12-3-80
Vol. 45 No. 234
Pages 80097-80266

federal register

Wednesday
December 3, 1980

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80125 **Selective Service System** SSS solicits comments by 1-1-81, on its draft proposed revision to develop changes in the Selective Service procedures

80162 **Grant Programs—Business** Commerce/MBDA seeks applicants for 19 Dallas Region projects under the General Business Services Program; apply by 12-31-80

80258 **Continental Shelf** Interior/Sec'y establishes program to assure non-discrimination against minority and woman-owned business enterprises in all activities related to mineral leasing; effective 1-2-81 (Part II of this issue)

80240 **Energy** TVA proposes policy on dispersed power production and proposed interim program and guidelines for implementation; comments by 1-23-81; meeting on 1-19-81

80215 **Postal Service** PS changes international postal rates and fees; effective 1-1-81

80157 **Antidumping** Commerce/ITA determines that countertop microwave ovens from Japan are being sold at less than fair value; effective 12-3-80

80095 **Customs Duties and Inspection** Treasury/Customs states who shall be subject to its vessel laws; effective 1-2-81

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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80109 Common Carriers ICC releases rule governing application for operating authority; effective 12-3-80

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Quarantined and Released

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Cuyahoga County in Ohio because of the existence of exotic Newcastle disease and to release a portion of Bergan County in New Jersey and a portion of Cabell County in West Virginia from the areas quarantined because of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portion of Cuyahoga County, Ohio, on November 20, 1980. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the affected area. Further surveillance activity indicates that exotic Newcastle disease no longer exists in the areas quarantined.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: These amendments quarantine a portion of Cuyahoga County in Ohio, because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined area.

These amendments also release a portion of Bergan County in New Jersey and a portion of Cabell County in West Virginia from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 82.3(a)(6)(i), is added to read:

§ 82.3 Areas quarantined.

(a) * * *

* * * * *

(6) *Ohio.* (i) The premises of Greene's Aviary (Lorraine B. Greene), 1312 Richmond Road, Lyndhurst, Cuyahoga County.

* * * * *

2. In § 82.3(a)(5), relating to the State of New Jersey, paragraph (i) relating to the premises of Tropical Bird Imports (Dave Gawronski), 9 E. Pleasant Avenue, Maywood, Bergan County is deleted.

* * * * *

3. In § 82.3(a)(9), relating to the State of West Virginia, paragraph (i) relating to the premises of Vincent Perego, 3964 Beechwood Road, Ona, Cabell County is deleted.

* * * * *

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

These amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

The amendment releasing the quarantined areas relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles interstate from such areas without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevent information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause if found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by E. C. Sharman, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 28th day of November 1980.

R. P. Jones,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-37574 Filed 12-2-80; 8:45 am]
BILLING CODE 3410-34-M

9 CFR Part 92

Specifically Approved States To Receive Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document adds the State of Colorado to the list of specifically approved States authorized to receive certain stallions imported into the United States from countries affected with contagious equine metritis (CEM).

This action is being taken because the Deputy Administrator of Veterinary Services, Animal and Plant Health Inspection Service, has determined that this State has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further insure their freedom from CEM as required by the regulations.

DATES: Effective date: December 3, 1980. Comments must be received on or before February 2, 1981.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Dr. M. J. Tillery, Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action since the State has met the criteria stated in § 92.4(a)(6) of the regulations.

This amendment relieves certain restrictions presently imposed on certain horses being imported into the United States. It should be made effective immediately in order to permit affected persons to move certain horses into the United States without undue restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the Federal Register. Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the Federal Register as soon as possible.

Section 92.2(i)(2) of Title 9, Code of Federal Regulations (9 CFR 92.2(i)(2)), authorizes the importation of male horses (stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into specified States for further inspection, treatment and testing by the State of destination. The amendment established minimum standards which a State must meet in order to be approved to receive stallions imported from CEM-affected countries. These standards contain treatment, testing and handling procedures believed necessary to insure that the stallions being imported into the United States are free of the contagion of CEM.

This document adds the State of Colorado to the list of specifically approved States to receive such horses, on the basis of a determination of their eligibility for such approval under § 92.4(a)(6) of the regulations.

§ 92.4 [Amended]

Accordingly, § 92.4(a)(5)(ii) of Title 9, Code of Federal Regulations, is amended by adding "The State of Colorado," before "The State of Kentucky," as States approved to receive stallions pursuant to § 92.2(i)(2)(iv) of the regulations.

(Sec. 2, 32 Stat. 792 as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141)

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 823, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the Federal Register.

Done at Washington, D.C., this 24th day of November 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-37573 Filed 12-2-80; 8:45 am]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

14 CFR Part 374a

[Special Regulations Amendment No. 3 to Part 374a; SPR-173]

Regulations Pursuant to Section 401 of the Federal Election Campaign Act of 1971 With Respect to Extension of Credit by Air Carriers to Political Candidates

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The regulations relating to the Federal Election Campaign Act of 1971 contain a number of definitions. The requirements for approved surety bonds in the definition of "adequate security" make a cross-reference to Part 378. That part was removed in 1978, when the old charter rules were consolidated into Part 380, Public Charters. The correct cross-reference is to Part 380.

DATES: Adopted: November 25, 1980. Effective: December 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Because this amendment merely corrects an outdated cross-reference, notice and public procedure are unnecessary and contrary to the public interest.

This editorial amendment is issued under the delegation of authority from the Board to the General Counsel in 14 CFR 385.19. Procedures for review of this amendment are set forth in Subpart C of Part 385 (14 CFR 385.50 through 385.54).

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 374a, *Regulations Pursuant to Section 401 of the Federal Election Campaign Act of 1971 With Respect to Extension of Credit By Air Carriers to Political Candidates,* as follows:

1. The authority for Part 374a is:

(Secs. 204(a), 401, 403, 404, 407, 416, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 758, 760, 766, 771; 49 U.S.C. 1324, 1371, 1373, 1374, 1377, 1386)

2. In § 374a.3, the definition of "adequate security" is amended to refer

to Part 380, instead of Part 378, so that it reads:

§ 374a.3 Definitions.

"Adequate security" means (a) a bond, issued by a surety meeting the standards prescribed for sureties in Part 380 of this chapter, in an amount not less than one hundred and fifty percent (150%) of the credit limit established by the air carrier for the candidate, or the person acting on behalf of the candidate, as the case may be, by the terms of which bond the surety undertakes to pay to the air carrier any and all amounts (not exceeding the face amount of the bond) for which the assured candidate or the assured person acting on behalf of a candidate, as the case may be, is or may become legally liable to the air carrier for transportation, as defined in this part;

* * * * *

Mary McInnis,

General Counsel.

[FR Doc. 80-37569 Filed 12-2-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

[T.D. 80-287]

Aircraft Arriving From Foreign Territory and Persons and Merchandise, Including Baggage, Carried on Aircraft Subject to Customs Laws and Regulations

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

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that aircraft arriving from *any* foreign territory and the persons and merchandise, including baggage, carried on the aircraft shall be subject to the *vessel* laws and regulations enforced and administered by Customs.

The amendment ends a difference in treatment whereby aircraft arriving from contiguous foreign territory (Canada or Mexico) were not subject to the same administrative and enforcement provisions as aircraft arriving from non-contiguous foreign territory.

EFFECTIVE DATE: January 2, 1981.

FOR FURTHER INFORMATION CONTACT: Stuart P. Siedel, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-2482).

SUPPLEMENTARY INFORMATION:

Background

The inability to apply the provisions of the Anti-Smuggling Act of 1935 (the "Act") (19 U.S.C. 1701 *et seq.*) to aircraft arriving from contiguous foreign territory has hampered Customs enforcement efforts on the United States-Mexico border.

In particular, section 3 of the Act (19 U.S.C. 1703) provides for the seizure and forfeiture of vessels built, purchased, or fitted out for the purpose of being employed to defraud the revenue or to smuggle merchandise into the United States or into the territory of a foreign government (providing the foreign government has reciprocal provisions with respect to the laws of the United States). That section further provides that the fact that the vessel has become subject to pursuit as provided in 19 U.S.C. 1581, or fails to display lights as required by law, shall be *prima facie* evidence that the vessel is being employed to defraud the revenue of the United States.

Under 49 U.S.C. 1509, the Secretary of the Treasury is authorized to apply to civil aircraft the laws and regulations relating to the administration of the Customs laws and to the entry and clearance of vessels, to such extent as the Secretary deems necessary. It is Customs position that under 49 U.S.C. 1509, the provisions of the Act relating to seizure of vessels fitted out for smuggling or not displaying lights (19 U.S.C. 1703), are applicable to aircraft, regardless of the origin of the flight. An aircraft thus could be seized under 19 U.S.C. 1703 for having been employed to defraud the revenue or to smuggle merchanise. Operating without lights would constitute a statutory presumption of such violation. However, because of the existing wording of § 6.10, Customs Regulations (19 CFR 6.10), 19 U.S.C. 1703 applies only to aircraft arriving from non-contiguous foreign territories.

Customs officers have documented an increasing number of aircraft crossing the United States-Mexico border under cover of darkness to avoid detection and apprehension. All aircraft are required to display navigation lights after sunset and before sunrise by the Federal Aviation Administration regulations (14 CFR 91.73). Numerous instances of aircraft flying without navigation lights have been detected by Customs officers along the border and many aircraft have been found with seats removed or otherwise altered or fitted out for smuggling. Customs believes that many of these "smuggler" aircraft could be detected and apprehended if the appropriate Customs laws were applied.

Accordingly, on December 17, 1979, a notice was published in the Federal Register (44 FR 73122) proposing to amend § 6.10 to provide for the application to aircraft arriving or having arrived from *any* foreign territory of all enforcement and administrative provisions administered by Customs which are applicable to vessels arriving or having arrived from a foreign port or place. Comments were to have been received on or before February 15, 1980.

Discussion of Comment

The only comment received in response to the proposal raised the following issues:

1. Why § 6.10 differentiated between aircraft arriving from non-contiguous and contiguous foreign territory?
2. How 19 U.S.C. 1703 could serve as the statutory basis for the proposed change because aircraft are specifically excluded by 19 U.S.C. 1401 from the term "vessel"? and
3. Whether including aircraft within the definition of "vessel" serves to alter or amend a revenue law by regulation as proscribed by *Morrill* v. *Jones*, 106 U.S. 466 (1882)?

With regard to the first issue, there is no logical or legal argument for preventing an otherwise lawful regulatory amendment merely because the existing regulatory language, written over forty years ago, can no longer accurately be explained.

As to the second issue, 49 U.S.C. 1509 states that:

* * * * *

(b) The Secretary of the Treasury is authorized * * * (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the customs laws to such extent and upon such conditions as he deems necessary.

(c) The Secretary of the Treasury is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such conditions as he deems necessary.

* * * * *

Further, 49 U.S.C. section 1474 provides penalties for the violation of 49 U.S.C. 1509. Hence, Title 49 provides the Secretary of the Treasury with the statutory authority to treat aircraft as though they were vessels under 19 U.S.C. 1703.

Because Title 49, United States Code, clearly provides the Secretary with statutory authority to apply to aircraft by regulation certain provisions of law applicable to vessels, the third issue raised is irrelevant.

Accordingly, the amendment to § 6.10 is adopted as proposed.

Inapplicability of E.O. 12044

This document is not subject to the Treasury Department directive (43 FR 52120) implementing Executive Order 12044, "Improving Government Regulations," because the proposal was in process before May 22, 1978, the effective date of the directive.

Drafting Information

The principal author of this document was Todd J. Schneider, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendment to the Regulations

Section 6.10, Customs Regulations (19 CFR 6.10), is amended to read as follows:

§ 6.10 General provision.

Except as otherwise provided for in this part, and insofar as such laws and regulations are applicable, aircraft arriving or having arrived from any foreign port or place and the persons and merchandise, including baggage, carried thereon, shall be subject to the laws and regulations applicable to vessels arriving or having arrived from any foreign port or place, to the extent that such laws and regulations are administered by the Customs Service.

(R.S. 251, as amended, section 624, 46 Stat. 759, section 644, 46 Stat. 761, section 904, 72 Stat. 787, section 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624, 1644; 49 U.S.C. 1474, 1509))

William T. Archey,

Acting Commissioner of Customs.

Approved: November 10, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-37587 Filed 12-2-80; 8:45 am]

BILLING CODE 4810-22-M

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19 CFR Part 177

[T.D. 80-285]

Issuance of Administrative Rulings Concerning the Tariff Classification of Imported Merchandise

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

ACTION: Final rule.

SUMMARY: This notice amends the Customs Regulations to authorize the Regional Commissioner of Customs, New York, to issue selected tariff classification rulings. The rulings will be limited to requests for the tariff-classification of imported merchandise before the transaction is considered by Customs by reason of arrival or entry of the merchandise. A right of appeal to Customs Headquarters is authorized and the rulings issued by the Regional Commissioner will be monitored closely by the Director, Classification and Value Division, Customs Headquarters, for consistency with law, regulation, and precedent cases.

EFFECTIVE DATE: January 2, 1981.

FOR FURTHER INFORMATION CONTACT: Paul G. Giguere, Deputy Director, Classification and Value Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (566-5868).

SUPPLEMENTARY INFORMATION:

Background

To be certain of the duty treatment merchandise will receive when imported into the United States, importers usually request binding rulings from Customs before the import transaction relating to the merchandise takes place. Currently, these rulings are issued by the Office of Regulations and Rulings ("ORR") at Customs Headquarters. While some of the requests require immediate replies in order to be meaningful, others do not require such quick responses. In the absence of advice from the party requesting the ruling, it usually is not possible for ORR to make a determination with respect to the urgency of any particular ruling request. In addition, some of these requests are routine and merely require the application of previously established precedent. On the other hand, a small percentage are more complex and may present issues not previously considered by Customs or may seek reconsideration of previously decided issues.

Because of increases in ruling requests and decreases in staffing, it has become apparent in recent months that some method must be found to modify the ruling process to provide for the expeditious issuance of rulings. A variety of management improvements have been made in ORR, but despite all these changes, it still takes an average of 100 to 110 days to process a response to an importer. A processing time of 100 to 110 days to issue a response in routine cases is not acceptable if Customs intends to provide a meaningful service to the international trade community.

A detailed examination of the ruling process was undertaken for the purpose of improving the system. Pursuant to the examination, it was concluded that present procedures should be modified to allow for a more active role by the National Import Specialists (NIS), under the authority of the Regional Commissioner of Customs, New York (Region II).

The NIS are a relatively small, skilled group of Customs professionals. They are tariff classification technicians and, unlike import specialists located in other Customs regions, are responsible for very narrow areas of the Tariff Schedules of the United States (19 U.S.C. 1202), known as product lines, and are conversant with the judicial and administrative precedent relating to these product lines.

On July 25, 1980, a notice of proposed rulemaking was published in the Federal Register (45 FR 49591), proposing to amend Part 177, Customs Regulations (19 CFR Part 177), to authorize the Regional Commissioner, New York, to issue selected tariff classification rulings. Interested persons were invited to submit comments regarding the proposal on or before August 27, 1980. In response, 23 comments were received from corporations, law firms, customhouse brokers, trade associations, and individuals. Following an analysis of the comments, set forth elsewhere in this document, and subject to the modifications specified therein, Customs has determined to adopt the proposed changes.

As stated in the notice of proposed rulemaking, inasmuch as the NIS are centrally located and are organizationally under the same person, it is anticipated that uniformity of decisions and the quality of rulings will be maintained after this change is made.

The NIS will issue ruling letters regarding prospective Customs transactions only. They will not prepare final decisions on "Internal Advice" requests, "Further Review of Protest" requests, requests for "Change of Practice," and Petitions under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516). Also, they will not prepare final rulings in "difference" cases.

Requests for tariff classification rulings will be forwarded to the Regional Commissioner, New York. Subject to guidelines provided by the Director, Classification and Value Division, Customs Headquarters, the Regional Commissioner will determine whether the requested ruling should be issued from the Region or whether the matter should be referred to Headquarters. Those members of the public who wish, may make requests directly to Customs Headquarters. However, the Director, Classification and Value Division, Customs Headquarters, may determine to forward requests considered to be routine to the Regional Commissioner for reply.

Customs Headquarters will retain authority to issue rulings in all matters brought to its attention and to review independently all ruling letters issued by the Regional Commissioner. If the importer or other person to whom a ruling letter is issued disagrees with the tariff classification he may petition the Director, Classification and Value Division, Customs Headquarters, for review of the ruling.

If an actual importation of merchandise occurs after receipt of a request for a ruling but before the issuance of the ruling, the Regional Commissioner will handle the matter in the same way it is currently handled by Headquarters (i.e, the party seeking the ruling must advise Customs of the fact an actual importation has occurred; assuming no material change in the facts, the request will continue to be treated by Customs as a prospective ruling request).

The rulings signed by the Regional Commissioner will be binding on Customs. They will not be withdrawn retroactively to the detriment of the party on whose behalf the ruling was requested. Further, if published, those rulings will create established and uniform practices.

Discussion of Comments

A majority of the commenters responding to the notice of proposed rulemaking endorse Customs proposal to authorize the Regional Commissioner, New York, to issue selected tariff classification rulings. They are of the opinion that implementation of the proposal is an intelligent use of Customs resources and will: benefit all parties; provide more rapid processing of ruling requests in a manner which promotes the uniformity and quality of decisions; enhance the service which Customs offers the importing community; and, enhance the responsibility of the NIS.

Other commenters believe, however, that there is no basis to support or validate the proposal and that it is generally ill-advised.

Two commenters do not believe that the NIS possess the legal skills and background to issue administrative rulings which will bind Customs. Another questions whether the NIS have the legal competence to make determinations involving uniform and established practices.

As previously noted, the NIS are conversant with the judicial and administrative precedent relating to the product lines for which they are responsible. The ruling requests handled by the NIS will be routine and will not involve any other complicating factors. The NIS will not determine the existence or nonexistence of uniform and established practices. For these reasons, Customs is of the opinion that the NIS possess the legal skills and background commensurate with the tasks which they will be assigned. In addition, to ensure consistency with law, regulation, and precedent cases, rulings issued by the Regional Commissioner will be closely monitored by the Director, Classification and Value Division, Customs Headquarters.

Although rulings issued by the Regional Commissioner will create established and uniform practices if published, all of these rulings will be reviewed by Headquarters before publication.

One commenter expresses concern that the proposal does not prescribe standards for determining when a request for tariff classification is complex or sensitive. Another states that it appears that by using the terms "complex" and "sensitive" Customs is imposing criteria or policy considerations to be applied in issuing administrative rulings. One commenter notes that the burden of determining which issues are complex or sensitive is on the requester and asks if there will be a procedure for complex requests sent to New York to be forwarded to Headquarters and for less complex requests to be sent from Headquarters to New York.

Apparently, the use of the terms "complex" and "sensitive" in the notice of proposed rulemaking caused some confusion among the commenters. The terms were used to indicate only that the administrative rulings issued by the Regional Commissioner would be routine and would not involve complicating factors. Customs did not intend to establish criteria or policy considerations to be applied to the administrative ruling process. However, to avoid further confusion, the terms have been deleted from the final amendments.

The Director, Classification and Value Division, Customs Headquarters, will develop guidelines to be followed in transferring requests between Headquarters and the New York Region.

One commenter asks which ruling would take precedence if there is a conflict between rulings issued by Headquarters and the Regional Commissioner. Another asks whether the NIS will continue to advise Headquarters in "Internal Advice" and "Protest Review" cases after the proposed amendments are implemented.

In the event of a conflict between rulings issued by Headquarters and the Regional Commissioner, the Headquarters ruling would govern. Because the NIS possess expert technical knowledge, they will continue to advise Headquarters in "Internal Advice," "Protest Review," and other such cases.

Two commenters note that, although they are essentially requests for tariff classification rulings, many ruling requests involve the application of special provisions and should be forwarded to and answered by Headquarters. One commenter suggests that rulings concerning the conditional free entry of merchandise from insular possessions, the Generalized System of Preferences (GSP), and original automotive equipment from Canada should be issued only by Customs Headquarters.

Customs agrees that these types of requests present issues which are more appropriate for Headquarters review. Accordingly, the Director, Classification and Value Division, Customs Headquarters, will develop and issue guidelines instructing the Regional Commissioner which of these requests are to be forwarded to Headquarters for reply.

Three commenters suggest that application of the prohibition in § 177.1(b), Customs Regulations, barring Customs personnel from ordinarily discussing substantive Customs questions before receiving a written request for a ruling, is too restrictive to apply to the NIS. Importers now may call the NIS for a general indication of the proper classification of merchandise or for an idea of the way in which the NIS would approach the classification of the article. They do not expect Customs to be found by this oral advice, however, the commenters note that such discussions frequently reveal that a formal ruling request is unnecessary because the classification in issue is well settled. The commenters are of the opinion that the prohibition would discourage an expeditious method of handling requests for information, that the number of requests for formal rulings would increase, and that the goal of expediting the issuance of administrative rulings would be inhibited.

Customs agrees that informal discussion is essential to the expeditious handling of requests for administrative rulings, that impediments to the exchange of information should be eliminated on all levels, and that the prohibition on discussion is unnecessary. So that both the NIS and Headquarters personnel may be free to discuss the issues involved in a specific situation, § 177.1(b) has been modified to delete the prohibition restricting Customs personnel from discussing

substantive Customs questions before receiving a written request for a ruling. Of course, a binding ruling will be issued only after Customs has received a written request.

One commenter asks whether the failure to request a meeting to discuss the issues in a particular case at the time a ruling request is filed would bar such a request at a later date.

A request for a meeting should be made at the time a ruling request is filed. However, when it is requested after filing, a conference may be scheduled if the Customs employee considering the ruling request determines that a conference would be helpful in deciding the issues involved.

Two commenters suggest that American manufacturers, businesses, and trade asssociations with interests related to particular imports should be included as parties entitled to file ruling requests.

Section 177.1(a)(1), now, and as amended by this document, provides that upon written request with respect to a specifically described Customs transaction, Customs will issue administrative rulings setting forth a definitive interpretation of applicable law or other appropriate information to importers or other interested parties. Customs believes that American manufacturers, businesses, and trade associations with interests related to particular imports fall within the scope of the phrase "other interested parties." It should be noted, however, that although requests for administrative rulings may be issued to American manufactures by either Customs headquarters or the Regional Commissioner, all administrative proceedings under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), must be handled at Customs Headquarters.

Two commenters are of the opinion that there should be some time limit within which the Regional Commissioner must repond to requests for administrative rulings. One commenter suggests that 30 days from the receipt of the request would be appropriate.

Customs agrees that it is desirable to establish a time limit for the issuance of ruling letters by the Regional Commissioner, However, it is not posible at this time to determine whether 30 days would be appropriate. When practicable, the Director, Classification and Value Division, Customs headquarters, will issue guidelines directing the Regional Commissioner to process all requests within a specific time limit.

One commenter believes that the 30 days provided to appeal to Headquarters from a ruling letter issued by the Regional Commissioner is insufficient to analyze the initial ruling and develop information in support of a petition for review. Two other commenters suggest that rulings issued by the Regional Commissioner and appealed to Headquarters should not be put into effect, published, or disseminated to the public or to Customs field offices until the Headquarters review is complete. One commenter is of the opinion that appeals will follow all except the most perfunctory or obvious cases and that if so, the proposal would effect no change.

Customs agrees that the 30 day appeal period does not provide adequate time to analyze a ruling and to develop information in support of a petition for review. Proposed § 177.2(b)(2)(C) has been modified to delete the 30 day limitation. Customs does not agree that rulings issued by the Regional Commissioner and appealed to Headquarters should not be implemented until Headquarters review is completed. If Headquarters determines that the rate of duty applied by the NIS should be lowered, the lower rate will be applied to all pending unliquidated entries covering the same merchandise. In cases where headquarters determines that the rate of duty applied by the NIS should be increased, the higher rate will apply only to entries or withdrawals from warehouse for consumption made after the date of the ruling.

As noted, the NIS possess a thorough understanding of specific trade and product lines. They are conversant with the judicial and administrative precedent relating to these product lines. In addition, they will be dealing with routine issues solely within their areas of expertise. For these reasons, Customs believes that the NIS are capable of answering the majority of requests which they will receive to the satisfaction of all requesters. We do not believe that Headquarters will be inundated with requests for appeals from rulings issued by the Regional Commissioner as a result of this new procedure.

One commenter states that a ruling issued by the Regional Commissioner should not bind Customs to a uniform and established practice without first being reviewed by Headquarters. Another believes that all ruling letters issued by the Regional Commissioner should be reviewed (by Headquarters, it is presumed) for legal correctness. A third commenter suggests that all of the rulings issued by the Regional Commissioner should be advisory only and that headquarters alone should issue binding rulings.

As previously noted, the Regional Commissioner will not be authorized to make findings with respect to the existence or nonexistence of established and uniform practices. Administrative rulings issued by Customs Headqurters or the Regional Commissioner, which are not published, will be applied only with respect to transactions involving articles identical to those which were the subject of the ruling letter. No other person should rely on a ruling letter or assume that principles of that ruling will be applied in connection with any transaction other than the one described in the letter.

The Director, Classification and Value Division, Customs Headquarters, will institute a procedure to review all rulings issued by the Regional Commissioner before publication. Further, all findings with respect to the existence or nonexistence of uniform and established practices will be made by Headquarters. Customs does not agree that all rulings issued by the Regional Commissioner should be reviewed for legal correctness, nor that only Headquarters should issue binding rulings. As previously noted, the NIS possess the requisite expertise to issue rulings relating to the product lines within their areas of expertise.

One commenter suggests that the authority of the Regional Commissioner to modify or revoke ruling letters should be specifically set forth in the regulations and that he should not be allowed to revoke or modify rulings issued by Headquarters. Another states that no modification or revocation of a ruling letter should be allowed to take effect less than 180 days after the date of issue. A third is of the opinion that modifications and revocations of unpublished rulings should be published in the Customs Bulletin in the same manner as modifications and revocations of published rulings.

Customs agrees that the Regional Commissioner should not be allowed to modify or revoke: (1) rulings issued by Headquarters; or (2) other rulings which have been published. Proposed § 177.9(d) has been modified to reflect this change. Because unpublished rulings frequently are made available to the public as an indication of Customs position in regard to previous importations of merchandise, Customs agrees that the public should be given notice if the position is changed. Accordingly, where circumstances warrant, Customs will publish modifications and revocations of

unpublished rulings. Further, only Customs Headquarters will be authorized to revoke rulings issued by the Regional Commissioner.

Customs does not agree that there should be a 180 day grace period before the modification or revocation of a ruling letter takes effect. Customs policy in this area is well settled and the commenter did not present sufficient reason for Customs to alter it at this time.

Two commenters suggest that the authority to issue administrative rulings should not be delegated only to the Regional Commissioner, New York, but that each Region should be delegated authority to issue rulings in its area of expertise. One commenter believes that the regulations should state specifically that the authority to issue administrative rulings in the New York Region is delegated to the Assistant Area Director, Classification and Value.

Customs previously has set forth its reasons for amending Part 177 to delegate to the Regional Commissioner, New York, the authority to issue administrative rulings. Because the NIS are knowledgeable in the judicial and administrative precedent relating to their product lines, Customs is of the opinion that of all the nine Customs Regions, the New York NIS are uniquely qualified to issue administrative rulings directly to the general public.

Customs is of the opinion that the authority to issue rulings should be delegated to the Regional Commissioner, New York, as the chief Customs official in the Region. He may then redelegate this authority to the appropriate subordinate.

One commenter suggests that a procedure similar to that set forth in section 14.3(g)(1), Customs Manual, be established providing for Headquarters resolution of different cases between counterpart import specialists before issuance of a binding ruling by New York.

Customs does not believe that such a procedure is necessary. As previously stated, only Headquarters will issue rulings in "difference cases." These cases will not be referred to New York for the issuance of rulings.

Although an individual now must request at the time of filing that privileged or confidential material not be disclosed, another commenter believes that all identifying material in ruling requests should be presumed to be confidential and should not be disclosed without the permission of the requesting party. The commenter also suggests that the regulations provide that a request for nondisclosure may be made at anytime before issuance of the ruling.

Customs agrees that a request for nondisclosure should be made anytime before issuance of a ruling. Sections 177.2(b)(7) and 177.8(a)(3) have been modified accordingly. However, because it would be inconsistent with present law (5 U.S.C. 552), Customs cannot presume that all identifying matter in ruling requests is privileged or confidential.

Several comments relating to staffing and work load considerations are not being addressed at this time because they are management concerns.

Regulations Determined To Be Nonsignificant

In a directive published in the Federal Register on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations," the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the Federal Register and codified in the Code of Federal Regulations to be "significant." However, regulations which are nonsubstantive, essentially procedural, which do not materially change existing or establish new policy, and which do not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected, with Secretarial approval, may be determined not to be significant. Accordingly, it has been determined that this document does not meet the Treasury Department criteria in the directive for "significant" regulations.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Adoption of the Proposed Regulations

The proposed regulations set forth in the notice published in the Federal Register on July 25, 1980 (45 FR 49591), are adopted subject to the revisions made below. Certain other nonsubstantive changes also have been included in the document.

Amendments to the Regulations

Part 177, Customs Regulations (19 CFR Part 177), is amended as set forth below.

William T. Archey,

Acting Commissioner of Customs.

Approved: November 17, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

1. Section 177.0 is amended to read as follows:

§ 177.0 Scope.

This part relates to the issuance of rulings to importers and other interested persons by the Headquarters Office of the United States Customs Service or the Regional Commissioner of Customs, Region II, New York ("Regional Commissioner, Region II"). It describes the situations in which a ruling may be requested, the procedures to be followed in requesting a ruling, the conditions under which a ruling will be issued, the effect of a ruling when it is issued, and the publication of rulings in the Customs Bulletin. The rulings issued under the provisions of this part will usually be prospective in application and, consequently, will usually not relate to specific matters or situations presently or previously under consideration by any Customs Service field office. Accordingly, the rulings requested under the provisions of this part should be distinguished from the administrative rulings, determinations, or decisions which may be requested under procedures set forth elsewhere in this chapter, including, but not limited to, those set forth in Part 12 (relating to submissions of proof of admissibility of articles detained under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307)), Part 103 (relating to disclosure of information in Customs files), Part 133 (relating to disputed claims of piratical copying of copyrighted matter), Subpart C of Part 152 (relating to determinations concerning the dutiable value of merchandise by Customs field officers), Part 153 (relating to enforcement of the Antidumping Act, 1921, as amended), Part 159 (insofar as it relates to countervailing duties), Part 171 (relating to fines, penalties, and forfeitures), Part 172 (relating to liquidated damages), Part 174 (relating to protests), and Part 175 (relating to petitions filed by American manufacturers, producers, or wholesalers pursuant to section 516 of the Tariff Act of 1930, as amended). Nor do the provisions of Part 177 apply to requests for decisions of an operational, administrative, or investigative nature which are properly within the cognizance of a Customs Headquarters

Office other than the Office of Regulations and Rulings.

2. Section 177.1 (a)(1), (b), and (d) (1) and (2) are amended to read as follows:

§ 177.1 General ruling practice and definitions.

(a) *The issuance of rulings generally*—(1) *Prospective transactions.* It is in the interest of the sound administration of the Customs and related laws that persons engaging in any transaction affected by those laws fully understand the consequences of that transaction prior to its consummation. For this reason, the Headquarters Office of the United States Customs Service or the Regional Commissioner, Region II, will give full and careful consideration to written requests from importers or other interested parties for rulings or information setting forth, with respect to a specifically described Customs transaction, a definitive interpretation of applicable law, or other appropriate information. Generally, a ruling may be requested under the provisions of this part only with respect to prospective transactions—that is, transactions which are not already pending before a Customs Service office by reason of arrival, entry, or otherwise.

* * * * *

(b) *Oral advice.* The Customs Service will not issue rulings in response to oral requests. Oral opinions or advice of Customs Service personnel are not binding on the Customs Service. However, oral inquiries may be made to Customs Service offices regarding existing rulings, the scope of such rulings, the types of transactions with respect to which the Headquarters Office or the Regional Commissioner, Region II, will issue rulings, the scope of the rulings which may be issued, or the procedures to be followed in submitting ruling requests, as described in this part.

* * * * *

(d) *Definitions.* (1) A "ruling" is a written statement issued by the Headquarters Office or the Regional Commissioner, Region II, that interprets and applies the provisions of the Customs and related laws to a specific set of facts. A "ruling letter" is a ruling issued in response to a written request therefor and set forth in a letter addressed to the person making the request or his designee. A "published ruling" is a ruling which has been published in the Customs Bulletin.

(2) An "information letter" is a written statement issued by the Headquarters Office or the Regional Commissioner, Region II, that does no more than call attention to a well-established interpretation or principle of Customs law, without applying it to a particular set of facts. An information letter may be issued in response to a request for a ruling when (i) the request suggests that general information, rather than a ruling, is actually being sought, (ii) the request is incomplete or otherwise fails to meet the requirements set forth in this part, or (iii) the ruling requested cannot be issued for any other reason, and (iv) it is believed that general information may be of some benefit to the party making the request.

* * * * *

3. Section 177.2 (a), (b)(2)(ii), (b)(7), and (d) are amended to read as follows:

§ 177.2 Submission of ruling requests.

(a) *Form.* A request for a ruling should be in the form of a letter. Requests for Valuation and Carrier rulings should be addressed to the Commissioner of Customs, Attention: Office of Regulations and Rulings, Washington, D.C. 20229. The Division and Branch in the Office of Regulations and Rulings to which the request should be directed may also be indicated, if known. Requests for Tariff Classification rulings should be addressed to the Regional Commissioner of Customs, Region II, Attn: Classification and Ruling Requests, New York, New York 10048.

(b) * * *

(1) * * *

(2) * * *

(ii) *Tariff classification rulings.*

(A) If the transaction involves the importation of an article for which a ruling as to its proper classification under the provisions of the Tariff Schedules of the United States is requested, the request for a ruling should include a full and complete description of the article and whenever germane to the proper classification of the article, information as to the article's chief use in the United States, its commercial, common, or technical designation, and, where the article is composed of two or more materials, the relative quantity (by weight and by volume) and value of each. The ruling request should also note, whenever germane, the purchase price of the article, and its approximate selling price in the United States.

(B) Ruling letters issued by the Regional Commissioner, Region II, are limited to prospective transactions. The Regional Commissioner, Region II, shall not prepare final decisions under section 177.11 (Requests for Advice by Field Offices), section 174.23 (Further Review of Protests), section 177.10 (Change of Practice), 19 U.S.C. 1516 [petitions under section 516, Tariff Act of 1930), or 14.3(g)(1) Customs Manual ("difference cases").

(C) The requesting party may send the request directly to the Director, Classification and Value Division, U.S. Customs Service, Washington, D.C. 20229. The Headquarters Office retains authority to independently review all tariff classification ruling letters issued by the Regional Commissioner, Region II. If the importer or other person to whom a ruling letter is issued disagrees with the tariff classification set forth, he may petition the Director, Classification and Value Division, U.S. Customs Service, Washington, D.C., for review of the ruling.

* * * * *

(7) *Privileged or confidential information.* Information which is claimed to constitute trade secrets or privileged or confidential commercial or financial information regarding the business transactions of private parties the disclosure of which would cause substantial harm to the competitive position of the person making the request (or of another interested party), must be identified clearly and the reasons such information should not be disclosed, including, where applicable, the reasons the disclosure of the information would prejudice the competitive position of the person making the request (or of another interested party) must be set forth.

* * * * *

(d) *Requests for immediate consideration.* The Headquarters Office and the Regional Commissioner, Region II, will normally process requests for rulings in the order they are received and as expeditiously as possible. However, a request that a particular matter be given consideration ahead of its regular order, if made in writing at the time the request is submitted, or subsequent thereto, and showing a clear need for such treatment, will be given consideration as the particular circumstances warrant and permit. Requests for special consideration made by telegram will be treated in the same manner as requests made by letter, but rulings will not ordinarily be issued by telegram. In no event can any assurance be given that a particular request for a ruling will be acted upon by the time requested. However, upon request and where a clear need is shown for such action, a collect telephone call will be made to advise that the ruling letter has been issued and is being mailed.

4. Section 177.4 (a) and (b) are amended to read as follows:

§ 177.4 Oral discussion of issues.

(a) *Generally.* A person submitting a request for a ruling and desiring an opportunity to orally discuss the issue or issues involved should indicate that desire in writing at the time the ruling request is filed. Such a discussion will only be scheduled when, in the opinion of the Customs personnel by whom the ruling request is under consideration, a conference will be helpful in deciding the issue or issues involved or when a determination or conclusion contrary to that advocated in the ruling request is contemplated. Conferences are scheduled for the purpose of affording the parties an opportunity to freely and openly discuss the matters set forth in the ruling request. Accordingly, the parties will not be bound by any argument or position advocated or agreed to, expressly or by implication, during the conference unless either party subsequently agrees to be so bound in writing. The conference will not conclude with the issuance of a ruling letter.

(b) *Time, place, and number of conferences.* If a request for a conference is granted, the person making the request will be notified of the time and place of the conference. Except under highly unusual circumstances, the conference will be held at the Headquarters Office of the Customs Service in Washington, D.C., or at Region II, New York. No more than one conference with respect to the matters set forth in a ruling request will be scheduled, unless, in the opinion of the Customs personnel by whom the ruling request is under consideration, additional conferences are necessary.

* * * * *

5. Section 177.5 is amended to read as follows:

§ 177.5 Change in status of transaction.

Each person submitting a request for a ruling in connection with a Customs transaction shall immediately advise Customs in writing of any change in the status of that transaction, as defined in § 177.1(d)(3). In particular, the Headquarters Office or the Regional Commissioner, Region II, must be advised when any transaction described in the ruling request as prospective becomes current and under the jurisdiction of any Customs Service field office. In addition, any person engaged in a Customs transaction coming under the jurisdiction of a Customs Service field office and having previously requested a ruling with respect to that transaction shall advise the field office of that fact. The field office will normally withhold action with respect to any transaction for which a ruling has previously been requested pending the disposition of the ruling request.

6. Section 177.6 is amended to read as follows:

§ 177.6 Withdrawal of ruling requests.

Any request for a ruling may be withdrawn by the person submitting it at any time before the issuance of a ruling letter or any other final disposition of the request. All correspondence, documents, and exhibits submitted in connection with the request will be retained in the Customs Service file and will not be returned. In addition, the Headquarters Office may forward to Customs Service field offices which have or may have jurisdiction over the transaction to which the ruling request relates, its views in regard to the transaction or the issues involved therein, as well as appropriate information derived from materials in the Customs Service file.

7. Section 177.8(a) (1), (2), and (3), are amended to read as follows:

§ 177.8 Issuance of rulings.

(a) *Ruling letters*—(1) *Generally.* The Headquarters Office and the Regional Commissioner, Region II, will endeavor to issue ruling letters setting forth their determinations with respect to a specifically-described Customs transaction whenever a request for such a ruling is submitted in accordance with the provisions of this part and it is in the interest of the sound administration of the Customs and related laws to do so. Otherwise, a request for a ruling will be answered by an information letter or, in those situations in which general information is likely to be of little or no value, by a letter stating that no ruling can be issued.

(2) *Submission of ruling letters to field offices.* Any person engaging in a Customs transaction with respect to which a ruling letter has been issued by the Headquarters Office or the Regional Commissioner, Region II, shall ascertain that a copy of the ruling letter is attached to the documents filed in connection with that transaction with the appropriate Customs Service field office or otherwise bring the ruling to the attention of the appropriate Customs officer. A copy of any ruling letter received after the filing of such documents shall be forwarded immediately to the appropriate Customs Service field office.

(3) *Disclosure of ruling letters.* The ruling letter shall be based on the information set forth in the ruling request. No part of the ruling letter, including names, addresses, or information relating to the business transactions of private parties, shall be deemed to constitute privileged or confidential commercial or financial information or trade secrets exempt from disclosure pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552), unless, as provided in § 177.2(b)(7), the information claimed to be exempt from disclosure is clearly identified and the reasons for the exemption are set forth. Before the issuance of the ruling letter, the person submitting the ruling request, will be notified of any decision adverse to his claim for exemption from disclosure and will, upon written request to Customs within 10 working days of the date of notification, be permitted to withdraw the ruling request. All ruling letters issued by the Headquarters Office or the Regional Commissioner, Region II, will be available, upon written request, for inspection and copying by any person (with any portions determined to be exempt from disclosure deleted).

* * * * *

8. Section 177.9 (a) and (d) are amended to read as follows:

§ 177.9 Effect or ruling letters; modification or revocation.

