an authorized officer of employee of the EPA or the Food and Drug Administration.

This temporary exemption expires February 24, 1980. This temporary exemption may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Franklin D. R. Gee, Product Manager 17, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington, D.C. 20460 (202/426-9425).

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j).)

Dated: March 7, 1979.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 79-7722 Filed 3-13-79; 8:45 am]

[6560-01-M]

[FRL 1075-4; OPP—180268]

WASHINGTON STATE DEPARTMENT OF AGRICULTURE

Issuance of Specific Exemption To Use Benomyl To Control Fungus on Cabbage, Cauliflower, Broccoli, and Brussels Sprout Seeds

The Environmental Protection Agency (EPA) has granted a specific exemption to the Washington State Department of Agriculture (hereafter referred to as the "Applicant") to use benomyl on commercial cabbage, cauliflower, broccoli, and brussels sprout seeds in western Washington to control infestations of the fungus *Phoma lingam*, which causes the plant disease called "blackleg". 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 Street, S.W., Room E-315, Washington, D.C. 20460.

According to the Applicant, *Phoma lingam*, the causal agent of blackleg disease in these crucifers (plants of the family *Cruciferae*), is frequently present on seed, but epidemic out-

breaks depend on the weather conditions in seed growing, transplant and food production areas. The organism, which may remain viable on plant debris for up to four years, can be introduced into new fields by seed transmission. The Applicant stated that a disastrous outbreak of cabbage blackleg occurred in the eastern cabbage growing States in 1973 as a result of seed transmission of *Phoma lingam*. In that year, cabbage growers suffered a ten percent loss of the nation's cabbage crop to blackleg and blackrot; the cabbage seed growing industry of Washington State was threatened by lawsuits and the potential loss of insurance coverage.

About 1,000 acres of cabbage are grown for seed in the Skagit Valley region in western Washington. The Applicant estimated that 80 percent of the nation's and 30 percent of the world's cabbage supply is produced in this area. Moreover, about 100 acres of cauliflower, broccoli, and brussels sprouts are grown for seed in the area. This specific exemption requested treatment of up to 1,000,000 pounds of seed; treatment will be dependent on confirming the presence of the organism. Disease control requires both the treatment of seed used for seed production and of commercial seed lots. Benomyl (Benlate 50% Wettable Powder; EPA Reg. No. 352-354) will be applied at the rate of eight ounces Benlate formulation in sufficient water for seed coverage per hundred pounds of seed. The Applicant stated that other pesticides and cultural practices have been unsuccessful in controlling the disease. A single Benlate application will be made on seed produced in 1978 for the 1979 commercial acreage; personnel of seed companies or seed contractors will make the applications.

It should be noted that a rebuttable presumption against registration of pesticide products containing benomyl was published on December 6, 1977 (42 FR 61788); however, no decision has yet been made by EPA as to appropriate regulatory action in this matter.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of the fungus *Phoma lingam* has occurred; (b) there is no pesticide presently registered and available for use to control the fungus in Washington State; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the fungus is 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 April 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A benomyl product, Benlate 50% Wettable Powder (EPA Reg. 352-354), will be used;

2. Benomyl will be applied at a maximum rate of eight ounces of the product (four ounces active ingredient) in sufficient water to treat one hundred pounds of seeds;

3. Each seed lot may receive no more than a single application of benomyl;

4. Application of benomyl will be restricted to seeds which are determined to be infected or to seeds from areas where *Phoma lingam* is known to be present;

5. A maximum of one million pounds of seeds may be treated;

6. Treated seeds will not be used for food, feed, or any other use except planting, and all shipments of seed must be so labeled;

7. EPA has determined that residues of benomyl resulting from this use are not likely to exceed 0.20 part per million (ppm) in cabbage and cauliflower and 0.40 ppm in broccoli and brussels sprouts, cabbage, cauliflower, broccoli, and brussels sprouts with residues not exceeding these levels may be shipped in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

8. Only seeds intended for commercial planting may be treated with benomyl. Benomyl-treated seed will be clearly labeled as such;

9. The Applicant is responsible for insuring that the restrictions of this specific exemption are met, and must submit a report summarizing the results of this program by August 30, 1979;

10. The Applicant will insure that residue data will be obtained to support tolerances for residues of benomyl in or on broccoli and brussels sprouts;

11. All applicable directions, restrictions, and precautions on the EPA-registered label must be followed;

12. The EPA shall be immediately informed of any adverse effects resulting from use of benomyl in connection with this exemption; and

13. All applications will be made by seed treating personnel of the seed companies or seed contractors. Personnel of these companies must be certified and must wear dust masks when treating crucifer seeds with benomyl.

(Section 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: March 7, 1979.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-7718 Filed 3-13-79; 8:45 am]

[6560-01-M]

[FRL 1076-4; FIFRA Docket Nos. 409 and 410]

SUSPENSION OF REGISTRATIONS FOR CERTAIN USES OF 2,4,5-T AND SILVEX

Prehearing Conference

AGENCY: Environmental Protection Agency.

ACTION: Notice of Prehearing Conference.

SUMMARY: On February 28, 1979, the Administrator of the Environmental Protection Agency signed orders and decisions suspending the registration for certain uses of 2,4,5-T and Silvex. A prehearing conference will be held on Thursday, March 15, 1979, at 10 a.m. in Washington, DC or in the nearby Washington area. For information as to the place in which the conference will take place, telephone the Hearing Clerk 202-755-5476. Only those persons who have submitted requests for a hearing as provided for in the Administrator's orders will be allowed to participate in the prehearing conference.

For the Hearing Panel.

CHARLES N. GREGG,
Chairperson.

MARCH 9, 1979.

[FR Doc. 79-7751 Filed 3-13-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[Docket No. 78-14]

CARGO SYSTEMS INTERNATIONAL (CSI)—INDEPENDENT OCEAN FREIGHT FORWARDER APPLICATION AND POSSIBLE VIOLATIONS OF SECTION 44, SHIPPING ACT, 1916.

Order of Investigation and Hearing

Cargo Systems International (CSI) filed an application with the Commission for a license as an independent ocean freight forwarder. During the course of the Commission's investigation of CSI, it was disclosed that CSI appeared to violate Section 44(a), Shipping Act, 1916, on between 80 and 120 occasions be engaging in unlicensed forwarding activities using the revoked license number of Sada Trading Company, Inc. (ex-FMC 210) although a warning about unlicensed forwarding activities had been sent to CSI from the Commission on July 13, 1978 and had been repeated by staff

members of the Atlantic District Office on September 11, 1978.

Section 44(b) of the Shipping Act, 1916, requires that applicants be found to be fit, willing and able to carry on properly the business of forwarding and to conform to the provisions of the Shipping Act, 1916, as amended, and the requirements, rules and regulations of the Commission issued thereunder. Otherwise such application shall be denied. The applicant's alleged unlicensed ocean freight forwarding activities reflect upon the managerial responsibility and fitness of the applicant. These alleged violations apparently occurred while the forwarder's application was being processed and after warning in regard to carrying on the business of forwarding without a license.

The conduct of CSI appears to be in violation of the Shipping Act, 1916, and this conduct, on the part of CSI and its corporate officers, may result in a lack of the fitness required for licensing as an independent ocean freight forwarder, under section 44 of the Shipping Act, 1916.

Pursuant to § 510.8 of the Commission's General Order 4, (46 CFR 510.8) the Commission, on December 19, 1978, advised CSI of its intent to deny its application for reasons set out hereinabove. In accordance with General Order 4, any applicant may request a hearing on the intended denial.

By letter dated January 2, 1979, CSI, through its counsel, requested the opportunity to show at an expedited hearing that the denial of CSI's application is unwarranted. In this regard, CSI has offered to present its case in the form of affidavits describing the circumstances under which the alleged violations occurred and explain the changes which have recently taken within the firm.

Now, therefore, *it is ordered, That* pursuant to sections 22 and 44 (46 U.S.C. 821 and 841(b)) of the Shipping Act, 1916, and § 510.8 of the Commission's General Order 4 (46 CFR 510.8) a proceeding hereby instituted to determine:

1. Whether Cargo Systems International has violated section 44 (a), Shipping Act, 1916, by engaging in unlicensed forwarding activities;

2. Whether, in light of the evidence adduced pursuant to the foregoing issue, together with any other evidence adduced, Cargo Systems International and its corporate officers, possess the requisite fitness, within the meaning of section 44(b), Shipping Act, 1916, to be licensed as an independent ocean freight forwarder.

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the proceeding shall initially be limited to the submission of affidavits of fact and memoranda of law.

It is further ordered, That the following schedule be adhered to:

April 9, 1979—Opening memorandum of law and affidavits of fact from Respondent;

March 23, 1979—Petitions to Intervene:

May 7, 1979—Memorandum of law and affidavits of fact from Hearing Counsel and any intervenors:

It is further ordered, That within two weeks following the submission of the affidavits of fact and memorandum of law the parties will submit to the Administrative Law Judge written statements identifying the issues of fact and law and specifying the type of procedure they feel is best suited to resolve them. After consideration of these recommendations, the Administrative Law Judge will issue an appropriate order establishing the procedure for their resolution. However, any additional procedure shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a showing that there are issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That Cargo Systems International be designated Respondent and that Hearing Counsel also be a party to this proceeding;

It is further ordered, That any persons other than Respondent and Hearing Counsel who desire to become parties to this proceeding and to participate therein shall file a Petition to Intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502, 72);

It is further ordered, That a notice of this Order be published in the FEDERAL REGISTER and that a copy thereof be served upon Respondent and Hearing Counsel;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573 in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-7715 Filed 3-13-79; 8:45 am]

[6730-01-M]

AGREEMENT FILED

Correction

The notice of the filing Agreement No. 10109-2, appearing in the FEDERAL REGISTER, Tuesday, March 6, 1979, Vol. 44, No. 45, Page 12261, which purports to extend the duration of the agreement beyond May 2, 1979, until terminated by agreement of the parties or by operation of law, was assigned an incorrect number. The correct number is 10109-3.

Dated: March 9, 1979.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-7701 Filed 3-13-79; 8:45 am]

[6325-01-M]

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

OPEN COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, April 19, 1979
Thursday, April 26, 1979

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of

its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415 (202-632-9710).

JEROME H. ROSS,
Chairman, Federal Prevailing Rate Advisory Committee.

MARCH 9, 1979.

[FR Doc. 79-7683 Filed 3-13-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE SYSTEM

CANEYVILLE BANCSHARES, INC.

Formation of Bank Holding Company

Caneyville Bancshares, Inc., Caneyville, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 99.1 per cent or more of the voting shares of Bank of Caneyville, Caneyville, Kentucky. 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 St. Louis. Any person wishing to comment on the application should submit views in writing to the Sectretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than April 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, March 7, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc. 79-7657 Filed 3-13-79; 8:45 am]

[6210-01-M]

CROCKER NATIONAL CORP.

Proposed Acquisition of Bishop Investment Corp.

Crocker National Corporation, San Francisco, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Bishop Investment Company, Honolulu, Hawaii ("BIC"), and certain of BIC's subsidiaries, including Bishop Trust Company, Ltd.; and Hawaii Finance Company, Limited.

Applicant states that Bishop Trust Company would engage in the activities of operating a trust company providing investment management and advisory activities, and providing data processing of financially related information to such trust offices and others, and that Hawaii Finance Company would engage in operation of an industrial loan company. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Bishop Trust Company would utilize offices in Honolulu, Hawaii and New Agana, Guam, serving the geographic areas of Hawaii, and Guam, respectively, Hawaii Finance Company would operate offices in Hilo, and Honolulu, Hawaii, and such offices would serve the geographic area of Hawaii.

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 interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 6, 1979.

Board of Governors of the Federal Reserve System, March 6, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc. 79-7658 Filed 3-13-79; 8:45 am]

[6210-01-M]

F.N.B. CORP.

Proposed Acquisition of TRY-M Consumer Discount Co.

F.N.B. Corporation, Sharon, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of TRY-M Consumer Discount Company, Warren, Pennsylvania.

Applicant states that the proposed subsidiary would engage in the activities of a consumer finance company, including soliciting and making cash loans and engaging in sales finance activites. In addition, the proposed subsidiary would make available to its customers credit life, and accident and health insurance in connection with extensions of credit. These activities would be performed from offices of Applicant's subsidiary in the cities of Warren, Titusville, Meadville, Corry, Greenville, Brookville, and Bradford, Pennsylvania, and the geographic areas to be served are portions of ten counties in northwestern Pennsylvania and small portions of Chautauqua, Cattaraugus and Allegany Counties in New York. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of 225.4(b).

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 interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 6, 1979.

Board of Governors of the Federal Reserve System, March 7, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc. 79-7659 Filed 3-13-79; 8:45 am]

[6210-01-M]

INDEPENDENT BANK CORP.

Acquisition of Bank

Independent Bank Corporation, Ionia, Michigan, 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 per cent of the voting shares of the successor by consolidation to The Old State Bank of Fremont, Fremont, Michigan. 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 Chicago. 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 April 6, 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, March 7, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc. 79-7660 Filed 3-13-79; 8:45 am]

[6210-01-M]

PEOPLES OF INDIANOLA, INC.

Formation of Bank Holding Company

Peoples of Indianola, Inc., Indianola, Mississippi, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Peoples Bank of Indianola, Indianola, Mississippi. 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)).

Peoples of Indianola, Inc., Indianola, Mississippi, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage *de novo* pursuant to § 225.4(a)(9)(ii)(a) (12 CFR 225.4(a)(9)(ii)(a) in the sale of credit life and credit accident and health insurance related to extensions of credit by its Bank. These activities would be performed from offices of Bank in Indianola, Mississippi, and the geographic area to be served is Indianola, Mississippi. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board Approval of individual proposals in accordance with the procedures of section 225.4(b).

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 interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by 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 the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 6, 1979.

Board of Governors of the Federal Reserve System, March 7, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc. 79-7661 Filed 3-13-79; 8:45 am]

[6210-01-M]

FEDERAL RESERVE BANK OF NEW YORK, ET AL.

Bank Holding Companies; Notice of 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 commerced *de novo*), directly 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 aggrived 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, except as noted, received by the appropriate Federal Reserve Bank not later than April 4, 1979.

A. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

MANUFACTURERS HANOVER CORPORATION, New York, New York (consumer lending and insurance activities; Indiana): to engage through its subsidiary, the Financial Source, Inc., of Indiana, in arranging, making, or acquiring loans and other extensions of credit such as would be made by a consumer finance company; making or acquiring loans and other extensions of credit such as would be made by a sales finance company including purchasing installment sales finance contracts; servicing such loans and extensions of credit; acting as agent of broker for a sale of life and accident and health insurance directly related to its extensions of credit and

property damage and liability insurance insuring collateral securing its loan and other extensions of credit or securing sales finance contracts entered into by it directly or secrring loans and other extensions of credit (including sales finance contracts) acquired by the subsidiary in transactions that are equivalent to direct extensions of credit by it. These activities would be conducted from an office in Greensburg, Indiana, and the geographic areas to be served are Decatur County, Indiana, and portions of three adjacent counties.

B. *Federal Reserve Bank of Cleveland,* 1455 East Sixth Street, Cleveland, Ohio 44101:

MONTGOMERY BANCORPORATION, INC., Mt. Sterling, Kentucky (insurance activities, Kentucky): to act as agent or broker for the sale of life, accident and health, and property and casualty insurance directly related to extensions of credit by Applicant's subsidiary bank, Montgomery Bank and Trust Company; and in the sale of any insurance to that bank. These activities would be conducted from the bank's premises in Mt.Sterling, Kentucky, and the geographic areas to be served are Montgomery, Bath, and Menifee Counties, Kentucky.

C. *Federal Reserve Bank of Richmond,* 701 East Byrd Street, Richmond, Virginia 23261:

UNITED VIRGINIA BANKSHARES, INCORPORATED, Richmond, Virginia (financing and insurance activities; Maryland): to engage, through its subsidiary, United Virginia Mortgage Corporation, in originating loans as principal; originating loans as agent; servicing loans for nonaffiliated individuals, partnerships, and corporations and for Applicant's affiliates; sale as agent of life, disability, mortgage redemption, and mortgage cancellation insurance directly related to its extensions of credit; and such other activities as may be incidental to the business of a mortgage corporation. These activities would be conducted from an office in Beltsville, Maryland, and the geographic area to be served is Maryland. This application is for the relocation of an existing office from Langley Park, Maryland.

D. *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 America 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 activities as WAFI. These activities will be conducted from an office in San Francisco, California and the geographic area to be served is national. This is a correction of a notice published earlier (44 *Fed. Reg.* 11,120), and comments must be received by the Reserve Bank by March 26, 1979.

E. *Other Federal Reserve Banks:* None:

Board of Governors of the Federal Reserve System, March 6, 1979.

EDWARD T. MULRENIN,
Assistant Secretary of the Board.

[FR Doc. 79-7656 Filed 3-13-79; 8:45 am]

[6820-23-M]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 10, March 30, 1979, from 9:00 a.m. to 3:00 p.m., Public Buildings Service Conference Room, GSA Center, 15th and C Streets, S.W., Auburn, WA. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed alterations of the first floor space, for the Food and Drug Administration offices and laboratory at Federal Center South, 4735 East Marginal Way South, Seattle, WA. The meeting will be open to the public.

Dated: March 2, 1979.

R. C. CASAD,
Regional Administrator.

[FR Doc. 79-7698 Filed 3-13-79; 8:45 am]

[4110-85-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Assistant Secretary for Health

PRESIDENT'S COUNCIL ON PHYSICAL FITNESS AND SPORTS

Meeting

The President's Council on Physical Fitness and Sports (PCPFS) will hold its quarterly meeting on April 19, 1979. The meeting will be held from 10:00 a.m. to 4:00 p.m., Thursday, April 19, 1979, in the New Executive Office Building, 17th and Pennsylvania Avenue, N.W., Washington, D.C.

The purpose of the meeting is to report on ongoing projects and to discuss future directions of the PCPFS.

A list of Council members and the Executive Order, dated September 25, 1970, amended October 25, 1976, establishing their responsibilities, may be obtained from:

C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, Washington, D.C. 20201. Telephone: 202/755-7947.

The meeting will be open to the public.

Dated: March 8, 1979.

C. CARSON CONRAD,
Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 79-7665 Filed 3-13-79; 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 National Advisory Council on Extension and Continuing Education. It also describes the functions of the Council. Notice of the meeting 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: April 4, 5, and 6, 1979.

ADDRESS: The Hotel Washington, Pennsylvania Avenue at Fifteenth Street, NW., Washington, D.C.

FOR FURTHER INFORMATION:

William G. Shannon, Executive Director National Advisory Council on Extension and Continuing Education 425 13th 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 Council's meeting will begin on April 4, 1979 at 6:30 p.m., recessing at 9:00 p.m. It will resume on April 5 at 9:00 a.m. recessing at 5:00 p.m., and on April 6 at 9:00 a.m. and adjourn at 12:30 p.m.

The agenda for the meeting will include the following items:

1. Report of the Chairperson
2. Report of the Executive Director.
3. Approval of Minutes of Previous Council Meeting
4. Report of Meeting of Executive Committee
5. Report on Activities of Ad-Hoc Committees on Title I, Title IV, and International Dimensions
6. Discussion of Outline of Council's Special Report
7. Future Activities of the Counil

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: March 7, 1979.

WILLIAM G. SHANNON,
Executive Director.

[FR Doc. 79-7632 Filed 313-79; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

LAKE SUPERIOR AND MISSISSIPPI BANDS OF CHIPPEWA INDIANS

Plan for the Use and Distribution of Lake Superior and Mississippi Bands of Chippewa Indians Judgment Funds Awarded in Dockets 18-C and 18-T Before the Indian Claims Commission

MARCH 6, 1979.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 210 DM 1.2.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of any Indian tribe. Funds were appropriated by the Acts of June 8, 1974, 88 Stat. 195, and October 31, 1972, 86 Stat. 1498, in satisfaction of the awards granted to the Lake Superior and Mississippi Bands of Chippewa Indians in Indian Claims Commission Dockets 18-C and 18-T. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated August 11, 1978, and was received (as recorded in the Congressional Record) by the House of Representatives on August 14, 1978, and by the Senate on August 15, 1978. Congress not having adopted a resolution disapproving it, the plan became effective on February 1, 1979, as provided by Section 5 of the 1973 Act, *supra*.

The plan reads as follows:

"The funds appropriated by the Act of June 8, 1974, 88 Stat. 195, and the Act of October 31, 1972, 86 Stat. 1498, in satisfaction of awards granted respectively in Dockets 18-C and 18-T before the Indian Claims Commission, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be used and distributed as herein provided.

(1). The Secretary of the Interior (hereinafter 'Secretary') shall divide such funds in the amounts specified in Section 2 and on the basis of the population and reservation community groups as reflected in census and annuity rolls for the period 1937-1941, to the total population of 16,061. The participating federally recognized tribal entities, by historic band and reservation affiliation designations, and their respective shares are:

(a). LAKE SUPERIOR CHIPPEWA BANDS: *In the State of Wisconsin*—Bad River Reservation 1259/16061; Lac Courte Oreilles Reservation 1691/16061; Lac du Flambeau Reservation 832/16061; Mole Lake or Sokaogon Reservation 187/16061; Red Cliff Reservation 645/16061; St. Croix Reservation 299/16061. *In the State of Michigan*—Keweenaw Bay Community (L'Anse, Lac Vieux Desert and Ontonagon Bands) 939/16061. *In the State of Minnesota*—enrolled with the Minnesota Chippewa Tribe and reservation affiliations, Fond du Lac Reservation 1346/16061; Grand Portage Reservation 387/16061; Nett Lake Reservation, including Vermillion Lake and Deer Creek (Bois Forte Band) 704/16061; White Earth Reservation 148/16061.

(b). *MISSISSIPPI CHIPPEWA BANDS:* In the *State of Minnesota*—enrolled with the Minnesota Chippewa Tribe and reservation affiliations, Mille Lac Reservation 569/16061; White Earth Reservation 6431/16061; Leech Lake Reservation 624/16061.

(2). Docket 18-C funds shall be divided two-thirds among the tribal groups of the Lake Superior Chippewa Band named in section 1(a) of this plan on the ratio of the population of each to the total of 8,437 and one-third among the tribal groups of the Mississippi Band named in section 1(b) of this plan on the ratio of the population of each to the total of 7,624. Docket 18-T funds shall be divided among the 14 groups named in section 1(a) and (b) on the ratio of the population of each to the total enumeration of 16,061.

(3). The apportioned shares of the funds of the Lake Superior Chippewa Bands on the reservatons Bad River, Lac Courte Oreilles, Lac du Flambeau, St. Croix, Mole Lake or Sokaogon, and the Keeweenaw Bay Community (L'Anse, Lac Vieux Desert and Ontonagon bands) shall be held in separate accounts and invested by the Secretary under 25 USCA 162a until such time the respective groups prepare proposals for the use and distribution of their respectve funds in accordance with the provisions of the act of October 19, 1973, 87 Stat. 466. Where a tribal proposal contemplates a per capita distribution of any part of its apportion funds, all enrollees of the tribal organization born on or prior to and living on the effective date of plan shall be eligible to to receive per capita shares.

(4). The apportioned share of the funds of the groups named in section 5 of this plan shall be further divided and utilized in the manner specified in sections 5 and 6 of this plan.

PER CAPITA ASPECT

(5). The Secretary shall make a per capita distribution of eighty percent (80%) of the apportioned share of the funds in a sum as equal as possible to each enrollee of the Red Cliff Reservation and of the Minnesota Chippewa Tribe who is designated as a Lake Superior Chippewa Band member and affiliated with the reservation Fond du Lac, Grand Portage, White Earth, or Nett Lake (including Vermillion Lake and Deer Lake) or as a Mississippi Chippewa Band member and affiliated with the reservation Mille Lac, Leech Lake, or White Earth, and who was born on or prior to and living on the effective date of this plan. The membership roll of the Red Cliff Chippewa organization and the Lake Superior and Mississppi Chippewa Band rolls of the Minnesota Chippewa Tribe shall be brought current under procedures enacted by the tribes and approved by the Secretary.

PROGRAMING ASPECT

(6). The twenty percent (20%) program portion of the funds, including interest and investment income accrued, of the groups named in section 5 of this plan shall be deposited in separate accounts and shall be invested by the Secretary under 25 USCA 162a until such time as a further plan for the use of the program funds is ap-

proved by the Secretary. The Secretary shall approve no plan for the use of the program funds of the respective groups until at least thirty days after the plan has been submitted to the Congress. The Reservation Business Committees of the Minnesota Chippewa Tribe and their respective band members represented on the reservations shall develop program plans, which may include a joint investment and use program of the funds for the bands represented on a reservation.

GENERAL PROVISIONS

(7). No person shall be entitled to more than one capital share of the funds.

The per capita shares of living competent adults shall be paid directly to them. The per capital shares of minors shall be handled pursuant to 25 CFR 60.10(a) and (b)(1) and 104.4. The per capita shares of legal incompetents shall be placed in individual Indian money (IIM) accounts and handled under 25 CFR 104.5. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D."

RICK LAVIS,
Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 79-7675 Filed 3-13-79; 8:45 am]

[4310-02-M]

CHEROKEE INDIANS OF ROBESON AND ADJOINING COUNTIES, NORTH CAROLINA

Notice of Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

MARCH 6, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 230 DM 2.

Pursuant to 25 CFR 54.8(a) notice is hereby given that the Cherokee Indians of Robeson and Adjoining Counties, c/o Mr. Herbert Locklear, Post Office Box 25, Shannon, North Carolina 28386, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on February 1, 1979. The petition was forwarded and signed by Mr. Herbert Locklear, spokesman of the petitioning group.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under Section 54.8(d) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20245.

FORREST J. GERARD,
Assistant Secretary, Indian Affairs.

[FR Doc. 79-7676 Filed 3-13-79; 8:45 am]

[4310-84-M]

Bureau of Land Management

R/W APPLICATION FOR PIPELINE NORTHWEST PIPELINE CORP.

[Colorado 25122 m]

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 right-of-way additions 78645 and 78726 for the Foundation Creek Gathering System of approximately 1.958 miles of pipeline on the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 4 S., R. 102 W.
Section 11: S½SE¼
Section 14: E½W½, NW¼NE¼
Section 23: SW¼NE¼, E½NW¼

The above-named gathering system will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

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. (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. 79-7633 Filed 3-13-79; 8:45]

[4310-84-M]

[INT DES 79-10]

GRAZING MANAGEMENT PROGRAM FOR THE MISSOURI BREAKS OF MONTANA

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Missouri Breaks area of Montana. The proposal includes implementing an improved grazing management program on portions of the public lands within the Lewistown and Miles City Districts in central Montana. Implementation of 266 new grazing plans or Allotment Management Plans (AMPs), revision of 10 AMPs, and continued operation of 42 AMPs is proposed. The plans include provisions for construction of additional fences, livestock watering facilities, and vegetation treatments. Overall a reduction of 1 percent in livestock use is suggested; however, on an individual allotment basis, the changes range from +158 percent to a −58 percent. The proposal is scheduled to be implemented over a four year period.

Public meetings on the draft statemet have been scheduled as follows:

April 2, 1979—7:30 p.m., Math and Science Building Auditorium, Northern Montana College, Havre, Montana.
April 3, 1979—7:30 p.m., Basement Meeting Room, GN Motel, Malta, Montana.
April 4, 1979—7:30 p.m., BLM District Office, Airport Road, Lewistown, Montana.
April 5, 1979—7:30 p.m., V.F.W. Hall, Jordan, Montana.
April 6, 1979—7:30 p.m., City-County Library, Glasgow, Montana.

The Department of the Interior invites written comments on the draft statement to be submitted by April 30, 1979 to the State Director, Bureau of Land Management, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107.

A limited number of copies are available upon request to the State Director at the above address.

Public reading copies will be available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and

C Streets, NW., Washington, D.C. 20240, Telephone: (202) 343-5717.
Montana State Office, Bureau of Land Management, 222 North 32nd Street, Billings, Montana 59101.
Lewistown District Office, Bureau of Land Management, Drawer 1160, Airport Road, Lewistown, Montana 59457.
Miles City District Office, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Dated: March 9, 1979.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary.

[FR Doc. 79-7663 Filed 3-13-79; 8:45 am]

[4310-84-M]

PROPOSED OUTER CONTINENTAL SHELF SALE NO. 55

Notice of Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior's Bureau of Land Management (BLM) intends to prepare an environmental impact statement for the purpose of considering the effects of the proposed Outer Continental Shelf (OCS) oil and gas lease Sale #55 offshore the northeastern Gulf of Alaska, scheduled for June 1980. A list of 350 tracts on the OCS, totalling 792,085 hectares (1.957 million acres), has been selected for further environmental study in this environmental impact statement.

Possible alternatives to this proposed sale include but are not limited to: (1) cancellation; (2) proceeding; (3) delaying; and (4) modifying the proposed sale.

The Alaska Outer Continental Shelf Office of BLM has invited affected Federal and State agencies, local communities, Native groups, and other special interest groups to participate in the process of scoping the significant actions, alternatives and impacts which should be considered in the environmental impact statement.

A scoping meeting for affected Federal agencies was held February 26, 1979, at the Alaska OCS Office. A second scoping meeting for State of Alaska agencies was held on March 2, 1979, at the same location. Remote local communities, Native corporations and numerous special interest groups will be contacted by letter inviting their written comments on significant actions, alternatives, and impacts. These written reponses should be received on or before March 23, 1979, and addressed to the Manager, Alaska OCS Office, P.O. Box 1159, Anchorage, Alaska 99510.

Any questions concerning the proposed action and environmental impact statement may be directed to the Manager, Alaska OCS Office, at 901-276-2955.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

MARCH 6, 1979.

Approved:

Guy R. Martin,
Assistant Secretary of the Interior.

MARCH 8, 1979.

[FR Doc. 79-7673 Filed 3-13-79; 8:45 am]

[4310-70-M]

National Park Service

HARPERS FERRY NATIONAL HISTORICAL PARK, W. VA.

Negative Declaration

In compliance with the National Environmental Policy Act of 1969, the National Park Service has prepared an environmental review of the assessment of alternatives for the Development Concept Plan for Harpers Ferry National Historical Park. The National Park Service has concluded that an environmental impact statement is not needed based on the alternative proposed as the Development Concept Plan.

The environmental review considers the significant problems confronting the management of Lower Town and the Camp Hill areas of the park and the impact of the park and its proposed developments on the adjacent communities as discussed in the assessment of alternatives. Public involvement assisted in the preparation of this proposed alternative.

The environmental review and the assessment of alternatives are on file and available for inspection until April 16, 1979, at the following locations:

Harpers Ferry National Historical Park
Superintendent's Office
P.O. Box 65
Harpers Ferry, West Virginia 25425

Harpers Ferry Design Center
Manager's Office
Harpers Ferry, West Virginia 25425

Bolivar Public Library
Harpers Ferry, West Virginia 25426

Charles Town Public Library
Charles Town, West Virginia 25414

Frederick Public Library
Frederick, Maryland 21701

Martinsburg Public Library
Martinsburg, West Virginia 25401

Washington County Public Library
Hagerstown, Maryland 21740

Shepherdstown Public Library
Shepherdstown, West Virginia 25443

National Capital Region Headquarters
Room 352, 1100 Ohio Drive, SW.
Washington, D.C. 20242

Anyone desiring to comment on the proposed action, the environmental review or the assessment of alternatives, may put them in writing and send their comments to the Superintendent, Harpers Ferry National Historical Park, P.O. Box 65, Harpers Ferry, West Virginia, 25425 prior to the expiration of the review period.

At the completion of this review, the National Park Service intends to publish a final Development Concept Plan for the Harpers Ferry National Historical Park in West Virginia and proceed to implement the plan.

Dated: March 8, 1979.

ROBERT STANTION,
Regional Director,
National Capital Region.

[FR Doc. 79-7750 Filed 3-13-79; 8:40 am]

[6820-35-M]

LEGAL SERVICES CORPORATION

FUNDS FOR GRANTS TO PROGRAMS SERVING MIGRANT FARM WORKERS

General Statement of Policy

AGENCY: Legal Services Corporation.

ACTION: General statement of policy.

SUMMARY: The Legal Services Corporation has available a limited amount of funds for grants to programs serving migrant farmworkers. The Corporation has developed a general policy to guide its staff in considering applications for those funds, which must be received by April 1, 1979. That policy is being published for the information of the public, as required by the Freedom of Information Act, 5 U.S.C. 552.

EFFECTIVE DATE: March 1, 1979.

ADDRESS: Legal Services Corporation, 733 Fifteenth Street, N.W., Suite 700, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT:

Hulett Askew, (202) 376-5119.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation is a private, non-profit corporation established by the Congress to provide financial assistance to programs offering free legal services to poor people. The Corporation currently funds more than 300 independent programs for that purpose in each of the fifty states, the District of Columbia, the Virgin Islands, Puerto Rico and the Trust Territory of the Pacific Islands (Micronesia). The grant levels of programs funded by the Corporation are determined by a formula, which provides a minimum of $7.39 for each poor person in a particular state or region as reflected by the 1970 census.

Many persons urged that this approach does not adequately take into account the large number of migrant farmworkers employed in this country

each year. The Corporation commissioned a study of this issue in January 1977, and concluded that migrant farmworkers were virtually excluded from the 1970 census. Accordingly, the Corporation's Board of Directors allocated a special category of funds to extend its basic funding formula to migrant farmworkers. Funds from that category were available for the first time in calendar year 1978.

This publication describes the general policy promulgated for the guidance of Corporation staff in considering applications for migrant funds in 1979. With one minor variation described below, the policy is identical to that followed last year.

1. *Definitions.* There is general agreement that the mobility of migrant farmworkers is the major reason they are excluded from the census count. In attempting to determine the number of migrant farmworkers in each state for the purposes of allocating funds, therefore, the Corporation distinguished between farmworkers who move from place-to-place following the crops (migrants), and those who reside in a single place and commute to the fields on a daily basis (seasonals). The Corporation also attempted to eliminate double counting of migrant farmworkers, which results from the fact that growing seasons differ and some persons may be employed in several places over the course of a year.

The following definitions were developed for these purposes, and to reflect the fact that migrant funds will be distributed according to the Corporation's basic funding formula:

a. "Seasonal farmworker" is a person who is employed less than 250 days per year in field or food processing work and who is not a migrant farmworker.

b. "Migrant farmworker" is a person who left home temporarily overnight to do hired field or food processing work with the expectation of eventually returning home.

c. The "adjusted number of migrant farmworkers" is the number of migrant farmworkers in a state during the growing season multiplied by a fraction, the numerator of which is the number of months in a growing season and the denominator of which is 12. If, for example, there are 20,000 migrant farmworkers employed in a state during its six-month growing season, the adjusted number of migrant farmworkers is: 20,000 x 6/12 = 10,000.

d. "Basic grant level" is the adjusted number of migrants in a program's service area, multiplied by $7.39.

2. *Eligibility for migrant funds.* The Corporation has concluded that, to be effective, a unit providing legal services to migrant farmworkers must include at least two attorneys. A minimum basic grant level of $73,900 is required to support such a unit. In order to be considered for migrant funds, therefore, a program must propose to serve a state with an adjusted number of migrant farmworkers totaling at least 10,000.

Two narrow variations are recognized:

a. Regional programs may be created to serve migrant farmworkers in several states. If the aggregate adjusted number of migrant farmworkers for such a regional program is greater than 10,000, the regional program will be considered for funding from the migrant category.

b. In states where the adjusted number of migrant farmworkers is greater than 3,500 but less than 10,000, programs will be considered for funding from the migrant category if they secure additional resources sufficient to create a two-attorney unit to serve migrant farmworkers. This variation was established for the first time in 1979.

3. *Procedure for allocating funds.* The funds available for the migrant category in 1979 are not sufficient to permit funding of all eligible programs at their basic grant level. If all eligible programs are funded, a decision that cannot be made until proposals are received and considered, the Corporation will distribute the funds in the following manner:

a. Programs eligible for funding under subparagraph 2b, will receive 91% of their basic grant levels;

b. Programs with an adjusted number of migrant farmworkers that is greater than 10,000, but less than 20,000, will receive their basic grant levels;

c. Programs with an adjusted number of migrant farmworkers that is greater than 20,000 will receive 88% of their basic grant levels.

Proposals for funding from the migrant category must be received by the Corporation's regional offices no later than April 1, 1979.

STEPHEN S. WALTERS,
Acting General Counsel,
Legal Services Corporation.

[FR Doc. 79-7754 Filed 3-13-79; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-29]

NASA ADVISORY COUNCIL (NAC), SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE (STAAC)

Meeting

The *Ad Hoc* Informal Advisory Subcommittee on Technology Transfer of the NAC-STAAC will meet on April 3, 1979 from 8:30 am to 4:30 pm and on April 4, 1979 from 8:30 am to noon at NASA Headquarters, Room 226A, Federal Office Building 10B, 600 Independence Avenue, S.W., Washington, D.C. 20546. Members of the public will be admitted to the meeting on both days at the times noted above on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for about 35 persons.

This Subcommittee, chaired by Dr. Robert P. Morgan, is comprised of 8 members of the NAC-STAAC. The functions of this Subcommittee are to review and assess NASA's accomplishments and on-going and planned activities in technology transfer in all of the applications disciplines.

The approved agenda for the meeting is as follows:

April 3, 1979

Time and Topic

8:30 am—Chairperson's Remarks
8:45 am—Resource Observation Division
9:45 am—Materials Processing in Space Division
10:45 am—Communications Division
11:15 am—Environmental Observation Division
1:30 pm—Working Group Sessions
3:30 pm—Working Group Reports
4:30 pm—Adjourn

April 4, 1979

8:30 am—General Discussion
10:00 am—Conclusions & Recommendations
12:00 pm—Adjourn

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C. (202) 755-7450.

ARNOLD W. FRUTKIN,
Associate Administrator for External Relations.

MARCH 7, 1979.

[FR Doc. 79-7653 Filed 3-13-79; 8:45 am]

[7510-01-M]

[Notice 79—30]

SPACE SCIENCE STEERING COMMITTEE, VENUS ORBITING IMAGING RADAR ADVISORY SUBCOMMITTEE

Meeting

The Venus Orbiting Imaging Radar Ad Hoc Advisory Subcommittee of the Space Science Steering Committee will

meet at NASA Headquarters, Washington, DC on April 9-12, 1979. On April 9 the meeting will be held in Room 5135, and on April 10-12, in Room 5092, Federal Building 6, from 8:30 a.m. to 4:30 p.m. on each day. The Subcommittee will discuss, evaluate, and categorize Synthetic Aperture Radar and Altimetry proposals submitted to NASA in response to the Announcement of Opportunity for the Venus Orbiting Imaging Radar mission. 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. W. L. Quaide, NASA Headquarters, Code SL-4, Washington, DC 20546, (202/755-1602).

ARNOLD W. FRUTKIN,
Associate Administrator for External Affairs.

MARCH 8, 1979.

[FR Doc. 79-7652 Filed 3-13-79; 8:45 am]

[6820-98-M]

NATIONAL COMMISSION ON AIR QUALITY

MEETINGS

The National Commission on Air Quality hereby gives notice that its meeting scheduled for March 19 has been postponed until April 9. The meeting will be held in Room 5110 of the Dirksen Senate Office Building located on the corner of 1st and Constitution Avenues and will begin at 10:00 a.m.

The agenda will include the following items:

1. Approval of minutes of the January 8 and February 12, 1979 meetings.
2. Seminar presentation on the general economic impact of air pollution and air pollution controls.
3. Report regarding acquisition of office space.
4. Report regarding staff structure.
5. Public hearing to receive testimony on issues that should be given a high priority during the course of the Commission's study.

The public hearing section of the meeting will begin in the early afternoon; it will provide an opportunity for a number of persons who requested to testify at the Commission's January 8 or February 12 public hearings, but were unable to do so because of scheduling difficulties, to present oral testimony. Testimony should focus on research needs, techniques and priorities related to the following issues:

Effects of air pollution on health and health care costs;
Impact of air pollution and air pollution controls on regional economic development;
Costs of compliance with the requirements of the Clean Air Act as interpreted by the Environmental Protection Agency;
Effectiveness of present statutory requirements and success of current regulatory efforts in accomplishing the general purposes set forth in the Clean Air Act;
Appropriate automobile emission standards and best available technologies needed to meet them;
Most appropriate and practical means of preserving air quality in areas in which the air is now cleaner than the national ambient air quality standards;
Most appropriate and practical means of enhancing air quality in those areas in which established air quality standards are not met;
Special problems of small business and governmental agencies in obtaining reductions of emissions from existing sources to offset increased emissions from new sources;
Alternatives to regulation as a means of reducing pollution;
Inherent problems in efforts to diminish pollution in high altitude areas; and
Relationship of established environmental regulations to national energy policies.

Those wishing to testify at the public hearing should notify Paul Freeman at (202) 634-7139 by March 26 in order to schedule a time for submission of prepared oral testimony, and should send at least 50 copies of such testimony no later than April 5 to the attention of Paul Freeman at the Office of the National Commission on Air Quality, 1730 K Street NW., Suite 207, Washington, D.C. 20006.

MARCH 12, 1979.

NATIONAL COMMISSION ON AIR QUALITY,
WILLIAM H. LEWIS, Jr.,
Director.

[FR Doc. 79-7901 Filed 3-13-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE PALO VERDE NUCLEAR GENERATING STATION

Meeting

The ACRS Subcommittee on the Palo Verde Nuclear Generating Station, Units 4 and 5, will hold an open meeting on March 29, 1979 at the Aloha Inn, 3901 E. Van Buren St., Phoenix, AZ 85008 to review the application of the Arizona Public Service Company to construct Units 4 and 5 of this station. Notice of this meeting was published on February 28, 1979 (44 FR 11279).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

THURSDAY, MARCH 29, 1979

1:00 P.M. UNTIL THE CONCLUSION OF BUSINESS.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Arizona Public Service Company, and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Gary Quittschreiber, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555 and at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, AZ 85004.

Dated: March 8, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc 79-7572 Filed 3-13-79; 8:45 am]

[7590-01-M]

LICENSES TO EXPORT/IMPORT NUCLEAR FACILITIES OR MATERIALS

Applications

Pursuant to 10 CFR 110.70, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export/import licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this day March 6, 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

JAMES R. SHEA,
Director, Office of International Programs.

EXPORT LICENSE APPLICATIONS SOURCE AND SPECIAL NUCLEAR MATERIAL IN KILOGRAMS

Name of applicant, date of application, date received, application number	Material type	Total element	Total isotope	End-use	Country of destination
General Atomic Company, 05/24/77, 05/31/77, XR126[1].	TRIGA Mark II pool-type research reactor with a thermal power level of 1000 kilowatts.	.....	.....	.....	Bangladesh.
Westinghouse Electric, 2-8-79, 2-12-79, XSNM01458.	3.3 Enriched Uranium	2,119,531	68,609	Fuel for KNU 5 and 6	Republic of Korea.
Transnuclear, Inc., 2-14-79, 2-15-79, XSNM01459.	93.3 Enriched Uranium	6.817	6.360	Fuel for BER-II	West Germany.
Edlow International Co., 02/16/79, 02/22/79, XSNM01462.	2.65 Enriched Uranium	17,115	454	Reload fuel for Mihama Unit 2	Japan.
Edlow International Co., 02/16/79, 02/22/79, XSNM01463.	4.52 Enriched	13,125	593	Reload fuel for TRINO Reactor	Italy.
Edlow International Co., 02/21/79, 02/26/79, XU08451.	Natural Uranium	129,243	.....	Material will be stored, after conversion in U.K. or France, and then returned to U.S. for enrichment for eventual use as fuel for Stade reactor.	W. Germany.

[1]This application was received in May 1977 but no record of publication in the FEDERAL REGISTER.

[FR Doc 79-7599 Filed 3-13-79; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CIVIL SERVICE REFORM ACT OF 1978

Notice of Study of Decentralization of Federal Governmental Functions

AGENCY: Office of Management and Budget.

ACTION: Notice of Study of Decentralization of Federal Government Functions.

SUMMARY: Section 901 of the Civil Service Reform Act of 1978 requires the Director of the Office of Management and Budget to conduct a detailed study on decentralization of Federal governmental functions, reviewing the possibilities of distributing some functions currently concentrated in Washington, D.C. to field offices throughout the United States. This notice is to elicit written views related to this study from all interested parties.

DUE DATE: All comments should be submitted by April 15, 1979.

SUBMIT WRITTEN COMMENTS TO: Howard M. Messner, Assitant Director for Management Improvement and Evaluation, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Gary M. Katz, Management Improvement and Evaluation Division, on Area Code 202, 395-4866.

SUPPLEMENTARY INFORMATION: The work plan upon which the study is being conducted follows:

Issued in Washington, D.C. on March 9, 1979.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

STUDY OF DECENTRALIZATION OF FEDERAL GOVERNMENTAL FUNCTIONS

WORK PLAN

JANUARY 1979

MANAGEMENT IMPROVEMENT AND EVALUATION DIVISION, OFFICE OF MANAGEMENT AND BUDGET

CONTENTS

Introduction.
General Approach to the Study.
Organization and Conduct of the Study.
Appendix A. Background Data.
Appendix B. Major Milestone Dates.
Appendix C. OMB Circular A-60.

INTRODUCTION

Study Requirement.—Section 901 of the Civil Service Reform Act of 1978 (Pub. L. 95-454) requires the Director of the Office of Management and Budget to conduct a detailed study on the decentralization of Federal Governmental functions. It further directs that the study is to:

- Review the existing geographical distribution of Federal Governmental functions throughout the United States, including the extent to which they are concentrated in the District of Columbia.
- Review the possibilities of distributing some of the functions of the various Federal agencies currently concentrated in the District of Columbia to field offices located at points throughout the United States.

Within one year after the effective date of the Act, the Director must

submit a report and recommendations, including draft legislation if the recommendations would require amending existing statutes, to the President for transmittal to the Congress.

Current Situation—A Summary.—As of the end of December 1976—the most current date for which complete figures are available—the overall Federal civilian and military work force in Washington, D.C., excluding the surrounding suburbs, numbered 220,885, approximately 5.4 percent of the total Federal work force in the United States. The parallel figures for the entire National Capital area were 388,418, representing about 9.5 percent of the nationwide Federal employment total. Federal civilian employment in the total National Capital area has increased from 10.6 percent of the United States total in 1955 to 12.2 percent at the end of 1976. National Capital military employment has decreased from 4.7 percent in 1970 to 4.3 percent in 1977.

General Approach to the Study

This study is designed to develop meaningful and practical recommendations which the President can consider and transmit to the Congress to fulfill the statutory mandate. Since Federal agency headquarters activities are often divided among various locations in Washington, D.C., and the surrounding area, this study will deal with the entire area for purposes of analysis.

The general approach to the study is to review and consider three major elements:

- The existing geographical distribution of Federal Governmental functions throughout the United States.
- The extent to which such functions are concentrated in Washington, D.C., and the surrounding area.
- The possibilities of distributing some of the functions of various Federal agencies currently concentrated in Washington, D.C., and the surrounding area to field offices located at points throughout the United States based on specific criteria.

The review of the existing geographical distribution of functions will be a general survey which can be completed primarily with data currently available from the Office of Personnel Management, the Public Buildings Service of the General Services Administration, the National Capital Park and Planning Commission, and other standard reference sources. Findings will be confirmed with the appropriate Federal agencies. Identifying the extent to which Federal functions are concentrated in Washington, D.C., and the surrounding area will be accomplished in the same manner.

The third element, reviewing possibilities of decentralizing some activities and functions, will be the major analytical part of the study. Each Federal agency in Washington, D.C., and the surrounding area will be asked to: (1) identify those of its functions or activities that might be considered for decentralization based on the criteria in OMB Circular A-60 (see Appendix C); (2) describe the factors involved in each decentralization; and (3) suggest logical geographical locations to receive each decentralized function or activity. The analysis of agency proposals will consider Circular A-60 criteria, associated costs and benefits, urban and community impacts as requested by Circular A-116, and other considerations that may surface during the study. Agencies will also be asked to suggest improvements to Circular A-60 so that any needed updating of Executive Branch policy can be accomplished as a result of the study.