(a) *Effect of ruling letters generally.* A ruling letter issued by the Headquarters Office or the Regional Commissioner, Region II, under the provisions of this part represents the official position of the Customs Service with respect to the particular transaction or issue described therein and is binding on all Customs Service personnel in accordance with the provisions of this section until modified or revoked. In the absence of a subsequent change of practice or other modification or revocation which affects the principle of the ruling set forth in the ruling letter, that principle may be cited as authority in the disposition of transactions involving the same circumstances.

* * * * *

(d) *Modification or revocation of ruling letters*—(1) *Generally.* Any ruling letter found to be in error or not in accordance with the current views of the Customs Service may be modified or revoked. Modification or revocation of a ruling letter shall be effected by Customs Headquarters by giving notice to the person to whom the ruling letter was addressed and, where circumstances warrant, by the

publication of a notice or other statement in the Customs Bulletin.

(2) *Effect of modification or revocation of ruling letters.* The modification or revocation of a ruling letter will not be applied retroactively with respect to the person to whom the ruling was issued, or to any person directly involved in the transaction to which that ruling related, provided (i) The request for a ruling contained no misstatement or omission of material facts,

(ii) The facts subsequently developed are not materially different from the facts on which the ruling was based,

(iii) There has been no change in the applicable law,

(iv) The ruling was originally issued with respect to a prospective transaction, and

(v) All of the parties involved in the transaction acted in good faith in reliance upon the ruling and retroactive modification or revocation would be to their detriment.

Nothing in this subparagraph will prohibit the retroactive modification or revocation of a ruling with respect to a transaction which was not prospective at the time the ruling was issued, inasmuch as such a transaction was not entered into in reliance on a ruling from the Headquarters Office or the Regional Commissioner, Region II.

9. Section 177.11(b)(1) is amended to read as follows:

§ 177.11 Requests for advice by field offices.

* * * * *

(b) *Certain current transactions* (1) *When a ruling has been issued*—(i) *Requests by field offices.* If the Headquarters Office, or the Regional Commissioner, Region II, has issued a ruling letter with respect to a particular Customs transaction and the Customs Service field office having jurisdiction over that transaction feels that the ruling should be modified or revoked, the field office will forward to the Headquarters Office, pursuant to § 177.9(b)(1), a request that the ruling be reconsidered. The field office will notify the importer or other person to whom the ruling letter was issued, in writing, that it has requested the Headquarters Office to reconsider the ruling.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14 (5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11), 1624))

[FR Doc. 80-37597 Filed 12-2-80; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF DEFENSE

National Security Agency

32 CFR Part 299a

[NSA/CSS Regulation 10-35]

Privacy Act Sytems of Records—Disclosure and Amendment Procedures—Specific Exemptions

AGENCY: National Security Agency.

ACTION: Final rule.

SUMMARY: This Final rule establishes specific exemptions from certain portions of the Privacy Act of 1974, Pub. L. 93-579, for a new systems records, identified as GNSA 13, NSA/CSS Archival Records Files. The National Security Agency (NSA) has established a repository pursuant to authority delegated by the National Archives and Records Service of the General Services Administration to provide secure storage, expert review for declassification and catagorization and preservation of cryptographic archives. File retrieval will be by subject matter and, in certain case, by name or other unique individual identifier. Exemptions are needed to protect properly classified material and certain data required by statute to be maintained and used solely for statistical purposes from compromise. Exemptions for these purposes are authorized by subsections 5 U.S.C. 552a(k)(1) and k(4) of the Act respectively.

DATES: This Final rule is effective December 3, 1980.

FOR FURTHER INFORMATION CONTACT: Lt. Cmdr M. E. Bowman, JAGC, USN; Office of the General Counsel, National Security Agency, Fort George C. Meade, MD 20755.

SUPPLEMENTARY INFORMATION: On October 28, 1980 at 45 FR 71373, the National Security Agency proposed an exemption rule for a new system records identified as GNSA 13, NSA/CSS Archival Records File. The notice for this system of records was published at 45 FR 71412, October 28, 1980. As no comments were received on the proposed rule and it is adopted as proposed.

November 26, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

Accordingly, § 299a.10 of Title 32 of the Code of Federal Regulations is amended by adding paragraph (b)(13) to read as follows:

§ 299a.10 Specific exemptions.

* * * * *

System name: NSA/CSS Archival Records.

Exemption: This system is exempted from the sections of Title 5 U.S.C. 552a cited in paragraph 299a.10(a) and is subject to the statutory limitations noted in that paragraph.

Authority: 5 U.S.C. 552a(k)(1) and (k)(4).

Reasons: This system of records is exempted from all subsections cited pursuant to exemption (k)(1) to protect from unauthorized disclosure classified information which may be contained in records and files making up the system. The exemption does not limit access to that portion of the records in the system which are not classified or otherwise protected from unauthorized disclosure.

This system is exempted from all subsections cited pursuant to exemption (k)(4) where individual records and files are maintained and used solely for statistical compliance with those requirements with a minimum of administrative burden and expense.

[FR Doc. 80-37417 Filed 12-2-80; 8:45 am]

BILLING CODE 3810-70-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[FCC 80-634]

Petition for Reconsideration of Academy of Model Aeronautics Concerning Interpretation of Amateur Radio Service Rules To Allow a Nonlicensed Person To Operate an Amateur Radio Station To Control Model Aircraft

AGENCY: Federal Communications Commission.

ACTION: Interpretation of rule.

SUMMARY: The Commission's staff was asked to rule on the question as to whether a person not holding an amateur radio license could operate an amateur radio station to control model aircraft. The staff ruled that § 97.79(d) did not permit an amateur radio station to be operated by an unlicensed person for the purpose of controlling model aircraft since such use constitutes one-way transmission. The basis for the ruling was an interpretation of § 97.79(d) which permits unlicensed persons to participate in two-way amateur radio communications under the supervision of a control operator, but not one-way communications. The Academy of Model Aeronautics petitioned for review of this ruling by the full Commission.

The Commission *en banc* affirmed the staff's interpretation.

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

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, (202) 254-6884.

SUPPLEMENTARY INFORMATION:

Adopted: November 6, 1980.

Released: November 21, 1980.

By the Commission:

1. The Commission received a letter, dated April 10, 1979, from Mr. Francis E. Morris of San Diego, California, inquiring whether a person not holding an amateur radio license could operate an amateur radio station to control model aircraft. By reply letter of May 18, 1979, Mr. Morris was advised that this was not permissible under Part 97 of our rules. The basis for the ruling was an interpretation of § 97.79(d) which permits unlicensed persons to participate in two-way amateur radio communications under the supervision of a control operator. The Commission's staff ruled that § 97.79(d) did not permit an amateur radio station to be operated by an unlicensed person for the purpose of controlling model aircraft since such use constitutes one-way transmission.

2. The Academy of Model Aeronautics (AMA), the petitioner in this proceeding, learned of the staff's letter to Mr. Morris. On August 27, 1979, AMA requested the Private Radio Bureau (Bureau) to reconsider its interpretation of Rule § 97.79(d). The staff did reconsider the ruling, and on October 15, 1979, advised AMA, through its attorney, Jack R. Smith, that the communications referred to in § 97.79(d) are meant to be two-way communications. The staff further advised AMA that the provisions of Part 97, unlike the Part 95 Radio Control Service Rules, did not extend operating privileges to non-licensed persons to control model aircraft. It is from this decision that the petitioner, AMA, now seeks review by the Commission *en banc*.

3. In its Petition for Review, filed November 14, 1979, petitioner presents three questions:

(a) Whether the Bureau erred in its construction of the term "third party"?

(b) Whether the Bureau improperly interpreted the Part 97 Rules in holding that the radio control provisions were not parallel in all respects to the Radio Control (R/C) Service Rules?

(c) Whether the Bureau's interpretation of "third party" is inconsistent with other Part 97 rules and with long-recognized Amateur practice?

4. At the outset, it will be useful to restate the principal issue in this proceeding. The question is whether or not a person, who is not a licensed amateur radio operator, should be permitted to operate an amateur radio station for the purpose of controlling a model aircraft. It is in this context that we believe that the matter should be addressed. It should also be noted that the Amateur Radio Service and the Radio Control Service are essentially different. The Amateur Radio Service is for technically-inclined persons who wish to learn about and experiment with radio communications equipment and operating techniques. On the other hand, the Radio Control Service is for anyone, whether technically inclined or not, who wishes to use radio for controlling a remote object.

5. One of the fundamental purposes of the Amateur radio service is the recognition and enhancement of the value of the service to the public as a voluntary noncommercial communication service. In furtherance of this aim, a licensed amateur operator may permit a non-licensed person, i.e., a third party, to participate in amateur radio communications from his station, provided that a control operator is present and continuously monitors and supervises the radio communication to insure compliance with the rules. An illustration of this type of third-party traffic is where United States military personnel stationed overseas, who are not amateur operators, are enabled to converse with their families back home via a two-way Amateur radio hook-up. To effect such communications, the countries involved must have assented to third-party traffic and licensed Amateur radio operators must be in control of the respective transmitting and receiving amateur radio stations. It is in this light that the the term "any third party" referred to in § 97.79(d) must be understood.[1] The resultant communications then become the "third-party traffic" which we have defined in § 97.3 (v) as:

> Amateur radio communication by or under the supervision of the control operator *at an amateur radio station to another amateur radio station* on behalf of anyone other than the control operator. (Emphasis supplied.)

Contrary to petitioner's assertion that § 97.79(d) is a broader section than § 97.3(v) and that it defines the scope of permissible participation by non-licensees in amateur communications, those two sections, as well as § 97.114[2] which specifies the conditions under which third-party traffic may be sent, are all inter-related and were in no way intended to provide for the non-licensed amateur communications which the petitioner desires. To hold that the third person referred to in § 97.79(d) includes a non-licensed person engaging in one-way communications to control a remote object is to strain for an interpretation of the rule to fit the petitioner's wish. Worse, it is yet another instance of chipping away at the basic requirement that only licensed operators be permitted to operate amateur radio stations. In our view, *bona fide* third-party communications, as described above, can be distinguished from one-way communications designed to control the movement of a remote object. Although an exception was made to the license requirement for two-way communications, we do not believe that it would be in the public interest to further extend this exception by interpretation of the rule to include one-way communications.

6. In its argument that the Bureau ignored the parallelism between the Amateur and the Radio Control Service Rules (which the petitioner insists exists) the petitioner misstates the basis and purpose of the proposed rule making in Docket No. 19572. That proceeding proposed amendment of Part 97 rules insofar as they pertain to the radio control of remote model craft and vehicles. The petitioner states that: "The purpose of the rules change, the Commission indicated, was to establish 'comparability between the rules governing like-type operations in the Amateur Radio Service and the Citizens Radio Service.'" However, a close reading of that Notice of Proposed Rule Making will reveal that it was the petitioner in that proceeding (also AMA) who "states a desire for comparability between the rules governing like-type operation in the Amateur Radio Service and the Citizens Radio Service." In fact, the objectives of the Commission's proposal allowing amateur radio stations to be used for control of remote models were simplification of station

[1] Section 97 79 Control operator requirements.

(d) The licensee of an amateur radio station may permit any third party to participate in amateur radio communication from his station, provided that a control operator is present and continuously monitors and supervises the radio communication to insure compliance with the rules.

[2] Section 97 114 Third party traffic.

(a) International third party traffic except with countries which have assented thereto.

(b) Third party traffic involving material compensation, either tangible or intangible, direct or indirect, to a third party, a station licensee, a control operator, or any other person.

(c) Except for an emergency communication as defined in this part, third party traffic consisting of business communications on behalf of any party. For the purpose of this section business communication shall mean any transmission or communication the purpose of which is to facilitate the regular business or commercial affairs of any party.

identification, logging, and portable operation; special provisions requiring the amateur transmitter to bear an identifying marker; and, provision for a maximum mean power output of one watt for transmitters qualifying for operation under these special provisions. In this connection, see *Rock Creek etc. Dist.* v. *County of Calaveras,* 29 Cal. 2d. 7, 9, 172 P.2d. 863, where the court said "the objective sought to be achieved by a statute as well as the evil to be prevented is of prime consideration in its interpretation." Nowhere is it suggested in the Commission's Notice of Proposed Rule Making in Docket No. 19572 that *all* of the rules relating to operation of a radio station in the R/C Service for control of a remote object would be carried over into the Amateur Radio Service when an amateur radio station is so used. This is an important point because much of the petitioner's argument arises from the fact that the staff's decision holds that the provisions of § 95.265(b)(6) [3] are not implicitly contained in the Part 97 rules relating to the use of an amateur radio station to control models. We turn to a fundamental rule of statutory construction to support the staff's position. In *People v. Valentine,* 28 Cal. 2d. 121, 142, 169 p.2d. 1, 14, the court held that where a statute, with reference to one subject contains a given provision, the omission of such a provision from a similar statute concerning a related subject is significant to show that a different intention existed.

The transmission or delivery of the following amateur radio-communication is prohibited:

7. Finally, petitioner alleges that the Bureau erred in adopting an interpretation of "third-party" that is inconsistent with other provisions of the Amateur Radio Service Rules and with Commission-accepted Amateur practice. Specifically, petitioner cites §§ 97.89 and 97.91 as conflicting with § 97.79(d), if § 97.79(d) is read to apply to two-way amateur ratio communications. We do not subscribe to petitioner's theory relating to those sections. The *definition* of amateur radio communications is contained in § 97.3(b). There, such communication is defined as noncommercial radio communication by or among amateur radio stations solely with a personal aim and without pecuniary or business interest. In §§ 97.89 and 97.91, the *uses* of an amateur station are set forth. It may be used to communicate with other amateur radio stations (two-way communications) or to control remote objects (one-way communication) (see § 97.89); or, to engage in certain kinds of additional one-way transmissions such as sending information bulletins, or conducting a net operation, as in a "round-robin" discussion (see § 97.91). Petitioner says that § 97.79(d) should have the term "two-way" in its provisions, and that, since it does not, a non-licensed person should be able to engage in *all* the types of communications permitted by §§ 97.89 and 97.91. We do not agree. The provisions of § 97.79(d) clearly contemplate only two-way communications. For example, that section requires a control operator to be present and continuously monitor the radio communications. Monitoring in § 97.79(d) refers to message content. It would be ludicrous to believe that the Commission would require monitoring of a steady hum or tone-signal, which is the type of signal that is used in a typical one-way communication designed to control a remote object.

8. Petitioner further states that, under the Bureau's interpretation, there must be two-way communications established between unlicensed amateur radio operators before a non-licensee may participate. Petitioner further argues that, if followed through, the Bureau's interpretation would prevent, for example, a non-licensee from sending an informational bulletin at a licensed station, addressed in general, to "all amateurs", since there is no contact with another station involved. We could not agree more. That is precisely what § 97.91 does. It requires that only licensed amateur radio operators send such general bulletins over the air. It is interesting to note that, in practice, it is the American Radio Relay League's station W1AW from which the bulk of such bulletins emanate. All of the persons at the League's headquarters who send such bulletins are duly licensed amateur radio operators. Persons sending such bulletins from any other amateur radio station are likewise expected to be licensed operators. Moreover, in the "round-robin" discussions that § 97.91 allows, it is licensed operators, with an interest in such net operations, that the rule contemplates.

9. Petitioner offers a hypothetical case where Licensee A operates a repeater equipped with "autopatch" (a way of connecting an amateur radio station to the telephone landline circuits). The station in repeater operation operates under A's call sign and A is the control operator. Given these facts, petitioner says that if A makes an autopatch call it would be unlawful under the staff's interpretation of § 97.79(d) because communications between amateur stations do not exist. Petitioner further says that another amateur station that uses the repeater to make an autopatch would be able to make the call lawfully because then two amateur radio stations would be involved. No such convoluted rationale underlies the provisions of § 97.79(d). On its face, § 97.79(d) gives discretion to an amateur operator to allow a non-licensed person (i.e. a third party) to engage in communications using his transmitter, under proper monitoring conditions and supervision by the licensee. We concur with the staff's view that this refers to two-way communications. To say that this would preclude the licensed operator himself, as control operator, from using his own station to make a phonepatch strains credulity and we reject the inference that petitioner draws from its hypothetical situation.

10. Appealing on an equity basis, petitioner avers that under our interpretation of the rule, model aircraft enthusiasts who are not yet licensed amateur operators will be deprived of exposure to amateur radio activity because they are not permitted to control the aircraft by operating the amateur radio transmitter. We reject this argument for the reason that the person who truly has an avid interest in amateur radio has a myriad number of opportunities to advance his interest and to acquire proficiency in the art and hobby of amateur radio. In fact, it is quite probable that the model airplane enthusiast's major interest is in model airplanes, not radio.

11. We believe that any need for more channels for control of model aircraft should be met in the Radio Control Radio Service. In this connection, it is noted that AMA has a petition for rulemaking (RM-3248) currently on file with the Commission which asks for such additional frequencies.

12. In summary, we believe that it would be contrary to the public interest to permit a person who is not a licensed amateur radio operator to operate an amateur radio station to control a model aircraft. For all of the foregoing reasons, the interpretation of § 97.79(d) made by the Commission's staff is hereby affirmed.

[3] Section 95.265 Operation by, or on behalf of, persons other than the licensee.

* * * * * *

(b) Stations may be operated only by the following persons, except as provided in paragraph (c) of this section:

* * * * *

(6) Any person under the control or supervision of the licensee when the station is used solely for the control of remote objects or devices, other than devices used only as a means of attracting attention; and

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 80-37578 Filed 12-2-80; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1100

[Ex Parte No. 55 (Sub-No. 43)]

Modification of Interim Rules Governing Applications for Operating Authority

AGENCY: Interstate Commerce Commission.

ACTION: Modification of interim rules.

SUMMARY: The Commission is modifying its permanent authority procedures governing the issuance of certificates, permits and licenses to motor and water carriers, freight forwarders, and brokers to speed up administrative processes. This action does not change the steps an applicant must take to effect compliance prior to the commencement of operations. Interim Rule 49 CFR 1100.251(1)(2) is revised to allow for issuance of permanent certificates, permits or licenses to existing permanent authority holders without prior verification of compliance. Interim Rule 49 CFR 1100.251 is modified by addition of a new paragraph (p), which sets forth requirements that must be met before beginning authorized operations. The new procedure is designed to speed up the issuance of these documents, and does not relieve the applicant from its statutory obligation to comply with these requirements before beginning operations.

DATES: These actions will be effective December 3, 1980.

FOR FURTHER INFORMATION CONTACT: Ombudsman's Office, 202-275-7792, Mark Shaffer, 202-275-7531, Edward E. Guthrie, 202-275-7691, Peter Metrinko, 202-275-7805.

SUPPLEMENTARY INFORMATION: The Commission is modifying its permanent authority procedures governing the issuance of certificates, permits, and licenses to motor and water carriers, freight forwarders, and brokers to speed up administrative processes. After a decision has been made to authorize a new service, operations cannot begin until the applicant has been issued an appropriate certificate, permit or license. Currently, this document is issued only after the applicant has complied with certain Commission requirements.

For carriers, forwarders, and brokers already holding permanent operating authority, and thus already in compliance with the insurance and designation of process agent requirements, an affirmative showing is not required before issuing each new certificate, permit, or license. Those receiving permanent authority for the first time will, however, still be required to provide evidence of compliance with the appropriate regulations before receiving the operating document. The new procedure is designed to speed up the issuance of these documents, and does not relieve the applicant from its statutory obligation to comply with these requirements before beginning operations.

This action does not change the steps an applicant must take to effect compliance prior to the commencement of operations.

Interim Rule 49 CFR 1100.251(1)(2)[1] is revised to allow for issuance of permanent certificates, permits, or licenses to existing permanent authority holders without prior verification of compliance. Interim Rule 49 CFR 1100.247(A) is modified by addition of a new paragraph 247(A)(p), which sets forth requirements that must be met before beginning authorized operations.

On October 29, 1980, the Commission adopted new procedures for ensuring that motor carriers, brokers, freight forwarders, and water carriers meet statutory and regulatory requirements regarding maintenance of insurance and designation of process agents. The new procedures will:

1. Withhold issuance of an initial permanent certificate, permit, or license to a new entrant until positive verification has been received that the new entrant has obtained the required insurance coverage;
2. Insure continued maintenance of required insurance coverage through investigation by the Commission's field staff;
3. Discontinue reverifying compliance with insurance and designation of process agent requirements on extension applications filed by entities that already hold permanent operating authority; and
4. Provide for a clear statement on all future certificates, permits, and licenses, that the authority granted is not effective until the authority holder is in full compliance with pertinent regulatory and statutory requirements, and that failure to continue compliance will be cause for suspension.

The new compliance verification procedures do not change an authority holder's obligation to comply with pertinent statutory and regulatory requirements before starting new or extended operations. They are designed to provide for faster issuance of certificates, permits, and licenses.

The Commission adopted the new procedures for several reasons. The Motor Carrier Act of 1980 increased minimum insurance requirements for motor carriers of property. [Section 30, Public Law No. 96-296, July 1, 1980, 94 Stat. 793]. This reflects Congress' intent that reducing economic barriers to entry should not diminish the Commission's obligation to protect the public from unfit operators. We can meet this obligation by requiring that new entrants verify that they have obtained required insurance before initial authority is released. Continued monitoring of compliance with insurance requirements can be accomplished by field investigations because insurance carriers must notify the Commission 30 days before any cancellation of a carrier's coverage. There will be sufficient time to determine whether the Commission must take appropriate legal action to assure that a carrier does not operate without insurance.

Second, the monitoring procedures also apply to entities which already hold permanent operating authority. Therefore, reverifying compliance upon every grant of permanent authority is unnecessary. This practice has led to the unjustified withholding of thousands of extended permanent authorities because of delays in reverifying compliance. This procedure will reduce substantially the Commission's costs in contracting to maintain insurance files and determine compliance on a case-by-case basis.

To reinforce the above changes which are designed to speed release of certificates, permits, and licenses and not to undermine compliance requirements, the Commission will add clear language to all issued permanent authorities which will specify compliance requirements in detail. This language will specify that authorities are not effective until all compliance requirements are met.

Finally, the Commission has determined that the designation of process agent requirement on applications for extended authority also slows down the application process. A separate rulemaking proceeding requiring the specification of agents on tariffs or schedules will be instituted.

[1] The Federal Register has required that the Commission redesignate 49 CFR 1100.247(A), (B), and (C) as 49 CFR 1100.251, 252, and 253. The notice, to avoid confusion, will refer to the new designation. Publication of the rules in the Code of Federal Regulations in 1981 will use the new numbering system.

This severing of agent monitoring from the application process follows the same approach employed on tariff compliance. See Docket No. 37013 (Sub-No. 1), served September 22, 1980 (45 FR 62822, September 23, 1980).

Required Changes in Interim Rules

For extensions of authority: The new procedures outlined above will allow the Commission to issue an appropriate certificate, permit, or license for extended authority without prior compliance verification where an application for *extended* permanent authority is granted and the proceeding is administratively final. Interim Rule 49 CFR 1100.251(l)(2) is modified to provide that if no one opposes an application for extended authority, a tentative grant published in the Federal Register will be rendered effective by issuance of a certificate, permit, or license. *No separate notice will be sent prior to authority issuance. For new entrants:*

The new procedures still require prior compliance verification for persons holding no permanent operating authority. Interim Rule 49 CFR 1100.251(l)(2) retains the Commission *notice* of compliance requirements sent to new entrants in unopposed cases. New entrants will, as in the past, have 90 days to comply after administratively final proceedings. A motor common carrier obtaining initial motor contract carrier authority (or vice versa) is not considered a new entrant. A motor carrier obtaining initial broker, freight forwarder or water carrier authority (or vice versa) is considered a new entrant as to that type of authority.

Finally, to ensure that authorized motor carrier, freight forwarder, water carrier, or broker operations are not performed without compliance with appropriate regulatory and statutory requirements, a new paragraph (p) will be added to Interim Rule 49 CFR 1100.251. This paragraph will specify compliance requirements in detail.

Summary

We are adopting the modified interim rules set forth in the appendix and will operate under these modified rules from now until further notice.

Provisions for formal comments are unnecessary under 5 U.S.C. 553(b)(A). However, the public is welcome to comment informally on these rules by writing to the Section of Operating Rights, Room 5316, Interstate Commerce Commission, Washington, D.C. 20423. This is a change in our procedural rules which has no substantial impact on the industry or the public other than as a cost and time saving device. No persons' legal obligations are changed by this action, and the steps to effect compliance remain the same.

These actions do not affect significantly the quality of the human environment or the conservation of energy resources.

These actions are taken under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: November 19, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix

49 CFR 1100.251(l)(2) is revised to read as follows:

§ 1100.251 [Amended]

(l) * * *

(2)

If no one opposes an application for an extension of authority, the tentative grant published in the Federal Register will be rendered effective by issuance of a certificate, permit, or license. If no one opposes an application for initial authority, the tentative grant published in the Federal Register will be rendered effective by a Commission Notice outlining compliance requirements which must be met before applicant commences the proposed service.

* * * * *

49 CFR 1100.251(p) is added to read as follows:

* * * * *

(p) Before beginning operations under a certificate, permit, or license, compliance must be made with the following statutory and regulatory requirements.

(1) For Motor Common Carrier of Property: 49 CFR Parts 1043, 1044, and 1310.

(2) For Motor Contract Carrier of Property: 49 CFR Parts 1043, 1044, and 1307.

(3) For Motor Common and Contract Carriers of Passengers: 49 CFR Parts 1043, 1044, and 1306.

(4) For Brokers of Motor Vehicle Transportation: 49 CFR Parts 1043 and 1044.

(5) For Water Carriers: 49 CFR Part 1308; 49 U.S.C. section 10329.

(6) For Freight Forwarders: 49 CFR Parts 1084 and 1309; 49 U.S.C. section 10329.

[FR Doc. 80-37437 Filed 12-2-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1100

[Ex Parte No. 398]

Protests Against Tariffs and Rules of Practice Governing Procedures in Certain Suspension Matters

Decided: November 7, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Interstate Commerce Act, as amended by the Staggers Rail Act of 1980, permits rail carriers to increase rates on 20 days' notice and to reduce rates on 10 days' notice.

Under the provisions of the act, any person may file a certified complaint requesting suspension of proposed rail rate charges. Rule 40 (49 CFR 1100.40) contains our procedures and substantive requirements for such protests. Rule 200 (49 CFR 1100.200) contains our procedures and substantive requirements for appeals in cases in which our Suspension Board has voted not to suspend a protested rate change.

These rules are being modified so that the dates by which protests and appeals must be filed reflect the 20- and 10-day rate filing requirements of the act.

EFFECTIVE DATE: December 3, 1980.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, Director, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, (202) 275-7348.

SUPPLEMENTARY INFORMATION: Section 10762 of Title 49, United States Code (49 U.S.C. 10762), as amended by the Staggers Rail Act of 1980, provides that railroads may publish and make effective (1) new or increased rates on 20 days' notice; and (2) reduced rates on 10 days' notice. This constitutes a change from the previous statutory notice period of 30 days. The Commission has always been empowered to allow rates to become effective on less than statutory notice (upon a showing of cause) and that power is not affected by the new rail legislation.

Rule 40 of our Rules of Practice (49 CFR 1100.40) contains the procedures and substantive requirements governing the filing of protests against proposed rate changes, Section 10707 of the act provides that such protests are a matter of right for any person, but the protest must comply with rule 40 as to filing deadline and content. Rule 40 provides that protests against rates filed on 30 days' notice must reach the Commission 12 days before the proposed effective date of the rate and 5 days before the effective date of a rate filed on less than

30 days' notice. This remains unchanged for *all nonrail* rate changes as well as for rail rate changes filed on 30 days or more notice. However, to implement the new rail legislation we have revised rule 40 by amending paragraph (g) (which concerns *rail* rate change matters) to require that protests against rail rate changes filed on 20 days' notice shall reach the Commission at least 10 days before the protested effective date and that protests against rail rate changes filed on 10 days' notice shall reach the Commission at least 5 days before the proposed effective date. These changes are procedural, reflecting the changes effected by the Staggers Rail Act of 1980. There are also several editorial changes made in a number of places throughout rule 40 in order to make it more readable.

Rule 200 of our Rules of Practice (49 CFR 1100.200) covers the procedures and deadlines for filing appeals to decisions of our Suspension Board in which the board has voted not to suspend a protested rate change. Presently, on proposed rate changes filed on 30 days' notice, the board votes on the third workday before the effective date and any appeal to a "no suspend" decision is due before 4 p.m. on the second workday before the effective date. The division votes on the appeal on the workday immediately before the effective date. At this time we see no need to change this schedule for protests against rail rate changes filed on 20 days' notice, but the existing procedures will not allow sufficient time for review in the case of 10-day notice filings. In those cases protests will be due 5 days before the effective date and the board will vote on the second workday before the effective date. Accordingly we will require any appeal to a "no suspend" decision of the board in a protested 10-day rail rate change to be in *the board's hands in Room 4336 of the ICC Building not later than 9 a.m. on the workday immediately preceding the proposed effective date of the rate change.* The board will have the entire record of the case in the hands of the division within 1 hour. The division will act on the appeal before the close of business the same day.

The Commission does not believe these revisions require a notice and comment rulemaking under section 553 of the Administrative Procedure Act (5 U.S.C. 553) because the changes are procedural in nature, necessitated by congressional action.

This decision does not affect significantly either the quality of the human environment or energy resources.

Chapter X of Title 49 of the Code of Federal Regulations is amended as set forth in the appendix below.

Notice of this decision will be given to the public by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, for public inspection, and by delivering a copy to the Director, Office of the Federal Register as notice to all interested persons.

This decision is issued under authority of section 10321 of the Interstate Commerce Act, 49 U.S.C. 10321, and under section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp absent and not participating.

Agatha L. Mergenovich,
Secretary.

Appendix

(1) 49 CFR 1100.40 (b) and (g) are revised as follows:

§ 1100.40 [Amended]

* * * * *

(b) When filed: Protests against, and requests for suspension of, tariffs or schedules filed under the act will not be considered unless made in writing and filed with the Commission at Washington, D.C. Protests and requests for suspension shall reach the Commission at least 12 days (except as provided in paragraphs (c) and (g) of this section) before the effective dates of the tariffs, schedules, or parts thereof to which they refer, unless the protested publications were filed on less than 30 days' notice in which event the protests (except as provided in paragraph (g) of this section) must reach the Commission not less than 5 days before the effective dates. In an emergency, telegraphic protests will be acceptable if received within the time limits herein specified, provided they also fully comply with paragraphs (a) and (g) of this section and copies are immediately telegraphed by protestants to the proponent carriers or their publishing agents: *Provided, however,* That protests against and requests for suspension of tariffs applicable on household goods as defined in 49 CFR 1056.1(a), when published for the account of household goods carriers as defined in 49 CFR 1040.2(b) on not less than 45 days' notice, shall reach the Commission no later than 27 days before the effective dates of the tariffs, schedules, or parts thereof to which they refer. Six copies of such telegrams should immediately be mailed by the protestants to the Commission at Washington.

§ 1100.40 [Amended]

* * * * *

(g) Special Requirements for protests against revisions to rail rates and charges and replies thereto. (1) Protests against, and requests for suspension of, tariffs or schedules filed by rail carriers, or their publishing agents on 20 days' notice under the provisions of 49 U.S.C. 10762(c)(3) must reach the Commission at least 10 days before the proposed effective date of the protested matter. When the protested matter is filed on 10 days' notice under the provisions of 49 U.S.C. 10762(c)(3), the protest or requests for suspension must reach the Commission at least 5 days before the proposed effective date of the protested matter. (2) Protests against and requests for suspension of, tariffs or schedules containing proposed rates, classifications, rules, or practices filed by rail carriers or their publishing agents that result in revisions of rates or charges shall also include a verified statement containing specific facts showing: (A) it is substantially likely that the protestant will prevail on the merits pursuant to any applicable provisions of the law; (B) without suspension, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant; and (C) because of the peculiar economic circumstances of the protestant, investigation of the rate (subject to a refund by the carrier should the rate subsequently be found unlawful) will not protect the protestant. The burden is on the protestant to prove the matters described in (A), (B) and (C) immediately above. (3) Where protestants allege that a rate is unreasonably high in violation of 49 U.S.C. 10701, they must submit evidence relating to market dominance as set forth at 49 CFR 1109.1. (4) Replies to verified statements filed under this section shall be verified.

(2) 49 CFR 1100.200(c) is revised to read as follows:

§ 1100.200 [Amended]

* * * * *

(c) When the Suspension Board has declined to suspend a proposed tariff or schedule, or any part thereof, a petition in writing by any protestant or protestants may be filed with the Commission for reconsideration by the designated appellate division provided it reaches the Commission at least two work-days prior to the effective date of the tariff or schedule in question: *Provided, however,* That when the Suspension Board has declined to

suspend a protested change in rail rates filed on 10 days' notice under the provisions of 49 U.S.C. 10762(c)(3), the petition must be in the hands of the Suspension Board not later than 9 a.m., United States Standard or local Daylight Saving, whichever is in effect in the District of Columbia, on the work-day before the proposed effective date of the protested matter; *And provided further*, That when the Suspension Board has declined to suspend a proposed tariff or schedule applicable on household goods as defined in 49 CFR 1056.1(a) published for the account of a household goods carrier as defined in 49 CFR 1040.2(b) on not less than 45 days' notice, the petition shall be filed within 2 work days after the Suspension Board has acted. For the purpose of this section, a work-day shall be considered as any day except Saturday, Sunday or a legal holiday in the District of Columbia. (A legal holiday of less than one day shall be considered a work-day within the meaning of this section.) Petitions submitted under this section shall (except as provided in the case of a protested change in rail rates filed under the provisions of 49 U.S.C. 10762(c)(3) be filed with the Secretary of the Commission by 4 p.m. United States Standard Time (or by 4 p.m. local Daylight Saving Time if that time is observed in the District of Columbia). Telegraphic notice or the equivalent thereof must be given by the petitioners to the respondent or respondents. As no replies to the petitions for reconsideration are contemplated under this rule, petitioners will be expected, except in unusual circumstances, to rely wholly on the information previously filed with the Suspension and Fourth Section Board. Written or telegraphic communication in intelligible form requesting reconsideration will be sufficient. Such request shall contain the following prefatory statement: "This matter requires expedited handling under Rule 200 of the Commission's Rules of Practice." A petition not timely filed shall be rejected by the Secretary.

[FR Doc. 80-37590 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Public Entry and Use: National Wildlife Refuges in Iowa, Illinois, Missouri and Portions of Nebraska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public access, use, and recreation of certain National Wildlife Refuges in Iowa, Illinois, Missouri, and portions of Nebraska is compatible with the objectives for which the areas were established, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which public access, use, and recreation will be permitted on these areas during 1981.

DATES: Period Covered—January 1, 1981 through December 31, 1981.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Tom A. Saunders, Area Manager, U.S. Fish and Wildlife Service, 2701 Rockcreek Parkway, Suite 106, North Kansas City, Missouri 64116. Telephone (816) 374-6166

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R.R. #1, Box 114, Missouri Valley, Iowa 51555. Telephone (712) 642-4121

John Guthrie, Refuge Manager, Union Slough National Wildlife Refuge, Route 1, Box 32B, Titonka, Iowa 50480. Telephone (515) 928-2523

Wayne Adams, Refuge Manager, Crab Orchard National Wildlife Refuge, P.O. Box J, Carterville, Illinois 62918. Telephone (618) 997-3344

Gregory Wolf, Refuge Manager, Clarence Cannon National Wildlife Refuge, Box 88, Annada, Missouri 63330. Telephone (314) 847-2333

Terry Fears, Refuge Manager, Mark Twain National Wildlife Refuge (Louisa District) R.R. #1, Wapello, Iowa 52653. Telephone (319) 523-6982

Gerald L. Clawson, Refuge Manager, Mingo National Wildlife Refuge, R.R. #1, Box 9A, Puxico, Missouri 63960. Telephone (314) 222-3589

George Peyton, Refuge Manager, Mark Twain National Wildlife Refuge (Calhoun District), Box 142, Brussels, Illinois 62013. Telephone (618) 883-2524

Berlin Heck, Refuge Manager, Squaw Creek National Wildlife Refuge, P.O. Box 101, Mound City, Missouri 64470. Telephone (816) 442-3570

Alfred Manke, Refuge Manager, Swan Lake National Wildlife Refuge, P.O. Box 68, Sumner, Missouri 64681. Telephone (816) 856-3323

Thomas Sanford, Refuge Manager, Chautauqua National Wildlife Refuge, R.R. #2, Havana, Illinois 62644. Telephone (309) 535-2290

SUPPLEMENTARY INFORMATION: Donald G. Young, 2701 Rockcreek Parkway, Suite 106, North Kansas City, Missouri, is the primary author of these special regulations, Telephone (816) 374-6166.

General Conditions

1. Public access, use, and recreation are permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 26, and the following special regulations:

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 not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) That any recreational use permitted will not interfere with the primary purpose for which the area was established; and (b) 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 refuges were established. The determination is based upon consideration of, among other things, the Service's Final Environmental Statement in 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.

2. A list of conditions applying to the individual refuge and maps of the area are available at refuge headquarters and from the office of the Area Manager. Portions of refuges which are closed to public access, use, and recreation are designated by signs and/or delineated on maps.

3. Access points on certain refuges are limited to designated roads or other specific areas. Vehicle use on all refuge areas is restricted to designated roads and lanes.

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

Iowa

DeSoto National Wildlife Refuge

Public recreational activities on DeSoto National Wildlife Refuge, Missouri Valley, Iowa, are permitted from April 15 through September 30, 1981, inclusive. The refuge may be open for self-guided auto tours from March 14 through March 22, 1981, inclusive, and from October 17 through November 11, 1981, inclusive. Groups may be permitted on portions of the refuge for wildlife observation throughout the year

upon written permission from the Refuge Manager. Use of the refuge shall be in accordance with all applicable state regulations and are subject to the following special conditions.

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

(2) *Open Season and Hours:* The open season for general public recreational use is from April 15, 1981 through September 30, 1981. During this period, the area is open daily from 6:00 a.m. through 10:00 p.m. Admittance onto the refuge is prohibited after 9:00 p.m. The hours for the special spring and fall auto tours will be published in area newspapers. The DeSoto Visitor Center is expected to be opened on or about May 31, 1981. This facility and adjacent trails will be open throughout the year on days and at times as published in local newspapers. Between the dates of September 16 and September 30, 1981 all water-oriented recreational activities, except boat and bank fishing, are prohibited. Boat motors are limited to 25 horsepower or less during this period. Swimming will be permitted from May 23 through September 7, 1981, during the hours posted, and only in the designated beach area. Two separate mushroom picking areas are open daily to the public from April 15 through May 31, 1981, hours of use are the same as for the general use area.

(3) *Open Area:* The area open for general public use, including blackberry and grape picking, comprises approximately 2,400 acres, and the special mushroom picking areas comprise approximately 1,100 acres. Maps of the open areas are posted or available for handout at entrance points.

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

(5) *Other provisions:*

(a) The use of air mattresses, beach balls and all other flotation devices, other than life preservers, is prohibited except in designated wading areas.

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

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

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

(e) The west arm of DeSoto Lake (as designated on the refuge regulations map) is restricted to non-motorized boats, with the exception of electric fishing motors.

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

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

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

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

(j) Firearms are prohibited, except by permit holders participating in hunting programs and in accordance with regulations.

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

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

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

(n) Removal of all plant life, including downed timber, is prohibited. This restriction does not apply to mushrooms, blackberries, and grapes, as specified in (2) above.

(o) During the special self-guided auto tours, visitors are required to remain in their cars, except that foot traffic is permitted on nature trails and in vicinity of refuge overlooks.

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

Mark Twain National Wildlife Refuge

(1) The Big Timber Division of the refuge is open to the public for the permitted public use activities of nut, berry and mushroom gathering, hiking, wildlife/wildlands observation, photography, sightseeing, and boating from January 1, 1981 through December 31, 1981.

(2) The Louisa Division of the refuge is open to the permitted public use activities of nut, berry and mushroom gathering, hiking, wildlife/wildlands observation, photography, sightseeing, and boating from February 1, 1981 until the start of the Iowa early waterfowl season in mid-September 1981, with the exception of certain designated areas adjacent to the Port Louisa Road which are open through December 31, 1981.

Union Slough National Wildlife Refuge

(1) Union Slough Habitat Tour Route is open for travel in motor vehicles daily from April 15 through September 30, 1981, weather permitting. Hours of operation are sunrise to sunset. Parking is permitted in designated parking areas, only. Foot travel is permitted in designated areas.

(2) Deer Meadow Picnic Area and Indian Bluff Nature Trail are open April 15 through September 30, 1981 during daylight hours, only. Parking is permitted in designated parking area, only.

(3) Vanishing Prairie Grassland Area is open from July 15 through September 30, 1981 for access by foot travel during daylight hours, only. Parking is permitted in designated parking area, only.

(4) Deer Observation Area is open from January 1, 1981 through December 31, 1981.

(5) Pets must be on a leash less than ten (10) feet in length and under control of the owner at all times.

Illinois

Crab Orchard National Wildlife Refuge

Public access, use, and recreation shall be permitted at Crab Orchard National Wildlife Refuge in accordance with the following special regulations:

(1) Swimming is prohibited in the closed portion of Crab Orchard Lake, marina areas, boatdocks, boat ramps, spillways, dams, and causeways. Swimming in Devils Kitchen Lake is prohibited. Skin diving, snorkeling, and scuba diving are prohibited on all portions of Devils Kitchen Lake.

(2) All personal floatation devices, to include innertubes, except those wearable devices approved by the U.S. Coast Guard, are prohibited on refuge waters.

(3) The area which is fenced and posted as closed below Crab Orchard Lake spillway is closed to all public entry and use.

(4) The Carterville Beach, Lookout Point, Crab Orchard Beach, Playport Boat Dock, Sailboat Basin, and designated picnic areas are subject to closure by the Refuge Manager and will be posted when closed.

(5) All refuge campgrounds are closed to visitors from 11:00 p.m. until 7:00 a.m., local time.

(6) Quiet time shall be maintained in all refuge campgrounds between 10:00 p.m. and 6:00 a.m., local time.

(7) The use of boats with motors larger than ten (10) horsepower is prohibited on Devils Kitchen Lake and Little Grassy Lake.

(8) The maximum boat speed limit on Crab Orchard Lake is 40 miles per hour, unless otherwise posted.

(9) Visitors must be appropriately attired while on the refuge. Public

nudity, including topless attire by females, is prohibited.

(10) Camping, defined as the use of tents, bedrolls, motorized vehicles, trailers, and other shelters for overnight stays for the purpose of sleeping, is prohibited, except at Devils Kitchen, Little Grassy, Crab Orchard Lake and Crab Orchard Boat and Yacht Club campgrounds.

Mark Twain National Wildlife Refuge

(1) The Keithsburg Division of the refuge is open to the public for the permitted public use activities of nut, berry and mushroom gathering, hiking, wildlife/wildlands observation, photography, sightseeing, and boating from January 1, 1981 through October 14, 1981.

(2) The Batchtown and Calhoun Division of the refuge is open to the public for the permitted public use activities of nut, berry and mushroom gathering, hiking, photography, and wildlife observation from January 1 to October 15, 1981 and December 15 to December 31, 1981.

(3) Gilbert Lake overlook road on Illinois Highway 100 will be open to wildlife observation from January 1 through December 31, 1981. The balance of Gilbert Lake will be open to nut, berry and mushroom gathering, wildlife observation, photography, and hiking from January 1 to October 15, 1981 and December 15 to December 31, 1981.

Chautauqua National Wildlife Refuge

(1) All of the Chautauqua National Wildlife Refuge is open to wildlife observation during the periods of January 1, 1981 through October 15 and from December 15 through December 31, 1981. The land area from the observation tower at the headquarters site north to the Goofy Ridge Ditch, including the recreation area and the cross dikes, is open for wildlife observation during October 16 through December 14, 1981.

(2) Nut, berry and mushroom picking is open in areas open to wildlife observation. Public use is allowed between sunrise and sunset only.

Missouri

Mingo National Wildlife Refuge

(1) Visitors are permitted on the refuge from one hour before sunrise until one hour after sunset from March 15 through September 30, 1981. The portion of the refuge west of Ditch 6 is open all year. Hiking, photography, wildlife observation, and gathering of nuts, berries, and mushrooms is permitted.

(2) Motor vehicles are permitted on designated roads throughout the year. The auto tour is open on Sunday afternoons until 4:30 p.m. during October and November. Speed limit is 25 MPH.

(3) The Boardwalk Nature Trail is open all year from one hour before sunrise until one hour after sunset.

(4) Dogs are permitted on the refuge, but must be under owner's control at all times.

(5) Boats and canoes are permitted. The use or possession of motors is prohibited. No boats or canoes may be left overnight. A U.S. Coast Guard approved personal flotation device is required for each person.

(6) Horseback riding is permitted on roads and trails open to the public. Permits are required for groups of ten or more.

Mark Twain National Wildlife Refuge

(1) The Cannon and Delair Division of the refuge will be closed to all public use activities in 1981.

(2) The Gardner Division of the refuge will be open for public access, use, and recreation from January 1 through October 15, 1981. Permitted activities include:

(a) Wildlife observation by boat and foot

(b) Photography

(c) Nut, berry, and mushroom gathering. The Gardner Division is open to public use during daylight hours, only.

Swan Lake National Wildlife Refuge

(1) All public use activities, other than hunting, will be during daylight hours, only.

(2) The main entrance road, headquarters area, and observation tower will be open for wildlife/wildlands observation year around. All other roads not designated as closed will be opened from March 1 through September 30, 1981. Foot travel is authorized throughout the refuge for wildlife/wildlands observation activities from March 1 through September 30, 1981.

(3) The habitat trail will be open to public use, except during waterfowl season.

Squaw Creek National Wildlife Refuge

(1) The refuge tour route, nature trails, and facilities are open for public use from sunrise to sunset all year.

(2) Pets are permitted only when confined or restrained on a leash that does not exceed ten feet in length.

Nebraska

DeSoto National Wildlife Refuge

See special conditions listed under Iowa.

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

The provisions of this special regulation supplement the regulations which govern Public Entry and use 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.

Dated: November 24, 1980.

Tom A. Saunders,

Area Manager.

[FR Doc. 80-37582 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 33

Sport Fishing; National Wildlife Refuges in Illinois, Iowa, Missouri and Portions of Nebraska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Illinois, Iowa, Missouri and portions of Nebraska is compatible with the objectives for which the areas were established, will utilize a newable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which sport fishing will be permitted on these areas during the 1981 fishing season.

DATES: Period Covered—January 1, 1981 to December 31, 1981. See State regulations for specific fishing seasons.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Tom A. Saunders, Area Manager, U.S. Fish and Wildlife Service, 2701 Rockcreek Parkway, Suite 106, North Kansas City, Missouri 64116. Telephone (816) 374-6166.

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R.R. No. 1, Box 114, Missouri Valley, Iowa 51555. Telephone (712) 642-4121.

John Guthrie, Refuge Manager, Union Slough National Wildlife Refuge, Route 1, Box 32B, Titonka, Iowa 50480. Telephone (515) 928-2523.

Wayne Adams, Refuge Manager, Crab Orchard National Wildlife Refuge, P.O. Box J, Carterville, Illinois 62918. Telephone (618) 997-3344.

Gregory Wolf, Refuge Manager, Clarence Cannon National Wildlife Refuge, Box 88, Annada, Missouri 63330. Telephone (314) 847-2333.

Terry Fears, Refuge Manager, Mark Twain National Wildlife Refuge (Louisa District), R.R. No. 1, Wapello, Iowa 52653. Telephone (319) 523-6982.
Gerald L. Clawson, Refuge Manager, Mingo National Wildlife Refuge, R.R. No. 1, Box 9A, Puxico, Missouri 63960. Telephone (314) 222-3589.
George Peyton, Refuge Manager, Mark Twain National Wildlife Refuge (Calhoun District), Box 141, Brussels, Illinois 62013. Telephone (618) 883-2524.
Berlin Heck, Refuge Manager, Squaw Creek National Wildlife Refuge, P.O. Box 101, Mound City, Missouri 64470. Telephone (816) 442-3570.
Alfred Manke, Refuge Manager, Swan Lake National Wildlife Refuge, P.O. Box 68, Sumner, Missouri 64681. Telephone (816) 856-3323.
Thomas Sanford, Refuge Manager, Chautauqua National Wildlife Refuge, R.R. No. 2, Havana, Illinois 62644. Telephone (309) 535-2290.

SUPPLEMENTARY INFORMATION: Donald G. Young is the primary author of these special regulations.

General Conditions

1. Fishing is permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 33, all applicable State regulations, the general conditions, and the following special regulations: The Refuge Recreation Act of 1961 (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 not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) That any recreational use permitted will not interfere with the primary purpose for which the area was established; and (b) that the 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 refuges were established. The determination is based upon consideration of, among other things, the Service's Final Environmental Statement in 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.

2. A list of conditions applying to the individual refuge and a map of the sport fishing area(s) are available at refuge headquarters. Portions of refuges which are closed to fishing are designated by signs and/or delineated on maps.

3. Access points on certain refuges are limited to designated roads or other specific areas. Vehicle use on all refuge areas is restricted to designated roads or lanes.

4. Sport fishing on portions of the following refuges shall be in accordance with all applicable State and Federal regulations and conditions as indicated.

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

Iowa

DeSoto National Wildlife Refuge

(1) Area open to ice fishing during daylight hours only. January 1, 1981 through February 28, 1981, provided that ice conditions are safe enough to permit this activity.

(2) Motor or wind driven conveyances are not permitted on the lake from January 1, 1981 through February 28, 1981.

(3) The use of portable ice fishing shelters will be permitted on a daily basis, January 1, 1981 through February 28, 1981.

(4) Sport fishing by pole and line, only, is permitted from April 15, 1981 through September 30, 1981, in accordance with applicable State regulations and posted refuge regulations.

(5) The following minimum length limits are in effect: Largemouth bass (*Micropterus salmoides*)—15 inches; Walleye (*Stizostedion vitreum*)—15 inches; Northern pike (*Esox lucius*)—30 inches. All undersized fish must be released.

(6) Fishing with more than two lines and with more than two hooks on each line is not permitted.

(7) Fishing is permitted only on the 750 acre DeSoto Lake and adjacent Missouri River.

(8) The use of trot lines and float lines are not permitted.

(9) West Arm of the lake (as designated on refuge map) is closed to gasoline driven motors. Electric motors are permitted.

(10) Digging or seining for bait or catching frogs is not permitted.

(11) Archery and spear fishing is permitted from April 15 to June 30, only. Only non-game fish may be taken.

(12) A sport fishing license from either Nebraska or Iowa is required when fishing on this refuge.

(13) Littering of the shoreline and water is not permitted.

Mark Twain National Wildlife Refuge

(1) The Big Timber Division is open to public fishing from January 1, 1981 through December 31, 1981.

(2) The Louisa Division is open to public fishing from February 1, 1981 until the start of the Iowa early waterfowl season in mid-September 1981, with the exception of certain designated areas adjacent to the Port Louisa Road which are open through December 31, 1981.

Union Slough National Wildlife Refuge

(1) The use of boats, canoes, or other floating devices is prohibited.

(2) Sport fishing, in designated areas, is permitted in accordance with State and Federal regulations from April 15 through September 30, 1981.

Illinois

Crab Orchard National Wildlife Refuge

(1) Areas I and III are open to sport fishing from January 1, 1981 through December 31, 1981, with the following exceptions:

(a) *Devils Kitchen Lake and Little Grassy Lake* The use of motors larger than 10 horsepower is prohibited.

(b) *Crab Orchard Lake*—Zone 1 Floating trot lines and jug fishing are not permitted west of the closed portion boundary line (Zone 1) from May 25, 1981 through September 7, 1981 between sunrise and sunset.

(2) Area II is closed to all fishing from January 1, 1981 through December 31, 1981, with the following exceptions:

(a) *Crab Orchard Lake*—Zones 2 and 3

(1) Bank fishing is permitted from Wolf Creek Road and Highway 148 causeways between sunrise and sunset.

(2) Sport and jug fishing are permitted from boats only from Wolf Creek Road causeway west to the closed portion boundary line (Zone 2).

(3) Sport and jug fishing are permitted from Wolf Creek Road causeway east (Zone 3) from March 15, 1981 through September 30, 1981 between sunrise and sunset.

(b) *A-41 Pond* Bank fishing is permitted from March 15, 1981 through September 30, 1981 between sunrise and sunset.

The minimum legal length for Largemouth black bass taken from Crab Orchard Lake is 14 inches (35.56 centimeters).

Chautauqua National Wildlife Refuge

(1) All waters of Chautauqua National Wildlife Refuge are open for sport fishing from December 15, 1980 through October 15, 1981, from a boat or through the ice. Bank fishing is permitted along the cross dike, at the Recreation Area, and at Boatyard No. 3, as posted. All other areas of the refuge are closed to bank fishing.

(2) From October 16 through December 14, 1981 sport fishing is permitted:

(a) Within the area one-eighth (⅛) mile around the Recreation Area and Boatyard No. 3, as posted

(b) On Goofy Ridge Ditch

(c) Along the cross dike

(d) On all waters within the Public Hunting Area

(3) Fishing is allowed between sunrise and sunset only.

(4) The use of boats, with motors of ten (10) horsepower or less, is permitted in the waters of Lake Chautauqua.

(5) Private boats must be removed overnight or moored at Boatyard No. 3, or the Recreation Area.

Mark Twain National Wildlife Refuge

(1) The open season for sport fishing on the Middle and Lower Pools of the Batchtown Division, Calhoun County, Illinois, extends from January 1 to December 31, 1981. The Upper Pool is open to sport fishing from January 1 to December 31, 1981.

(2) Open season for sport fishing on the southern portion of Swan Lake on the Calhoun Division, Calhoun County, Illinois, extends from January 1 to October 15, 1981 and December 15 to December 31, 1981. The upper section of Swan Lake—(man-made ditch at Six Mile Island to the northern refuge boundary) extends from January 1 to December 31, 1981.

(3) The open season for commercial fishing on the southern portion of Swan Lake, (man-made ditch at Six Mile Island to the east end of Swan Lake) extends from April 1 to October 15, 1981. Commercial fishing on Swan Lake will be limited to 50 permit holders.

(4) The Keithsburg Division of the refuge is open to sport fishing from January 1, 1981 through October 14, 1981.

(5) All fishing will be in accordance with all applicable State and Federal regulations.

Missouri

Mark Twain National Wildlife Refuge

(1) The Cannon and Delair Divisions of the refuge is closed to sport fishing.

(2) The Gardner Division will be open to sport fishing from January 1 through October 15, 1981.

(3) All fishing will be in accordance with applicable State and Federal regulations.

Swan Lake National Wildlife Refuge

(1) Sport fishing is permitted from March 1 through September 30, 1981.

(2) During daylight hours, only.

(3) Boats without motors may be used on Swan Lake, Silver Lake, and that portion of South Lake immediately adjacent to No. 5 Levee.

(4) Travel is permitted on all roads except those posted with "Road Closed" signs.

(5) No nets of any type may be used within 150 feet of water control structures.

Mingo National Wildlife Refuge

(1) Visitors are permitted on the refuge from one hour before sunrise until one hour after sunset.

(2) All waters west of Ditch #6 are open year-round. All other waters are open March 15 through September 30, 1981.

(3) Fishing in Fox Pond and May Pond is permitted: (a) From March 15 through September 30, 1981.

(b) By pole or rod and line, only.

(c) No bass less than 12 inches may be kept.

(d) Daily aggregate limit of 20 fish.

(4) The use or possession of motors on boats is prohibited. No boats may be left overnight. A U.S. Coast Guard approved personal flotation device is required for each person in a boat.

(5) Non-game fish may be taken for personal use, but not for commercial purposes, by snagging, grabbing, snaring, nets, and seines from March 15 through September 30, 1981.

(6) All nets must be plainly labeled with the name and address of the person(s) using such equipment.

(7) Trammel nets and gill nets must be attended at all times. All other nets may be left set and unattended for not more than 24 hours.

(8) Game fish may not be possessed by persons using nets or seines on the refuge.

Squaw Creek National Wildlife Refuge

(1) Sport fishing, in designated areas, is permitted in accordance with State and Federal regulations from March 15 through December 31, 1981.

Nebraska

DeSoto National Wildlife Refuge

See special conditions listed under Iowa.

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

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

Dated: November 24, 19880.

Tom A. Saunders,

Area Manager.

[FR Doc. 80-37583 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 234
Wednesday, December 3, 1980

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 496]

Navel Oranges Grown in Arizona and Designated Part of California; Proposed Extension of Minimum Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would continue through July 16, 1981, the requirement that shipments of California-Arizona navel oranges grown in District 1, 3, or 4 be not smaller than 2.59 inches in diameter. Unless extended, this regulation would expire January 1, 1981. This action is designed to provide markets with acceptable sizes of fruit and to promote orderly marketing in the interest of producers and consumers.

DATES: Written comments must be received not later than December 18, 1980. Proposed effective dates: January 2, 1981, through July 16, 1981.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR Part 1.27(b)).

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

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified as "not significant." The proposal is being published with less than a 60-day comment period because there is insufficient time between the date when the information upon which it is based became available and the effective date necessary to effectuate the declared policy of the act.

Currently, the regulation specifies a minimum diameter requirement of 2.45 inches for fresh shipments of California-Arizona navel oranges grown in District 1, 3, or 4 through December 25, 1980, and a minimum diameter of 2.59 inches from December 26, 1980, through January 1, 1981. The proposed amendment would continue the 2.59 inch minimum diameter requirement through July 16, 1981. This notice is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and a designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was recommended by the Navel Orange Administrative Committee, established under the order.

The 1980-81 season crop of navel oranges is currently estimated by the committee at 76,200 carlots, compared to 68,601 carlots utilized during the past season. The committee reports that demand in regulated fresh market channels is expected to require about 56 percent of this volume. The remaining 44 percent would be available for utilization in export and processing outlets. The committee indicates that volume and size composition of the crop of navel oranges are such that more than ample supplies of the more desirable larger sizes will be available to satisfy the demand in regulated channels. The committee reports that when more than ample supplies of larger sizes are available for shipment, disposition of the sizes which would be eliminated by this proposed regulation can be accomplished only at a substantial price discount and this tends to depress the market for all sizes. Navel oranges failing to meet such requirements could be shipped to fresh export markets, left on trees to attain further growth, or utilized in processing.

The proposal is that § 907.796 Navel Orange Regulation 496 (45 FR 75163; 76651; 79003) be amended to read as follows:

§ 907.796 Navel Orange Regulation 496.

(a) During the period January 2, 1981, through July 16, 1981, no handler shall handle any navel oranges grown in District 1, 3, or 4 which are of a size smaller than 2.59 inches in diameter: *Provided,* That not to exceed 5 percent, by count, of the oranges in any container may measure smaller than 2.59 inches in diameter.

(b) As used in this section, "handler," "handle," "District 1," "District 3," and "District 4" mean the same as defined in the marketing order. Diameter shall mean the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit.

Dated: November 28, 1980.

D. S. Kuryloski,

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

[FR Doc. 37551 Filed 12-2-80; 8:45 am]

BILLING CODE 3410-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

Definition of Social Disadvantage; Minority Group Inclusion

Correction

In FR Doc. 80-37134 appearing at page 79496 in the issue of Monday, December 1, 1980, on page 79497, first column, under "DATES", "January 30, 1980" should read "January 30, 1981".

BILLING CODE 1505-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 211, 215, 218, 294, 380, 385, 399

[EDR-414; ODR-23; SPDR-80; PSDR-69; Docket No. 39000; Dated November 26, 1980]

Proposed Rule To Classify and Exempt Canadian Air Taxi Operators

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new part to provide a simple registration procedure for Canadian charter air taxi operators in place of the regular permit proceedings. The proposal is made at the Board's own initiative, to expedite procedures and lessen administrative burdens for those carriers.

DATES: Comments by: February 2, 1981. Reply comments by : February 17, 1981.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: December 12, 1980.

The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 39000, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, (202) 673-5035, Legal Divison, or Nancy L. Pitzer (202) 673-5134, Regulatory Affairs Division, Bureau of International Aviation, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The Civil Aeronautics Board is proposing to exempt Canadian charter air taxi operators utilizing small aircraft from the requirements of section 402 of the Federal Aviation Act, and to replace those requirements with a simple registration procedure as the means for conferring operating authority between the United States and Canada.[1] The purpose of the rulemaking is to simplify, expedite and reduce the regulatory procedures imposed upon these carriers. It is being undertaken largely because we have good aviation relations with our Canadian neighbors.

Importantly, the operations these Canadian carriers conduct to the United States are covered by the 1974 U.S.-Canada Nonscheduled Air Services Agreement. The Agreement is unique in that its sole applicability is to nonscheduled operations. It establishes standards for grant of the rights contained in the Agreement; requires each country to license the carriers designated by the other party under the Agreement, provided that substantial ownership and control of the carrier are vested in nationals of the party designating the airline, that the carrier complies with the laws and regulations of the other party, and that the carrier's homeland licenses comply with the standards established by the convention on International Civil Aviation; and encourages expenditious processing of an application for a license. Indeed, § 399.14 of the Board's Policy Statements requires special facilitation for Canadian small charter carrier applicants seeking transborder authority.

Canadian small charter carrier applications constitute the bulk of the Canadian carrier filings under section 402 of the Act. Moreover, in the last 18 months, they comprised 20 percent of *all* filings under section 402. In recent years these applications have been processed routinely and no objections have been filed regarding requests for this authority. Considering the fact that these carriers are extremely small, both in terms of system operations and organizations, the regulatory framework historically imposed on them has been burdensome. For example, the Board's present rules state that an applicant must file a statement of ecomomic data, evidence establishing its fitness, and detailed information concerning ownership, insurance, reciprocity factors, and several other items. Since the Board's rules also require that certain procedural steps be taken, grant of a 402 permit ordinarily takes 4 to 6 months to complete, even through expedited procedures (see subpart Q of the Board Rules of Practice, 14 CFR Part 302). By contrast, Canadian processing of U.S. requests for small aircraft charter authority takes about half the time. The considerable expense and delay impose a significant barrier to entry for these small businesses and hampers competition in the relevant markets. Furthmore, we believe as a general matter that the U.S. and Canadian traveling and shipping public would benefit if the regulatory burdens on both sides could be reduced to an absolute minimum. This proposed action is a first step toward that goal.[2] We recognize that the Canadian procedures will now be somewhat more burdensome for U.S. air taxi operators seeking a Canadian license than those proposed here for Canadian carriers seeking a U.S. license. The Board will strive to ease these burdens to the best of its ability.

We also believe that the rationale for exempting Part 298 U.S. air taxi operators applies to their Canadian counterparts. The Board in its proposed rulemaking on Part 298 stated that:

> It is our opinion that the service contemplated should be encouraged, partly because it is the kind of service which can well be conducted by small carriers, and also because it affords a means of serving many small communities which would otherwise be without air connection to major terminals.[3]

The same holds true for Canadian small carriers. We see no purpose in subjecting these Canadian carriers to more onerous economic and regulatory requirements than their U.S. counterparts, unless foreign policy reasons require. As discussed above, none appear to be present. The Board therefore proposes to exempt Canadian charter air taxi operators from the requirements of section 402 of the Act and to replace those procedures with a simple filing for registration.

This action is similar to that taken in ER-1159, 44 FR 69633, December 4, 1979, where the Board adopted a new Part 297 to govern operations by foreign air freight forwarders and foreign cooperative shippers associations. That rule replaced hearing procedures under section 402 of the Act with a simple registration requirement for obtaining operating authority. Foreign air freight forwarders were exempted from other provisions of the Federal Aviation Act as well. A similar proposal with regard to foreign tour operators is pending in EDR-398, 45 FR 26084, April 17, 1980.

Until fairly recently, the Act limited exemptions to domestic air carriers and precluded the action we are taking now. The Airline Deregulation Act of 1978 (Pub. L. 95-504) expanded our exemption powers to include foreign air carriers and our initiative flows from these new provisions. The rule would reduce expense and delay for these carriers, thereby lowering their barriers to entry and increasing competition in the relevant markets. Lower costs for the traveling and shipping public may result. It may also serve as a spur toward greater competitive opportunities between the two countries in the area of aviation. The Board, therefore, tentatively concludes that this blanket exemption would be consistent with the public interest.

Under the proposed rule, registration will consist of filing with the Regulatory

[1] Small aircraft are defined by the Nonscheduled Air Services Agreement as aircraft which are not large. Large aircraft are defined as aircraft having both (a) a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds, and (b) a maximum authorized takeoff weight on wheels greater than 35,000 pounds.

[2] Our proposed action will not reduce the regulatory oversight regarding the operational fitness of these carriers. The proposed rule requires that before an applicant can begin operations, it must hold operations specifications issued by the FAA. These specifications can only be issued after a review of the application by the FAA which contains information regarding the carrier's operations, personnel and aircraft. The proposed rules do not require the Board to review the financial fitness of these carriers. Considering the limited scope of these operations and the fact that the Board does not review the financial status of U.S. nonscheduled air taxi operators, it would not be appropriate to require such a review of their Canadian counterparts.

[3] See Draft Release No. 47, dated February 14, 1951 at 3.

Affairs Division, Bureau of International Aviation (BIA): (1) Three copies of an application for registration (CAB Form 294A); (2) a current certificate of insurance; [4] and (3) the Warsaw liability limitation waiver (CAB Form 263). After the registration is approved, a stamped copy of CAB Form 294A will be sent to both the applicant and the FAA as evidence of effective registration with the Board. One copy will be retained in BIA. As evidence that the applicant has obtained FAA authority and may begin operations into the United States, the rule proposes that the FAA return CAB Form 294A to BIA indicating on the form when the applicant received its FAA operations specifications.

The registration form is an amalgam of Form 297A (Registration of Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations) and Form 298A (Registration of Air Taxis). To help implement the Agreement's requirement that substantial ownership and effetive control of an applicant must reside in Canadian nationals or in the Canadian Government, the applicant must list on the form the name, address, and citizenship of anyone with an ownership interest in the applicant of 10% or more. In addition, § 294.22 of the proposed rule provides that the Board be notified if anyone later attains the 10 percent threshold amount. The form would also extract information concerning the aircraft that the applicant proposes to fly, and the license number of each Canadian license held by the applicant. A change in name or address, or a carrier's temporary or permanent cessation of operations, would require resubmission of Form 294A within 30 days after the event has occurred. A name change also would operate to nullify a carrier's registration unless within 60 days after the name change the registrant is redesignated by Canada. This requirement parallels Canadian procedures for U.S. transborder operators of similar size. (The authority to approve or disapprove a name change is delegated to the Director of the Bureau of International Aviation, under § 385.26(g).)

Upon receipt of the applicant's Form 294A, the Board may request additional information, and after allowing 28 days for objections and 14 days for answers, will take one of the following actions in the application: Reject it for failure to comply with Part 294; institute a hearing or show-cause proceeding; approve the application with conditions; or approve it outright. The authority to request additional information, approve the application, or reject it for technical reasons would be delegated in § 385.26 to the Director, Bureau of International Aviation. If the application is to be referred by the Director to the Board, the Bureau will notify the applicant as soon as such decision is made.

The time allowed for filing objections and answers will allow interested parties ample time to register their views.

Under certain circumstances a registrant may have its Board authority revoked, canceled, suspended, or subjected to additional terms and conditions. These would include situations in which a registrant discontinues operations, fails to maintain proper insurance coverage, has been granted a 402 permit to use "large aircraft," violates the "substantial ownership" provisions of this part, has its designation withdrawn or has its FAA operations specifications suspended or terminated. Similar sanctions could follow from termination of the Agreement or a Board finding that the action is otherwise consistent with the public interest. Authority to take essentially procedural actions, such as cancellation due to a cessation of operations or due to withdrawal of designation, would be delegated to the Director, Bureau of International Aviation.

The Board has tentatively decided not to have reporting requirements for carriers covered by this rule. We have already permissively relieved these carriers of the requirement to file CAB Form 217 (see Reporting Directive No. 10, effective January 1, 1980). We also propose to eliminate the requirement that these carriers file with us Canadian Transport Commission Statement 40 and information on certain Canada-southern United States charters. The Agreement provides that these reports be filed with the Canadian Transport Commission and with the Board. We have had little occasion to use the reports, and see no reason for continuing this marginally useful practice. Therefore, we will relieve these carriers of their duty to file the reports. The filing of these reports was established by Board Order 74-5-37. We will issue an order deleting the reporting requirements upon final disposition of this rule. The Board, of course, retains its power to inspect and demand accounts and records under section 407 of the Act, and its power under section 402(c) to set reasonable terms and conditions to its grants of authority is preserved by §§ 294.10 and 294.50(g) of the proposed rule.

Sixty days will be allowed for comments on this proposal. While the rulemaking is pending, the Board will dispose of Canadian small charter air carrier applications on a case-by-case basis. We contemplate that almost all of the pending and newly filed applications will not require either oral or written hearing procedures under Subpart Q of our Procedural Regulations. Instead, we intend to use our exemption power to grant operating authority pending final disposition of this rule.

We emphasize that the foregoing are our tentative conclusions only, and we solicit the views of all interested persons to assist us in determining whether to adopt the proposed rules set forth in this notice.

Accordingly, the Board proposes to amend Chapter II of 14 CFR, as follows:

PART 294—CANADIAN CHARTER AIR TAXI OPERATORS

1. A new Part 294 would be added to read:

Subpart A—General

Sec.
294.1 Applicability and purpose.
294.2 Definitions.
294.3 General requirements for Canadian charter air taxi operators.

Subpart B—Exemption

294.10 Exemption authority.

Subpart C—Registration for Exemption

294.20 Applying for registration.
294.21 Procedure on receipt of registration form.
294.22 Notification to the Board of change in operations or identifying information.

Subpart D—General Rules for Registrants

294.30 Scope of service and equipment authorized.
294.31 Use of business name.
294.32 Security arrangements for operating Public Charters.
294.33 Compliance with the regulations of the Federal Aviation Administration.
294.34 Advance approval by the Board.

Subpart E—Insurance Requirements

294.40 Basic insurance requirements.
294.41 Minimum limits of insurance.

Subpart F—Cancellation of Registration and Presidential Review

294.50 Cancellation, revocation, or suspension of registration.
294.51 Presidential review.

Subpart G—Authorizations and Waivers

294.60 Applications for authorization to conduct individual operations or programs not otherwise permitted by this Part.

[4] By EDR-395, January 28, 1980, Docket 37531, the Board proposed to adopt a new Part 205 of its Regulations to require $2,000,000 in third-party liability insurance, with $300,000 per passenger and third-party liability coverage. A registrant under this part will be subject to the insurance requdirements provided for in those regulations as they may be finally adopted.

Sec.
294.61 Waivers.

Subpart H—Violations

294.70 Enforcement.

Subpart I—Terms, Conditions, and Limitations of this Part

294.80 Waiver of sovereign immunity.
294.81 Local traffic prohibited.
294.82 Third-country traffic prohibited.
294.83 Compliance with certain international agreements.
294.84 Air competency requirements.
294.85 Charterworthiness standards.
294.86 Industrial/agricultural/other non-transport air operations prohibited.
294.87 Compliance with Canadian licenses.
294.88 Northwest Ontario restriction.
294.89 Uplift ratio.

Authority: Sec. 204, 402, 416, Pub. L. 85-726, as amended, 72 Stat. 743, 757, 92 Stat. 1731; (49 U.S.C. 1324, 1372, 1386).

Subpart A—General

§ 294.1 Applicability and purpose.

This part establishes a classification of foreign air carriers known as "Canadian charter air taxi operators," and establishes registration procedures for these carriers operating or seeking to operate transborder services between Canada and the United States. This part also exempts Canadian charter air taxi operators from certain provisions of the Federal Aviation Act, and establishes rules applicable to their operations in the United States. This part does not provide exemption from the safety regulatory provisions of the Act that are administered by the U.S. Department of Transportation through the Federal Aviation Administration (FAA), and Canadian charter air taxi operators in the conduct of their operations must observe all applicable safety standards and requirements.

§ 294.2 Definitions.

As used in this part: (a) "Act" means the Federal Aviation Act of 1958, as amended.

(b) "Agreement" means the U.S.-Canada Nonscheduled Air Services Agreement signed May 8, 1974, and any amendments, supplements, reservations, or supersessions to it.

(c) "Canadian charter air taxi operator" means a foreign air carrier that is substantially owned and effectively controlled by Canadian citizens, the Government of Canada, or both, whose foreign air transportation operations are limited to charter air service between points in Canada and points in the United States, and that does not use large aircraft in those operations.

(d) "Charter air service" means nonscheduled commercial air transportation of persons and their accompanied baggage, and of property, on a time, mileage, or trip basis where the entire planeload capacity of one or more aircraft has been engaged, or the transportation of mail by aircraft.

(e) "Large aircraft" means any aircraft that are not "small aircraft" as defined in this section.

(f) "Maximum authorized take-off weight" has the meaning assigned to it in regulations of the Canadian Transport Commission.

(g) "Maximum certificated takeoff weight" means the maximum takeoff weight authorized by the terms of the aircraft airworthiness certificate. This weight may be found in the airplane operating record or in the airplane flight manual that is incorporated by regulation into the airworthiness certificate.

(h) "Maximum passenger capacity" means the maximum number of passenger seats for which an aircraft is configured.

(i) "Maximum payload capacity" means the maximum certificated takeoff weight of an aircraft less the empty weight as defined in section 03 of Part 241 of this chapter, less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, flight crew, steward's supplies, etc.). For purposes of this part, the allowance for weight of the crew, oil and fuel is as follows: (1) Crew—200 pounds per crew member required under FAA regulations, (2) oil—350 pounds, (3) fuel—the minimum weight of fuel required under FAA regulations for a flight between domestic points 200 miles apart, assuming VFR weather conditions and flights not involving extended overwater operations. However, in the case of aircraft for which a maximum zero fuel weight is prescribed by the FAA, maximum payload capacity means the maximum zero fuel weight less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum flight crew, steward's supplies, etc., but not including disposable fuel or oil).

(j) "Small aircraft" means any aircraft designed to have both: (1) A maximum passenger capacity of not more than 30 seats or a maximum payload capacity of not more than 7,500 pounds, and (2) a maximum authorized take-off weight on wheels not greater than 35,000 pounds.

§ 294.3 General requirements for Canadian charter air taxi operators.

A Canadian charter air taxi operator shall conduct charter air service between the United States and Canada only if it—

(a) Has been registered by the Board under this part;

(b) Does not directly or indirectly utilize large aircraft in charter air services;

(c) Has and maintains in effect liability insurance coverage that complies with the requirements set forth in Subpart E of this part and has and maintains a current certificate of insurance evidencing such coverage on file with the Board;

(d) Has and maintains in effect and on file with the Board a signed counterpart of CAB Agreement 18900 (CAB Form 263);

(e) Has been designated by the Canadian Government under the Agreement;

(f) Has been granted Federal Aviation Administration operations specifications required under Part 129 of the Federal Aviation Regulations;

(g) Is substantially owned and effectively controlled by Canadian citizens, or the Government of Canada, or a combination of both; and

(h) Complies with the terms, conditions, and limitations of this part.

Subpart B—Exemption

§ 294.10 Exemption authority.

Canadian charter air taxi operators registered under this part are exempt from the following provisions of the Act to the extent necessary to perform charter air service between the United States and Canada, and as long as they comply with the terms, conditions, and limitations of this part: (a) Section 402 (permits).

(b) Subsection 404(a)(2) (carrier's duty to observe reasonable rates).

(c) Subsection 404(b) (discrimination).

Subpart C—Registration for Exemption

§ 294.20 Applying for registration.

To apply for registration under this part, a Canadian charter air taxi operator shall file with the Board's Bureau of International Aviation, Regulatory Affairs Division, the following: (a) A currently effective certificate of insurance as described in § 294.40(b); and

(b) Three copies of CAB Forms 263 and 294-A, which may be obtained from the Board's Publications Services Division, Washington, D.C. 20428. All the information required by Form 294-A shall be filled in, and it shall be certified by a responsible officer of the applicant Canadian charter air taxi operator.

§ 294.21 Procedure on receipt of registration form.

(a) The Board will list the names and addresses of all persons applying for

registration under this part in its Weekly Summary of Filings.

(b) Any person objecting to the registration of a Canadian charter air taxi operator shall file an objection with the Bureau of International Aviation, Regulatory Affairs Division and serve a copy on the registrant within 28 days after the Board receives the properly completed registration application. Objections shall include any facts and arguments upon which the person relies to support its objection.

(c) Any answers to objections shall be filed within 14 days after the date that the objections were due.

(d) After receipt of CAB Form 294–A, the Board may request additional information.

(e) After the period for objections and answers has expired, the Board will take one of the following actions:

(1) Issue the registration by stamping its effective date on CAB Form 294–A and sending a copy of it to the carrier and to the FAA as evidence of registration under this part. The FAA will return its copy of Form 294–A to the Regulatory Affairs Division, Bureau of International Aviation, after the carrier has been granted FAA operations specifications under Part 129 of the Federal Aviation Regulations;

(2) Reject the application for failure to comply with this part;

(3) Issue the registration subject to such terms, conditions, or limitations as may be consistent with the public interest; or

(4) Institue evidentiary proceedings to consider whether the registration should be issued.

(f) An action described in paragraph (e) of this section will normally be taken within 60 days after the registration application is received. The Board will consider requests for faster action that include a full explanation of the need for expedited action.

(g) A registration will not become effective until the United States Government receives from the Canadian Government written designation of the registrant under the Agreement.

(h) Rejection of an application for registration will not preclude the filing of a new application by the same carrier.

§ 294.22 Notification to the Board of change in operations or identifying information.

Each Canadian charter air taxi operator shall refile three copies of CAB Form 294–A with the Board's Bureau of International Aviation, Regulatory Affairs Division, upon any of the following events. The refilings shall be mailed, or otherwise delivered, so as to be received by the Board not later than 30 days after the reported event has occurred.

(a) The carrier changes its name. When a carrier refiles Form 294–A to indicate a change of name—

(1) The registration becomes ineffective unless the Canadian Government amends the carrier's designation under the Agreement to reflect the carrier's new name within 60 days of its name change;

(2) The registrant must also refile three copies of CAB Agreement 18900 (CAB Form 263) under its new name;

(3) The registrant must also refile its certificate of insurance under its new name; and

(4) The registrant must also advise the appropriate FAA office referred to in § 294.33 of the carrier's new name;

(b) The carrier changes its designated agent.

(c) A change occurs in the carrier's ownership and control resulting in a person acquiring a beneficial or voting interest in the registrant of 10% or more. The name(s), address(es), citizenship(s), and percentages of ownership of the new owners shall be indicated on the form. Acquisition of ownership interest by persons who are not citizens of the country of citizenship of the registrant may invalidate the registration.

(d) The carrier temporarily or permanently ceases operations.

Subpart D—General Rules for Registrants

§ 294.30 Scope of service and equipment authorized.

(a) Upon fulfillment of the requirements of § 294.3 of this part, the registrant will have Board authority to engage in charter air services between any point or points in Canada and any point or points in the United States using small aircraft.

(b) Nothing in this part shall be contrued as authorizing the operation of large aircraft in charter air service, and the exemption provided by this part to Canadian charter air taxi operations that register with the Board extends only to the direct operations of charter air service in accordance with the limitations and conditions of this part using aircraft designed to have both: (1) A passenger capacity of no more than 30 seats or a payload capacity of no more than 7,500 pounds, and (2) an authorized take-off weight on wheels of no more than 35,000 pounds.

(c) A Canadian charter air taxi operator shall not use large aircraft for charter air service until it has been granted a permit by the Board under section 402 of the Act or granted an exemption under section 416 of the Act. Its application for such a permit or exemption should refer to the registration under this part. Registration under this part will be canceled when a section 402 permit has been granted by the Board for the use of large aircraft in foreign charter air service.

§ 294.31 Use of business name.

(a) A Canadian charter air taxi operator, in holding out charter air service to the public and performing its charter operations, shall do so only in the names in which its registration is issued under this part. The Board may require a Canadian charter air taxi operator to change such names where they appear to be inconsistent with the public interest.

(b) Minor variations in the use of a registered name, including abbreviations, contractions, initials, letters, or other variations of the name which are readily identifiable with it, are permitted.

§ 294.32 Security arrangements for operating Public Charters.

When a Canadian charter air taxi operator performs a Public Charter under Part 380 of this chapter, either—

(a) The Canadian charter air taxi operator shall meet the bonding or escrow requirements applicable to foreign air carriers as set forth in § 214.9c of this chapter; or

(b) The Canadian charter air taxi operator shall ensure that it does not receive any payments for the charter until after the charter has been completed. In this case, its contracts with the charter operator and the charter operator's depository bank, if any, shall state that the charter operator or bank, as applicable, shall retain control of and responsibility for all participant funds intended for payment for charter air service until after the charter has been completed, notwithstanding any provision of Part 380.