Opportunities will be provided during the study for Federal agency managers, employees, employee unions, State and local officials, and other interested parties to offer comments and suggestions.

All relevant factors will be considered in the development of any recommendations. Such factors include, but are not limited to:

- Implications of recommendations for affected employees, including family stability and personal finances.
- Implications of recommendations for agency management and programs, including productivity, direct costs to the Federal Government (e.g., moving costs, office space, etc.), and getting agency work accomplished.
- Implications of recommendations for local economies and tax bases, requirements for local services, and federal policies on urban core areas.

Organization and Conduct of the Study

Since the study will involve working with Federal agencies to identify functions which might be considered for decentralization; each agency will be asked to designate an individual to serve as principal contact for the study. As central staff agencies, the Office of Personnel Management and the General Services Administration (Public Buildings Service) play key roles in dealing with decentralization issues. Accordingly, a steering group composed of senior officials from OMB, OPM, and PBS-GSA will be constituted to provide guidance to the conduct of the study.

Initial comments on the study will be invited from principal public interest groups and views will be sought from all interested parties through publication of this study plan in the Federal Register. As indicated earlier, the views of all interested parties will be considered thoughout the course of the study.

The specific study approach will begin with the two general surveys noted earlier: the review of the current geographical distribution of functions throughout the Nation and those concentrated in Washington, D.C., and the surrounding area. These should provide a sound framework for the rest of the study by relating Washington, D.C.-based functions to the total Federal work force. The major part of the study will be the examination of the possibilities for decentralizing some functions in terms of specific criteria presented previously as well as others considered relevant. Specific recommendations will then be developed, including any necessary legislative proposals.

A suggested schedule of major milestone dates is outlined in Appendix B. The schedule encompasses approximately nine months, with a final report available for transmittal by the President to the Congress by mid-October 1979.

Appendix A

Background Data

Tables 1 and 2 display individually both Federal civilian and military employment totals for the District of Columbia, the National Capital area (which in addition to the District of Columbia includes Montgomery and Prince George's counties in Maryland and Arlington and Fairfax counties and the cities of Alexandria, Fairfax, and Falls Church in Virginia), and the United States. They show that the percentage of Federal employees located in the District of Columbia has been fairly consistent over time. Since 1955, Federal civilian employment in the District of Columbia has been about 7.5 percent of the National total. Military employment in the District of Columbia has actually decreased from 3.5 percent in 1970 to 1.2 percent in 1977.

1. Federal Civilian Employment Totals: Washington, D.C., National Capital Area, and U.S. Total [a,b]

Year	District of Columbia		Remainder of National Capital Area[c]	National Capital Area		Total U.S. Federal Civilian Employees
	Number of Employees	% of total U.S.		Number of Employees	% of total U.S.	
1976[d]	204,729	7.5	126,932	331,661	12.2	2,716,781
1975	203,831	7.4	125,660	329,491	12.0	2,738,167
1970	192,918	7.2	120,236	313,154	11.8	2,665,093
1965	192,889	8.0	84,114	277,003	11.5	2,403,048
1960	168,991	7.6	66,873	235,864	10.6	2,212,848
1955	163,316	7.6	64,149	227,465	10.6	2,152,387

Notes: a: From Annual Report of Federal Civilian Employment by Geographic Area, USCSC (1955-1976).

b: Excluding CIA, NSA, and Post Office Christmas help.

c: Includes Montgomery and Prince Georges counties in Maryland and Arlington and Fairfax counties, Alexandria, Fairfax City, and Falls Church in Virginia.

d: Most current year for which figures are available.

2. Federal Military Employment Totals. Washington, D.C. National Capital Area, and U.S. Total [a]

Year	District of Columbia		Remainder of National Capital Area	National Capital Area		Total U.S. Federal Military
	Number of Military	% of Total U.S.		Number of Military	% of Total U.S.	
1977	16,735	1.2%	41,329	58,064	4.3	1,360,487
1976	16,156	1.1	43,601	56,757	4.1	1,368,805
1975	18,096	1.2	42,642	60,738	4.3	1,414,349
1970[b]	21,664	3.5	61,057	82,721	4.7	1,754,545

Notes: a. Source--DOD, Directorate for Information Operations and Reports.

b. Data not available earlier than 1970.

Table 3 indicates that while Federal civilian employment in the National Capital area has been increasing so has the average grade of employees in the Washington, D.C., Standard Metropolitan Statistical Area (Washington SMSA). It has increased from 6.2 in 1950 to 9.4 in 1978. The comparable total United States average grade figures are 5.5 in 1950 and 8.1 in 1978.

3. Average Grade for Federal Civilian Employees: Washington, D.C. SMSA and United States [a]

Year	Washington, D.C. SMSA	United States
1978	9.4	8.1
1975	9.2	7.9
1970	8.9	7.9
1965	8.3	7.4
1960	7.6	6.7
1955	6.8	5.8
1950	6 2	5.5

Note: a. Source--USCSC, Bureau of Personnel Management Evaluation.

Rounding out a view of the current employment situation, tables 4 and 5 display Federal civilian and military employment payrolls over time. In 1976 the Federal civilian employment payroll in the Washington SMSA was approximately $6.3 billion, 14.9 percent of the United States total. Military payroll in the National Capital area for the same year was $700 million, about 4.8 percent of the total military payroll in the United States.

4. Federal Civilian Employment Payroll: Washington, D.C. SMSA and United States [a]

(Dollars in Billions)

Year	Washington, D.C. SMSA		United States Dollars
	Dollars	% of U.S.	
1976	$6.3	14.9%	$42.2
1975	5.8	14.7	39.4
1970	3.9	14.3	27.3
1965	2.4	14.0	17.2
1960	1.6	12.6	12.7
1955	1.2	12.4	9.7
1950	.9	13.8	6.5

Note: a: Source--USCSC, Bureau of Personnel Management Evaluation.

5. Federal Military Employment Payroll National Capital Area and United States [a]

(Dollars in Billions)

Year	National Capital Area		United States Dollars
	Dollars	% of U.S.	
1977	$.7	4.8%	$14.5
1976	7	4.8	14.7
1975	.8	5.6	14.3
1970	.6	6.1	9
1965	b.	b.	7.8
1960	.2	3.3	6.1

Notes: a Source--DOD, Directorate for Information Operations and Reports.

b. Figures unavailable.

Table 6 contains the Consumer Price Index for the Washington SMSA and those of the ten Federal regional cities for August/September 1978. During this period the CPI range for the ten Federal regional cities ranged from 193.8 to 207.0. The average for the total United States was 199.3; for the Washington SMSA it was 200.8.

6. Consumer Price Index for Washington, D.C. SMSA and Federal Regional Cities as of August/September 1978.

SMSA	Consumer Price Index All Urban Consumers (1967=100)
Washington, DC-Md-Va	200.8 b
Atlanta	195.1 c
Boston	195.8 b
Chicago	193.8 b
Dallas	197.2 c
Denver	207.0 b
Kansas City	194.3 c
New York	199.9 b
Philadelphia	197.8 b
San Francisco	204.7 c
Seattle	201.0 b
Average—Total U.S.	199.3

Notes: a: Source—Bureau of Labor Statistics
b: September figures
c: August figures

APPENDIX B

MAJOR MILESTONE DATES

1. Announce study to agencies and Public Interest Groups and request initial assistance—February 15.
2. Announce study in FEDERAL REGISTER and solicit comments—March 10.
3. Complete review of Federal functions in Washington, D.C., area and of all functions distributed nationally by organization—March 30.
4. Complete preliminary identification of functions to be considered for decentralization—March 30.
5. Complete analysis and assessment of functions for decentralization—June 15.
6. Complete draft report—July 27.
7. Submit report to Director of OMB—September 28.
8. Submit report to the President for transmittal to the Congress—October 12.

APPENDIX C

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET

[Circular No. A-60]

JULY 18, 1963.

To: The Heads of Executive Departments and Establishments

Subject: Criteria for decentralizing Federal activities from the National Capital region

1. *Purpose.* Section 3(d) of Executive Order 11035 of July 9, 1962, directs agencies to "review continuously their needs for space in and near the District of Columbia, taking into account the feasibility of decentralizing services or activities which can be carried on elsewhere without excessive costs or significant loss of efficiency." This Circular establishes general criteria to assist Federal departments and agencies in determining the desirability of decentralizing agencies or agency activities from the National Capital region.

2. *Background.* In a memorandum of Novemeber 27, 1962, to the heads of executive departments and establishments and to the Commissioners of the District of Columbia, the President set forth development policies to serve as guidelines for the agencies of the executive branch in fulfilling the objectives of the Year 2000 Plan developed by the National Capital Planning Commission and the National Capital Regional Planning Council. The plan projected a total regional population of five million by the year 2000. Among the assuptions on which that projection was based were that Federal employment in the region would not exceed 450,000 and, secondly, that Fedreal activities not essential to the seat of government would be located outside of the National Capital region.

The President's *ad hoc* Committee on Federal Office Space initially proposed criteria for decentralization of activities from the National Capital region. These criteria are refined and clarified in this Circular.

The criteria are designed to provide practical tests for determining whether agencies, new or expanding activities, or existing activities should be located in the National Capital region or located outside of the region through decentralization or delegation of responsibility to existing field facilities. The National Capital region includes the District of Columbia, Montgomery and Prince Georges Counties in Maryland, and Arlington, Fairfax, Loudoun and Prince William Counties in Virginia; the cities of Alexandria and Falls Church in Virginia; and all cities now or hereafter existing in Maryland or Virgina with the geographic area bounded by the outer boundaries of the combined area of aforesaid counties.

Development of a well-informed judgment on the most desirable location of an agency or activity under review will require balanced consideration of all applicable criteria; no one criterion can be condsidered conclusive. In such an evaluation, consideration must be given to the needs of the Government as a whole, the relation of the work of the agency to other agency headquarters, and the needs of persons served or affected by the agency or activity.

3. *Criteria for location of agencies or activities.* In formulating and applying criteria regarding the proper location of an agency or an activity, consideration must be given to its major purpose, its principal working relationships with other governmental and non-governmental activities, and to costs and special requirements.

a. An agency or an agency activity is generally susceptible to location outside of the National Capital region when:

(1) It performs functions or provides services to clientele in a particular region of the country other than Washington.

(2) It is engaged in operations to carry out well-defined policies and programs which require only limited day-to-day headquarters supervision.

(3) It is a regional, district or other field office (unless it can be demonstrated that the workload of the office is predominantly concerned with the National Capital region).

(4) It provides large-scale supporting services of a relatively repetitive or routine nature, such as records maintenance; procurement and inventory control; training, including the operation of schools; administration of real property and related engineering services; manufacturing; financial accounting and disbursing activities; or statistics and data collection and related fact-gathering and processing operations.

(5) It is a review function or administrative service activity which could be performed equally well by field offices exercising general supervision over operating offices.

(6) It operates in a relatively self-sufficient manner, which does not require it to have close intra-agency or interagency working relationships.

(7) It requires close coordination with other governmental (Federal, State and local) and non-governmental activities or individuals within a given geographical area other than the National Capital region.

(8) It requires close coordination or working relationships with other Federal activities which are also susceptible to decentralization or delegation to a common new location or to existing field offices in a common location outside the National Capital region.

(9) Small liaison offices in Washington could effectively meet headquarters needs.

(10) Increased administrative economies, such as in travel, communications, rental, and recruiting, and improved efficiency, as in speed of decision-making or better service to the public, can be achieved through relocation and its initial costs can be justified accordingly.

b. An agency or agency activity is generally *not* susceptible to location outside the National Capital region when:

(1) It is directed to meeting the needs of the President, the Congress, or agency heads for continuing consultation, direction, and fixing of responsibility for governmental action.

(2) It is concerned with establishing national policies or developing broad principles and programs for nationwide application.

(3) It involves exercising general supervision over agency operations throughout the country to assure that

those operations are in accord with general national policies.

(4) It is an activity conducted by persons who require close working relationships with those who make or direct major agency policy and who themselves must be located in the National Capital region.

(5) It requires close coordination or working relationships or continual communication with other headquarters agencies, the Congress, or nongovernmental organizations or individuals located in the National Capital region.

(6) The costs decentralization (including replacement of specialized physical facilities, loss of personnel with specialized skills, special training, relocation, travel, communications, and disruption of current operations) would outweigh benefits to be gained.

(7) Workload would not justify development of additional specialized staffs solely in order to achieve decentralization or delegation.

4. *Responsibility for implementation.* Responsibility for implementing the provisions of this Circular is assigned as follows:

a. *Department and agency heads.* Department and agency heads will utilize the criteria contained in paragraph 3 in continuously reviewing their needs for space in and near the District of Columbia, as required by section 3(d) of Executive Order 11035, and in determining and justifying requests for additional space.

Whenever it is determined that decentralization of an agency or segments of an agency is desirable, but not permissible under existing laws, the department or agency head will request such amendments to these laws as may be required to carry out this objective. Department and agency heads (in coordination with the General Services Administration when appropriate) will also take such steps as may be required by applicable statutes and regulations to secure authorizations and appropriations for land acquisition, construction, alteration, or leasing of facilities.

b. *The General Services Administration.* The General Services Administration will utilize the criteria contained in paragraph 3 in its continuing investigation and survey of public building needs in the National Capital region under the Public Building Act of 1959 and Executive Order 11035 and in reviewing the requests of each agency for new space or facilities in the region.

Whenever decentralization of an agency or activity has been determined to be desirable, the General Services Administration, in coordination with the agency concerned, will take such steps as may be required by applicable statutes and regulations to secure authorizations and appropriations for land acquisitions, construction, alteration, or leasing of facilities.

c. *The Bureau of the Budget.* The Bureau of the Budget will provide assistance to agencies, upon request, in utilizing the criteria established by this Circular and will further refine and clarify these criteria as necessary. It will take into account these criteria in reviewing agency reorganization proposals and in reviewing agency requests for funds for new space or facilities in the National Capital region.

d. *Consultation with other agencies.* Agencies considering decentralization of one or more of their activities will consult with the Area Redevelopment Administration (Department of Commerce), the Civil Service Commission and the Officer of Emergency Planning, on matters affecting the responsibilities of these agencies. Agencies considering relocation of existing activities involving the construction of public works or the location of new activities in the National Capital region will consult with the National Capital Planning Commission on matters affecting its responsibilities. The Bureau of the Budget and the General Services Administration will similarly consult with these agencies in reviewing agency proposals for decentralization.

5. *Report to the Bureau of the Budget.* Each department and agency head will advise the Bureau of the Budget not later than September 9, 1963, of the procedural arrangements (including assignments of responsibility) that he has made for the systematic utilization of these criteria in reviewing and determining his organization's space requirements in the National Capital region.

KERMIT GORDON,
Director.

[FR Doc. 79-7654 Filed 3-13-79; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

[Order No. 244; Docket No. A79-7]

WILLIAM BIEHL, ET AL.

Notice and Order of Filing of Appeal

MARCH 6, 1979.

In the matter of: Craigsville, Pennsylvania 16219 (William Biehl and others, Petitioners.

On March 1, 1979, the Commission received a handwritten letter from William Biehl on behalf of himself and others similarly situated (hereinafter "Petitioners") concerning alleged U.S. Postal Service plans to close the Craigsville, Pennsylvania post office.[1] Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)], so as to preserve petitioners' right to appeal which is subject to a 30-day time limit.[2] Since the petition was apparently written by a layman rather than an attorney, it does not conform perfectly with the Commission's rules of practice which also require a petitioner to attach a copy of the Postal Service's final determination to the petition.[3] However, section 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.[4]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "* * * insure that such persons will have an opportunity to present their views."[5] The petition requests that the decision to close the Craigsville post office be reversed. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice whether any hearings were held, and whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioners failed to supply a copy of the Postal Service's final determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[6]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office, shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[7]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal

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[1] On the same day, we received five (5) other appeal letters from residents of Craigsville and on March 2, 1979, we received six (6) letters of appeal and a petition with fifty-six (56) purported signatures by Craigsville residents. These are all being consolidated under Docket No. A79-7.

[2] 39 U.S.C. 404(b)(5). 39 U.S.C. § 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 C.F.R. 3001.110 *et seq.*

[3] 39 C.F.R. 3001.111(a).

[4] 39 C.F.R. 3001.1.

[5] 39 U.S.C. 404(b)(1).

[6] 39 C.F.R. 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

[7] 39 U.S.C. 101(b).

Service to close post offices. Petitioners assert that the Craigsville community has a large population of elderly citizens who would find it difficult to get their mail, during inclement weather, if they had to rely on another post office. Additionally, petitioners claim that the Craigsville post office is the identity of the town and that they depend on it for a variety of postal services. The effect "on the community" of a post office closing is made a mandatory subject for consideration by section 404(b)(2)(A) of the Act. The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.[8]

The Act does not contemplate appointment of an Officer of the Commission in Section 404(b) cases, and none is being appointed.[9]

The Commission Orders: (A) The letter of March 1, 1979, from William Biehl shall be construed as a petition for review pursuant to section 40(b) of the Act [39 U.S.C. 404(b)]. The letters of March 1, 1979, and the letters and petitions of March 2, 1979, will be consolidated with the Biehl petition.

(B) The Secretary of the Commission shall publish this Notice and Order in the FEDERAL REGISTER.

(C) The Postal Service shall file the administrative record in this case on or before March 16, 1979, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

DAVID F. HARRIS,
Secretary.

APPENDIX

March 1, 1979—Filing of Petition.
March 6, 1979—Notice and Order of Filing of Appeal.
March 16, 1979—Filing of record by Postal Service [*see* 39 CFR § 3001.113(a)].
March 21, 1979—Last day for filing of petitions to intervene [*see* 39 CFR § 3001.111(b)].
April 2, 1979—Petitioners' initial brief [*see* 39 CFR § 3001.115(a)].
April 17, 1979—Postal Service answering brief [*see* 39 CFR § 3001.115(b)].
May 2, 1979—(1) Petitioners' reply brief, if petitioners choose to file such brief [*see* 39 CFR § 3001.115(c).]. (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.
June 29, 1979—Expiration of 120-day decisional schedule [*see* 39 U.S.C. § 404(b)(5).

[FR Doc. 79-7678 Filed 3-13-79; 8:45 am]

[8] 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[9] In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

[7715-01-M]

[Order No. 243; Docket No. A79-6]

MARGARET ELLIS

Notice and Order of Filing of Appeal

MARCH 6, 1979.

In the Matter of: Gulf, North Carolina 27256 (Margaret Ellis, Petitioner).

On February 27, 1979, the Commission received a handwritten letter from Margaret Ellis (hereinafter "Petitioner") on behalf of herself and others similarly situated concerning alleged U.S. Postal Service plans to close the Gulf, North Carolina post office. On February 28, 1979 and March 2, 1979 the Commission received several other letters of appeal from Gulf residents which are being consolidated with that of Margaret Ellis for convenience. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to section 404(b) of the Act [39 U.S.C. 404(b)], so as to preserve petitioners' right to appeal which is subject to a 30-day time limit.[1] Since the petition was apparently written by a layman rather than an attorney, it does not conform perfectly with the Commission's rules of practice which also require a petitioner to attach a copy of the Postal Service's final determination to the petition.[2] However, section 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.[3]

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "* * * insure that such persons will have an opportunity to present their views."[4] The petition requests that the decision to close the Gulf post office be reversed. From the face of the petition it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, and whether a determination has been made under 39 U.S.C. 403(b)(3). (Petitioners failed to supply a copy of the Postal Service's final determination if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.[5]

The Postal Reorganization Act states:

> The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.[6]

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. Petitioners assert that the Gulf post office is the identity of the town and that they depend on its existence. The effect "on the community" of a post office closing is made a mandatory subject for consideration by section 404(b)(2)(A) of the Act. The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant further inquiry to determine whether the Postal Service complied with its regulations for the discontinuance of post offices.[7]

The Act does not contemplate appointment of an Officer of the Commission in section 404(b) cases, and none is being appointed.[8]

The Commission Orders: (A) The letter of February 27, 1979, from Margaret Ellis shall be construed as a petition for review pursuant to section 40(b) of the Act [39 U.S.C. 404(b)]. The letters of February 28, 1979, and March 2, 1979, will be consolidated with the Ellis petition.

(B) The Secretary of the Commission shall publish this Notice and Order in the FEDERAL REGISTER.

(C) The Postal Service shall file the administrative record in this case on or before March 14, 1979, pursuant to the Commission's rules of practice [39 CFR 3001.113(a)].

By the Commission.

DAVID F. HARRIS,
Secretary.

APPENDIX

February 27, 1979—Filing of Petition.
March 6, 1979—Notice and Order of Filing of Appeal.
March 14, 1979—Filing of record by Postal Service [*see* 39 CFR § 3001.113(a)].
March 19, 1979—Last day for filing of petitions to intervene [*see* 39 CFR § 3001.111(b)].
March 29, 1979—Petitioners' initial brief [*see* 39 CFR § 3001.115(a)].
April 13, 1979—Postal Service answering brief [*see* 39 CFR § 3001.115(b)].

[1] 39 U.S.C. 404(b)(5). 39 U.S.C. 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 C.F.R. 3001.110 *et seq.*

[2] 39 C.F.R. 3001.111(a).

[3] 39 C.F.R. 3001.1.

[4] 39 U.S.C. 404(b)(1).

[5] 39 C.F.R. 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

[6] 39 U.S.C. 101(b).

[7] 42 FR 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. 404(b)(5).

[8] In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

April 30, 1979—(1) Petitioners' reply brief, if petitioners choose to file such brief [see 39 CFR § 3001.115(c)]. (2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.

June 27, 1979—Expiration of 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)].

[FR Doc. 79-7679 Filed 3-13-79; 8:45 am]

[7715-01-M]

[Docket No. MC79-1]

MINIMUM HEIGHT FOR CARRIER-ROUTE PRESORTED MAIL

MARCH 7, 1979.

Notice is hereby given that pursuant to the "Presiding Officer's Notice Of Final Procedural Schedule", dated March 7, 1979, the attached Procedural Schedule, has been adopted as the final hearing schedule in this proceeding. This schedule supersedes all other Tentative or Revised Procedural Schedules for this proceeding.

Hearings will commence on April 11, 1979, at the Postal Rate Commission, Hearing Room, 2000 L Street, NW., Suite 500, Washington, D.C. The hearing will begin at 11:00 a.m., rather than 9:30 a.m., as formerly indicated.

A copy of the Presiding Officer's Notice is available to all interested parties in the Commission's Docket Room at the Postal Rate Commission, or by calling the Docket Room at Area Code 202-254-3800.

DAVID F. HARRIS,
Secretary.

FINAL PROCEDURAL SCHEDULE

[Docket No. MC79-1]

Procedural Step	Dated
Filing of Direct Testimony by proponents of Classification change	3/26/79
Completion of discovery against proponents	4/06/79
Hearing on proponents' direct cases.	4/11/79
Rebuttal cases filed	4/25/79
Completion of discovery against rebuttal cases	4/30/79
Hearings on rebuttal cases	5/02/79
Surrebuttal Cases (if any)	5/03/79
Record closes	5/03/79
Initial Briefs of all parties due	5/24/79
Reply briefs of all parties due	6/01/79

[FR Doc. 79-7677 Filed 3-13-79; 8:45 am]

[6560-24-M]

THE REGULATORY COUNCIL

CALENDAR OF FEDERAL REGULATIONS

Correction

AGENCY: The Regulatory Council.

ACTION: Correction of Calendar of Federal Regulations.

SUMMARY: In FR Doc 79-5969, appearing at 11388 in the FEDERAL REGISTER for Wednesday, February 28, 1979, on 11461 in the third column, in the first paragraph, please make the following corrections: (1) In the second line, change "surchange" to "surcharge" and (2) in the fourth line change "78-8" to "78-1".

Dated: March 9, 1979.

MARK G. SCHOENBERG,
Calendar Coordinator,
The Regulatory Council.

[FR Doc. 79-7744 Filed 3-13-79; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1588]

ALABAMA

Declaration of Disaster Loan Area

Clay and Cleburne Counties and adjacent counties within the State of Alabama constitute a disaster area as a result of damage caused by ice and snow storm which occurred on February 18, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅝ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until close of business on May 3, 1979, and for economic injury until close of business on December 3, 1979, at:

Small Business Administration, District Office, 908 South 20th Street, Birmingham, Alabama 35205.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 2, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-7730 Filed 3-13-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1583]

CALIFORNIA

Declaration of Disaster Loan Area

San Diego County and adjacent counties within the State of California constitute a disaster area as a result of damage caused by Heavy rains and flooding which occurred on January 30, 1979, through February 2, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅝ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on April 30, 1979, and for economic injury until the close of business on November 30, 1979, at:

Small Business Administration, District Office, 880 Front Street, Federal Building, Suite 4-S-33, San Diego, California 92188.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 1, 1979.

WILLIAM H. MAUK, Jr.,
Acting Administrator.

[FR Doc. 79-7731 Filed 3-13-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1585]

NEW MEXICO

Declaration of Disaster Loan Area

Rio Arriba County and adjacent counties within the State of New Mexico constitute a disaster area as a result of damage resulting from heavy snowfall and ice which occurred on January 18, 1979 through January 31, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅝ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 3, 1979, and for economic injury until the close of business on December 3, 1979, at:

Small Business Administration, District Office, 5000 Marble Avenue N.E., Patio Plaza Building, Albuquerque, New Mexico 87110.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 2, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-7732 Filed 3-13-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1584]

PENNSYLVANIA

Declaration of Disaster Loan Area

The area of the East side of Main Street between Buckingham and Green Streets in the City of Tidioute, Warren County in the State of Pennsylvania constitues a disaster area as a result of a fire which occurred on February 2, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅝ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 3, 1979, and for economic injury until the close of business on December 3, 1979, at:

Small Business Administration, District Office, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: March 2, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-7733 Filed 3-13-79; 8:45 am]

[8025-01-M]

REGION IV—ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jackson, Mississippi, will hold a public meeting at 8:30 a.m. (CST) on Thursday, March 22, 1979, at the Research and Development Tower Building, 7th Floor Conference Room, 3825 Ridgewood Road, Jackson, Mississippi, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Ardis Jones, District Director, U.S. Small Business Administration, Providence Capitol Building, 200 East Pascagoula, Jackson, Mississippi 39201—(601)969-4363.

Dated: March 6, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-7723 Filed 3-13-79; 8:45 am]

[8025-01-M]

REGION VI—ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of Lubbock, Texas, will hold a public meeting on Friday, March 30, 1979, in the Genghis Khan Room, First National Bank, 1500 Broadway, Lubbock, Texas, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. Registration will begin at 10:00 a.m. and end at 4:30 p.m.

For further information, write or call Philip J. O'Jibway, District Director, U.S. Small Business Administration, 712 Federal Office Building & Courthouse, 1205 Texas Avenue, Lubbock, Texas 79401—(806) 762-7462.

Dated: March 6, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-7724 Filed 3-13-79; 8:45 am]

[8025-01-M]

REGION VII—ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of St. Louis, Missouri, will hold a public meeting at 9:30 a.m., on Monday, April 2, 1979, in the Davos Room of the Sheraton West Port Inn, 191 West Port Plaza, St. Louis, Missouri, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Thomas L. Holling, District Director, U.S. Small Business Administration, One Mercantile Center, St. Louis, Missouri 630101 (314)425-4191.

Dated: March 6, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-7725 Filed 3-13-79; 8:45 am]

[8025-01-M]

REGION VIII—ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Fargo, North Dakota, will hold a public meeting at 9:30 a.m., on Thursday, April 26, 1979, at the Federal Building, 653 Second Avenue North, Fargo, North Dakota, to discuss such business as may be presented by members and the staff of the Small Business Administration, and others present.

For further information, write or call E. Maine Shafer, District Director, U.S. Small Business Administration, Federal Office Building, Room 218, 653 Second Avenue North, Fargo, North Dakota 58102—(701)783-5131.

Dated: March 6, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-7726 Filed 3-13-79; 8:45 am]

[8025-01-M]

REGION VIII—ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Denver, Colorado, will hold a public meeting at 9:00 a.m., on Thursday, April 12, 1979, in the Federal Office Building, Room 139, 1961 Stout Street, Denver, Colorado, to discuss such business as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Douglas F. Graves, District Director, U.S. Small Business Administration, 721 19th Street, Room 426, Denver, Colorado 80202—(303)837-3673.

Dated March 6, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-7727 Filed 3-13-79; 8:45 am]

[8025-01-M]

REGION IX—ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, California, will hold a public meeting on Wednesday, March 28, 1979, at 211 Main Street, 5th Floor, Conference Room 542, San Francisco, California, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

For further information, write or call Donald J. Marvin, District Director, U.S. Small Business Administration, 211 Main Street—4th Floor, San Francisco, California 94105—(415) 556-7490.

Dated March 6, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-7728 Filed 3-13-79; 8:45 am]

[8025-01-M]

REGION X ADVISORY COUNCIL

Public Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Boise, Idaho, will hold a public meeting on Thursday, April 12, 1979, at 9:30 a.m., at the Owyhee Plaza Motel "Green Room," 11th and Main, Boise, Idaho, to discuss such business as may be presented by members, staff of the Small Business Administration, and others present.

For further information, write or call V. A. Leighton, District Director, U.S. Small Business Administration, 1005 Main Street, Boise, Idaho 83702—(208) 554-1096.

Dated: March 6, 1979.

K DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 79-7729 Filed 3-13-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1521; Amdt. No. 51]

TEXAS

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 40583), Amendment No. 1 (see 43 FR 43593), Amendment No. 2 (see 43 FR 48750), Amendment No. 3 (see 43 FR 59453), Amendment No. 4 (see 44 FR 140), are amended by extending the filing date for physical damage until the close of business on April 5, 1979, and for economic injury until the close of business on July 6, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 5, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-7734 Filed 3-13-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1586]

WASHINGTON

Declaration of Disaster Loan Area

Franklin County and adjacent counties within the State of Washington constitute a disaster area as a result of damage caused by flooding which occurred on February 11, 12 and 13, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until close of business on May 3, 1979, and for economic injury until close of business on December 3, 1979, at:

Small Business Administration, District Office, 651 U.S. Courthouse, Spokane, Washington 99210.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 2, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-7735 Filed 3-13-79; 8:45 am]

[8025-01-M]

[Declaration of Disaster Loan Area No. 1587]

WISCONSIN

Declaration of Disaster Loan Area

Jefferson, Racine, Walworth Counties and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by heavy snow which occurred on December 15, 1979 through February 5, 1979. Applications will be processed under the provisions of Pub. L. 94-305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 3, 1979, and for economic injury until the close of business on December 3, 1979, at:

Small Business Administration, District Office, 122 West Washington Avenue, Room 700, Madison, Wisconsin 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 2, 1979.

A. VERNON WEAVER,
Administrator.

[FR Doc. 79-7736 Filed 3-13-79; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the twenty-seventh meeting of the Board for International Food and Agricultural Development (BIFAD) on March 29, 1979.

The purpose of this meeting is to: receive and discuss the progress reports of the Joint Research Committee (JRC) and the Joint Committee for Agricultural Development (JCAD); discuss recommendations on Title XII University Strengthening Grants; discuss Annual Report to Congress—draft review; discuss briefing on Hunger Commission Activities (provisional); discuss BIFAD policies on Joint Committees; and discuss alternative future roles for BIFAD.

The meeting will begin at 9:00 a.m. and adjourn at 4:00 p.m.; and will be held in Room 1107, State Department Building, 22nd and C Streets NW., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Director, Office of Title XII Coordination and University Relations, Development Support Bureau, A.I.D., is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: March 5, 1979.

ERVEN J. LONG,
A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 79-7680 Filed 3-13-79; 8:45 am]

[4710-05-M]

Office of the Secretary

[Public Notice 650]

PRIVACY ACT OF 1974

Proposed New System of Records

Notice is hereby given that the Department of State proposes to create a system of records pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(o)) and the Office of Management and Budget Circular No. A-108, Transmittal Memorandum No. 1, dated September 30, 1975 (40 FR 45877, October 3, 1975).

In order to better serve the public's right of access to government information, the Department of State is reorganizing its administrative processing of information requests. This will include the following reforms: (1) The centralization of all information request processing and (2) the creation of a centralized declassification review unit. The centralized processing and review staffs will better facilitate the Department's compliance with public access laws and will provide information to the public in a more efficient and timely manner.

The newly created Classification/Declassification Center (CDC) is the unit responsible for the review for declassification of Department of State documents under Executive Order 12065, the Privacy Act, the Freedom of Information Act, and other relevant legislation.

The CDC unit will consist of 120 or more part-time employees and experts to fulfill the 40 man years anticipated

to perform this service. To properly staff the unit, it will be necessary for the Director of the Office of Mandatory Review of the Classification/Declassification Center to schedule these part-time employees based on their availability and field of expertise.

To assist the CDC is this task, the Department of State plans to establish a New System of Records, the Classification/Declassification Center (CDC) Part-Time Employee Records (STATE-51). The information in this record system will include the name, address, identification number, telephone number, work and pay schedules, and area of expertise of candidates for positions on the CDC Staff. This computerized record system should facilitate the timely staffing of the Center with the most qualified individuals.

Any person interested in commenting on the proposed Classification/Declassification Center Part-Time Employee Records may do so by submitting comments in writing to the Director of the Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street, NW., Washington, D.C. 20520. If no comments are received by April 13, 1979, the proposed change will go into effect.

For the Secretary of State.

Dated: February 22, 1979.

BEN H. READ,
Under Secretary for Management.

STATE-51

System name:

Classification/Declassification Center Part-Time Employee Records.

System location:

Department of State, 2201 C Street NW., Washington, D.C. 20520.

Categories of individuals covered by the system:

Retired Foreign Service Officers who are part-time employees and prospective employees of the Classification/Declassification Center.

Categories of records in the system:

Individual's name; address; identification number; telephone number; area of expertise; pay schedule; work schedule.

Authority for maintenance of the system:

22 U.S.C. 811a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The information in this file is used for scheduling the work of part-time employees and is used solely by the Classification/Declassification Center Staff for such scheduling and determining work availability. Also see 'Routine Uses' paragraphs of Prefatory Statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Computer media.

Retrievability:

By individual name.

Safeguards.

All employees of the Department of State have undergone a background security investigation. All records containing personal information on a computerized data base are accessible only through cathode ray tubes placed in restricted areas to which access is limited to authorized personnel. Access to computerized files is password protected and under the direct supervision of the system manager.

Retention and disposal:

Retention of these records is indefinite because of a need to maintain a record of work availability over on extended period of time. The record is destroyed when the part-time employee who is the subject of the record is no longer employed by the Classification/Declassification Center.

System manager(s) and address:

Director, Office of Manadatory Review, Classification/Declassification Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520.

Notification procedure:

Individuals who have cause to believe that the Classification/Declassification Center might have records pertaining to them should write to the Director, Foreign Affairs Document and Reference Center, Room 1239, Department of State, 2201 C Street NW., Washington, D.C. 20520. The individual must specify that he/she wishes the records of the Office of Press Relations to be checked. At a minimum, the individual must include: name; date and place of birth; current mailing address and zip code; signature; media organization with which he/she was accredited and the approximate dates of this association with the Department of State.

Record access procedures:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Foreign Affairs Document and Reference Center (address above).

Contesting record procedures:

(See above).

Record source categories:

The individual, Department of State Retirement Records.

[FR Doc. 79-7749 Filed 3-13-79; 8:45 am]

[4910-61-M]

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

ADVISORY BOARD

Meeting

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 10:00 a.m., April 6, 1979, in the Seaway offices of the Seaway Corporation, 800 Independence Avenue, S.W., Washington, D.C. The agenda for this meeting is as follows: Opening Remarks; Approval of Minutes; Administrator's Report; Review of Programs and Operations; and Closing Remarks.

Attendance is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than April 4, 1979, and information may be be obtained from Robert D. Kraft, Deputy General Counsel, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue, S.W., Washington, D.C. 20591; 202-426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued in Washington, D.C. on March 9, 1979.

D. W. OBERLIN,
Administrator.

[FR Doc. 79-7685 Filed 3-13-79; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

ART ADVISORY PANEL

Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: A closed meeting of the Art Advisory Panel will be held in Washington, D.C.

DATE: The meeting will be held April 18 and 19, 1979.

FOR FURTHER INFORMATION CONTACT:

Tom Hartnett, T:C:E:V, 1111 Constitution Avenue, N.W., Room 5547, Washington, D.C., 20224, Telephone No. 202-566-4427, (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976), that a closed meeting of the Art Advisory Panel will be held on April 18 and 19, 1979, beginning at 10:00 a.m. in Room 3411, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C., 20224.

The agenda will consist of the review and evaluation of the acceptability of market value appraisals of works of art involved in Federal Income, Estate, or Gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c)(3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978. (43 FR 52122).

JEROME KURTZ,
Commissioner.

[FR Doc. 79-7704 Filed 3-13-79; 8:45 am]

[1505-01-M]

INTERSTATE COMMERCE COMMISSION

[Permanent Authority Decisions Volume No. 61]

PERMANENT AUTHORITY APPLICATIONS

Corrections

In FR Doc. 79-379, published January 4, 1979, at page 1251, on page 1258, in the section "MC 123255 (Sub-185F)" the following corrections should be made:

1. In the second column, the eleventh line "NM" should be changed to read "MN";

2. In the second column, the twelfth line "BT" should be changed to read "VT";

3. In the second column, the twelfth line "BA" should be changed to read "VA".

[7035-01-M]

AGRICULTURAL COOPERATIVE

Intent to Perform Interstate Transportation for Certain Nonmembers

MARCH 9, 1979.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Pacific West Marketing Association (Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations); 1501 Sheridan Road, San Bernardino, California 92405 (Principal Mailing Address (Street No., City, State, and Zip Code)); 1501 Sheridan Road, San Bernardino, California 92405 (Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code)); Carl Brooks, 1501 Sheridan Road, San Bernardino, California 92405 (Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address)).

(2) Sun Land Sales, Inc. (Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations); 2051 Geneva Street, No. 43, Oceanside, California 92054 (Principal Mailing Address (Street No., City, State, and Zip Code)); 2051 Geneva Street, No. 43, Oceanside, California 92054 (Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code)); Richard Jones, 2051 Geneva Street, No. 43, Oceanside, California 92054 (Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)).

(3) Farmers Union Central Exchange, Inc. (CENEX) (Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations); P.O. Box 43089, St. Paul, MN 55164 (Principal Mailing Address (Street No., City, State, and Zip Code)); 1185 N. Concord Street, South St. Paul, MN 55075 (Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code)); Hugo I. Oja, P.O. Box 43089, St. Paul, MN 55164 (Person To Whom Inquiries And Correspondence Should Be Addressed (Name and Mailing Address)).

(4) Tri-Valley Agricultural Cooperative (Complete Legal Name Of Cooperate Association Or Federation Of Cooperative Associations); 182 No. 200 E., Smithfield, Utah 84335 (Principal Mailing Address (Street No., City, State and Zip Code)); 182 No. 200 E., Smithfield, Utah 84335 (Where Are Records Of Your Motor Transportation Maintained (Street No., City, State, and Zip Code)); Cherie Odd Leavitt, 182 N. 200 E., Smithfield, Utah 84335 (Person To Whom Inquiries And Correspondence Should Be Addressed).

(5) Concord Farm Lines (Cooperative) (Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations); P.O. Box 82856, Oklahoma City, Oklahoma 73148 (Principal Mailing Address (Street No., City, State and Zip Code)); Suite 215, 4411 Highline Boulevard, Oklahoma City, Oklahoma 73108 (Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code)); David C. Lindsey, Jr., P.O. Box 82856, Oklahoma City, Oklahoma 73148 (Person To Whom Inquiries And Correspondence Should Be Addressed).

(6) Dairylea Cooperative, Inc. (Complete Legal Name Of Cooperative Association Or Federation Of Cooperative Associations); One Blue Hill Plaza, Pearl River, N.Y. 10965 (Principal Mailing Address (Street No., City, State and Zip Code)); P.O. Box 395, Vernon, N.Y. 13476 (Where Are Records Of Your Motor Transportation Maintained (Street No., City, State and Zip Code)); Richard Poorman, Transportation Mgr., P.O. Box 395, Vernon, New York 13476 (Person To Whom Inquiries And Correspondence Should Be Addressed).

H. G HOMME, Jr.,
Secretary.

[FR Doc. 79-7710 Filed 3-13-79; 8:45 am]

[7035-01-M]

[Notice No. 43]

ASSIGNMENT OF HEARINGS

MARCH 9, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-114211 (Sub-No. 380F), Warren Transport, Inc., now assigned for hearing on March 21, 1979, (1 day), in Room No. 349, 230 South Dearborn Street, Chicago, Illinois.

No. MC 101134 (Sub-No. 8F), Arco Coaches, Inc., now assigned for hearing on April 18, 1979, at New York, NY is advanced to April 9, 1979 (3 days); at New York, N.Y. in a hearing room to be later designated.

No. MC 5227 (Sub-No. 41F), Eckley Trucking, Inc., now assigned for hearing on March 22, 1979, at Chicago, Illinois and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. MC 113678 (Sub-No. 750F), Curtis, Inc., now assigned for hearing on March 26, 1979, at Chicago, Illinois and will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. MC 123407 (Sub-No. 482F), Sawyer Transport, Inc., now assigned for hearing March 22, 1979, at Chicago, Illinois and will be held in Room 1319, Everett McKinley Dirksen Building.

No. MC 115905 (Sub-No. 116F), Grover Trucking Co., now assigned for hearing on March 22, 1979, at Chicago, Illinois and will be held in Room 1319, Everett McKinley Dirksen Building.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-7707 Filed 3-13-79; 8:45 am]

[7035-01-M]

IRREGULAR ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

MARCH 7, 1979.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before March 26, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 15558 (Sub-E7) (correction), filed May 16, 1974, published in FEDERAL REGISTER issue of October 21, 1975. Applicant: WARWOOD TRANSFER CO., 2231-41 Warwood Avenue, Wheeling, WV 26003. Representative: A. Charles Tell, 110 East Broad St., Columbus, OH 43215. * * * (2) from points in OH on, south, and west of a line beginning at the OH-WV State line extending along US Hwy 250 to Jct. US Hwy 30, then along US Hwy 30 to Jct. OH Hwy 13, then along OH Hwy 13 to Lake Erie, to points in NY on, south and east of a line beginning at the NY-PA State line extending along US Hwy 20 to Jct. NY Hwy 17, then along NY Hwy 17 to Jct. NY Hwy 30, then along NY Hwy 30 to Jct. US Hwy 20, then along US Hwy 20 to Jct. I Hwy 87, then along I Hwy 87 to junction NY Hwy 7, then along NY Hwy 7 to the NY-VT State line * * * (Gateway eliminated: Wellsburg, WV). Purpose of this partial correction is to clarify destination territory.

MC 114019 (Sub-E450), filed December 20, 1976. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). *Such merchandise* as is dealt in by wholesale and retail food business houses, except commodities in bulk, (1) between Cincinnati, OH on the one hand, and, on the other, points in WI, (2) from Cincinnati, OH to points in MN. (Gateways eliminated (1) O'Hare and Barrington, IL, (2) Muscatini, IA).

MC 114019 (Sub-E451), filed December 20, 1976. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). *Meats and packinghouse products*, as described in Sections A, B and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (A) from points in IA on and south of US Hwy 20 and on and north of US Hwy 34 to points in NH, ME, DE, MD, and the DC, (B) from O'Hare Field, IL, to points in NH, DE, MD, DC, and NJ, (3) from O'Hare Field, IL to points in ME, (Gateways eliminated: (A&B) O'Hare, IL, (C) Barrington, IL and Madison, WI).

MC 114019 (Sub-No. E452), filed December 20, 1976. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). *Such merchandise* as is dealt in by wholesale or retail food business houses, and in connection therewith, equipment, materials and supplies used in the conduct of such business, except commodities in bulk, (1) from points in MI, to points in WI, IA and St. Louis, MO; (2) between points in WI on the one hand, and on the other, Cincinnati, OH, and Louisville, KY, (3) from points in WI and IA, to points in St. Joseph, Benton Harbor, Niles, Buchanan, Sturgis, Three Rivers, Flint, Grand Rapids, and Detroit, MI. (Gateways eliminated: Gary, IN and Chicago, IL).

MC 114019 (Sub-No. 478), (correction) filed December 20, 1976, published in the FEDERAL REGISTER of February 2, 1978, and republished, as corrected, this issue. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). *Insulating materials*, except in bulk, (1)(a) from Chicago, IL, to points in IA, MO, points in that part of WI, on, north and west of a line beginning at the IL-WI State line and extending north along WI Hwy 69 to Jct. U.S. Hwy 151, then north along US Hwy 151 to Jct. WI Hwy 26, then along WI Hwy 26 to Jct. US Hwy 41, then along US Hwy 41 to Green Bay; points in that part of IN on and south of US Hwy 50, points in KY; points in that part of OH, on, south and east of a line beginning at the IN-OH State line and extending east along US Hwy 50 to Jct. US Hwy 71, then north along US Hwy 71 to junction OH Hwy 13, then north along OH Hwy 13 to Lake Erie, then Sparrows Point and Baltimore, MD; NY, NY; and points within 30 miles of NY, NY; points in that part of NJ, DE, and MD, which are located within 30 miles of Philadelphia, PA; points in that part of NY, on and west of a line beginning at Windsor Beach, NY; and extending to Rochester, NY, then along US Hwy 15 to Wayland, NY, then along NY Hwy 245 to Dansville, NY, then along NY Hwy 36 to Jct NY Hwy 21, then along NY Hwy 21 to Andover, NY; then along NY Hwy 17 to the NY-PA State line, and points in WV and PA (b) from Sparrows Point and Baltimore, MD; NY, NY; and points within 30 miles of NY, NY;

points in that part of NJ, DE, and MD, which are located within 30 miles of Philadelphia, PA; points in that part of NY on and west of a line beginning at Windsor Beach, NY; and extending to Rochester, NY; then along US Hwy 15 to Wayland, NY; then along NY Hwy 245 to Dansville, ; then along NY Hwy 36 to jct. NY Hwy 21, then along NY Hwy 21 to Andover, NY and then along NY Hwy 17 to the NY-PA State line, and points in WV on and north of US Hwy 50, and PA; to points in WI, IA, MO and points in IN in the Chicago, IL Commercial Zone, (2) *Chemicals and Chemical Compound Insulating* Materials, except in bulk, from points in the origin described in part (a) and (b) above, to points in WY, CO, ND, SD, NE, KS, and MN. (Gateways eliminated: Aurora, IL or Richmond, IN). The purpose of this republication is to correct part 1(a) and add part (b) and part (2) previously omitted.

MC 114019 (Sub-E459), filed December 20, 1976. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). *Frozen Foods,* in vehicles equipped with mechanical refrigeration, except commodities in bulk, from points in the States of WI and IA, to points in CT, MA, NH, RI, VT, ME, NJ, DE, MD, VA, WV, NY, PA, DC, and points in KY on and east of US Hwy 41. (Gateways eliminated: Chicago, IL and Chatauque County, NY; Erie, PA or Lafayette, IN).