§ 294.33 Compliance with the regulations of the Federal Aviation Administration.

Registrants under this part shall obtain FAA operations specifications required under Part 129 or other applicable rules of the Federal Aviation Regulations prior to beginning operations into the United States. Registrants should write to the FAA office at one of the following addresses to obtain instructions on how to apply for FAA authority.

(a) If the registrant's business address is in Winnipeg, Manitoba, or of the same longitude as or east of that point, it should write to: Federal Aviation

Administration, General Aviation District Office No. 1, Albany, New York 12211.

(b) If the registrant's business address is west of Winnipeg, Manitoba, it should write to: Chief, Flight Standards, Federal Aviation Administration, District Office No. 61, FAA Building, King County International Airport, Seattle, Washington 98108.

§ 294.34 Advance approval by the Board.

The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the registrant under the authority granted by this part, if it finds such action to be consistent with the public interest.

Subpart E—Insurance Requirements

§ 294.40 Basic insurance requirements.

(a) Each Canadian charter air taxi operator engaging in charter air services shall maintain in effect liability insurance coverage that complies with the requirements of this subpart or such other regulations as the Board may adopt in the public interest, and is evidenced by a currently effective policy of insurance available for inspection by the Board and the public at the registrant's principal place of business. Evidence of such insurance coverage, in the form of a certificate of insurance, shall be maintained on file with the Board's Bureau of International Aviation, Regulatory Affairs Division, at all times.

(b) A certificate of insurance includes one or more documents showing the name(s) and address(es) of the insurance carrier(s), the effective and expiration dates, and the minimum amounts and limits of liability that provide the minimum coverage prescribed in § 294.41. Upon request, the Board may authorize a Canadian charter air taxi operator to supply the name(s) and address(es) of an insurance syndicate in lieu of the name(s) and address(es) of the member insurers.

§ 294.41 Minimum limits of insurance.

The minimum limits of insurance coverage maintained by a Canadian charter air taxi operator shall be: (a) Third-party liability insurance in the amount of $1,000,000 to meet potential claims that may arise in connection with its operations under this part;

(b) Liability insurance for bodily injury to or death of passengers, including cargo handlers, in the amount of $75,000 per passenger or cargo handler. (This limitation is described in CAB Agreement 18900 approved by Board Order E-23680, May 13, 1966.)

Subpart F—Cancellation of Registration and Presidential Review

§ 294.50 Cancellation, revocation, or suspension of registration.

The registration of a carrier subject to this part may be revoked, canceled, suspended, modified, or otherwise subject to additional terms and conditions by the Board if: (a) The carrier files with the Board a written notice that it is discontinuing operations;

(b) The carrier is the holder of a section 402 permit to perform large aircraft charters under the Agreement;

(c) Substantial ownership or effective control is acquired by persons who are not (1) citizens of Canada, (2) the Government of Canada, or (3) a combination of both;

(d) The Canadian Government withdraws the registrant's designation under the Agreement;

(e) The Agreement between the two countries is terminated;

(f) The registrant fails to have proper insurance coverage, or fails to file or keep a current insurance certificate on file with the Board;

(g) The registrant fails to comply with the terms, conditions, or limitations of this part;

(h) The carrier's operations specifications issued by the FAA are suspended or terminated;

(i) The Board finds that it is in the public interest to do so.

§ 294.51 Presidential review.

A Board order under § 294.50 (e), (g) or (i) shall be subject to stay or disapproval by the President within 60 days.

Subpart G—Authorizations and Waivers

§ 294.60 Applications for authorization to conduct individual operations or programs not otherwise permitted by this part.

(a) Where the terms, conditions, or limitations of this part, particularly §§ 294.81, 294.82, 294.88, and 294.89, require prior approval of individual flights or charter programs, the registrant shall apply for such approval by filing three copies of CAB Form 433 with the Bureau of International Aviation, Regulatory Affairs Division. CAB Form 433 may be obtained from the Board's Publications Services Division, Washington, D.C. 20428.

(b) Action on the application for authorization filed under paragraph (a) of this section will normally be taken within 30 days after the application is filed. The Board will consider requests for faster action that include a full explanation of the need for expedited action.

§ 294.61 Waivers.

The Board upon application or on its own initiative may waive any of the provisions of this part if it finds such action to be in the public interest.

Subpart H—Violations

§ 294.70 Enforcement.

In case of any violation of any of the provisions of the Act, or this part, or any other rule, regulation, or order issued under the Act, the violator may be subject to a proceeding under sections 1002 and 1007 of the Act before the Board or a U.S. District Court, as the case may be, to compel compliance; or to impose civil penalties under the provisions of section 901(a) of the Act; or in the case of a willful violation, to impose criminal penalties under the provisions of section 902(a) of the Act; or to impose other lawful sanctions, including revocation of registration.

Subpart I—Terms, Conditions, and Limitations of This Part

§ 294.80 Waiver of sovereign immunity.

By accepting an approved registration under this part, a registrant waives any right it may possess to assert any defense of sovereign immunity in any action or proceeding instituted against it in any court or other tribunal in the United States based upon any claim arising out of its operations under this part.

§ 294.81 Local traffic prohibited.

(a) Except as set forth in paragraph (b) of this section or § 294.60, a registrant shall not carry passengers, cargo, or mail between two or more United States points for compensation or hire.

(b) A registrant may grant stopover privileges at any point or points in the United States to passengers and their accompanied baggage on a flight that originates in Canada, if: (1) The flight is operated under a contract for round-trip charter transportation that is to be provided solely by the registrant; and

(2) The same aircraft stays with the passengers throughout the journey.

§ 294.82 Third-country traffic prohibited.

Except as set forth in § 294.60, a registrant shall not engage in foreign air transportation between the United States and any point that is not in Canada, or transport any property or persons whose journey includes a prior, subsequent, or intervening movement by air to or from a point not in the United States or Canada. This prohibition does not apply to passengers who are not moving as part of any group.

§ 294.83 Compliance with certain international agreements.

A registrant shall not operate any aircraft under this part unless it—

(a) Complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;

(b) Complies with all applicable provisions of the Agreement; and

(c) Complies with all applicable provisions of any treaty, convention, or agreement affecting international air transportation to which the United States and Canada are parties.

§ 294.84 Air competency requirements.

Registrants shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

§ 294.85 Charterworthiness standards.

(a) Registrants may perform U.S.-originating charters authorized under Annex B (III)(A) of the Agreement as follows: Commercial air transportation of passengers and their accompanied baggage, and of property, on a time, mileage, or trip basis, where the entire planeload capacity of one or more aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group, or other small aircraft operations as may be authorized under any amendments, supplements, reservations, or supersessions or the Agreement.

(b) Registrants may perform Canadian-originating charters authorized by Annex B (III)(B) of the Agreement and any amendments, supplements, reservations or supersessions of it. Such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft.

§ 294.86 Industrial/agricultural/other non-transport air operations prohibited.

A registrant shall not engage in flights for the purpose of industrial or agricultural operations (e.g., crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting, aerial photograph) within the United States unless it has obtained a permit from the Board under Part 375 of this chapter.

§ 294.87 Compliance with Canadian licenses.

A registrant shall not, in the performance of operations authorized by this part, use any aircraft or conduct any operations except in accordance with the authority and conditions contained in the registrant's applicable Canadian licenses.

§ 294.88 Northwest Ontario restriction.

(a) Except as set forth in § 294.60 or paragraph (b) of this section, registrants shall not engage in the carriage of persons in foreign air transportation between the United States and Canada to or from a point in Ontario, west of a line drawn due north from Blind River, Ontario (46° 11' North Latitude, 82°58' West Longitude) and extending to the border between Ontario and Manitoba, unless:

(1) The point is a resort, camp, or outpost operated by a person duly licensed for such purpose by the Government of the Province of Ontario, or the licensed base of a Canadian charter air carrier, or a Canadian Customs port of entry;

(2) The registrant is required on each flight out of the restricted area to make a stop at a Canadian Customs port of entry or at the licensed base of a Canadian charter air carrier where officers of the Ontario Ministry of Natural Resources may be available to make such inspection as they consider desirable; and

(3) The registrant has available on its aircraft for inspection by the U.S. authorities satisfactory evidence that it has complied with these conditions.

(b) The prohibition set forth in paragraph (a) of this section does not apply to flights performed for medical evacuation or similar emergencies.

(c) A registrant shall clearly notify in writing all persons who contract for the registrant's service, and are affected by the restrictions of this section, of the limitations set fort in paragraph (a) of this section.

§ 294.89 Uplift ratio.

Except as set forth in § 294.60, the aggregate number of all United States-originating charter flights performed by a registrant on or after may 8, 1974, shall not, at the end of any calendar quarter, exceed by more than one-third the aggregate number of all Canadian-originating charter flights performed by the registrant on or after May 8, 1974. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter is one-way, round trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (1) "small aircraft" flights of persons; and (2) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the registrant is the lessee, and shall not be included if the registrant is the lessor.

(d) There shall be excluded from the computation:

(1) Flights with aircraft having a maximum authorized takeoff weight on wheels (as determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds; and

(2) Flights originating at a United States terminal point on a route listed in the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder. These flights may be excluded from the computation only if, pursuant to any such agreement, the registrant also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over that route, and provides some scheduled service on any route pursuant to any such agreement, and such flights serve either (i) a Canadian terminal point on such route, or (ii) any Canadian intermediate point authorized for service on the route by the foreign air carrier permit.

PART 211—APPLICATIONS FOR PERMITS TO FOREIGN AIR CARRIERS

2. In Part 211, § 211.1 would be revised to read:

§ 211.1 Formal requirements.

(a) Applications for permits to engage in foreign air transportation under the terms of section 402 of the Act (called foreign air carrier permits in this part) shall meet the requirements set forth in § 302.3 of this chapter as to execution, number of copies, and formal specifications of papers. Applications shall be verified, and the verifications shall be subscribed and sworn to before a notary public or other officer authorized to administer oaths in the jurisdiction in which such application is executed. Notwithstanding the laws of the country of applicant's citizenship, an application verified before a United States consular officer will be deemed to have met the requirements of this section. All pages of an application shall be consecutively numbered, and the application shall clearly describe and identify each exhibit by a separate

number or symbol. All exhibits shall be deemed to constitute a part of the application to which they are attached.

(b) Neither foreign indirect air carriers of property under Part 297 of this chapter nor Canadian charter air taxi operators registered under Part 294 of this chapter are required to submit applications under this part.

PART 215—NAMES OF AIR CARRIERS AND FOREIGN AIR CARRIERS

3. In Part 215, § 215.1 would be revised to read:

§ 215.1 Applicability.

This part applies to all direct air carriers and foreign air carriers except air taxi operators registered under Part 298 of this chapter, indirect foreign air carriers of property, and Canadian charter air taxi operators registered under Part 294 of this chapter.

PART 218—LEASE BY FOREIGN AIR CARRIER OR OTHER FOREIGN PERSONS OF AIRCRAFT WITH CREW

4. In Part 218, § 218.2 would be revised to read:

§ 218.2 Applicability.

This part applies to foreign air carriers and other persons not citizens of the United States which, as lessors or lessees, enter into agreements providing for the lease of aircraft with crew to a foreign air carrier for use in foreign air transportation. For purposes of section 402 of the Act and Part 294 of this chapter, the person who has operational control and safety responsibility is deemed to be the carrier, and is required to have appropriate operating authority. This part therefore provides, among other things, that where aircraft leases involve the use of the lessor's crew, it is presumed that direction, control and responsibility are in the lessor, and operations under such leases may not be conducted in the absence of the issuance to the lessor of a foreign air carrier permit under section 402 or an approved registration form under Part 294 of this chapter (as applicable), a Statement of Authorization under Part 212 or 214 of this chapter, or a disclaimer of jurisdiction. This part does not apply to charters conducted in accordance with Part 212, 214 or 294 of this chapter, (a) for the transportation of company personnel or company property, (b) in cases of emergency, of commercial traffic, or (c) by authorized foreign air freight forwarders or foreign tour operators.

PART 380—PUBLIC CHARTERS

5. In Part 380 § 380.10(d) would be revised to read:

§ 380.10 Public Charter general requirements.

Public Charters under this part shall meet the following requirements:

* * * * *

(d) The air transportation portion of the charter must be performed by direct air carriers that hold a certificate of public convenience and necessity under section 401 of the Act or a permit under section 402, or are operating under Part 294 or Part 298 of this chapter.

* * * * *

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

6. In Part 385, § 385.26 would be amended by adding a new paragraph (w) to reads:

§ 385.26 Delegation to the Director, Bureau of International Aviation.

The Board delegates to the Director, Bureau of International Aviation, authority to:

* * * * *

(w)(1) Approve or disapprove applications for registration filed under Part 294 of this chapter, or require that an applicant under Part 294 submit additional information.

(2) Cancel, revoke, or suspend the registration of any Canadian charter air taxi operator using small aircraft registered under Part 294 of this chapter that:

(i) Files with the Board a written notice that it is discontinuing operations;

(ii) No longer is designated by its home government to operate the services contemplated by its registration;

(iii) Holds a foreign air carrier permit under section 402 to operate large aircraft charters between the United States and Canada;

(iv) Fails to keep its filed certificate of insurance current;

(v) No longer is substantially owned or effectively controlled by persons who are (A) citizens of Canada, (B) the Government of Canada, or (C) a combination of both; or

(vi) No longer holds current effective operational specifications issued by the FAA.

(3) Grant or deny requests for a waiver of Part 294 of this chapter, where grant or denial of the request is in accordance with current Board policy.

PART 399—STATEMENTS OF GENERAL POLICY

§ 399.14 [Reserved]

7. In Part 399, § 399.14 would be revoked and reserved.

(Sec. 204, 402, 416 of Pub. L. 85-726, as amended, 72 Stat. 743, 757, 92 Stat. 1731; (49 U.S.C. 1324, 1372, 1386))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-37488 Filed 12-2-80; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Parts 221, 296, 297

[EDR-408B; Docket No. 38746; Dated: November 26, 1980]

Airlines Filing Tariffs Stating Prices As Maximum Amounts

AGENCY: Civil Aeronautics Board.

ACTION: Denial of request to further extend comment period.

SUMMARY: The CAB denies a request for additional time to comment on its proposal to allow airlines to file tariffs that state prices as maximum amounts instead of exact amounts, so that any price up to the maximum could be charged. The proposed rule would also allow the payment of commissions to air freight forwarders and foreign air freight forwarders. The extension was requested by British Airways.

DATES: Comments by: December 1, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 38746, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Mark S. Kahan, Assistant Director, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202-673-5371.

SUPPLEMENTARY INFORMATION: In EDR-408 (45 FR 64864; September 30, 1980), the Board proposed to allow airlines to file tariffs that state prices as maximum amounts instead of exact amounts. The Board also proposed to allow the payment of commissions to air freight forwarders and foreign air freight forwarders. The original due date for

comments on the proposed rule was October 30, 1980.

On October 9, the International Air Transport Association (IATA) filed a "Motion for an Extension of Time to File Comments and for Coordinated Review Procedures on Parallel Issues in the Competitive Marketing Investigation" (Docket 36595). On October 17, the Association of Retail Travel Agents (ARTA) filed a motion asking for the same relief. On October 16, the American Society of Travel Agents (ASTA) filed a "Motion to Terminate Notice of Proposed Rulemaking and/or Other Relief." ASTA's suggested alternative relief would be an order explaining the relationship between this rulemaking and the *Competitive Marketing Investigation*, with 45 days after that for comments on the proposed rule and 30 days for reply comments.

In EDR-408A (45 FR 71365; October 28, 1980), the undersigned, acting under delegated authority, granted the requests of IATA and ARTA for an extension of time, and set the new comment deadline at December 1, 1980. As stated in EDR-408A, the delegation of authority to the Associate General Counsel, Rules and Legislation, does not cover the motions for coordinated review procedures on parallel issues in the *Competitive Marketing Investigation*, or ASTA's motion for termination of the rulemaking or other relief. EDR-408A announced that those motions would be considered by the Board.

On November 21, 1980, British Airways moved for a further extension of time to comment. Noting that the Board has not yet responded to the other procedural motions, British Airways argued that their nature makes it inappropriate for interested persons to expend substantial resources at this time preparing comments on EDR-408 as originally proposed. British Airways asked for 120 days for comments after the Board's response, and another 60 days after that for reply comments.

We are denying British Airways' motion. The filing of the procedural motions has not made the maximum tariffs scheme proposed in EDR-408 any less a live option or diminished the value of public comments to the Board. In fact, substantive comments at this time will be useful to the Board not only in deciding whether to adopt the scheme as proposed, but also whether to revise it, and if so, how. Moreover, if the Board should decide to refocus the rulemaking or restructure the investigation, it will invite further comments as necessary.

Accordingly, under authority delegated in 14 CFR 385.20(d), the motion of British Airways for a further extension of time in Docket 38746 is denied.

(Secs. 204, 403, 404, 416, and 1002, Pub. L. 85-726, as amended, 72 Stat. 743, 758, 760, 771, and 788; (49 U.S.C. 1324, 1373, 1374, 1386, 1482))

Richard B. Dyson,

Associate General Counsel.

[FR Doc 80-37588 Filed 12-2-80; 8 45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-21]

Regulations Implementing Alternative Fuel Price Ceilings for Incremental Pricing Under the Natural Gas Policy Act of 1978; Extending Written Comment Period and Scheduling Informal Technical Conference

November 25, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice extending written comment period and scheduling informal technical conference.

SUMMARY: The Federal Energy Regulatory Commission is considering and requests public comment on certain revisions to its rules on incremental pricing under the Natural Gas Policy Act of 1978 (15 U.S.C. 3301-3432). The revisions relate to the designation of incremental pricing regions and to the methodology for calculating alternative fuel price ceilings in those regions. Informal technical conferences were held on November 21, 1980, in Kansas City, Missouri and on November 24, 1980, in Washington, D.C. Pursuant to public comments received at the conferences and expectation of additional data from the Energy Information Administration, a second informal technical conference is scheduled for Tuesday, January 6, 1981. The deadline for written comments, originally set for December 5, 1980, is extended to Friday, January 9, 1981. 45 FR 74505.

DATES:

Informal technical conference is scheduled on Tuesday, January 6, 1981.

Comments are due on Friday, January 9, 1981.

ADDRESS: Comments to be filed with: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426.

Informal technical conference held: Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Thomas Gross, Staff Attorney (202) 357-8077.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37589 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-01-M

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Selective Service Regulations; Proposed Revisions

AGENCY: Selective Service System.

ACTION: Notice of intended rule making.

SUMMARY: The Director of Selective Service is considering initiating rule making proceedings with the view of thoroughly revising the Selective Service Regulations that appear in 32 CFR Chapter XVI other than Part 1615—Administration of Registration that became effective July 18, 1980 (45 FR 48130) and Part 1660—Alternative Service. A revision of Part 1660 will probably be considered later.

The induction of men into the armed forces is not authorized at the present time. Both the President and President-elect have stated their opposition to the resumption of inductions. Furthermore, the resumption of inductions could only occur after legislation enacted by the Congress authorized such action. Should the Congress in the future authorize the resumption of inductions the Selective Service System must be prepared promptly to implement any responsibility assigned to it by law and Presidential directive.

Draft proposal revisions in Selective Service Regulations have been prepared with the overriding objective of improving the procedures and increasing the fairness in their application in adjudicating the claims of men for deferment or exemption from military service as provided in the Military Selective Service Act (50 U.S.C. App. 451 *et. seq.*) Proposed organizational changes and administrative arrangements have been developed to facilitate fair, effective, and efficient administration of the System.

Modifications in the procedures for the System's implementation of the Freedom of Information Act (FOIA) and the Privacy Act of 1974 are proposed to facilitate the System's compliance with those acts.

DATE: Written comments received on or before January 1, 1981 will be considered.

ADDRESS: Selective Service System, ATTN: Associate Director for Policy Development, Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: Edward A. Frankle, Associate Director for Policy Development, Selective Service System, Washington, D.C. 20435. Phone: (202) 724-0817.

SUPPLEMENTARY INFORMATION: The desire of the Director of Selective Service to obtain the views of all interested persons early in the process of developing changes in Selective Service procedures prompts the publication of these draft proposed revisions of Selective Service Regulations. This publication is in advance of and in addition to the publications required by section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)) and Executive Order 11623.

Bernard Rostker,
Director of Selective Service.
November 26, 1980.

The draft proposed regulations follow:

32 CFR Chapter XVI except Parts 1615 and 1660 is revised to read as follows:

PART 1602—DEFINITIONS

Sec.
1602.1 Definitions to govern.
1602.2 Administrative classification.
1602.3 AFEES.
1602.4 Aliens and nationals.
1602.5 Area office.
1602.6 Area office staff.
1602.7 Board.
1602.8 Classification.
1602.9 Classifying authority.
1602.10 Computation of time.
1602.11 County.
1602.12 District appeal board.
1602.13 Governor.
1602.14 Judgmental classification.
1602.15 Local board.
1602.16 Local board of jurisdiction.
1602.17 Military service.
1602.18 National Appeal Board.
1602.19 Numbers.
1602.20 Registrant.
1602.21 Selective Service law.
1602.22 Singular and plural.
1602.23 State.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 16623.

§ 1602.1 Definitions to govern.

The definitions contained in Section 16 of the Military Selective Service Act, and the definitions contained in this part shall govern in the interpretation of the regulations of this chapter.

§ 1602.2 Administrative classification.

A reclassification action taken by a classifying authority for a registrant requesting consideration for Class 1-C, 1-D, 1-W, 2-M, 4-A, 4-B, 4-C, 4-F, 4-G, 4-T or 4-W.

§ 1602.3 AFEES.

Armed Forces Examining and Entrance Station is a military installation to which registrants are ordered to report for examination only or to report for and submit to induction.

§ 1602.4 Aliens and nationals.

(a) The term "alien" means any person who is not a citizen or national of the United States.

(b) The term "national of the United States" means:

(1) A citizen of the United States, or

(2) A person, though not a citizen of the United States, who owes allegiance to the United States.

§ 1602.5 Area office.

The Selective Service Office responsible for all administrative and operational support for the one or more local boards within its jurisdiction.

§ 1602.6 Area office staff.

The compensated employees, civilian and military, of the Selective Service System employed in an area office will be referred to as the area office staff.

§ 1602.7 Board.

The word "board" when used alone, unless the context otherwise indicates, includes a local board, district appeal board, and the National Appeal Board and panels thereof.

§ 1602.8 Classification.

Classification is exercise of the power to determine claims or questions with respect to inclusion for, or exemption or deferment from training and service under Selective Service Law.

§ 1602.9 Classifying authority.

The term "classifying authority" refers to any official or board as referred to in section 1633.1 authorized to classify a registrant.

§ 1602.10 Computation of time.

Unless otherwise specified the period of days allowed a registrant or other person to perform any act or duty required of him shall be counted as beginning on the day following that on which the notice is posted or mailed.

§ 1602.11 County.

The word "county" includes, where applicable, counties, independent cities, and similar subdivisions, such as the independent cities of Virginia and the parishes of Lousiana.

§ 1602.12 District appeal board.

A district appeal board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to classify registrants in accord with the provisions of Part 1651 of this chapter.

§ 1602.13 Governor.

The word "Governor" includes, where applicable, the Governor of each of the States of the United States, the Mayor of the District of Columbia, the Governor of Puerto Rico, the Governor of the Virgin Islands, and the Governor of Guam.

§ 1602.14 Judgmental classification.

A classification action taken by a board for a registrant requesting consideration for Class 1-A-O, 1-O, 2-D, 3-A, or 4-D.

§ 1602.15 Local board.

A local board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to classify registrants in accord with the provisions of Part 1648 of this chapter.

§ 1602.16 Local board of jurisdiction.

The local board of jurisdiction is the local board to which the registrant is assigned by the Director of Selective Service.

§ 1602.17 Military service.

The term "military service" includes service in the Army, the Air Force, the Navy, the Marine Corps, and the Coast Guard.

§ 1602.18 National Appeal Board.

The National Appeal Board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to classify registrants in accord with the provisions of Part 1653 of this chapter.

§ 1602.19 Numbers.

Cardinal numbers may be expressed by Arabic or Roman symbols.

§ 1602.20 Registrant.

Except as otherwise specifically provided, a "registrant" is a person registered under the Selective Service Law.

§ 1602.21 Selective Service Law.

The term "Selective Service Law" includes the Military Selective Service Act, all rules and regulations issued thereunder, and Proclamations of the President pertaining to registration under the Act.

§ 1602.22 Singular and plural.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular, except where the context clearly indicates otherwise.

§ 1602.23 State.

The word "State" includes, where applicable, the several States of the United States, the city of New York, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

PART 1605—SELECTIVE SERVICE SYSTEM ORGANIZATION

National Administration

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Interpreters

1605.81 Interpreters.

Authority: Military Selective Service Act, 50 USC App. 451 et seq.; E.O. 11623.

National Administration

§ 1605.1 Director of Selective Service.

The Director of Selective Service shall be responsible directly to the President. The Director of Selective Service is hereby authorized and directed:

(a) To prescribe such rules and regulations as he shall deem necessary for the administration of the Selective Service System, the conduct of its officers and employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property.

(b) To issue such public notices, orders, and instructions as shall be necessary for carrying out the functions of the Selective Service System.

(c) To obligate and authorize expenditures from funds appropriated for carrying out the functions of the Selective Service System.

(d) To appoint, and to fix, in accordance with provisions of Chapter 51 and subchapter III of Chapter 53 of Title 5, United States Code, relating to classification and General Schedule pay rates, the compensation of such officers, agents, and employees as shall be necessary for carrying out the functions of the Selective Service System.

(e) To procure such space as he may deem necessary for carrying out the functions of the Selective Service System by lease pursuant to existing statutes.

(f) To obtain by purchase, loan, or gift such equipment, supplies, printing, binding, and blankbook work for the Selective Service System, as he may deem necessary to carry out the functions of the Selective Service System.

(g) To perform such other duties as shall be required of him under the Selective Service Law or which may be delegated to him by the President.

(h) To delegate any of this authority to such officers, agents, or persons as he may designate, and to provide for the subdelegation of any such authority.

§ 1605.6 National Appeal Board.

(a) There is hereby created and established within the Selective Service System a civilian agency of appeal which shall be known as the National Selective Service Appeal Board, hereafter referred to as the National Board. The President shall appoint not less than three members of the National Board from among citizens of the United States who are not members of the Armed Forces, and he shall designate one member as Chairman of the National Board. The National Board may sit en banc or, upon the request of the Director of Selective Service or as determined by the Chairman of the National Board, in panels, each panel to consist of at least three members. The Chairman of the National Board shall designate the members of each panel, and he shall designate one member of each panel as chairman. A majority of the members of a panel shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present shall decide any question. Each panel of the National Board shall have full authority to act on all cases assigned to it. The National Board, or a panel thereof, shall hold meetings in Washington, D.C., and, upon request of the Director of Selective Service or as determined by the Chairman of the National Board, at any other place.

(b) The National Board, or panel thereof, shall classify each registrant who appeals to the President under Part 1653 of this Chapter.

(c) No member of the National Board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the National Board. A member of the National Board must disqualify himself in any matter in which he would be restricted for any reason in making an impartial decision. Whenever a quorum of the National Board cannot act on the case of a registrant, and there is no panel of the National Board to which the case may be transferred, the decision of the District Appeal Board will be final.

(d) The National Board shall in all respects be independent of the Director of Selective Service except that the Director of Selective Service shall provide for the payment of the compensation and expenses of the members of the National Board, shall furnish that Board and its panels necessary personnel, suitable office space, necessary facilities and services. The Director of Selective Service shall establish the order, by category, in which appeals by registrants will be considered, but he shall not determine the sequence in which appeals within a given category shall be processed. The Director of Selective Service and the Chairman of the National Board shall furnish to each other such information, advice and assistance as will further the attainment of the objectives of the Military Selective Service Act and promote the effective administration of the Act.

(e) Each member of the National Board shall:

(1) Devote so much time to the affairs of the National Board as its responsibilities may require; and,

(2) Be compensated as provided in paragraph (f) of this section; and,

(3) While on the business of the National Board away from his home or regular place of business, receive actual traveling expenses and per diem in lieu of subsistence in accordance with rates established by Federal Travel Regulations.

(f) The compensation of each member of the National Board shall be governed by the following:

(1) The member shall be compensated at an hourly rate for such time as is actually spent by him in the work of the National Board or a panel thereof without limitation as to the number of hours compensable in any one day; and,

(2) The member shall be compensated at an hourly rate for travel time away from his home or regular place of business while enroute to or from any meeting of the National Board or while otherwise traveling on business of the National Board, but the compensable time for any trip to or from any such meeting or other business shall be limited to 8 hours; and,

(3) Duties performed on a Saturday, Sunday, or holiday shall be compensable as if performed or occurring on any other day of the week; and,

(4) The compensation shall be in accord with the provisions of section 5332 of Title 5, United States Code; and,

(5) The compensable hours per week, Sunday through the following Saturday, shall not exceed 40 hours and the compensation in any pay period shall not exceed one twenty-sixth (1/26) of the governing annual rate of compensation.

Region Administration

§ 1605.7 Region manager.

(a) Subject to the direction and control of the Director of Selective Service, the Region Manager of Selective Service for each Region shall be in immediate charge of the Region Headquarters and shall be responsible for carrying out the region functions of the Selective Service System in the various States assigned to the Region.

(b) The Region Manager will perform such duties as are prescribed by the Director of Selective Service.

§ 1605.8 Staff of region headquarters for Selective Service.

(a) Subject to applicable law and within the limits of available funds, the staff of each region for Selective Service shall consist of as many officers, either military or civilian, as shall be authorized by the Director of Selective Service.

(b) In accordance with limitations imposed by the Director of Selective Service, the Region Manager is authorized to appoint such civilian personnel as he considers are required in the operation of the Region Headquarters.

State Administration

§ 1605.11 Governor.

The Governor is authorized to recommend a person to be appointed by the President as State Director of Selective Service for his State, who shall represent the Governor in all Selective Service matters.

§ 1605.12 State Director of Selective Service.

(a) The State Director of Selective Service for each State, subject to the direction and control of the Director of Selective Service, shall be in immediate charge of the State Headquarters for Selective Service in his State. The State Headquarters for Selective Service shall be an office of record for Selective Service operations only, and no records other than Selective Service records shall be maintained in such office.

(b) The State Director of Selective Service will perform such duties as are prescribed by the Director of Selective Service.

§ 1605.13 Staff of State headquarters for Selective Service.

(a) Subject to applicable law and within the limits of available funds, the staff of each State Headquarters for Selective Service shall consist of as many officers, either military or civilian, as shall be authorized by the Director of Selective Service.

(b) In accordance with limitations imposed by the Director of Selective Service, the State Director of Selective Service is authorized to appoint such civilian personnel as he considers are required in the operation of the State Headquarters for Selective Service.

§ 1605.14 State Director of Selective Service for New York City.

The Governor of the State of New York is authorized to recommend a person to be appointed by the President as State Director of Selective Service for New York City, who shall represent the Governor in all Selective Service matters within the City of New York. Subject to the direction and control of the Director of Selective Service, the State Director of Selective Service for New York City shall be in immediate charge of the State Headquarters for Selective Service for New York City and shall perform such duties as are prescribed by the Director of Selective Service. The State Director of Selective Service for the State of New York shall have no jurisdiction in Selective Service matters within the City of New York. The State Headquarters of Selective Service for New York City shall be an office of record for Selective Service operations only, and no records other than Selective Service records shall be maintained in such office.

District Appeal Boards

§ 1605.21 Area.

The Director of Selective Service shall establish one or more district appeal boards in each of the federal judicial districts in the several states of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

§ 1605.22 Composition and appointment of District Appeal Boards.

The Director of Selective Service will prescribe the number of members for the district appeal boards. The President shall appoint members of district appeal boards from among the citizens of the United States who are residents of the area for which the respective boards have jurisdiction. The Director of Selective Service shall furnish necessary personnel, suitable office space, facilities and services to support each district appeal board.

§ 1605.23 Designation.

The Director of Selective Service shall assign each district appeal board within a Judicial District a specific identification by which it shall be known. If a district appeal board consists of more than one panel, each panel shall have a specific identifying number. Such numbers shall be assigned in numerical sequence beginning with numeral 1.

§ 1605.24 Jurisdiction.

The district appeal board shall have jurisdiction to review and to affirm or change any local board decision appealed to it when:

(a) An appeal is submitted by a registrant from a local board in its area; or

(b) An appeal is submitted to it from a local board not in the appeal board area by a registrant whose principal place of employment or residence is located within the jurisdiction of the appeal board; or

(c) An appeal is submitted or transferred to it by the Director of Selective Service to assure the fair and equitable administration of the Law.

§ 1605.25 Disqualification.

(a) No member of a district appeal board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is

the member's employer, employee, or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the board.

(b) A member of a district appeal board must disqualify himself in any matter in which he would be restricted for any reason in making an impartial decision.

(c) Whenever a quorum of the district appeal board cannot act on the case of a registrant, and there is no panel of the district appeal board to which the case may be transferred, the district appeal board shall transmit such case to the Director of Selective Service for transfer to another district appeal board.

§ 1605.26 Organization and meeting.

Each district appeal board or panel thereof shall elect a chairman and a vice-chairman at least every two years. A majority of the members of the board when present at any meeting shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question. Every member, unless disqualified, shall vote on every question or classification. In case of a tie vote on a question or classification, the board shall postpone action until the next meeting. If the question or classification remains unresolved at the next meeting, the file will be transferred for classification in accord with § 1605.25(c) of this chapter. If any member is absent so long as to hamper the work of the board, the chairman, a member of the board or panel concerned or an area office employee shall recommend to the Director of Selective Service that such member be removed and a new member appointed. If, through death, resignation, or other causes, the membership of the board falls below the prescribed number of members, the board or panel shall continue to function, provided a quorum of the prescribed membership is present at each official meeting.

§ 1605.27 Minutes of meetings.

A compensated employee will keep the minutes of each appeal board meeting. In the absence of a compensated employee the minutes will be kept by an appeal board member.

§ 1605.28 Signing official papers.

Official documents issued and minutes of meetings maintained by a district appeal board may be signed by the appeal board clerk, by any member of the board or by any compensated employee of the Selective Service System authorized to perform administrative duties for the board except when otherwise prescribed by the Director of Selective Service.

Local Boards

§ 1605.51 Areas of local boards.

(a) The Director of Selective Service shall divide each State into local board areas and establish local boards. There shall be at least one local board in each county except where the Director of Selective Service establishes an intercounty board. When more than one local board is established with the same geographical jurisdiction, registrants residing in that area will be assigned among the boards as prescribed by the Director of Selective Service. The Director of Selective Service may establish panels of local boards.

(b) There is hereby created and established a local board designated as District of Columbia Board No. 100 (Foreign) which shall consist of three or more members and which shall have its office in the District of Columbia. Such local board shall be the local board of jurisdiction for any registrant whose permanent address is not within a state, territory, or possession of the United States.

§ 1605.52 Composition of local boards.

The Director of Selective Service shall prescribe the number of members of local boards.

§ 1605.53 Designation.

The Director of Selective Service shall assign each local board within a State a specific identifying number by which it shall be known. Such identifying numbers shall be assigned in numerical sequence beginning with the numeral 1.

§ 1605.55 Disqualification.

(a) No member of a local board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, employee or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or a fellow member or employee of the board or area office.

(b) A member of the local board must disqualify himself in any matter in which he would be restricted, for any reason, in making an impartial decision.

(c) Whenever a quorum of a local board cannot act on the case of a registrant, the area office supervisor shall cause such case to be transferred to another board within the area office, or in those instances where only one board exists in an area office, transmitted to the nearest area office, for transfer to a board under its jurisdiction.

§ 1605.56 Organization and meeting.

Each local board shall elect a chairman and vice-chairman at least every two years. A majority of the membership of the board shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on any question or classification, the board shall postpone action on the question or classification until it can be decided by a majority vote at the next meeting. If the question or classification remains unresolved at the next meeting, the file will be transferred for classification in accord with subsection 1605.55(c) of this chapter. If any member is absent so long as to hamper the work of the board, the chairman, a member of the board or an area office employee shall recommend to the Director of Selective Service that such member be removed and a new member appointed. If through death, resignation or other cause, the membership of a board falls below the prescribed number it shall continue to function provided a quorum of the prescribed membership is present at each official meeting.

§ 1605.58 Minutes of meetings.

A compensated employee of the appropriate area office will keep the minutes of each meeting of a local board. In the absence of a compensated employee the minutes will be kept by a board member.

§ 1605.59 Signing official papers.

Official papers issued by a local board may be signed by any member of the board or compensated employee of the area office, or any compensated employee of the Selective Service System whose official duties require him to perform administrative duties at the area office except when otherwise prescribed by the Director of Selective Service.

Area Office Administration

§ 1605.60 Area.

(a) The Director of Selective Service shall prescribe the number of area offices to be established and define the boundaries thereof.

(b) The area office shall be an office of record and responsible for all administrative and operational support of the one or more local boards within its jurisdiction.

§ 1605.61 Staff of area offices for Selective Service.

Subject to applicable law and within the limits of available funds, the staff of each area office shall consist of as many compensated employees either military or civilian, as shall be authorized by the Director of Selective Service.

Interpreters

§ 1605.81 Interpreters.

(a) The local board, district appeal board and the National Selective Service Appeal Board are authorized to use interpreters when necessary.

(b) The following oath shall be administered to an interpreter each time he is used:

You swear (or affirm) that you will truly interpret in the matter now in hearing. So help you God.

PART 1609—UNCOMPENSATED PERSONNEL

Sec.
1609.1 Uncompensated positions.
1609.2 Citizenship.
1609.3 Eligibility.
1609.4 Oath of Office.
1609.5 Suspension.
1609.6 Removal.
1609.7 Use of Information.

Authority: Military Selective Service Act, 50 USC App. 451 *et seq.;* E.O. 11623.

§ 1609.1 Uncompensated positions.

Members of local boards, members of district appeal boards, and all other persons volunteering their services to assist in the administration of the Selective Service Law shall be uncompensated. No person serving without compensation shall accept remuneration from any source for services rendered in connection with Selective Service matters.

§ 1609.2 Citizenship.

No person shall be appointed to any uncompensated position in the Selective Service System who is not a citizen of the United States.

§ 1609.3 Eligibility.

(a) The President, upon the recommendation of the respective Governor, will consider for appointment as a member of a local board, any person who:

(1) Is between the ages of 18 and 65 years; and

(2) Is a citizen of the United States; and

(3) Is a resident of the county in which the local board has jurisdiction; and

(4) Is not an active member of the armed services or any reserve component thereof, or retired member; and

(5) Has not served as a member of a board for a period of more than 20 years; and

(6) Is able to perform such duties as necessary during standby status; and

(7) Is able to devote sufficient time to board affairs; and

(8) Is willing to fairly and uniformly apply Selective Service Law, regulations and procedures.

(b) The President, upon the recommendation of the Director of Selective Service, will consider for appointment as a member of a district appeal board any person who:

(1) Is between the ages of 18 and 65 years; and

(2) Is a citizen of the United States; and

(3) Is a resident of the Federal Judicial District over which the district appeal board has jurisdiction; and

(4) Is not an active member of the armed services or any reserve component thereof, or retired member; and

(5) Has not served a member of a board for a period of more than 20 years; and

(6) Is able to perform such duties as necessary during standby status; and

(7) Is able to devote sufficient time to the district appeal board affairs; and

(8) Is willing to fairly and uniformly apply Selective Service Law, regulations and procedures.

(c) The President shall appoint members of the National Board from among citizens of the United States who:

(1) Are between the ages of 18 and 65 years; and

(2) Are not active members of the armed services or any reserve component thereof, or retired members; and

(3) Have not served as a member of the National Board for a period of more than five years; and

(4) Are able to perform such duties as necessary during standby status; and

(5) Are able to devote sufficient time to board affairs; and

(6) Are willing to fairly and uniformly apply Selective Service Law, regulations and procedures.

§ 1609.4 Oath of office.

Every person who undertakes to render voluntary uncompensated service in the administration of the Selective Service Law shall execute an Oath of Office and Waiver of Pay before he enters upon his duties.

§ 1609.5 Suspension.

The Director of Selective Service may suspend from duty any uncompensated person engaged in the administration of the Selective Service Law pending his consideration of the advisability of removing such person.

§ 1609.6 Removal.

(a) The Director of Selective Service may remove any uncompensated person engaged in the administration of the Selective Service Law.

(b) The Governor may recommend to the Director of Selective Service the removal, for cause, of the State Director or any uncompensated person engaged in the administration of the Selective Service Law in his State. The Director of Selective Service shall make such investigation of the Governor's recommendation as he deems necessary, and upon completion of his investigation he shall take such action as he deems proper.

§ 1609.7 Use of information.

Any information or records obtained by compensated or uncompensated personnel during the performance of their official duties, including proceedings before the boards, shall be restricted to official use by the personnel of the Selective Service System except as specifically authorized by law.

PART 1618—NOTICE TO REGISTRANTS

Sec.
1618.1 Waiver of right or privilege.
1618.2 Effect of failure to produce documents.
1618.3 Filing of documents.
1618.4 Listing of advisors to registrants.
1618.5 Transmission of orders and other official papers to registrants.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 1618.1 Waiver of right or privilege.

If a registrant fails to claim and exercise any right or privilege within the required time, he shall be deemed to have waived the right or privilege unless the Director of Selective Service, for good cause, waives the time limit.

§ 1618.2 Effect of failure to produce documents.

The failure of any person to produce, within a specified period of time, written evidence of his registration furnished by the Director of Selective Service, shall be evidence of his not having registered.

§ 1618.3 Filing of documents.

A document other than a registration card received by an element of the Selective Service System will be

considered to have been filed on the date that it is received: *Provided*, That a document that is received which was transmitted by the United States Postal Service (USPS) and was enclosed in a cover that bears a legible USPS postmark date will be deemed to have been received on that date.

§ 1618.4 Listing of advisors to registrants.

The Director of Selective Service will post in the area office the name, address, and telephone number of any person, upon his request, who desires to advise registrants of their rights under Selective Service Law. Posting of a name is not an indorsement by the Director concerning the competence of the person whose name is posted, nor of the assurance of the accuracy of the information that he or she will furnish. Those persons who have indicated a willingness to provide advice without monetary compensation will be identified.

§ 1618.5 Transmission of orders and other official papers to registrants.

Personnel of the Selective Service System will transmit orders or other official papers addressed to a registrant by handing them to him personally or mailing them to him to the current mailing address last reported by him in writing to the Selective Service System.

PART 1621—DUTY OF REGISTRANTS

Sec.
1621.1 Reporting by registrants of their current status.
1621.2 Duty to report for and submit to induction.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1621.1 Reporting by registrants of their current status.

It is the duty of every registrant who registered after July 1, 1980:

(a) To keep the System currently informed in writing of the address where mail will reach him until otherwise notified by the Director of Selective Service; and

(b) To notify the System within 10 days, of any change in any item of information provided for on his Registration Form; and

(c) To submit to the classifying authority, information concerning his status within 1o days after the date on which the classifying authority mails him a request therefor, or within such longer period as may be fixed by the classifying authority; and

(d) Who has a postponement of induction, or has been deferred or exempted from training and service, to immediately notify the System of any changes in facts or circumstances relating to the postponement, deferment or exemption.

§ 1621.2 Duty to report for and submit to induction.

When the Director of Selective Service orders the registrant for induction it shall be the duty of the registrant to report for and submit to induction at the time and place ordered. If the time when the registrant is ordered to report for induction is postponed, it shall be the continuing duty of the registrant to report for and submit to induction at such time ahd place as may be ordered. Regardless of the time when or the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for and submit to induction at the place specified in the order to report for induction.

PART 1624—INDUCTIONS

Sec.
1624.1 Random selection procedures for induction.
1624.2 Issuance of induction orders.
1624.3 Age selection groups.
1624.4 Selection and/or rescheduling of registrants for induction.
1624.5 Order to report for induction.
1624.6 Postponement of induction.
1624.7 Expiration of deferment or exemption.
1624.8 Transfer for induction.
1624.9 Induction into the Armed Forces.
1624.10 Order to report for examination.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1624.1 Random selection procedures for induction.

(a) The Director of Selective Service shall from time to time establish a random selection sequence for induction by a drawing to be conducted in the place and on a date the Director shall fix. The random selection method shall use 365 days, or when appropriate, 366 days to represent the birthdays (month and day only) of all registrants who, during the specified calendar year(s) attain their 18th year of birth. The drawing, commencing with the first day selected, and continuing until all 365 days or, when appropriate 366 days are drawn, shall be accomplished impartially. The random sequence number thus determined for any registrant shall apply to him so long as he remains subject to induction for military training and service by random selection.

(b) The date of birth of the registrant that appears on his Selective Service Registration Record on the day before the lottery is conducted to establish his random selection sequence will be conclusive as to his date of birth in all matters pertaining to his relations with the Selective Service System.

§ 1624.2 Issuance of induction orders.

The Director of Selective Service, upon receipt of a call from the Secretary of Defense for persons to be inducted into the Armed Forces, shall, in accord with § 1624.3 of this part, issue orders to report for induction to registrants whose registration records are in the master computer file at the beginning of any day on which orders are issued, in such numbers and at such times as will assure that such call or requisition is filled. The names contained in the Selective Service System data base on a given day will constitute the valid list of registrants from which induction orders can be issued on that day.

§ 1624.3 Age selection groups.

Age selection groups are established as follows:

(a) The age 20 selection group for each calendar year consists of registrants who have or will attain the age of 20 in that year.

(b) The age 21 selection group for each calendar year consists of registrants who have or will attain the age of 21 in that year and, in like manner, each age selection group will be so designated through age group 25.

(c) The age 19 selection group for each calendar year consists of registrants who have or will attain the age of 19 in that year.

§1624.4 Selection and/or rescheduling of registrants for induction.

A registrant in Class 1-A shall be selected and ordered or rescheduled to report for induction in the following categories and in the order indicated: *Provided*, That a registrant who has been identified in accord with the procedures prescribed by the Director of Selective Service as one who will become a member of one of the following categories on the next January 1, may, prior to January 1, be selected and ordered to report for induction on a date after January 1 as a member of such category.

(a) Volunteers for induction in the order in which they volunteered.

(b) Registrants whose postponements have expired.

(c) Registrants in the age 20 selection group for the current calendar year who have been issued orders to report for induction whose exemptions or deferments have expired, in the order of their random sequence number (RSN) established by random selection

procedures in accord with section 1624.1 of this Part.

(d) Registrants in the age 20 selection group for the current calendar year in the order of their random sequence number (RSN) established by random selection procedures in accord with section 1624.1 of this part.

(e) Registrants in each succeeding age selection group commencing with age 21 selection group and terminating with the age 25 selection group, in turn, within the group, in the order of their random sequence number (RSN) established by random selection procedures in accord with section 1624.1 of this part.

(f) Registrants in the age 19 selection group for the current calendar year in the order of their random sequence number (RSN) established by random selection procedures in accord with § 1624.1 of this part: *Provided,* That no registrant shall be ordered for induction who has not attained the 19th anniversary of his date of birth.

§ 1624.5 Order to report for induction.

(a) Immediately upon determining which persons are to be ordered for induction, the Director of Selective Service shall issue to each person selected an order to report for induction. The date specified to report for induction shall be at least 10 days after the date on which the Order to Report for Induction is sent unless the registrant has volunteered for induction.

(b) Any person who has been ordered for induction who is distant from the address to which the order was sent must either report at the time and place specified in the order, or voluntarily submit himself for induction processing at another AFEES on or before the day that he was required to report in accordance with his induction order.

(c) The Director of Selective Service may direct the cancellation of any order to report for induction at any time.

(d) Any order to report for induction issued by the Director of Selective Service to a registrant who is an alien, who has not resided in the United States for one year will be void. Such order will be deemed only to be an order to produce evidence of his status. When an alien registrant has been within the United States for two or more periods (including periods before his registration) and the total of such periods equals one year, he shall be deemed to have resided in the United States for one year. In computing the length of such periods, any portion of one day shall be counted as a day. Upon establishing a one year residency, the alien registrant will be assigned to the age selection group corresponding to his age.

§ 1624.6 Postponement of induction.

(a) The filing of a claim in accord with section 1633.2 of this chapter postpones the date the registrant is required to report for induction until not earlier than the tenth day after the claim is finally determined in accord with the provisions of this chapter. A claim is finally determined when the registrant does not have a right to appeal the last classification action with respect to that claim or he fails to exercise his right to appeal.

(b) In the case of the death of a member of the registrant's immediate family, extreme emergency involving a member of the registrant's immediate family, serious illness of the registrant, or other emergency beyond the registrant's control, the Director of Selective Service may, after the order to report for induction has been issued, postpone for a specific time the date when such registrant shall be required to report. The period of postponement shall not exceed 60 days from the date of the induction order. When necessary the Director of Selective Service may grant one further postponement, but the total postponement shall not exceed 90 days from the date of the induction order.

(c) The Director of Selective Service shall postpone the induction of:

(1) Any registrant who is satisfactorily pursuing a full-time course of instruction at a high school or similar institution of learning and is issued an order for induction shall, upon the appropriate facts being presented to the board, have his induction postponed:

(i) Until the time of his graduation therefrom; or

(ii) Until he attains the twentieth anniversary of his birth; or

(iii) Until the end of his last academic year, after beginning that year before he attained the twentieth anniversary of his birth; or

(iv) Until he ceases satisfactorily to pursue such course of instruction, whichever is the earliest.

(2) Any registrant who while satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution is ordered to report for induction shall, upon the appropriate facts being presented to the board, have his induction postponed:

(i) Until the end of the semester or term, or academic year in the case of his last academic year, or

(ii) Until he ceases to satisfactorily pursue such course of instruction, whichever is the earlier.

(3) A postponement authorized by this subsection may be terminated by the Director for cause upon no less than 10 days notice to the registrant.

(d) The Director of Selective Service may authorize a delay of induction for any registrant whose date of induction conflicts with a religious holiday historically observed by a recognized church, religious sect or religious organization of which he is a member. Any registrant so delayed shall report for induction on the next business day following the religious holiday.

(e) A postponement to expire not more than 90 days from the date the registrant files his claim for Class 3-A will be granted if a board determines that the hardship to the registrant's dependents would not likely continue for beyond that period of time. The reasons for the action taken in accord with the immediately preceding sentence will be recorded in the registrant's file and a copy thereof will be furnished the registrant.

(f) The Director of Selective Service shall issue to each registrant whose induction is postponed a written notice thereof.

(g) No registrant whose induction has been postponed shall be inducted into the Armed Forces during the period of any such postponement. A postponement of induction shall not render invalid the order to report for induction which has been issued to the registrant but shall operate only to postpone the reporting date and the registrant shall report on the new date scheduled without having issued to him a new order to report for induction.

(h) Any registrant receiving a postponement under the provisions of this section shall, after the expiration of such postponement, be rescheduled to report for induction at the place to which he was originally ordered in accordance with instructions received from Selective Service.

§1624.7 Expiration of deferment or exemption.

The Director of Selective Service shall issue an order to report for induction to a registrant whenever his deferment or exemption expires: *Provided,* That no registrant will be issued an order to report for induction whose age group is not currently being inducted.

§1624.8 Transfer for induction.

The Director of Selective Service may direct that a registrant or registrants in a specified group of registrants be transferred for induction to such AFEES as he may designate.

§1624.9 Induction into the Armed Forces.

At the AFEES, registrants in classes 1-A and 1-A-0, ordered for induction who have been found qualified, will be inducted into the Armed Forces.

§1624.10 Order to report for examination.

The Director of Selective Service may order any registrant who has filed a claim for classification in a class other than Class 1–A, or whose induction has been postponed, to report for an armed forces examination to determine his acceptability for military service; such registrant will not be inducted until his classification has been decided. The date specified to report for examination shall be at least 10 days after the date on which the order to report for examination is mailed.

PART 1627—VOLUNTEERS FOR INDUCTION

Sec.
1627.1 Who may volunteer.
1627.2 Registration of volunteers.
1627.3 Classification of volunteers.

Authority: Military Selective Service Act, 50 U.S.G. App. 451 *et seq.*, E.O. 11623.

§ 1627.1 Who may volunteer.

Any registrant who has attained the age of 17 years, who has not attained the age of 26 years, and who has not completed his active duty obligation under the Military Selective Service Act may, when inductions are authorized, volunteer for induction into the armed forces unless he:

(a) Is classified in Class 4–F or is eligible for Class 4–F; or

(b) Has been found temporarily unacceptable with reexamination believed justified (RBJ) and the period of time specified for his return for reexamination has not been terminated and the basis for his temporary rejection continues to exist; or

(c) Has been examined and his acceptability is undetermined (AU); or

(d) Is an alien who has not resided in the United States for a period of at least one year; or

(e) Has not attained the age of 18 years and does not have the consent of his parent or guardian for his induction.

§ 1627.2 Registration of volunteers.

(a) If a person who is required to be registered but who has failed to register volunteers for induction, he shall be registered.

(b) In registering a volunteer, the area office shall follow the procedure set forth in § 1615.3 of this Chapter.

§ 1627.3 Classification of volunteers.

When a registrant eligible to volunteer is in a class other than 1–A or 1–A–O files an Application for Voluntary Induction he shall be classified in Class 1–A and processed for induction.

PART 1630—CLASSIFICATION RULES

Sec.
1630.2 Classes.
1630.10 Class 1–A: Available for unrestricted military service.
1630.11 Class 1–A–O: Conscientious objector available for noncombatant military service only.
1630.12 Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration or the Public Health Service.
1630.13 Class 1–D: Member of reserve component or student taking military training.
1630.15 Class 1–O: Conscientious objector available for alternative service.
1630.16 Class 1–W: Conscientious objector performing alternative service in lieu of induction.
1630.26 Class 2–D: Registrant deferred because of study preparing for the ministry.
1630.27 Class 2–M: Registrant deferred because of study preparing for a specified medical specialty.
1630.30 Class 3–A: Registrant deferred because of hardship to others.
1630.40 Class 4–A: Registrant who has completed military service.
1630.41 Class 4–B: Officials deferred by law.
1630.42 Class 4–C: Aliens or dual nationals.
1630.43 Class 4–D: Minister of religion.
1630.44 Class 4–F: Registrant not qualified for military service.
1630.45 Class 4–G: Registrant exempted from service because of the death of his father or sibling while serving in the Armed Forces or is missing in action.
1630.46 Class 4–T: Treaty alien.
1630.47 Class 4–W: Registrant who has completed alternative service in lieu of induction.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*, E.O. 11623.

§ 1630.2 Classes.

Except as otherwise prescribed by the Director of Selective Service each registrant shall be classified in one of the classes prescribed in this part.

§ 1630.10 Class 1–A: Available for unrestricted military service.

(a) All registrants available for unrestricted military service shall be in Class 1–A.

(b) All registrants in the selection groups as determined by the Director of Selective Service except those determined by classifying authority to be eligible for exemption of deferment from military service or for noncombatant or alternative service or who have random sequence numbers (RSNs) determined by the Director not to be required to fill calls by the Secretary of Defense are available for unrestricted military service.

§ 1630.11 Class 1–A–O: Conscientious objector available for noncombatant military service only.

In accord with Part 1636 of this chapter any registrant shall be placed in Class 1–A–O who has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in combatant training and service in the Armed Forces.

§ 1630.12 Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration or the Public Health Service.

In Class 1–C shall be placed:

(a) Every registrant who is, or who by enlistment, or appointment becomes a commissioned officer, a warrant officer, a pay clerk, an enlisted man or an aviation cadet of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the National Oceanic and Atmospheric Administration or the Public Health Service.

(b) Every registrant who is a cadet, United States Military Academy; or midshipman, United States Naval Academy; or a cadet, United States Air Force Academy; or cadet, United States Coast Guard Academy.

(c) Every registrant who by induction becomes a member of the Army of the United States, the United States Navy, the United States Marine Corps, the Air Force of the United States, or the United States Coast Guard.

(d) Exclusive of periods for training only, every registrant who is a member of a reserve component of the Armed Forces and is on active duty, and every member of the Reserve of the Public Health Service on active duty and assigned to staff the various offices and bureaus of the Public Health Service including the National Institutes of Health, or assigned to the Coast Guard or Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the Environmental Science Service Administration or who are assigned to assist Indian tribes, groups, bands, or communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended.

§ 1630.13 Class 1–D: Member of reserve component or student taking military training.

(a) In Class 1–D shall be placed any registrant who:

(1) Has been selected for enrollment or continuance in the Senior (entire college level) Reserve Officer's Training Corps, or the Air Reserve Officer's Training Corps, or the Naval Reserve Officer's Training Corps, or the Naval and Marine Corps officer candidate program of the Navy, or the platoon leader's class of the Marine Corps, or

the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or is appointed an ensign, U.S. Naval Reserve, while undergoing professional training;

(2) Has agreed in writing to accept a commission, if tendered, and to serve subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the U.S. Coast Guard), not less than 2 years on active duty after receipt of a commission; and

(3) Has agreed to remain a member of a regular or reserve component until the sixth anniversary of his receipt of a commission. Such registrant shall remain eligible for Class 1-D until completion or termination of the course of instruction and so long thereafter as he continues in a reserve status upon being commissioned except during any period he is eligible for Class 1-C under the provisions of § 1630.12.

(b) In Class 1-D shall be placed any registrant who is a fully qualified and accepted aviation cadet applicant of the Army, Navy, or Air Force, who has signed an agreement of service and is within such numbers as have been designated by the Secretary of Defense. Such registrant shall be retained in Class 1-D during the period covered by such agreement but in no case in excess of four months.

(c) In Class 1-D shall be placed any registrant who is a student enrolled in an officer procurement program at a military college the curriculum of which is approved by the Secretary of Defense.

(d) In Class 1-D shall be placed any registrant, other than a registrant referred to in paragraph (a) or (e) of this section, who:

(1) Prior to the issuance of orders for him to report for induction; or

(2) Prior to the date scheduled for his induction and pursuant to a proclamation by the Governor of a State to the effect that the authorized strength of any unit of the National Guard of that State cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction; or

(3) Prior to the date scheduled for his induction and pursuant to a determination by the President that the strength of the Ready Reserve of the Army, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction;

enlist or accepts an appointment before attaining the age of 26 years, in the Ready Reserve of any Reserve component of the Armed Forces, the Army National Guard, or the Air National Guard. Such registrant shall remain eligible for Class 1-D so long as he serves satisfactorily as a member of an organized unit of such Ready Reserve or National Guard, or satisfactorily performs such other Ready Reserve service as may be prescribed by the Secretary of Defense, or serves satisfactorily as a member of the Ready Reserve of another reserve component, the Army National Guard, or the Air National Guard, as the case may be.

(e) In Class 1-D shall be placed any registrant who at any time has enlisted in the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force, or the Coast Guard Reserve and who thereafter has been commissioned therein upon graduation from an Officer's Candidate School of such Armed Force and has not been ordered to active duty as a commissioned officer. Such registrant shall remain eligible for Class 1-D so long he performs satisfactory service as a commissioned officer in an appropriate unit of the Ready Reserve, as determined under regulations prescribed by the Secretary of the department concerned.

(f) In Class 1-D shall be placed any registrant who is serving satisfactorily as a member of a reserve component of the armed forces and is not eligible for Class 1-D under the provisions of any other paragraph of this section: *Provided,* That, for the purpose of this paragraph, a member of a reserve component who is in the Standby Reserve or the Retired Reserve shall be deemed to be serving satisfactorily unless the armed force of which he is a member informs the Selective Service System that he is not serving satisfactorily.

§ 1630.15 Class 1-O: Conscientious objector available for alternative service.

In accord with Part 1636 of this chapter any registrant shall be placed in Class 1-O who:

(a) Has been found, by reason of religious, ethical, or moral belief to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the armed forces; or

(b) Has been separated from the armed forces (including their reserve components) by reason of conscientious objection to participation in both combatant and noncombatant training and service in the armed forces.

§ 1630.16 Class 1-W: Conscientious objector performing alternative service in lieu of induction.

In Class 1-W shall be placed any registrant who has entered upon and is performing alternative service contributing to the maintance of the national health, safety, or interest, in accordance with the order of the Director.

§ 1630.26 Class 2-D: Registrant deferred because of study preparing for the ministry.

In accord with Part 1639 of this chapter any registrant shall be placed in Class 2-D who has requested such deferment and:

(a) Who is preparing for the ministry under the direction of a recognized church or religious organization; and

(b) Who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled; or

(c) Who is satisfactorily pursuing a full-time course of instruction in or at the direction of a recognized theological or divinity school; or

(d) Who have completed theological or divinity school is a student in a full-time graduate program or is a full-time intern. The registrant's studies must be related to and lead toward entry into service as a regular or duly ordained minister of religion and satisfactory progress in these studies, as required by the school in which the registrant is enrolled, must be maintained for qualification for the deferment.

§ 1630.27 Class 2-M: Registrant deferred because of study preparing for a specified medical specialty.

In Class 2-M shall be placed any registrant who is satisfactorily pursuing a full-time course of study leading to a professional degree in medicine, dentistry, optometry, osteopathy, podiatry, veterinary medicine, or licensure as a registered nurse.

§ 1630.30 Class 3-A: Registrant deferred because of hardship to others.

(a) In accord with Part 1642 of this chapter any registrant shall be placed in Class 3-A:

(1) Whose induction would result in extreme hardship to his wife when she alone is dependent upon him for support; or

(2) Whose deferment is advisable because his child, parent, grandparent, brother, or sister is dependent upon him for support; or

(3) Whose deferment is advisable because his wife and his child, parent, grandparent, brother, or sister are dependent upon him for support; or

(4) Who has been separated from active military service by reason of dependency or hardship and the hardship condition stills exists.

(b) The classification of each registrant in class 3–A will not be granted for a period longer than 365 days after he was last classified in Class 3–A. At expiration, eligibility for deferment must be reestablished.

§ 1630.40 Class 4–A: Registrant who has completed military service.

(a) In Class 4–A shall be placed any registrant other than a registrant eligible for classification in Class 1–C or Class 1–D who is within any of the following categories:

(1) A registrant who was discharged or transferred to a reserve component of the Armed Forces for the convenience of the Government after having served honorably on active duty for a period of not less than six months in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard; or

(2) A registrant who has served honorably on active duty for a period of not less than one year in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard; or

(3) A registrant who has served on active duty for a period of not less than twenty-four months as a commissioned officer in the National Oceanic and Atmospheric Administration or the Public Health Service, provided that such period of active duty in the Public Health Service as a commissioned Reserve Officer shall have been performed by the registrant while assigned to staff any of the various offices and bureaus of the Public Health Service including the National Institutes of Health, or while assigned to the Coast Guard, or the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the National Oceanic and Atmospheric Administration or the Environmental Science Services Administration, or who are assigned to assist Indian tribes, groups, bands, or communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended;

(4) A registrant who while an alien has served on active duty for a period of not less than 12 months in the armed forces of a nation determined by the Department of State to be a nation with which the United States is associated in mutual defense activities and which grants exemption from training and service in its armed forces to citizens of the United States who have served on active duty in the Armed Forces of the United States for a period of not less than 12 months; *Provided:* That all information which is submitted to the Selective Service System concerning the registrant's service in the armed forces of a foreign nation shall be written in the English language; or

(5) A registrant who has completed six years of satisfactory service as a member of one or more of the Armed Forces including the Reserve components thereof.

(b) For the purpose of computation of periods of active duty referred to in paragraph (a) (1), (2), or (3) of this section, no credit shall be allowed for:

(1) Periods of active duty training performed as a member of a reserve component pursuant to an order or call to active duty solely for training purposes; or

(2) Periods of active duty in which the service consisted solely of training under the Army specialized training program, the Army Air Force college training program, or any similar program under the jurisdiction of the Navy, Marine Corps, or Coast Guard; or

(3) Periods of active duty as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy or as a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any such academies; or

(4) Periods of active duty in any of the Armed Forces while being processed for entry into or separation from any educational program or institute referred to in paragraphs (b) (2) or (3) of this section; or

(5) Periods of active duty of members of the Reserve of the Public Health Service other than when assigned to staff any of the various offices and bureaus of the Public Health Service, including the National Institute of Health, or the Coast Guard or the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the Environmental Science Services Administration, or who are assigned to assist Indian tribes, groups, bands, communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended.

§ 1630.41 Class 4–B: Officials deferred by law.

in Class 4–B shall be placed any registrant who is the Vice President of the United States, a governor of a State, Territory or possession, or any other official chosen by the voters of the entire State, Territory or possession; a member of a legislative body of the United States or of a State, Territory or possession; a judge of a court of record of the United States or of a State, Territory or possession, or the District of Columbia.

§ 1630.42 Class 4–C: Aliens or dual nationals.

(a) In Class 4–C shall be placed any registrant who established that he is a national of the United States and of a country with which the Untied States has a treaty or agreement that provides that such person is exempt from liability for military serve in the United States.

(b) In Class 4–C shall be placed any registrant who is an alien and who has departed from the United States prior to being issued an order to report for induction or alternative service that has not been canceled.

If any registrant who is classified in Class 4–C pursuant to this paragraph returns to the United States he shall be classified anew.

(c) In Class 4–C shall be placed an alien who has registered at a time when he was required by the Selective Service Law to present himself for and submit to registration and thereafter has acquired status within one of the groups of persons exempt from registration.

(d) In Class 4–C shall be placed any registrant who is an alien lawfully admitted for permanent residence as defined in paragraph (2) of section 101(a) of the Immigration and Nationality Act, as amended (66 Stat. 163, 8 U.S.C. 1101), and who by reason of occupational status is subject to adjustment to nonimmigrant status under paragraph (15)(A), (15)(E), or (15)(G) or such section 101(a) but who executes a waiver in accordance with section 247(b) of that Act of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status. A registrant placed in Class 4–C under the authority of this paragraph shall be retained in Class 4–C only for so long as such occupational status continues.

(e) In Class 4–C shall be placed any registrant who is an alien and who has not resided in the United States for one year, including any period of time before his registration. When such a registrant has been within the United States for two or more periods and the total of such period equals one year, he shall be deemed to have resided in the United States for one year. In computing the length of such periods, any portion of one day shall be counted as a day.

§ 1630.43 Class 4–D: Minister of religion.

In accord with Part 1645 of this chapter any registrant shall be placed in Class 4–D who is a:

(a) Duly ordained minister of religion; or

(b) Regular minister of religion.

§ 1630.44 Class 4-F: Registrant not qualified for military service.

(a) In Class 4-F shall be placed any registrant who is found by an Armed Forces Examining and Entrance Station (AFEES), under applicable physical, mental or administrative standards, to be not qualified for service in the Armed Forces; except that no such registrant whose further examination or re-examination is determined by AFEES to be justified shall be placed in Class 4-F until such further examination has been accomplished and such registrant continues to be found not qualified for military service.

(b) In Class 4-F shall be placed any registrant who is confined in a prison, mental institution, or recognized drug rehabilitation center.

§ 1630.45 Class 4-G: Registrant exempted from service because of the death of his father or sibling while serving in the Armed Forces or is missing in action.

(a) In Class 4-G shall be placed any registrant, except during a period of war or national emergency declared by Congress, who is a surviving son or brother:

(1) Whose father or sibling of the whole blood was killed in action or died in line of duty while serving in the Armed Forces of the United States after December 31, 1959 or died subsequent to such date as a result of injuries received or disease incurred in the line of duty during such service; or

(2) Whose father or sibling of the whole blood is in a captured or missing status as a result of such service in the Armed Forces during any period of time.

(b) In Class 4-G shall be placed any registrant, except during a period of war or national emergency declared by Congress, who is the sole surviving son of a family in which the father or one or more siblings were killed in action before January 1, 1960 while serving in the Armed Forces of the United States, or died after that date due to injuries received or disease incurred in the line of duty during such service before January 1, 1960.

§ 1630.46 Class 4-T: Treaty alien.

In Class 4-T shall be placed any registrant who is an alien who established that he is exempt from military service under the terms of a treaty or international agreement between the United States and the country of which he is a national, and who has made application to be exempted from liability for training and service in the Armed Forces of the United States.

§ 1630.47 Class 4-W: Registrant who has completed alternative service in lieu of induction.

In Class 4-W shall be placed any registrant who subsequent to being ordered to perform alternative service in lieu of induction has been released from such service after satisfactorily performing the work for a period of 24 months, or has been granted an early release by the Director of Selective Service after completing at least 6 months of satisfactory service as prescribed in Part 1656 of this chapter.

PART 1633—ADMINISTRATION OF CLASSIFICATION

Sec.

1633.1 Classifying authority.
1633.2 Claim for other than Class 1-A.
1633.3 Submission of claims.
1633.4 Information relating to claims for deferment or exemption.
1633.5 Securing information from government agencies.
1633.6 Consideration of classes.
1633.7 General principles of classification.
1633.8 Basis of classification.
1633.9 Explanation of classification action.
1633.10 Notification to registrant of classification action.
1633.11 Assignment of registrant to a local board.
1633.12 Reconsideration of classification.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1633.1 Classifying authority.

The following officials are authorized to classify registrants into the indicated classes established by Part 1630 of this chapter:

(a) The Director of Selective Service may in accord with the provisions of this chapter classify a registrant into any class for which he is eligible except Classes 1-A-O, 1-O, 2-D, 3-A, and 4-D: *Provided,* That the Director may not reclassify a registrant, other than a volunteer for induction, into Class 1-A out of another class prior to the expiration of the registrant's entitlement to such classification. The Director may, before issuing an induction order to a registrant, appropriately classify him if the Secretary of Defense has certified him to be a member of an armed force or reserve component thereof.

(b) The National Selective Service Appeal Board may in accord with Part 1653 of this chapter classify a registrant into any class for which he is eligible.

(c) A district appeal board may in accord with Part 1651 of this chapter classify a registrant into any class for which he is eligible.

(d) A local board may in accord with Part 1648 of this chapter classify a registrant into Class 1-A-O, 1-O, 2-D, 3-A, or 4-D for which he is eligible.

(e) A local board may also classify a registrant into Class 1-C, 1-D, 1-W, 2-M, 4-A, 4-B, 4-C, 4-F, 4-G, 4-T or 4-W upon request by the registrant for a review of a classification action under subsection 1633.2(f) of this part.

(f) Compensated employees of an area office may in accord with Part 1648 of this chapter classify a registrant into Class 1-C, 1-D, 1-W, 2-M, 4-A, 4-B, 4-C, 4-F, 4-G, 4-T or 4-W if he is eligible.

§ 1633.2 Claim for other than class 1-A.

(a) A "claim" is a request for postponement of induction or classification into a class other than 1-A. The three types of claims are:

(1) Claim for postponement;

(2) Claim for administrative classification; and

(3) Claim for judgmental classification.

Administrative classifications are as specified in § 1633.1(f) of this part. Judgmental classifications are as specified in Part 1648.

(b) The initial determination of claims for postponement and administrative classification are made by area office compensated personnel. Aftr a denial of a claim for postponement or claim for an administrative classification the registrant may request the local board to consider the claim.

(c) The initial determination of a judgmental classification is made by a local board.

(d) A registrant may request and be granted a personal appearance whenever a local or appeal board considers his claim. Personal appearances will be held in accord with Parts 1648, 1651 and 1653.

(e) A registrant who has failed a claim for classification in Class 1-A-O or Class 1-O shall be scheduled for a personal appearance in accord with section 1648.4 before his claim is considered.

(f) If granted, the effect of a postponement is to delay the reporting date for induction specified on the original order. When a postponement expires, a registrant will be rescheduled and given a new reporting date under the original order.

(g) If granted, a deferment or exemption supersedes the original order to report. When deferment or exemption expires or ends, the registrant will be placed in the appropriate RSN order within his original age selection group. If called again, a new order to report for induction will be issued.

(h) Any registrant who has received an order to report for induction may, prior to the day he is scheduled to report, submit to the Selective Service System a claim that he is eligible to be

classified into any class other than Class 1–A. The registrant may assert a claim that he is eligible for more than one class other than Class 1–A. The registrant cannot subsequently file a claim with respect to a class for which he was eligible prior to the day he was originally scheduled to report. Information and documentation in support of claims for postponement of induction shall be filed in accordance with instructions from the Selective Service System.

(i) Any registrant who has received an order to report for induction may, at any time before his induction, submit a claim that he is eligible to be classified into any class other than Class 1–A based upon events that occurred on the day he is scheduled to report, over which he has no control.

§ 1633.3 Submission of claims.

Except as otherwise expressly provided by the Director, no document relating to any registrant's claims or potential claims will be retained by the Selective Service System and no file relating to a registrant's possible classification status will be established prior to that registrant's receipt of an order to report for induction.

§ 1633.4 Information relating to claims for deferment or exemption.

The registrant shall be entitled to present all relevant written information which he believes to be necessary to assist the classifying authority in determining his proper classification; such information may include any document, affidavits, and depositions. The affidavits and depositions shall be as concise and brief as possible.

§ 1633.5 Securing information from Government agencies.

The classifying authority is authorized to request and receive information from governmental agencies whenever such information will assist it in determining the proper classification of a registrant.

§ 1633.6 Consideration of classes.

When grounds are established to place a registrant in one or more of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1–A–O considered the highest class and Class 4–F considered the lowest class, according to the following table:

Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–O: Conscientious objector available for alternative service.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–M: Registrant deferred because of study preparing for a specified medical specialty.
Class 3–A: Registrant deferred because of dependency of others.
Class 4–B: Officials deferred by law.
Class 4–D: Minister of religion.
Class 4–G: Registrant exempted from service because of the death of his father or sibling while serving in the Armed Forces or is missing in action.
Class 1–D: Member of Reserve component or student taking military training.
Class 4–W: Conscientious objector who has completed alternative service in lieu of induction.
Class 4–A: Registrant who has completed military service.
Class 1–W: Conscientious objector performing alternative service in lieu of induction.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 4–C: Aliens or dual nationals.
Class 4–T: Treaty alien.
Class 4–F: Registrant not qualified for military service.

§ 1633.7 General principles of classification.

(a) Each classified registrant in a selection group is available for unrestricted military service until his eligibility for noncombatant service, alternative service, or deferment or exemption from service has been determined by a classifying authority.

(b) The classifying authority in considering a registrant's claim for eligibility for noncombatant or alternative service, or for deferment or exemption from military service, shall not discriminate for or against him because of his membership or activity in any labor, political, religious, or other organization.

(c) Any registrant whose deferment or exemption is terminated will be considered unclassified and not subject to induction until such time as he is again ordered for induction in the proper age selection group.

§ 1633.8 Basis of classification.

The registrant's classification shall be determined on the basis of the official forms of the Selective Service System and other written information in his file, oral statements, if made by the registrant at his personal appearance before the board, and oral statements, if made by the registrant's witnesses at his personal appearance. Any information in any written summary of the oral information presented at a registrant's personal appearance that was prepared by an official of the Selective Service System will be placed in the registrant's file and shall be subject to review by the registrant during normal business hours.

§ 1633.9 Explanation of classification action.

Whenever a classifying authority denies the request of a registrant for classification into a particular class or classifies a registrant in a class other than that which he requested, it shall record its reasons therefor in his file.

§ 1633.10 Notification to registrant of classification action.

The Director of Selective Service will notify the registrant of any action of a classifying authority with respect to him and when a classification has been denied, furnish him a copy of the reasons for denial.

§ 1633.11 Assignment of registrant to a local board.

The Director of Selective Service shall assign a registrant to a local board that has jurisdiction over the registrant's permanent address that he last furnished the Selective Service System prior to the issuance of his induction order. The original local board to which the registrant was assigned will remain his local board unless a board change is granted. A request to transfer from an assigned local board to another board must be made at the time a personal appearance is requested. A registrant will not otherwise be permitted to change his local board during the processing of a claim unless authorized by the Director.

§ 1633.12 Reconsideration of classification.

No classification is permanent. The Director of Selective Service may order the reconsideration of any classification action when the facts upon which the classification is based change or when he finds that the registrant made a misrepresentation of any material fact related to his claim for classification. No action may be taken under the preceding sentence of this paragraph unless the registrant is notified in writing of the impending action and the reasons thereof, and is given an opportunity to respond in writing within 10 days of the mailing of the notice. If a classification is reconsidered in accord with this paragraph, the claim will be treated in all respects as if it were the original claim for that classification.

PART 1636—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

Sec.
1636.1 Purpose; definitions.
1636.2 The claim of conscientious objection.

Sec.
1636.3 Basis for classification in Class 1-A-O.
1636.4 Basis for classification in Class 1-O.
1636.5 Exclusion from Class 1-A-O and Class 1-O.
1636.6 Analysis of religious training and belief.
1636.7 Impartiality.
1636.8 Considerations relevant to granting or denying a claim for classification as a conscientious objector.
1636.9 Types of decisions.
1636.10 Statement of reasons for denial.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1636.1 Purpose; definitions.

(a) The provisions of this Part govern the consideration of a claim by a registrant for classification in Class 1-A-O (§ 1630.11 of this chapter), or Class 1-O (§ 1630.15 of this chapter).

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) Crystallization of a Registrant's Beliefs. The registrant's becoming conscious of the fact that he is opposed to participation in war in any form.

(2) Noncombatant Service. Service in any unit of the Armed Forces which is unarmed at all times; any other military assignment not requiring the bearing of arms or the use of arms in combat or training in the use of arms.

(3) Noncombatant Training. Any training which is not concerned with the study, use, or handling of arms or other implements of warfare designed to destroy human life.

§ 1636.2 The claim of conscientious objection.

A claim to classification in Class 1-A-O or Class 1-O, must be made by the registrant in writing. Claims and documents in support of claims may only be submitted after the registrant has received an order to report for induction or after the Director has made a specific request for submission of such documents. All claims or documents in support of claims received prior to a registrant's receipt of an order to report for induction or prior to the Director's specific request for such documentation will be returned to the registrant and no file or record of such submission will be established.

§ 1636.3 Basis for classification in class 1-A-O.

(a) A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to combatant training and service in the Armed Forces.

(b) A registrant's objection may be founded on religious training and belief; it may be based on strictly religious beliefs, or on personal beliefs, that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

§ 1636.4 Basis for classification in class 1-O.

(a) A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces.

(b) A registrant's objection may be founded on religious training and belief; it may be based on strictly religious beliefs, or on personal beliefs that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

§ 1636.5 Exclusion from class 1-A-O and class 1-O.

(a) Registrants who assert beliefs which are of a religious, moral or ethical nature, but who are not found to be sincere in thier assertions.

(b) Registrants whose stated objection to participation in war does not rest at all upon moral, ethical, or religious principle, but instead rests solely upon considerations of policy, pragmatism, expediency, or their own self-interest or well-being.

(c) Registrants whose objection to participation in war is directed against a particular war rather than against war in any form (a selective objection). If a registrant objects to war in any form, but also believes in a theocratic, spiritual war between the forces of good and evil, he may not by reason of that belief alone be considered a selective conscientious objector.

§ 1636.6 Analysis of religious training and belief.

(a) Registrant claiming conscientious objection is not required to be a member of a "peace church" or any other church, religious organization, or religious sect to qualify for a 1-A-O or 1-O classification; nor is it necessary that he be affiliated with any particular group opposed to participation in war in any form.

(b) The registrant who identifies his beliefs with those of traditional church or religious organization must show that he basically adheres to beliefs of that church or religious organization whether or not he is actually affiliated with the institution whose teachings he claims as the basis of his conscientious objection.

(c) A registrant whose beliefs are not religious in the traditional sense, but are based primarily on moral or ethical principle, should hold such beliefs with the same strength or conviction as the belief in a Supreme Being is held by a person who is religious in the traditional sense. Beliefs may be mixed; they may be a combination of traditional religious beliefs and nontraditional religious beliefs and of nontraditional religious, moral or ethical beliefs. The registrant's beliefs must play a significant role in his life but should be evaluated only insofar as they pertain to his stated objection to his participation in war.

(d) Where the registrant is or has been a member of a church, religious organization, or religious sect, and where his claim of a conscientious objection is related to such membership, the board may properly inquire as to the registrant's membership, the religious teachings of the church, religious organization, or religious sect, and the registrant's religious activity, insofar as each relates to his objection to participation in war. The fact that the registrant may disagree with or not subscribe to some of the tenets of his church or religous sect does not necessarily discredit his claim.

(e)(1) The history of the process by which the registrant acquired his beliefs, whether founded on religious, moral, or ethical principle, is relevant to the determination whether his stated opposition to participation in war in any form is sincere.

(2) The registrant must demonstrate that his religious, ethical, or moral convictions were acquired through training, study, contemplation, or other activity comparable to the processes by which traditional religious convictions are formulated. He must show that these regligious, moral, or ethical convictions, once acquired, have directed his life in the way traditional religious convictions of equal strength, depth, and duration have directed the lives of those whose beliefs are clearly founded in traditional religious conviction.