MC 114019 (Sub-E479), filed December 20, 1976. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Representative: Arthur J. Sibik (same as above). (1) *Heavy Industrial Chemicals* (not including drugs, medicine, and toilet preparations) except commodities in bulk, in containers, (a) from Sparrows Point and Baltimore, MD; NY, NY; and points within 30 miles of NY, NY; points in that part of NJ, DE, and MD, which are located within 30 miles of Philadelphia, PA; points in that part of NY on and west of a line beginning at Windsor Beach, NY; and extending to Rochester, NY, then along U.S. Hwy 15 to Wayland, NY; then along NY Hwy 245 to Dansville, NY, then along NY Hwy 36 to Jct. NY Hwy 21, then along NY Hwy 21 to Andover, NY, and then along NY Hwy 17 to the NY-PA State line, and points in PA, points in WV on and north of US Hwy 70 to points in IA and WI; Chicago, IL; and points in IL within 40 miles thereof, Cape Girardeau, Fortesque, St. Charles, LA, Hannibal and St. Louis, MO, (b) from Chicago, IL and points in IL within 40 miles thereof to points in OH, IN, WI, IA, the lower peninsula of MI, and Paducah, Henderson, Owensboro, Louisville, Carlton, Covington, Newport and Maysville, KY; Cape Girardeau, Fortesque, St. Charles, LA, Hannibal and St. Louis, MO; Sparrows Point and Baltimore, MD; NY, NY; and points within 30 miles of NY, NY; points in that part of NJ, DE, and MD, which are located within 30 miles of Philadelphia, PA; points in that part of NY on and west of a line beginning at Windsor Beach, NY; and extending to Rochester, NY; then along US Hwy 15 to Wayland, NY; then along NY Hwy 245 to Dansville, NY; then along NY Hwy 36 to jct. NY Hwy 21, then along NY Hwy 21 to Andover, NY; and then along NY Hwy 17 to the NY-PA State line, and points in WV and PA, (2) *Such Chemicals and Chemical Supplies* as are used in the manufacture and distribution of Heavy Industrial Chemicals (not including drugs, medicine, and toilet preparations), except commodities in bulk, (a) from Sparrows Point and Baltimore, Md; NY, NY; and points within 30 miles of NY, NY; points in that part of NJ, DE, and MD, which are located within 30 miles of Philadelphia, PA; points in that part of NY on and west of a line beginning at Windsor Beach, NY; and extending to Rochester, NY., then along US Hwy 15 to Wayland, NY; then along NY Hwy 245 to Dansville, NY; then along NY Hwy 36 to Jct. NY Hwy 21, then along NY Hwy 21 to Andover, NY; and then along NY Hwy 17 to the NY-PA State line, and points in WV and PA, to points in WI, IA, Cape Girardeau, Fortesque, St. Charles, LA, Hannibal and St. Louis, MO, (b) from points in the lower peninsula of MI to points in IA and WI, points in IL within 40 miles of Chicago, IL; Cape Girardeau, Fortesque, St. Charles, LA, Hannibal and St. Louis, MO; and Paducah, KY (c) points in WI to points in IN, the lower peninsula of MI, points in IL within 40 miles of Chicago, points in OH, Sparrows Point & Baltimore, MD, NY, NY; and points within 30 miles of NY, NY; points in that part of NJ, DE, and MD, which are located within 30 miles of Phalidelphia, PA, points in that part of NY on and west of a line beginning at Windsor Beach, NY; and extending to Rochester, NY; then along US Hwy 15 to Wayland, NY; then along NY Hwy 245 to Dansville, NY; then along NY Hwy 36 to Jct. NY Hwy 21, then along NY Hwy 21 to Andover, NY; and then along NY Hwy 17 to the NY-PA State line, and points in WV and PA, Paducah, Henderson, Owensboro, LA, Carlton, Covington, Newport, and Maysville, KY; and Cape Girardeau, Fortesque, St. Charles, LA, Hannibal, and St. Louis, MO; (d) from points in IA to points in OH, Sparrows Point and Baltimore, MD: NY, NY; and points within 30 miles of NY, NY; points in that part of NJ, DE, and MD, which are located within 30 miles of Philadelphia, PA; points in that part of NY on and west of a line beginning at Windsor Beach, NY; and extending to Rochester, NY, then along US Hwy 15 to Wayland, NY, then along NY Hwy 245 to Dansville, NY, then along NY Hwy 36 to Jct. NY Hwy 21, then along NY Hwy 17 to the NY-PA State line, and points in WV and PA, the lower peninsula of MI, points in IL within 40 miles of Chicago, points in IN on north and east of a line beginning at the IL-IN State line, and extending east along US Hwy 30 to Jct. US Hwy 65 then south along US Hwy 65 to the IN-KY State line, Carlton, Covington, Newport, and Maysville, KY, (e) from points in OH to points in IA, WI and points in IL within 40 miles of Chicago, (f) from points in OH on and north of US Hwy 80 to Cape Girardeau, Fortesque, St. Charles, LA, Hannibal, and St. Louis, MO; (g) from points in IN to points in WI, and points in IL within 40 miles of Chicago, (h) from points in IN on and north of US Hwy 30 to Cape Girardeau, Fortesque, St. Charles, LA, Hannibal, and St. Louis, MO; (i) from points in IN on and north of US Hwy 24 to points in IA, (j) from Paducah, Henderson, Owensboro, Louisville, Carlton, Covington, Newport, & Maysville, KY; to points in WI and points in IL within 40 miles of Chicago, (k) from Fortesque, St. Charles, LA, Hannibal, and St. Louis, MO; to points in WI, points in IL within 40 miles of Chicago, points in OH on and north of US Hwy 80, Sparrows Point & Baltimore, MD, NY, NY; and points within 30 miles of NY, NY; points in that part of NJ, DE, & MD, which are located within 30 miles of Philadelphia, PA; points in that part of NY on and west of a line beginning at Windsor Beach, NY; and extending to Rochester, NY, then along US Hwy 15 to Wayland, NY; then along NY Hwy 245 to Dansville, NY; then along NY Hwy 36 to Jct. NY Hwy 21, then along NY Hwy 21 to Andover, NY, and then along NY Hwy 17 to the NY-PA State line, and points in PA, and points in WV on and north of US Hwy 70, (3) *Such materials, chemicals, Supplies and Machinery,* as are used in the manufacture and distribution of Heavy Industrial Chemicals (not including drugs, medicine, and toilet preparations), except commodities in bulk, from Sparrows Point and Baltimore, MD; NY, NY; & points within 30 miles of NY, NY; points in that part of NJ, DE, and MD, which are located within 30 miles of Philadelphia, PA., points in that part of NY on and west of a line beginning at Windsor Beach, NY; and extending to Rochester NY; then along US Hwy 15 to Wayland, NY, then along NY Hwy 245 to Dansville, NY then along NY Hwy 36 to Jct. NY Hwy 21, then along NY Hwy

21 to Andover, NY, and then along NY Hwy 17 to the NY-PA State line, and points in WV, PA, OH, IN, WI, IA, the lower peninsula of MI, and Paducah, Henderson, Owensboro, Louisville, Carlton, Covington, Newport, and Maysville, KY; and Cape Girardeau, Fortesque, St. Charles, LA, Hannibal, and St. Louis, MO; to points in IL within 40 miles of Chicago. RESTRICTION: The authority described in Part 2 of section (c) is restricted to the transportation of the commodities described therein when moving from, to, or between heavy industrial chemical manufacturing plants (except drug, medicine and toilet preparation plants), or warehouse or other facilities of such plants. (Gateway eliminated: Joliet, IL).

MC 118831 (Sub-E117), filed May 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid petrochemicals,* (except anhydrous ammonia, Dimethyl Terephthalate, fertilizer and fertilizer material,) in bulk; from points in NC, excluding Asheboro, on and east of a line beginning at the NC-SC state line running northward on NC Hwy 9 to unnumbered Hwy to Spindale, NC, then along US Hwy 74 to unnumbered Hwy northward to NC Hwy 226; then eastward on NC Hwy 226 to unnumbered Hwy to NC Hwy 10 near Casar NC, then, to NC Hwy 18; then, northward to unnumbered Hwy to Connelly Springs; then northward on unnumbered Hwy through Baton and Whitnel to Lenoir; then over NC Hwy 18 to NC Hwy 268 to US Hwy 601 to US Hwy 52 to NC-VA State line; to points in MO on and east and south of a line beginning at the IA-MO State line, extending southwest over unnumbered reoad to the junction of MO Hwy 46 and MO Hwy 246, then along MO Hwy 46 to Jct. MO Hwy 113, then along MO Hwy 113 to Jct. MO Hwy 118, then along MO Hwy 118 to Jct US Hwy 159, then over US Hwy 159 to the MO-NE state line, (except points in the St. Louis, MO Commercial Zone). (Gateway eliminated: points in SC and Charlotte, NC).

MC 118831 (Sub-E118), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., PO Box 5388, Uwharrie Road; High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid petrochemicals,* (except anhydrous ammonia, fertilizer and fertilizer materials), in bulk, from points in NC, (except Asheboro) on and east of a line beginning at the NC-SC State line extending along NC Hwy 150 through Shelby and Lincolnton, NC to junction I Hwy 77, then along I Hwy 77 to junction US Hwy 21, then along US Hwy 21 to Statesville, then along I Hwy 40 to junction US Hwy 601, then along US Hwy 601 to junction US Hwy 64, then along US Hwy 64 to junction US Hwy 29, then along US Hwy 29 through Lexington and High Point to junction I Hwy 85, then along I Hwy 85 to the NC-VA State line, to points in IN. (Gateway eliminated: points in SC, and Charlotte, NC).

MC 118831 (Sub-E123), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., PO Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid petrochemicals,* (except anhydrous ammonia, fertilizer and fertilizer materials), in bulk, in tank vehicles, from New Bern, NC to points in MO (except the St. Louis, MO, commercial zone); IL (except the East St. Louis, IL, commercial zone); WI; MI; IN; KY; TN; and to points in OH on and west of a line beginning at Belpre extending along OH Hwy 7 to junction I Hwy 77, then along I Hwy 77 to junction OH Hwy 21, then along OH Hwy 21 to junction US Hwy 30, then along US Hwy 30 to junction OH Hwy 94, then along OH Hwy 94 to junction OH Hwy 585, then along OH Hwy 585 to junction OH Hwy 57, then along OH Hwy 57 to Lorain, OH. (Gateway eliminated: Charlotte, NC, and points in SC).

MC 118831 (Sub-E125), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P. O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., NW., Washington, DC 20001. *Liquid petrochemicals,* (except anhydrous ammonia, fertilizer and fertilizer materials), in bulk, in tank vehicles, from Sanford, NC to points in MO (except St. Louis Commercial Zone), IL, (except East St. Louis Commercial Zone), WI, MI, IN, TN and portions of KY and OH described as follows: 1) to points in KY, on and west of a line beginning at the KY-VA state line extending along US Hwy 23 to Jenkins, KY: then along US Hwy 119 to Jct. KY Hwy 317 to Jct. KY Hwy 7 north on KY Hwy 7 to Jct. KY Hwy 40 to Jct. of US Hwy 23 at Staffordville on US Hwy 23 to Louisa, KY & WV state line, 2) to points in OH on & west of a line beginning at OH & KY state lines at US Hwy 62 to Maysville to OH Hwy 41, then to Jct. US Hwy 50 on to Jct. OH Hwy 28 extending east on OH Hwy 28 to Chillicothe north on US Hwy 23 then to Jct. OH Hwy 159 to Jct. US Hwy 22 to Lancaster, OH, north east on US Hwy 22 to Zanesville, US Hwy 40 east to Cambridge, I Hwy 77 north to Canton, to US Hwy 62 east to Jct. OH Hwy 44 north to Ravenna, OH; then 5 east to Warren, OH to Jct. OH Hwy 11 to Ashtabula, OH; then north to Lake Erie. (Gateway eliminated: SC & Charlotte, NC).

MC 124174 (Sub-E66) (Correction), filed November 2, 1976, published in the FEDERAL REGISTER issue of January 10, 1979. Applicant: MOMSEN TRUCKING COMPANY, P. O. BOX 37490, Omaha, NE 68137. Representative: Karl E. Momsen (same as above). *Hides, skins, and pieces thereof, tannery products, tannery by-products, and supplies* (except commodities in bulk, in tank vehicles), from all points in MS, to points in TN on and east of a line from I Hwy 24 at the GA-TN State line to Nashville, to US Hwy 31E, to TN Hwy 25, to TN Hwy 53 to the TN-KY State line; points in GA on and east of a line from I Hwy 24 at the GA-TN State line along said State line to US Hwy 41 & 76, to US Hwy 41, to GA Hwy 92, to US Hwy 19, to GA Hwy 20, to I Hwy 85; points in IL on and east of a line from US Hwy 41 at Chicago, to US Hwy 14 to the IL-WI State line; points in WI on and east of a line from US Hwy 14 at the IL-WI State line to WI Hwy 15 to WI Hwy 67, to WI Hwy 33, to WI Hwy 26, to US Hwy 45, to US Hwy 8, to WI Hwy 47, to US Hwy 51, to US Hwy 2, to WI Hwy 122 at the WI-Lake Superior border; points in VA, KY, WV, MD, NJ, MA, VT, NH, ME, NY, PA, OH, IN, MI, and Hazelwood, NC. (Gateway eliminated: points of Chicago, IL; Nashville, TN; New Albany, IN; and St. Louis, MO).

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-7709 Filed 3-13-79; 8:45 am]

[7035-01-M]

[Notice No. 164]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 14, 1979.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

MC-FC 78037. By application filed March 1, 1979, KAY LEASE SERVICE, INC., 443 Liberty Road, P.O. Box EE, Natchez, MS 39120, seeks temporary authority to transfer the operating rights of J. C. BOWMAN TRUCKING COMPANY, Highway 61 North, P.O. Box 824, Natchez, MS 39120, under section 210a(b). The transfer to KAY LEASE SERVICE, INC., of the operating rights of J. C. BOWMAN TRUCKING COMPANY, is presently pending.

MC-FC 78050. By application filed February 28, 1979, LEONARD EXPRESS, INC., P.O. Box 23, 13 Third St., Charleroi, PA 15022, seeks temporary authority to transfer the operating rights of C. E. LIZZA, INC., P.O. Box 308, Ligonier, PA 15658, under section 210a(b). The transfer to

LEONARD EXPRESS, INC., of the operating rights of C. E. LIZZA, INC., is presently pending.

MC-FC 78051. By application filed March 1, 1979, AARON SMITH TRUCKING COMPANY, INC., P.O. Box 153, Dudley, NC 28333, seeks temporary authority to transfer the operating rights of GEORGE FOSTER, an individual, Kenly, NC 27542, under section 210a(b). The transfer to AARON SMITH TRUCKING COMPANY, INC., of the operating rights of GEORGE FOSTER, an individual, is presently pending.

MC-FC 78052. By application filed February 28, 1979, CLAVIN'S EXPRESS, INC., 3 Florence Street, Riverside, RI 02895, seeks temporary authority to transfer the operating rights of J. N. MULDOON CO., 133 Oliver Street, Boston, MA 02110, under section 210a(b). The transfer to CLAVIN'S EXPRESS, INC., of the operating rights of J. N. MULDOON CO., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-7708 filed 3-13-79; 8:45 am]

[7035-01-M]

[Docket No. AB-10 (Sub-No. 6)][1]

WABASH RAILROAD COMPANY AND NORFOLK AND WESTERN RAILWAY CO. ABANDONMENT BETWEEN FAIRBURY AND CLAY IN LIVINGSTON COUNTY, IL

Notice of Findings

Notice is hereby given pursuant to Section 10903 of the Interstate Commerce Act (49 U.S.C. 10903) that by a decision entered on September 27, 1978, and the decision of the Commission, Division 2, served January 18, 1979, as modified, adopted the decision of the Administrative Law Judge entered on September 27, 1978, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.*—Abandonment Goshen, 354 I.C.C. 584 (1978), the present and future public convenience and necessity permit abandonment by the Wabash Railroad Company and Norfolk and Western Railway Company of a line of railroad and operation thereof of the so-called Streator Branch extending from milepost 7.25 approximately 1.65 miles north of Fairbury, IL (at or near Honegger) in a northerly direction through Pontiac, IL to milepost 34.38 near Clay, IL, which in turn is some 2.62 miles south of Streator, IL, a total distance of some 27.13 miles, all in Livingston County, IL.

A certificate of abandonment will not be issued to the Wabash Railroad Company and Norfolk and Western Railway Company based on the above-described finding of abandonment until final determination of the pending petition. During the interim, however, the procedures specified in Section 10905 of the Act will otherwise be followed. Thus, the Commission will be in a position to issue a certificate of abandonment on or before April 13, 1979, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment), to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modification) is in effect.

However, as previously indicated no such certificate will be issued until the pending petition has been finally resolved. Information and procedures regarding the financial asistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Secretary

[FR Doc. 79-7706 Filed 3-13-79; 8:45 am]

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[1] This proceeding is pending before the Commission on a petition for Administrative Review on the grounds that the proceeding involves matters of general transportation importance.

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[6320-01-M]

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[M-200,Amdt. 3; Mar. 8, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the March 8, 1979, Meeting agenda.

TIME AND DATE: 10 a.m., March 8, 1979.

PLACE: Room 1027 (1011-Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

2. Docket 32090, *Mark Kodish* v. *United Air Lines, Inc.* The third-party complainant has requested review of BCP's dismissal of third-party complaint alleging discriminatory refusal to hire as a pilot, on grounds of age (Memo 8551,OGC).

STATUS: Open (Items 14 and 15 closed).

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 2 is being deleted from the March 8, 1979 calendar in order that additional legal research can be done, including the examination of a recent Federal District Court case addressing the legal issues involved in this item. Accordingly, the following Members have voted that agency business requires the deletion of Item 2 from the March 8, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer.
Member Richard J. O'Melia was not present.

[S-489-79 Filed 3-12-79; 10:54 am]

[6320-01-M]

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[M-203; Mar. 8, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., March 15, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. H.R. 349—Amendments to the Privacy Act of 1979 (Memo 8576, OGC).
3. Docket 29044: Part 252 of the Board's Economic Regulations—Notice of Proposed Rulemaking on smoking aboard aircraft. (OGC).
4. Dockets 33112 and 33283: *Texas International-National Acquisition Case* and *Pan-American-National Acquisition Case.* National Airlines application to take the testimony of Dr. Robert H. Frank (OGC).
5. Policy Statement on Price Discrimination (OGC, BPDA, OEA, BCP).
6. Docket 26368, *et al.: (Eastern Air Lines, Inc.,* Enforcement Proceeding), motion of Action on Smoking and Health to lift stay of review proceedings on initial decision approving settlement of alleged "no-smoking" regulation violations (Memo 7357-B, OGC).
7. Docket 32942: (*Third-Party Complaint of Delta Air Lines, Inc. against Braniff Airways, Inc.*), Delta's petition for review of BCP's dismissal of complaint alleging that Braniff advertised and accepted reservations for Dallas/Fort Worth-Las Vegas flights before receiving Board authority for the Route (Memo 8577, OGC).
8. Docket 28115: *Midwest-Atlanta Nonstop Service Investigation*—Draft order (Memo 8084-B, OGC).
9. Dockets 33607, 33914, and 33996: Continental's Application for Albuquerque-Los Angeles/Ontario/Burbank, Las Vegas and Salt Lake City and between Salt Lake City and San Antonio Nonstop Authority, and Motion to Consolidate; American's Application for Albuquerque-Las Vegas Nonstop Authority, and Motion to Consolidate; Ozark's Application for Albuquerque-Los Angeles/Ontario/Burbank, Las Vegas and Salt Lake City Nonstop Authority, and Motion to Consolidate. (Memo 8412-B, BPDA).
10. Dockets 33115, 33298, 33315, 33524, 33562, 33581, 33671, 33674, 33876, 34019, 34570, and 34067: Applications for various Salt Lake City markets (Memo 8412-C, BPDA, OGC, BLJ).
11. Docket 34537: Continental's Application for Lubbock-Austin, Denver, Houston and Austin-Denver nonstop authority (Memo 8581, BPDA, OGC, BLJ).
12. Dockets 33377, 33256, 33531, 33584, 33643, and 33706: Applications of TWA, American, Northwest, Southern, and Western for St. Louis-Orlando-Ft. Lauderdale/Miami authority, and Ozark for St. Louis-Tampa-Orlando authority (Memo 8567, BPDA, OGC, BLJ).
13. Dockets 33350, 32720, 32964, 33438, and 34686: Applications of Northwest, Eastern, Western, Southern and Ozark, respectively, requesting Atlanta-San Francisco/Oakland/San Jose authority (Memo 8437-B, BPDA).
14. Docket 33073, Air Midwest's certificate amendment application to provide service to various points in New Mexico, Texas and Kansas and petition for reconsideration of Order 78-12-151 (Memo 8351-E, BPDA, OCCR).
15. Docket 34321: Piedmont's request for an exemption to operate three one-stop round trips in the Nashville-Washington market (BPDA).
16. Docket 34499: North Central's Petition for review of staff action denying its application for Chicago-Ft. Lauderdale exemption (BPDA).
17. Dockets 33306, 33560, 33994, 33665, 33366, 34012, 33527, 32291, 33541, 33600, and 33633: Dallas/Ft. Worth-Los Angeles Show-Cause Proceeding; Braniff, Northwest, Ozark and Western have applied for Dallas/Ft. Worth-Los Angeles authority. Continental has applied for removal of a restriction which prevents it from serving Hawaii on Dallas/Ft. Worth-Los Angeles flights. TXI requests removal of a one-stop restriction in the Dallas-Los Angeles market. Western requests consolidation of its and Frontier's applications for Denver-Los Angeles authority into the present action (Memo 8582, BPDA, OGC, BLJ).
18. Docket 34336: Application of Air New England to add intermediate point Providence, RI, to Route 172 (Memo 8579, BPDA, OGC, BLJ).
19. Docket 33862: Texas International's on-segment Subpart M application for nonstop Dallas/Ft. Worth-Lubbock authority (BPDA).
20. Docket 34555: Braniff's petition for review of Order 79-2-8 (Memo 8568, BPDA).
21. Dockets 28874, 33328, 33324, 33325, 33326, 33327, 33328, 33329, 33330, 33331, 33332, 33333, and 33334: American Airlines route realignment and Amendments to certificates of other carriers to grant unrestricted authority in certain minor markets (Memo 8146-A, BPDA).
22. Docket 34556: Piedmont's notice of intent to suspend all services at London-Corbin, Kentucky (Memo 8573, BPDA, OCCR).
23. Dockets 34416 and 34461: Piedmont's notice of intent to suspend service at Columbus, Ohio, and the portion of dealing with Piedmont's 401(j)(2) notice to suspend single-plane service in several Columbus markets (Memo 8574, BPDA, OCCR).

24. Docket 34751: Piedmont's notice of intent to suspend all service at Danville, Virginia (Memo 8575, BPDA, OCCR).

25. Dockets 26174, 34348, 34715, and 34768: Eastern Air Lines and Allegheny Airlines notices of intent to suspend service at New Haven, CT; Allegheny's notice of intent to suspend service at Bridgeport, CT; Allegheny's request for exemption from section 401(j) (BPDA, OCCR).

26. Docket 34404: National's notice of intent to suspend service at Daytona Beach, Florida, under section 401(j)(1) (BPDA, OCCR).

27. Docket 32020: Trans-Pacific Trading Co., Ltd. (Canada) d.b.a. Trans-Pacific Air Courier Inc., for indirect foreign air carrier permit (BIA, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-490-79 Filed 3-12-79; 10:54 am]

[6320-01-M]

3

[M-200, Amdt. 3; Mar. 8, 1979]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the March 8, 1979, meeting agenda.

TIME AND DATE: 10 a.m., March 8, 1979.

PLACE: Room 1027 (1011—Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

2. Docket 32090: *Mark Kodish* v. *United Air Lines, Inc.* The third-party complainant has requested review of BCP's dismissal of third-party complaint alleging discriminatory refusal to hire as a pilot, on grounds of age (Memo 8551, OGC).

STATUS: Open (Items 14 and 15 closed).

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 2 is being deleted from the March 8, 1979 calendar in order that additional legal research can be done, including the examination of a recent Federal District Court case addressing the legal issues involved in this item. Accordingly, the following Members have voted that agency business requires the deletion of Item 2 from the March 8, 1979 agenda and that no earlier announcement of this deletion was possible:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer
Member Richard J. O'Melia was not present.

[S-500-79 Filed 3-12-79; 3:51 pm]

[6320-01-M]

4

[M-200, Amdt. 4; Mar. 9, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the March 8, 1979, meeting agenda.

TIME AND DATE: 9:55 a.m. (Jamaica); 2:45 p.m. (Peru); March 8, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

A. Bilateral Aviation Matters with Jamaica.

16. Bilateral Aviation Matters with Peru.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Board guidance and decision on aviation matters to be discussed March 8, 1979, with Jamaica and Peruvian Government authorities in Washington, requires a meeting. Public disclosure, particularly to foreign governments, of opinions, evaluations and strategies in the discussions could seriously compromise the ability of the United States Delegations to achieve agreements which would be in the best interests of the United States. Accordingly, agency business requires that these discussions would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552(9)(B) and 14 CFR section 310b.5(9)(B) and that any such meeting should therefore be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

PERSONS EXPECTED TO ATTEND

Board Members:—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members:—Mr. David M. Kirstein; Mr. Elias Rodriguez, and Mr. Stephen H. Lachter.

Acting Managing Director.—Mr. Sanford Rederer.

Executive Assistant to the Managing Director.—Mr. John R. Hancock.

Bureau of International Affairs.—Mr. Donald A. Farmer, Jr., Mr. Rosario J. Scibilia, Ms. Sandra W. Gerson, Mr. Francis S. Murphy, Mr. Donald L. Litton, Ms. Mary L. Pett, Mr. James S. Horneman, Mr. Ivars V. Mellups, Mr. Richard M. Loughlin, Mr. Willard L. Demory, and Mr. Richard Stair.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. Peter B. Schwarzkopf, Mr. Michael Schopf, and Ms. Carol Light.

Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine; Ms. Barbara A. Clark, Mr. James L. Deegan, Mr. Herbert P. Aswall, and Mr. Douglas V. Leister.

Office of Economic Analysis.—Mr. Robert Frank and Mr. Richard Klem.

Bureau of Consumer Protection.—Mr. Reuben Robertson and Mr. John Golden.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Linda Senese.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552(9)(B), and 14 CFR. 310b.5 (9)(B) and that the meeting may be closed to public observation.

GARY J. EDLES,
Deputy General Counsel.

[S-501-79 Filed 3-12-79; 3:51 pm]

[6320-01-M]

5

[M-204; Mar. 9, 1979]

CIVIL AERONAUTICS BOARD.

Notice of closure and short notice of March 9, 1979, meeting.

TIME AND DATE: 9:30 a.m., March 9, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Bilateral Aviation Matters with Peru.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: To brief the Board on the developments in the U.S.-Peruvian negotiations and to secure their guidance requires a Board meeting. Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies in the discussions could seriously compromise the ability of the United States Delegation to achieve an agreement which would be in the best interests of the United States. Accordingly, the staff believes that the meeting on this subject would involve matters in the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552(9)(B) and 14 CFR section 310b.5(9)(B) and that any such meeting should therefore be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member Schaffer was not present.

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.

Assistants to Board Members.—Mr. David M. Kirstein.

Acting Managing Director.—Mr. Sanford Rederer.

Executive Assistant to Managing Director.—Mr. John Hancock.

Bureau of International Affairs.—Mr. Donald A. Farmer, Jr., Mr. Francis S. Murphy, Ms. Carolyn Coldren, and Mr. David Levitt.

Office of the General Counsel.—Ms. Carol Light and Mr. Peter B. Schwarzkopf.

Bureau of Pricing and Domestic Aviation.—Mr. Michael Levine and Ms. Barbara Clark.

Bureau of Consumer Protection.—Mr. Reuben Robertson and Ms. Patricia Kennedy.

Office of the Secretary.—Mrs. Phyllis T. Kaylor, Ms. Linda Senese, and Ms. Louise Patrick.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting may be closed to public observation.

GARY J. EDLES,
Deputy General Counsel.

[S-502-79 Filed 3-12-79; 3:51 pm]

[6320-01-M]

6

[M-202, Amdt. 1; Mar. 9, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the March 12, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., March 12, 1979.

PLACE: Room 1011, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

3. For Information Memorandum on Japan, dated March 8, 1979 with attachments (Confidential), Docket 32660, IATA Agreements proposing a 15 percent discount on round trip normal fares from Japan to the Western Hemisphere; and a new U.S.-Japan fare structure.

4. Docket 28213: Application of Seven Japanese Air Freight Forwarders (OEA, BIA, OGC).

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Embassy of Japan on March 7 requested prompt Board action on the pending IATA Agreement which would reduce Japan-Originating fares to the United States by 15 percent. The Department of State has requested that the Board consider the IATA proposal expeditiously. Accordingly, the following Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

There is presently pending an IATA Agreement to reduce fares from Japan to the United States by 15 percent because of currency changes. The United States carriers have proposed new lower fares which, although accepted by the Board, have not been approved by Japan. In view of the nature of our aviation negotiations with Japan and the impact that lower fares will have on other United States-Japan aviation issues, we recommend that the meeting be closed. Premature public disclosure of options, plans and opinions of the Board could seriously compromise the United States ability to successfully resolve this issue in the best interests of the United States. Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting will be closed:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Because the Board is scheduling a closed meeting to discuss U.S.-Japanese negotiations and the international negotiations aspects of this item (4) are related to the other issues, the following Members have voted that agency business requires that the Board meet on this item on less than seven days' notice and that no earlier announcement of the meeting was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

Premature public disclosure of the options, plans and opinions of the Board could seriously compromise the United States ability to successfully resolve this issue in the best interests of the United States. Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting will be closed:

Chairman, Marvin S. Cohen
Member Richard J. O'Melia
Member, Elizabeth E. Bailey
Member Gloria Schaffer was not present.

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. David M. Kirstein, Mr. Elias Rodriguez, and Mr. Stephen H. Lachter.

Acting Managing Director.—Mr. Sanford Rederer.

Executive Assistant to the Managing Director.—Mr. John R. Hancock.

Bureau of International Affairs.—Mr. Donald A. Farmer, Jr., Mr. Rosario J. Scibilia, Ms. Sandra W. Gerson, Mr. Francis S. Murphy, Mr. Donald L. Litton, Ms. Mary I. Pett, Mr. James S. Horneman, Mr. Ivars V. Mellups, Mr. Richard M. Loughlin, Mr. Willard L. Demory, and Mr. Richard Stair.

Office of the General Counsel.—Mr. Philip J. Bakes, Jr., Mr. Gary J. Edles, Mr. Peter B. Schwarzkopf, Mr. Michael Schopf, and Ms. Carol Light.

Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Ms. Barbara A. Clark, Mr. James L. Deegan, Mr. Herbert P. Aswall, and Mr. Douglas V. Leister.

Office of Economic Analysis.—Mr. Robert Frank and Mr. Richard Klem.

Bureau of Consumer Protection.—Mr. Reuben Robertson and Mr. John Golden.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Linda Senese.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR 310b.5(9)(B) and that the meeting may be closed to public observation.

GARY J. EDLES,
Deputy General Counsel.

[S-503-79 Filed 3-12-79; 3:51 pm]

[6712-01-M]

7

FEDERAL COMMUNICATIONS COMMISSION

TIME AND DATE: 9:30 a.m., Thursday, March 15, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting following open meeting which is scheduled to commence at 9:30 a.m.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Appeal of an interlocutory order denying a protective order in the Joplin, Missouri/Pittsburg, Kansas TV re-

newal proceeding (BC Docket Nos. 78-81, 78-82 and 78-83).

Complaints and compliance—1—Inquiry into the operation of television station KBSA, Guasti, California, licensed to Broadcasting Service of America, Inc; Application for the voluntary assignment of license of TV Station KBSA, from Broadcasting Service of America, Inc. to Metropolitan Broadcasting Company (BALCT-647); and Application for renewal of license of Station KBSA(TV), Guasti, California.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: March 9, 1979.

[S-492-79 Filed 3-12-79; 1:13 pm]

[6712-01-M]

8

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, March 15, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Establishment of a Joint Tactical Information Distribution System in the aeronautical radionavigation band (RM-3095, GEN Docket No. 78-231).

General—2—Appeal of staff ruling which partially denied the Freedom of Information Act request filed by the Council on Children, Media, and Merchandising for inspection of certain documents relating to children and television.

General—3—Application for Review of Common Carrier Bureau ruling granting and denying in part the Freedom of Information Act request filed by the Ad Hoc Telecommunications Users Committee for inspection of intra-agency memoranda.

General—4—Application for Review of Broadcast Bureau ruling denying in part the Freedom of Information Act request filed by the New Jersey Coalition for Fair Broadcasting for Inspection of Intra-Agency Memoranda.

General—5—Contractor's Report on Evaluation of Operation of Pre-Designation Procedures in Processing of Broadcast Applications.

Private Radio Services—1—Amendment of Parts 83 and 91 to aid pollution prevention, to broaden permissible communications aboard vessels involved in large oil transfer operations, (SS Docket No. 78-324).

General—2—Petition for reconsideration of action taken in Docket No. 21318 relative to the extension of permissible directional antenna height as contained in C.B. Rule 18.

General—3—Petition for Reconsideration in Docket 21033 concerning the use by Amateur Television repeater stations of frequencies 431-433 MHz.

General—4—Amendment of Part 83 to implement an Inter-Governmental Maritime Consultative Organization's Resolution pertaining to the Safety of Life at Sea Convention, and Petition for the Continued use of A3 emission in the Maritime Services.

Common Carrier—1—Application by AT&T for authority to purchase IRU interests in the SAT-1 submarine telephone cable system.

Common Carrier—2—Petition for Declaratory Rulings re interconnection with private interstate communications systems.

Cable Television—1—Petition for waiver filed by Warner Cable Corporation, operator of a technically integrated cable television system serving seven communities, including Chelsea and Melrose, Massachusetts.

Assignment and Transfer—1—Application for assignment of license of station KMUV-TV from Channel 31, Inc., Debtor-in-possession to Sacramento Television, Inc. (BALCT-691).

Renewal—1—Petition to deny application of Malrite of New York, Inc. for renewal of license of Station WEZO(FM), Rochester, New York, filed by Metro-Act of Rochester, Inc.

Aural—1—Petition for Review filed by Midland Broadcasters, Inc., Station KSWT, Topeka, Kansas directed against the Bureau action which dismissed an informal objection to the license application for FM Station KTPK, Topeka, Kansas.

Television—1—Application (BPET-564) of Arkansas ETV Commission for CP for new non-commercial educational TV station on Channel *6, Mountain View, Arkansas, et al.

Broadcast—1—Petition for rule making (RM-2830) filed by the National Association of Broadcasters, to permit rebroadcast of CB and amateur transmissions of emergency information.

Additional information concerning this meeting may be obtained from the FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: March 9, 1979.

[S-493-79 Filed 3-12-79; 1:13 pm]

[6714-01-M]

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552(e)(2)), notice is hereby given that at 5:00 p.m. on Thursday, March 8, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt a resolution amending Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," to (1) prohibit insured State nonmember banks from compounding interest on money market certificates of deposit, and (2) eliminate the interest-rate differential available to mutual savings banks when Treasury bill discount rates reach 9 percent.

In calling the meeting, the Board determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. Lewis G. Odom, Jr., acting in the place an stead of Director John G. Heimann (Comptroller of the Currency), that—

(A) Corporation business required its adoption of the resolution on less than seven days' notice to the public, in support of general governmental policies to restrain inflation and in order to coordinate its action with similar action taken by the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, and the National Credit Union Administration;

(B) that no earlier notice of the meeting was practicable;

(C) that the public interest did not require consideration of the matter in a meeting open to public observation; and

(D) that the matter was eligible for consideration in a meeting closed to public observation by authority of subsection (c)(9)(A)(i) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(A)(i)), since public discussion would have been likely to "disclose information the premature disclosure of which would * * * in the case of an agency which regulates currencies, securities, commodities, or financial institutions, [have been] likely to * * * lead to significant financial speculation in * * * securities."

Dated: March 9, 1979.

FEDERAL DEPOSIT INSURANCE CORPORATION,
HOYLE L. ROBINSON,
Acting Executive Secretary.

[S-488-79 Filed 3-12-79; 3:27 pm]

[6730-01-M]

10

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: March 9, 1979, 44 FR 13124.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10, a.m., March 14, 1979.

CHANGE IN THE MEETING: Addition of the following item to the open session:

5. Special permission application of Matson Navigation Company to advance effective date of proposed bunker surcharge.

[S-497-79 Filed 3-12-79; 3:27 pm]

[6730-01-M]

11

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., March 20, 1979.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Report of the Secretary on Notation Items disposed of during February, 1979.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during February, 1979.
3. Report of the Secretary on Applications for Admission to Practice approved during February, 1979, pursuant to delegated authority.
4. Assignment of Informal Dockets by the Secretary during February, 1979.
5. Neutral Body Policing of Independent Liner Operators in the United States Foreign Commerce: Advance Notice of Proposed Rulemaking.
6. Agreement No. 10332: Consideration of petition for limited reconsideration.
7. Status Report on activities of Office of Freight Forwarders.

Portions closed to the public:

1. Docket No. 77-7: Agreement Nos. 9929-2, 9929-3, and 9929-4 (Modifications to the Combi Line Joint Service Agreement) and Agreement Nos. 10266 and 10266-1 (Joint Marketing Agreement Between Intercontinental Transport, B.V. and Compagnie Generale Maritime)—Consideration of the record.
2. Docket No. 76-11: In Re Agreements 150 DR-7 and 3103 DR-7—Discussion of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, (202) 523-5725.

[S-498-79 Filed 3-12-79; 3:27 pm]

[6735-01-M]

12

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., March 9, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTER TO BE CONSIDERED: The Commission will consider and act upon the following:

3. Secretary of Labor, Mine Safety and Health Administration, on behalf of John Koerner, Applicant v. Arch Mineral Coal Company, DENV 78-564.

It was determined by unanimous vote of the Commissioners that Commission business required that this item be added to the March 9 agenda and that no earlier announcement of the change was possible. The matter was directed for review pursuant to section 113(d)(1) of the 1977 Act.

CONTACT PERSON FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

MARCH 9, 1979.

[S-499-79 Filed 3-12-79; 3:35 pm]

[7020-02-M]

13

[USITC SE-79-13]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10:30 a.m., Thursday, March 22, 1979.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. (Part) Bicycle tires and tubes (Inv. AA1921-193)—vote.
2. Agenda.
3. Minutes.
4. Ratifications.
5. Petitions and complaints, if necessary.
6. Any items left over from previous agenda.

Portions closed to the public:

1. (Part) Bicycle tires and tubes from Korea (Inv. AA1921-193)—briefing.
2. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, (202) 523-0161.

[S-494-79 Filed 3-12-79; 2:32 pm]

[4910-58-M]

14

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 11:15 a.m., Tuesday, March 13, 1979 [NM-79-10].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first item on the agenda will be open to the public; the second item will be closed to the public under Exemption 10 of the Government in the Sunshine Act. A majority of the Board has determined by recorded vote that the business of the Board requires that these items be discussed on this date and that no early announcement was possible.

MATTERS TO BE CONSIDERED:

1. *Letter* to the Federal Railroad Administration re Notice of Proposed Rulemaking Dkt. RSFC-6, Freight Car Safety Standards.
2. *Opinion and Order*—Administrator v. Interair Services, Inc., Dkt. SE-4097; disposition of the appeals of both parties.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-496-79 Filed 3-12-79; 3:14 pm]

[7590-01-M]

15

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: March 15, 1979.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

THURSDAY, MARCH 15, 9:30 A.M.

1. Discussion of Selection and Training Process for ASLBP Members. (Approximately 1 hour—public meeting.)
2. Discussion of Staff Communications with the Commission. (Approximately 1 hour—public meeting.)

THURSDAY, MARCH 15, 1:30 P.M.

1. Discussion of NRC Legislative Proposals. (Approximately 3 hours—public meeting.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, (202) 634-1410.

WALTER MAGEE,
Office of the Secretary.

MARCH 8, 1979.

[S-495-79 Filed 3-12-79; 2:32 pm]

[7600-01-M]

16

[FORM 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 1 p.m. on March 22, 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: March 12, 1979.

[S-491-79 Filed 3-12-79; 10:54 am]

[1505-01-M]

17

Correction

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-439-79 published at page 12331 in the issue of Tuesday, March 6, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Thursday, March 25, 1979.

CORRECTION: The date of the meeting was incorrectly printed. The correct time and date are as follows: 10:00 a.m., Thursday, March 15, 1979.

federal register

WEDNESDAY, MARCH 14, 1979

PART II

DEPARTMENT OF ENERGY

■

STANDBY GASOLINE RATIONING REGULATIONS

Final Rule

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-78-14]

PART 570—STANDBY GASOLINE RATIONING REGULATIONS

Publication of Standby Gasoline Rationing Regulations

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE), pursuant to direction from the President of the United States, issues final rules with respect to standby gasoline rationing. This plan is designed for and would be used only in the event of a severe gasoline shortage. Under sections 201 and 203 of the Energy Policy and Conservation Act (Pub. L. 94-163) (EPCA), this plan is being submitted to Congress for approval as a standby plan pursuant to the procedures specified therein.

This plan provides that eligibility for ration allotments will be primarily on the basis of motor vehicle registrations. DOE will mail Government ration checks to the parties named (whether individuals or firms) in a national vehicle registration file to be maintained by DOE. Ration recipients may "cash" these checks for ration coupons at various designated coupon issuance points.

Retail outlets and other suppliers will be required to "redeem" the ration coupons received in exchange for gasoline sold. In order to be resupplied, retail outlets and other suppliers will be required to remit redeemed ration rights to their suppliers.

DOE will issue supplemental allotments to a limited number of priority activities, such as police and fire protection. In addition, firms with significant gasoline requirements for unregistered, off-highway vehicles and equipment (e.g., construction equipment operators and fishermen) will receive equitable allotments for such vehicles and equipment. Off-highway vehicles and equipment used by farmers in the production of food and fiber will be provided allotments sufficient to meet fully the national food and fiber production goals approved by the President.

A ration banking system will be established with two separate and distinct types of ration accounts: (1) Retail outlets and other suppliers will open "redemption accounts" for the deposit of redeemed ration rights; (2) Individuals or firms may open ration rights accounts, which will operate in much the same manner as monetary checking accounts, *i.e.*, account holders may deposit ration coupons and ration checks in their accounts and may write ration checks against their accounts.

A "white market" will be permitted for the sale or transfer of ration rights. A percentage of the total ration rights to be issued will be reserved for distribution to the States as a State Ration Reserve, to be used by the States primarily for the relief of hardship. A National Ration Reserve will also be established, to be used by the DOE for national emergency needs, and for such other purposes as DOE finds necessary. DOE may auction, or may authorize the States to auction, to the public some ration rights from the National or State Ration Reserves.

DATES: Effective Date is subject to the approval by a resolution by each House of Congress in accordance with the procedures specified in section 552 of the Energy Policy and Conservation Act (Pub. L. 94-163), said Part 570 to become effective only as provided in section 201(b) of that Act.

Comments by May 1, 1979, 4:30 p.m.

ADDRESSES: All comments to: Public Hearing Management, Room 2313, ERA Docket No. ERA-R-14, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Department of Energy, 2000 M Street, NW., Washington, D.C. 20461. (202) 634-2170.

Arthur Heringman (Division of Major Emergency Programs), Economic Regulatory Administration, 2000 M Street, NW., Room 8212, Washington, D.C. 20461. (202) 632-6580.

Fred A. Wolgel (Office of General Counsel), Department of Energy, 1000 Independence Avenue, SW., Room 6A-127, Washington, D.C. 20461. (202) 252-6754.

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I. Background and General Approach

On June 22, 1978, we issued a notice of proposed rulemaking and public hearing (43 FR 28134, June 28, 1978)[1] to amend Chapter II, Title 10 of the Code of Federal Regulations, to establish a new part[2] setting forth regulations with respect to a standby gasoline rationing plan. Written comments were invited, and public hearings were held in Washington, D.C.; Hartford,

[1] For purposes of simplicity, hereinafter all references are to the June 28 date of publication in the Federal Register.

[2] Initially proposed as Part 500, these regulations are being issued as Part 570. With this exception, and with the exception of the substantive changes that have been made to the proposed regulations, the numbering of the regulations is otherwise identical to the proposed regulations.

Connecticut; Detroit, Michigan; Dallas, Texas; Kansas City, Missouri; Denver, Colorado; Los Angeles, California; Atlanta, Georgia; Spokane, Washington; Newark, New Jersey, Anchorage, Alaska; and Portland, Oregon. Over 800 written comments were received, and over 300 oral presentations were made at the twelve public hearings. Commenters included private citizens from every section of the country and representatives of an extremely broad range of business activities, interest groups and Federal, State, and local governmental units. We are satisfied that virtually every interest that would be affected by this plan is represented in the comments and statements that were submitted. The comments submitted have been carefully considered, and several changes to the proposed plan have been made in response to the public comments.

This standby rationing plan is required by sections 201 and 203 of the Energy Policy and Conservation Act (Pub. L. 94-163)(EPCA). If approved by the Congress, it would remain in standby status unless the President finds that putting the plan into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under the International Energy Program, and the President transmits such finding to the Congress, together with a statement of the effective date and manner for exercise of such plan. Pursuant to section 203(b) of EPCA, the President would also be required to find that putting such plan into effect is necessary to attain, to the maximum extent practicable, the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159 (EPAA)), as amended, and the purposes of the EPCA. The EPCA also explicitly provides that for the rationing contingency plan to become effective and be converted from standby status, the President's decision to put the plan into effect must not be disapproved by either House of Congress. After these steps are completed, the rationing contingency plan would be implemented for a period not to exceed nine months.

Because the regulations themselves require affirmative Congressional approval before they would become effective, and because they may be in a standby status for a substantial period before they would have to be implemented, the regulations are general in their terms in order to provide some flexibility to meet changing circumstances. It is contemplated that further rules, orders and guidelines would have to be issued, consistent with the present regulations, at the time rationing is implemented in order to "fine-tune" the rationing system to the level of gasoline supply shortfall and other circumstances as may exist at the time. The instances in which details of the program would have to be provided at the time of implementation are clearly indicated and authorized in the present regulations. In order to provide guidance as to our present contemplation of how these regulations would be implemented, we are publishing as an appendix to this rule a "Standby Gasoline Rationing Plan Narrative." In addition, several of the implementation details will be resolved in the near term, prior to the time that this rationing plan might be implemented. In Section III below, we invite further comments as to several of these issues.

Any gasoline rationing plan must make difficult trade-offs between equitably meeting the diverse needs of millions of gasoline users and limiting the administrative complexity of the plan, its cost and the bureaucracy needed to direct it. This plan attempts, where possible, to maximize admininstrative simplicity, and to reduce the cost, implementation time, and complexity of the program without sacrificing equity considerations. However, any gasoline rationing plan necessarily will be costly and administratively complex, will cause hardships to many users, and will inconvenience large numbers of gasoline consumers. Nonetheless, in a period of serious shortage, gasoline rationing could assure access to some gasoline by all motorists at a reasonable, controlled price, reduce or eliminate long waiting lines, stabilize the market for gasoline, and would significantly mitigate the economic dislocations caused by a severe energy supply interruption.

II. Brief Description of the Standby Gasoline Rationing Regulations

A. Entitlements for Ration Allotments

1. Eligibility for ration allotments will be primarily on the basis of motor vehicle registration. Parties named (whether individuals or firms) in a national vehicle registration file to be maintained by DOE will be eligible for ration allotments as follows:

a. An allotment index will be established to compute the allotment size for each class of vehicle.

b. Provisions will be made to transfer eligibility for ration allotments when a vehicle is transferred.

c. Provisions will be made to enable purchasers of new cars to obtain ration rights on an expedited basis.

2. DOE will issued supplemental allotments for certain priority activities, such as police, fire fighting, United States Postal Service, emergency medical services, certain Department of Defense activities, public passenger transportation, sanitation services and snow removal.

3. Firms with significant gasoline requirements for off-highway vehicles, e.g., construction equipment operators and fishermen, will be eligible to apply for supplemental allotments as designated firms.

4. Supplemental allotments for off-highway vehicles and equipment used in the agricultural production of food and fiber will be provided in a timely manner in amounts adequate to meet fully food and fiber production goals approved by the President.

B. Issuance and Distribution of Ration Rights

1. DOE will print and mail Government ration checks to eligible ration recipients.

2. Ration recipients could exchange Government ration checks for ration coupons at designated coupon issuance points, endorse them for deposit in a ration rights account, endorse them for transfer or sale to any individual or firm, or exchange them for gasoline to a willing supplier.