(f) The registrant need not use formal or traditional language in describing the religious, moral, or ethical nature of his beliefs. Board members are not free to reject beliefs because they find them incomprehensible or inconsistent with their own beliefs.

(g) Conscientious objection to participation in war in any form, if based on moral, ethical, or religious beliefs, may not be deemed disqualifying simply because those

beliefs may influence the registrant concerning the Nation's domestic or foreign policy.

§ 1636.7 Impartiality.

Boards may not give preferential treatment to one religion over another, and all beliefs whether of a religious, ethical, or moral nature are to be given equal consideration.

§ 1636.8 Considerations relevant to granting or denying a claim for classification as a conscientious objector.

(a) After the registrant has submitted a claim for classification as a conscientious objector and his file is complete a determination of sincerity will be made based on:

(1) All documents in the registrant's file folder; and

(2) The oral statements of the registrant at his personal appearance(s) before the local and/or appeal board; and

(3) The oral statements of the registrant's witnesses, if any, at his personal appearance(s) before the local and/or appeal board; and

(4) The registrant's general demeanor during his personal appearance(s).

(b) The registrant's stated convictions should be a matter of conscience which would give him no rest or peace should he participate in war.

(c) The board should be convinced that the registrant's personal history since the crystallization of his conscientious objection is not inconsistent with his claim and demonstrate that the registrant's objection is not solely a matter of expediency. A recent crystallization of beliefs does not necessarily indicate expediency.

(d) The information presented by the registrant should reflect a pattern of behavior in response to war and weapons which is consistent with his stated beliefs. Instances of violent acts or conviction for crimes of violence, or employment in the development or manufacturing of weapons of war may, if the claim is based upon or supported by a life of nonviolence, be indicative of inconsistent conduct.

(e) The development of a registrant's opposition to war in any form may bear on his sincerity. If the registrant claims a recent crystallization of beliefs, his claim should be supported by evidence of a religious or educational experience, a traumatic event, an historical occasion, or some other special situation which explains when and how his objection to participation in war crystallized.

(f) In the event that a registrant has previously claimed or been granted a deferment to work in the development of or manufacturing of weapons of war or to serve as a member of a military reserve unit, it should be determined whether such a deferment was claimed or granted prior to the stated crystallization of the registrant's conscientious objector beliefs. Inconsistent classifications claimed or held prior to the actual crystallization of conscientious objector beliefs are not necessarily indicative of insincerity. But, inconsistent claims or classifications claimed or held subsequent to actual crystallization may indicate that registrant's stated objection is not sincere.

(g) A registrant's behavior during his personal appearance before a board may be relevant to the sincerity of his claim.

(1) Evasive answers to questions by board members or the use of hostile, belligerent, or threatening words or actions, for example, may in proper circumstances be deemed inconsistent with a claim in which the registrant bases his objection on a belief in nonviolence. But such behavior may have less relevance to the issue of sincerity if the registrant's claim is based solely on a conscientious objection to bearing arms.

(2) Care should be exercised that nervous, frightened, or apprehensive behavior at the personal appearance is not misconstrued as a reflection of insincerity.

(h) Oral response to questions by board members should be consistent with the written statements of the registrant and should generally substantiate the submitted information in the registrant's file folder; any material inconsistent should be satisfactorily explained by the registrant. It is important to recognize that the registrant need not be eloquent in his answers. But, a clear inconsistency between the registrant's oral remarks at his personal appearance and his written submission to the board may be adequate grounds, if not satisfactorily explained, for concluding that his claim is insincere.

(i) The registrant may submit letters of reference and other supporting statements of friends, relatives and acquaintances to corroborate the sincerity of his claim, although such supplemental documentation is not essential to approval of his claim. A finding of insincerity based on these letters or supporting statements must be carefully explained in the board's decision, specific mention being made of the particular material relied upon for denial of classification in Class 1-A-O or Class 1-O.

§ 1636.9 Types of decisions.

The following are the types of decisions which may be made by a board when a claim for classification in Class 1-A-O or Class 1-O has been considered.

(a) Decision to grant a claim for classification in Class 1-A-O or Class 1-O, as requested, based on a determination that the truth or sincerity of the registrant's claim is not refuted by any information contained in the registrant's file or obtained during his personal appearance.

(b) Decision to deny a claim for classification in Class 1-A-O or Class 1-O based on all information before the board, and a finding that such information fails to meet the tests specified in sections 1636.3 or 1636.4 of this Part. If supported by information contained in the registrant's file or obtained during his personal appearance the board may find that the facts presented by the registrant in support of his claim are untrue.

(c) Decision to grant classification in Class 1-A-O to a registrant even though he requested reclassification in Class 1-O. It should be noted that the registrant who requests classification in Class 1-O should be classified in Class 1-A-O only when the information presented demonstrates clearly that the registrant is opposed only to bearing arms and that he does not object to non-combatant service.

(d) Decision to grant classification in Class 1-O to a registrant even though he requested reclassification in Class 1-A-O. It should be noted that the registrant who requests classification in Class 1-A-O should be classified in Class 1-O only when the information presented demonstrates clearly that the registrant is eligible for classification in Class 1-O.

§ 1636.10 Statement of reasons for denial.

(a) Denial of a conscientious objector claim by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1651.3 of this chapter. The reason(s) must, in turn, be supported by evidence in the registrant's file.

(b) If a board's denial is based on statements by the registrant or on a determination that the claim is inconsistent or insincere, this should be fully explained in the statement of reasons accompanying the denial.

PART 1639—CLASSIFICATION FOR REGISTRANTS PREPARING FOR THE MINISTRY

Sec.

1639.1 Purpose; definitions.
1639.2 The claim for Class 2-D.

Sec.
1639.3 Basis for classification in Class 2-D.
1639.4 Exclusion from Class 2-D.
1639.5 Impartiality.
1639.6 Considerations relevant to granting or denying claims for Class 2-D.
1639.7 Types of decisions.
1639.8 Statement of reason for denial.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 1639.1 Purpose; definitions.

(a) The provisions of this part shall govern the consideration of a claim by a registrant for classification in Class 2-D (section 1630.26 of this chapter).

(b) The definitions of this paragraph shall apply to the interpretation of the provisions of this part:

(1) The term "ministry" refers to the vocation of a "duly ordained minister of religion" or "regular minister of religion" as defined in Part 1645 of this Chapter.

(2) The term "recognized church or religious organization" is a church or religious organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, and it engages primarily in religious activities.

(3) The term "recognized theological or divinity school" is a theological or divinity school whose graduates are acceptable for ministerial duties either as an ordained or regular minister by the church or religious organization sponsoring a registrant as a ministerial student.

(4) The term "graduate program" must be a program where the registrant's studies are required by his church or religious organization for entry into service as a regular or duly ordained minister of religion.

(5) The term "full-time intern" applies to a program that must immediately follow the completion of the theological or divinity training and is required by a recognized church or religious organization for entry into the ministry.

(6) The term "satisfactorily pursuing a full-time course of instruction" means maintaining a satisfactory academic record as determined by the institution while receiving full-time instructions in a traditional classroom setting. A full-time course of instruction does not include instructions received pursuant to a mail order program.

§ 1639.2 The claim for class 2-D.

A claim to classification in Class 2-D must be made by the registrant in writing, such document being placed in his file folder.

§ 1639.3 Basis for classification class 2-D.

(a) In Class 2-D shall be placed any registrant who is preparing for the ministry under the direction of a recognized church or religious organization; and

(1) Who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled; or

(2) Who is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school; or

(3) Who having completed theological or divinity school is a student in a full-time graduate program or is a full-time intern, and whose studies are related to and lead toward entry into service as a regular or duly ordained minister of religion. Satisfactory progress in these studies, as required by the school in which the registrant is enrolled, must be maintained for qualification for the deferment.

(b) The registrant's classification shall be determined on the basis of the written information in his file folder; oral statement, if made by the registrant at his personal appearance before a board, and oral statements, if made by the registrant's witnesses at his personal appearance.

§ 1639.4 Exclusion from class 2-D.

A registrant shall be excluded from Class 2-D when:

(a) He has failed to establish that the theological or divinity school is a recognized school or that the church or religious organization which is sponsoring the registrant is so recognized; or

(b) He ceases to be a full-time student; or

(c) He fails to maintain satisfactory academic progress.

§ 1639.5 Impartiality.

Boards may not give precedence to any religious organization or school over another, and all are to be given equal consideration.

§ 1639.6 Considerations relevant to granting or denying claims for class 2-D.

(a) The registrant's claim for Class 2-D must include the following:

(1) A statement from a church or religious organization that the registrant is preparing for the ministry under its direction; and

(2) Current certification to the effect the registrant is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled; or

(3) Current certification to the effect that the registrant is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school; or

(4) Current certification to the effect that the registrant, having completed theological or divinity school, is satisfactorily pursuing a full-time graduate program or is a full-time intern, whose studies are related to and lead toward entry into service as a regular or duly ordained minister of religion.

(b) A board may require the registrant to obtain from the church, religious organization, or school detailed information in order to determine whether or not the theological or divinity school is in fact a recognized school or whether or not the church or religious organization which is sponsoring the registrant is recognized.

§ 1639.7 Types of decisions.

(a) A board may grant a classification into Class 2-D until the end of the academic school year.

(b) Upon the expiration of a 2-D classification, a board shall review any request for extension of the classification in the same manner as the first request for Class 2-D. This section does not relieve a registrant of his duties under § 1621.1 of this chapter.

§ 1639.8 Statement of reason for denial.

(a) Denial of a claim for a ministerial student deferment by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this chapter. The reason(s) must in turn, be supported by evidence in the registrant's file.

(b) If a board's denial is based on statements by the registrant or his witnesses at a personal appearance, this must be fully explained in the statement of reasons accompying the denial.

PART 1642—CLASSIFICATION OF REGISTRANTS DEFERRED BECAUSE OF HARDSHIP TO OTHERS

Sec.
1642.1 Purpose; definitions.
1642.2 The claim for classification in class 3-A.
1642.3 Basis for classification in class 3-A.
1642.4 Ineligibility for class 3-A.
1642.5 Impartiality.
1642.6 Considerations relevant to granting or denying claims for class 3-A.
1642.7 Types of decisions.
1642.8 Statement of reason for denial.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 1642.1 Purpose; definitions.

(a) The provisions of this part govern the consideration of a claim by a registrant for classification in class 3-A (§ 1630.30 of this Chapter).

(b) The following definitions apply to the interpretation of the provisions of this Part.

(1) The term "dependent" shall apply to the wife, child, parent, grandparent, brother or sister of a registrant.

(2) The term "child" includes an unborn child, a stepchild, a foster child or a legally adopted child, who is legitimate or illegitimate, but shall not include any person 18 years of age or older unless he is physically or mentally handicapped.

(3) The term "parent" shall include any person who has stood in the place of a parent to the registrant for at least 5 years preceding the 18th anniversary of the registrant's date of birth and is now supported in good faith by the registrant.

(4) The term "brother" or "sister" shall include a person, having one or both parents in common with the registrant, who is either under 18 years of age or is physically or mentally handicapped.

(5) The term "support" includes but is not limited to financial assistance.

(6) Hardship is the unreasonable deprivation of a dependent of the financial assistance, personal care or companionship furnished by the registrant when that deprivation would be caused by the registrant's induction.

§ 1642.2 The claim for classification in class 3-A.

A claim for classification in class 3-A must be made by the registrant in writing and it shall contain supporting documentation; such documents being placed in his file folder.

§ 1642.3 Basis for classification in class 3-A.

(a) In class 3-A shall be placed any registrant:

(1) Whose induction would result in extreme hardship to his wife when she alone is dependent upon him for support; or

(2) Whose deferment is advisable because his child, parent, grandparent, brother or sister is dependent upon him for support; or

(3) Whose deferment is advisable because his wife and his child, parent, grandparent, brother or sister are dependent upon him for support; or

(4) Who has been separated from active military service by reason of dependency or hardship and the dependency or hardship conditions still exist.

(b)(1) In its consideration of a claim by a registrant not separated from the active military service by reason of dependency or hardship for classification in class 3-A, the board will first determine whether the registrant's wife, child, parent, grandparent, brother or sister is dependent upon the registrant for support. Support may be financial assistance, personal care or companionship, but no person to whom the registrant contributes less than 50% of the cost of his necessities will be deemed financially dependent upon the registrant for support. If that determination is affirmative, the board will then determine whether the registrant's induction would result in extreme hardship to his wife when she is the only dependent or whether the registrant's deferment is advisable because his child, parent, grandparent, brother or sister is dependent upon him for support or because his wife and his child, parent, grandparent, brother or sister are dependent upon him for support. A deferment is advisable whenever the registrant's induction would result in hardship to his dependents.

(2) In its consideration of a claim by a registrant separated from the active military service by reason of dependency or hardship and who is not eligible for class 4-A the board will determine whether the facts that were the basis for the registrant's separation from the military service continue substantially to exist.

(c) The registrant's classification shall be determined on the basis of the written information in his file; oral statements, if made by the registrant at his personal appearance before a board and oral statements, if made by the registrant's witnesses at his personal appearances.

(d) Any reasonable doubt in connection with a claim should be resolved in favor of the registrant.

§ 1642.4 Ineligibility for class 3-A.

(a) A registrant is ineligible for Class 3-A when:

(1) He assumed an obligation to his dependents specifically for the purpose of evading training and service; or

(2) He acquired excessive financial obligations primarily to establish his dependency claim; or

(3) His dependents would not be deprived of reasonable support if the registrant is inducted; or

(4) There are other persons willing to assume the support of his dependents; or

(5) The dependents would suffer only normal anguish of separation from the registrant if he is inducted; or

(6) The hardship to a dependent is based solely on financial conditions and can be removed by payment and allowances which are payable by the United States to the dependents of persons who are serving in the Armed Forces; or

(7) The hardship to the dependent is based upon considerations that can be eliminated by payments and allowances which are payable by the United States to the dependents of persons who are serving in the Armed Forces.

(b) A postponement to expire not more than 90 days from the date the registrant files his claim for Class 3-A will be granted if the board determines that the hardship to the registrant's dependent would not likely continue for beyond that period of time. The reason for the actions taken in accord with the immediately preceding sentence will be recorded in the registrant's file and a copy thereof will be furnished the registrant.

§ 1642.5 Impartiality.

(a) Boards shall consider all questions in a claim for classification in Class 3-A with equal consideration of race, creed, color, sex or ethnic background.

(b) Boards may not give precedence to one type of dependency hardship over another.

§ 1642.6 Considerations relevant to granting or denying claims for class 3-A.

(a) The registrant's claim for class 3-A must include the following, with documentation, as applicable:

(1) Registrant's and his dependent's marital status;

(2) Physician's statement concerning any dependent who is physically or mentally handicapped;

(3) Employment status of registrant and his dependents; and

(4) Each case must be weighed carefully and decided on its own merits.

§ 1642.7 Types of decisions.

(a) A board may, except as provided in subsection 1642.4(b) of this Part, grant a classification into Class 3-A for such period of time it deems appropriate but in no event shall the period exceed one year.

(b) Upon the expiration of a 3-A classification, a board shall review any request for extension of the classification as if it were the first request for that classification, and the fact that the registrant was placed in class 3-A under apparently similar circumstances will not be a factor in the decision of the board. This section does not relieve a registrant from his duties under § 1621.1 of this Chapter.

(c) A claim for a 3-A classification will be denied when action is taken in accord with § 1642.4(b) of this Part.

(d) A board may deny a claim for Class 3-A when the evidence fails to meet the criteria established in this Part.

§ 1642.8 Statement of reason for denial.

(a) Denial of a claim for Class 3–A by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this Chapter. The reason must in turn, be supported by evidence in the registrant's file.

(b) If a board's denial is based on statements by the registrant or his witnesses at a personal appearance, this must be fully explained in the statement of reasons accompanying the denial.

PART 1645—CLASSIFICATION OF MINISTERS OF RELIGION

Sec.

1645.1 Purpose; definitions.
1645.2 The claim for minister of religion classification.
1645.3 Basis for classification in Class 4–D.
1645.4 Exclusion from Class 4–D.
1645.5 Impartiality.
1645.6 Considerations relevant to granting or denying a claim for Class 4–D.
1645.7 Evaluation of claim.
1645.8 Types of decisions.
1645.9 Statement of reason for denial.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 1645.1 Purpose; definitions.

(a) The provisions of this part govern the consideration of a claim by a registrant for classification in Class 4–D (§ 1630.43 of this chapter).

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) The term "duly ordained minister of religion" means a person:

(i) Who has been ordained, in accordance with the ceremonial ritual, or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character; and

(ii) Who preaches and teaches the doctrines of such church, sect, or organization; and

(iii) Who administers the rites and ceremonies thereof in public worship; and

(iv) Who as his regular and customary vocation preaches and teaches the principles of religion; and

(v) Who administers the ordinances of public worship as embodied in the creed or principles of such church, sect or organization.

(2) The term "regular minister of religion" means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

(3) The term "regular or duly ordained minister of religion" does not include:

(i) A person who irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or organization; or

(ii) Any person who may have been duly ordained a minister in accordance with the ceremonial rite, or discipline of a church, religious sect or organization, but who does not regularly, as a bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed or principles of his church, sect, or organization.

(4) The term "vocation" denotes one's regular calling or full-time profession.

§ 1645.2 The claim for minister of religion classification.

A claim to classification in Class 4–D must be made by the registrant in writing, such document being placed in his file folder.

§ 1645.3 Basis for classification in Class 4–D.

In accordance with Part 1630 of this chapter any registrant shall be placed in Class 4–D who is a:

(a) Duly ordained minister of religion; or

(b) Regular minister of religion.

§ 1645.4 Exclusion from Class 4–D.

A registrant is excluded from Class 4–D when his claim clearly shows that:

(a) He has not been ordained to preach and teach the principles of religion of his church, religious sect, or organization and does not administer the ordinances of public worship, as embodied in the creed or principles of his church, sect or organization.

(b) He is a duly ordained minister of religion in accordance with the ceremonial, rite, or discipline of a church, religious sect or organization, but who does not regularly as his bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed or principles of his church, sect, or organization.

(c) He is not recognized by the church, sect, or organization as a regular minister of religion and does not administer the ordinances of public worship, as embodied in the creed of his church, sect, or organization.

(d) He does not as a regular minister of religion regularly, as his bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed of his church, sect or organization.

§ 1645.5 Impartiality.

Boards may not give preferential treatment to one religion or sect over another, and in like manner, no preferential treatment will be given a duly ordained minister over a regular minister.

§ 1645.6 Considerations relevant to granting or denying a claim for Class 4–D.

(a) The board shall first determine whether the registrant is requesting classification in Class 4–D because he is a regular minister of religion or because he is a duly ordained minister of religion.

(b) If the registrant claims to be a duly ordained minister of religion, the board will:

(1) Determine whether the registrant has been ordained, in accordance with the ceremonial ritual or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of religious character, to preach and teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies thereof in public worship; and

(2) Determine whether the registrant as his regular, customary, and bona fide vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed of principles of the church, sect, or organization by which the registrant was ordained.

(c) If the registrant claims to be a regular minister of religion, the board will:

(1) Determine whether the registrant as his customary and regular calling or customary and regular full-time profession, preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion; and

(2) Determine whether the registrant is recognized by such church, sect, or organization as a regular minister.

(d) If the board determines that the registrant is a regular minister of religion or duly ordained minister of religion he shall be classified in Class 4–D.

§ 1645.7 Evaluation of claim.

(a) In evaluating a claim for classification in Class 4–D, the board will not consider:

(1) The training or abilities of the registrant for duty as a minister; or

(2) The motive or sincerity of the registrant in serving as a minister.

(b) The board should be careful to ascertain the actual duties and functions

of registrants seeking classification in Class 4–D, such classification being appropriate only for leaders of the various religious groups, not granted to members of such groups generally.

(c) Preaching and teaching the principles of one sect, if performed part-time or half-time, occasionally or irregularly, are insufficient to establish eligibility for Class 4–D. These activities must be regularly performed and must comprise the registrant's regular calling or full-time profession. The mere fact of some secular employment on the part of a registrant requesting classification in Class 4–D does not in itself make him ineligible for that class.

(d) The board should request the registrant to furnish any additional information that it believes will be of assistance in the consideration of the registrant's claim for classification in Class 4–D.

§ 1645.8 Types of decisions.

(a) If the board determines that the registrant is a regular minister of religion or a duly ordained minister of religion, he shall be classified in Class 4–D.

(b) The board will deny a claim for Class 4–D when the evidence fails to meet the criteria established in this Part.

§ 1645.9 Statement of reason for denial.

(a) Denial of a 4–D claim by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this chapter. The reason(s) must in turn, be supported by evidence in the registrant's file.

(b) If the board's denial is based on statements by the registrant or on documentation in the registrant's file, such basis will be fully explained in the statement of reasons accompanying the denial.

PART 1648—CLASSIFICATION BY LOCAL BOARD

Sec.

1648.1 Authority of local board.
1648.2 Reassignment of local board.
1648.3 Opportunity for personal appearance.
1648.4 Appointment for personal appearance.
1648.5 Procedures during personal appearance before the local board.
1648.6 Registrants transferred for classification.
1648.7 Procedures upon transfer for classification.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E. O. 11623.

§ 1648.1 Authority of local board.

The local board of jurisdiction shall consider and determine all claims for classification which it receives.

§ 1648.2 Reassignment of local board.

(a) After making a claim for a judgmental classification, but before the board of jurisdiction has undertaken the classification of a registrant, the registrant may file a request to have his assignment changed to a board having jurisdiction over the area where he currently resides: *Provided*, That, the board to which he was originally assigned is so far from his current address as to make travel to and from it unreasonable.

(b) Any registrant whose claim for an administrative classification is denied, may, before the board of jurisdiction has undertaken a review of his denial, request that his assignment be changed to a board having jurisdiction over the area where he currently resides: *Provided*, That, the board to which he was originally assigned is so far from his current address as to make travel to and from it unreasonable.

(c) Any registrant whose assignment was changed under the provisions of this section, will, if his claim is denied, be rescheduled to report to the AFEES to which he was originally ordered.

(d) A registrant whose assignment was changed under the provisions of this section will not be allowed a subsequent change of assignment until such time as any claims pending at the time of reassignment are adjudicated unless specifically authorized by the Director.

(e) Notwithstanding any other provision of this section, no registrant will be allowed to change his assignment unless he has requested a personal appearance before the board or one is required to adjudicate his claim.

(f) The Director of Selective Service may change a board assignment when he deems it necessary to assure the fair and equitable administration of the Selective Service Law.

§ 1648.3 Opportunity for personal appearance.

(a) A registrant who has filed a claim for classification in Class 1–A–O or Class 1–0 shall be scheduled for a personal appearance in accord with section 1648.4 of this part before his claim is considered.

(b) A registrant who has filed a claim for classification in Class 2–D, Class 3–A, or Class 4–D, upon his written request, shall be afforded an opportunity to appear in person before the board before his claim for classification is considered.

(c) Any registrant who has filed a claim for classification in Class 1–C, 1–D, 1–W, 2–M, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T or 4–W, and whose claim has been denied, shall be afforded an opportunity to appear before the board if he requests that the denial of such claim be reviewed by the board.

§ 1648.4 Appointment for personal appearance.

(a) Not less than 10 days (unless the registrant requests an earlier appointment) in advance of the meeting at which he may appear, the registrant shall be informed of the time and place of such meeting and that he may present evidence, including witnesses, bearing on his classification.

(b) Whenever a registrant who has filed a claim for a class other than Class 1–A–O or Class 1–O for whom a personal appearance has been scheduled, fails to appear in accord with such schedule, the board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and the board will proceed to classify him on the basis of the material in his file. The board will notify the registrant in writing of its action under this paragraph.

(c) Should the registrant fail to appear at his scheduled personal appearance he may be classified in a class other than Class 1–A–O or Class 1–O on the basis of the material in his file.

(d) Should the registrant who has filed a claim for classification in Class 1–A–O or Class 1–O fail to appear at his scheduled personal appearance the board will not consider his claim for classification in Class 1–A–O or Clas 1–O and he will be rescheduled for a second personal appearance. If he fails to appear at the second personal appearance he will be deemed to have withdrawn his claim for Class 1–A–O or 1–O and will be notified that his claim will not be considered.

§ 1648.5 Procedures during personal appearance before the local board.

(a) A quorum of a board shall be present during all personal appearances. Only those members of the board before whom the registrant appeared shall classify him.

(b) At any such appearance, the registrant may; present evidence, including witnesses; discuss his

classification; direct attention to any information in his file; and present such further information as he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.

(c) The registrant may present the testimony of not more than three witnesses unless it is the judgment of the board that the testimony of additional witnesses is warranted. The registrant may summarize in writing, the all oral information that he or his witnesses presented. Such summary shall be placed in the registrant's file.

(d) A summary will be made of oral testimony given by the registrant and his witnesses at his personal appearance and a copy of such summary shall be placed in the registrant's file.

(e) If the registrant does not speak English adequately he may appear with a person to act as interpreter for him. Such interpreter will not be deemed to be a witness unless he testifies in behalf of the registrant. [Oath to be administered in accord with § 1605.81(b)].

(f) During the personal appearance only the registrant or his witnesses may address the board or respond to questions of the board and only the registrant and the board will be allowed to address questions to witnesses. A registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: *Provided,* That those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(g) If, in the opinion of the board, the informal, administrative nature of the personal appearance is unduly disrupted by the presence of an advisor, the board chairman nay require the advisor to leave the hearing room. In such case, the board chairman shall put a statement of reasons for his action in the registrant's file.

§ 1648.6 Registrants transferred for classification.

(a) Before a board of jurisdiction has undertaken the classification of a registrant, the file may be transferred by the Director of Selective Service to another board for classification.

(b) The Director of Selective Service may transfer a registrant to another board for classification at any time when:

(1) A board cannot act on the registrant's claim because of disqualification under the provisions of § 1605.55 of this chapter; or

(2) He deems such transfer to be necessary in order to assure equitable administration of the Selective Service Law.

§ 1648.7 Procedures upon transfer for classifications.

A board to which a registrant is transferred for classification shall classify the registrant in the same manner it would classify a registrant assigned to it.

PART 1651—CLASSIFICATION BY DISTRICT APPEAL BOARD

Sec.

1651.1 Who may appeal to a district appeal board.
1651.2 Time within which registrants may appeal.
1651.3 Procedures for taking an appeal.
1651.4 Review by district appeal board.
1651.5 File to be returned after appeal to the district appeal board is decided.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1651.1 Who may appeal to a district appeal board.

(a) The Director of Selective Service may appeal from any determination of a local board when it is deemed necessary to assure the fair and equitable administration of the Selective Service Law: *Provided,* That no such appeal will be taken after the expiration of the appeal period prescribed in § 1651.2 of this part.

(b) The registrant may appeal to a district appeal board from the denial of his claim for classification by the local board.

§ 1651.2 Time within which registrants may appeal.

The registrant must file an appeal with his local board and request a personal appearance before the district appeal board within 10 days after the date the registrant is mailed a notice of classification action.

§ 1651.3 Procedures for taking an appeal.

(a) When the Director of Selective Service appeals to a district appeal board he shall place in the registrant's file a written statement of his reasons for taking such appeal. When an appeal is taken by the Director, the registrant will be notified that the appeal has been taken, the reason therefor, and that the registrant may appear in person before the appeal board in accord with § 1651.4(e).

(b) The registrant may appeal the classification action of the local board by filing with it a written notice of appeal. The registrant's notice of appeal need not be in a particular form but must include the name of the registrant and his request. Any notice shall be liberally construed so as to permit the appeal.

(c) The registrant may also request an opportunity to appear in person before the district appeal board and such appeal will be considered by the board having jurisdiction over the local board which last classified him.

(d) Whenever the registrant's principal place of employment or residence is outside the United States he may request that the appeal be considered by the district appeal board for the District of Columbia. "Principal place of employment" as used in this paragraph means the geographical location at which the registrant usually performs the duties of his employment.

(e) The registrant may attach to his appeal a statement specifying the reasons he believes the classification action that he is appealing is inappropriate, directing attention to any information in his file, and setting out any information relevant to his claim.

§ 1651.4 Review by district appeal board.

(a) Prior to the ajudication of an appeal, the clerk of the appeal board or any compensated employee authorized to perform the administrative duties of the board shall review the file to insure that no procedural errors have occurred during the history of the current claim. Files containing procedural errors will be returned to the local board that classified the registrant for any additional processing necessary to correct such errors.

(b) Files containing procedural errors that were not detected during the initial screening but which subsequently surfaced during processing by the appeal board, will be acted on and the board will take such action necessary to correct the errors and process the appeal to completion.

(c) A board shall consider appeals in the order of their having been filed unless otherwise directed by the Director of Selective Service.

(d) Upon receipt of the registrant's file, a board shall ascertain whether the registrant has requested a personal appearance before a board. If no such request has been made, a board may classify the registrant based on the material in his file.

(e) Not less than 10 days (unless the registrant requests an earlier appointment) in advance of the meeting at which his classification will be considered, a board shall inform any registrant with respect to whom the Director of Selective Service has appealed or who has requested a personal appearance that he may appear at such meeting and present

evidence, including witnesses, bearing on his classification.

(f) During the personal appearance only the registrant or his witnesses may address the board or respond to questions of the board and only the registrant and the board will be allowed to address questions to witnesses. A registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: *Provided.* That those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(g) If, in the opinion of the board, the informal, administrative nature of the personal appearance is unduly disrupted by the presence of an advisor, the board chairman may require the advisor to leave the hearing room. In such a case, the board chairman shall put a statement of reasons for his action in the registrant's file.

(h) Whenever a registrant who has filed a claim for a class other than Class 1-A-O or Class 1-O for whom a personal appearance has been scheduled, fails to appear in accord with such schedule, a board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by a board) after such failure to appear. If a board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If a board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if a board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and he will be classified on the basis of the material in his file. A board will notify the registrant in writing of its action under this paragraph.

(i) A quorum of a board shall be present during all personal appearances. Only those members of a board before whom the registrant appeared shall classify him.

(j) At any personal appearance, the registrant may: present oral testimony, including witnesses; point out the class or classes in which he thinks he should have been placed; and direct attention to any information in his file. The registrant may present any additional written information he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.

(k) Only persons who were witnesses for the registrant at his personal appearance before a local board may appear as witnesses for the registrant at his personal appearance before a district appeal board unless the registrant established to the satisfaction of a board that the failure of a person to be a witness for him at his personal appearance before a local board was because of reasons beyond the control of the registrant. The registrant may summarize in writing the oral information that he or his witnesses presented. Such summary shall be placed in the registrant's file.

(l) A summary will be made of all oral testimony given by the registrant and his witnesses at his personal appearance and such summary shall be placed in the registrant's file.

(m) A district appeal board shall classify a registrant who has requested a personal appearance after he:

(1) Has appeared before the board; or

(2) Has withdrawn his request to appear; or

(3) Has waived his right to an opportunity to appear; or

(4) Has failed to appear.

(n) In considering a registrant's appeal, a board shall not receive or consider any information other than the following:

(1) Information contained in the registrant's file; and

(2) Oral statements by the registrant and his witnesses; and

(3) Written evidence submitted by him to the board during his personal appearance.

(o) In the event a board classifies the registrant in a class other than that which he requested, it shall record its reasons therefore in the file.

§ 1651.5 File to be returned after appeal to the district appeal board is decided.

When the appeal to a district appeal board has been decided, the file shall be returned as prescribed by the Director of Selective Service.

PART 1653—APPEAL TO THE PRESIDENT

Sec.

1653.1 Who may appeal to the President.
1653.2 Procedures for taking an appeal to the President.
1653.3 Review by the National Selective Service Appeal Board.
1653.4 File to be returned after appeal to the President is decided.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*: E.O. 11623.

§ 1653.1 Who may appeal to the President.

(a) The Director of Selective Service may appeal to the President from any determination of a district appeal board when he deems it necessary to assure the fair and equitable administration of the Selective Service Law: *Provided,* That no such appeal will be taken after the expiration of the appeal period prescribed in subsection (b) below.

(b) When a registrant has been classified by a district appeal board and one or more members of the board dissented from that classification, he may within 10 days after a notice thereof has been mailed, appeal to the President and may request a personal appearance before the National Selective Service Appeal Board.

1653.2 Procedures for taking an appeal to the President.

(a) When the Director of Selective Service appeals to the President he shall place in the registrant's file a written statement of his reasons for taking such appeal. When an appeal is taken by the Director the registrant will be notified that the appeal has been taken, the reasons therefor, and that the registrant may appear in person before the National Board in accord with § 1653.1(b).

(b) An appeal to the President by the registrant shall be taken by filing a written notice of appeal with the local board that classified him. He may at the same time file a written request to appear before the National Selective Service Appeal Board. Such notice need not be in any particular form but must state the name of the registrant and the fact that he wishes the President to review the determination.

§ 1653.3 Review by the National Selective Service Appeal Board.

(a) An appeal to the President is determined by the National Board by its classification of the registrant in a class other than 1-A or by its refusal to take such action.

(b) The board shall proceed to classify any registrant who has not requested a personal appearance after the specified time in which to request a personal appearance has elapsed.

(c) Not less than 10 days in advance of the meeting at which his claim will be considered, the board shall inform any registrant with respect to whom the Director of Selective Service has appealed or who has requested a personal appearance that he may appear at such meeting and present evidence, including witnesses, bearing on his classification.

(d) During the personal appearance only the registrant or his witnesses may address the board or respond to questions of the board and only the registrant and the board will be allowed to address questions to witnesses. A

registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: *Provided,* That those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(e) If, in the opinion of the board, the informal administrative nature of the personal appearance is unduly disrupted by the presence of an advisor, the board chairman may require the advisor to leave the hearing room. In such a case, the board chairman shall put a statement of reasons for his action in the registrant's file.

(f) Whenever a registrant who has filed a claim for a class other than Class 1-A-O or Class 1-O for whom a personal appearance has been scheduled fails to appear in accord with such schedule, the board shall consider any written explanation of such failure that has been filed within five days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and the board will proceed to classify him on the basis of the material in his file. The registrant will be notified in writing of its action under this paragraph.

(g) A quorum of the board shall be present during all personal appearances. Only those members of the board before whom the registrant appeared shall classify him.

(h) At any such appearance, the registrant may: discuss his classification; point out the class or classes in which he thinks he should have been placed; and direct attention to any information in his file. The registrant may present such further information as he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.

(i) Only persons who were witnesses for the registrant at his personal appearance before the local board or district appeal board may appear as witnesses for the registrant at his personal appearance before the board unless the registrant established to the satisfaction of the National Board that the failure of a person to be a witness for him at his personal appearance before the local board or district appeal board was because of reasons beyond the control of the registrant. The registrant may summarize in writing the oral information that he or his witnesses presented and any such summary shall be placed in his file.

(j) A summary will be made of all oral testimony given by the registrant and his witnesses at his personal appearance and such summary shall be placed in the registrant's file.

(k) The board shall classify a registrant who has requested a personal appearance after he:

(1) Has appeared before the National Board; or

(2) Has withdrawn his request to appear; or

(3) Has waived his right to an opportunity to appear; or

(4) Has failed to appear.

(l) In considering a registrant's appeal, the board shall not receive or consider any information other than the following:

(1) Information contained in the registrant's file; and

(2) Oral statements by the registrant and his witnesses; and

(3) Written evidence submitted by him to the board during his personal appearance.

(m) In the event that the board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in his file.

§ 1653.4 File to be returned after appeal to the President is decided.

When the appeal to the President has been decided, the file shall be returned as prescribed by the Director of Selective Service.

PART 1659—EXTRAORDINARY EXPENSES OF REGISTRANTS

Sec.
1659.1 Claims.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 1659.1 Claims.

(a) Claims for payment of actual and reasonable expenses of:

(1) Emergency medical care, including hospitalization of registrants who suffer illness or injury; and

(2) The transportation and burial of the remains of registrants who suffer death;

while acting under travel orders issued by or under the authority of the Director of Selective Service will be paid in accord with the provisions of this section.

(b) Claims for payment of expenses incurred for the purposes set forth in paragraph (a) of this section shall be presented to the Director of Selective service.

(c)(1) The term "emergency medical care, including hospitalization", as used in the section shall be construed to mean such medical care or hospitalization that normally must be rendered promptly after occurrence of the illness or injury as a result of which it is required, and discharged by a physician or facility subsequent to such medical care or hospitalization shall prima facie terminate the period of emergency.

(2) The death of a registrant shall be deemed to have occurred while acting under orders issued by or under the authority of the Director of Selective Service if it results directly from an illness or injury suffered by the registrant while so acting and occurs prior to the completion of an emergency medical care, including hospitalization, occasioned by such illness or injury.

(d) No such claim shall be paid unless it is presented within the period of one year from the date on which the expenses were incurred.

(e) No such claim shall be allowed in case it is determined that the cause of injury, illness, or death was due to negligence or misconduct of the registrant.

(f) Burial expenses shall not exceed the maximum prescribed in Section II of the Military Selective Service Act in any one case.

(g) Payment of such claims when allowed shall be made only:

(1) Directly to the person or facility with which the expenses were incurred; or

(2) By reimbursement to the registrant, a relative of the registrant, or the legal representative of the registrant's estate, for original payment of such expenses.

PART 1662—FREEDOM OF INFORMATION ACT (FOIA) PROCEDURES

Sec.
1662.1 Applicability of this part.
1662.2 Procedure for requesting information.
1662.3 Identification of information requested.
1662.4 Consideration of requests for information.
1662.5 Inspection, copying, and obtaining copies.
1662.6 Fees.

Authority: 5 USC 552, as amended.

§ 1662.1 Applicability of this part.

The provisions of this part prescribe the procedures for requests for information under 5 U.S.C. 552, as amended (Freedom of Information Act).

§ 1662.2 Procedure for requesting information.

Requests for information under the Freedom of Information Act (FOIA) shall be in writing and should be addressed to the Director, Selective Service System, ATTN: Records Manager, Washington, D.C. 20435.

§ 1662.3 Identification of information requested.

Any person who requests information under FOIA shall provide a reasonably specific description of the information sought so that it may be located without undue search. If the description is not sufficient, the Records Manager will notify the requester and, to the extent possible, indicate the additional information required. Every reasonable effort shall be made to assist a requester in the identification and location of the record or records sought.

§ 1662.4 Consideration of requests for information.

(a) Upon receipt of any request for information or records, the Records Manager will determine within 10 days (excepting Saturdays, Sundays, and legal Federal holidays) whether it is appropriate to grant the request and will immediately provide written notification to the person making the request. If the request is denied, the written notification to the person making the request will include the reasons therefor and a notice that an appeal may be lodge with the Director of Selective Service.

(b) Appeals shall be in writing and addressed to the Director of Selective Service at the address specified in § 1662.2 of this part. The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be in writing and signed by the Director, or his designee, within 20 days (excepting Saturdays, Sundays, and legal Federal holidays). If, on appeal, the denial is in whole or in part upheld, the written determination will include the reason therefor and also contain a notification of the provisions for judicial review.

§ 1662.5 Inspection, copying, and obtaining copies.

When a request for information has been approved in accord with § 1662.4, the person making the request may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the Records Manager at the address listed in § 1662.2. Such materials may be copied manually without charge, and reasonable facilities will be made available for that purpose. Also, copies of individual pages of such materials will be made available as specified in § 1662.6; however, the right is reserved to limit to a reasonable quantity the copies of such materials which may be made available in this manner.

§ 1662.6 Fees.

(a) Search of records is made without charge.

(b) The charge for copies of documents and records prepared on Selective Service System equipment is 25 cents per page.

(c) Copies will not be released to any requester until the required fee is paid in full by cash, check or money order. Checks and money orders should be made payable to the Selective Service System.

(d) Documents will be furnished without charge or at a reduced charge where it is determined that the waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

PART 1665—PRIVACY ACT PROCEDURES

Sec.
1665.1 Rules for determining if an individual is the subject of a record.
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Authority: 5 USC 552a.

§ 1665.1 Rules for determining if an individual is the subject of a record.

(a) Individuals desiring to know if a specific system of records maintained by the Selective Service System (SSS) contains a record pertaining to them should address their inquiries to the Director, Selective Service System, ATTN: Records Manager, Washington, D.C. 20435. The written inquiry should contain a specific reference to the system of records maintained by Selective Service listed in the SSS Notices of Systems of Records or it should describe the type of record in sufficient detail to reasonably identify the system of records. Notice of SSS System of Records subject to the Privacy Act is in the Federal Register and copies of the notices will be available upon request to the Records Manager. A compilation of such notices will also be made and published by the Office of Federal Register, in accord with section 5 U.S.C. 552a(f).

(b) At a minimum, the request should also contain sufficient information to identify the requester in order to allow SSS to determine if there is a record pertaining to that individual in a particular system of records. In instances when the information is insufficient to insure that disclosure will be to the individual to whom the information pertains, in view of the sensitivity of the information, SSS reserves the right to ask the requester for additional identifying information.

(c) Ordinarily the requester will be informed whether the named system of records contains a record pertaining to the requester within 10 days of receipt of such a request (excluding Saturdays, Sundays, and legal Federal holidays). Such a response will also contain or reference the procedures which must be followed by the individual making the request in order to gain access to the record.

(d) Whenever a response cannot be made within the 10 days, the Records Manager will inform the requester of the reason for the delay and the date by which a response may be anticipated.

§ 1665.2 Requests for access.

(a) *Requirement for written requests.* Individuals desiring to gain access to a record pertaining to them in a system of records maintained by SSS must submit their request in writing in accord with the procedures set forth in paragraph b, below.

(b) *Procedures.* (1) Content of the Request. (i) The request for access to a record in a system of records shall be addressed to the Records Manager, at the address cited above, and shall name the system of records or contain a description (as concise as possible) of such system of records. The request should state that the request is pursuant to the Privacy Act of 1974. In the absence of specifying solely the Privacy Act of 1974 and, if the request may be processed under both the Freedom of Information Act and the Privacy Act and the request specifies both or neither act, the procedures under the Privacy Act of 1974 will be employed. The individual will be advised that the procedures of the Privacy Act will be utilized, of the existence and the general effect of the Freedom of Information Act, and the difference between procedures under the two acts (e.g. fees, time limits, access). The request should contain necessary information to verify the identity of the requester (see § 1665.2(b)(2)(vi). In addition, the requester should include any other information which may assist in the rapid identification of the record for which access is being requested (e.g., maiden name, dates of employment, etc.) as well as any other identifying

information contained in and required by SSS Notice of Systems of Records.

(ii) If the request for access follows a prior request under section 1665.1, the same identifying information need not be included in the request for access if a reference is made to that prior correspondence, or a copy of the SSS response to that request is attached.

(iii) If the individual specifically desires a copy of the record, the request should so specify.

(2) SSS action on request. A request for access will ordinarily be answered within 10 days, except when the Records Manager determines that access cannot be afforded in that time, in which case the requester will be informed of the reason for the delay and an estimated date by which the request will be answered. Normally access will be granted within 30 days from the date the request was received by the Selective Service System. At a minimum, the answer to the request for access shall include the following:

(i) A statement that there is a record as requested or a statement that there is not a record in the system of records maintained by SSS;

(ii) A statement as to whether access will be granted only by providing a copy of the record through the mail; or the address of the location and the date and time at which the record may be examined. In the event the requester is unable to meet the specified date and time, alternative arrangements may be made with the official specified in § 1665.2(b)(1);

(iii) A statement, when appropriate, that examination in person will be the sole means of granting access only when the Records Manager has determined that it would not unduly impede the requester's right of access;

(iv) The amount of fees charged, if any (see § 1665.6) (Fees are applicable only to requests for copies.);

(v) The name, title, and telephone number of the SSS official having operational control over the record; and

(vi) The documentation required by SSS to verify the identity of the requester. At a minimum, SSS's verification standards include the following:

(A) Current or former SSS employees. Current or former SSS employees requesting access to a record pertaining to them in a system of records maintained by SSS may, in addition to the other requirements of this section, and at the sole discretion of the official having operational control over the record, have his or her identity verified by visual observation. If the current or former SSS employee cannot be so identified by the official having operational control over the records, identification documentation will be required. Employee identification cards, annuitant identification, drivers licenses, or the "employee copy" of any official personnel document in the record are examples of acceptable identification validation.

(B) Other than current or former SSS employees. Individuals other than current or former SSS employees requesting access to a record pertaining to them in a system of records maintained by SSS must produce identification documentation of the type described herein, prior to being granted access. The extent of the identification documentation required will depend on the type of record to be accessed. In most cases, identification verification will be accomplished by the presentation of two forms of identification. Any additional requirements are specified in the system notices published pursuant to 5 U.S.C. 552a(e)(4).

(C) Access granted by mail. For records to be accessed by mail, the Records Manager, shall, to the extent possible, establish identity by a comparison of signature in situations where the data in the record is not so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom they pertain. No identification documentation will be required for the disclosure to the requester of information required to be made available to the public by 5 U.S.C. 552. When in the opinion of the Records Manager the granting of access through the mail could reasonably be expected to result in harm or embarrassment if disclosed to a person other than the individual to whom the record pertains, a notarized statement of identity or some similar assurance of identity will be required.

(D) Unavailability of identification documentation. If an individual is unable to produce adequate identification documentation the individual will be required to sign a statement asserting identity and acknowledging that knowingly or willfully seeking or obtaining access to records about another person under false pretenses may result in a fine of up to $5,000. In addition, depending upon the sensitivity of the records sought to be accessed, the official having operational control over the records may require such further reasonable assurances as may be considered appropriate; e.g., statements of other individuals who can attest to the identity of the requester. No verification of identity will be required of individuals seeking access to records which are otherwise available to any person under 5 U.S.C. 552, Freedom of Information Act.

(E) Access by the parent of a minor, or legal guardian. A parent of a minor, upon presenting suitable personal identification, may access on behalf of the minor any record pertaining to the minor maintained by SSS in a system of records. A legal guardian may similarly act on behalf of an individual declared to be incomtetent due to physical or mental incapacity or age by a court of competent jurisdiction. Absent a court order or consent, a parent or legal guardian has no absolute right to have access to a record about a child. Minors are not precluded from exercising on their own behalf rights given to them by the Privacy Act.

(F) Granting access when accompanied by another individual. When an individual requesting access to his or her record in a system of records maintained by SSS wishes to be accompanied by another individual during the course of the examination of the record, the individual making the request shall submit to the official having operational control of the record, a signed statement authorizing that person access to the record.

(G) Denial of access for inadequate identification documentation. If the official having operational control over the records in a system of records maintained by SSS determines that an individual seeking access has not provided sufficient identification documentation to permit access, the official shall consult with the Records Manager prior to finally denying the individual access.

(H) Review of decision to deny access. Whenever the Records Manager determines, in accordance with the procedures herein, that access cannot be granted, the response will also include a statement of the procedures to obtain a review of the decision to deny in accord with section 1665.5.

(vii) Exceptions. Nothing in these regulations shall be construed to entitle an individual the right to access to any information compiled in reasonable anticipation of a civil action or proceeding. The mere fact that records in a system of records are frequently the subject of litigation does not bring those systems of records within the scope of this provision. This provision is not intended to preclude access by an individual to the records which are available to that individual under the other processes such as the Freedom of Information Act or the rules of civil procedure.

§ 1665.3 Access to the accounting of disclosures from records.

Rules governing the granting of access to the accounting of disclosure are the same as those for granting access to the records (including verification of identity) outlined in § 1665.2.

§ 1665.4 Requests to amend records.

(a) Requirement for written requests. Individuals desiring to amend a record that pertains to them in a system of records maintained by SSS must submit their request in writing in accord with the procedures set forth herein. Records not subject to the Privacy Act of 1974 will not be amended in accord with these provisions. However, individuals who believes that such records are inaccurate may bring this to the attention of SSS.

(b) Procedures. (1)(i) The requests to amend a record in a system of records shall be addressed to the Records Manager. Included in the request shall be the name of the system and a brief description of the record proposed for amendment. In the event the request to amend the record is the result of the individuals having gained access to the record in accordance with the provisions concerning access to records as set forth above, copies of previous correspondence between the requester and SSS will serve in lieu of a separate description of the record.

(ii) When the individual's indentity has been previously verified pursuant to § 1665.2(b)(2)(vi), further verification of identity is not required as long as the communication does not suggest that a need for verification is present. If the individuals identity has not been previously verified, SSS may required identification validation as described in § 1665.2(b)(2)(vi). Individuals desiring assistance in the preparation of a request to amend a record should contact the Records Manager at the address cited above.

(iii) The exact portion of the record the individual seeks to have amended should be clearly indicated. If possible, the proposed alternative language should also be set forth, or at a minimum, the facts which the individual believes are not accurate, relevant, timely, or complete should be set forth with such particularity as to permit SSS not only to understand the individuals basis for the request, but also to make an appropriate amendment to the record.

(iv) The request must also set forth the reasons why the individual believes his record is not accurate, relevant, timely, or complete. In order to avoid the retention by SSS of personal information merely to permit verification of records, the burden of persuading SSS to amend a record will be upon the individual. The individual must furnish sufficient facts to persuade the official in charge of the system of the inaccuracy, irrelevancy, timeliness or imcompleteness of the record.

(v) Incomplete or inaccurate requests will not be rejected categorically. The individual will be asked to clarify the request as needed.

(2) SSS action on the request. To the extent possible, a decision upon a request to amend a record will be made within 10 days, excluding Saturdays, Sundays, and legal Federal holidays. The response reflecting the decisions upon a request for amendment will include the following:

(i) The decision of the Selective Service System whether to grant in whole, or deny any part of the request to amend the record.

(ii) The reasons for determination for any portion of the request which is denied.

(iii) The name and address of the official with whom an appeal of the denial may be lodged.

(iv) The name and address of the official designated to assist, as necessary and upon request of, the individual making the request in preparation of the appeal.

(v) A description of the review of the appeal with SSS (see section 1665.5).

(vi) A description of any other procedures which may be required of the individual in order to process the appeal.

(3) If the nature of the request for the correction of the system of records precludes a decision within 10 days, the individual making the request will be informed within 10 days of the extended date for a decision. Such a decision will be issued as soon as it is reasonably possible, normally within 30 days from the receipt of the request (excluding Saturdays, Sundays, and legal Federal holidays) unless unusual circumstances preclude completing action within that time. If the expected completion date for the decision indicated cannot be met, the individual will be advised of the delay and of a revised date when the decision may be expected to be completed.

§1665.5 Request for review.

(a) Individuals wishing to request a review of the decision by SSS with regard to any initial request to access or amend a record in accord with the provisions of §§ 1665.2 and 1665.4, should submit the request for review in writing and, to the extent possible, include the information specified in § 1665.5(b). Individuals desiring assistance in the preparation of their request for review should contact the Records Manager at the address provided herein.

(b) The request for review should contain a brief description of the record invovled or in lieu thereof, copies of the correspondence from SSS in which the request to access or to amend was denied and also the reasons why the requester believes that access should be granted or the disputed information amended. The request for review should make reference to the information furnished by the individual in support of his claim and the reasons as required by §§ 1665.2 and 1665.4 set forth by SSS in its decision denying access or amendment. Appeals filed without a complete statement by the requester setting forth the reasons for the review will, of course, be processed. However, in order to make the appellate process as meaningful as possible, the requester's disagreement should be set forth in an understandable manner. In order to avoid the unnecessary retention of personal information, SSS reserves the right to dispose of the material concerning the request to access or amend a record if no request for review in accord with this section is received by SSS within 180 days of the mailing by SSS of its decision upon an initial request. A request for review received after the 180 day period may, at the discretion of the Records Manager be treated as an initial request to access or amend a record.

(c) The request for review should be addressed to the Director of Selective Service.

(d) The Director of Selective Service will inform the requester in writing of the decision on the request for review within 20 days (excluding Saturdays, Sundays, and legal Federal holidays) from the date of receipt by SSS of the individual's request for review unless the Director extends the 20 day period for good cause. The extension and the reasons therefor will be sent by SSS to the requester within the initial 20 day period. Such extensions should not be routine and should not normally exceed an additional thirty days. If the decision does not grant in full the request for amendment, the notice of the decision will provide a description of the steps the individual may take to obtain judicial review of such a decision, a statement that the individual may file a concise statement with SSS setting forth the individual's reasons for his disagreement with the decision and the procedures for filing such a statement of disagreement. The Director of Selective Service has the authority to determine

the "conciseness" of the statement, taking into account the scope of the disagreement and the complexity of the issues. Upon the filing of a proper, concise statement by the individual, any subsequent disclosure of the information in dispute will be clearly noted so that the fact that the record is disputed as apparent, a copy of the concise statement furnished and a concise statement by SSS setting forth its reasons for not making the requested changes, if SSS chooses to file such a statement. A notation of a dispute is required to be made only if an individual informs the agency of his disagreement with SSS's determination in accord with § 1665.5(a), (b) and (c). A copy of the individual's statement, and if it chooses, SSS's statement will be sent to any prior transferee of the disputed information who is listed on the accounting required by 5 U.S.C. 552a(c). If the reviewing official determines that the record should be amended in accord with the individual's request, SSS will promptly correct the record, advise the individual, and inform previous recipients if an accounting of the disclosure was made pursuant to 5 U.S.C. 552a(c). The notification of correction pertains to information actually disclosed.

§ 1665.6 Schedule of fees.

(a) Prohibitions against charging fees. Individuals will not be charged for:

(1) The search and review of the record.

(2) Any copies of the record produced as a necessary part of the process of making the record available for access, or

(3) Any copies of the requested record when it has been determined that access can only be accomplished by providing a copy of the record through the mail.

(4) Where a registrant has been charged under the Military Selective Service Act and must defend himself in a criminal prosecution, or where a registrant submits to induction and thereafter brings habeas corpus proceedings to test the validity of his induction, the Selective Service System will furnish to him, or to any person he may designate, one copy of his Selective Service file free of charge.

(b) Waiver. The Director of Selective Service may at no charge, provide copies of a record if it is determined the production of the copies is in the interest of the Government.

(c) Fee schedule and method of payment. Fees will be charged as provided below except as provided in paragraphs (a) and (b) of this section.

(1) Duplication of records. Records will be duplicated at a rate of $.25 per page.

(2) Fees should be paid in full prior to issuance of requested copies. In the event the requester is in arrears for previous requests, copies will not be provided for any subsequent request until the arrears have been paid in full.

(3) Remittance shall be in the form of cash, a personal check or bank draft drawn on a bank in the United States, or postal money order. Remittances shall be made payable to the order of the Selective Service System and mailed or delivered to the Records Manager, Selective Service System, Washington, D.C. 20435.

(4) A receipt for fees paid will be given upon request.

§ 1665.7 Information available to the public or to former employers of registrants.

(a) Each local board maintains a classification record which contains the name, selective service number, and the current and past classifications for each person assigned to that board. Information in this record may be inspected at the local board at which it is maintained.

(b) Any compensated employee of the Selective Service System may disclose to the former employer of a registrant who is serving in or who has been discharged from the Armed Forces whether the registrant has or has not been discharged and, if discharged, the date thereof, upon reasonable proof that the registrant left a position in the employ of the person requesting such information in order to serve in the Armed Forces.

(c) Whenever an office referred to in this section is closed, the request for information that otherwise would be submitted to it should be submitted to the National Headquarters, Selective Service System, Washington, D.C. 20435.

[FR Doc. 80-37547 Filed 12-2-80; 8:45 am]
BILLING CODE 8015-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 805

Local Advisory Committees, Overseas Dependents' Schools

AGENCY: Department of Education.

ACTION: Notice of public hearings on proposed regulations.

SUMMARY: The purpose of this notice is to announce the dates, times, and locations for six hearings on the proposed regulations on local advisory committees of the Overseas Dependents' Schools published in the Federal Register of November 7, 1980.

DATES: See Supplementary Information.

ADDRESSES: See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Dr. William L. Smith Administrator of Education for Overseas Dependents Department of Education Washington, D.C. 20202 202-245-8011.

SUPPLEMENTARY INFORMATION: Proposed regulations (34 CFR Part 805) were published in the Federal Register at 45 FR 73963 on November 7, 1980, to implement Section 1410 of Title XIV of the Education Amendments of 1978, as amended by Pub. L. 96-88. No announcement of hearings was contained in that notice.

Dates, times, and locations:

Regional Office, DoD Dependents' Schools, Karlsruhe, Federal Republic of Germany, December 5, 1980 1-4 p.m.

Regional Office, DoD Dependents' Schools, Okinawa, Japan, December 8, 1980 1-4 p.m.

Regional Office, DoD Dependents' Schools, Albrook Air Force Base, Panama, December 11, 1980 1-4 p.m.

Regional Office, DoD Dependents' Schools, Wiesbaden, Federal Republic of Germany, December 12, 1980 1-4 p.m.

Regional Office, DoD Dependents' Schools, London, England, December 17, 1980 1-4 p.m.

Regional Office, DoD Dependents' Schools, Madrid, Spain, January 16, 1980 1-4 p.m.

Dated: November 28, 1980.

William L. Smith,

Administrator of Education for Overseas Dependents.

[FR Doc. 80-37466 Filed 12-2-80; 8:45 am]
BILLING CODE 4000-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1109

[Ex Parte No. 393]

Standards for Railroad Revenue Adequacy

AGENCY: Interstate Commerce Commission.

ACTION: Proposed Repeal of Existing Rules and Notice of Proposed Standards.

SUMMARY: In this proceeding, the Commission will implement Section 205 of the Staggers Rail Act of 1980 (Rail Act). The Commission proposes new

standards for determining the adequacy of the revenues of individual railroads. The proposed new standards are intended to reflect the increased importance of railroad revenue adequacy, and the impact individual revenue adequacy determinations have on our exercise of jurisdiction under the Rail Act.

DATES: Comments are due on or before January 19, 1981. Because of the short time limits imposed on this proceeding by the Rail Act, we will not grant any extension of this period.

ADDRESS: Send comments to: Room 5356, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202) 275-7693; Bruce Stram (202) 275-7381.

SUPPLEMENTARY INFORMATION:

Background

Section 10704(a)(2) of the Interstate Commerce Act requires the Commission to establish and maintain standards and procedures for determining those revenue levels for rail carriers that are adequate to cover total operating expenses, including depreciation and obsolescence, plus a reasonable return on capital. That section of the Act also states that adequate revenue levels should:

(a) Provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

(b) Attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

Section 205(b)(2) of the Stagger Rail Act of 1980 (Rail Act) amends 49 U.S.C. 10704(a) by adding a new paragraph (3) directing the Commission to conclude a proceeding under 49 U.S.C. 10704(a)(2) within 180 days afters its effective date. Section 205(b)(2) also adds a new paragraph (4) directing the Commission to determine which rail carriers are earning adequate revenues within the same 180 day period, and on an annual basis thereafter.

The concept of revenue adequacy is important throughout the Rail Act. Section 101(a) of the Rail Act states that in regulating the railroad industry, it shall be the policy of the United States to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues. Section 201(a) of the Rail Act states that in determining whether a rate established by a rail carrier is reasonable, the Commission shall recognize the policy that rail carriers shall earn adequate revenues. The zone of rate flexibility established by Section 203 of the Rail Act may not be available after October 1, 1984 to carriers earning adequate revenues. Those carriers may not use the 4 percent zone above the adjusted base rate for single-line rates and, in all likelihood, joint line rates. That section also provides that complaints challenging the reasonableness of rates increased under the zone are judged differently when they involve carriers with adequate revenues. Section 217(a)(1) of the Rail Act allows carriers not earning adequate revenues to have greater freedom in applying surcharges to joint rates.

In this notice, the Commission proposes standards for determining the adequacy of the revenues earned by individual railroads. Adequate revenues should cover a railroad's costs plus an adequate rate of return on its investment base. The proposed standards separately consider the issues of (1) adequate rate of return and (2) valuation of the investment base. Comments are sought on these proposed standards. Individual railroads should also be in sound financial condition in order for their revenues to be deemed adequate. The proposed standards consider the operating ratio, the fixed charge coverage ratio and the throw off to debt ratio as means of determining whether individual railroads are in sound financial condition. Public comment is also requested as to whether any such standards regarding financial soundness are useful in assessing revenue adequacy, and whether the proposed measures are the most appropriate for this purpose.

The Commission will consider comments filed in response to this notice, and will then publish a final notice setting forth standards for determining railroad revenue adequacy. The Commission will then employ those standards to determine which railroads are earning adequate revenues.

The final notice setting forth the new standards will repeal the Commission's existing regulations on revenue adequacy at 49 CFR 1109.25, which were adopted in Ex Parte No. 338. Those existing regulations will be replaced by the new standards. The new standards for revenue adequacy will be more general and flexible than the existing regulations, and for this reason the new standards will not be published as rules in the Code of Federal Regulations.

An observation is in order concerning the relationship of revenue adequacy to the zone of rate freedom under Section 203 of the Staggers Act. A carrier that lacks adequate revenue may, after October 1, 1984, continue to implement rate increases each year equal to 4 percent of its adjusted base rate. Nonetheless, the Commission may consider the reasonableness of such increases upon the filing of a complaint by an interested party (assuming that the carrier is found to have market dominance). For this purpose, it should be understood that the computation of an adequate revenue level for the carrier does not represent a guarantee that the carrier will attain such a revenue level. It should not be expected, in other words, that a carrier with inadequate revenue under the proposed standards will have unlimited freedom to raise its rates on market dominant traffic. As we emphasized in Ex Parte No. 353, revenue need is not the only factor to be considered when the reasonableness of a rate is determined.

A Rate of Return Equal to the Cost of Capital

In Ex Parte No. 338 and Ex Parte No. 353, the Commission established standards and procedures for determining adequate railroad revenue levels. A return on investment equal to the cost of capital was only one of four standards the Commission indicated it would use in considering revenue adequacy. Financial ratios as indicators of financial structure, and flow of funds analyses were among the other standards considered in Ex Parte No. 338 and Ex Parte No. 353. along with the cost of capital, these standards established a range of revenue adequacy. The range's high value is a measure of the cost of capital. The range's low value results from the use of a funds-flow model. This low value for revenue adequacy, however, does not and was never intended to define a long term level of adequate revenue.[1] Rather, the low level calculation using funds-flow analysis is applicable only when it is necessary to assure that regulation per se does not provide carriers the current rate of return on redundant plant. Further, this measure conceptually establishes a minimum level of revenue adequacy. The 4R Act directed the Commission to help carriers achieve adequate revenues. The Ex Parte No. 353 flow of funds determinations represent minimum target levels to be achieved. Revenue

[1] We discussed this point at length several times in Ex Parte No. 353. See, for example 362 I.C.C. 223. There, we said, "That is, as unprofitable old investments are retired and new investments are made that earn a cost-of-capital return, a successful carrier's overall rate of return should gradually come to approximate the fair return level."

adequacy determinations are used differently in the Rail Act. In particular, carriers are denied additional rate flexibility if they are deemed revenue adequate. Thus, the Commission's determination will, to some degree, hold carriers' revenues down to the adequate level. In this context, minimum standards are not appropriate.

Funds flow analyses in general are dependent upon assumptions about the economic viability of the investment base. The Borts method used in Ex Parte No. 353 is no exception. The adequate earnings level resulting from that method is one that continues the previous rate of return on existing investment and provides a return equal to the current cost of capital on new investment. The implicit assumption of such a method is either that the railroad already was earning adequate revenues or that it has the flexibility to liquidate quickly capital that is not economically viable. A troublesome aspect to this method is that if in applying this approach to a particular railroad neither of these assumptions is accurate, a railroad earning less than adequate revenues could be deemed to be revenue adequate. Since railroads are not free to liquidate quickly bad investments, this approach ignores the issues of how much of the investment base is redundant and how long it takes to rationalize it.

Future revenue adequacy determinations ought not continue to ignore these issues. Instead of using a method of revenue adequacy assessment that makes unstated assumptions regarding the asset valuation problem, we are proposing to consider separately the issues of adequate rate of return and valuation of investment plant. Neither alone will suffice since revenue adequacy is a function of both pricing and structural decisions. Focusing attention in this proceeding on determination of what is and is not used and useful plant reflects this belief and the desirability or removing from the investment base rail plant that is neither used nor useful.

As to rate of return, we believe that the current cost of capital is the minimum rate necessary to attract and maintain capital in the railroad, or any other, industry.[2] The cost of capital is the rate of return required of a firm by the holders of its securities. If a firm is unable to earn the cost of capital, investors will be unwilling to supply capital to it. Thus, we believe the level of adequate revenue is one that earns a rate of return equal to the cost of capital.

The more difficult problem is valuation of the investment base. The problems are both theoretical and empirical. However, such problems must be addressed under any fair method of estimating revenue adequacy. Our proposal, described below, identifies the problem areas associated with valuation and attempts to answer them explicitly. We believe that using the cost of capital in conjunction with an estimate of the value of the investment base is preferable to the methods employed previously.

Proposed Investment Base Variation Procedures

If we are to use the cost of capital as our standard for measuring adequate revenue, then we must be careful not to overvalue the investment base by continuing to include in it assets that are neither used nor useful. Unless we eliminate such assets for our calculation, railroads actually earning adequate revenues will be considered to be revenue inadequate. We believe the following two-step procedure will allow us to make the necessary determinations in this regard and ask for comments on it.

As an approximation of the value of the rate base, we first propose using the sum of original cost plus betterments for valuation of track structures.[3] Conceptually this corresponds to standard regulatory rate base formulations that include original cost plus capitalized improvements (less depreciation). Depreciation represents a source of funds to repay the cost of an asset over the asset's economic life. As plant and equipment age and are depreciated, the railroad's investment base decreases. However, when these long term assets require improvements the railroad is also increasing its investment base through its expenditures on maintenance. Thus depreciation approximates the asset's decreasing economic value, while the maintenance expenditures represent the renewing of the asset. Conceptually then, if plant and equipment are well maintained, capitalized maintenance and depreciation can theoretically offset one another. The advantage of using original cost plus betterments is that such numbers are readily available for railroads while capitalized maintenance and depreciation are not. This fact is particularly germane given that this determination must be completed in six months. For accounts using depreciation accounting (all those other than track-related accounts), we propose using depreciated book value since the necessary information is more readily available.

This approach does not explicitly address the question of identifying used and useful plant. That is, the question as to whether and to what extent a railroad's rate base ought to include the capital cost of plant and equipment that will not be renewed is not considered explicitly. Logically, such plant and equipment should be valued at something less than original cost plus betterments. However, given that such investments are likely to be carried on the firm's books at a low original cost and are unlikely to have been bettered, we believe that the use of this approach will result in only a minor distortion.

Thus, as a first approximation of the value of the rate base, we propose using the sum of: (1) The original cost plus betterments of track structures and (2) the depreciated book value of all other investment. We are proposing that these data be provided by all Class I railroads to be used in the Commission's initial revenue adequacy determination required by the Rail Act to be completed within 180 days of enactment. A valuation based on these data will allow us to make the required revenue adequacy determination for each railroad within the statutory time period. For this initial determination, we wish to consider only original cost data since we believe replacement cost data will be too difficult to obtain and interpret within the statutory time period. Once the investment base is valued under this method, as with any method using original costs, we believe the proper cost of capital to apply is the current nominal rate. The use of the nominal rate compensates the railroad for inflation since it is the sum of the real rate of interest and a measure reflecting expected inflation and thus obviates to some degree the need for valuing the asset base at replacement cost levels.[4]

The original cost method provides a good approximation of a railroad's profitability. Still, as we explain below, a preferable methodology in our opinion may be to estimate the current value of railroad plant and equipment to establish an investment base. Conceptually, this procedure would value used and useful plant and equipment (including that required by

[2] This is a standard principle of economics. See, for example: James M. Henderson and Richard E. Quandt, *Microeconomic Theory*, 1958, pp. 243–252, or Burton G. Malkiel, "The Debt-Equity Combination of the Firm and the Cost of Capital: An Introductory Analysis," General Learning Press, 1971.

[3] We propose using the book value of betterments as currently defined under betterment accounting procedures.

[4] See, for example: Paul A. Samuelson, *Economics*, 8th Ed., pp. 582–583.

regulation) at depreciated replacement cost, and would value redundant track structure at liquidation value. By considering the economic value of the investment base, these methods remove the need to use a funds flow approach to revenue adequacy. Determination of revenue adequacy using these approaches is unambiguous. After the necessary valuations are made, any railroad not earning the cost of capital is considered not to be earning adequate revenues.

Clearly, the most difficult task in both methodologies is a proper valuation of the investment base. As we explained above, we are proposing that original cost data be required for the original determination, because the data are more easily obtained and interpreted than replacement cost data. Furthermore, we believe that original cost valuation, when used with the nominal cost of capital, is a theoretically correct and appealing method of determining revenue adequacy.

As noted, we believe the original cost calculation is appropriate for this first, 180-day determination of revenue adequacy. For the longer term, however, we believe that a valuation method employing depreciated replacement cost may be preferable. Thus, we are proposing that if, after the original determination is made, a railroad or a shipper using that railroad believes that the asset valuation method employed by the Commission unfairly describes the revenue adequacy of that railroad, then that party may petition the Commission to conduct a proceeding that assesses revenue adequacy on a replacement cost basis.

The replacement cost valuation method we will consider for use in subsequent determinations is similar in form to the original cost method. Under the replacement cost method, the investment base is the sum of: (1) All investment that is used and useful (valued at its depreciated replacement cost); (2) all investment necessitated by regulation (valued at its depreciated replacement cost); and (3) investment that is abandonable under current rules (valued at its liquidation value). Since replacement cost valuation already accounts for inflation, we believe that the current, real cost of capital is the proper standard on which to base revenue adequacy determination.

When using the replacement cost valuation method, it is necessary to identify investment that is abandonable under current rules. One method we have considered is to treat lines shown as Class I or II on a railroad's system diagram map as abandonable. Since redundant plant not only increases a carrier's investment base, but also reduces its profits, we do not believe that the use of these definitions for revenue adequacy purposes will induce railroads to retain otherwise abandonable investment. We are considering and will continue to consider, other methods of identifying abandonable lines for revenue adequacy purposes. We ask for comments on this issue. We emphasize that identifying abandonable lines is only necessary under the replacement cost valuation method and not under the original cost method proposed for the original determination.

We believe that replacement cost valuation can be preferable to original cost valuation. While both methods produce discounted cash flows that are equal, we believe the necessarily more frequent calculation of depreciation and inflation adjustments under the replacement cost method may often better reflect the true economic costs associated with the investment. The difficulty with using the replacement cost method however, is in estimating the actual value of individual investments. Since this valuation is not based on actual transactions, the value of particular investments may be difficult to estimate. That is why our proposed method relies, in the first instance, on original cost valuation with the current nominal cost of capital. In most cases, this method should provide an acceptable approximation. However, if an affected party believes this determination is not fairly indicative of a railroad's revenue adequacy, we will consider conducting a proceeding using the replacement cost method. If we believe that replacement cost estimates submitted by the parties to such a proceeding are at least as accurate as those submitted for the original cost method then our revenue adequacy determination for that railroad will be based on the replacement cost method. Otherwise, the original cost determination will hold.

One possible alternative to this two-part proposal would be to establish a transition period after which all revenue adequacy determinations would be based on replacement cost asset valuation. This alternative would, in many instances, result in somewhat more realistic valuations. There is a method of implementing this alternative that has the benefit of being mechanized through the Commission's depreciation and life analysis systems. Using these systems, valuations based on depreciated replacement cost (original cost indexed to account for inflation), can be readily determined for all assets other than the track structure. The track structure can be included by pricing it at current cost and depreciating such cost in a manner consistent with maintenance standards. We solicit comments on these issues.

We expect that identification of which lines are used and useful and which are abandonable will prove to be one of the most difficult elements in our proposed method. We do not think, however, that it will be necessary to make this estimation on a large scale for an extended period of time. Railroads have strong financial incentives to abandon as quickly as possible investment that is neither used and useful nor required by regulation. Once they have completed these retirements, virtually no remaining investment will be valued at liquidation value. If a railroad makes correct business decisions, its rate of return should approach the cost of capital. If it does not make correct business decisions, then it will cease earning revenue sufficient to attract capital investment. When management does not use a firm's assets in an efficient manner, management does not use a firm's assets in an efficient manner, management may become vulnerable to a takeover of the firm by investors who believe they can use the firm's assets more profitably.[5] If this occurs, then, in this case, too, its rate of return will eventually approach the cost of capital. We are asking for comments on whether the Commission should announce some transition period after which all investment will be considered to be used and useful. These comments should address both the feasibility and desirability of such action. We also ask for comment on whether, under this policy, regular monitoring by the Commission of each carrier's plant is useful after the completion of the transition period. Finally, we ask for comment on how long such a transition period should be.

Financial Ratios Indicative of a Carrier's Financial Condition

While a financially sound firm must earn at a minimum a rate of return at least equal to the cost of capital, evidence that a carrier is earning an adequate rate of return is not sufficient to determine if it is earning adequate revenues. It is possible for a firm to earn the cost of capital over a short period, even though it is not financially sound. For example, a carrier may not have sufficient liquidity to meet financial

[5] See: J. Fred Weston, Keith V. Smith, and Ronald Shrieves, "Conglomerate Performance Using the Capital Asset Pricing Model," *Review of Economics and Statistics*, November, 1972, pp. 357–362.

obligations that are soon to come due. In recognition of the need of all firms, including railroads, to maintain a sound financial structure, we propose to make a determination of sound financial condition an additional necessary condition for revenue adequacy. We further propose to base this determination on specific financial ratios. Such ratios were discussed in our decision in Ex Parte No. 353 and some continue to be appropriate. The operating ratio (operating expenses as a percentage of operating revenue) shows whether a carrier's operations are covering its current expenses. The fixed charge coverage ratio (income before fixed charges as a percentage of fixed charges) and the throw off to debt ratio (cash flow as a percentage of long-term debt due within one year) give an indication of a firm's ability to meet its existing financial obligations.

As additional standards of revenue adequacy, we propose an operating ratio of 0.85 or less, a fixed charge coverage ratio of 3.5 or greater, and a throw off to debt ratio of 3.5 or greater. The 0.85 operating ratio is about the same as the 1975–1977 average found for the "top eight carriers" in Ex Parte No. 353. The 3.5 fixed charge coverage ratio was used as a target ratio in Ex Parte No. 353 and was close to the 1977 median ratio for the better railroads in 1977. Since the throw off to debt ratio is somewhat parallel to the fixed charge coverage ratio (relating to payment of principal rather than interest), we propose to use the same 3.5 figure as a standard for it. We ask for comments on whether the use of the standard ratios is appropriate, whether the figures propose are the most suitable, and on whether these three financial ratios are the best ones to show the soundness of a carrier's financial condition.

Cost of Capital Determination

Under our proposed methods of calculating revenue adequacy, there is a need to calculate two costs of capital. One is the nominal cost of capital; the other is the real cost of capital. These rates differ in an inflationary world. The nominal cost of capital is the cost of capital stated in the ordinary way in terms of current dollars. The real cost of capital is the nominal cost of capital less the expected rate of inflation. That is, the real cost of capital shows the annual payment necessary to compensate owners of capital for use of their funds after accounting for the effects of expected inflation.

In previous revenue adequacy proceedings, we have calculated the nominal cost of capital by taking a weighted average of the cost of equity capital and the embedded cost of debt capital.The weighting was based on the capital structure of the railroads. We concluded in those proceedings that their total capitalization could be fairly characterized as being 40-percent debt and 60-percent equity. While we are asking for comments on whether these figures need to be changed, we still believe that a weighted average is the correct way of calculating the cost of capital.

We are proposing one change in the way we determine the current nominal cost of capital. In Ex Parte No. 353, we concluded that this rate should be based on the cost of embeded debt and the market value of equity. We now believe that for a revenue adequacy determination the correct cost of debt capital is the current cost of debt. We have reached this conclusion after considering what concepts a revenue adequacy determination is designed to reflect. Adequate revenues should assure retention and attraction of capital to provide a sound transportation system. A sound transportation system should return the cost of capital to investors and reflect that cost of capital in prices paid by users. These are forward-looking concepts. The year and the rate at which past debt was raised are not relevant for these purposes. The more relevant consideration is the cost to the railroad of raising (or not losing) capital for current and future investment. In periods of high and unpredictable rates of inflation, the use of embedded debt rates underestimates the cost of capital. Conversely, in periods when inflation fell below current levels, the embedded debt rate might overestimate the cost of capital. If a railroad attempts to raise capital today, while maintaining its current capitalization structure, its cost of capital is the weighted average of the current cost of debt and the market value of equity. If the flexibility granted revenue inadequate carriers is restricted in periods of high debt rates to carriers earning less than the cost of capital calculated using the embedded debt rate, some economically efficient investments (those earning at least the current cost of capital) may be foregone. The use of the current cost of debt gives carriers the opportunity to make such efficient investments. We believe that this forward-looking approach is contemplated by the Rail Act.

The use of the current debt rate has another important consequence. During periods of strong economic activity, the debt rate generally rises. When this occurs, the cost of capital and thus the revenue adequacy threshold also rise. The result is to provide railroads with more pricing flexibility during strong economic periods, when demand for rail services is generally high. This increased flexibility should help prevent service shortages and assure that scarce railroad resources are used efficiently.

As discussed earlier, the replacement cost valuation method requires the use of the real cost of capital. The real cost of capital, however, cannot be observed directly. We are proposing that the real cost of capital be calculated by subtracting some generally accepted estimate of inflation expected over the revenue adequacy determination period from our estimate of the nominal cost of capital. Such an estimate of the expected inflation rate might come from estimates already made by the Council of Economic Advisors or the Federal Reserve Board. We ask for comments on the feasibility of such a method and on sources of expected inflation estimates.

Conclusion

We seek comments on the various issues and approaches contained in this notice. In addition, while this action does not appear to affect significantly the quality of the human environment or conservation of energy resources, we invite comment on this subject.

(49 U.S.C. 10321, 10704(a); sec. 205(a)(1), Pub. L. 96–448; 5 U.S.C. 553)

Decided: November 20, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Gilliam concurring with a separate expression. Commissioner Clapp, dissenting in part, with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam, Concurring

I am concerned about relying on book value in determining the investment base, because I do not believe it represents a true picture of individual railroad revenue adequacy. However, due to the time constraints of the statute, I acquiesce in the use of this methodology only on an interim basis.

It is extremely important that we make an accurate assessment of the investment base because of the far reaching implications that a determination of revenue inadequacy will have on key provisions of the Staggers Rail Act. Specifically, in the joint rate area, such a determination would allow carriers to utilize the surcharge provision, whereas carriers earning adequate revenues would be limited to surcharges on lighter-density lines. A false determination in this area might defeat the intent of Congress.

Commissioner Clapp, Dissenting in Part

A majority of the Commission has proposed a methodology likely to ensure that every rail carrier in this country will be found

to have inadequate revenues. That conclusion, so obviously postulated by this decision, may or may not be a fact. I am deeply distrubed, however, by the paucity of meaningful analysis in this notice.

A rate of return equal to the current cost of capital is valid as a primary measure only if one has confidence that the measure of the railroads' used and useful net investment base is accurate. The methodology we have used in the past may well result in overstatements. The majority's proposal to use the sum of original cost plus betterments track structures is highly questionable, however, since it rests on the unsound premise that capitalized maintenance and depreciation tend to offset each other. This could only be true if large amounts of deferred maintenance had not occurred in recent years.

I am troubled by the lack of serious staff effort to refine funds flow methodology during the past year. The problem with using this approach to determine whether individual carriers have attained adequate levels is a practical rather than theoretical one. Efforts in this direction may yet prove fruitful and should not be abandoned.

The Commission's Bureau of Accounts is exploring the derivation of approximate replacement costs for possible use in future proceedings. While this effort carries no iron-clad guarantee of success, it is an attempt to get at the heart of the revenue adequacy controversy. However, if the approach can be applied within the 180 day deadline which I understand is possible it should be done. The parties should address specific alternative interim proposals, including possible refinements to the "financial ratios" analysis of individual carrier revenue adequacy used in Ex Parte No. 353 which specifically take into account rail investment requirements.

I question the use of the current cost of debt in deriving the weighted cost of capital. Since the present approach includes an adjustment for anticipated near term borrowing, the proposal appears to overstate actual debt cost.

It would indeed be unfortunate if this Commission, in a quest for a simple answer to a complex issue, does not examine the revenue adequacy question with an open mind. As Commissioner Gilliam infers, Section 217 of the Staggers Rail Act could injure certain segments of the railroad industry itself if inaccurate findings of revenue adequacy result.