C. Gasoline Sales

1. DOE will control the sale of gasoline by requiring (except in limited circumstances spelled out in the regulation) that each purchaser of gasoline present ration rights (coupons or checks) to the seller equal on a gallon basis to the amount of gasoline to be purchased.

2. Retail outlets and other suppliers will be required to "redeem" the ration rights received in exchange for gasoline sold. Most gasoline suppliers will be required to open "redemption accounts" for the deposit of redeemed ration rights.

3. Suppliers will be required to remit to their suppliers redeemed ration rights or a redemption check drawn on its redemption account equal on a gallon basis to the amount of gasoline received.

4. Principal suppliers, *i.e.*, refiners and importers, will be required periodically to write a redemption check to DOE equal on a gallon basis to the volume of gasoline sold during a given reporting period.

D. Relationship of Allocation Program to Rationing

1. DOE's petroleum product allocation program would automatically be modified at the time rationing is implemented to be compatible with rationing. Supplier/purchaser relationships would be maintained, according to a recent base period.

2. A base period purchaser, such as a retail sales outlet, would be assured of receiving gasoline from its base period suppliers in an amount equal to its redeemed ration rights, but no greater

than its allocation entitlement. A base period purchaser with redeemed ration rights in excess of its allocation entitlement would be eligible to purchase surplus product.[3]

E. RATION BANKING

1. Subject to conditions to be established by DOE, any firm or individual may open a ration rights account at a participating bank. Ration rights accounts are intended to operate in much the same manner as monetary checking accounts, *i.e.*, account holders may deposit ration coupons and ration checks in their accounts and may write ration checks against their accounts.

2. With the exception of small gasoline retail outlets, gasoline suppliers will be required to open "redemption accounts" for the deposit of redeemed ration coupons and ration checks. Redemption checks may be written against these accounts, payable to other suppliers for resupply of gasoline. Suppliers will receive an initial redemption account advance in order to permit them to be resupplied until they have accumulated sufficient redeemed ration rights.

F. THE RATION RIGHTS EXCHANGE MARKET ("WHITE MARKET")

1. Ration coupons that have not been redeemed will be freely transferrable on a "white market". The DOE does not intend to regulate the white market, but the plan reserves the right to do so, if in its judgment such regulation becomes necessary to prevent anti-competitive behavior or other abuses.

2. In order to facilitate the establishment of a white market for ration coupons, DOE may auction some ration rights to the public. These ration rights would be obtained from the National Ration Reserve. In addition, the DOE may authorize the States to auction ration rights from the State Ration Reserves (see below).

G. NATIONAL RATION RESERVE

1. A percentage of the total ration rights issued will be reserved for the establishment of a National Ration Reserve. The National Ration Reserve will be used to meet national disaster relief needs, to provide ration rights for auctioning to the public, to provide allotments to the Governments of Canada and Mexico to meet the needs on a reciprocal basis of foreign firms that conduct business in the United States, and for such other purposes as DOE finds necessary.

[3] "Surplus" product would be created as a result of some retail outlets being unable to purchase their full allocation entitlement due in part to sharply changed driving patterns that might occur as a result of a gasoline shortage (whether or not gasoline rationing is imposed).

H. STATES' ROLE IN GASOLINE RATIONING

1. A percentage of the total ration rights to be issued shall be reserved for distribution to the States as a State Ration Reserve, to be used by the States primarily for the relief of hardship. The States will have broad discretion and flexibility in the administration of the State Ration Reserves. DOE may authorize the States to auction to the public a portion of the State Ration Reserves, in order to facilitate the establishment of a white market for ration coupons.

III. SECTION BY SECTION ANALYSIS OF THE STANDBY GASOLINE RATIONING REGULATIONS

A. GENERAL PROVISIONS

1. *Section 570.1 Scope.* Section 570.1 is essentially the same as proposed, with the exception that all references to the "Economic Regulatory Administration" (ERA) have been deleted and substituted with the "Department of Energy" (DOE). While it is anticipated that the Secretary would delegate the administration of the rationing program to the ERA, in some circumstances it may be necessary to utilize a component of DOE other than the ERA in some aspect of the rationing program.

Section 570.1 provides that gasoline rationing would be effective in all or such parts of the United States as specified by the DOE. Citing several factors peculiar to the State of Alaska, several commenters urged that Alaska be exempted from gasoline rationing. Based on the circumstances existing at the time rationing would be implemented, § 570.1 would permit us to exempt any State, territory, or possession from the gasoline rationing program, if we determine that such an exemption is necessary and appropriate.

The regulation provides that 10 CFR Part 205 (Administrative Procedures and Sanctions) and the EPAA-based petroleum price regulations found in 10 CFR Part 212 would be applicable to gasoline rationing. Thus, all requests for interpretations, rulings, applications for exception relief (other than those applications for hardship relief filed with the States), or modification of a classification shall be governed by the administrative procedures contained in Part 205.

2. *Section 570.2 General definitions.* Most of the definitions which were proposed in the June 28 notice have been adopted as proposed. Several definitions have been adopted with minor modifications. The definition of "ERA" has been deleted, and definitions for "DOE" and the "United States" have been added.

The definition of "base year" has been modified so that in the event that the standby allocation regulations are imposed prior to rationing, the base year for gasoline rationing will be the same 12 month period as in the standby product allocation regulations.

The definition of "registrant" has been modified to take into account the concept of a national vehicle registration file which DOE will develop.

3. *Section 570.3 Penalties.* Section 570.3 provides that any person who violates any provision of these regulations or any further regulations or orders issued under them would be subject to the penalties set forth in section 5 of the EPAA, sections 524 and 525 of the EPCA, and Subpart P of 10 CFR Part 205. Section 570.3 also imposes an obligation upon all firms having custody, care or control of ration coupons or Government ration checks to take all necessary precautions against the use of counterfeit and altered ration coupons or Government ration checks, as well as a duty to safeguard ration coupons and Government ration checks from embezzlement, loss, theft, damage or unauthorized destruction.

New subparagraphs (c), (d) and (e) have been added to specifically proscribe counterfeiting and related activity with respect to ration checks, ration coupons and redemption checks.

4. *Section 570.4 Reporting requirements.* Section 570.4 of the regulations permits the DOE to require such reports as it deems necessary to administer the Standby Gasoline Rationing Program.

5. *Section 570.5 User fees.* Section 570.5 permits the DOE to impose a uniform fee on each gallon sold during the period for which rationing is in effect. Under the EPCA such a fee could be imposed only to the extent necessary to defray administrative costs or to provide for initial distribution of end-user rights.

6. *Section 570.6 Authority to contract or delegate.* Section 570.6 provides the DOE with the authority to contract for or delegate any of the functions contained in these regulations. The authority to delegate includes the authority to delegate to any other governmental agency at the Federal, State or local level.

7. *Section 570.7 Authority to issue orders.* Because these regulations may be in a standby status for a substantial period before they would have to be implemented, there are many instances in the regulations where further orders, rules or guidelines are specifically anticipated. Section 570.7 provides clear authority to issue such orders and directives in order to implement these regulations.

B. RATIONING OF GASOLINE

1. *Section 570.11 Determination of allotments.* Under § 57011, the DOE will issue ration rights approximately equal to the estimated total available supply as determined by DOE for a given period. Ration rights will be issued as follows:

(1) A percentage will be reserved for the National Ration Reserve.

(2) A percentage will be reserved for the State Ration Reserves.

(3) The DOE will issue ration rights to designated firms, farming and priority class activities.

(4) The DOE will issue ration rights to all registrants and eligible individuals.

Comments submitted by the United States Environmental Protection Agency urged that we provide for the separate rationing of unleaded gasoline. This plan gives to DOE in § 570.11(b) the authority to provide for such separate rationing, but a decision as to whether to do so will be made during the preimplementation period. Comments are requested on this issue, particularly on whether such separate rationing would be feasible and would further or frustrate the objective of preventing the use of leaded gasoline in automobiles equipped with catalytic converters during a period in which gasoline rationing is in effect.

2. *Section 570.12 Distribution of ration rights.* As proposed, ration rights will be issued in the form of Government ration checks mailed to ration recipients on approximately a quarterly basis, with the appropriate allotment amount printed on each check. Additionally, the DOE could deposit ration rights directly into ration rights accounts.

3. *Section 570.13 Disposition of Government ration checks.* In addition to exchanging Government ration checks for ration coupons at designated issuance points (see discussion in section G-1 below), a Government ration check could be transferred by endorsement to any individual or firm, or deposited in a ration rights account, or endorsed to a supplier in exchange for gasoline, provided the supplier is willing to accept the check rather than coupons.

4. *Section 570.14 Validity of Government ration checks.* Unless we specify otherwise, Government ration checks will be valid for a 60 day period.

5. *Section 570.15 Ration coupons.* Ration coupons will be redeemable for the face value of gasoline shown. We anticipate issuing ration coupons in 5 gallon amounts. Several comments, particularly from motorcyclists and motorcycle associations, recommended that we also issue coupons in one gallon amounts. Section 570.14 would not preclude the issuance of coupons in 1 gallon amounts, and such coupons or an alternative thereto may be provided if warranted.

Ration coupons will have a series designation, and the DOE will publish an advance notice of the effective date for each coupon series designation. A coupon of a certain series would not be valid until the effective date for such series. Although several comments urged that ration coupons be valid for only a specified period in order to discourage hoarding, we have determined that once a coupon becomes valid, it is appropriate that it remain valid for the duration of gasoline rationing. Section 570.15 would permit us to establish an expiration date for a series of ration coupons, but we do not anticipate doing so except perhaps to counteract counterfeiting activities, or to require old coupons to be redeemed for newer ones to avoid having too many series valid at one time if rationing continues for several months.

6. *Section 570.16 Mandatory transfers of ration allotments.* In the June 28 notice, we proposed a provision that would permit us to require the lessor of a registered vehicle receiving ration allotments to transfer such ration allotments to the lessee of such vehicle whenever the terms of the lease extended beyond a minimum period, or according to other terms and conditions to be established by DOE. One commenter on this issue proposed that ration rights should go directly to the lessees as "eligible individuals." Another commenter proposed that we require mandatory transfers for leases of one year's length or greater. We are adopting § 570.16 essentially as proposed. We have deleted the reference in the regulation to the length of time of the lease, in order to make clear that the regulation would not preclude the mandatory transfer of ration rights for short term rental vehicles if DOE should determine that is necessary. However, we believe that competitive pressures will require most rental companies to transfer ration rights to their customers. Section 570.16 would enable us to mandate transfers in the event that such transfers generally do not take place, or in order to prevent windfalls to a particular company.

C. COMPUTATION OF RESERVES AND ALLOTMENTS

1. *Section 570.21 and § 570.22 Definitions; Calculations*—a. *Vehicle registrations as the basis for ration allotments.* In the June 28 notice, we proposed that the eligibility for ration allotments be based on vehicle registrations. Noting that the two practical alternatives for distributing ration rights to individuals were on the basis of drivers' licenses or vehicle registrations, and noting the significant disadvantages accompanying either alternative, we requested comments on whether a drivers' license system would be preferable to a per-vehicle allotment system.

The comments we received on this issue were divided. A majority of private individuals commenting favored a system based on drivers' licenses, pointing out that a per-vehicle system would discriminate against one-car, multi-driver families in favor of wealthier, multi-car families. The United States Office of Consumer Affairs submitted statistical evidence on the regressive income effects of a per-vehicle rationing system. On the other hand, the majority of State governments commenting on the issue favored a per-vehicle system. While substantial work would be required to update and adapt either a license or registration file to a rationing system, several State governments felt that this task would be more easily accomplished using vehicle registration files. Some States argued that the possibilities for fraud would be much less under a vehicle registration system, since it would be difficult to detect individuals with multiple drivers' licenses. One State pointed out that duplicate vehicle registrations are less frequent, and are less likely to occur, than duplicate driver's licenses.

Other commenters observed that a per-vehicle approach would avoid providing ration rights to people who maintain drivers' licenses solely for identification purposes. One commenter claimed that under a drivers' license system, it could be anticipated that a substantial number of the 26 million adults currently without drivers' licenses would apply for them, in order to be eligible to receive ration allotments.

Because drivers' licenses are issued to individuals, and not to firms, a per vehicle rationing system has a significant advantage in that it gives ration allotments to firms with respect to their registered vehicles. A drivers' license system would require all firms to apply to the DOE for ration allotments. This would significantly increase the administrative costs, complexity, and implementation time for rationing (measured from the date rationing is announced to the effective date of rationing).

For the reasons discussed above, we have determined to adopt a rationing system based on registered vehicles rather than drivers' licenses.

B. NATIONAL VEHICLE REGISTRATION FILE

Prior to any decision to implement gasoline rationing, DOE will develop and maintain a national vehicle registration file. This file will contain all of the vehicle registration records provided by the States from their own motor vehicle registration files, but revised and in the proper format to meet

the requirements of the rationing plan.

The national vehicle registration file will be updated periodically from information provided by the States and other sources as appropriate. Where duplicate registrations are found for a single vehicle, such as will commonly occur when a used vehicle is sold, DOE will use only the most current registration.

Records in the file will be grouped according to vehicle type. Each record will contain a vehicle category identifier from which DOE can establish the correct allotment index. Registered vehicles which are not eligible for ration rights, such as trailers, will be excluded from the file.

The individual or firm named on the registration record (the registrant) maintained in the national vehicle registration file will be eligible for an allotment of ration rights if the corresponding registered vehicle is gasoline-powered, and was either already registered on a specified date prior to the effective date of the rationing program or is a new car purchased during the rationing program. The actual cut-off date for vehicle registration will be determined by the DOE when rationing is implemented. By imposing a vehicle registration cut-off date for all but newly purchased vehicles, the chances for fraudulent registrations of "junked" or fictitious vehicles would be significantly reduced. Under certain circumstances, DOE may permit vehicles with lapsed registrations to become eligible for ration allotments, if it can be demonstrated that these vehicles were not previously scrapped or abandoned, or if it can be otherwise shown that these vehicles are not being registered for the principal purpose of receiving ration rights.

C. ALLOTMENT INDICES

Based on an analysis of average annual fuel consumption by vehicles in various categories, we will establish allotment indices to compute the size of the allotment for each type of vehicle. The indices are keyed to the single passenger automobile allotment, which is assigned an index value of 1.0.

All vehicles within a given category (e.g., all passenger cars) will have the same index number and therefore will receive the same ration allotment, regardless of fuel efficiency. This will give a significant advantage to fuel efficient vehicles and should provide an incentive for their use during a period of rationing.

The figures shown below illustrate the approximate magnitudes of the allotment indices for the vehicle categories shown, based on data currently available. The actual allotment indices would be computed at the time rationing is implemented.

REPRESENTATIVE EXAMPLES OF ALLOTMENT INDICES FOR HIGHWAY VEHICLES

Vehicle category	*Allotment Index*[4]
Motorscooters and Mopeds [5]	0.1
Motorcycles	0.2
Passenger automobiles, buses, trucks under 10,000 lbs.[6] and all recreational vehicles [7]	1.0
Trucks between 10,000 and 20,000 lbs.	2.2
Trucks between 20,000 and 26,000 lbs.	2.4
Trucks between 26,000 and 33,000 lbs.	4.2
Trucks over 33,000 lbs.	7.0

[4] Figures shown are examples only; actual figures would be computed by DOE using the latest vehicle statistics available when rationing is announced.

[5] Motorscooters and mopeds will be assigned an index of 0.1, provided they are separately registered in the States' files used to compile the national file.

[6] All weights given are gross vehicle weights (GVW).

[7] DOE intends to limit the definition of recreational vehicles to mean recreational vehicles with at least four wheels and registered for highway use.

No allotment index will be provided for "dealer plate" registrations since these registrations are not issued to specific vehicles. Trailers and other non-powered vehicles registered with State DMV's will not receive an allotment index. Diesel powered vehicles will not receive an allotment index.

Because most Federal Government vehicles are not included in state motor vehicles registration files, these vehicles would not become part of DOE's national vehicle registration file assembled from State records. For this reason, and because available data suggest that most Federal vehicles are typically used less intensively than average, DOE would make special arrangements with Federal agencies to provide allotments for their use. These allotments would be determined on the basic of an appropriate percentage of the agencies' base period use.

In the June 28 notice, we stated that recreational vehicles would receive no allotment index. A large number of comments were received on this issue, particularly from owners of recreational vehicles, as well as representatives of the travel and tourist industry and motor vehicle manufacturers. The comments were nearly unanimous in opposition to our proposed exclusion of recreational vehicles. Many comments criticized our failure to provide a definition for the term, and some comments felt that it would be very difficult to establish a satisfactory definition of "recreational vehicle." Several commenters submitted that they used recreational vehicles for business or commuting purposes. It was also contended that some recreational vehicle owners did not possess other vehicles and thus would not receive any ration rights. Based on the differential treatment of recreational vehicles in the various State vehicle registration files, we have determined that it would be impracticable to exclude recreational vehicles from eligibility to receive ration allotments. Accordingly, recreational vehicles with at least four wheels and registered for highway use will receive ration allotments. The size of the allotment will not exceed the allotments for passenger automobiles (*i.e.*, an allotment index of 1.0) regardless of the size of the recreational vehicle.

D. CALCULATIONS

Based on reports submitted by refiners and importers, and upon other information available to the DOE, the DOE will estimate the total available supply (TAS) of gasoline for a predetermined computation period. We currently anticipate that the DOE will issue ration rights and estimate the total available supply on the basis of a 90-day computation period.

A net available supply (NAS) will be determined by subtracting the amount of ration rights to be allotted to the State Ration Reserves (SRR) and the National Ration Reserve (NRR):

$$TAS - NRR - SRR = NAS$$

From this figure, the total supplemental allotments (SA) to designated firms, farming and priority class activities will be subtracted to yield a basic allotment supply (BAS):

$$NAS - SA = BAS$$

The sum of all vehicles in a given vehicle classification (VC) will be multiplied by the allotment index (AI) for that classification to yield a classification vehicle point (CVP).

$$VC \times AI = CVP$$

The sum of the CVP's for all vehicle classifications equals the total vehicle points (TVP).

$$CVP_1 + CVP_2 + \ldots = TVP$$

A basic allotment (BA) will be computed, by dividing the basic allotment supply (BAS) by the total vehicle points (TVP).

$$\frac{BAS}{TVP} = BA$$

For example, assume the total vehicle points in the United States equals 150 million, and the basic allotment supply for a 90-day computation period totals 18 billion gallons, then the basic allotment is determined as follows:

$$\frac{18{,}000{,}000{,}000 \quad (BAS)}{150{,}000{,}000 \quad (TVP)} = 120 \text{ gallons (BA)}$$

Because ration rights will be distributed to registrants prior to the beginning of a ration period, and because the actual supply will not be known in advance, the total amount of ration rights to be distributed will be based

on a projection of gasoline supplies for the ration period. Based on this computation, the DOE will also compute the value of ration rights to be distributed per vehicle point, or the distributed basic allotment (DBA).

It is possible that the actual gasoline supply will either exceed or fall short of the projected supply by a wide margin. In such a case, to reconcile the actual supply of gasoline with the number of ration rights already distributed, it will be necessary to vary the length of the ration period. If the number of ration rights that had already been distributed significantly exceeds the actual supply of gasoline for the period, it will be necessary to lengthen the ration period so that the given number of distributed coupons are "stretched" over a longer period and thereby over a greater supply. Conversely, if the actual supply of gasoline substantially exceeds the amount of distributed ration rights, the ration period would be shortened. A change in the length of the ration period could be accomplished by delaying or moving up the validity date of the ration coupons issued for the following ration period.

To illustrate, assume that on the basis of the projected available supply, the DOE had on average distributed ration rights worth 110 gallons to registrants of private automobiles (DBA=110). Assume that the basic allotment (BA) is 120 gallons, as in the above example. The length of the ration period will be computed by dividing the distributed basic allotment (DBA) by the basic allotment (BA). This quotient will be multiplied by the length of the computation period (CP), which in this example is 90 days.

$$\frac{DBA}{BA} \times CP = RP$$

In this example, the length of the ration period would be as follows:

$$\frac{110 \text{ gallons (DBA)}}{120 \text{ gallons (BA)}} \times 90 = 82.50 \text{ days}$$

In this example, the ration period would be rounded up to 83 days, and a rounding adjustment would be made in the computation of the following ration period. In other words, in this example the DOE had distributed on average 110 gallons of ration rights to registrants of private automobiles on the basis of estimated supplies for a 90 day period. Subsequently, the DOE determined on the basis of updated data that the actual supply for the 90 day period would yield a basic allotment of 120 gallons. Accordingly, the DOE would announce that the length of the ration period would be shortened to 83 days.

The registrant of any given vehicle could determine its actual distributed allotment (ADA) by multiplying the distributed basic allotment (DBA) times the allotment index (AI) for that vehicle and rounding down to the nearest five gallons:

$$DBA \times AI = ADA \text{ (rounded)}$$

For example, assuming the DBA was 110 gallons as in the above examples, the registrant of a truck with an allotment index of 2.4 would receive an allotment for a given ration period as follows:

$$110 \text{ gallons (DBA)} \times 2.4 \text{ (AI)} = 264 \text{ gallons}$$

$$\text{rounded down to the nearest five gallons} = 260 \text{ gallons}$$

In this example, the registrant of a truck with an allotment index of 2.4 would receive ration rights worth 260 gallons for an 83 day ration period.

D. SUPPLEMENTAL ALLOTMENTS TO DESIGNATED FIRMS, FARMING AND PRIORITY CLASS ACTIVITIES

1. *Section 570.31 Designated firms.* As proposed, § 570.31 would have created a limited class of "off-highway" designated firms, intended primarily for farmers and those firms that consume a significant percentage of their total gasoline consumption in vehicles or equipment that are not registered with a State DMV. It was our stated intention that all other firms would receive ration allotments on the basis of possession of registered vehicles, and would have to rely on the ration rights exchange market ("white market") for their additional needs.

The overwhelming majority of the comments received on this issue from businesses opposed this approach, favoring allotments to businesses on the basis of historical (base period) usage. Several commenters observed that it would make little sense to provide citizens with sufficient gasoline to commute to their jobs if some businesses were forced to shut down or substantially reduce their operations as a result of inadequate or uncertain gasoline supplies. Commenters also strongly favored the establishment of a specific formula in the regulations for the computation of supplemental allotments, in order to provide firms with a level of certainty to facilitate planning in the event of a shortage.

These comments have been carefully considered, but the final plan adopts § 570.31 essentially as proposed. As noted in the June 28 notice, we considered a historical (base period) approach for businesses prior to the issuance of the June 28 notice, but decided not to propose it primarily because we believed the enormous additional cost and complexity entailed by such an approach would be unwarranted by any beneficial economic impacts. The comments were not persuasive that this rationale should be discarded. As noted in our Draft Economic and Regulatory Analysis [8] a base period approach would provide no measurable GNP impacts and no anticipated national employment impacts, although it could possibly reduce the annual rate of inflation by up to seven-tenths of a percentage point during the rationing program.[9] Balanced against this advantage is the fact that a vehicle-based ration allotment mechanism for firms would be far more simple and cheaper to administer than a base period mechanism.

Under a base period approach, DOE would receive approximately 10 million applications from firms at the beginning of or immediately prior to the start of rationing. Within a short time period, a large staff would have to be established and trained to process these applications. Failure to effectively process these applications within the required time would jeopardize the entire gasoline rationing program. Even if this task were successfully accomplished, it would significantly increase the implementation time for rationing, as well as the costs and administrative complexity of the plan.

We believe that firms with insufficient ration rights could purchase the necessary additional ration rights in the white market. As noted in the Draft Economic and Regulatory Analysis, for most industrial sectors, the cost of gasoline is less than one percent of the value of the sector's output. "Even substantial increases in the cost of acquiring gasoline, therefore, would have little effect on most of these sectors, and the competitive effects would be virtually insignificant." [10] However, to the extent that it should become necessary in order to offset severe adverse economic impacts if any should develop, we are adopting § 570.31(b) as proposed, which would permit us to designate any class of firm or any individual firm as a designated firm.

2. *Section 570.32 Farming.* Section 570.32 provides that supplemental ration allotments for off-highway vehicles and equipment used in the agricultural production of food and fiber will be provided in a timely manner so as to ensure that these allotments are in amounts adequate to meet fully

[8] Availability of the "Draft Economic and Regulatory Analysis of the Proposed Standby Gasoline Rationing Plan" was announced in the June 28 notice at page 28145. A final "Regulatory Analysis of the Standby Gasoline Rationing Plan" is being made available concurrently with the publication of this rule. See section VI, infra.

[9] "Draft Economic and Regulatory Analysis of the Proposed Standby Gasoline Rationing Plan", p. 186-187.

[10] *Id.* at p. 189.

food and fiber production goals approved by the President. The Secretary of Agriculture, in consultation with several other government agencies, is ordinarily responsible for developing the production goals for agricultural commodities that are approved by the President, and that will continue to be the case during a period of rationing. The DOE will be responsible during rationing for determining the amount of ration allotments for farmers' off-highway vehicles necessary to meet fully the approved food and fiber production goals.

3. *Section 570.33 Priority class activities.* Section 570.33 provides that certain Department of Defense activities, emergency services, sanitation services and public passenger transportation services would receive supplemental allotments as priority class firms. Emergency services are defined as police, fire fighting, United States Postal Service, snow removal, and emergency medical services. Public passenger transportation has been broadly defined as (a) facilities and services for surface public transportation whether publicly or privately owned, including water, rail, bus and van transportation, but excluding taxicabs; and (b) bus and van transportation of pupils to and from school.

The "United States Postal Service" has been added to the definition of "emergency services". As proposed by the United States Postal Service, it is our intention that the gasoline usage of vehicles under delivery contracts with the Post Office will be included in the base period consumption of the Post Office.

We had initially proposed that the National Ration Reserve would be used to provide the Department of Defense with whatever allotments are required for activities directly related to the maintenance of national security. The plan as adopted accords a priority class status for such activities. This change is not intended to affect the size of the ration allotments that would be issued to the Department of Defense.

Many comments were received urging various categories for inclusion as a priority activity. If such additions prove necessary at the time or after rationing is implemented, § 570.32(b) would permit us to include other essential public services as priority class activities.

Several commenters urged that the plan provide more than 100% of base period usage to mass public transportation, because of anticipated increased demand during rationing. In this regard, we note that § 570.33(a) would permit DOE to provide for greater than 100% of base period usage for any priority class activity if such an adjustment proves necessary.

Section 570.33 has been modified so as to make clear that a firm would receive priority class treatment only with respect to its activities attributable to a priority classification. In applying for supplemental allotments for priority class activities, firms engaged in priority and non-priority activities would be required to report total gasoline consumption for the base period, as well as that portion of total base period consumption attributable to a priority class activity, and the number and types of vehicles engaged in a priority class activity.

The majority of comments received on the issue opposed the exclusion of taxicabs from the defintion of "public passenger transportation," pointing to their role in providing for the transportation needs of the elderly and the handicapped, and disputing our tentative conclusion that taxis could achieve significant gasoline savings through reduced cruising, shared riding or other conservation measures. The final plan adopts our proposal and does not provide taxicabs with priority class status. It is our intention that taxicabs would rely on the white market to purchase the additional ration rights needed, as would any other firm. We anticipate that it would be necessary for public rate commissions to grant increases in taxi fares in order to permit the pass-through of these increased costs.

4. *§ 570.34 Precedence of delivery.* Section 570.34 establishes the right of precedence of delivery for priority class firms, in accordance with section 203(a)(1) of the EPCA which requires "the assignment of rights, and evidence of such rights, to end-users of gasoline * * * entitling such end-users to obtain gasoline * * * in precedence to other classes of end-users not similarly entitled."

E. PURCHASE OF GASOLINE (§ 570.41–§ 570.47)

1. *Sections 570.41–500.44* Section § 570.41(a) provides that no supplier, including a retail sales outlet, may sell gasoline to a customer without securing ration rights from the purchaser at the time of sale. We have made two exceptions to this rule. First, a retail sales outlet may choose to make sales to customers without ration rights on the assumption that the retail sales outlet will be able, through purchases of ration rights on the ration rights exchange market ("white market"), to cover those transactions. The retail sales outlet will be required to obtain the additional ration rights within a time period to be designated by DOE.

The second exception has been made in response to those comments which pointed out that deliveries are frequently made at night to wholesalers, using a key or lock-card system. Under such circumstances, commenters asserted that it would be difficult to give ration rights or redeemed ration rights, as appropriate, to their suppliers at the time of delivery. Accordingly, we have modified § 570.41, § 570.43, and the pertinent provisions in Subpart F to permit wholesale purchaser-resellers, wholesale purchaser-consumers, and bulk purchasers to give their suppliers by close of the first business day following the date of delivery the appropriate amount of ration rights or redeemed ration rights. As modified, § 570.41(c) requires a supplier (*i.e.*, wholesale purchaser-reseller) to give its supplier a redemption check or redeemed ration rights equal to the amount of gasoline transferred by the close of the first business day following the date of sale or transfer.

Section 570.41(d) specifies that ration coupons of a given series designation cannot be used for the purchase of gasoline prior to their effective date. Section 570.41(e) provides that unredeemed ration rights are freely transferable. This provision for a ration rights exchange market ("white market") should promote a more efficient use of all available gasoline.

Many commenters proposed that we prohibit petroleum refiners and marketers from engaging in white market transactions, fearing that the major oil companies would obtain ration coupons on the white market, sell them to customers, and thereby increase their market shares or otherwise negate the surplus product rules. Other commenters proposed that we establish price controls on white market transactions.

We do not anticipate regulating white market transactions. However, in order to prevent competitive or other abuses in the white market that might arise, the plan gives the DOE authority to regulate the white market if necessary.

Section 570.41(f) and (g) are intended to protect the rights of purchasers and sellers of gasoline. Section 570.41(f) prohibits any supplier from requiring any purchaser to purchase ration rights from any firm including itself as a condition of transferring gasoline. Section 570.41(g) prohibits any seller of gasoline from refusing to accept valid ration coupons at the time of sale. A supplier may accept a Government ration check for the purchase of gasoline, but will not be required to do so. A supplier may also accept a ration check drawn on a ration rights account, but, as in ordinary commercial transactions, the supplier/payee would incur the risk that such a check is invalid, and, if it is, his only recourse would be against the purchaser/payor.

Section 570.42 requires suppliers (including retail sales outlets) which receive ration coupons in exchange for the sale of gasoline to "redeem" such coupons by indelibly marking them with the supplier's name, its redemption account number, if any, and the legend "redeemed." Similarly, suppliers are required to redeem all ration checks received. In order to be resupplied, § 570.43 requires a supplier to deliver to its supplier by the close of the first business day following the date of delivery a redemption check or redeemed ration rights equal to the amount of gasoline received. In this manner redeemed ration rights would move up the gasoline supply distribution chain in an amount equal to the volume of gasoline moved down the chain. Under § 570.44, refiners and importers, defined as principal suppliers, are required to submit periodically a report to the DOE certifying the volume of gasoline sold during the reporting period and to submit a redemption check equal on a gallon basis to the volume of gasoline sold during the reporting period. In this manner, the distribution system would be "cleared," and the DOE would be able to ensure that the volume of gasoline sold is in balance with the number of ration rights that have been issued.

2. *Section 570.45 Redemption account advances.* Adopted as proposed, § 570.45 provides that each supplier other than a principal supplier will receive an initial redemption account under a formula that will be established by the DOE and published prior to the implementation of rationing. This provision will enable suppliers to obtain initial deliveries at the commencement of rationing before they have accumulated sufficient ration rights. While we requested specific comments as to the formula we should adopt to assure suppliers adequate initial deliveries, the comments did not provide sufficient information on which to establish a satisfactory formula at this time.

We request further comments on this important issue, in order that an appropriate formula can be developed during the preimplementation period. The comments previously received on the issue generally agreed with the need to establish a relatively large advance, and generally opposed the concept of providing a uniform advance for all suppliers at a given level in the distribution system. We are considering the adoption of an initial redemption account advance equal to half of the first month's allocation entitlement of a base period purchaser, or alternatively, 150 percent of a purchaser's average single delivery. We request specific comments on these two proposals.

3. *Section 570.46 Inventory changes.* Section 570.46 enables DOE to require suppliers to repay their initial redemption account advance. Many comments proposed that we make adjustments for evaporation, spillage and shrinkage. While no specific formula is provided herein, § 570.46 would permit us to make such adjustments. We request further comments on establishing a formula that would make adjustments for evaporation, taking into account regional differences in climate.

4. *Section 570.47 Blends.* Several comments suggested that the rationing program should avoid penalizing the development of alcohol fuels ("gasohol"), or alternatively, should encourage its development. Section 570.47 of the plan as adopted in effect reserves judgment on this issue by permitting DOE to exclude the percentage of alcohol or other substance contained in such blends. For example, if a blend of gasohol contained 90% gasoline and 10% alcohol, under § 570.47 we could provide that a ration coupon worth 5 gallons would be valid for 5.55 gallons of gasohol, if we deemed such adjustment to be appropriate.

F. SECTION 570.51-56 ALLOCATION OF GASOLINE

The provisions of Subpart F, relating to the relationship of allocation to gasoline rationing, are adopted substantially as proposed. The majority of the comments received on the issue agreed with our tentative determination to retain supplier/purchaser relationships and update the base period. Several commenters, however, favored the retention of the allocation program down to the retail level, with rationing in effect only below the retail level. However, there are significant problems associated with such an approach. If rationing existed only on the retail level, DOE would have to collect redeemed ration rights directly from retail outlets. In addition, wholesale purchaser-consumers and bulk purchasers would have different entitlements under the allocation program than as end-users under the rationing program. Determining which program would take precedence and determining how the two programs would be effectively integrated for wholesale purchaser-consumers and bulk purchasers posed substantial difficulties in developing such an approach. The plan adopts the modifications to the allocation regulations substantially as proposed, which would assure suppliers, wholesale purchaser-consumers and other bulk purchasers of their historical share (on a pro-rata basis) of the available supplies if they possess sufficient ration rights.

1. *Section 570.51 Relationship to Parts 210 and 211.* Section 570.51 provides that Parts 210 and 211 (the allocation regulations) apply except where inconsistent with the provisions of the Standby Gasoline Rationing Regulations.

In the June 28 notice, we proposed that the State set-aside system would not be in effect for the duration of the rationing program. A few comments were received on this issue, favoring retention of the State set-aside system. While there would be instances where the retention of a State set-aside would be useful in addition to a State Ration Reserve system, the two systems essentially serve the same purpose. In addition, it would be difficult to conform the State set-aside system to the requirements of a rationing plan which requires the presentment of ration rights or redeemed ration rights for supplies of gasoline. Accordingly, the plan provides that the State set-aside system will not be in effect for the duration of the rationing program.

2. *Section 570.52 Supplier/purchaser relationships.* Section 570.52 provides that supplier/purchaser relationships would be reimposed or continued, as the case may be, so that each supplier of gasoline will be required to supply all wholesale purchaser-resellers, wholesale purchaser-consumers, and bulk purchasers which purchased or obtained gasoline from that supplier during the base period. Because the standby product allocation regulations recently adopted (44 FR 3928, January 18, 1979) would probably be implemented at the time of or prior to the implementation of rationing, the base year for gasoline rationing would correspond either to the 12 month period designated under the standby regulations, or the base period specified in § 211.102 if the base period is not designated under the standby regulations. Thus, suppliers would not have to recompute their allocation fraction to give effect to a different base period if rationing were implemented, nor would supplier/purchaser relationships be altered as a result of implementing the rationing regulations. If allocation controls are not in effect, the base year would be defined as the 12 calendar month period designated by DOE.

3. *Section 570.53 Allocation by suppliers to wholesale purchasers and bulk purchasers.* As proposed under § 570.53, suppliers will calculate an allocation fraction in the same manner that they would under the standby product allocation regulations; that is, each month each supplier would provide each of its customers with a prorata share of the supplier's gasoline supplies. Suppliers would have an obligation to make supplies available only to those wholesale purchasers and bulk purchasers which they supplied in the base period. However, as a con-

dition to receiving all or any portion of its allocation, a wholesale purchaser-reseller would be required to account for supplies it receives by giving its supplier by the close of the first business day following the date of delivery redeemed ration rights equal to the amount of gasoline received, or by issuing a redemption check drawn on its redemption account. The redemption check would be drawn to the order of the wholesale purchaser-reseller's supplier for redeemed ration rights equal to the amount of gasoline received from the supplier. Wholesale purchaser-consumers and bulk purchasers would be required to transfer by the close of the first business day following the date of delivery ration rights equal on a gallon basis to the volume of gasoline purchased or obtained. In this regard it is important to note that ration rights (ration coupons or ration checks) are not identical to redemption checks; redemption checks are checks drawn against deposits of redeemed ration rights. Wholesale purchaser-consumers and bulk purchasers would not have redemption accounts because they consume rather than resell gasoline.

With one significant modification, the plan adopts the rules governing the disposition of surplus gasoline under § 570.53(e) essentially as proposed. In the June 28 notice, we requested comments as to whether we should establish time periods by which base period customers must declare the volume of gasoline they wish to "lift" or whether we should impose a time period within which base period purchasers must respond to offers to purchase surplus gasoline. The majority of the comments received on these issues favored the establishment of deadlines for declaring the volumes to be lifted and for surplus declarations. Section 570.53(e)(3) will require purchasers to declare their intention to purchase surplus gasoline within 5 business days of receipt of an offer to purchase surplus gasoline.

Under § 570.53(e), a supplier must treat as surplus the volumes of gasoline which are "underlifted" by its base period customers. Suppliers with allocation fractions greater than 1.0, must allocate on a basis of an allocation fraction of 1.0, and treat any additional volumes as surplus gasoline. A supplier must first offer any surplus gasoline on a pro-rata basis to its base period customers who have not yet received their full base period volume or other allocation entitlement from that supplier. The amount offered to each base period customer (on a pro-rata basis) would be the difference between the allocation entitlement of that base period customer and the amount actually sold to that purchaser for that month. However, as is the case for all purchasers of gasoline, base period customers must give their supplier the appropriate amount of ration rights (if the base period purchaser is a bulk purchaser or a wholesale purchaser-consumer) or a redemption check or redeemed ration rights (if the base period purchaser is a wholesale purchaser-reseller) equal to the volume of gasoline so transferred. If a supplier still has supplus gasoline, it must next offer it to each its base period customers on a pro-rata basis, provided they give the supplier ration rights or redeemed ration rights, as appropriate. If a supplier still has surplus gasoline after offering it to all its base period customers, it could sell surplus supplies to any holder of ration rights or redeemed ration rights, as appropriate.

Principal suppliers and prime suppliers (as defined in § 211.51 of the current allocation regulations) will be required to submit reports on their disposition of surplus gasoline. The DOE will have the authority contained in Part 211 to redirect surplus product.

4. *Section 570.54 Allocation of unleaded gasoline.* Under § 570.54(a), each supplier must make available to each of its base period purchasers a volume of unleaded gasoline that bears the same ratio to that purchaser's allocation entitlement as the ratio of that supplier's supply of unleaded gasoline to its total supply of gasoline (leaded and unleaded). Section 570.54(a) should ensure that each base period purchaser receives its pro-rata share of the available unleaded gasoline supply. The current allocation regulations permit automobile manufacturers, new car dealers and fleet owners and operators to receive their entire allocation entitlement as unleaded gasoline. The final plan retains this provision. Such users will of course be required to remit with their purchases of unleaded gasoline the appropriate amount of ration rights under § 570.41.

5. *Proposed § 570.55 Normal business practices (deleted).* Proposed § 570.55, requiring the continuation of normal business practices, was duplicative of § 210.62 of the allocation regulations. Accordingly, proposed § 570.55 has not been adopted.

G. RATION BANKING

1. *Section 570.61 Coupon issuance points and participating banks.* In the June 28 notice, we proposed to authorize a variety of financial institutions and firms to act as coupon issuance points or participating banks. Coupon issuance points would serve to exchange ration coupons for Government ration checks. Participating banks (which may or may not also be coupon issuance points) would accept applications for and establish ration rights accounts and redemption accounts. Holders of Government ration checks could exchange such checks for ration coupons at coupon issuance points. Ration recipients would receive quarterly Government ration checks through the mail. The ration coupons received for each Government ration check would bear a separate series designator that would not become effective until the first day of the ration period or periods applicable to that Government ration check. Subject to terms and conditions to be established by the DOE, coupon issuance points would be required to accept Government ration checks presented by the payee in exchange for ration coupons.

Many comments, particularly comments received from the banking industry, urged that we develop some alternative means of distributing ration rights to the public, pointing to the inconvenience in requiring millions of Americans to exchange Government ration checks for ration coupons at designated coupon issuance points. Several commenters urged that coupons be mailed directly to ration recipients. Alternatives to a system of Government ration checks, including the direct mailing of ration coupons, have been thoroughly examined, but it has been determined that, despite the inconveniences that may occur, a system of Government ration checks is required. Even with an endorsement requirement, the direct mailing of ration coupons would be the equivalent of mailing cash. The attendant risk of mail thefts under such a system, would be too great. However, in light of the comments received, we are examining the possibility of expanding the number of coupon issuance points to include in addition to commercial banks and savings and loan associations, major employers, credit unions, Post Offices, State and local governmental agency offices, and major retail establishments, such as supermarkets, and department stores, and the plan provides us with discretion to do so. By expanding the number of coupon issuance points to as large a number as possible, we believe that we could significantly reduce the potential for long lines and would help assure that registrants at all economic levels and socal backgrounds would be able to cash their ration checks at establishments at which they are accustomed to doing business. Further, we may issue Government ration checks on a staggered basis, as several comments have suggested.

2. *Section § 570.62 Ration rights accounts.* As proposed, § 570.62 provides that any firm or individual may open a ration rights account at a participating bank. We may establish a minimum initial deposit requirement, as well as other terms and conditions,

governing the operation and maintenance of ration rights accounts as are deemed to be necessary. We may also establish a schedule of allowable fees which may be collected by ration banks to defray their costs of providing services in connection with the rationing program. We may also issue forms and instructions for the opening of such accounts.

Ration rights accounts are intended to operate in much the same manner as monetary checking accounts. Holders of ration rights accounts may deposit ration coupons and ration checks in their account and write ration checks drawn against their accounts. Proposed § 570.62(b) provides that no individual or firm shall issued a ration check drawn upon a ration rights account in which there are insufficient ration rights to cover that ration check and other outstanding ration checks drawn on that account. It is intended that rules analagous to those governing normal commercial practices would govern in determining which party bears the burden of loss with respect to overdrawn ration checks. Fraud or forgery in the issuance of a ration check will, in addition to being a violation of other applicable Federal or State law, be a violation of the rationing regulations and subject to the penalties for willful violation.

3. *Section 570.63 Redemption Accounts.* Section 570.63 requires suppliers, including retail sales outlets, to open a redemption account at any participating bank. An exception to this requirement will be made for small retail outlets with sales volumes below a threshold level to be established by DOE.

Redemption accounts will be used by suppliers for the deposit of ration rights they have received and redeemed for gasoline sales to end-users, and for the deposit of redemption checks they have received for gasoline sales, if any, to other suppliers. Suppliers would also deposit initial redemption account advances in their redemption accounts.

Participating banks would service redemption accounts in the same manner as ration rights accounts. DOE will establish forms and instructions for the opening of such accounts. Redemption account holders are prohibited under § 570.63(c) from writing a redemption check upon which there are insufficient deposits to cover that redemption check and other outstanding redemption checks drawn on that account. Because redemption checks represent deposits of redeemed ration rights, § 570.63(d) provides that redemption checks shall not be valid for deposit in a ration rights account. Since redemption accounts and redemption checks are intended for use solely by suppliers, as a further safeguard against misuse, § 570.63(d) provides that redemption checks shall not be valid for the purchase of gasoline by wholesale purchaser-consumers, bulk purchasers and other ultimate consumers.

4. *Section 570.64 Restrictions on endorsements.* As proposed, § 570.64 would permit DOE to establish restrictions on endorsements of ration checks (including Government ration checks) and redemption checks.

H. THE NATIONAL RATION RESERVE (§ 570.71)

Section 570.71 provides for a National Ration Reserve to meet national disaster relief needs or for any other purpose which the DOE may deem necessary.

In order to establish a "white market" for the sale of ration rights, § 570.71 provides that DOE may auction some ration rights from the National Ration Reserve to the public.

DOE will provide allotments from the National Ration Reserve to the Governments of Canada and Mexico for distribution to Canadian and Mexican firms that do business in the United States. The size of these allotments will be sufficient to provide such firms with approximately the same percentage of their base period consumption within the United States as is provided by vehicle allotments to comparable U.S. firms.

I. STATE RATION RESERVES (§ 570.81 AND § 570.82).

In the June 28 notice, we proposed the adoption of a State Ration Reserve, under which a percentage of the total available supply would be distributed to the States for meeting the hardship needs of approved applicants. We proposed to give the States broad discretion and flexibility in the disposition of the State Ration Reserves, in recognition of the varying needs and interests of the different States. It was our stated intention that the State Ration Reserve would be approximately 3% of the total gasoline supply, but requested specific comments as to the appropriate size of the State Ration Reserves. The States generally agreed that a 3% State Ration Reserve would be appropriate, and generally agreed that the regulation should not specify the percentage to be allotted. With respect to whether the State Ration Reserve should be set at a much higher level than 3%, one State asserted that a State Ration Reserve in excess of 7% would unecessarily complicate State administrative responsibilities, adding paperwork and administrative costs, and would constitute an unnecessary redirection of gasoline supplies. In light of the comments received, no specific percentage is specified in the plan, but is left to the determination of the DOE. We anticipate that we would consult with the States at the time rationing is implemented to establish an appropriate percentage for the State Ration Reserves.

Under § 570.81, upon approval of an application by a State to establish a State Ration Reserve, the Reserve would be administered by a State Rationing Office. This office could, at the State's option, be the same as the State Energy Office. The State Rationing offices may redelegate the authority given to them.

As proposed, the States would be given broad flexibility and discretion in the disposition of the State Ration Reserves. With the exception of hardship applications by the handicapped (under the EPCA, consideration of the mobility meeds of the handicapped are required to be taken into account in providing hardship allotments) the States would be free to consider the hardships needs of other individuals and firms. The regulation suggests, but does not mandate, consideration of the hardship needs of low-income persons, long-distance commuters, migrant workers, persons engaged in household moves, and other persons having special recurring or one-time needs. Several States proposed that ration rights be issued to foreign visitors. The States could use the State Ration Reserve for this purpose. In addition, as noted above, DOE is authorized by the plan to provide allotments from the National Ration Reserve on a reciprocal basis to the Governments of Canada and Mexico to meet the needs of foreign firms doing business in the United States.

Section 570.81 also permits DOE to authorize the States to auction a portion of the ration rights from the State Ration Reserves to the public, in order to facilitate the establishment of a white market for the sale of ration rights.

The EPCA requires that within 30 days of the date the rationing contingency plan is approved by Congress, the DOE must propose a rule establishing the criteria for delegation of the DOE's functions under the EPCA, in whole or in part, with respect to the rationing plan to offices or local boards (of balanced composition reflecting the community as a whole) of States or political subdivisions of States. The proposed rule must also prescribe procedures for petitioning for the receipt of such delegated authority. The specific criteria for delegation of authority to the States for the administration of the State Ration Reserves will be addressed in that proposed rule. In anticipation of preparing such a proposed rule we again request specific suggestions as to the cri-

teria we should adopt in providing for such delegations.

IV. Discussion of Other Comments

A. Gasoline Rationing as a Contingency Measure Only

Many comments were received from private citizens expressing opposition to gasoline rationing in any form. It is important to stress to the public that this plan is a contingency measure, developed pursuant to a specific statutory mandate, the terms of which prescribe that gasoline rationing could become effective only in the event that the President has found that putting gasoline rationing into effect is required by a severe energy supply interruption or in order to fulfill obligations of the United States under ine International Energy program. In addition, EPCA prescribes specific procedures which must be undertaken before rationing could be implemented, including a request, transmitted by the President to Congress, to impose gasoline rationing. Further, it is probable that mandatory rationing would be implemented only if all other available options for managing a petroleum shortfall appeared to be inadequate.

B. Determination Not to Adopt a State Adjustment Factor

In the June 28 notice, we requested comments on whether the final plan should include an alternative proposal to provide for a State Adjustment Factor which would vary for each State according to its historical gasoline consumption. The majority of the comments that we received on this issue favored in concept the adoption of a State Adjustment Factor. Notwithstanding these comments, the final plan does not not include a State Adjustment Factor.

It has been determined that a State Adjustment Factor would reduce one set of inequities by creating another, since it would widen the differential between a light user of gasoline in a State that is above the average and the heavy user in a State having below average usage. In the June 28 notice we cited the example of two motorists in different States, with identical base period usages and presumably nearly identical gasoline needs:

> If one lived in a State that, on the average consumed 20 percent more gasoline per vehicle that the national average and the other lived in a State that consumed 20 percent less, the first motorist would receive a ration allotment that was 50 percent greater then the second motorist's. In addition, a State adjustment factor could not take into account differences within a State. Thus, for example, the motorist in New York City who seldom drives his or her car would receive the same allotment as the rural resident of up-State New York who drives an automobile every day. 43 FR 28134 at 28143.

In short, within a State there is as much or more disparity among motorists in miles driven than there is among States. A plan that would attempt to differentiate between average miles driven in more localized regions would greatly increase the cost and the administrative complexity of the plan and the size of the Federal bureaucracy needed to administer it. Even then not all inequity would be eliminated.

C. Impact on Tourism.

Representatives of the tourist industry were concerned that the rationing plan would have a severe and adverse impact upon their businesses. During a period in which rationing is in effect, it is likely that there would be substantial impact on the tourist industry. However, the cause for the disruption would not be the rationing program, but rather would be the shortage of gasoline generally. Rationing is simply a means of assuring that the available supply is equitably distributed. Rationing itself is not expected to have an adverse impact on the tourist industry.

Implementation of rationing during a period of shortage is in fact likely to be of value to the tourist industry. Because the issuance of ration rights is determined by the actual supply of gasoline, holders of ration rights will be reasonably certain of finding available supplies as they travel throughout the United States. Thus, the fear of being unable to locate supplies during a trip to another section of the country will be greatly reduced since, if one has ration rights, there should be available product wherever one travels. In addition, the allotment of ration rights to owners of recreational vehicles will permit substantial travel in such vehicles.

The rationing program cannot overcome the probable psychological impact of the shortage on many drivers, who will likely reduce their vacation travel by automobile in order to conserve their ration rights for periods of emergency or other unexpected needs. We emphasize that this would be a consequence of a gasoline shortage and not of the rationing plan.

V. Diesel Fuel Rationing

Sections 201 and 203 of the EPCA require the submission to Congress of a rationing plan not just for gasoline but also for "diesel fuel used in motor vehicles." In the June 28 notice, we requested comment on the problems of implementing a diesel fuel rationing plan, and particularly on the problem of the interchangeability of diesel fuel with home heating oil. Commenters generally agreed that fuel interchangeability was a serious problem. However, one commenter asserted that the allocation of heating oil to priority uses (i.e., homes) would minimize its transfer to use as highway diesel fuel. Some commenters suggested that the allocation program would be sufficient to control diesel usage, while other commenters asserted that it would be necessary to ration diesel fuel in the event motor gasoline is rationed.

We are currently evaluating the comments received, and request further comment on the issues concerning diesel fuel rationing. We currently anticipate that we will address further the issue of a diesel fuel rationing plan following submission of this gasoline rationing plan to Congress.

VI. Regulatory Analysis

Section 201(f) of EPCA requires that any rationing contingency plan submitted to Congress be based upon a consideration of the potential economic impacts of such plan, including an analysis of—

(1) Any effects of such plan on—(A) vital industrial sectors of the economy; (B) employment (on a national and regional basis); (C) the economic vitality of States and regional areas; (D) the availability and price of consumer goods and services; and (E) the gross national product; and

(2) Any potential anticompetitive effects.

In addition, Executive Order 12044 on Improving Government Regulations (42 FR 12661, March 24, 1978) requires that a "regulatory analysis" be prepared on all significant regulations expected to have "major economic consequences for the general economy, for individual industries, geographical regions or levels of government." A draft regulatory analysis of the rationing plan was made available in conjunction with the issuance of the June 28 proposed rationing plan. The Department of Energy has prepared for the President's consideration a final "Regulatory Analysis of the Standby Gasoline Rationing Plan" which meets the requirements of both section 201(f) of EPCA and Executive Order 12044.

Copies of this document will be available for public review in the DOE Freedom of Informaiton Reading Room, Room GA-152, Forrestal Building, 1000 Independance Avenue, SW., Washington, D.C.

VII. Environmental Report

An environmental report has been completed and is available for public review in the DOE Freedom of Information Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C.

VIII. COMMENT PROCEDURES

Written comments on the issues identified in this preamble or on any other aspect of this rationing plan should be submitted by 4:30 p.m. on May 1, 1979 to the address indicated in the "Addresses" section of this preamble and should be identified on the outside envelope and on the document with the designation: "Contingency Gasoline Rationing Plan." Fifteen copies should be submitted.

Any information submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; E.O. 11912).

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations, is amended to add a new Part 570, as set forth below, subject to the approval by a resolution by each House of Congress in accordance with the procedures specified in section 552 of the Energy Policy and Conservation Act (Pub. L. 94-163), said Part 570 to become effective only as provided in section 201(b) of that Act.

Issued pursuant to the express direction of the President of the United States, in Washington, D.C. March 1, 1979.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

10 CFR Chapter II is amended by adding Part 570, to read as follows:

PART 570—STANDBY GASOLINE RATIONING REGULATIONS

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Subpart C—Computation of Reserves and Allotments

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Subpart D—Supplemental Allotments to Designated Firms, Farming, and Priority Class Activities

570.31 Designated firms.
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Subpart E—Purchase of Gasoline

570.41 General.
570.42 Supplier disposition of ration coupons and ration checks.
570.43 Supplier's obligation to its supplier.
570.44 Principal supplier's obligations to the ERA.
570.45 Redemption account advances.
570.46 Inventory changes.
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Subpart F—Allocation of Gasoline

570.51 Relationship to Parts 210 and 211.
570.52 Supplier/purchaser relationships.
570.53 Allocation by suppliers to wholesale purchasers and bulk purchasers.
570.54 Allocation of unleaded gasoline.

Subpart G—Ration Banking

570.61 Coupon issuance points and participating banks.
570.62 Ration rights accounts.
570.63 Redemption accounts.
570.64 Restrictions on endorsements.

Subpart H—National Ration Reserve

570.71 National Ration Reserve.

Subpart I—State Ration Reserves

570.81 Establishment of State Ration Reserves.
570.82 Hardship applications and guidelines.

AUTHORITY: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267; E.O. 11912.

Subpart A—General Provisions

§ 570.1 Scope.

(a) This part applies in all or such parts of the United States as specified by DOE to the end-use rationing of gasoline refined in or imported into the United States.

(b) *Effective date.* These regulations shall become effective severally or *in toto* on a date or dates to be specified and published by the DOE, subject to the provisions of section 201(b) and (c) of the Energy Policy and Conservation Act (Pub. L. 94-163) (EPCA).

(c) *Relationship to other parts.* Unless otherwise specified, the provisions of Parts 205, 210, 211, and 212 of this chapter shall apply to this part.

§ 570.2 General definitions.

For purposes of this part—

"Allocation entitlement" means the product of a supplier's allocation fraction multiplied by an amount equal to that part of the purchaser's base period use obtained from that supplier.

"Allotment" means the value, in gallons of gasoline, of the ration rights issued to a ration recipient.

"Base period" means a period in the base year corresponding to the current calendar month or quarter, or current ration period, as appropriate.

"Base year" means in the event that Special Rule No. 1 of 10 CFR Part 211 is implemented, the same 12 month period as specified in or designated pursuant to the definition of "base period" in 10 CFR 211.102, or in the event Special Rule No. 1 is not implemented, the twelve (12) calendar month period provided in the definition of "base period" in 10 CFR 211.102 or, in the event Subpart F of Part 211 is not in effect, the twelve (12) calendar month period designated by DOE.

"Bulk purchaser" means any firm which is an ultimate consumer and which, as part of its normal business practice, purchases or obtains motor gasoline from a supplier and either (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, (b) with respect to use in agricultural production, receives delivery into a storage tank with a capacity not less than 50 gallons substantially under the control of that firm, or (c) receives delivery of that product for use in cargo, freight and mail hauling by truck.

"Designated firm" means designated firm as defined in § 570.31 of Subpart D of this part.

"DOE" means the Department of Energy or its delegate.

"Eligible individual" means a natural person designated by the DOE as eligible to receive ration rights on the same basis as a registrant of a specified vehicle classification.

"Emergency services" means police, fire fighting, United States Postal Service, snow removal, and emergency medical services.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship, or any other entity however organized, including charitable, educational, or other eleemosynary in-

stitutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The DOE may, in regulations and forms issued in this part, treat as a firm:

(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (b) a parent and its consolidated entities, (c) an unconsolidated entity, or (d) any part of a firm.

"Gasoline" means motor gasoline as defined in § 211.51 of Part 211 of this chapter excluding, however, aviation fuels as defined in § 211.142 of Part 211 of this chapter.

"Government ration check" means a ration check issued by the DOE or its delegate to a ration recipient.

"National Ration Reserve" means the ration rights reserved by the DOE each month pursuant to Subpart H of this part.

"Principal supplier" means a supplier which refines gasoline in or imports gasoline into the United States.

"Public passenger transportation" means (a) facilities and services for surface public transportation whether publicly or privately owned, including water, rail, bus and van transportation, but excluding taxicabs; and (b) bus and van transportation of pupils to and from school.

"Ration check" means a negotiable document other than a ration coupon evidencing the right to purchase specified volumes of gasoline.

"Ration coupon" means a coupon issued by the DOE entitling the bearer to purchase a specified volume of gasoline.

"Ration recipient" means a registrant, an eligible individual, a designated firm, farming, or a priority class firm.

"Ration rights" means ration coupons and ration checks which shall be evidence of a ration recipient's right to purchase specified volumes of gasoline.

"Ration rights account" means an account opened pursuant to the provisions of § 570.62 for the deposit and withdrawal of ration rights.

"Redeemed ration rights" means ration coupons or ration checks accepted by a supplier in exchange for the sale of gasoline, and cancelled or endorsed by that supplier pursuant to § 570.42.

"Redemption account" means an account opened by a supplier pursuant to the provisions of § 570.63 for the deposit of ration rights received and redeemed in exchange for the sale of gasoline, and for the deposit of redemption checks received from other suppliers in exchange for the sale of gasoline.

"Redemption check" means a check drawn on a redemption account by a supplier who is the holder of that account.

"Registrant" means the party named in the most recent vehicle registration record maintained at a national vehicle registration file or, in the event that a national vehicle registration file is not available, the most recent vehicle registration file maintained at a State Department of Motor Vehicle Office (or in case of Federal vehicles, maintained with the appropriate Federal agency), and which vehicle has been determined by the DOE as eligible for an allotment.

"Retail sales outlet" means a site on which a supplier maintains an ongoing business of selling gasoline to ultimate consumers, provided that the major gasoline sales activity of that supplier is to supply gasoline to vehicles for consumption in such vehicles as fuel.

"Sanitation services" means the collection and disposal for the general public of solid wastes, whether by public or private entities, and the maintenance, operation and repair of liquid purification and waste facilities. Sanitation services also includes the provision of water supply services by public utilities, whether privately or publicly owned or operated.

"State" means any one of the fifty States, the District of Columbia, Puerto Rico or any territory or possession of the United States.

"State Rationing Office" means the office established or designated by each State to carry out the authorities delegated to that office by the DOE pursuant to Subpart I of this part.

"State Ration Reserves" means the ration rights provided to the State Rationing Offices by the DOE for distribution within the States to meet the needs of approved hardship applicants.

"Supplemental allotment" means the allotment distributed to a designated firm, farming or priority class activity pursuant to Subpart D of this part.

"Supplier" means any firm or any part or subsidiary of any firm other than the Department of Defense which currently, during the base period, or during any period between the base period and the present supplies, sells, transfers or otherwise furnishes (as by consignment) gasoline to wholesale purchasers or end-users, including, but not limited to refiners, importers, resellers, jobbers, and retailers.

"Total available supply" means the total available supply of gasoline determined pursuant to Subpart C of this part to be rationed during a ration period.

"United States" means the fifty States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

"Wholesale purchaser" means a wholesale purchaser-reseller or wholesale purchaser-consumer, or both.

"Wholesale purchaser-consumer" means any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains gasoline from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either (a) purchased or obtained more than 20,000 gallons of gasoline for its own use in agricultural production in the base year, or (b) purchased or obtained more than 84,000 gallons of gasoline in the base year.

"Wholesale purchaser-reseller" means any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) gasoline and resells or otherwise transfers it to other purchasers without substantially changing its form.

§ 570.3 Penalties.

(a) Any person who violates any provision of these regulations or any order or rule issued pursuant thereto shall be subject to the penalties as set forth in section 5 of the Emergency Petroleum Allocation Act of 1973, in sections 524 and 525 of the Energy Policy and Conservation Act (Pub. L. 74-163), and in Subpart P of Part 205 of this chapter.

(b) Any firm having custody, care or control of ration coupons or Government ration checks shall at all times, in receiving, storing, transmitting, or otherwise handling ration coupons, take all precautions necessary to avoid acceptance, transfer, negotiation, or use of spurious, altered, or counterfeit ration coupons and Government ration checks, and to avoid any unauthorized transfer, negotiation, or use of ration coupons and Government ration checks. Such firms shall also safeguard ration coupons and Government ration checks from theft, embezzlement, loss, damage, or unauthorized destruction.

(c) No person shall, with intent to defraud, falsely make, forge, counterfeit, or alter any ration check, ration coupon or redemption check.

(d) No person shall, with intent to defraud, pass, utter, publish, or sell, or attempt to pass, utter, publish, or sell, or bring into the United States or keep in possession or conceal any falsely made, forged, counterfeited, or altered ration check, ration coupon or redemption check.

(e) No person shall buy, sell, exchange, transfer, receive, or deliver any false, forged, counterfeit, or altered ration check, ration coupon or

redemption check, with the intent that the same be passed, published, or used as true and genuine.

§ 570.4 Reporting requirements.

The DOE shall require the filing of such information or reports as it deems necessary to administer the Standby Gasoline Rationing Program.

§ 570.5 User fees.

The DOE may impose a uniform fee on each gallon of gasoline sold during the period for which these regulations are in effect: *Provided*, That the total fees collected shall not exceed the cost of administering the Standby Gasoline Rationing Program by the DOE or its delegates and the cost of initial distribution of end-user rights.

§ 570.6 Authority to contract or delegate.

The DOE may delegate or contract for the carrying out of all or any part of its functions under this part.

§ 570.7 Authority to issue regulations, rules, orders, and guidelines.

The DOE may issue such additional regulations, rules, orders, and guidelines, and may make such adjustments, as are necessary to administer and implement the provisions of these regulations.

Subpart B—Rationing of Gasoline

§ 570.11 Determination of allotments.

(a) The DOE shall issue ration rights for each ration period equal to the estimated total available supply of gasoline as follows:

(1) A percentage shall be reserved for distribution pursuant to Subpart H of this part for a National Ration Reserve.

(2) A percentage shall be reserved for distribution to the States as a State Ration Reserve pursuant to Subpart I of this part.

(3) The DOE shall issue ration rights to designated firms, farming and priority class activities pursuant to Subpart D of this part.

(4) The DOE shall issue ration rights to all registrants and eligible individuals pursuant to Subpart C of this part.

(b) Notwithstanding any other provision of this part, DOE may provide for the separate rationing of leaded and unleaded gasoline.

§ 570.12 Distribution of ration rights.

Ration rights will be issued in the form of Government ration checks distributed to ration recipients. In addition, ration rights may at the discretion of the DOE be directly deposited into ration rights accounts.

§ 570.13 Disposition of Government ration checks.

Government ration checks may be disposed of as follows:

(a) Government ration checks may be exchanged for ration coupons at coupon issuance points pursuant to Subpart G of this part.

(b) Government ration checks may be deposited in a ration rights account, and may be subsequently withdrawn as ration rights pursuant to § 570.62.

(c) Government ration checks may be surrendered to a supplier for gasoline.

(d) Government ration checks may be transferred or sold to any individual or firm.

§ 570.14 Validity of Government ration checks.

Unless otherwise specified by DOE, Government ration checks shall not be valid after 60 days from the date of issuance.

§ 570.15 Ration coupons.

(a) *Value of ration coupons.* A ration coupon shall be redeemable for the number of gallons indicated on the face of the coupon, or for such other amount as shall be determined and announced by the DOE.

(b) *Validity of ration coupons.* Unless declared invalid by the DOE or redeemed pursuant to § 570.42, ration coupons of a given series designation shall be valid from a date specified in an Order published by the DOE through the end of the Standby Gasoline Rationing Program.

§ 570.16 Mandatory transfers of ration allotments.

The DOE may require the lessor of a registered vehicle receiving ration allotments to transfer such ration allotments to the lessee of such vehicle according to such terms and conditions to be established by the DOE.

Subchapter C—Computation of Reserves and Allotments

§ 570.21 Definitions.

The following symbols have the following meanings:

Symbol	Units	Meaning
CP	Days	The computation period, the length of which will be determined by the DOE and will be used to compute the length of the ration period.
REF	Gallons	Projected refinery output of gasoline during the computation period.
IMP	Gallons	Projected imports of gasoline during the computation period.
EXP	Gallons	Projected exports of gasoline during the computation period.
LOS	Gallons	Projected losses of gasoline from spillage, evaporation, and casualty losses during the computation period.
INV	Gallons	Amount of desired gasoline inventory drawdown or buildup during the computation period from industry.
ADJ	Gallons	An adjusting term representing errors, roundings, and unclaimed allotments in previous ration periods.
TAS	Gallons	The total available supply of gasoline to be rationed during a ration period.
NRR	Gallons	Ration rights to be reserved for use in the National Ration Reserve for the ration period.
SRR	Gallons	Ration rights distributed to the States for the State Ration Reserves for the ration period.
NAS	Gallons	The net available supply of gasoline during a computation period, equal to the TAS minus amounts necessary for the National Ration Reserve and the State Ration Reserves.
SA	Gallons	The supplemental allotments to designated firms, farming and priority class activities for the computation period.
BAS	Gallons	The basic allotment supply available for distribution to registrants.
VC		Vehicle classification(s) to be established by the ERA for all vehicles designated by the ERA as eligible to receive allotments.
AI		The allotment index, which expresses the value of the allotment for any vehicle in a given vehicle classification in relation to the allotment for private automobiles (the allotment index for private automobiles will be 1.0).
CVP	Gallons	The classification vehicle point, which is the sum of all vehicles in a given vehicle classification, multiplied by the allotment index for that vehicle classification.
TVP	Gallons	The total vehicle points, which is the sum of the classification vehicle points (CVP's) for all vehicle classifications.
BA	Gallons	The basic allotment for private automobiles.
DBA	Gallons	The distributed basic allotment, which is equal to the value of ration rights in gallons allotted for private automobiles.
RP	Days	The length of a ration period in days.
ADA	Gallons	The actual distributed allotment, which for any given vehicle is equal to the distributed basic allotment (DBA) multiplied by the allotment index (AI) for that vehicle.

§ 570.22 Calculations.

(a) *Total available supply (TAS).* The total available supply (TAS) of gasoline for a computation period is determined from data available on the refining and importing of gasoline, adjusted for exports, losses, inventory

changes and other adjustments as determined by DOE.

$$REF+IMP-EXP-LOS \pm INV+ADJ=TAS$$

(b) *Net available supply (NAS).* The net available supply is computed by subtracting from the TAS the National Ration Reserve and the State Ration Reserves.

$$TAS-NRR-SRR=NAS$$

(c) *Basic allotment supply (BAS).* The basic allotment supply (BAS) is computed by deducting the sum of the supplemental allotments (SA) to designated firms, and the priority class allotments, from the NAS.

$$NAS-SA=BAS$$

(d) *Basic allotment (BA).* The basic allotment (BA) is computed as follows:

(1) The sum of all vehicles in a given vehicle classification is multiplied by the allotment index (AI) for that classification to yield a classification vehicle point (CVP).

$$VC \times AI=CVP$$

(2) The sum of the CVP's for all vehicle classifications equals the total vehicle points (TVP).

$$CVP_1+CVP_2+\ldots=TVP$$

(3) The basic allotment (BA) equals the basic allotment supply (BAS) divided by the total vehicle points (TVP).

$$\frac{BAS}{TVP} = BA$$

(e) *Length of the Ration Period.* The length of the ration period is determined as follows:

(1) The ERA will determine a distributed basic allotment (DBA) which is the value of ration rights in gallons allotted for private automobiles.

(2) The length of the ration period equals the distributed basic allotment (DBA) divided by the basic allotment (BA), the quotient multiplied by the computation period (CP), and rounded to a full day.

$$\frac{DBA}{BA} \times CP = RP$$

(f) *Actual distributed allotment (ADA).* The value of ration rights in gallons distributed to the registrant of a given vehicle for a ration period equals the distributed basic allotment (DBA) multiplied by the allotment index (AI) for that vehicle, such product to be rounded by the DOE.

$$ADA=DBA \times AI$$

Subpart D—Supplemental Allotments to Designated Firms, Farming, and Priority Class Activities

§ 570.31 Designated firms.

(a) A firm may apply to the DOE for a supplemental allotment as a designated firm, if in the base year such firm consumed gasoline in vehicles or equipment determined by the DOE to qualify as off-highway vehicles and equipment and such firm meets such additional eligibility requirements to be established by the DOE.

(b) The DOE may designate other classes of firms or any individual firm as a designated firm(s) to receive supplemental allotments on a basis to be established by the DOE.

(c) A designated firm applying for a supplemental allotment shall submit an application to the DOE according to forms and procedures to be established by the DOE.

§ 570.32 Farming.

Supplemental ration allotments for off-highway vehicles and equipment used in the agricultural production of food and fiber will be provided in a timely manner so as to ensure that these allotments are in amounts adequate to meet fully food and fiber production goals approved by the President.

§ 570.33 Supplemental allotments to priority class activities.

(a) A firm with respect to its activities in any of the following classifications may apply to the DOE for a supplemental allotment equal to a percentage of such firm's consumption of gasoline attributable to its priority activities during the base period, such percentage to be determined by the DOE for each firm or classification of priority activity, less all other allotments attributable to its priority activity provided to such firm:

(1) The Department of Defense, with respect to its activities directly related to the maintenance of national security;

(2) Emergency services;

(3) Sanitation services; and

(4) Public passenger transportation.

(b) The DOE may designate other activities as priority class activities, and firms engaged in such activities shall be eligible to apply for a supplemental allotment pursuant to paragraphs (a) and (c) of this section.

(c) Any firm applying for a supplemental allotment as a priority class activity shall submit an application to the DOE according to forms and procedures to be established by the DOE. In addition to reporting its total gasoline consumption for the base period, a firm applying for a supplemental allotment for a priority class activity shall report that portion of its total base period gasoline consumption attributable to a priority class activity, and the number and types of vehicles engaged in a priority class activity, and such other information as the DOE may require.

§ 570.34 Precedence of delivery.

Prior to arranging delivery schedules for any other purchasers, suppliers shall first establish mutually satisfactory delivery schedules with all their base period purchasers which qualify as priority class firms pursuant to § 570.33.

Subpart E—Purchase of Gasoline

§ 570.41 General.

(a) Except as otherwise provided in paragraphs (b) and (c) of this section, no supplier may sell or otherwise transfer gasoline without securing from the purchaser at the time of sale or transfer ration rights equal on a gallon basis to the amount of gasoline transferred.

(b) A retail sales outlet may transfer gasoline to a purchaser without first obtaining ration rights from that purchaser, if the retail sales outlet obtains the appropriate amount of ration rights from any source within a time period to be designated by DOE.

(c) No supplier may sell or otherwise transfer gasoline to a wholesale purchaser-reseller without securing from the wholesale purchaser-reseller by the close of the first business day following the date of sale or transfer a redemption check or redeemed ration rights equal on a gallon basis to the amount of gasoline transferred. No supplier may sell or otherwise transfer gasoline to a wholesale purchaser-consumer or bulk purchaser without securing from the wholesale purchaser-consumer or bulk purchaser by the close of the first business day following the date of sale or transfer ration rights equal on a gallon basis to the amount of gasoline transferred.

(d) No purchaser may tender, and no supplier may accept ration coupons of a given series designation in exchange for gasoline prior to the date for which such series designation has been declared valid by the DOE pursuant to § 570.15.

(e) Subject to the provisions of § 570.64 of Subpart G of this part, and subject to such regulations as the DOE may develop, unredeemed ration rights may be freely transferred for or without consideration.

(f) No supplier (including a retail sales outlet) shall require any purchaser to purchase ration rights from any firm (including itself) as a condition of transferring gasoline.

(g) No supplier (including a retail sales outlet) may refuse to accept valid ration coupons offered as evidence of entitlement to purchase gasoline if such coupons are tendered by a customer at the time of sale. A supplier may accept ration checks other than Government ration checks from a customer as evidence of entitlement to purchase gasoline, but if there are insufficient ration rights in the ration rights account on which the ration check is drawn, the payee shall be liable for the deficiency, with recourse against the payor.

§ 570.42 Supplier disposition of ration rights and ration checks.

(a) A supplier (including a retail sales outlet) which accepts ration coupons in exchange for gasoline shall redeem all such coupons by indelibly marking them with the supplier's name, its redemption account number, if any, and the legend "redeemed." No supplier shall sell or otherwise transfer gasoline for consumption to a purchaser in exchange for ration coupons that have previously been redeemed.

(b) A supplier (including a retail sales outlet) which accepts ration checks in exchange for gasoline shall redeem all such checks by indelibly marking them with the supplier's name, its redemption account number, if any, and the legend "redeemed."

§ 570.43 Supplier's obligation to its supplier.

(a) A supplier shall deliver to its supplier by the close of the first business day following the date of delivery a redemption check or redeemed ration rights equal on a gallon basis to the volume of gasoline received.

(b) A supplier that has a redemption account shall promptly deposit all redemption checks and redeemed ration rights received in its redemption account.

§ 570.44 Principal supplier's obligations to the DOE.

Each principal supplier shall file with DOE in such form and for such period as shall be designated by the DOE, a report certifying the volume of gasoline sold during the reporting period, and shall submit with such report a redemption check equal on a gallon-basis to the volume of gasoline sold during the reporting period.

§ 570.45 Redemption account advances.

(a) Every supplier shall be entitled to receive an initial redemption account advance for deposit in its redemption account according to a formula to be established and published by the DOE. Such formula shall take into account the needs, if any, of suppliers located in remote areas subject to infrequent or irregular delivery schedules and suppliers in areas subject to highly seasonal demand.

(b) The DOE may provide for such additional redemption account advances as it deems necessary.

(c) The DOE shall require suppliers receiving redemption account advances to repay such advances to the DOE according to terms and conditions established and published by the DOE.

§ 570.46 Inventory changes.

(a) Each supplier (including a retail sales outlet), shall report according to forms and instructions to be issued by the DOE its inventory of gasoline, measured on the first day of rationing before any sales of gasoline are made, measured at the end of the rationing program, and measured at intervals to be specified by the DOE.

(b) any supplier (including a retail sales outlet), whose inventory at the close of the rationing program is less than its inventory measured on the first day of rationing shall be required to submit a redemption check or redeemed ration rights to the DOE or its delegate equal on a gallon basis to the amount of inventory drawdown, less an amount to be specified by the DOE for losses due to spillage, evaporation and shrinkage.

§ 507.47 Blends.

For fuels which are a blend of motor gasoline and other substances, DOE may make such volumetric adjustments as it deems appropriate.

Subpart F—Allocation of Gasoline

§ 570.51 Relationship to Parts 210 and 211

(a) Except where inconsistent with the provisions of this part, the provisions of Parts 210 and 211 of this chapter shall continue to apply when this part is in effect.

(b) The allocation levels as provided in § 211.102 and the provisions of § 211.17 establishing a State set-aside program shall not apply when this part is in effect.

§ 570.52 Supplier/purchaser relationships.

Unless otherwise directed by DOE, each supplier of gasoline shall supply all wholesale purchaser-resellers, wholesale purchaser-consumers, and bulk purchasers which purchased or obtained gasoline from that supplier during the base period.

§ 570.53 Allocation by suppliers to wholesale purchasers and bulk purchasers.

(a) *Supply obligation.* A supplier's supply obligation of gasoline for a month which corresponds to the base period is the sum of (1) the amounts of its wholesale purchaser-resellers' base period volumes which were supplied by the supplier during the base period: *Provided,* That the wholesale purchaser-reseller is still in business; (2) the amounts of its wholesale purchaser-consumers' base period volumes which were supplied by the supplier during the base period, provided that the wholesale purchaser-consumer is still in business; (3) the amounts of its bulk purchasers' base period volumes which were supplied by the supplier during the base period: *Provided,* That the bulk purchaser is still in business; and (4) the amounts of base period uses of new wholesale purchasers and bulk purchasers assigned by the DOE.

(b) *Allocation by suppliers to wholesale purchasers and bulk purchasers.* Each supplier shall allocate to each wholesale purchaser and bulk purchaser a volume of gasoline equal to the product of that supplier's allocation fraction (as defined in Part 211 of this chapter) multiplied by the amount equal to that wholesale purchaser's or bulk purchaser's base period use: *Provided,* That, (1) a wholesale purchaser-reseller transfers to its supplier by the close of the first business day following the date of delivery a redemption check or redeemed ration rights equal on a gallon basis to the volume of gasoline purchased or obtained; and (2) a wholesale purchaser-consumer or bulk purchaser transfers to its supplier by the close of the first business day following the date of delivery ration rights equal on a gallon basis to the voluem of gasoline purchased or obtained.

(c) *Allocation fractions equal to or less than one.* (1) When a supplier's allocation fraction is less than one (1.0), a supplier shall reduce, on a pro-rata basis, the amounts of gasoline to be supplied its wholesale purchasers and bulk purchasers.

(2) Any supplier whose allocation fraction is equal to or less than one (1.0) and whose wholesale purchasers or bulk purchasers entitled to receive an allocation from that supplier either have not purchased or have notified the supplier of their intent not to purchase their allocation entitlement by the end of the allocation period must dispose of such additional volumes as surplus gasoline in accordance with the provisions of paragraph (e)(1) of this section.

(d) *Allocation fractions greater than one.* Any supplier whose allocation fraction is greater than one (1.0) shall make allocations based on an allocation fraction of one (1.0), unless otherwise directed by the DOE, and shall dispose of any volumes of gasoline in excess of the allocation entitlements of its customers in accordance with the provisions of paragraph (e)(1) of this section.

(e) *Distribution of surplus gasoline.* (1) Subject to the provisions of paragraphs (e) (2), (3), (4), and (5) below, a

supplier which has additional volumes of gasoline as a result of the application of paragraphs (c)(2) or (d) of this section shall dispose of such additional volumes as follows: (i) The supplier shall first offer to sell, on a pro-rata basis to wholesale purchasers and bulk purchasers which are entitled to receive an allocation from that supplier and which have not received 100 percent of their allocation entitlement from that supplier, an amount equal to the difference between the allocation entitlement of that wholesale purchaser or bulk purchaser minus the amount actually sold to that purchaser for the month; (ii) the supplier shall next offer to sell on a pro-rata basis such additional volumes remaining to the wholesale purchasers and bulk purchasers to whom it has a supply obligation; and (iii) a supplier may next dispose of any remaining volumes of gasoline to any holder of ration rights or redeemed ration rights.

(2) *Transfer requirements.* In all sales or transfers made pursuant to the provisions of paragraph (e)(1) of this section, a wholesale purchaser-consumer or bulk purchaser shall transfer to the supplier by the close of the first business day following the date of delivery ration rights equal on a gallon basis to the volume of gasoline purchased or obtained, and a wholesale purchaser-reseller shall transfer to the supplier by the close of the first business day following the date of delivery a redemption check or redeemed ration rights equal on a gallon basis to the volume of gasoline purchased or obtained and all other purchasers shall transfer to the supplier at the time of delivery ration rights equal on a gallon basis to the volume of gasoline sold or otherwise transferred.

(3) *Time period for commitments to purchase surplus product.* Any purchaser which has been offered surplus gasoline pursuant to the provisions of paragraph (e)(1) of this section, shall notify the supplier of its commitment to purchase a specified volume of surplus gasoline within 5 business days of the receipt of such offer. A supplier shall hold open such offer until the expiration of this period, unless previously notified by a purchaser of its intent not to purchase a volume of surplus gasoline.

(4) *Surplus product reports.* A principal supplier or prime supplier that has additional volumes of gasoline as a result of the application of paragraphs (c)(2) or (d) of this section shall file a surplus product report specified in § 211.10 of this chapter.

(5) *Redirection of surplus product.* Notwithstanding the provisions of paragraphs (e) (1), (2), and (3) of this section, the DOE may direct that surplus gasoline be held in inventory or distributed in a manner designated by the DOE.

§ 570.54 Allocation of unleaded gasoline.

For a month which corresponds to the base period, each supplier shall make available to each of its purchasers which is entitled to receive motor gasoline from that supplier a volume of unleaded gasoline which bears the same ratio to the purchaser's allocation entitlement (as described in § 570.53) as the ratio of the supplier's supply of unleaded gasoline (net of volumes allocated under § 211.108(c)(1)(i)) to its total supply of gasoline (leaded and unleaded) to be allocated pursuant to § 570.53.

Subpart G—Ration Banking

§ 570.61 Coupon issuance points and participating banks.

(a) Payees or endorsees of Government ration checks may exchange such checks for ration coupons of equal value at coupon issuance points.

(b) Subject to terms and procedures to be established by DOE, the DOE may authorize certain firms and institutions to act as (1) coupon issuance points to issue ration coupons in exchange for Government ration checks, and (2) participating banks to provide ration rights accounts and redemption accounts.

(c) Coupon issuance points and participating banks shall maintain such records and issue such reports as may be required from time to time by DOE.

§ 570.62 Ration rights accounts.

(a) Any firm or individual may establish a ration rights account in accordance with forms and procedures to be established by the DOE. The DOE may by Order and Notice establish a minimum initial deposit, allowable fees, and other terms and conditions governing the operation and maintenance of ration rights accounts.

(b) No individual or firm shall issue a ration check for which no ration rights account has been established or drawn upon a ration rights account in which there are insufficient ration rights to cover that ration check and other outstanding ration checks drawn on that account.

§ 570.63 Redemption accounts.

(a) Each supplier, including a retail sales outlet, shall open a redemption account at any participating bank for the deposit of an initial redemption account advance, if any, redeemed ration rights, and redemption checks. Retail sales outlets with gasoline sales volumes below a threshold level to be determined by DOE, will be exempted from this requirement.

(b) The opening of a redemption account and the receipt of deposits therefor shall be made at participating banks according to forms and procedures to be established by the DOE.

(c) No individual or firm shall issue a redemption check for which no redemption account has been established or drawn upon a redemption account in which there are insufficient deposits to cover that redemption check and other outstanding redemption checks drawn on that account.

(d) Redemption checks shall not be valid for deposit in a ration rights account, nor shall redemption checks be valid for the purchase of gasoline by a wholesale purchaser-consumer, bulk purchaser or other ultimate consumer.

§ 570.64 Restrictions on endorsements.

The DOE may establish limitations on the endorsements of ration checks and redemption checks.

Subpart H—National Ration Reserve

§ 570.71 National Ration Reserve.

(a) The National Ration Reserve shall be used by the DOE to meet national disaster relief needs, or to provide ration rights for auctioning to the public in order to establish a "white market" for the sale of ration rights, or to provide allotments to the Governments of Canada and Mexico to meet the needs of foreign firms, or for any other purpose at the discretion of the DOE.

(b) For each ration period, the DOE shall determine a percentage of the total available supply for which ration rights shall be reserved by the DOE for the National Ration Reserve.

Subpart I—State Ration Reserves

§ 570.81 Establishment of State Ration Reserves.

(a) For each ration period, the DOE shall determine a percentage of the total available supply for which ration rights shall be reserved by the DOE for distribution to the States as a State Ration Reserve, to meet the needs of approved hardship applicants. In addition, DOE may authorize the States to auction to the public a portion of the ration rights from the State Ration Reserves, in order to establish a "white market" for the sale of ration rights.

(b) Any State may apply to the DOE to create a State Rationing Office to administer the State Ration Reserve according to criteria for the delegation of such authority to be prescribed by the DOE by rule. Such application may provide for the distribution of ration rights from the State Ration Reserve through local boards: *Provided,* Such boards are of balanced composition reflecting the community as a whole. After DOE review of a

State's application and upon certification by the DOE such State Rationing Office will be delegated appropriate authority to administer the State Ration Reserve allotted by the DOE to that State.

(c) The State Ration Reserves will be distributed by the DOE to the State Rationing Offices by transmitting a Government ration check to each State. The size of the State Ration Reserve for each State shall be determined according to that State's gasoline sales during the base period and according to other relevant criteria determined and published by the DOE.

(d) Each month the State Rationing Office shall report to the DOE with respect to the preceding month (1) the number of hardship petitions received by catagory of hardship alleged, (2) the disposition made of hardship applications, (3) the amount of ration rights issued from the State's Ration Reserve, and (4) such other information as the DOE shall require.

(e) The State Rationing Office may redelegate the authority given to it by the DOE to local rationing boards, provided they meet the balanced composition criteria set forth in paragraph (b) of this section.

(f) No State shall issue a ration check drawn upon a ration rights account if there are insufficient ration rights to cover that ration check and other outstanding ration checks drawn on that ration rights account.

§ 570.82 Hardship applications and guidelines.

(a) Hardship application will be received by the State Rationing Office or its delegate for review and determination. In its administration of the State Ration Reserve, a State Rationing Office or its delegate shall consider the mobility needs of handicapped persons. In addition, the State Rationing Office or its delegate may consider the hardship needs of other individuals and firms, such as low-income, long-distance commuters, migrant workers, persons engaged in household moves, and other recurring or one-time hardship needs.

(b) For purposes of this section, the term "handicapped person" means any individual who, by reason of disease, injury, age, congenital malfunction, or other incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities and services and who has a substantial impediment to mobility.

APPENDIX—STANDBY GASOLINE RATIONING PLAN [1]

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BRIEF PLAN OVERVIEW

BASIC ENTITLEMENTS

- Eligibility for ration allotments will be based principally on motor vehicle registration records, maintained in a national vehicle registration file.
- Supplemental allotments will be granted for certain priority activities to ensure the maintenance of essential public services.
- Supplemental allotments will also be granted to businesses and government organizations with significant off-highway gasoline requirements.
- Local rationing boards or other offices will be established by States, to provide special allotments to hardship applicants, within DOE guidelines.

VEHICLE-BASED ALLOTMENTS

- Vehicle-based ration allotments will be provided to individuals, businesses, and other organizations that have motor vehicles registered in their names, provided that these vehicles are gasoline powered, are registered for highway operation, are in operating condition, and have not been transferred to any other party subsequent to their registration.
- The national vehicle registration file will be maintained by the Department of Energy (DOE) from records submitted periodically by States and other sources as appropriate, incorporating additions, deletions, and changes of vehicle registration or operation status.
- Vehicle transfers will be recorded on the national registration file to permit only the most recent registrant to receive a ration allotment for any vehicle.
- Purchasers of new vehicles during the rationing program will receive ration allotments for these vehicles.
- Vehicle allotments may vary according to vehicle type. It is expected that motorcycles will receive lower allotments than standard passenger cars and some trucks will receive higher allotments.

PRIORITY ACTIVITIES

- Supplemental allotments will be provided to businesses, units of government, and other organizations that merit priority status by providing essential public services, including certain Department of Defense activities, fire protection, police services, emergency medical services, the U.S. Postal Service, mass public transportation, sanitation services and snow removal.

OFF-HIGHWAY GASOLINE NEEDS

- Businesses and governmental organizations that use significant amounts of gasoline in off-highway vehicles and equipment will be eligible for supplemental allotments. Farms will be provided with allotments adequate to fully meet food and fiber production goals approved by the President.

RESERVES

- State Ration Reserves will be established in each State for use by local rationing boards or other State offices in issuing hardship allotments. States will have considerable discretion in the use of their ration reserves, sub-

[1] Copies available from National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, Va. 22161. Price: Printed copy: $6.00; microfiche: $3.00.

Copies also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; stock number 061-000-00240-5.

ject to limited DOE standards and guidelines.

● DOE will establish and maintain a National Ration Reserve for use in meeting special national emergency needs, and for such other purposes as DOE finds necessary.

FOREIGN BUSINESSES AND TOURISTS

● DOE will provide allotments to the Governments of Canada and Mexico to meet the needs of Canadian and Mexican firms doing business in the United States.

● DOE will make arrangements to ensure the availability of ration rights for sale to foreign tourists at locations convenient to major border points of entry.

ISSUANCE OF RATION ALLOTMENTS

● Ration allotments will be issued in the form of ration checks, which will be exchangeable for ration coupons at designated coupon issuance points.

● DOE will print and mail vehicle-based ration checks in advance of each ration period, with the allotment amount appropriate for each vehicle type printed on the check.

● DOE will issue supplemental allotment checks for priority activities, farms, and designated firms.

● Checks will also be issued to States for their ration reserves.

● Special procedures will be instituted for individuals and organizations that fail to receive their checks in the mail.

COUPONS

● DOE will solicit the participation of a variety of financial institutions and other organizations as coupon issuance points. These entities will be supplied with coupons by DOE and will serve as ration check "cashing" points for recipients of Government ration checks.

● Different series of coupons will be distributed. DOE will establish for each series the date at which it becomes valid. Coupons will be valid until used, or until the termination of the rationing program, unless DOE finds that an earlier expiration date for any series is necessary to prevent hoarding or other practices disruptive of the program.

RATION BANKING

● Individuals and organizations that handle large numbers of coupons may open ration banking accounts at participating ration banks, subject to DOE regulations concerning these accounts.

● Account holders may deposit valid coupons or ration checks to their accounts and may write ration checks against their accounts.

● Gasoline suppliers may open redemption accounts at ration banks for the deposit of redeemed ration coupons and ration checks. These suppliers may write redemption checks on their redemption accounts to pay their suppliers for resupply of gasoline.

RATION RIGHTS EXCHANGE MARKET

● DOE will permit the sale or transfer of ration rights on a voluntary basis. DOE will impose no price controls or other controls on this "white market" except as may be necessary to prevent excessive coupon hoarding, anticompetitive practices, or other activities disruptive of the rationing program.

● Recognizing the beneficial role of the white market in meeting needs that cannot be met by Federal and State allotment mechanisms, and in promoting the most efficient use of gasoline in a supply shortage, DOE will encourage the dissemination of information in local media on the prices and availability of white market ration rights.

● DOE may withhold a small percentage of the total number of ration rights and offer them for sale to the public, in order to assure the stable operation and widespread availability of the white market.

GASOLINE SALES

● For gasoline sold at retail, retailers must:

—accept valid coupons offered by retail purchasers for gasoline; and

—provide their suppliers with redeemed ration rights for every gallon resupplied.

● In addition, retailers may at their discretion:

—accept ration checks;

—issue scrip for any unused value of a coupon or check received from a customer.

● Wholesale suppliers must:

—receive ration rights (or redemption checks) for all gasoline delivered; and

—remit to their suppliers redeemed ration rights (or redemption checks) for all gasoline received.

● A redemption account advance will be provided to enable suppliers to write redemption checks for their initial gasoline resupply at the beginning of the rationing program.

● Refiners and importers must receive and deposit redemption checks from their customers, and must remit their own redemption checks to DOE to match all gasoline sales or deliveries for the period in question.

INTERFACE WITH THE ALLOCATION PROGRAM

● Certain allocation regulations will be in effect during rationing to:

—maintain supplier-purchaser relationships;

—ensure that each wholesale customer receives, at a minimum, a quantity of gasoline equal to the lesser of his allocation entitlement or his ration rights from his base period suppliers;

—provide an equitable mechanism for the transfer of gasoline from areas of relatively low demand to areas of relatively higher demand during a supply shortage.

1. RATIONING OBJECTIVES, BACKGROUND, AND HISTORY

1.1 PLAN OBJECTIVES

The objectives of this rationing plan are:

● To provide a mechanism capable of maintaining an orderly and equitable market for gasoline in a severe supply shortfall, and capable of rapid implementation.

● To comply with requirements of the Energy Policy and Conservation Act of 1975 (EPCA), which mandates the development of a contingency rationing plan.

EPCA prescribes that a rationing contingency plan can become effective only when "required by a severe supply interruption or in order to fulfill obligations of the United States under the international energy program." Accordingly, this plan is designed for use only in an extreme gasoline shortage.

1.2 EQUITY CONSIDERATIONS

Rationing is a severe measure to deal with a serious emergency. No gasoline rationing program can perfectly meet the diverse needs of millions of gasoline users and still be capable of rapid implementation in an emergency. Some difficult tradeoffs must be made among the needs of different segments of the economy, and between equity considerations as a whole and administrative workability.

The problem is twofold. First, there is no universally accepted notion of equity. Given the total amount of gasoline available, providing concessions to one group necessarily implies less for other groups. Second, there is a limit to how much fine tuning can be achieved without greatly increasing the administrative complexity of the plan, its cost, and the Federal bureaucracy needed to direct it.

After considering many alternatives, DOE has developed a plan that attempts to strike a reasonable balance between equity and administrative feasibility. The proposed plan is based on the premise that all segments of the economy should share equitably in the shortage, with no group receiving undue advantage and no group suffering severe hardship.

DOE recognizes that its proposed rationing plan does not achieve perfect equity—no system can. But it does provide the means for achieving substantial equity, and it does it in a way that involves a minimum of administrative complexity, government bureaucracy and delay in implementation. Although additional procedures could be developed to provide a closer match between allotments and needs, it is DOE's conclusion that such procedures would cost more in terms of added complexity, greater expense, and increased Government intervention than they would be worth in terms of enhanced equity.

1.3 A BRIEF HISTORY OF GASOLINE RATIONING PLANNING

1.3.1 *Gasoline Rationing During World War II*

Gasoline rationing in the United States during World War II began in 1942 as an attempt to reduce the demand for rubber for vehicle tires, since the sources of most natural rubber imports to the United States had been captured by Japan. It was not until later in the war that gasoline itself was in short supply.

Five classes of gasoline ration cards were created, based on individual mileage needs. The issuance of ration classifications and allotments was the responsibility of local boards set up the Office of Price Administration (OPA). The exact total number of gasoline coupons issued was not centrally controlled nor accurately measured. The primary emphasis of the program was on conserving fuel and rubber, not on the equitable distribution and efficient use of a given total fuel supply.

The gasoline savings achieved by the program were attributed in large part to the public's patriotic cooperation with the wartime needs of the nation. Enforcement mechanisms were not generally considered effective, however. Individuals who violated the rules by misrepresenting their needs, and gasoline dealers who failed to deposit promptly the coupons they received from the public, stood little chance of detection and apprehension.

1.3.2 *The 1973-1974 Embargo Period*

In the fall of 1973, Federal planning for gasoline rationing was undertaken as one of several possible responses to declining domestic petroleum production and to the growing dependence of the United States on foreign sources of supply. The oil embargo that began in October 1973 accelerated these efforts, and the decision was made to implement gasoline rationing. Coupons were printed by early 1974, and an Office of Gasoline Rationing was set up within the newly formed Federal Energy Office (FEO).

When the embargo ended in late March 1974, FEO halted all rationing planning and program implementation activities. The considerable program design and development work done up to that date was saved, and the 4.8 billion coupons that had been printed were put into secure storage.

1.3.3 *Continued Planning Work in 1975*

After the Federal Energy Administration was established to succeed FEO, it was decided in early 1975 to assemble a task force to complete the rationing planning begun during the embargo.

A draft plan was prepared in late 1975, providing a fixed ration allotment for individuals holding driver's licenses, and providing variable allotments to businesses and non-profit organizations equal to a percentage of their documented base period gasoline consumption.

1.3.4 *Revisions Required by the Energy Policy and Conservation Act of 1975*

In December 1975, Congress passed and the President signed the energy Policy and Conservation Act (EPCA), which provides, among other things, for the development of a gasoline and diesel fuel rationing contingency plan.

EPCA requires the rationing plan to include, to the extent practicable:

- the ordering of priorities among classes of end users of gasoline and diesel fuel used in motor vehicles;
- the assignment of rights, and evidence of these rights, entitling end users to precedence in obtaining gasoline and diesel fuel according to their respective priorities; and
- the establishment of local boards to receive end user petitions and to reclassify and modify end users' priorities or rights to obtain gasoline or diesel fuel.

The law states that the rationing plan may not:

- impose any tax,
- provide for a credit or deduction in computing any tax, or
- impose any user fee, except to the extent necessary to defray the cost of administering the plan or to provide for initial distribution of end user rights.

EPCA provides that the gasoline rationing program may not become effective unless submitted to Congress and approved by both houses within sixty days of submission. Procedures are provided for expedited congressional consideration of such a submission.

In early 1976, the necessary changes were made to the rationing plan to meet the requirements of EPCA. The Federal Energy Administration published a set of proposed rationing regulations in the FEDEAL REGISTER on May 28, 1976, and hearings were held in several cities. Written comments received in response to the FEDERAL REGISTER notice were analyzed, and final changes based on public comments were made to the rationing plan.

In January 1977, the rationing plan was prepared for submission to Congress, in accordance with the requirements of EPCA. After the current Administration assumed office on January 20, 1977, however, it was decided to withdraw the plan from the congressional submission process to permit a re-evaluation of the plan's provisions.

1.3.5 *Subsequent Plan Improvements—1977-79*

The nation's increasing dependence on foreign petroleum, and the uncertain political situation regarding many of the countries that supply U.S. petroleum imports, prompted senior energy officials to re-examine the adequacy of the rationing plan in 1977. As part of this re-evaluation, it was decided to introduce some important changes into the rationing plan, making it more quickly implementable and more effective. The most significant changes incorporated in this latest plan, compared to earlier efforts, include:

- the use of registered vehicles rather than driver's licenses as the basis for most ration allotments;
- the use of Government ration checks in place of self-executed forms at the beginning of the rationing program, to reduce the program's vulnerability to fraud;
- the development of streamlined coupon distribution and issuance procedures;
- The elimination of the need for all firms to submit base period application forms for their allotments (only priority and designated firms will need to file applications for supplemental allotments); and
- the reduction in plan implementation time, making the plan more useful as a quick response to a serious supply interruption.

1.4 SEPARATE APPROACH FOR DIESEL FUEL

Although EPCA includes diesel fuel in its requirement for the development of a rationing plan, DOE has concluded that major differences between the supply characteristics of diesel fuel and gasoline require that the two fuels be rationed by separate and independent mechanisms. Accordingly, this plan is applicable to gasoline only; DOE is addressing diesel fuel separately.

1.5 CONDITIONS LEADING TO RATIONING

Considering the restictions in EPCA concerning rationing implementation, the expense and complexity of rationing, and the experience gained during the 1973-74 oil embargo, DOE has tentatively concluded that only a severe gasoline shortfall would justify the implementation of rationing. For less severe gasoline shortfall levels, or if a shortfall were not expected to be long-lasting, rationing would not be used.

It should be noted that the shortfall level for gasoline would not necessarily be the same as the shortfall for crude petroleum. It is DOE's judgment that the U.S. economy is better able to tolerate a given percentage shortfall of gasoline than a comparable percentage shortfall of other petroleum products such as middle distillate, because a significant proportion of gasoline is used for discretionary (non-essential) purposes. During an oil shortage, DOE might encourage or direct U.S. refineries to alter their product output mix to increase supplies of heating oil, diesel fuel, and other products at the expense of gasoline. As a result, the relative gasoline shortfall is likely to be somewhat greater than the corresponding shortage of crude petroleum.

1.6 ALTERNATIVE CONTINGENCY MEASURES FOR GASOLINE

At the onset of a major oil supply interruption, DOE could begin immediately to implement gasoline rationing. However, in the event of a less severe shortage, other measures less complex and less expensive than rationing could initially be implemented. If these other measures were successful in distributing supplies equitably without severe economic dislocations, rationing could be delayed or avoided.

The measures shown below are examples of actions which DOE could take either instead of rationing, or as interim measures before the impostion of rationing. Some of these measures might also operate concurrently with the rationing program.

● *Allocation and Price Controls*—DOE could re-implement or continue (if then in force) both allocation and price controls on crude oil and refined products, according to standby regulations developed for a new shortage. For gasoline, allocation would extend down to wholesale purchasers and bulk pruchasers but not to retail purchasers. These controls would minimize the initial impacts of oil shortages on any single group or region by ensuring shared supplies among all refining and distribution systems at controlled prices.

● *Public Awareness and Voluntary Conservation*—DOE could:

Publicize the nature and extent of the petroleum shortage;

Urge the public to conserve energy;

Provide suggestions on specific ways of conserving fuel of all kinds to reduce consumer demand for oil products, especially gasoline; and

Encourage employers to provide employees with or inform employees about alternative commuter transportation to and from work.

● *Strict Enforcement of Speed Limits*—Since gasoline savings are achieved by lowered highway speeds, DOE could actively encourage States to increase their enforcement of 55 mph speed limits, especially on Federally supported highways. Increased fines for speed limit violations could be encouraged as a means of paying for the additional enforcement costs.

● *Mandatory Conservation Programs*—DOE could implement one or more standby mandatory fuel conservation measures aimed at reducing nonessential travel during a gasoline shortage.

● *Strategic Storage Drawdown*—Strategic reserves of crude oil could be drawn down in accordance with the procedural requirements of EPCA. These reserves could play a role in offsetting oil shortages caused by an oil import interruption.

● *Reducing Long Lines at Retail Gasoline Stations.*—To ease the hardships caused by long lines at service stations, DOE could require, or could encourage the States to require, minimum gasoline purchase levels for automobiles, to prevent drivers from getting in line for gasoline until their tanks were at least half empty. Another policy that might reduce gasoline-station lines is the prohibition of sales to vehicles with odd-numbered license plates on even-numbered dates and vice versa. Neither of these measures would affect the total supply of or demand for gasoline, but they could reduce waiting lines by eliminating "tank-topping."

2. GASOLINE RATIONING PLAN OPERATIONS

This part describes the gasoline rationing plan as DOE envisages it in operation. As mentioned in the introduction, diesel fuel rationing is not described in this plan, but is being addressed separately by DOE.

2.1 BACKGROUND

Gasoline rationing is a system that controls the sale of gasoline by requiring that each gasoline supplier collect ration rights, issued by the Federal Government, for all gasoline sold. The Federal Government will periodically distribute these ration rights in the form of ration checks, which can be exchanged for coupons at issuance points.

2.2 KEY DEFINITIONS

The following definitions apply to this rationing plan narrative. A more complete list of definitions may be found in the rationing regulations.

Allotment. The value in gallons of the ration rights issued by DOE to a ration recipient.

Based Period. A period in the base year corresponding to the current calendar month or quarter, or current ration period, as appropriate.

Base Year. A twelve-month period designated by DOE and used in computing supplemental allotments.

Firm. Any association, company, corporation, estate, joint-venture, partnership, or sole proprietorship, or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. Farmers and self-employed individuals are considered firms for the purposes of this rationing plan.

Gasoline. Motor gasoline, excluding aviation gasoline.

Handicapped Person. Any individual who, by reason of disease, injury, age, congenital malfunction, or other incapacity or disability, is unable without special facilities, planning or design to utilize mass transportation vehicles, facilities and services and who has a substantial, permanent impediment to mobility.

National Ration Reserve. A reserve of ration rights retained by DOE to meet special national disaster relief needs during the rationing program or for such other purposes as DOE finds necessary.

Ration Period. The time span between the date one coupon series becomes valid and the date the immediately following coupon series becomes valid.

Ration Recipient. A registrant, or any other firm or individual designated by DOE as eligible to receive ration rights allotments.

Ration Rights. Ration checks and ration coupons evidencing the right of a ration recipient to buy specified volumes of gasoline.

Registrant. The party named in the most recent motor vehicle registration record maintained in DOE's national vehicle registration file.

State. Any one of the fifty States, the District of Columbia, Puerto Rico, or any territory or possession of the United States determined by DOE to be subject to the terms of this rationing plan.

State Ration Reserve. The ration rights provided by DOE to a State to meet the needs of hardship applicants and others within that State according

to eligibility criteria established by the State within DOE guidelines.

State Rationing Office. The office established or designated by each State to administer the State Ration Reserve, local rationing boards, and other rationing activities in the State.

2.3 ENTITLEMENTS AND RESERVES

2.3.1 *Eligibility for Ration Allotments*

2.3.1.1 *Registrants*

The basic eligibility for ration allotments is determined by motor vehicle registration records maintained in DOE's national vehicle registration file. Any individual or firm named on a registration record (the "registrant") is eligible for an allotment of ration rights if the corresponding registered vehicle is gasoline powered and is of a type for which DOE has assigned an allotment index. Vehicles for which multiple registration records have been submitted to DOE will be entitled to only a single allotment, based on the most recent registration date.

Once rationing begins, DOE will use special procedures to exclude from its national vehicle registration file registration records for inoperable vehicles, and registration records fraudulently applied for in order to obtain ration allotments, such as for junked vehicles. Vehicles transferred during rationing will have their subsequent ration allotments mailed to the new owners.

Formerly registered vehicles that have inactive or lapsed registrations when rationing is announced will generally not be eligible for ration allotments. However, under certain circumstances, DOE may at its discretion permit vehicles with lapsed registrations to become eligible for ration allotments if it can be demonstrated that these vehicles were not previously scrapped or abandoned, or if it can be otherwise shown that these vehicles are not being registered for the principal purpose of receiving ration rights.

Retail purchasers of newly manufactured vehicles will receive pro rata ration allotments for the remainder of the current ration period at the time these new vehicles are purchased, and these vehicles will be added to the national vehicle registration file for the issuance of normal allotments for subsequent periods.

Vehicles for which registration applications have been submitted and are "in process" on a given cut off date specified by DOE will be considered to be registered at the beginning of the rationing program.

2.3.1.2 *Priority Firms*

A second category of ration recipients is the group of firms whose essential public service activities are officially recognized as requiring priority status. These firms may file special applications showing their base period fuel consumption for use in computing their supplemental allotments. DOE will issue ration rights to these priority firms such that their allotments will equal a high percentage of their base period gasoline consumption. The percentage levels to be granted to priority firms will be determined by DOE when rationing is announced. These levels may differ for different classes of priority firms. With the exception of mass public transportation, which may be provided with alllotments at or above 100 percents of base period consumption, DOE anticipates that the appropriate level for most other priority services will be at or near 90 percents of base period consumption. This level is consistent with DOE's belief that even priority firms can achieve some conservation in a serious fuel shortage.

Certain Department of Defense activities, fire protection, police services, emergency medical services, the U.S. Postal Service, mass public transportation (including school buses), sanitation services, and snow removal are the principal services for which DOE envisions priority status. DOE may add other services or entities to this list if it finds that such additions are necessary to prevent severe social or economic impacts or to avoid cutbacks of essential public services.

2.3.1.3 *Off-Highway Gasoline Needs*

Firms that use significant amounts of gasoline for business or governmental purposes in off-highway vehicles and equipment not contained in the national vehicle registration file may be eligible for supplemental allotments.

a. *Farming*

Ration allotments for off-highway vehicles and equipment used in the agricultural production of food and fibers will be provided in a timely manner, and in amounts adequate to fully meet food and fiber production goals approved by the President. The Secretary of Agriculture will be responsible for assuring that production goals for agricultural commodities are established.

b. *"Designated Firms"*

Supplemental allotments for other firms with off-highway gasoline needs ("designated firms") will be computed as a percentage of base period gasoline volumes used in qualifying off-highway equipment. DOE may apply different percentages in computing the supplemental allotments for different classes of designated firms. In general, the percentages used in these computations are not expected to be as high as for priority activities.

Excavation, construction, drilling, mine operations, and the use of gasoline-powered boats in business or governmental work are examples of the types of activities that will qualify for supplemental allotments to designated firms.

2.1.4 *Other Supplemental Allotments*

DOE may at its discretion designate other activities or entities as eligible for supplemental allotments.

2.3.1.5 *Federal Government Vehicles*

Because most Federal Government vehicles are not included in State motor vehicle registration files, these vehicles would not become part of DOE's national vehicle registration file assembled from State records. For this reason, and because available data suggest that most Federal vehicles are typically used less intensively than average, DOE would make special arrangements with Federal agencies to provide allotments for their use. These allotments would be equivalent to a percentage of the agencies' base period use, comparable to the percentage granted to other organizations through vehicle-based allotments.

2.3.1.6 *Foreign Businesses*

DOE will provide allotments from the National Ration Reserve to the Governments of Canada and Mexico for distribution to Canadian and Mexican firms that do business in the United States. The size of these allotments will be sufficient to provide such firms with approximately the same percentage of their base period consumption within the United States as is provided by vehicle allotments to comparable U.S. firms.

In addition, DOE will assist foreign motorists—including tourists as well as business travelers—in locating white market points convenient to principal border crossings for the purchase of any additional ration rights these motorists may need.

2.3.7 *Special Eligible Individuals*

In a few special cases, at the discretion of DOE, individuals may be considered as eligible for ration allotments even though their vehicles are not registered with any State department of motor vehicles. An example of such a group would be Indians living on Federal reservations where the operation of vehicles is permitted without State vehicle registrations.

DOE will identify these special groups on a case-by-case basis before or during the rationing implementation period.

2,3.1.8 *Availability of the White Market for Additional Ration Rights*

DOE has designed its rationing program on a per-vehicle basis because in a severe gasoline supply emergency such a system can be implemented relatively quickly compared to alternative rationing systems. Eligibility for supplemental allotments has generally been limited to priority firms, farms, and designated firms. All individuals and firms, however, with gasoline needs above the amounts granted them by DOE will have recourse to the ration rights exchange market ("white market"), where ration rights will be available for sale by individuals or firms with rights in excess of their needs.

DOE may set aside a percentage of total ration rights to be offered for sale to the public as a way of ensuring the stability and effectiveness of the white market. Revenues received from such sales would be used to defray program operating costs.

2.3.1.9 *Leased and Rented Vehicles*

DOE may require vehicle rental or leasing firms to transfer to their customers all or an equitable portion of the ration rights issued for leased and rented vehicles.

2.3.2 *Allotment Variations by Vehicle Type*

DOE will vary allotments by vehicle type, reflecting differences in average annual gasoline use by certain broad vehicle classes. To provide examples of how these allotment variations might be handled, DOE has analyzed fuel consumption and average annual miles traveled by vehicles in various categories according to statistics provided by the U.S. Department of Transportation and by a number of other governmental agencies and private groups. The result of this analysis is a set of illustrative allotment indices of the type that DOE could use to compute the size of the allotment for each type of vehicle. The indices are keyed to the passenger automobile allotment, which is assigned an index value of 1.0.

The following example illustrates how the sample allotment indices were computed. To begin with, passenger cars were found to have an average annual gasoline consumption of 748 gallons. This amount was assigned a reference index of 1.0. All other vehicle classes are compared to this passenger automobile reference index. For example, trucks between 26,000 pounds and 33,000 pounds (gross vehicle weight) were found to have an average annual gasoline consumption of 3,132 gallons. When this figure is divided by the passenger car gallons-per-year figure of 748, the allotment index for these trucks is found to be 4.2. Allotment indices for other vehicles were similarly determined, all keyed to the reference index of 1.0 for passenger cars.

It should be noted that estimates of average annual gasoline consumption vary considerably among different sources. As new data become available, DOE will periodically revise vehicle allotment indices to reflect the latest and most accurate statistics. The figures shown below are therefore only illustrative of the approximate magnitudes of the allotment indices for the vehicle categories shown, based on data currently available.

EXHIBIT 2-1. REPRESENTATIVE EXAMPLES OF ALLOTMENT INDICES FOR HIGHWAY VEHICLES

Vehicle Category	Allotment Index[1]
Motorscooters and Mopeds [2]	0.1
Motorcycles	0.2
Passenger automobiles, buses, trucks under 10,000 lbs.,[3] and all recreational vehicles [4]	1.0
Trucks between 10,000 and 20,000 lbs	2.2
Trucks between 20,000 and 26,000 lbs	2.4
Trucks between 26,000 and 33,000 lbs	4.2
Trucks over 33,000 lbs	7.0

[1] Figures shown are examples only; actual figures would be computed by DOE using the latest vehicle statistics available when rationing is announced.

[2] Motorscooters and mopeds will be assigned an index of 0.1, provided they are separately registered in the States' files used to compile the national file.

[3] All weights given are gross vehicle weight (GVW).

[4] DOE intends to limit the definition of recreational vehicles to mean recreational vehicles with at least four wheels and registered for highway use.

No vehicle allotments will be provided for:

- "dealer-plate" registrations, since these registrations are not issued to specific vehicles;
- trailers and other nonpowered vehicles;
- vehicles that do not require gasoline for their operation (such as diesel, propane and electric-powered vehicles); and
- vehicles not registered for highway use, such as power boats, snowmobiles, and vehicles operated principally on trails or race tracks.

It should be noted that in many States the weight used for classifying vehicles is not gross vehicle weight. DOE will convert the weight figures provided by these States to gross vehicle weight for use in the national vehicle registration file.

2.3.3 *Special Reserves*

Doe will establish two types of reserves, the State Ration Reserves and the National Ration Reserve, to accommodate special hardships and emergencies that require gasoline ration rights in excess of other allotments.

2.3.3.1 *State Ration Reserves*

Each State will be given an allotment each ration period, called the State Ration Reserve, for use by the State at its discretion. the size of the State Ration Reserves will be equal to a percentage of the projected total available supply of gasoline, apportioned among the States according to base period gasoline sales in each State and other factors to be determined by DOE. The actual percentage to be used in computing the State Ration Reserves will be announced by DOE when the rationing program is implemented; it is expected to be approximately 3 percent of the total volume of gasoline available.

The State Ration Reserve will be controlled by a State Rationing Office in each State. Each State Rationing Office will be enouraged by DOE to establish a system of local rationing boards or similar offices throughout the State to receive and review hardship applications and to issue hardship allotments to qualified applicants in each community.

Applicants for hardship allotments must file applications according to the eligibility criteria established by each State (within DOE guidelines), describing the nature of their hardship and the amount of the hardship allotment requested.

Hardship allotments will be issued to eligible applicants in the form of ration checks, drawn on ration rights accounts established at ration banks for this purpose. State ration accounts will be replenished by periodic checks from DOE to the States.

States will have certain discretion in the use of their Ration Reserves, subject to DOE guidelines and requirements, including the EPCA requirement that consideration be given to the mobility needs of the handicapped. DOE will provide assistance to the States for the administration of their Ration Reserves.

2.3.3.2. *The National Ration Reserve*

The National Ration Reserve (NRR) will be established as a special contingency reserve, to be used by DOE for the following purposes:

- national disaster relief;
- allotments to Canada and Mexico for foreign firms doing business in the United States;
- allotments to special eligible individuals;
- sales (if any) of ration rights to the public to improve the operation of the white market; and
- any other purpose that DOE may deem necessary.

The NRR will be initially computed as a percentage (to be determined by DOE) of the projected total available supply of gasoline for each ration period. This percentage may be in-

creased or reduced from one ration period to the next as necessary.

The NRR will be maintained in a ration rights account, against which checks may be written by DOE to fulfill the purposes of the reserve.

2.3.4 *Computation of Reserves and Allotments*

2.3.4.1 *Definition of Terms*

In the formulas provided below, the following terms have the following meanings:

Term	*Definition*
CP	The computation period, equal to 90 days, which is used to determine the length of the ration period.
REF	Projected refinery output of gasoline during the computation period.
IMP	Projected imports of gasoline during the computation period.
EXP	Projected exports of gasoline during the computation period.
LOS	Projected losses of gasoline from spillage, evaporation, and casualty losses during the computation period.
INV	Amount of desired gasoline inventory drawdown or buildup during the computation period.
ADJ	An adjusting term representing errors and unclaimed allotments in prevous ration periods.
TAS	The total available supply of gasoline to be rationed during a computation period.
NRR	The gallon value of ration rights to be reserved for use in the National Ration Reserve for the computation period.
SRR	The gallon value of ration rights distributed to the States for the State Ration Reserves for the computation period.
NAS	The net available supply of gasoline during a computation period, equal to the TAS minus amounts necessary for the National Ration Reserve and the State Ration Reserves.
SA	The sum of all supplemental allotments to priority firms, farms, and designated firms for the computation period.
BAS	The basic allotment supply available for distribution to registrants.
VC	Vehicle classification(s) to be established by DOE for all vehicles designated by DOE as eligible to receive allotments.
AI	The allotment index, which expresses the value of the allotment for any vehicle in a given vehicle classification in relation to the allotment for private automobiles (the allotment index for private automobiles will be 1.0).
CVP	The classification vehicle point, which is the sum of all vehicles in a given vehicle classification, multiplied by the allotment index for that vehicle classification.
TVP	The total vehicle points, which is the sum of the classification vehicle points (CVPs) for all vehicle classifications.
BA	The basic allotment for private automobiles in the computation period.
DBA	The distributed basic allotment, equal to the allotment distributed to a private automobile.
RP	The length of a ration period in days.
ADA	The actual distributed allotment, equal to the distributed basic allotment (DBA) multiplied by the allotment index (AI).

2.3.4.2 *Calculations*

This section establishes the formulas for calculating all allotments and the length of each ration period. A 90-day computation period (CP) is used in these calculations initially, since the precise length of the ration period is not known until the final calculation is made.

a. *Total Available Supply (TAS).* The total available supply (TAS) of gasoline that can be sold during the computation period is determined from data available on the refining and importing of gasoline, adjusted for exports, losses, inventory changes, and other adjustments determined by DOE.

$$TAS=REF+IMP-EXP-LOS\pm INV+ADJ$$

b. *Net Available Supply (NAS).* The net available supply is computed by subtracting from the TAS the gallon values of the National Ration Reserve and the State Ration Reserves.

$$NSA=TAS-NRR-SRR$$

c. *Basic Allotment Supply (BAS).* The basic allotment supply (BAS) is computed by deducting the sum of supplemental allotments (SA) from the NAS. Since supplemental allotments to priority and designated firms are computed from base period consumption data provided on a calendar month basis, the term SA will require a pro rata adjustment to a computation period basis before being used in this calculation.

$$BAS=NAS-SA$$

d. *Basic Allotment (BA).* The basic allotment (BA) is computed as follows:

(1) The sum of all vehicles in a given vehicle classification is multiplied by the allotment index (AI) for that classification to yield the number of classification vehicle points (CVP).

$$CVP=VC \times AI$$

(2) The sum of the CVPs for all vehicle classifications equals the total vehicle points (TVP).

$$TVP=CVP_1+CVP_2+\ldots$$

(3) The basic allotment (BA) equals the basic allotment supply (BAS) divided by the total vehicle points (TVP).

$$BA = \frac{BAS}{TVP}$$

e. *Length of the Ration Period.* If gasoline supply levels during a shortage could be accurately projected, then DOE could determine in advance both the total amount of allotments to be distributed and the period for which these allotments would be valid. However, because coupons must be distributed before supply levels are known, and because these supply levels may vary substantially from the projected values, DOE needs a mechanism for matching actual available gasoline supplies with the number of ration coupons already distributed. Varying the length of the ration period is one such mechanism.

For example, if coupons have been distributed for a 90-day period on the basis of a projected gasoline supply, and if the supply subsequently turns out to be below the projected level, the ration period can be extended beyond 90 days to balance the coupons with the lower level of supply.

The length of the ration period is computed from the basic allotment (BA), determined above, divided into the distributed basic allotment (DBA), which represents the average gallon value of coupons already distributed for automobiles, multiplied by the computation period (CP).

$$RP = \frac{DBA}{BA} \times CP$$

f. *Actual Distributed Allotments.* The actual distributed allotment (ADA) for each vehicle is determined by multiplying the distributed basic allotment (DBA) by the allotment index (AI) for the appropriate vehicle class.

$$ADA=DBA \times AI$$

2.4 ISSUANCE PROCEDURES

This section describes how the allotments computed above are distributed to individuals and firms.

2.4.1 *National Vehicle Registration File*

As an advance preparedness measure, prior to any decision to implement gasoline rationing, DOE will develop a national vehicle registration file (NVRF). This file will contain all the vehicle registration records provided by the States from their own motor vehicle registration files, edited and in the proper format to meet the requirements of the rationing plan.

The NVRF will be updated periodically from information provided by States and other appropriate sources. When duplicate registrations are found for a single vehicle, as will commonly occur when a used vehicle is sold, DOE will use only the most recent registration in the NVRF.

Records in the file will be grouped according to vehicle type. Each record will contain a vehicle category identifier from which DOE can establish the correct allotment index. Registered vehicles not eligible for ration rights, such as nonpowered vehicles, will be excluded from the file.

2.4.2 *Distribution of Ration Allotments*

2.4.2.1. *Registrants of Eligible Vehicles*

When rationing is announced, the national vehicle registration file will be distributed among designated com-

puter centers for the production of Government ration checks.

DOE will print and mail ration checks in advance of each ration period, with the appropriate allotment amount printed on each check.

Government ration checks will normally be valid for 60 days from the date of issue. Exceptions may be granted to extend this validity period on a case-by-case basis.

In the case of transfer of vehicle ownership after the rationing program has begun, DOE will remove or make inactive the previous owner's registration record in the NVRF to avoid the issuance of multiple allotments for a single vehicle.

2.4.2.2 *Supplemental Allotments*

If a firm is a priority or designated firm it may submit an application, in a form and with supporting documentation to be designated by DOE, to a DOE Rationing Field Office. Each application should provide information on the applicant's base period gasoline consumption, the number and type of vehicles registered to the applicant, and other information required by DOE. Upon review and approval of each application, DOE will authorize the issuance of a supplemental Government ration check to the applicant.

Procedures for determining supplemental allotments for farming activities will be developed to ensure that allotments are provided in a timely manner, and in amounts adequate to fully meet food and fiber production goals approved by the President. To the extent possible, allotments to individual farmers will be made on the basis of data maintained by the Departments of Energy and Agriculture regarding the gasoline necessary to produce each farmer's share of these food and fiber production goals.

2.5 COUPON ISSUANCE

2.5.1 *Coupon Issuance Points (CIPs)*

DOE will solicit the participation of a variety of financial institutions and other organizations as coupon issuance points. An effort will be made to distribute coupons through many different types of business establishments so that all ration recipients can obtain coupons at establishments where they are used to doing business. Coupon issuance points will be supplied with coupons by DOE, and will serve as check "cashing" points for recipients of Government ration checks.

2:5.2 *Coupon Issuance Procedures*

Coupons will be distributed by DOE to coupon issuance points (CIPs) through a network of inventory control points, established by DOE to manage coupon supply operations and to prevent stockouts at any issuance point.

A ration rights recipient may present a Government ration check to any coupon issuance point and request that it be exchanged for coupons in the amount shown on the check.

When accepting a Government ration check in exchange for coupons, the coupon issuance point will be responsible for exercising precautions similar to those used when monetary checks are cashed for currency. These precautions include inspecting checks for validity and for proper endorsement, and requesting appropriate identification from all individuals presenting checks for coupons.

Government ration checks will ultimately be forwarded to DOE or its agent for reconciliation against issuance records.

2.6 RATION BANKING

2.6.1 *Introduction*

The gasoline rationing program will be supported by a ration banking system consisting of ration banks; regional processing centers; and transfer, verification, and destruction agents. These entities and their functions are described below.

2.6.2 *Ration Banks*

Ration banks will be designated by DOE to receive ration rights and redemption account applications and deposits. Ration banks will normally be commercial banks with teller services suitable for carrying out these functions securely and properly.

The administrative responsibilities of ration banks with respect to ration rights and redemption accounts will be limited to manual processing of new account applications and account deposits. The actual account bookkeeping and computer processing will be handled by regional processing centers, described below. Ration banks will forward account applications and deposited ration and redemption checks to their corresponding regional processing centers; deposits of coupons will be given to a transfer, verification, and destruction agent for further processing.

DOE will establish a schedule of allowable fees that may be collected by ration banks from account holders for the banks' services in connection with the rationing program.

2.6.3 *Regional Processing Centers*

Regional processing centers (RPCs) will be large bank computer centers capable of maintaining a large number of ration rights and redemption accounts for the areas in which they are located. DOE envisions that approximately 15 such centers will be needed to handle accounts for the entire country.

RPCs will maintain computerized account records and will post daily deposits and withdrawals to accounts according to the checks and deposit information forwarded to them. RPCs will handle the clearing of all ration checks other than Government ration checks among themselves, and will forward Government ration checks to DOE or its agent for reconciliation.

RPCs will reject and return checks for which there are insufficient ration rights in the corresponding account.

RPCs will be responsible for providing bank stationers with the names of new applicants for ration rights accounts and redemption accounts, for the mailing of blank checks and deposit forms.

RPCs will print and mail account statements monthly to all account holders, and will provide a variety of management reports for DOE.

2.6.4 *Transfer, Verification, and Destruction Agents*

Transfer, verification, and destruction (TVD) agents will process coupons received at ration banks for deposit into ration rights accounts and redemption accounts. TVD agents will sort, count, bundle, and store deposited coupons, and will eventually destroy them when authorized by DOE. As part of their work, TVD agents will verify the accuracy of amounts shown on coupon deposit slips, and will inspect coupons for counterfeits and for invalid series designators.

If any discrepancies or invalid coupons are identified in the processing of deposited coupons, TVD agents will prepare debit or credit memoranda, and will forward them to regional processing centers for posting to the appropriate accounts.

2.6.5 *Establishing and Servicing Ration Rights Accounts*

Any individual or firm may open a ration rights account at a ration bank by complying with the terms and conditions established by DOE for the operation and maintenance of such accounts.

Ration banks will be responsible for accepting account applications, receiving the initial ration rights deposits associated with the applications, and forwarding the applications to designated regional processing centers for the establishment of the appropriate ration rights account records.

Account holders may deposit valid coupons or ration checks to their accounts and may write ration checks against their accounts.

The cost of handling ration rights accounts may be recovered by ration banks from the account holders, subject to maximum fee limits established

by DOE. Other ration banking costs will be reimbursed to ration banks and RPCs and DOE.

DOE may establish a minimum initial deposit requirement for the opening of ration rights accounts.

2.6.6 *Establishing and Servicing Redemption Accounts*

Most gasoline suppliers will be required to open redemption accounts at ration banks for the deposit of initial redemption account advances, redeemed ration rights, and redemption checks. An exception will be made to this requirement for small gasoline retailers with sales volumes below a threshold level to be established by DOE.

Redemption accounts may be used by suppliers to deposit ration rights they have received for gasoline sales and to write redemption checks to their suppliers of gasoline. Ultimately, all ration rights redeemed for gasoline should flow through refiners and importers to DOE.

Ration banks, RPC's and TVD agents will service redemption accounts in the same manner as ration rights accounts.

The cost of handling redemption accounts may be recovered through fees collected directly from account holders, subject to maximum fee limits established by DOE. Other costs associated with redemption accounts will be reimbursed to ration banks and RPC's by DOE.

2.6.7 *Redemption Account Advances*

DOE will provide a redemption account advance to each supplier at the beginning of the rationing program, to facilitate the initial resupply of gasoline.

The precise amounts of these advances and the procedures for their issuance will be established by DOE.

2.7 DOE ROLE IN THE RATION RIGHTS EXCHANGE MARKET

The ration rights exchange market (white market) is the name applied to all sales of ration rights, whether or not through brokers or other third parties. DOE will permit the sale or transfer of ration rights from those who are willing to sell such rights to those willing to purchase them. DOE will monitor the prices at which ration rights are sold, and will encourage the publication of these prices in local newspapers to help facilitate and stabilize the white market. Although DOE does not intend to regulate the white market, it reserves the right to do so if necessary to prevent activities harmful to the stable operation of the market or harmful to competition.

2.7.1 *DOE Sales of Ration Rights*

DOE may enter the white market as a seller of ration rights, if necessary, to ensure the availability of ration rights to prospective purchasers. The proceeds of these sales would be used to defray costs of the rationing program. If these proceeds exceed program costs, the surplus would be retained by the U.S. Treasury Department.

2.7.2 *Sales of Ration Rights at Coupon Issuance Points*

Subject to existing Federal and State laws, coupon issuance points will be permitted, at their option, to buy and sell ration rights as white-market traders, in addition to the rights they distribute or sell on behalf of DOE. Coupon issuance points may not, however, collect any fee or service charge from the holders of Government-issued ration checks for exchanging such checks for coupons. Coupon issuance points will be required to maintain separate inventories of coupons they purchase for resale, apart from inventories of coupons supplied to them by DOE for issuance to holders of Government ration checks or for sale as agents of DOE.

2.7.3 *Sales of Ration Rights to Foreign Motorists*

DOE will assist foreign visitors in locating white-market points convenient to major U.S border points of entry. DOE itself may offer rights for sale to such visitors or may arrange for other entities to make white-market ration rights available as a service to foreign visitors.

2.8 PURCHASES OF GASOLINE

2.8.1 *Transfer of Ration Rights for Gasoline*

This section describes the ways in which gasoline may be sold at each level of the gasoline distribution system, and the means by which all gasoline sales are balanced by the collection of appropriate ration documents (coupons, checks, or redemption checks).

2.8.1.1 *Sales of Gasoline by Retail Sales Outlets*

Retail sales outlets may sell gasoline to a purchaser in any of the following ways with regard to the exchange of ration rights:

- They must accept valid ration coupons offered by a customer, in amounts equal in gallonage value to the gallons of gasoline sold.
- They may, at their option, accept ration checks for the amount of gasoline sold.
- They may, at their discretion, accept ration coupons or ration checks in excess of the gallons pumped and give the purchaser cash, scrip, or credit equal to the excess amount.
- They may accept cash in lieu of ration rights as a convenience to motorists, provided the retailers secure ration rights within a time period to be designated by DOE [1] for all gasoline they sell. This service will be especially useful to purchasers of gasoline in small quantities.

DOE intends to permit retail sales outlets, like other firms or individuals, to buy and sell ration coupons in the white market. DOE reserves the right to impose restrictions on white-market transactions by gasoline suppliers, however, if these transactions appear to have adverse effects on the operation of the white market or on the supply of gasoline.

In no case may the sale of gasoline to any customer offering valid coupons be made contingent on that customer's purchase of ration rights from the retailer.

2.8.1.2 *Sales of Gasoline by Wholesale Suppliers*

Wholesale suppliers who sell gasoline to retail sales outlets or to other wholesale customers must receive, by the close of the following business day, redeemed ration rights or redemption checks for the full amount of gasoline delivered.

Wholesale suppliers must remit redeemed ration rights or redemption checks to their suppliers by the close of the business day following the date that the gasoline is received.

2.8.1.3 *Sales of Gasoline by Principal Suppliers*

Principal suppliers (refiners and gasoline importers) will be required to receive redeemed ration rights or redemption checks for all gasoline they refine or import and sell to others. Principal suppliers will be required to transmit redemption checks to DOE every month in an amount equal to the prior month's total sales or deliveries of such gasoline. DOE will audit principal suppliers' records and ration bank account statements to verify that the ration rights remitted to DOE match all such gasoline sales or deliveries for the period in question.

2.8.2 *Shrinkage, Spillage, and Evaporation Losses*

DOE may permit gasoline suppliers to adjust their payments of redeemed ration rights to account for temperature-induced volumetric changes, and for normal and reasonable spillage and evaporation losses. The permissible level of these adjustments and the method for their accounting will be established by DOE.

[1] This time period is envisioned to be 48 hours.

2.8.3 *Fuel Blends*

Fuels that contain blends of motor gasoline and other substances (such as alcohol) will be included in the rationing program, but only to the extent of the volume of gasoline used in the blend. For example, for "gasohol" containing 90 percent gasoline by volume, only 90 gallons of ration rights would need to be collected for every 100 gallons of gasohol sold.

2.9 INTERFACE OF THE RATIONING PLAN AND THE ALLOCATION PROGRAM

2.9.1 *Introduction*

Both the rationing and allocation programs will affect the distribution of gasoline. This section describes the proposed interface between these programs.

2.9.2 *Comparison of the Allocation and Rationing Programs*

It is assumed that in a petroleum supply shortfall situation an allocation program will be in effect during the implementation period for rationing. An allocation program would provide for distribution of the available supply of fuel down to the wholesale or bulk purchaser level. Under DOE's standby gasoline allocation program, the gasoline allocated to a wholesale purchaser or a bulk purchaser is a function of:

- Historical deliveries—the amount of gasoline purchased during the established base period;
- Customer priority—the classification assigned by DOE to the customers of the supplier on the basis of specified allocation levels; and
- The allocation fraction—the ratio of the supplier's total available supply to his total supply obligation.

The allocation program is designed to ensure that the supplier-purchaser relationship is maintained for all wholesale purchasers, as well as to provide for the equitable distribution of refined petroleum products among all regions and areas of the United States, among all sectors of the petroleum industry, and among all users.

If the gasoline shortage is sufficiently severe, the allocation program may be inadequate. Confusion at the gasoline pump, inequitable distribution of fuel, lost productive time, and public discontent could grow to unacceptable levels. If this situation occurs, gasoline rationing may be implemented.

2.9.3 *Interface of the Allocation Program and Rationing Plan*

Because the two programs use different bases for entitlement and for gasoline replenishment, some of the provisions of the allocation program and the rationing program are incompatible. Therefore, when the decision is made to implement rationing, a portion of the allocation regulations will be revised or suspended, while other parts of the allocation program that do not conflict with rationing will be retained to prevent discrimination in the marketplace.

When gasoline rationing is put into effect, DOE will maintain supplier-purchaser relationships in accordance with the allocation program to ensure that all wholesale purchasers of gasoline have one of more assured sources of supply.

The volume of gasoline to be supplied during the rationing program will be as follows:

- If the purchaser has fewer ration rights (including redemption checks) than his allocation entitlement, then he receives the smaller amount, equal to his ration rights. In allocation terms, this purchaser has "underlifted" his allocation entitlement. The supplier may offer the "unlifted" balance of gasoline first to his other customers with ration rights, pro rata, and second to any other willing buyer(s) with ration rights.
- If the purchaser has ration rights equal to his allocation entitlement, he receives this exact amount.
- If the purchaser has more ration rights than allocation entitlement, he receives his full allocation entitlement from his base period suppliers, and is given the opportunity to purchase a pro rata share of any product unlifted by other customers of the same suppliers. If this still does not equal his volume of ration rights, the customer may seek any other suppliers with unlifted product. (DOE or private entities may develop information systems to help purchasers locate suppliers with unlifted product.)

In summary, each wholesale customers will initially receive gasoline equal to the *lesser* of his allocation entitlement or his ration rights from his base period suppliers. If he has more ration rights than allocation entitlement he may seek unlifted product from his base period suppliers(s) or turn to the open market to find any supplier able to meet his needs.

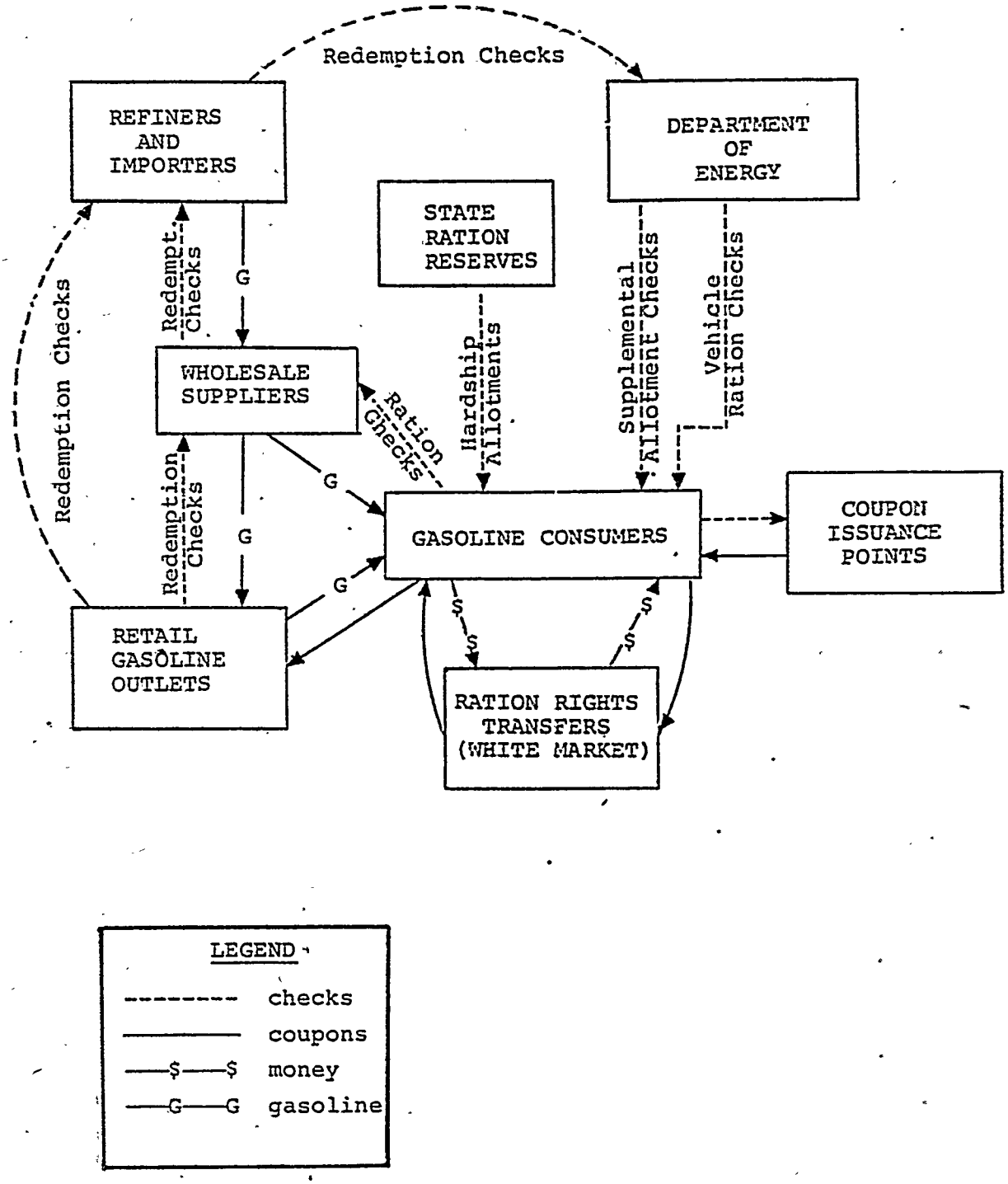
By keeping the number of ration rights issued approximately equal to the estimated total supply of gasoline, and by maintaining the ability to vary ration period length as supply estimates are changed, DOE will attempt to ensure that any gasoline user with valid ration rights will have access to gasoline.

This combination of rationing and allocation will minimize market disruptions and will prevent discrimination against any class of wholesale purchasers in the gasoline market.

2.10 *Diagram of Major Rationing Program Document Flows*

Exhibit 2-2 provides a simplified schematic diagram of the major flows of coupons, ration checks, and redemption checks in the rationing program.

EXHIBIT 2-2. SCHEMATIC DIAGRAM OF MAJOR GASOLINE AND DOCUMENT FLOWS DURING RATIONING



3. Government Operations

3.1 Introduction

This part presents an overview of the Federal and State governmental organizations required to administer gasoline rationing, and briefly describes the roles of these organizations before rationing is needed; during the rationing implementation period; and during rationing operations.

The Federal and State rationing organizations will evolve through three discrete time phases prior to actual rationing operations. These are:

- The "preimplementation" phase—for the acquisition or development of necessary data, materials, and systems. This phase would begin as soon as Congress approves the proposed rationing plan.
- The "readiness maintenance" phase—a waiting period of indefinite length, between the completion of the previous preparatory phase and the implementation of rationing in the event of a gasoline supply emergency.
- The "implementation" phase—the mobilization period following the order to begin rationing. During this setup period coupons will be distributed, ration bank accounts will be established, State Ration Reserve operations will begin, and information on rationing will be disseminated to the public. It is DOE's objective to make the rationing plan capable of implementation within 45 days.

Finally, full-scale operations begin in the "operations" phase. During this period no gasoline sales may be made without the transfer of ration rights. This phase may last up to nine months, or longer if Congress renews its approval of the rationing plan.

3.2 Development of the Federal Organization

3.2.1 *Preimplementation Phase*

Immediately after congressional approval of the rationing regulations, DOE will begin the detailed design, development, and testing of key rationing systems; the preparation of public information materials, and the performance of other long-lead-time tasks required to achieve the goal of a 45-day readiness.

3.2.2 *The Readiness Maintenance Phase*

Following the completion of preimplementation tasks, DOE will maintain the systems and procedures developed for rationing, modifying the plan as required by changing gasoline sales practices, and updating the national vehicle registration file with additions, changes, and deletions reported by States and other sources.

3.2.3 *Rationing Implementation and Operations Phases*

In the event that the President determines that rationing is needed to deal with a petroleum supply interruption, and provided that neither house of Congress disapproves the President's request for rationing, DOE would immediately begin to implement the rationing plan.

An Office of Gasoline Rationing (OGR) will be established, with the following subdivisions:

- Office of the Director—responsible for overall program supervision and coordination of the other functions listed below.
- Policy and Evaluation—responsible for policy development, special studies, entitlements administration, management of the National Ration Reserve, and revisions to rationing procedures.
- Rationing Operations—responsible for managing the distribution of coupons and allotment checks, including supplemental allotment checks, and the ration banking system. This office will also be responsible for implementing gasoline allocation and resupply regulations, for overseeing the operation of the white market, and for overseeing the administration of the State Ration Reserves.
- Audit and Enforcement—responsible for managing Federal audit and enforcement activities.
- Public Information—responsible for Federal information programs and the coordination of State information programs.
- Information Systems—responsible for implementing and administering the several information systems required for rationing, including the national vehicle registration file.

These functions will be carried out both in the national office of OGR and in a network of Federal field offices. Field offices will be principally responsible for the preparation of supplemental allotment checks for firms, and for most audits.

3.3 Development of State Organizations

3.3.1 *Preimplementation Phase*

As the Federal Government develops its detailed rationing plan during the preimplementation period, States will begin planning their rationing roles as well.

An early task facing States will be the transmittal to DOE of a copy of the State motor vehicle registration files, to be incorporated in DOE's national vehicle registration file. DOE will work with each State to develop format requirements and any special data conversion routines necessary to provide DOE with uniform vehicle registration records for the creation and periodic updating of the national vehicle registration file.

An additional task for States during the preimplementation phase will be the development of detailed operating procedures for the administration of the State ration reserves, including the location of the local rationing boards that the State will operate during rationing. State working groups established to prepare these procedures should also develop plans for public information and certain audit and enforcement activities that will be the States' responsibility during rationing.

DOE will work closely with States in this period to coordinate and provide suggested guidelines for State planning.

3.3.2 *Readiness Maintenance Phase*

Following the development of detailed State procedures, State planning groups would evolve into interim plan maintenance offices, keeping in contact with DOE regarding any plan changes or refinements proposed by DOE or by the States themselves. States would provide DOE with periodic updates to their motor vehicle registration records to keep DOE's national vehicle registration file current.

3.3.3 *Implementation and Operations Phases*

When DOE begins its program implementation activities in a gasoline supply shortage, States will simultaneously set up State Rationing Offices responsible for putting detailed state procedures into effect. Local boards will be established, public information will be distributed, and other State functions will be established according to detailed DOE guidelines and previously developed State procedures.

4. Program Costs, Staffing, and Funding

4.1 Cost Estimates

Exhibit 4-1 presents an estimate of the cost to the Federal Government of the gasoline rationing program, according to specific program functions for the three principal time phases discussed in the preceding section.

The development of the cost estimates in Exhibit 4-1 was based upon analyses of functions to be performed and upon contacts with private and public organizations that perform similar activities. In a number of cases, the lack of activities directly comparable to rationing functions has made it difficult for the organizations contacted to provide precise cost estimates. In such cases, fairly wide ranges of costs were often given, and reasonsonable estimates were selected within the range provided.

It is anticipated that the standby rationing plan will be maintained in a state of readiness between the preimplementation and implementation phases. These readiness-maintenance costs are estimated to be approximately $6 million to $7 million per year.

EXHIBIT 4-1.—*Federal* [1] *Cost Estimates*

[In millions of dollars]

	Preimplementation	Implementation	Per rationing period [2]
a. Coupon Production	17.1	16.4	32.9
b. Government Check Production	3.6	1.7	3.3
c. Government Ration Check Issuance and Reconciliation	1.2	20.9	26.9
d. Coupon Bulk Distribution and Issuance (cost of cashing private ration checks is included in ration banking immediately below)	1.0	66.5	81.0
e. Ration Banking (partial) [3]	7.5	8.4	63.0
f. Federal Adjustments and Appeals	1.1	69.0	18.9
g. Federal Audit and Enforcement	0.3	7.4	14.7
h. Public Information	0.1	6.8	8.8
i. National Vehicle Registration File	8.9	0.8	1.7
j. Program Management and Administration	3.9	3.8	5.7
k. Administration of State Ration Reserves	7.4	135.2	139.6
l. Other State Activities	1.3	9.5	17.7
Total	53.4	346.4	415.4

[1] These are costs that would be either borne directly or reimbursed by the Federal Government.
[2] Each ration period will last approximately three months.
[3] Some ration banking costs would be recovered through fees and are therefore not included here.

4.2 STAFFING

Approximately 4,600 full-time-equivalent Federal personnel will be needed to operate the rationing program. Federal staffing will be accomplished mainly through the reassignment of existing personnel, with few new hires.

States, coupon issuance points, and other program participants will require the efforts of many thousands of people in both part-time and full-time capacities. The cost of these participants is included in Exhibit 4-1

4.3 FUNDING AND FEE COLLECTION

The preimplementation and readiness maintenance costs of the rationing program will be funded through normal Federal Government budgetary processes.

Implementation and operating costs will also need budgetary authorization and appropriation through normal procedures when rationing implementation begins, but there will be revenues from two sources to offset operating costs.

First, if the Federal Government sells ration rights to facilitate the development of a white market, the proceeds from such sales will provide revenue to defray rationing program costs. Any surplus of revenue over costs will be retained by the U.S. Treasury.

Second, if ration rights are not sold by the Government, or if the proceeds from such sales are insufficient to cover program expenses, a fee will be collected on all gasoline sold. This fee, which will be added to the Federal excise tax on gasoline, will be set at a level estimated to cover program costs without generating a deficit or a surplus.

[NOTE: This appendix was filed at the Office of the Federal Register on March 7, 1979 at 3:20 p.m. The remainder of the document was filed on March 6, 1979 at 8:45 a.m.]

[FR Doc. 79-6930 Filed 3-6-79; 8:45 am]

Federal Register

WEDNESDAY, MARCH 14, 1979

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

DEPARTMENT OF ENERGY

Economic Regulatory Administration

■

MANDATORY PETROLEUM PRICE REGULATIONS

Refiners to Allocate Increased Costs to Gas on a Greater Than Pro Rata Volumetric Basis

[6450-01-M]

Title 10—Energy

CHAPTER II—ECONOMIC REGULATORY ADMINISTRATION

[Docket No. ERA-R-77-3]

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Amendment To Allow Refiners To Allocate Increased Costs to Gasoline on a Greater Than Pro Rata Volumetric Basis

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts amendments to the Mandatory Petroleum Price Regulations which will permit refiners to recover an additional amount of their total increased costs through gasoline sales. These amendments will eliminate the impediments that have existed in the regulations since 1976 and that have prevented refiners from recovering in gasoline prices the full amount of costs associated with producing gasoline. They will help encourage increased investments in refining capacity and prevent shortages of gasoline, particularly unleaded gasoline. We are also adopting amendments to include within refiners' banks the additional increased costs that would have been allocable to gasoline if this rule had become effective on January 1, 1979. In addition to issuing these amendments, we are also continuing this rulemaking to consider what actions would be appropriate if the price differential between leaded and unleaded gasoline increases to an extent that results in significant adverse environmental consequences.

DATES: Effective March 1, 1979.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, NW., Room B110, Washington, D.C. 20461, (202) 634-2170.

Chuck Boehl (Office of Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street, NW., Room 2304, Washington, D.C. 20461, (202) 254-7200.

Ben McRae (Office of General Counsel), Department of Energy, 1000 Independence Avenue, SW., Room 6A-127, Washington, D.C. 20585, (202) 252-6739.

SUPPLEMENTARY INFORMATION:

I. *Background*
II. *Amendments Adopted*
III. *Effective Dates*
IV. *Other Matters*

I. BACKGROUND

The pricing regulations applicable to refiners generally provide that the maximum allowable price for a product is the sum of the weighted average price at which the product was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, plus allowable increased costs incurred between the month of measurement and the month of May 1973. The regulations specify the method of calculation of such increased costs, both product and non-product, and the method of their allocation to the prices of all products (or product categories) in a refiner's product mix.

Under the regulations, a refiner's total increased costs of crude oil and increased non-product costs are allocated among gasoline and other products based on the relative volumes of such products refined from crude oil in the month of measurement. However, because of the relatively more sophisticated refining processes necessary to produce gasoline, the portions of increased crude oil and non-product costs associated with refining gasoline are for most refiners actually greater than the percentage of a refiner's volumetric output of gasoline. In order to increase the yield of gasoline, refiners may purchase and refine higher-priced light gravity crude oil, thereby incurring higher increased product costs that are not attributable to products other than gasoline. Moreover, refining non-product costs and the cost of facilities for production of gasoline, particularly unleaded gasoline, are generally higher than for production of other heavier products. Indeed, in order to meet the lead phasedown and other Clean Air Act requirements with respect to the gasoline pool, refiners are incurring substantial increased costs. For example, increased severity of reforming and use of new catalysts to improve octane add substantially to refiner costs.

Prior to the decontrol of residual fuel oil on June 1, 1976 (41 FR 13896, April 1, 1976), of middle distillates on July 1, 1976 (41 FR 24516, June 16, 1976), and certain other products on September 1, 1976 (41 FR 30096, July 22, 1976), the regulations permitted the reallocation to gasoline of increased costs initially allocated to these other controlled products but not recovered in the prices charged for these products. The ability to reallocate increased costs from other controlled products to gasoline permitted prices that corresponded with the historical pattern of higher prices for gasoline relative to other petroleum products to reflect the generally higher costs of refining gasoline. Data obtained from the thirty largest refiners for the period March 1975 through May 1976, during which time all major refined products were controlled, indicate that refiners utilized, to a significant degree, the ability to reallocate costs from other products to gasoline. Present regulations continue to allow costs to be reallocated from other controlled products to gasoline, but since most products other than gasoline are now deregulated, the opportunity to allocate more than a *pro rata* volumetric share of costs to gasoline is severely limited.

On February 11, 1977, the Federal Energy Administration a predecessor of DOE, proposed a regulation that would have permitted refiners to allocate their increased costs to gasoline on a greater than *pro rata* volumetric basis ("gasoline tilt") (42 FR 9675, February 17, 1977) Public hearings on the proposal were held on March 8, 1977. This rulemaking was among those that was pending when the DOE was activated on October 1, 1977, and was continued under the jurisdiction of the ERA.

On October 22, 1978, we issued a final rule providing for the allocation of increased costs to gasoline on a greater than *pro rata* volumetric basis (43 FR 50386, October 27, 1978). The rule was to have become effective December 1, 1978. Prior to the effective date, however, we discovered that the FERC had inadvertently not been provided adequate opportunity to review the rule under Section 404(a) of the DOE Organization Act to determine whether it might significantly affect a function of the Commission under Section 402 (a), (b), or (c)(1) of the DOE Organization Act. (Section 404, which applies to, among other things, all proposed rules promulgated by the ERA under the EPAA, provides that if the Commission does determine that such a function might be significantly affected, it shall receive public comment on the proposal and may make recommendations to the ERA on modification of the proposal.) Therefore, on November 24, 1978, we issued a notice (43 FR 55744, November 29, 1978) indicating our suspension of the effective date of the rule with the intent to make it effective on January 1, 1979 in order to allow the FERC an opportunity to make the threshold determination under section 404(a) as to whether the rule might significantly affect one of its functions. On December 14, 1978, the Commission notified us by letter that it had decided not to make such a determination.

While the rule was pending before the FERC, we also decided that we would complete an environmental impact statement (EIS) on the gaso-

line tilt before making a final decision on whether to put it into effect, and on December 5, 1978, a notice to that effect was issued (43 FR 57609, December 8, 1978). In the notice we indicated that the environmental effect of the gasoline tilt rule had already been thoroughly condsidered in the draft environmental impact statement (DEIS) on motor gasoline deregulation (as an alternative to deregulation) and that the final EIS would consider both deregulation and the tilt. On January 29, 1979, we issued a final EIS on motor gasoline degregulation and the gasoline tilt which contains a comprehensive evaluation of the environmental impacts, including social and economic impacts, that might result from the allocation of increased costs to gasoline on a greater than *pro rata* volumetric basis.

In the December 5 notice, we also asked that additional comments on the formulae in the October 22, 1978 tilt rule for the maximum amount of increased product and non-product costs allocable to gasoline and on the need for further investment incentives for refiners be submitted to us by January 12, 1979. We also requested comments as to whether if a tilt rule were finally adopted, it should allow refiners' banked costs to be adjusted to reflect the additional increased costs that would have been allocable to gasoline if the gasoline tilt rule had become effective December 1, 1978, as originally scheduled.

The majority of the comments received subsequent to November 1, 1978 on the rule to allocate increased costs to gasoline on a greater than *pro rata* volumetric basis viewed the rule as a necessary incentive, in the absence of gasoline deregulation, for the increased investment in refining capacity needed to prevent shortages of gasoline, especially unleaded gasoline. A few of the comments, notably those of the Center for Auto Safety, asserted that the rule would permit an increase in the price differential between leaded and unleaded gasoline and, consequently, cause an increase in the use of leaded gasoline in motor vehicles with emission control systems requiring unleaded gasoline, with a resultant increase in the levels of auto emissions. Otherwise, there were no criticism of the substance of the rule, including the formulae for the maximum amounts of increased costs that could be allocated to gasoline. Four of the five comments that addressed the issue favored a December 1, 1978 effective date for the rule.

The final EIS on the gasoline tilt examined the fuel switching issue in great detail and found that while there is some possibility that the allocation of increased costs to gasoline on a greater than *pro rata* volumetric basis would result in an increase in the average price differential between leaded and unleaded gasoline, the resultant increase in fuel switching would not be so great as to delay significantly the achievement of the National Ambient Air Quality Standards in problem cities. In addition, the final EIS foresaw a dampening effect on demand due to expected price increases permitted by the rule which should reduce vehicular emissions by considerably more than the expected increase due to fuel switching. The final EIS also examined the potential for fuel switching if the existing regulations were continued without change and found that continuing the existing regulations could have greater adverse environmental consequences than allocating increased costs to gasoline on a greater than *pro rata* volumetric basis since the existing regulations would inhibit needed investment by refiners in production facilities for unleaded gasoline. The resulting shortages in unleaded gasoline would cause motorists to switch to leaded gasoline in order to obtain adequate supplies.

II. Amendments Adopted

We believe that fair regulation must recognize the need of refiners to recover their increased product and non-product costs for producing gasoline. Restoration to refiners of the flexibility to allocate increased costs to gasoline on a greater than *pro rata* volumetric basis, up to the maximum amounts permitted by the formulae set forth in the rule, will achieve this regulatory goal of fairness. The final EIS on the gasoline tilt has reinforced our original determination that, pending the deregulation of gasoline, the allocation of increased costs to gasoline on a greater than *pro rata* volumetric basis is an acceptable and necessary action to improve the investment climate for expansion or modification of refineries and, thus, to prevent shortages of gasoline, particularly unleaded gasoline. Therefore, we are hereby amending sections 212.83(c)(2)(iii) (C) and (E) of the refiner pricing regulations, effective March 1, 1979, to permit the allocation of increased costs to gasoline on a greater than *pro rata* volumetric basis.

The amendments adopted today change the definition of the "A_i" factor in § 212.83(c)(2)(iii)(C) to permit a refiner to allocate to gasoline as much as 110 percent of the increased crude oil costs attributable to gasoline on a *pro rata* volumetric basis. Increased crude oil costs may still be allocated to other controlled products on a *pro rata* volumetric basis.

The amendments also change the definition of the "N_i" factor in § 212.83(c)(2)(iii)(E) to permit a refiner to allocate increased non-product costs to gasoline on a greater than *pro rata* volumetric basis by using the "U" factor. A refiner may designate the "U" factor to be any fraction not less than the ratio of the volume of gasoline refined to the volume of all products refined but not greater than the fraction determined in accordance with the formula:

$$\text{Maximum percentage allocable to gasoline} = 1 - \left(1 - \frac{\text{Volume of gasoline refined}}{\text{Volume of all products refined}}\right)^2$$

The following are examples of the maximum fractions of increased non-product costs which may be allocated to gasoline under this formula:

Ratio of volume of gasoline to total volume of all products	Fraction of total increased non-product costs which may be allocated to gasoline
0	0
.10	.19
.20	.36
.30	.51
.40	.64
.50	.75
.60	.84
.70	.91
1.00	1.00

For other controlled products, increased non-product costs will be allocated on the basis of the following fraction:

$$1 - \left(\text{Allocation percentage used for gasoline}\right)\left(\frac{\text{Volume of controlled product refined}}{\text{Volume of all products refined} - \text{Volume of gasoline refined}}\right)$$

This fraction provides that any allocation of total increased non-product costs to gasoline on a greater than *pro rata* volumetric basis will result in the allocation of total increased non-product costs to other controlled products

on a less than *pro rata* volumetric basis.

III. EFFECTIVE DATES

This rule will be effective immediately upon issuance in order to allow refiners an immediate opportunity to adjust prices to reflect realistically the costs of refining gasoline. In making this rule effective immediately, we are specifically waiving the requirement in the Administrative Procedures Act (5 U.S.C. § 553) which requires a 30-day waiting period between the publication of a final regulation and its effective date unless good cause is found to waive this waiting period.

Grounds exist for making this rule immediately effective because of the current tightness of supply of motor gasoline. Several major refiners of gasoline have announced that effective March 1, 1979, they will have to begin allocating gasoline to their customers, in some cases in amounts less than their customers' base period supplies, because they have been experiencing reduced crude oil runs due directly or indirectly to the cessation of Iranian crude oil production. We anticipated the possibility of such allocation on March 1 by issuing on February 22 an order activating those provisions of ERA's Standby Petroleum Product Price and Allocation Regulations (Special Rule No. 1 to 10 CFR Part 211) that allow the updating of the base period for gasoline allocation to the 12-month period from July 1, 1977 through June 30, 1978. (44 FR 11202, February 28, 1979.) That order describes in detail the supply shortage conditions that currently exist and that justified the activation of portions of the standby regulations, and the findings in that order are incorporated herein by reference.

Allowing the gasoline tilt regulation to go into effect immediately will help to alleviate some of the current supply problems caused by distortions in gasoline prices. Several major refiners of gasoline have exhausted their gasoline banks and are therefore required to price their gasoline below their competition. This has tended to increase the demand for their products, thus tending to exacerbate an already tight supply situation for these suppliers and their customers. By allowing the tilt to go into effect immediately, these refiners will be able to adjust their prices to reflect those of their competition.

In addition, the continuation of the current world-wide crude oil shortfall must be assumed for prudent planning purposes and could cause significant shortfalls of gasoline during the coming summer driving season if current stocks are drawn down precipitously and gasoline production is not maintained at maximum possible levels. Reinstating this rule immediately will provide refiners with incentives to purchase light, high-gasoline-yield crude oils, which are currently selling for substantial premiums in the world crude oil market, in order to maximize their gasoline yields.

Finally, waiving the 30-day waiting period is not likely to cause significant inconvenience to any interested party given the circumstances in which this rule is being reinstated. One of the purposes of the waiting period is to give affected parties an opportunity to adjust their business practices to accommodate the effect of the rule. In this case refiners and other parties have had substantial advance notice that we have had reinstatement of the gasoline tilt rule under consideration and that the first date it could be adopted and might be effective is March 1, 1979. The substance of the rule has been well known since the issuance of the October 22, 1978 notice. Therefore, in this case refiners and other affected parties have had much more than the usual 30 days to anticipate the effectiveness of this regulation.

We are also amending the definitions of "A_i^r" and "N_i^r" for gasoline to include the additional increased costs that would have been allocable to gasoline if this rule had become effective on January 1, 1979. We believe that such action is necessary and appropriate to grant refiners future flexibility to charge prices reflective of market conditions, particularly in view of the fact that when a final tilt rule was adopted on October 22, 1978, some refiners may have drawn down their banks in November in expectation of the December 1 effective date and therefore lost some pricing flexibility during the winter months that they otherwise would have had. The limitations of sections 212.83(e) (6) and (7) on the passthrough of amounts from "A_i^r" and "N_i^r", respectively, will prevent a refiner from recouping more than ten percent of these increased cost in any one month. We have decided, however, that it would be inappropriate to go back as far as December 1, 1978 in allowing these adjustments, as suggested in the December 5 notice, because our failure to give the FERC an opportunity to consider the threshold question under section 404 of the DOE Act would have prevented us from making the tilt rule effective on December 1, 1978 in any event.

We have also decided that grounds do not exist for waiving the 30-day waiting period under the Administrative Procedures Act insofar as it applies to this aspect of the rulemaking. Therefore, any adjustments to banked costs for the months of January and February 1979 will not be available for passthrough in gasoline prices until May 1979, the first full month following the expiration of 30 days after publication of this notice.

IV. OTHER MATTERS

In adopting this rule, we have considered, in accordance with DOE Order 2030, the economic impact of our action and have prepared a regulatory analysis. Copies of the regulatory analysis, as well as the EIS, may be obtained from the ERA, Office of Public Information, 2000 M Street, N.W., Room B-110, Washington, D.C., 20461, (202) 634-2170.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective March 1, 1979.

Issued in Washington, D.C. March 1, 1979.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

1. Section 212.83(c)(2)(iii)(C) is amended by inserting a new sentence immediately before subparagraph I and at end of the subparagraph (C). For clarity, the entire "A" factor is set out for the benefit of the reader. As amended, the provisions read as follows:

§ 212.83 Price rule.

* * * * *

(c) *Allocation of increased costs.*

* * * * *

(2) *Formulae.*

* * * * *

(iii) *Definitions.*

* * * * *

(C) *The "A" factor.*

$$A_i = A_i^t + A_i^s + A_i^r$$

"A_i" is, for i=1, i=2, i=3, and i=4, the sum of the increased costs of crude oil attributable to the specific covered product or products of the type "i" purchased or landed on or after January 1, 1976 and prior to or during the period "s" and not recovered in sales of that product through the period "t" and the increased costs of crude oil attributable to the specific covered product or products of the type "i" pur-

chased or landed on or after January 1, 1976 in the period "t". "A_i" also includes the increased costs of crude oil and purchased products attributable to the covered product or products of the type "i" incurred through December 31, 1975 and not passed through as of January 31, 1976, and not recovered in sales of that product through the period "t". Notwithstanding the foregoing provisions of this paragraph, beginning March 1, 1979, for the product i=3, "A_i" shall be at least 100% (one hundred percent) of "A_i^t", plus the sum of "A_i^s" and "A_i^r"; but may, at the option of the refiner concerned, be up to 110% (one hundred ten percent) of "A_i^t", plus the sum of "A_i^s" and "A_i^r".

(I) Until March 1, 1977 but not thereafter:

$$A_i^t = Q^t \left(\frac{C^t}{Q^t} - \frac{C^o}{Q^o} \right) \left(\frac{V_i^u}{V^u} \right)$$

and

(II) Beginning not later than March 1, 1977 or, at the option of each refiner, beginning as of any month prior thereto but not before June 1, 1976:

$$A_i^t = Q^t \left(\frac{C^t}{Q^t} - \frac{C^o}{Q^o} \right) \left(\frac{R_i^t}{R^t} \right)$$

provided that the formula elected to be used, once elected, shall continue to be used.

"A_i^t" is the total increased costs of crude oil attributable to the specific covered product or products of the type "i" purchased or landed or received in exchanges in the period "t" for refining by that refiner. The cost and quantity of crude oil that is consumed as refinery fuel or that is otherwise consumed or disposed of (other than by exchanges) in the period "t" so as not to be available for that refiner's input to crude oil distillation units shall be excluded from this amount (except to the extent permitted with respect to crude oil sold under § 211.65 of this Chapter pursuant to the definitions of "Q^t" and "C^t").

Where:

"Q^t"=The total quantity or volume of crude oil purchased or landed for refining or for resale under § 211.65 plus the volume of crude oil received less the volume of crude oil given up pursuant to exchanges in the period "t," provided however that this amount shall be reduced by the quantity of crude oil sold under § 211.65 in the period "t." "The quantity or volume of crude oil" includes quantities or volumes of unfinished oils which were covered products as of May 31, 1976 and of synthetic fuels (crude oil substitutes) processed from oil shale, tar sands, coal, and other natural deposits that must be mined before the crude oil substitute can be extracted, provided that such oils or fuels are used in refining and are further refined.

"Q^o"=The total quantity or volume of crude oil purchased or landed for refining or for resale under § 211.65 plus the volume of crude oil received less the volume of crude oil given up pursuant to exchanges in the period "o," provided however that this amount shall be reduced by the quantity of crude oil sold under § 211.65 in the period "o." "The quantity or volume of crude oil" includes quantites or volumes of unfinished oils which were covered products as of May 31, 1976 and of synthetic fuels (crude oil substitutes) processed from oil shale, tar sands, coal, and other natural deposits that must be mined before the crude oil substitute can be extracted, provided that such oils or fuels are used in refining and are further refined.

"C^o"=The total cost of crude oil purchased or landed in the period "o" for refining plus the total amount paid in cash in the period "o" less the total amount received in cash pursuant to exchanges in such period.

"C^t"=The total cost of crude oil purchased or landed in the period "t" for refining or for resale under § 211.65, plus the total amount paid in cash in the period "t" less the total amount received in cash pursuant to exchanges in such period, provided, however, that this amount shall be reduced by the revenues from sales of crude oil under § 211.65 made in the period "t," except for any transportation adjustment or the handling fee provided for by § 212.94(b).

"V^u"=The total volume of all covered products (other than propane, which shall be included to the extent that it was refined by the refiner from crude oil) and all products refined from crude oil other than covered products estimated to be sold in the period "u."

"V_i^u"=The total volume of a specific covered product or products of the type "i" (other than propane, which shall be included to the extent that it was refined by the refiner from crude oil) estimated to be sold in the period "u."

"R^t"=The total volume of all products refined by the refiner from crude oil (including product attributable to unfinished oils and additives) in the period "t."

"R_i^t"=The total volume of a specific covered product of the type "i" refined by the refiner from crude oil (including product attributable to unfinished oils and to additives) and the net volume of a specific covered product of the type "i" given up and received pursuant to exchanges in the period "t," *provided* that in no event shall R_i^t be less than zero.

"The quantity or volume of crude oil" includes quantities or volumes of unfinished oils which were covered products as of May 31, 1976 and of synthetic fuels (crude oil substitutes) processed from oil shale, tar sands, coal, and other natural deposits that must be mined before the crude oil substitute can be extracted, provided that such oils or fuels are used in refining and are further refined.

"A_i^s" is the total increased cost of crude oil attributable to the specific covered product or products of the type "i" computed under "A_i^t" for the month preceding the month of measurement ("s") beginning on or after January 1, 1976 but not recovered in sales of that product during the period "t."

"A_i^r" is the total increased cost of crude oil attributable to the specific covered product or products of the type "i" computed under "A_i^t" for all months through the month two months before the month of measurement ("r") beginning on or after January 1, 1976 but not recovered in sales of that product through the period "t." "A_i^r" also includes the increased costs of crude oil and purchased products attributable to the covered product or products of the type "i" incurred through December 31, 1975 and not passed through as of January 31, 1976, and not recovered in sales of that product through the period "t." Effective May 1, 1979, for i=3, a refiner may increase "A_i^r" by ten percent of the sum of the amounts computed under "A_i^t" for that refiner for the months of January and February 1979.

2. Section 212.83(c)(2)(iii)(E) is amended by revising the first subparagraph II and by adding subparagraph III immediately thereafter; by adding definitions "R_i^t=3" and "U_i^t" and by adding two sentences at the end of the definition of "N_i^t". For clarity, the entire "N" factor is set out for the benefit of the reader. As amended, the provisions read as follows:

§ 212.83 Price rule.

* * * * *

(c) *Allocation of increased costs.*

* * * * *

(2) *Formulae.*

* * * * *

(iii) *Definitions.*

* * * * *

(E) *The "N" factor.*

$$N^t = N_i^s + N_i^s + N_i^r$$

"N_i^t" is, for i=1, i=2, i=3, and i=4, the increased non-product costs attributable to the specific covered product or products of the type "i" incurred on or after January 1, 1976 and prior to or during the period "s" and not recov-

ered in sales of that product through the period "t" and the increased non-product costs attributable to the specific covered product or products of the type "i" incurred on or after January 1, 1976 in the period "t."

(I) Until March 1, 1977 but not thereafter:

$$N_i^t = E^t\left(\frac{V_i^u}{V^u}\right) + F_i^t$$

and

(II) Beginning not later than March 1, 1977 or, at the option of each refiner, beginning as of any month prior thereto but not before June 1, 1976, and until March 1, 1979 but not thereafter:

$$N_i^t = E^t\left(\frac{R_i^t}{R^t}\right) + F_i^t$$

(III) Beginning March 1, 1979:

(aa) For i=3:

$$N_i^t = E^t(U_i^t) + F_i^t$$

(bb) For i=1, i=2, and i=4:

$$N_i^t = E^t(1-U_i^t)\left(\frac{R_i^t}{R^t - R^t_{i=3}}\right) + F_i^t$$

"N_i^t" is the total increased non-product costs attributable to the specific covered product or products of the type "i" incurred in the period "t."

Where:

E^t=The total increased non-product costs (excluding marketing cost increase, which is included in "F_i^t") incurred during the period "t"; provided that such costs are included only to the extent that such costs are attributable to refining operations during the period "t" under the generally accepted accounting procedures historically and consistently applied by the firm concerned, and are not included in computing May 15, 1973 prices or in computing increased product costs. Costs paid or incurred periodically but less frequently than monthly must be charged as incurred over the entire period to which they apply in computing non-product costs for May 1973 and must be charged according to the generally accepted accounting practices historically and consistently applied by the firm concerned in computing month of measurement increased costs. Costs paid or incurred each month but in significantly different amounts independent of output variations must be charged over the entire period to which they apply in computing non-product costs for May 1973 and must be charged according to the generally accepted accounting practices historically and consistently applied by the firm concerned in computing month of measurement costs. Except for costs which are determined by ERA to typically occur at intervals of greater than one year, the costs treated as incurred during a firm's fiscal year shall not exceed the amounts of such costs actually paid or incurred during that fiscal year.

V_i^u=The total volume of a specific covered product or products of the type "i" (other than propane, which shall be included to the extent that it was refined by the refiner from crude oil) estimated to be sold in the period "u."

V^u=The total volume of all covered products (other than propane which shall be included to the extent that it was refined by the refiner from crude oil) and all products refined from crude oil other than covered products estimated to be sold in the period "u."

R_i^t=The total volume of a specific product of the type "i" refined by the refiner from crude oil (including unfinished oils which were covered products as of May 31, 1976 and synthetic fuels), and including volumes attributable to additives, in the period "t."

R^t=The total volume of all products refined by the refiner from crude oil (including unfinished oils which were covered products as of May 31, 1976 and synthetic fuels), and including volumes attributable to additives, in the period "t."

$R^t_{i=3}$=The total volume of gasoline (i=3) refined by the refiner from crude oil (including unfinished oils which were covered products as of May 31, 1976 and synthetic fuels), and including volumes attributable to additives, in the period "t."

U_i^t=The fraction of the total increased non-product costs (excluding marketing cost increase) allocated to gasoline by the refiner in the period "t". "U_i^t" shall be no less than

$$\frac{R^t_{i=3}}{R^t}$$

and no greater than $1-\left(1-\frac{R^t_{i=3}}{R^t}\right)^2$

As of January 1, 1977 refiners shall compute "E^t" (for costs incurred during January 1977 and thereafter and used in calculating maximum allowable prices during February 1977 and thereafter) by adding the amounts calculated by applying the following formula separately to § 212.83(c)(2)(iii)(E) paragraphs (I) through (X) below.

$$E_n^t = R^t\left(\frac{C_n^t}{R^t} - \frac{C_n^o}{R^o}\right)$$

E_n^t is the total increased non-product costs (excluding marketing cost increase, which is included in "F_i^t") of the type "n" incurred during the period "t"; provided that such costs are included only to the extent that such costs are attributable to refining operations during the period "t" under the generally accepted accounting practices historically and consistently applied by the firm concerned or as otherwise provided in this § 212.83(c)(2)(iii)(E) and are not included in computing May 15, 1973 prices or in computing increased product costs.

Where:

"n"=References the particular types of increased non-product costs, and for purposes of paragraphs (I) through (X) is respectively refinery fuel, labor, additive, utility, interest, container, tax, maintenance, depreciation, and overhead cost increase.

R_i^t=The total volume of a specific covered product of the type "i" refined by the refiner from crude oil (including unfinished oils which were covered products as of May 31, 1976 and synthetic fuels), including volumes attributable to additives, and the net volume of a specific covered product of the type "i" given up and received pursuant to exchanges in the period "t."

R^o=The total volume of all products refined by the refiner from crude oil (including unfinished oils which were covered products as of May 31, 1976 and synthetic fuels) and including volumes attributable to additives, in the period "o."

C_n^t=The total dollar amount of the particular non-product cost of the type "n" incurred in the period "t."

C_n^o=The total dollar amount of the particular non-product cost of the type "n" incurred in the period "o."

(I) *Refinery fuel cost increase.* As of January 1, 1977 (for costs incurred during January 1977 and thereafter and used in calculating maximum allowable prices during February 1977 and thereafter) each refiner shall elect to compute the refinery fuel cost increase according to paragraph (I)(aa) below and depreciation cost increase according to paragraph (IX)(aa) below or to compute refinery fuel cost increase according to paragraph (I)(bb) below and depreciation cost increase according to paragraph (IX)(bb)

below, provided that once such election of a computation method is made, such method shall continue to be used.

(aa) Refinery fuel cost increase for refiners that elect to include in the computation of total increased non-product costs the depreciation costs associated with capital investments which effect fuel conservation is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for refinery fuel.

(bb) Refinery fuel cost increase for refiners that elect to exclude from the computation of total increased non-product costs the depreciation costs associated with capital investments which effect fuel conservation is the base refinery fuel usage multiplied by the throughput for the month of measurement, and multiplied by the amount which represents the difference between the average refinery fuel cost rate in the month of measurement and the average refinery fuel cost rate in the month of May 1973, where:

"Average refinery fuel cost rate" means the weighted average cost of refinery fuel per unit of energy (e.g., dollars per million British Thermal Units (B. T. U.)). If the calculation of refinery fuel costs is not feasible in energy units, a refiner may substitute a method that is more reasonably consistent with the data available. In such case, however, the refiner must prepare a schedule justifying the alternative method of calculation and explaining why the results represent the average refinery fuel cost rate;

"Base refinery fuel usage" means the amount of refinery fuel, in units of energy (e.g., million B. T. U.'s) used per barrel of refinery throughput during the month of May 1973. If the calculation of refinery fuel costs is not feasible in energy units, the refiner may substitute a method that is more reasonably consistent with the data available. In such cases, however, the refiner must prepare a schedule justifying the alternative method of calculation and explaining why the results represent the base refinery fuel usage; and

"Throughput" means the volume of crude oil, unfinished oils, synthetic fuels and natural gas liquids refined during the time period specified.

Refiners shall maintain records of the volume and cost of products purchased or landed that are consumed as refinery fuel.

(II) *Labor cost increase.* Labor cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to the total dollar amount of direct and indirect remuneration or inducement for personal services which are reasonably subject to valuation for those personnel employed at the refinery or those personnel directly involved in refinery operations, including that portion of the costs of any contract between a refiner and an outside entity attributable to personnel other than employees that perform such services. No amount included in maintenance cost increase may be included in labor cost increase. The calculation must be based on the historical accounting practices employed by the refiner and must be substantiated by a supporting document which summarizes the personnel considered in the calculation and the date of any remuneration increases.

(III) *Additive cost increase.* Additive cost increase is computed by applying the formula for "E_n^t" above. for purposes of this computation "C" refers to the total dollar amount of costs incurred for materials and compounds, including catalyst and process chemicals which were not covered products as of May 31, 1976 and which are added to or blended with crude oil or covered products during the refining process.

(IV) *Utility cost increase.* Utility cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for utilities.

(V) *Interest cost increase.* Interest cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for interest.

(VI) *Container cost increase.* Container cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to the dollar amount of costs incurred for containers, such as barrels, drums, tubes, cans, jars, or bottles, used by the refiner for storing or packaging products which were covered products as of May 31, 1976.

(VII) *Federal, state and local tax cost increase.*

(aa) Federal, state and local tax cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" refers to the dollar amount of federal, state, and local property, excise, franchise and other similar taxes incurred. Federal, state, and local income taxes are not includable in this amount.

(bb) The tax cost increase ("E_n^t") for taxes that are paid or incurred at greater than monthly intervals shall be computed as follows:

(AA) Taxes that are paid or incurred at greater than monthly intervals and are treated, pursuant to generally accepted accounting practices historically and consistently applied by the firm concerned, on an accrual basis and are prorated shall be accrued and prorated for purposes of calculating per unit non-product costs for the month of May 1973. ("C_n^o/R^o" and the month of measurement ("C_n^t/R^t").

(BB) Taxes that are paid or incurred at greater than monthly intervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per unit non-product costs for the month of May 1973 ("C_n^o/R^o") by adding all such taxes paid or incurred during the firm's fiscal year which includes May 1973 and dividing by the firm's output during that period. Taxes that are paid or incurred at greater than monthly intervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per unit non-product costs for the month of measurement ("C_n^t/R^t") according to the generally accepted accounting practices historically and consistently applied by the firm concerned.

(cc) The Commonwealth of Puerto Rico supplemental $2 tax shall be treated as a cost of crude oil or petroleum products under §§ 212.82 and 212.83 from December 21, 1975 through December 31, 1976.

(VIII) *Maintenance cost increase.* Maintenance cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" is the dollar amount of operating cost attributable to refinery maintenance operations. Maintenance cost increase includes the cost of contract maintenance. The maintenance cost increase for maintenance expenses that are paid or incurred at greater than monthly intervals shall be computed as follows:

(aa) Maintenance expenses that are paid or incurred at greater than monthly intervals and are treated, pursuant to generally accepted accounting practices historically and consistently applied by the firm concerned, on an accrual basis and are prorated over an appropriate period shall be accrued and prorated for purposes of calculating per unit non-product costs for the month of May 1973 ("C_n^o/R^o") and the month of measurement ("C_n^t/R^t").

(bb) Maintenance expenses that are paid or incurred at greater than monthly intervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per unit non-product costs for the month of May 1973 ("C_n^o/R^o") by adding all maintenance expenses paid or incurred during the appropriate period, as permitted or required in writing by the director of compliance for the DOE region in which each firm is located, and dividing by output during that period. Maintenance expenses

that are paid or incurred at greater than monthly intervals and are not treated on an accrual basis and prorated over an appropriate period shall be computed for purposes of calculating per unit non-product costs for the month of measurement ("C_n^t/R^t") according to the generally accepted accounting practices historically and consistently applied by the firm concerned.

(IX) *Depreciation cost increase.* (aa) Depreciation cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" is the cost attributable to the depreciation of refinery and storage capacity and equipment installed; provided that such costs are computed according to the generally accepted accounting practices historically and consistently applied by the firm concerned and are included only to the extent that such costs are not otherwise covered by this section. If Form 10-K is filed with the Securities and Exchange Commission or an analogous report is filed with a state regulatory agency, the amount computed for depreciation cost increase must be consistent with the figures used in preparing Form 10-K or such analogous report. Accounting procedures used to compute depreciation cost increase by refiners which do not file such form or report, or on whose behalf such form or report is not filed, must be calculated according to generally accepted accounting practices historically and consistently applied by the firm concerned for certified annual financial reports prepared by an independent accounting firm. No capital investments may be included in non-product costs as expenses; all such investments must be capitalized and depreciated and included in the computation of "E_n^t" for depreciation cost increase.

(bb) Refiners that elect to compute the refinery fuel cost increase according to paragraph (I)(bb) above shall compute depreciation cost increase according to paragraph (IX)(aa) above but must exclude from "C_n^t" the depreciation cost associated with capital investments which effect fuel conservation.

(X) *Overhead cost increase.* Overhead cost increase is computed by applying the formula for "E_n^t" above. For purposes of this computation "C" is the dollar amount of costs of insurance, outside legal and accounting fees, and inter-refinery transportation costs directly attributable to refinery operations, provided that such costs are computed according to the generally accepted accounting practices historically and consistently applied by the firm for certified annual reports.

F_i^t=the marketing cost increase and is the difference between the cost of marketing covered products in the month of measurement and the cost of marketing covered products in the month of May 1973. "Cost of marketing covered products" means the costs attributable to marketing operations with respect to covered products provided that such costs are included only to the extent that they are so attributable under the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned and are not included in computing May 15, 1973 prices, in computing increased product costs, or in computing other increased non-product costs.

The marketing cost increase shall be adjusted to add or subtract the net cash reimbursements attributable to the product to the type "i" paid and received in the period "t" in product-for-product exchanges in which a specific covered product is received. Where the cash reimbursement portion of a cash payment made pursuant to an exchange is not expressly prescribed in a written document signed by both parties to the exchange, no part of a cash payment shall be treated as a reimbursement. However, where a firm gives up an exempt product for a covered product in an exchange and receives a cash payment, the payment must be treated as a reimbursement unless the written exchange agreement signed by both parties substantiates that the payment reflects the market value differences in the products exchanged on the date the covered product is received. Also, where a firm gives up an exempt product for a covered product in an exchange and makes a cash payment, the payment will constitute a differential and will not adjust increased marketing costs unless the parties to the exchange specify in writing the service rendered by the exchange partner to which the payment is made.

For purposes of calculating marketing cost increases, a reimbursement is the dollar amount of a cash payment, expressly prescribed in a written document signed by both parties to the exchange, that is made or received by a firm as compensation for costs incurred to transport, store, or perform other services pursuant to the exchange. A differential is the cash payment made pursuant to an exchange agreement less any reimbursement.

Marketing costs for the period "t" and the period "o" shall be adjusted to add fees attributable to the marketing costs for the product of the type "i" paid pursuant to a service agreement in that period.

A refiner shall prepare a schedule itemizing the principal costs included in marketing cost increases and describing the accounting procedures by which they are calculated. The amount of marketing cost increases which may be applied to compute maximum allowable prices for covered products is, however, limited to the extent that such marketing cost increases may:

(I) Allow an increase in the prices of No. 2 heating oil and No. 2-D diesel fuel above the prices otherwise permitted to be charged for such products pursuant to the provisions of this part by an amount not in excess of one cent per gallon with respect to retail sales and one-half cent per gallon with respect to all other sales; and

(II)(aa) Allow an increase in the price of gasoline above the prices otherwise permitted to be charged for gasoline pursuant to this part by an amount equal to increased rental cost (as defined in § 212.92) plus vapor recovery system cost (as set forth in § 212.92) plus an amount not in excess of three cents per gallon (for marketing costs not otherwise recoverable under this subpart) with respect to all retail sales; and

(bb) Allow an increase in the price of gasoline, during the 360-day period commencing November 19, 1975, above the prices otherwise permitted to be charged for gasoline pursuant to this part (including paragraphs (I) and (II)(aa) of this definition) by an amount not in excess of two cents per gallon in retail sales in Alaska; and

(III) Allow an increase in the prices of gasoline above the prices otherwise permitted to be charged for gasoline pursuant to the provisions of this part by an amount not in excess of three-quarter cent per gallon with respect to all sales other than retail sales; and

(IV) Allow an increase in the prices of middle distillates above the prices otherwise permitted to be charged for middle distillates pursuant to the provisions of this part (including the foregoing paragraph (I) of this definition) by an amount not in excess of one cent per gallon with respect to retail sales and not in excess of one-quarter cent per gallon with respect to all other sales, except that, with respect to retail sales of aviation fuels by fixed base operators after November 30, 1975, allow an increase in the amount otherwise permitted to be charged for that item pursuant to the provisions of this part by an amount not to exceed four cents per gallon; and

(V) Allow an increase in the prices of residual fuel oil above the prices otherwise permitted to be charged for residual fuel oil pursuant to the provisions of this part by an amount not in excess of three-fourths cent per gallon with respect to retail sales and one-fourth cent per gallon with respect to all other sales; and

(VI) Allow an increase in the price of propane, in sales after September 30, 1975, above the prices otherwise per-

mitted to be charged for propane pursuant to the provisions of this part by an amount not in excess of three cents per gallon with respect to all retail sales except those to the petrochemicals industry, to public utilities, and to synthetic natural gas plants; one cent per gallon with respect to retail sales to the petrochemicals industry, to public utilities, and to natural gas plants and one-half cent per gallon with respect to all other sales; and

(VII) Reflect the total dollar amount of non-product costs attributable to includable amounts of commissions incurred during the period "t" beginning with January 1, 1976 with respect to sales through consignee-agents of the covered product or products of the type "i." The includable amount of commission incurred with respect to each item sold through each consignee-agent is the dollar amount per unit of volume by which the commission in the period "t" exceeds the commission in effect on May 15, 1973, provided that the includable amount shall be an amount reasonably intended to cover increased non-product costs of the consignee-agent, and that it shall not exceed the amount of the non-product cost price increase that would be permitted if the consignee-agent took title to the product it distributes and were a seller subject to § 212.93(b).

N_i^s=the total increased non-product costs attributable to the specific covered product or products of the type "i" computed under "N_i^t" for the month preceding the month of measurement ("s") beginning on or after January 1, 1976 but not recovered in sales of that product during the period "t."

N_i^r=the total increased non-product costs attributable to the specific covered product or products of the type "i" computed under "N_i^t" for all months through the month two months before the month of measurement ("r") beginning on or after January 1, 1976 but not recovered in sales of that product through the period "t". Effective May 1, 1979, for i=3, a refiner may increase "N_i^r" by the amounts computed under "N_i^t" for all covered products for that refiner for the months of January and February 1979 applying the definition of "N_i^t" effective March 1, 1979 less the amounts actually computed under "N_i^t" for all covered products for that refiner for the months of January and February 1979. For purposes of these computations, a refiner shall use the largest permissible fraction for "U".

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federal register

WEDNESDAY, MARCH 14, 1979

PART IV

SECURITIES AND EXCHANGE COMMISSION

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RESALE OF SECURITIES

[8010-01-M]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-6032]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Resales of Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is amending two rules and rescinding a third for the purpose of relaxing certain restrictions relating to the resale of securities that may be more burdensome than necessary. The amendments to the two rules will permit persons who have held securities covered by the rules for a specified period of time to sell such securities without any amount limitation, provided they are not affiliates of the issuer of the securities. The rescission of the third rule will enable persons who hold certain convertible securities to resell them without the restrictions formerly imposed by the rule in question.

EFFECTIVE DATE: March 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, (202) 755-1240.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of various amendments to Rule 144 [17 CFR 230.144] and Rule 148 [17 CFR 230.148] under the Securities Act of 1933 ("1933 Act") [15 U.S.C. 77a et seq.] and the rescission of Rule 155 [17 CFR 230.155] under the 1933 Act. Each of these actions will be discussed in detail in this release.

BACKGROUND

Rule 144 provides a safe harbor for the resale without registration under the 1933 Act of restricted securities [1] and securities held by affiliates.[2] Rule 148 similarly provides a safe harbor for the resale of securities acquired in bankruptcy proceedings. In Release No. 33-5979 (September 19, 1978) [43 FR 43709] the Commission substantially relaxed the volume limitation and manner of sale requirements of both rules.[3] In a companion release (No. 33-5980 dated September 20, 1978 [43 FR 43726]) the Commission solicited public comments on the proposed adoption of additional amendments to Rules 144 and 148 designed to further relax the volume limits of those rules as they apply to non-affiliates. The comments received from the public in response to the release were very helpful to the Commission and have resulted in some modifications to the proposed amendments and some other changes as well.

RULE 144

1. *Removal of Volume Restrictions.* The amendments proposed in Release No. 33-5980 would have permitted non-affiliates to sell unlimited amounts of restricted securities after the securities had been held for a minimum of five years. The Commission also invited comments on whether it would be appropriate to reduce the five-year holding period, depending on whether the issuer files periodic reports under the 1934 Act (in which case the holding period might be reduced to four years) or whether the issuer's securities are listed on a national securities exchange (in which case the holding period might be reduced to three years).

The amendments described above were proposed primarily because Rule 144 does not permit holders of restricted securities to cumulate unsold amounts for later sale. Thus, a person who has held his securities for five years or more cannot sell any greater number of securities during a three-month period than a person who has held similar securities for only two years. The proposal attempted to provide some relief in circumstances such as the above by giving recognition to the fact that a nonaffiliate who has held his securities for a considerable length of time has provided a substantial indication that he did not acquire his securities with a view to distribution and therefore is not an underwriter[4] who must register his securities for resale.

After consideration of the public comments, the Commission has determined to adopt the proposed amendments in a somewhat modified form. As amended, Rule 144 will now permit nonaffiliates in certain circumstances to disregard the volume limitations of the rule after a holding period of either three or four years. The three-year holding period will apply if the securities to be sold are those of a class which is listed on a national securities exchange or quoted on NASDAQ.[5] The four-year holding period will apply if the securities are not exchange-listed or NASDAQ-quoted, but the issuer thereof nevertheless files periodic reports under Sections 13 or 15(d) of the Securities Exchange Act of 1934 ("1934 Act") [15 U.S.C. 78a et seq.] in accordance with paragraph (c)(1) of Rule 144.[6]

There are three major differences between the amendments announced above and those which were proposed for comment in Release No. 33-5980. First, the originally proposed holding period requirement of five years has been reduced to four or three years, depending on certain conditions being met. Second, unlike the proposed version, the securities of issuers which do not file periodic reports under the 1934 Act will not be able to be resold under the new provision. Finally, the adopted amendments contain a new condition that persons must have been nonaffiliates for at least the three months preceding the sale of their securities.

The holding period requirement was reduced largely because all of the commentators who expressed a view on this issue thought that five years was a longer period than necessary to indicate investment intent under the 1933 Act. Although the Commission generally agrees with the commentators, it believes a distinction should be made, from a holding period standpoint, between securities which are exchange-listed or NASDAQ-quoted and securities not so listed or quoted that are issued by entities which file periodic reports with the Commission pursuant to Sections 13 or 15(d) of the 1934 Act. There are several reasons for this.

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[1] The term "restricted securities" includes securities acquired in non-public offerings, such as those under Section 4(2) of the 1933 Act, as well as securities acquired in offerings made in reliance upon Rule 240 [17 CFR 230.240] under the Act.

[2] An "affiliate" of an entity is defined in Rule 405 [17 CFR 230.405] under the 1933 Act as "a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the [entity]."

[3] The revisions to the volume limitation provisions more than doubled the amount of securities that formerly could be sold under the rules. The amendments to the manner of sale requirements permitted sales under the rules to be made directly to a market maker in lieu of selling through a broker. In addition, estates and beneficiaries thereof not affiliated with the issuer were relieved of compliance with the manner of sale requirements of Rule 144.

[4] The term "underwriter" is broadly defined in Section 2(11) of the 1933 Act and includes persons who acquire securities "with a view to * * * distributions."

[5] NASDAQ is an electronic interdealer quotation system which is owned and operated by the National Association of Securities Dealers, Inc.

[6] Paragraph (c)(1) states that the issuer must have been subject to the reporting requirements of the 1934 Act for at least 90 days and must have filed all reports required to have been filed within the past 12 months, or such shorter period that the issuer was subject to the reporting requirements.

First, issuers which have securities listed on an exchange, and, to a lesser degree, quoted in NASDAQ, are subject to controls by self-regulatory authorities that are inapplicable to other reporting issuers. Second, there is a significant difference in the amount and quality of information available concerning both exchange-listed and NASDAQ-quoted securities. For example, with respect to exchange-listed securities, last-sale price and volume data are readily available, and with respect to NASDAQ-quoted securities, current quotations and end-of-the-day volume figures are available. No comparable information is available for the securities of other reporting issuers. Finally, the surveillance which the relevant self-regulatory organizations exercise over the trading on exchanges and the activity in NASDAQ securities is significant and not present with respect to other reporting issuers. Under the circumstances, the Commission believes it is appropriate to adopt the type of stratified holding period requirement mentioned above.

The second major change from the proposed version, as previously indicated, will have the effect of excluding the securities of non-reporting issuers from the new provision. In this regard, the Commission notes that such issuers generally do not make available information about themselves and their activities that is as complete or as timely as that provided by reporting issuers. Thus, prospective investors in the securities of such issuers are at somewhat of a disadvantage from an informational standpoint in making investment decisions regarding such securities. In light of this fact, the Commission believes it would be best from an investor protection standpoint to proceed cautiousy in regard to permitting unlimited resales of such securities under Rule 144. Accordingly, it has determined not to make the new provision available for resales of the securities of non-reporting issuers at this time.

Notwithstanding the above, the Commission is not foreclosing the possibility of extending the new provision to the securities of non-reporting issuers at some future date. In this regard, it invites comments from the public on the feasibility of making the provision available for the securities of non-reporting issuers and on whether the continued non-availability of the provision for the securities of such issuers can be expected to have a serious adverse impact on their ability to raise capital. It is anticipated that such comments, together with the Commission's experience with the new provision as it applies to the securities of reporting issuers, will provide the Commission with a basis for reconsidering this issue in the future.

Although the new provision will not be available for the securities of non-reporting issuers, such securities may, of course, be resold under the other provisions of the rule if all applicable requirements are satisfied. Moreover, since Rule 144 is not the exclusive means for reselling restricted securities, the holder of such securities could sell unlimited amounts thereof in reliance upon any exemption from registration that may be available to him.

The third major change from the amendments proposed in Release No. 33-5980 will require persons who formerly were affiliates of an issuer to wait three months after their status as affiliates has terminated before utilizing the new provision. The purpose of this change is to minimize the possibility that the new provision will be used by such persons to effect distributions on behalf of the issuer. During the three-month waiting period, however, former affiliates will be able to sell securities under the rule in amounts permitted by its volume limitations. Thus, the waiting period should not work an undue hardship on such persons, since they will be permitted to utilize the rule during the period for resales in the manner customarily allowed in the past.

2. *Notice of Sale Requirement.* The Commission also requested comments in Release 33-5980 on whether the notice of sale requirement in paragraph (h) of the rule should continue to apply to non-affiliates utilizing the new provision for resales. Of the commentators who addressed this issue, only one thought the form requirement should remain in force in such circumstances.

Notwithstanding the public comments, the Commission is of the view that the notice of sale requirement should continue to be applicable to resales under the new provision. The reason is that the provision is experimental in nature and therefore will have to be monitored in order to assess its impact. Once its effect on the market place has been observed through the examination of filings on Form 144 and other available sources, consideration can then be given to deleting the requirement that the form be filed.

On a separate but somewhat related matter, two commentators expressed the view that the threshold limits for filing Form 144 should be raised. (Currently, the form must be filed if the securities to be sold during any three-month period will exceed 500 shares or other units or have a market value in excess of $10,000.) The basis for this view lies in the fact that the threshold limits were initially established in 1972 at a time when the value of the dollar was considerably greater than at present.

While the view described above has some surface appeal, certain facts to the contrary should be noted. First, the threshold limits recently were amended to apply to sales within a *three*-month period, rather than the *six*-month period to which they orignally were applicable.[7] As a result of this change, it seems likely that many sales under the rule which formerly would have been subject to the notice requirement will not be so subject now. Second, information provided by the Commission's Directorate of Economic and Policy Research suggests that a significant percentage of the transactions under Rule 144 were not required to be reported even when the threshold limits were applied to a *six*-month measuring period.[8] Finally, the Commission again notes that the changes in the volume limits of Rule 144 are experimental and need to be monitored closely, and Form 144 is the best available means for doing this. Accordingly, on the basis of the foregoing, the Commission does not believe it would be appropriate to change the threshold limits for filing Form 144 at this time, although this may be a matter for future consideration.

3. *Other Changes.* In addition to the revisions previously mentioned, some commentators suggested that certain amendments of a clarifying nature be made to Rule 144. One felt that the rule should clearly state that it is non-exclusive in nature. Although the Commission has expressly stated in several releases in the past few years that the rule is non-exclusive and that it does not affect the availability of any exemption for resales under the 1933 Act that a person may be able to rely upon,[9] it nevertheless has inserted a new paragraph (j) in the rule for the purpose of removing any doubt that may exist on this issue.

Some other commentators thought that the rule should be revised to specifically state that the provisions of paragraph (d)(4) thereof, which permit the taking of holding periods under certain circumstances, are applicable to the computation of holding periods under the new provision. Again, to remove any doubt regarding the application of paragraph (d)(4), the Commission has inserted the requested statement in the rule.

Finally, the Commission wishes to take note of the many suggestions

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[7] See Release No. 33-5995 (November 8, 1978).

[8] The information indicates that during the years 1975-1977 proposed sales under Rule 144 of 500 or fewer shares were 10% of all sales, and sales of $10,000 or less were 26% of all sales.

[9] See, e.g., Release No. 33-5980 (September 20, 1978) and Release No. 33-5918 (March 29, 1978) [43 FR 14445].

that were made by the commentators for further relaxing the unlimited resale provision proposed in Release 33-5980. Some of the more frequent of these were: (1) make the provision available to affiliates as well as non-affiliates; (2) revise it to permit solicitations of orders to buy the securities being sold; and (3) expand it so that *all* restrictions in the rule (rather than just the volume restrictions) are inapplicable after the requisite holding period.

Although the Commission welcomes suggestions for improving its rules, it does not believe it would be appropriate at this time to relax the new resale provision in the respects mentioned above. With regard to the suggestion that affiliates should be able to avail themselves of the new provision, the Commission is not inclined to do this, primarily because the control relationship which affiliates have with an issuer increases the likelihood that such persons might attempt to utilize the provision for distributions on the issuer's behalf rather than routine trading transactions. As for the second and third suggestions, which involve eliminating some or all of the other restrictions of the rule, the Commission believes that experience with the removal of the volume restrictions should first be gained before proceeding to the possible removal of some or all of the other restrictions. The elimination of the volume limitations after a specified holding period is a significant change by itself, and its effects should first be assessed before other methods of relaxing the rule can be considered.

RULE 148

Rule 148 is the counterpart to Rule 144 with respect to resales of bankruptcy-related securities.[10] The Commission has stated in the past that to the extent it amends the volume limitation provision of Rule 144, it will make corresponding changes in Rule 148.[11] As a consequence, it has amended the volume limitation provisions of Rule 148 in essentially the same manner as it has amended Rule 144.

RULE 155

Rule 155 under the 1933 Act relates to convertible securities. It provides in essence that a person who acquires such securities in a private offering under Section 4(2) of the Act becomes an underwriter, and the issuer loses its private offering exemption, if the securities are reoffered to the public, or if conversion occurs without investment intent and the underlying securities are then reoffered to the public.

The rule was partially rescinded in 1972 at the time Rule 144 was adopted.[12] It has remained in effect only with respect to securities acquired prior to the effective date of Rule 144 and not sold thereafter in accordance with all of the provisions of that rule. At this point in time, the rule applies only to securities that have been held a minimum of 6¾ years. Such a lengthy holding period belies the notion that the holder of such securities did not have an investment intent at the time he acquired them, particularly considering the fact that the new amendments to Rule 144 previously discussed herein would permit certain restricted securities to be sold after a holding period of 3 or 4 years. Under the circumstances, the Commission has determined to terminate the partial status of Rule 155 and rescind it completely.

TEXT OF THE AMENDMENTS

I. 17 CFR 230.144 is amended to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(e) * * *

(2) *Sales by persons other than affiliates.* The amount of restricted securities sold for the account of any person other than an affiliate of the issuer, together with all other sales of restricted securities of the same class for the account of such person within the preceding three months, shall not exceed the amount specified in paragraphs (e) (1)(i), (1)(ii), or (1)(iii) of this section, whichever is applicable. The limitation in this paragraph (e)(2), however, shall not apply to restricted securities sold for the account of a person who is not an affiliate of the issuer at the time of the sale and has not been an affiliate during the preceding three months, *Provided:* (i) The securities have been beneficially owned by the person for a period of at least three years prior to their sale and are part of a class that is either listed on a national securities exchange or quoted in the National Association of Securities Dealers, Inc.'s electronic interdealer quotation system known as NASDAQ, or (ii) the securities have been beneficially owned by the person for a period of at least four years prior to their sale and the issuer thereof is in compliance with the requirements of paragraph (c)(1) of this section regarding the filing of reports under sections 13 or 15(d) of the Securities Exchange Act of 1934. In computing the holding period for purposes of this provision, reference should be made to paragraph (d)(4) of this section. Further, in regard to securities that were purchased, the full purchase price or other consideration shall have been paid or given at least three or four years, respectively, prior to their sale in order to satisfy the beneficial ownership requirements of (e)(2) (i) or (ii) of this section.

* * * * *

(j) *Non-exclusive rule.* Although this rule provides a means for reselling restricted securities and securities held by affiliates without registration, it is not the exclusive means for reselling such securities in that manner. Therefore, it does not eliminate or otherwise affect the availability of any exemption for resales under the Securities Act that a person or entity may be able to rely upon.

II. 17 CFR 230.148 is amended to read as follows:

§ 230.148 Persons deemed not to be underwriters of securities issued or sold in connection with bankruptcy proceedings.

* * * * *

(b) * * *

(1) * * *

(A) *Exception.* The limitations in paragraph (b)(1) of this section on the amount of securities that may be sold shall not apply to securities sold for the account of a person who is not an affiliate of the issuer at the time of the sale and has not been an affiliate during the preceding three months, *Provided:* (*1*) The securities have been beneficially owned by the person for a period of at least three years prior to their sale and are part of a class that is either listed on a national securities exchange or quoted in the National Association of Securities Dealers, Inc.'s electronic interdealer quotation system known as NASDAQ, or (*2*) The securities have been beneficially owned by the person for a period of at least four years prior to their sale and the issuer thereof is in compliance with the requirements of § 230.144(c)(1) regarding the filing of reports under sections 13 or 15(d) of the Securities Exchange Act of 1934. In computing the holding period for purposes of this provision, reference should be made to § 230.144(d)(4). Further, in regard to securities that were purchased, the full purchase price or other consideration shall have been

[10] It should be noted that in late 1978 Congress enacted legislation which deals in part with some of the matters covered by Rule 148. See in this regard Section 1145 of the Bankruptcy Reform Act of 1978 [Public Law No. 95-598 dated November 6, 1978]. The new legislation will not go into effect until October 1, 1979, and the Commission expects to consider prior to that date whether to modify or rescind Rule 148 in light of the existence of Section 1145.

[11] Release No. 33-5918 (March 29, 1978).

[12] Release No. 33-5223 (January 11, 1972) [37 FR 596].

paid or given at least three or four years, respectively, prior to their sale in order to satisfy the beneficial ownership requirements of (b)(1)(A) (*1*) or (*2*) of this section.

* * * * *

(Secs. 2(11), 4(1), 4(4), 19(a), 48 Stat. 74, 77, 85; secs. 201, 203, 209, 210, 48 Stat. 904, 906, 908; secs. 1-4, 6, 68 Stat. 683, 684; sec. 12, 78 Stat. 580; sec. 308(a)(2), 90 Stat. 58 (15 U.S.C. 77b(11), 77d(1), 77d(4), 77s(a)).)

§ 230.155 [Removed]

III. 17 CFR 230.155 is rescinded in its entirety.

(Sec. 19(a), 48 Stat. 85; sec. 209, 48 Stat. 908; sec. 308(a)(2), 90 Stat. 48 (15 U.S.C. 77s(a)).)

STATUTORY BASIS

The amendments to Rule 144 and Rule 148 have been adopted by the Commission pursuant to the Securities Act of 1933, particularly Sections 2(11), 4(1), 4(4) and 19(a) thereof. Rule 155 has been rescinded by the Commission pursuant to the Securities Act of 1933, particularly section 19(a) thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 5, 1979.

[FR Doc. 79-7575 Filed 3-13-79; 8:45 am]

federal register

WEDNESDAY, MARCH 14, 1979

PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

OFFICE OF MANAGEMENT AND BUDGET

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BUDGET RESCISSIONS AND DEFERRALS

Report

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

MARCH 1979 RESCISSIONS AND DEFERRALS

Cumulative Report

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of March 1, 1979, of 11 rescissions and 52 deferrals contained in the first six special messages of FY 1979. These messages were transmitted to the Congress on Ocotober 2, Novermber 30, December 7, December 12, 1978, January 31, and February 14, 1979.

RESCISSIONS (TABLE A AND ATTACHMENT A)

Eleven rescission proposals totalling $914.7 million in budget authority are presently before the Congress. Table A summarizes the status of rescissions proposed by the President as of March 1, 1979, while Attachment A shows the history and status of each rescission proposed during FY 1979..

DEFERRALS (TABLE B AND ATTACHMENT B)

As of March 1, 1979, $2,906 million in 1979 budget authority was being deferred from obligation and another $2.1 million in 1979 obligations was being deferred from expenditure. Table B summarizs the status of deferrals reported by the President, and Attachment B shows the history and status of each deferral reported during FY 1979.

INFORMATION FROM SPECIAL MESSAGES

The special messages containing information on each of the rescissions and deferrals covered by the cumulative report are contained in the FEDERAL REGISTERS of:

Wednesday, October 11, 1978 (Vol. 43, No. 197, Part III)
Wednesday, December 6, 1978 (Vol. 43, No. 235, Part III)
Wednesday, December 13, 1978 (Vol. 43, No. 240, Part VI)
Monday, December 18, 1978 (Vol. 43, No. 243, Part VI)
Monday, February 5, 1979 (Vol. 44, No. 25, Part VI)
Wednesday, February 21, 1979 (Vol. 44, No. 36, Part VII)

JAMES T. MCINTYRE, Jr.,
Director.

TABLE A.—*Status of 1979 Rescission Proposals*

[In millions of dollars]

	Amount
Rescissions proposed by the President	914.7
Rescinded by the Congress	.....
Rejected by the Congress	.....
Total pending before the Congress.	914.7

TABLE B.—*Status of 1979 Deferrals*

[In millions of dollars]

	Amount
Deferrals proposed by the President	$4,099.0
Routine Executive releases (−$1,182.2 million) and adjustments (−$8.6 million) through March 1, 1979	−1,190.8
Overturned by the Congress	.....
Total currently before the Congress	*$2,908.2

*This amount includes $2.1 million in outlays for two Department of the Treasury deferrals (D79-25B and D79-40A).

PAGE 1 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1979 AS OF 03/02/79 15:12

AS OF MARCH 1, 1979
AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT	RESISSION NMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR.
DEPARTMENT OF ENERGY							
Energy Programs							
Fossil energy construction							
BA	R79- 2		50,000	1 31 79			
DEPARTMENT OF ENERGY TOTAL BA			50,000				
DEPARTMENT OF HEALTH, EDUCATION AND WELFARE							
National Institutes of Health							
Buildings and facilities							
BA	R79- 3		37,000	1 31 79			
Health Resources Administration							
Health resources							
BA	R79- 4		167,893	1 31 79			
Office of Education							
Special projects and training							
BA	R79- 5		22,365	1 31 79			
DEPARTMENT OF HEALTH, EDUCATION AND WELFARE TOTAL BA			227,258				
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Housing Programs							
Subsidized housing programs							
BA							

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1979 AS OF 03/02/79 15:12

AS OF MARCH 1, 1979
AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY BUREAU/ACCOUNT	RESISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
	R79- 6		600,000	1 31 79			
New Communities Development Corporation							
New community assistance grants							
BA	R79- 7		8,167	1 31 79			
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA			608,167				
DEPARTMENT OF THE INTERIOR							
Bureau of Mines							
Helium fund							
BA	R79- 8		3,127	1 31 79			
DEPARTMENT OF THE INTERIOR TOTAL BA			3,127				
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION							
Research and program management							
BA	R79- 9		2,400	1 31 79			
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TOTAL BA			2,400				
OTHER INDEPENDENT AGENCIES							
Foreign Claims Settlement Commission							

PAGE 3 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1979 AS OF 03/02/79 15:12

AS OF MARCH 1, 1979 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		RESISSION NMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Payment of Vietnam prisoner of war claims	BA	R79-10		9,000a	1 31 79			
Salaries and expenses	BA	R79- 1		75	11 30 78			
Small Business Administration								
Salaries and expenses	BA	R79-11		14,665	1 31 79			
OTHER INDEPENDENT AGENCIES	TOTAL BA			23,740				
	TOTAL BA			914,692				

FOOTNOTES

a. This amount was initially deferred (D79-29) in a special message transmitted to the Congress on October 2, 1978.

END OF REPORT

PAGE 1 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 03/02/79 11:32

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 03-01-79
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Military assistance	BA	D79-31	161,875		11 30 78	-161,875a			
International military education and training	BA	D79-35	24,312		12 7 78	-24,312a			
Foreign military credit sales	BA	D79-45	651,000		12 12 78	-564,800			86,200
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		837,187			-750,987			86,200
DEPARTMENT OF AGRICULTURE									
Foreign Agricultural Service									
Salaries & expenses (special foreign currency)	BA	D79- 1	415		10 2 78	-13			402
Agricultural Stabilization & Conservation Service									
Commodity credit corporation	BA	D79- 2	3,530		10 2 78				
	BA	D79- 2A			12 7 78	-3,530			
Forest Service									
Acquisition of lands for Wasatch National Forest	BA	D79-36	209		12 7 78				209
Timber salvage sales	BA	D79-37	5,500		12 7 78	-702			4,798
Expenses, brush disposal	BA	D79- 3	32,225		10 2 78				
	BA	D79- 3A		5,276	1 31 79				37,501

PAGE 2 ATTACHMENT B. - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 03/02/79 11:32

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY, BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 03-01-79
Restoration of forest lands	BA	D79- 4	48		10 2 78				48
DEPARTMENT OF AGRICULTURE TOTAL	BA		41,927	5,276		-4,245			42,958
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Operations, research, and facilities	BA	D79-47	500		1 31 79				500
Construction	BA	D79- 5	9,830		10 2 78				
	BA	D79- 5A		202	12 12 78				10,032
Promote and develop fishery products and research	BA	D79- 6	12,060		10 2 78	-5,481			6,579
Fisheries loan fund	BA	D79- 7	5,429		10 2 78				
	BA	D79- 7A		208	1 31 79				5,637
United States Fire Administration									
Facilities	BA	D79-32	6,150		11 30 78	-6,150			
Maritime Administration									
Ship construction	BA	D79-33	157,000		11 30 78	-134,000			23,000
DEPARTMENT OF COMMERCE TOTAL	BA		190,969	410		-145,631			45,748
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Shipbuilding and conversion, Navy	BA	D79-34	563,940		11 30 78				563,940

PAGE 3 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 03/02/79 11:32

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 03-01-79
Military Construction									
Military construction, all services	BA	D79- 8	548,451		10 2 78	-256,954		374	291,871
DEPARTMENT OF DEFENSE-MILITARY TOTAL BA			1,112,391			-256,954		374	855,811
DEPARTMENT OF DEFENSE-CIVIL									
Corps of Engineers									
Alaska hydroelectric power development fund	BA	D79-10	5,450		10 2 78				5,450
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services	BA	D79- 9	458		10 2 78				
	BA	D79- 9A		130	1 31 79				588
DEPARTMENT OF DEFENSE-CIVIL TOTAL BA			5,908	130					6,038
DEPARTMENT OF ENERGY									
Energy Programs									
Uranium enrichment - operating expenses	BA	D79-48	63,000		1 31 79				63,000
DEPARTMENT OF ENERGY TOTAL BA			63,000						63,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St. Elizabeths Hospital									

PAGE 4 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 03/02/79 11:32

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 03-01-79
BA	D79-11	27,577		10 2 78				27,577
Social Security Administration								
Limitation on salaries and expenses								
BA	D79-12	1,725		10 2 78				1,725
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL BA		29,302						29,302
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands								
BA	D79-46	12,811		12 12 78				
BA	D79-46A		1,901	1 31 79				14,712
Heritage Conservation and Recreation Service								
Land and water conservation fund								
BA	D79-13	30,000		10 2 78				30,000
Geological Survey								
Payments from proceeds, sale of water								
BA	D79-14	36		10 2 78				36
Bureau of Mines								
Drainage of anthracite mines								
BA	D79-15	1,700		10 2 78	-113			1,587
Office of Territorial Affairs								
Administration of territories								
BA	D79-38	25,000		12 7 78				25,000
Trust territory of the Pacific Islands								
BA	D79-16	12,000		10 2 78				12,000
DEPARTMENT OF THE INTERIOR TOTAL BA		81,547	1,901		-113			83,335

PAGE 5 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 03/02/79 11:32

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 03-01-79
DEPARTMENT OF JUSTICE									
Legal Activities									
Salaries and expenses, Community Relations Service	BA	D79-49	572		1 31 79				572
Federal Prison System									
Buildings and facilities	BA	D79-17	25,300		10 2 78				
	BA	D79-17A		11,865	11 30 78	-160			37,005
DEPARTMENT OF JUSTICE TOTAL BA			25,872	11,865		-160			37,577
DEPARTMENT OF LABOR									
Employment and Training Administration									
Employment and training assistance	BA	D79-50	122,133		1 31 79				122,133
DEPARTMENT OF LABOR TOTAL BA			122,133						122,133
DEPARTMENT OF STATE									
Administration of Foreign Affairs									
Acquisition, operation, & maintenance of buildings	BA	D79-39	36,787		12 7 78				36,787
Other									
Emergency refugee and migration assistance fund	BA	D79-18	2,750		10 2 78				
	BA	D79-18A		9,500	11 30 78	-8,960			3,290
DEPARTMENT OF STATE									

PAGE 6 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 03/02/79 11:32

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 03-01-79
TOTAL BA			39,537	9,500		-8,960			40,077
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Civil supersonic aircraft development termination	BA	D79-19	3		10 2 78				3
Facilities & equip. (Airport & airway trust fund)	BA	D79-20	290,176		10 2 78				
	BA	D79-20A		21,259	1 31 79				311,435
Federal Highway Administration									
Trust fund share of other highway programs	BA	D79-21	40,000		10 2 78				
	BA	D79-21A		14,169b	2 14 79				54,169
Overseas highway	BA	D79-22	13,100		10 2 78				13,100
Urban Mass Transportation Administration									
Urban mass transportation fund	BA	D79-51	968,616		1 31 79				968,616
DEPARTMENT OF TRANSPORTATION TOTAL BA			1,311,895	35,428					1,347,323
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Antirecession financial assistance fund	BA	D79-23	2,205		10 2 78				
	BA	D79-23A		73	12 7 78	-22			2,256
	O	D79-40	5		12 7 78				
	O	D79-40A		3	1 31 79				8
State and local government fiscal assistance fund	BA	D79-24	78,489		10 2 78				
	BA	D79-24A		1,665	12 7 78	-366			79,788

PAGE 7 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 03/02/79 11:32

AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 03-01-79
	O	D79-25	2,404		10 7 78				
	O	D79-25A		1,562	12 7 78				
	O	D79-25B		11,835c	2 14 79	-13,666			2,135
Bureau of the Mint									
Construction of mint facilities	BA	D79-26	5,730		10 2 78				5,730
DEPARTMENT OF THE TREASURY									
TOTAL BA			86,424	1,738		-388			87,774
TOTAL O			2,409	13,400		-13,666			2,143
GENERAL SERVICES ADMINISTRATION									
Property Management and Disposal Activities									
Rare silver dollar program	BA	D79-27	2,123		10 2 78				2,123
Federal Preparedness Agency									
State and local preparedness	BA	D79-28	80		10 2 78				80
GENERAL SERVICES ADMINISTRATION TOTAL BA			2,203						2,203
OTHER INDEPENDENT AGENCIES									
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims	BA	D79-29	10,945		10 2 78	-1,051		-9,000d	894
International Communication Agency									
Salaries & expenses	BA	D79-41	2,095		12 7 78				2,095
Acquisition & construction of radio facilities	BA	D79-42	3,141		12 7 78				
	BA	D79-42A		7,832	2 14 79				10,973

PAGE 8 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1979 AS OF 03/02/79 11:32

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY, BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 03-01-79
Interstate Commerce Commission								
Payments for directed rail service BA	D79-30	13,990		10 2 78				13,990
Small Business Administration								
White House conference on small business BA	D79-43	1,600		12 7 78				1,600
Navaho & Hopi Indian Relocation Commission								
Salaries and expenses BA	D79-44	12,000		12 7 78				12,000
Tennessee Valley Authority								
Tennessee Valley Authority fund BA	D79-52	15,000		1 31 79				15,000
OTHER INDEPENDENT AGENCIES TOTAL BA		58,771	7,832		-1,051		-9,000	56,552
TOTAL BA		4,009,066	74,080		-1,168,489		-8,626	2,906,031
TOTAL O		2,409	13,400		-13,666			2,143

FOOTNOTES

a. This amount was released before the special message containing the deferral was transmitted to Congress.

b. This amount is net of a release of $10,831 thousand that was made prior to the transmittal of this supplementary report.

c. This amount is net of a release of $2,857 thousand that was made prior to the transmittal of this supplementary report.

d. This amount is included in a rescission proposal (R79-10) transmitted to the Congress on January 31, 1979.

[FR Doc. 79-7634 Filed 3-13-79; 8:45 am]

Federal Register

WEDNESDAY, MARCH 14, 1979

PART VI

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

HIGHWAY BEAUTIFICATION PROGRAM

Workshop/Meeting

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

HIGHWAY BEAUTIFICATION PROGRAM

23 U.S.C. § 131(o); Workshop/Open Meeting

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of meeting and workshop.

SUMMARY: The Federal Highway Administration (FHWA) will hold a workshop on May 15, 1979, for the purpose of explaining and discussing 23 U.S.C § 131(o) (the economic hardship section of the Highway Beautification Act), which allows for the exemption from removal of certain nonconforming outdoor advertising signs in defined areas where their removal would cause substantial economic impact throughout the defined area. Interested individuals and groups are invited to attend and participate in the workshop.

DATES: Workshop will be held May 15, 1979, at 9 a.m. Eastern Time.

Requests to participate by April 15, 1979.

ADDRESSES: Workshop: Federal Highway Administration, U.S. Department of Transportation, Room 2230, 400 Seventh Street, SW., Washington, D.C. 20590. Send requests to participate to Mr. Richard W. Moeller at address given below.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Moeller, Chief, Junkyard and Outdoor Advertising Branch, (202) 245-0021, or Mr. Edward Kussy, Attorney, (202) 426-0792; Federal Highway Administration, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.s.t., Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 131(o), Title 23, United States Code, commonly referred to as the economic hardship section, was adopted by the Congress as a part of the Federal-Aid Highway Act of 1976, Public Law 94-280, May 5, 1976. The amendment was passed in recognition of the fact that some areas may suffer substantial economic hardship if signs providing directional information about goods and services in the interest of the traveling public were removed. Since the adoption of this section, at least 12 States have amended their outdoor advertising control laws to provide for submission of exemption requests.

Section 131(o), its 1976 legislative history, and regulations issued thereunder are attached to this Notice for information. Briefly, these regulations require, in part, that States demonstrate that the removal of nonconforming signs in a defined area for which exemption from acquisition is requested will cause a substantial economic hardship throughout the defined area.

The managerial language in the conference report for the Surface Transportation Assistance Act of 1978, Public Law 95-599, 92 Stat. 2689, states:

"The conferees agreed not to amend subsection (o) of section 131 in the absence of experience that can be gained through its adequate implementation. When enacting subsection (o) in 1976, the Congress intended that it be administered by the Secretary in a meaningful way and that he approve the requests of States for the retention of signs, displays, and devices whenever the requests meet the requirements set forth in the subsection. The conferees emphasize that we expect the Secretary to expedite the implementation of subsection (o) to carry out this Congressional intent and to assist those States which desire to utilize its provisions in doing so." [H.R. Rep. No. 95-1797, 95th Cong., 2d Sess. 91 (October 14, 1978)].

The States are to develop a methodology to determine economic hardship, define the geographic boundaries of the impacted areas, and establish criteria for selection of exempt signs. The workshop discussed in this Notice will address ways of dealing with these issues as well as focusing on procedures for State applications and the compatibility and consideration of alternate information systems in relation to Section 131(o).

Each subject area will be introduced by a panel composed of individuals representing the public and private sectors involved in the Section 131(o) process and will be followed by a general discussion in which those present will be invited to participate.

Those wishing to participate are asked to notify the FHWA at the above address by April 15, 1979. It would also be appreciated if prospective participants indicate subject areas of particular interest to them so that the workshop program can be made as useful as possible.

Although it is presently planned that the workshop be a 1-day program, it could be expanded to a 2-day program if there is a sufficient justification. Those who cannot attend or who may not have time to fully state their views during the workshop meetings are asked to make written submission to the above address by June 11, 1979.

It should be emphasized that this workshop is designed to provide information to State officials considering whether or not to apply for exemptions and to local officials and other individuals who might participate in the State application process. The FHWA neither discourages nor encourages applications under Section 131(o), since this is not a mandatory provision of Federal law and its utilization is wholly an option of the State. It is the policy of the FHWA to facilitate procedural compliance with the law for those wishing to make valid exemption requests. This workshop is an effort undertaken pursuant to that policy.

ATTACHMENT

CHRONOLOGY OF 23 U.S.C. 131(O)

1. *Federal-Aid Highway Act of 1976, section 122(b) states:*

"(b) Section 131 of title 23, United States Code, is amended by adding at the end thereof the following new subsections:

'(o) The Secretary may approve the request of a State to permit retention in specific areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (o), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in such defined area.'"

2. *Conference Report to Accompany H.R. 8235:*

(a) *House Bill:*

"At the end of section 131, the bill would add three new subsections. Subsection (o) would provide that any sign providing the public with specific information in the public interest, which was in existence on June 1, 1972, shall not be required to be removed until the end of 1975 or until the State certifies that there are other means of obtaining the information whichever first occurs. States are directed to give preference in removal to signs voluntarily offered by their owners." [H.R. Rep. No. 94-1017, 94th Cong., 2d Sess. 48 (April 7, 1976)].

(b) *Senate Amendment:* None

(c) *Conference Substitute:*

"(2) The Secretary may approve the request of a State to permit retention in specific areas defined by the State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of section 131(c) if these signs, displays, and devices are in existence on the date of enactment of this provision and where the State demonstrates that these signs, displays, and devices provide directional information about goods and services in the interest of the traveling public and are such that removal would work substantial economic hardship in the defined area.

The conferees emphasize that the State will make the determination of economic hardship throughout the defined area. Neither the States nor the Secretary are to rely on individual claims of economic hardship." [H.R. Rep. No. 94-1017, 94th Cong., 2d Sess. 48-49 (April 7, 1976)].

3. *Interim Regulation Implementing the Statute: 23 CFR Part 750, Subpart E, published at 41 FR 45827 (October 18, 1976).*

Subpart E—Signs Exempt From Removal in Defined Areas

Sec.
750.501 Purpose.
750.502 Applicability.
750.503 Exemptions.

AUTHORITY: 23 U.S.C. 131 and 315, 49 CFR 1.48, 23 CFR 1.32.

Subpart E—Signs Exempt From Removal in Defined Areas

§ 750.501 Purpose.

This subpart sets forth the procedures pursuant to which a State may, if it desires, seek an exemption from the acquisition requirements of 23 U.S.C. 131 for signs giving directional information about goods and services in the interest of the traveling public in defined areas which would suffer substantial economic hardship if such signs were removed. This exemption may be granted pursuant to the provisions of 23 U.S.C. 131(o).

§ 750.502 Applicability.

The provisions of this subpart apply to signs adjacent to the Interstate and primary systems which are required to be controlled under 23 U.S.C. 131.

§ 750.503 Exemptions.

(a) The Federal Highway Administration (FHWA) may approve a State's request to exempt certain nonconforming signs, displays, and devices (hereinafter called signs) within a defined area from being acquired under the provisions of 23 U.S.C. 131 upon a showing that removal would work a substantial economic hardship throughout that area. A defined area is an area with clearly established geographical boundaries defined by the State which the State can evaluate as an economic entity. Neither the States nor FHWA shall rely on individual claims of economic hardship. Exempted signs must:

(1) Have been lawfully erected prior to May 5, 1976, and must continue to be lawfully maintained.

(2) Continue to provide the directional information to goods and services offered at the same enterprise in the defined area in the interest of the traveling public that was provided on May 5, 1976. Repair and maintenance of these signs shall conform with the State's approved maintenance standards as required by Subpart G of this part.

(b) To obtain the exemption permitted by 23 U.S.C. 131(o), the State shall establish:

(1) Its requirements for the directional content of signs to qualify the signs as directional signs to goods and services in the defined area.

(2) A method of economic analysis clearly showing that the removal of signs would work a substantial economic hardship throughout the defined area.

(c) In support of its request for exemption, the State shall submit to the FHWA:

(1) Its requirements and method (see § 750.503(b)).

(2) The limits of the defined areas(s) requested for exemption, a listing of signs to be exempted, their location, and the name of the enterprise advertised on May 5, 1976.

(3) The application of the requirements and method to the defined areas, demonstrating that the sign provide directional information to goods and services of interest to the traveling public in the defined area, and that removal would work a substantial economic hardship in the defined area(s).

(4) A statement that signs in the defined area(s) not meeting the exemption requirements will be removed in accordance with State law.

(5) A statement that the defined area will be reviewed and evaluated at least every three (3) years to determine if an exemption is still warranted.

(d) The FHWA, upon receipt of a State's request for exemption, shall prior to approval:

(1) Review the State's requirements and methods for compliance with the provisions of 23 U.S.C. 131 and this subpart.

(2) Review the State's request and the proposed exempted area for compliance with State requirements and methods.

(e) Nothing herein shall prohibit the State from acquiring signs in the defined area at the request of the sign owner.

(f) Nothing herein shall prohibit the State from imposing or maintaining stricter requirements.

Issued on: March 5, 1979.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 79-7662 Filed 3-13-79; 8:45 am]

Federal Register

WEDNESDAY, MARCH 14, 1979

PART VII

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Federal Highway Administration

Urban Mass Transportation Administration

■

NATIONAL RIDESHARING DEMONSTRATION PROGRAM

Solicitation of Interest

[4910-22-M]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation (OST), Federal Highway Administration (FHWA), and Urban Mass Transportation Administration (UMTA)

NATIONAL RIDESHARING DEMONSTRATION PROGRAM

Solicitation of Interest

LEAD AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration in conjunction with the Office of the Secretary and the Urban Mass Transportation Administration issues this information notice for any parties that may be interested in participating in a ridesharing demonstration program. The program will build upon the information base derived from other ridesharing projects funded by UMTA and FHWA and will further test innovative approaches. Knowledge gained through this effort will be made available to State and local governments and other agencies to improve the general effectiveness of ridesharing programs.

FOR FURTHER INFORMATION CONTACT:

Barbara Reichart, Chief, Ridesharing Branch, Office of Highway Planning, 202-426-0210; or Edward Mullaney, Attorney, Office of Chief Counsel, 202-426-0825.

INTRODUCTION

The United States consumes 7.37 million barrels of motor gasoline each day. Ridesharing, especially for the journey to and from work, is one effective way to conserve gasoline.

Recognition of ridesharing as an energy conservation measure dates back to World War II and today over 15 million Americans, about 21 percent of all who commute to work by vehicle, use some form of pooling as their principal travel mode. Over 70 percent of all work trips occur in metropolitan areas where congestion and environmental factors may make automobile operation especially inefficient and undesirable.

The energy savings at current pooling levels amount to approximately 3½ billion gallons of gasoline each year. Part of this savings can be attributed to the ridesharing programs developed by Federal, State, and local governments in response to the 1974 Emergency Highway Energy Conservation Act, as amended. An evaluation of a selection of ridesharing demonstration programs using Federal-aid highway and UMTA funds found that effective ridesharing efforts need to involve more than promotion campaigns and pooler-matching services. Strong involvement by employers, neighborhood associations, or business communities seems to be a requisite for success, as are targeted matching and promotion efforts and an effective combination of incentives.

The U.S. Department of Transportation is interested in ascertaining the most effective ways to increase ridesharing, particularly in metropolitan areas and, through its authority to use funds available to the Department and its modal agencies for research purposes, has established a Ridesharing Demonstration Program. It will build on the information developed to date in related ongoing demonstrations in the UMTA Service and Methods Demonstration Program (SMD). The objective of this 2-year demonstration program is to gain broader application of the positive ridesharing techniques developed by previous FHWA, UMTA, or independent efforts, and to implement and evaluate different combinations of techniques and innovative approaches. Innovative approaches may include, but should not be limited to, such activities as preferential parking programs, priority high occupancy vehicle (HOV) facilities, brokering of ridesharing services, subscription commuter buspools, variable work hour programs, and pricing of facilities so as to encourage ridesharing.

It is anticipated that the 2-year program will fund up to 10 demonstration projects, representative of various geographic areas and population sizes (e.g., small areas (100,000), midsize areas (750,000), and large areas (+1,000,000)). Preference will be given to areas with critical mobile source pollution problems, as identified on the Environmental Protection Agency list of nonattainment areas.

ELIGIBLE PARTICIPANT

Any public agency with authority to administer ridesharing projects involving the expenditure of Federal-aid highway funds and/or Urban Mass Transportation transit assistance funds is invited to express its interest in the program.

FINANCING AND ELIGIBLE EXPENDITURES

The program will provide a financial incentive to State and local agencies to explore comprehensive approaches or new techniques to increase the percentage of ridesharing among local commuters. Project sponsors will be required to commit Federal-aid transportation funds (apportioned Federal-aid Urban, Primary, and Secondary System funds or apportioned UMTA Section 5 funds) to the proposed project. For every $2 (i.e., a combination of Federal-aid funds and the required local match) committed by the interested party to the project, $1 in special Federal demonstration funds will be added. The special Federal demonstration funds are anticipated not to exceed $250,000 per project, depending upon urban area population size and demonstration potential.

All project-related activities eligible for Federal-aid funding under the Federal-aid carpool and vanpool program are eligible expenses under the demonstration program. It is anticipated that the project sponsor shall use its committed Federal-aid funds for those project items normally eligible under existing funding categories and that a significant portion of the demonstration funds being requested will be used in the development of a comprehensive ridesharing program, including marketing and appropriate incentives, and project monitoring and data collection activities.

EVALUATION

The evaluation of demonstration projects will be a cooperative and coordinated effort involving the U.S. Department of Transportation and the interested parties. The Transportation Systems Center (TSC), a research and development organization within the U.S. Department of Transportation, will have responsibility for the evaluation, including the planning and technical direction of individual demonstration evaluations and comparative studies based on findings from the individual evaluations. The evaluation approach used will be similar to that now used by the SMD program: data collection will be performed by the party in accordance with an evaluation plan prepared by TSC and adapted in consultation with parties to meet the needs of individual projects. The interested parties should prepare a data collection budget based upon their perception of the effort required. This will be modified during project development based upon available evaluation resources, the scope of the individual project, and the needs of the party and the U.S. Department of Transportation.

SELECTION CRITERIA

The following criteria, not necessarily in order of importance, will be used to determine which of the interested parties will be invited to participate in the program:

(a) Innovative features regarding marketing, incentives, financing, regulations, insurance, matching, management, and other aspects that have the potential to increase the level of ridesharing activity nationally as well as locally.

(b) Extent and effectiveness of previous and current ridesharing activities

including comprehensiveness of area coverage and public needs met.

(c) Past and projected commitment of financial resources, particularly Federal-aid Urban and/or Primary System funds, to implement ridesharing programs and incentives.

(d) Commitment of personnel from local agencies such as ridesharing offices, traffic and planning departments, transit operators, and employers, to participate in the implementation of a comprehensive ridesharing program.

(e) Degree of management capability to develop and adequately evaluate a comprehensive ridesharing program.

(f) Level of anticipated increase in number of ridesharers per dollar of public funds spent.

(g) Endorsement and willingness of State and local officials to cooperate in the development and implementation of a comprehensive ridesharing program.

(h) Degree of community involvement and support from public officials, public and private bus operators, employers and other relevant groups as evidenced by letters of endorsement.

To the extent possible, projects will be selected to meet the geographic, population sizes, and air quality features discussed above.

Contents of Letters of Interest

Letters of interest should not exceed 20 pages and should include, in the following order:

(a) A concise statement of the proposed project goals and objectives. Goals should be quantified to the extent possible. For large urban areas the project may encompass only a segment of the urban area.

(b) A narrative description of the activities to be carried out during the project. The narrative should state how the project will build on previous activities, what approaches will be used to match potential poolers, incentives to be developed for pooling, involvement of employers or groups of employers or employees, involvement of public and private bus operators in forming buspools, and identification of legal, regulatory, or institutional barriers to the formation of carpools, vanpools, and buspools.

(c) A statement of previous and current ride-sharing activities, specifically identifying annual financial level of effort and funding sources, size of staff, number of requested matches, number of carpools/vanpools formed, evaluation results, marketing and promotional activities, and legal or regulatory actions taken to encourage ridesharing.

(d) Summary of proposed project costs and breakdown of funding sources. Each budget line item should be justified in a short narrative following the summary. The budget sheet should clearly differentiate between the funds (Federal and local) to be committed by the party and the special Federal demonstration funds being requested. A sample budget format follows below identifying categories to be used.

(e) A short description of the area and a map (folded to 8½" x 11" size) should be included. To the extent possible, major employment concentrations should be identified on the map by type and number of employees.

(f) A copy of the following information should be included:

(1) A resolution by the governing body of the party authorizing submittal of the letter of interest.

(2) Identification of the urbanized area and endorsement of the proposed project by the metropolitan planning organization (MPO).

(3) Where the MPO is not the areawide A-95 clearinghouse agency, a record of A-95 review.

(g) Letters of endorsement from public and private organizations should be included as an attachment and will not be considered part of the letter of interest. No other attachments should be included.

National Ridesharing Demonstration Program Sample Summary Budget Sheet

1. Employee salaries professional	$
2. Employee salaries clerical	
3. Employee benefits	
4. Travel	
5. Computer expenses	
6. Marketing	
7. Consultant contracts	
8. Other contracts (specify)	
9. Data collection	
10. Vehicle purchase or lease	
11. Other project costs (specify)	
12. Contingencies	
Total	$

Budget Summary

Federal-aid funds	$
Local match	
National Demonstration Funds	
Total	$

Interested Parties Responsibilities

Nine copies of the letter of interest should be sent to the State transportation agency if the interested party is other than the State transportation agency, with a certification that the proposed project, if preliminarily selected for funding will be included in the Transportation Improvement Program for the local area and the State 105 program. Eight copies of all letters of interest should be forwarded by the State transportation agency to the Federal Highway Administration division office. If selected for funding consideration, the project sponsor must plan, implement, collect data, and document project activities under agreement with the State transportation agency and the Federal Highway Administration, and participate in ridesharing workshops with other project sponsors and agency representatives.

Time Schedule

Letters of interest should be submitted to the State transportation agency no later than May 14, 1979. They will then be forwarded through Federal Highway Administration division offices in each State to the Department of Transportation in Washington, D.C.

Preliminary selection of the projects from the letters of interest will be made by FHWA, UMTA; and OST. The announcement of preliminarily selected demonstration projects will be made as soon thereafter as possible.

Issued on March 6, 1979.

Richard S. Page,
Urban Mass Transportation Administrator.

Karl S. Bowers,
Federal Highway Administrator.

John J. Fearnsides,
Deputy Under Secretary.

Appendix

As the following bibliography illustrates, a substantial amount of work has been done in various aspects of ridesharing. The publications listed may provide information to those interested in participating in the cities demonstration program. The reports are available through Transportation System Center (TSC), National Technical Information Service (NTIS), Government Printing Office, the Federal Highway Administration or other source, as identified for each entry.

Ridesharing Bibliography

1. Beeson, John D. et al, *The Knoxville Transportation Brokerage Project, Volumne II: Operations and Management, Report No.* UMTA-TN-06-0006-77-2, October, 1977. Available from TSC, Code 243.

2. Cambridge Systematics, Inc., *The Minneapolis Ridesharing Communter Services Demonstration: Interim Report*, prepared for the Transportation Systems Center, draft, October, 1978. Available from TSC, Code 243.

3. Cambridge Systematics, Inc., *Vanpool Research State-of-the-Art Review*, prepared for the Transportation Systems Center, draft, August, 1978. Available from TSC, Code 243.

4. Davis, Frank W., and David A. Burkhalter, "Vanpooling Institutional Barriers," prepared for U.S. Department of Energy, December 31, 1977. Available from Lew Pratsch, Department of Energy, Office of Transportation Programs, Room 3214, 20 Massachusetts Avenue N.W., Washington, D.C. 20545.

5. Federal Energy Administration *Economic Feasibility of Independent Vanpool Operations*, Report FEA/D-99/014, September, 1976. Available from NTIS, PB 266 577/6; cost $6.00.

6. Federal Energy Administration, *Carpool Incentives: Analysis of Transportation and Energy Impacts*, prepared by Cambridge Systematics, Inc., June, 1976. Available from NTIS, PB 263 969/8WT; cost $9.00.

7. Federal Energy Administration, *Carpool Incentives: Evaluation of Operational Experience*, Conservation Paper Number 44, pre-

pared by Cambridge Systematics, Inc., and Alan M. Voorhees & Associates, March, 1976. Available from NTIS, BP 623 050/7WT: cost $9.00.

8. Grey Advertising, *Vanpool Demonstration Project,* Final Report, prepared for the Federal Energy Administration, February, 1977. Available from Lew Pratsch, Department of Energy, Office of Transportation Programs, Room 3214, 20 Massachusetts Avenue N.W., Washington, D.C. 20545.

9. Heaton, Carla, et al, *Comparison of Organizational and Operational Aspects of Four Vanpool Demonstration Projects,* Staff Study SS-24-U.3—167, Transportation Systems Center, January 1979. Available from TSC Code 243.

10. Jacobson, James Oscar, *Employer Vanpool Programs: Factors in Their Success or Failure,* Research Report No. 77-2, Urban Transportation Program, University of Washington (Seattle), June, 1977. Available from NTIS, PB 276 955/2WT; cost $6.00.

11. Johnson, Chris et al, *Ridesharing and Park and Ride: An Assessment of Past Experiences and Planning Methods for the Future,* University of Illinois at Chicago Circle, 1977.

Available from NTIS

Volume I—Carpool Planning Manual, PB 282 408/4WT; cost $8.00.

Volume II—Vanpool Planning Manual, PB 282 409/2WT; cost $7.25.

Volume III—Park and Ride Planning Manual, PB 282 410/OWT; cost $5.25.

Volume IV—A Service Area Identification Methodology, PB 282 411/8WT; cost $6.00.

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