[FR Doc. 80-37572 Filed 12-3-80; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 45, No. 234
Wednesday, December 3, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Agreement Regarding the In-Lieu Selection of Federal Lands by the State of Arizona

AGENCY: Advisory Council in Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to Section 800.8 of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the Bureau of Land Management (BLM), U.S. Department of Interior and the Arizona State Historic Preservation Officer (SHPO), providing for the protection of historic and cultural properties in connection with "in-lieu" selection by the State of Arizona of lands administered by BLM. BLM proposes to transfer some 194,000 acres of land to the State in lieu of certain lands specifice by Sec. 24 of Pub. L. 61–219 (36 Stat. 572) which could not be transferred because of prior encumbrances. The proposes Programmatic Memorandum of Agreement will establish mechanisms by which historic and cultural properties will be protected both during the selection process and thereafter in order to meet the requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470F).

COMMENTS DUE: January 2, 1981.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas F. King, Director, Office of Cultural Resource Preservation, Advisory Council on Historic Preservation, 1522 K Street NW, Washington, DC 20005. Telephone: 202–254–3974.

Dated: November 26, 1980.

Thomas F. King,

Acting Executive Director.

[FR Doc. 80-37495 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forest Service

Continental Divide National Scenic Trail Advisory Council; Meeting

The Continental Divide National Scenic Trail Advisory Council will meet at 10:00 a.m. on January 14, 1981, and continue until 2:00 p.m. on January 17, 1981. The meeting will be held at the Ramada Inn, 712 Central NW in Albuquerque, New Mexico. The purpose of the meeting is to discuss matters relating to the Continental Divide National Scenic Trail. Agenda items include schedule to complete Comprehensive Management Plan (CMP), Public Involvement Plan as part of the CMP, interim management directions, outline of CMP, reports by State subgroup chairmen, statement of purpose for the Continental Divide National Scenic Trail, and proposed criteria to be used in locating, developing and managing the CDNST.

The meeting will be open to the public. For additional information, contact the Forest Service by telephone (303–234–4082) or by mail (USDA, Forest Service, Rocky Mountain Region, P.O. Box 25127, Lakewood, CO 80225).

November 24, 1980.

Craig W. Rupp,

Continental Divide National Scenic Trail Advisory Council Chairman.

[FR Doc. 80-37586 Filed 12-2-80; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan, National Forests in Alabama; Winston, Lawrence, Franklin, Hale, Perry, Chilton, Bibb, Dallas, Tuscaloosa, Calhoun, Clay, Cleburne, Talladega, Covington, Escambia, and Macon Counties; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (Pub. L. 91–190), the Forest Service, Department of Agriculture will prepare an environmental impact statement on the Land and Resource Management Plan for the National Forests in Alabama. This Land and Resource Management Plan is being prepared in accordance with requirements of the Secretary's regulations promulgated pursuant to Section 6 of the National Forest Management Act of 1976 (Pub. L. 94–588). The resulting plan will provide for the multiple use and sustained yield of goods and services from the National Forests in Alabama.

The planning process will integrate all resource planning—timber, range, wildlife and fish, water, wilderness, minerals and recreation—together with resource protection and resource use activities; and will provide management direction for these resources for the next decade. The planning process will be issue-oriented; i.e., public issues, management concerns, and development opportunities will be analyzed continually throughout the process.

A reasonable range of alternatives will be formulated by an interdisciplinary team to provide different ways to address and respond to the major public issues, management concerns and resource opportunities identified during this planning process.

Alternatives will reflect a range of resource outputs and expenditure levels. In formulating these alternatives, the following criteria will be met:

1. Each alternative will be capable of being achieved;

2. A no-action alternative will be formulated that is the most likely condition expected to exist in the future if current management direction would continue unchanged;

3. Each alternative will provide for orderly elimination of backlogs of needed treatment for the restoration of renewable resources as necessary to achieve the multiple-use objectives of that alternative;

4. Each identified major public issue and management concern will be addressed in one or more alternatives; and

5. Each alternative will represent, to the extent practicable, the most cost efficient combination of management practices examined that can meet the objectives established in the alternative. Each alternative will state at least:

a. The expected condition and uses that will result from long-term application;

b. The expected goods and services to be produced, and the timing and flow of these outputs;

c. Resource management standards and guidelines; and

d. The purposes of the management direction proposed.

Public involvement will be sought early and often during the development of the Forest Plan. As an early step in the planning process, Federal, State, and local agencies, organizations, and individuals who may be interested in, or be affected by the decision, will be invited to participate in a scoping process which will involve a review of tentative issues identified from previous public responses to Forest proposals. To accomplish this scoping process, the National Forests in Alabama will prepare infromation packets early in 1981 to be sent to Federal, State, and local agencies, organizations and individuals who may be interested or have expressed in interest in National Forest Planning. Media releases will be prepared requesting public participation in this scoping process. Other media releases will be prepared throughout the planning process. The comment period will be from February 1981 to March 1981.

Written comments should be sent to Mr. Arthur D. Woody, National Forests in Alabama; 1765 Highland Avenue, Montgomery, Alabama, 36107 (205-832-7630).

The draft environmental impact statement and plan should be available by September 1982 for a 90 day comment period. The final environmental impact statement and plan is scheduled for completion in September 1983.

Lawrence M. Whitfield, Regional Forester, Southern Region of the Forest Service, is the responsible official for the environmental impact statement and plan.

For further information about the planning process or the environmental impact statement, contact: George S. Gibbs, Land Management Planner, National Forests in Alabama (205-832-7630).

Dated: November 21, 1980.

James S. Sabin, Jr.,

Deputy Regional Forster.

[FR Doc. 80-37521 Filed 12-2-80; 8:45 am]

BILLING CODE 3410-11-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences; Executive Committee

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Science and Education Administration announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences

Date: December 10, 1980

Time and Place: 8:30 a.m.-4:30 p.m., Room 3109, South Building, USDA, Washington, D.C.

Type of Meeting. Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: Review final draft of *Areas of Emphasis* report (Five-Year Plan); *Research Facilities Study*; and *1980 Annual Report* of the Joint Council. Discuss Joint Council Response to 1980 Report of the National Agricultural Research and Extension Users Advisory Board.

Contact Person: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, U.S. Department of Agriculture, Room 351-A, Administration Building, Washington, D C. 20250, telephone (202) 447-6651.

Done at Washington, D.C., this 21st day of November 1980.

John G. Stovall,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 80-37536 Filed 12-2-80; 8:45 am]

BILLING CODE 3410-03-M

DEPARTMENT OF COMMERCE

International Trade Administration Countertop Microwave Ovens From Japan; Final Determination of Sales at Less Than Fair Value, and Exclusions From Final Determination of Sales at Less Than Fair Value

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Determination of Sales at Less Than Fair Value.

SUMMARY: The Department of Commerce has reached a final determination, based on an antidumping investigation, that countertop microwave ovens from Japan are being sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673b). Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. This final determination excludes those microwave ovens produced by Matsushita Electric Industrial Co., Ltd., Sanyo Electric Co., Ltd., and Sharp Corporation. For purposes of this determination the term "countertop microwave ovens" means countertop microwave ovens classifiable under item 684.2500 Tariff Schedules of the United States Annotated (1980).

We have referred this case to the United States International Trade Commission for a determination concerning possible material injury to an industry in the United States.

EFFECTIVE DATE: December 3, 1980.

FOR FURTHER INFORMATION CONTACT: Leon McNeill, Miguel Pardo de Zela, or Richard Rimlinger, Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377-2433, 5050, or 3962.

SUPPLEMENTARY INFORMATION:

Procedural Background

August 29, 1979: The Department of the Treasury (Treasury) published an "Antidumping Proceeding Notice" in the Federal Register (44 FR 50668). Treasury initiated its investigation based on a position from counsel representing the Association of Home Appliance Manufacturers, Chicago, Illinois, and Amana Refrigeration, Inc., Amana, Iowa. The petition alleged that countertop microwave ovens from Japan were being, or were likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, (19 U.S.C. 160 *et seq.*) ("the 1921 Act").

The notice indicated that there was evidence on the record concerning injury to, or likelihood of injury to, an industry in the United States. However, the notice further indicated that there was substantial doubt that imports of such merchandise were causing, or were likely to cause, injury. Pursuant to section 201(c)(2) of the 1921 Act, Treasury so advised the United States International Trade Commission (ITC).

September 20, 1979: The ITC notified Treasury that there was a reasonable indication that an industry in the United States is being, or is likely to be, injured by the importation of this merchandise.

January 1, 1980: The law which governed this proceeding changed. Title I of the Trade Agreements Act of 1979 (93 Stat. 151, 19 U.S.C. 1671 *et seq.*) repealed the existing 1921 Act and replaced it with Subtitle B of Title VII of the Tariff Act of 1930 ("the Act"). In accordance with the new law, specifically section 733(a) of the Tariff Act of 1930, the ITC instituted a preliminary antidumping investigation to determine whether there was a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, because of imports of countertop microwave ovens from Japan.

February 14, 1980: The ITC notified the Department of Commerce, which became the Administering Authority under Title I of the Trade Agreements Act on January 2, 1980, that there was a reasonable indication of material injury.

May 7, 1980: The Commerce Department published a "Postponement of Preliminary Determination" notice (45 FR 30101). The postponement was required to address difficulties which arose in selecting home market microwave oven models that could be compared to those models exported to the United States. Also, there was a need for additional time to determine whether certain claims for circumstances of sale adjustments were legally valid.

July 15, 1980: The Department of Commerce published a notice of "Preliminary Determination of Sales at Less Than Fair Value, Suspension of Liquidation and Exclusions from Suspension of Liquidation" (45 Fr 47456). With this notice, the Department of Commerce advised the public that it had reached a preliminary determination that countertop microwave ovens from Japan were being, or were likely to be, sold at less than fair value, and that U.S. Customs would suspend liquidation for all entries of countertop microwave ovens which were entered or withdrawn from warehouse for consumption. It excluded entries of this merchandise produced by Matsushita Electric Industrical Co., Ltd. (Matsushita), Sanyo Electric Co., Ltd. (Sanyo), and Sharp Corporation (Sharp) from the suspension of liquidation.

The Department of Commerce also announced that it was referring this case to the ITC for an investigation to determine if an industry in the United States was being materially injured because of sales of this merchandise at less than fair value. Finally, it invited interested persons to comment on the preliminary decision.

August 13, 1980; The Department of Commerce published (45 FR 53852) a notice of Extension of Period for Final Determination. Counsel for Tokyo Shibaura Corporation (Toshiba) requested the extension and was supported by counsel for the petitioner. Accordingly, we postponed the final determination for sixty days.

September 30, 1980: The Department of Commerce held a public hearing to discuss all issues raised in the investigation and we gave interested parties an opportunity to submit briefs. We have now considered all issues raised either orally or in writing.

Industry Profile of Japanese Exporters

At the time the Department of Commerce initiated this case it selected for investigation Sharp, Sanyo, and Toshiba. Shortly after initiation Matsushita requested to be included in the investigation and voluntarily submitted data. These firms are all large multintional corporations that manufacture a wide variety of consumer electronic products. In the case of microwave ovens, these manufacturers accounted for 98 percent of the 740,000 units imported into the United States in 1979, at a value of $149 million.

We provided other manufacturers with an opportunity to submit information concerning their sales during the investigatory period, and Mitsubishi Electric Corporation of Japan (Mitsubishi) did submit sales data to us on November 12, 1980. However, we did not receive Mitsubishi's data in sufficient time to allow us to verify and analyze this data prior to ITC's injury decision. Therefore, we have decided to disregard this information for purposes of this final determination.

Analysis

Overview

We obtained data from the exporters selected for our investigation in accordance with secion 353.38(a), Commerce Regulations (19 CFR 353.38(a)) and we looked at those prices, both in Japan and the United States, which applied to "arms length" sales between manufacturer and purchaser during the period of investigation (March 1, 1979 through August 31, 1979). We then compared the prices of the same or similar microwave oven models selling in both markets to determine if any models had been sold in the U.S. market at less than fair value within the meaning of the Act.

Pricing, United States Price

We calculated two sets of prices for sales of microwave ovens in the United States—the exporter's sales price (ESP) and the purchase price.

ESP prices applied to sales made to unrelated U.S. customers through wholly owned U.S. subsidiaries of the Japanese producers, in accordance with section 772(c) of the Act (19 U.S.C. 1677a(c)). We made deductions, where applicable, to the transaction price to remove costs incurred in transferring microwave ovens from the Japanese to the American market. The above deductions included: Japanese inland freight, shipping, ocean freight, brokerage, U.S. duty, U.S. inland freight, insurance, banking charges, and wharfage. We also made deductions for discounts, rebates, commissions, warranty costs, royalties, payment terms costs, advertising, co-op advertising, promotional costs, and selling expenses.

We made an addition to ESP for the Japanese commodity tax incurred by home market sales but rebated or not collected on exported merchandise.

Purchase price applied to those sales made directly from Japan to unrelated U.S. customers, in accordance with the section 772(b) of the Act (19 U.S.C. 1677a(b)). We calculated purchase prices on the basis of the f.o.b. Japan price to unrelated U.S. customers with deductions, where applicable, for Japanese inland freight, shipping charges, and royalties.

We made an addition to purchase price to reflect the Japanese commodity tax incurred by home market sales but rebated or not collected on exported merchandise.

Pricing, Foreign Market Value

During the period under investigation, all four Japanese producers that we selected had adequate sales in their home market.

Therefore, we were able to calculate home market prices as defined in section 353.3, Commerce Regulations (19 CFR 353.3). As a general rule, we based home market prices on the price of manufacturers to Japanese distributors with deductions, where applicable, for inland freight, rebates, discounts, commissions, payment term expenses, warranty, advertising and promotion expenses. When comparing home market price to ESP prices we made an additional deduction for selling expenses to offset all, or part, of the selling expenses deducted from the U.S. price. Other important adjustment included differences in merchandise between models paired for comparison, and packing.

Specific Issues of the Investigation

In our investigation of the four Japanese companies (Matsushita, Sharp, Toshiba, and Sanyo), issues arose that were specific to each individual company regarding the appropriate levels of trade and the prices of microwave ovens sold. We have presented below the issues, by company, treating first levels of trade and then adjustments made to prices in both the home market and the U.S. market.

Matsushita

Level of Trade: In the home market, Matsushita sold only to distributors (wholesalers). To make comparisons at the same level of trade in the U.S. we examined only those export sales to the

U.S. which were transacted between Matsushita's U.S. subsidiaries and U.S. distributors. With this limitation, we made comparisons on 85 percent of U.S. sales of models exported to the United States during the investigatory period of March 1, 1979, through August 31, 1979.

We concluded, then, that the levels of trade in both markets chosen for comparative purposes were justifiable.

Price adjustments: In the preliminary determination we addressed four circumstance of sale adjustments claimed by Matsushita in its home market. These claims included:

1. An incentive discount paid by Matsushita to a wholly owned finance company as a subsidy for handling installment sales.

2. General selling expenses such as non-warranty repair and servicing, salaries, overhead, etc., which are incurred by a special microwave oven department in Matsushita's organizational structure.

3. A series of volume rebates which are paid by Matsushita to home market distributors, or to home market retailers through distributors, based on purchases of a composite of products over a given period of time.

4. Interest expenses incurred on rebate funds left on deposit with Matsushita by members of a Matsushita dealers' association.

As in the preliminary determination, we have again decided to disallow the first two items and allow the remaining items. The item-by-item bases for this decision are as follows:

1. The first item involves the intracorporate transfer of funds for purposes of augmenting financial resources available to the subsidiary finance company to underwrite retail purchases of the manufacturer's product line. We have concluded that intracorporate transfers, for whatever reasons, are not "selling costs of a seller" within the meaning of § 353.15(b), Commerce Regulations (19 CFR 353.15(b)) and, accordingly, we disallowed this circumstance of sale adjustment.

2. The second item represents expenditures for internal corporate activities which are claimed by Matsushita to be in support of microwave related activities. However, we have found these expenditures to be normal corporate general and administrative expenses which are not "directly related to the sales under consideration" within the meaning of section 353.15(b) and, accordingly, we have denied the claimed adjustments.

3. The third item represents four volume discounts (volume discount, additional volume discount, big account volume discount, and mass merchandiser volume discount) which are, in fact, post sales rebates provided to various classes of customers at varying rates upon the achievement of pre-determined sales volumes. The rebates are calculated as a percentage of the gross volume of sales of all manufactured household products, including microwave ovens. The amount of the adjustment claimed was calculated on the premise that sales of microwave ovens contributed to the total discounts actually paid dealers in direct proportion to their relative volume to overall product line sales.

We tested this assumption by reviewing specific sales and volume rebate breakdowns from five selected distributors. Based upon this review, we have concluded that the amount of Matsushita's claim reasonably reflected the total rebates paid on sales of microwave ovens.

4. The fourth item represented an interest payment ("additional discount") on monies ("discounts") accrued to the accounts of various dealers as a result of their participation in a national dealers' association, but voluntarily left in the custody of the manufacturer. The adjustment claimed was the difference between the "additional discount" paid to the participating dealers and the interest received by the manufacturer on the deposit of such funds in interest bearing accounts. The Acting Assistant Secretary of the Treasury specifically approved this type of adjustment in a letter to Matsushita dated February 6, 1973.

In this case we have followed precedent. However, in connection with a comprehensive review of our rules and regulations, we are reexamining the issue involved and leaving open the question whether, in the future, we should use more stringent criteria to determine whether the claimed deduction is "directly related" to the relevant sales.

Sharp

Level of trade: Sharp sold only to related distributors (wholesalers) in the home market. In the preliminary determination we noted that prices to related distributors in the home market could be compared to prices of U.S. sales to unrelated distributors if they could be shown to be at "arm's length." At that time we stated that additional information would be requested and verified by us before making a final decision on the matter.

Since the preliminary determination we received additional information on four related distributors which was verified and examined by us. However, rather then reaching a determination whether the prices between Sharp and its related distributors represent "arms length" transactions within the meaning of § 353.22(b), Commerce Regulations, we have decided to utilize the resale prices of related distributors to unrelated dealers (retailers) in the home market for fair value comparison purposes.

To adjust these prices for differences with the comparable U.S. level of trades, we made a circumstance of sale adjustment as provided in § 353.19 Commerce Regulations (19 CFR 353.19). Specifically, we made an adjustment equal to the total amount of the weighted average expenses and profits (gross margins) experienced by the four distributors during the six month period April through September 1979. The adjustment was made only after we determined that the average gross margins that Sharp's related distributors realized were within a reasonable range of the gross margins realized by unrelated distributors of another microwave oven manufacturer. The average gross margins of Sharp's unrelated distributors were also quite close to average gross margins for distributors of consumer electrical appliances according to publicly available statistics.

In summary, we based our calculations of Sharp's home market price on the sales of four related distributors to unrelated dealers, with deductions for a level of trade adjustment, inland freight, a "friend shop" rebate (paid by Sharp to dealers through distributors and based on dealers' purchasing commitments), payment term expenses, warranty, and advertising. For comparisons involving ESP, we made an additional deduction for actual selling expenses up to the amount of the selling expenses deducted from the U.S. price.

Price Adjustments: In the home market we disallowed a circumstance of sale adjustment claim for credit rebates paid to retailers through distributors for installment purchases of all Sharp kitchen products. Sharp was not able to tie this claim directly to sales of microwave ovens as required by section 353.15(a), Commerce Regulations (19 CFR 353.15(a)).

We also disallowed portions of Sharp's circumstance of sale claim for direct advertising because they were either fixed overhead expenses which did not bear a direct relationship to the sales under consideration, or were attributable to sales of all kitchen products and could not be broken down on a product line basis.

Finally, Sharp requested a circumstance of sale adjustment for differences in cost to process export and home market orders. We disallowed this claim because we concluded the expense item to be a fixed general selling expense which does not meet the criteria set forth in § 353.15, and is not attributable to a later sale of the merchandise by a purchaser.

Toshiba

Level of Trade: Toshiba made all of its sales in its home market to unrelated distributors (wholesalers). In the U.S. market, Toshiba sold microwave ovens mainly to unrelated U.S. dealers (retailers) and some to distributors. However, for comparative purposes we treated both levels of sales in the U.S. as being the same. Data we received from Toshiba showed that there was no strict correlation in price for sales made to U.S. dealers as opposed to U.S. distributors. In fact, dealers frequently received a better price than distributors in the purchases we compared.

Price Adjustments: Toshiba claimed several deductions to the price of its home market models. Included were:

—A "commission" given to distributors, really a level of trade discount.
—A "special sales promotion discount" given on a model-by-model basis to insure price competitiveness and revive sales of lagging models.
—A "retail sales promotion discount" granted to retailers through distributors to encourage a greater volume of purchases at this level.
—A "sales promotion discount" granted to assist distributors' local sales promotional activities.
—A "special discount" given on a month-by-month basis to promote sales at selected times of the year.

To determine what the deduction for each item (with the exception of the special sales promotion discount) should be from the home market price of a given microwave oven, we computed the percentage of total microwave oven sales revenues that these discounts constituted. The resulting percentages were then applied against the per unit nationwide sales price to calculate the exact per unit amount of each deduction.

At the time of the preliminary determination, the lack of complete data did not permit full deductions to be made. Since then we have received the necessary information and we now have made full deductions.

We followed a different procedure for the special promotion discount, since it is a model specific discount. At the time of the preliminary determination, Toshiba had supplied data showing the discounts paid on two specific home market models, the ER 547 DL and ER 557. Based on an analysis of technical and other information supplied by Toshiba, we decided that home market model ER 657 was more comparable to certain export models than ER 547 DL. Therefore, we replaced model ER 547 DL with model ER 657 for all applicable fair value comparisons. Because, at the time of the preliminary decision, Toshiba had not indicated the total amount of special promotion discount attributable to sales of model ER 657, we could not make a deduction for this item.

Since the preliminary determination Toshiba has supplied information on the total nationwide special sales promotion discounts paid on both home market models ER 557 and ER 657. We have now made the necessary deduction for this item.

At the time of the preliminary determination Toshiba had not supplied any cost information concerning differences in the microwave ovens sold in the home market and those sold in the U.S. In our preliminary determination we relied on descriptive literature and specification information supplied by Toshiba, and cost adjustment information supplied by the other respondents in this investigation, to adjust for these differences. Since then Toshiba has supplied information regarding these differences which we have verified and applied to our analysis.

Finally, in the U.S. market Toshiba calculated an adjustment for certain U.S. expenses such as office maintenance, rent, entertainment and other miscellaneous expenses by using a method of allocation based on the number of employees assigned to microwave ovens. We agree that allocation of these expenses according to the number of personnel could be appropriate. However, in this case, Toshiba's expenses in Japan were allocated according to sales volume and, since we decided it was necessary to be consistent for a proper fair value comparison, we used the same approach for the allocation of costs in the U.S.

Appropriateness of Model Comparisons: Counsel for Toshiba argued that the Commerce Department's selection of home market models was incorrect. In its initial response Toshiba selected home market model ER 547 for comparison purposes. However, a technical analyst with the Department of Commerce, after having reviewed the available technical information concerning Toshiba's export and home market models, selected home market models ER 626 and ER 657 as being more comparable to certain U.S. models. Although the Commerce Department's technical analyst had selected ER 626 as being slightly more comparable to the export models, he did indicate that the degree of difference between the ER 626 and the ER 657 was technically insignificant. The Department of Commerce decided to use the ER 657 for comparisons instead of the ER 626 because the production period of the ER 657 was more closely aligned with the production periods for the export models.

Counsel for Toshiba contended that model ER 547, or alternately model ER 626, should have been used for comparisons. It was Toshiba's position that the Department of Commerce was not permitted to consider production dates as determinative of foreign market value (fair value) and should have been guided by sales dates. Toshiba further contended that since sales of the ER 626 were more prevalent during the relevant period than sales of the ER 657, we should have selected the ER 626 for comparison purposes.

We concluded that in selecting such or similar merchandise within the meaning of section 771(16) of the Act, the Department can justifiably consider production periods as a factor in its decision. Since in this case, both models were sold in sufficient quantities during the relevant period and the technical differences between the two were insignificant, the Department felt that it was reasonable to use production periods as the determinant factor in its decision.

Sanyo

Level of Trade: Sanyo made sales in the home market to related and unrelated distributors. However, since there was no distinction in sales price between sales to related and unrelated distributors, we considered all distributor sales data in calculating Sanyo's home market price.

Price Adjustment: Sanyo claimed a deduction from home market price for salesmen's salaries and commissions. We have disallowed this claim as a circumstance of sale adjustment because Sanyo has made no attempt to differentiate between salaries paid to third parties, which are allowable, and salaries paid to Sanyo employees, which are not. However, a claim made by Sanyo for an early payment cash discount, which was disallowed at the preliminary determination due to lack of proper quantification, has now been properly quantified and allowed.

Other Issues

Petitioner raised several issues during the course of the investigation. Below is the statement of each issue and the Department's response to it.

Proper Comparison of Microwave Oven Models: Petitioner, through counsel, requested that the Department compare microprocessor models marketed in the U.S. with microprocessor models marketed in Japan. A microprocessor model is a microwave oven which is controlled electronically by microprocessors or microcomputers as opposed to an oven which is controlled mechanically. Petitioner cited a number of models as having been offered in the home market at the same time by Matsushita, Sanyo and Sharp and possibly sold during the period under investigation.

The Department of Commerce concluded, based on verified information received from the respondents, that there were no sales of microprocessor units during the investigative period which could be used for comparison purposes. The Department found that the models cited by the petitioner as home market microprocessor units were either not sold during the period, or were sold as parts of combination units which are not covered by this investigation.

Expansion of the period of investigation: Petitioner requested that the period under investigation be expanded to include a period when microprocessor units were sold in Japan, if no such models were sold in the home market during the investigative period. The Department determined that an expansion of the investigatory period at this late stage was unwarranted, and that such an expansion would constitute an unfair burden to the respondents in this case.

Appropriate level of trade analysis: Petitioner suggested that there was a "close linkage" among manufacturers and distributors in Japan, and that the Department should examine distributor sales to retailers for all the respondents. Petitioner further claimed that it was necessary to work backwards from prices to retailers in order to uncover generic information about the discount structure in the Japanese distribution system.

In choosing the level of trade in which to make fair value comparisons, we have based our decision on the language of §§ 353.19 and 353.22(b). Section 353.19 directs that the comparison of the United States price with the applicable price in the market of the country of exportation generally will be made at the same commercial level of trade if sufficient sales exist at the level. Section 353.22(b), directs that sales to a person related to the seller of the merchandise ordinarily will not be used in the determination of foreign market value unless such sales are demonstrated, to the satisfaction of the Department, to be at prices comparable to those at which such or similar merchandise is sold to persons unrelated to the seller.

In the cases of Matsushita, Sanyo, and Toshiba, we were satisfied that sales in Japan were at "arm's length". Comparisons with the same level of trade in the United States were thus possible.

With respect to Sharp, all distributors were related within the meaning of section 771(13), and as explained earlier, we did not have to decide in this investigation whether Sharp's sales were in fact at "arm's length" since we utilized prices to unrelated retailers for fair value comparisons, adjusting for differences in the level of trade.

Sales to buying groups: Petitioner expressed concern that the Department of Commerce had omitted sales to national and retail buying groups in the United States from its calculations of exporter's sales prices for the four respondents. Petitioner stated that such sales should properly be considered sales at wholesale as opposed to sales at retail.

We did not eliminate from comparison any significant sales to national and retail buying groups that might have been made during the period under investigation. The information in the record indicates that such sales were not prevalent, and minimal at best.

Verification

In accordance with section 776(a) of the Act (93 Stat. 186, 19 U.S.C. 1677e(a)) officials of both the Department of Commerce and the U.S. Customs Service verified all information used in making this determination to the extent that such information by its nature is verifiable. The officials were granted access to the books and records of the foreign producers and their U.S. subsidiaries and used traditional verification procedures. These procedures included on site inspection of randomly selected source documents such as audited financial statements, bills of materials, various accounting ledgers, and proof of payment records such as invoices and cancelled checks pertinent to this investigation, inspection of promotional materials and material advertisements, and in certain instances, inspection of specific microwave oven models.

Determination of Sales at Less Than Fair Value

Fair value comparisons were made on approximately 94 percent of the subject merchandise sold either directly from Japan, or through Japanese subsidiaries in the United States to unrelated U.S. customers by all four manufacturers subject to this investigation. Dumping margins were found on 6 percent of sales compared ranging from 0.2 to 57 percent for the sales at margin. The overall weighted-average margin we found on all sales compared was 1.1 percent.

All margins we found were on sales made by Toshiba. Toshiba had margins on approximately 73 percent of its sales. Toshiba's weighted-average margin on all sales compared was 13.1 percent. We found no margins on sales by Matsushita, Sanyo and Sharp.

Based on the foregoing, I hereby determine that microwave ovens from Japan, except those produced by Sharp, Sanyo and Matsushita, are being sold at less than fair value in the United States.

In accordance with section 735(c)(1)(A) of the Act (93 Stat. 169, 19 U.S.C. 1673d(c)(1)(A)), we are making available to the ITC the information upon which this determination is based. The Department will provide the ITC with all non-privileged and non-confidential information relating to this investigation. The Department will also make available to the ITC all privileged and confidential information in its files, provided that the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Department of Commerce.

Customs officers are being advised that the suspension of liquidation for all countertop microwave ovens from Japan, with the exception of those produced by Sanyo, Sharp and Matsushita, shall continue until further notice. Effective this date, importers will be required to post a cash deposit, bond, or other security in the amount of 13.1 percent of the f.o.b. value of all countertop microwave ovens produced by Toshiba, and 1.1 percent of the f.o.b. value of all countertop microwave ovens produced by all other Japanese manufacturers except Sharp, Sanyo and Matsushita.

(Sec. 735(d) of the Act (93 Stat. 172, 19 U.S.C. 1673d(d))).

Donald A. Furtado,

Acting Under Secretary for International Trade.

[FR Doc. 80-37546 Filed 12-2-80; 8:45 am]

BILLING CODE 7020-02-M

Minority Business Development Agency

Financial Assistance Application Announcement

November 21, 1980.

The Minority Business Development Agency announces that it is seeking applications under its program to operate 19 Dallas Region projects for 12 months beginning March 1, 1981.

Funding Instrument: It is anticipated that the funding instruments as defined by the Federal Grant and Cooperative Agreement Act of 1977 will be a grant.

Program Description: The General Business Services Program (GBS) of the Minority Business Development Agency (MBDA) provides technical assistance to minority business persons and firms for the purpose of improving their stability by increasing their management and marketing capabilities. MBDA offers competitive grants to consulting firms either "not for profit" or commercial entities. These firms must be capable of providing such services as:

—Preparation of business plans
—Financial Packaging
—Industrial Management Services
—Personnel Management Services
—Marketing Planning

Applications are invited for the following grants:

1. H—GBS Grant For a Management and Technical Performance Project to operate in Denver/Boulder, CO (SMSA) counties of Adams, Arapahoe, Boulder, Denver, Douglas, Gilpin, and Jefferson. Project will operate at a cost not to exceed $270,600 and the Project I.D. Number is 08-60-40122-00.

2. H—GBS Grant For a Management and Technical Performance Project to operate in Corpus Christi, TX (SMAS) counties of Nueices and San Patricio. Project will operate at a cost not to exceed $182,300 and the Project I.D. Number is 06-60-07327-00.

3. H—GBS Grant For a Management and Technical Performance Project to operate in Austin, TX (SMSA) counties of Hays and Travis. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06-10-24843-00.

4. H—GBS Grant For a Management and Technical Performance Project to operate in Baton Rouge, LA (SMSA) parishes of Ascension, East Baton Rouge, Livingston, and West Baton Rouge. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06-05286-00.

5. H—GBS Grant For a Management and Technical Performance Project to operate in Oklahoma City, OK (SMSA) Counties of Canadian, Cleveland, McClain, Oklahoma, and Pottawatomie. Project will operate at a cost not to exceed $157,300 and the Project I.D. Number is 06-60-40102-00.

6. H—GBS Grant For a Management and Technical Performance Project to operate in Laredo, TX (SMSA) county of Webb. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06-10-00115-00.

7. H—GBS Grant For a Management and Technical Performance Project to operate in Beaumont, Port Arthur, Orange (SMSA) counties of Hardin, Jefferson, and Orange. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06-10-24694-00.

8. H—GBS Grant For a Management and Technical Performance Project to operate in Tulsa, OK (SMSA) counties of Creek, Mayes, Osage, Rogers, Tulsa, and Wagoner. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06-10-00105-00.

9. H—GBS Grant for a Management and Technical Performance Project to operate in Shreveport, LA (SMSA) parishes of Bossier, Caddo, and Webster. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06-03696-00.

10. H—GBS Grant for a Management and Technical Performance Project to operate in Salt Lake City, UT (SMSA) counties of Davis, Salt Lake, Toole, and Weber. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 08-10-40033-00.

11. H—GBS Grant for a Management and Technical Performance Project to operate in Little Rock-North Little Rock (SMSA) counties of Pulaski and Saline. Project will operate at a cost not to exceed $157,300 and the Project I.D. Number is 06-60-00586-00.

12. H—GBS Grant for a Management and Technical Performance Project to operate in Fort Worth-Lubbock, TX counties of Tarrant, Denton, Johnson, Wise, and Lubbock. Project will operate at a cost not to exceed $274,600 and the Project I.D. Number is 06-60-24444-00.

13. H—GBS Grant for a Management and Technical Performance Project to operate in San Antonio, TX (SMSA) counties of Bexar, Comal, and Guadalupe. Project will operate at a cost not to exceed $543,000 and the Project I.D. Number is 06-60-40112-00.

14. H—GBS Grant for a Management and Technical Performance Project to operate in New Orleans, LA (SMSA) parishes of Jefferson, Orleans, St. Bernard, and St. Tammany. Project will operate at a cost not to exceed $281,600 and the Project I.D. Number is 06-10-40202-00.

15. H—GBS Grant for a Management and Technical Performance Project to operate in El Paso, TX (SMSA) county of El Paso. Project will operate at a cost not to exceed $351,000 and the Project I.D. Number is 06-60-07315-00.

16. H—GBS Grant for a Management and Technical Performance Project to operate in McAllen-Pharr-Edinburg-Brownsville-Harlingen, and San Benito, TX (SMSA) counties of Starr, Hidalgo, Willacy, and Cameron. Project will operate at a cost not to exceed $382,000 and the Project I.D. Number is 06-10-24654-00.

17. H—GBS Grant for a Management and Technical Performance Project to operate in Albuquerque, NM (SMSA) counties of Bernalillo and Sandoval. Project will operate at a cost not to exceed $225,300 and the Project I.D. Number is 06-10-03955-00.

18. H—GBS Grant for a Management and Technical Performance Project to operate in Pueblo-Colorado Springs, counties of Pueblo, El Paso, and Teller. Project will operate at a cost not to exceed $220,000 and the Project I.D. Number is 08-10-01086-00.

19. H—GBS Grant for a Management and Technical Performance Project to operate in Houston-Galveston, TX (SMSA) counties of Brazoria, Fort Bend, Harris, Liberty, Montgomery, Waller, and Galveston. Project will operate at a cost not to exceed $733,000 and the Project I.D. Number is 06-60-04172-00.

Eligibility Requirements: Any for-profit or non-profit institution is eligible to submit an application. If an award is made, continuation awards of up to two additional years may be made to the sucessful recipient without competition, provided that: (1) funds have been appropriated for a project of this kind, (2) MBDA has determined that such funds are available, (3) there is a continuing need for a project of this kind, and (4) the receipient has performed satisfactorily.

Application Materials: An application kit for these projects may be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Grants Administration 1100 Commerce Street, Room 7B19, Dallas, TX 75242. Attn: Richard L. Greene Grant/Cooperative Agreements Specialist.

The closing date for submitting an application is December 31, 1980. An application kit is available by written request to the above address, ATTN:

Richard L. Greene, Grant/Cooperative Agreement Specialist.

Richard H. Sewing,

Regional Director,

[FR Doc. 80-38996 Filed 12-2-80; 8:45 am

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Modification of Permit

On September 26, 1980, Notice was published in the Federal Register (45 FR 63895) that the National Marine Mammal Laboratory, Northwest and Alaska Fisheries Center, National Marine Fisheries Service, requested a modification to scientific research Permit No. 303 to authorize the taking and import of one skin/blubber biopsy sample from each of up to 90 Southern right whales (*Eubalaena australis*) and Northern right whales (*Eubalaena glacialis*). The Permit originally authorized only the taking and import of skin/blubber biopsy samples from the bowhead whale (*Balaena mysticetus*).

Notice is hereby given that on November 19, 1980, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service granted a modification to Permit No. 303 which authorizes the taking and import of skin blubbler samples from up to 90 Southern right whale (*Eubalaena australis*). It was determined that additional information was required to evaluate the portion of the request dealing with the Northern right whale (*Eubalaena glacialis*).

1. The Permit, as modified, and documentation pertaining to the modification are available in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: November 19, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-38992 Filed 12-2-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Disposition of Requests To Find That There Is a Need To Accredit Laboratories That Test Wastewater

AGENCY: Assistant Secretary of Commerce for Productivity, Technology, and Innovation.

ACTION: Notice.

SUMMARY: The Department of Commerce declines to take further action on two formal requests to find that there is a need to accredit wastewater testing laboratories under procedures (15 CFR Parts 7a, 7b, and 7c) of the National Voluntary Laboratory Accreditation Program (NVLAP). The Department's declination is based upon objections to the development of such a program by the U.S. Environmental Protection Agency (EPA).

EFFECTIVE DATE: August 19, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3221) or John W. Locke, Coordinator, NVLAP, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2054).

SUPPLEMENTARY INFORMATION: In a letter dated July 15, 1976, the Metropolitan Sanitary District of Greater Chicago requested the U.S. Department of Commerce (DoC) to consider accrediting wastewater testing laboratories. NVLAP procedures (15 CFR 7a.4(d)) require that if a request is believed to affect an existing or developing laboratory accreditation program of a Federal regulatory agency, DoC shall ask for that agency's views relative to DoC making a preliminary finding of need for a laboratory accreditation program. As jurisdiction for national water quality programs conducted by the Federal government lies with the EPA, coordination of this request with EPA was deemed necessary.

Since DoC's receipt of the Chicago Sanitary District's request, several additional inquiries concerning possible NVLAP programs involving aqueous effluents were received. In a letter dated August 24, 1976, the Hampton Roads Sanitation District, Commonwealth of Virginia, requested DoC to find a need for a wastewater laboratory accreditation program. The City of Houston expressed interest in this type of wastewater program in a letter of December 12, 1976. In addition, DoC has received telephone inquiries from the Army Corps of Engineers on November 22, 1976 and from Micrometrics, Inc., a private research laboratory, on February 8, 1979 concerning such a program.

After discussions between DoC and EPA staff regarding the foregoing, EPA staff raised concerns regarding the applicability of the original NVLAP procedures (15 CFR Part 7a). DoC subsequently published optional NVLAP procedures (15 CFR Part 7b) for elective use by Federal agencies on March 9, 1979.

In a letter to Mr. Douglas M. Costle, EPA Administrator, April 9, 1979, Dr. Jordan J. Baruch, DoC Assistant Secretary for Science and Technology (now Productivity, Technology and Innovation), formally requested EPA's views as to whether DoC should prepare and publish in the Federal Register a preliminary finding of need for a laboratory accreditation program for laboratories that test wastewater. DoC deferred its written request for EPA's views until the optional NVLAP Part 7b procedures were issued so that EPA could consider the initiation of a laboratory accreditation program under the new optional procedures as an alternative to DoC initiating a proceeding under the original NVLAP Part 7a procedures. In a letter of June 15, 1979 to Dr. Baruch, Mr. Costle requested more time to respond in order to allow for an EPA Intra-Agency Quality Assurance Advisory Committee, which was being authorized and established, to consider EPA's participation in the NVLAP.

The relevant portions of a letter of August 19, 1980 to Dr. Baruch from Mr. Stephen J. Gage, EPA Assistant Administrator for Research and Development, in which EPA states its objections regarding the development of a NVLAP wastewater program, read as follows:

"After thorough review of the situation by my Quality Assurance Management Staff (QAMS), they believe, and I agree, that it is inappropriate to develop a wastewater laboratory accreditation program under Part 7a of the NVLAP procedures. There are two major objections. First, the creation of a wastewater laboratory certification program under NVLAP would be essentially equivalent to the delegation of part of my regulatory responsibilities under the Federal Water Pollution Control Act, responsibilities that legally cannot be transferred. Second, we need to retain direct control over the quality of the laboratories producing water data because we frequently use this data as the basis for initiating enforcement actions or other Agency decisions without further substantiation by Environmental Protection Agency (EPA) laboratories. To this end, we already have many aspects of an accreditation program in place, such as

requirements to use EPA methods, requirements to participate in systems audits and performance audits, and minimum quality control and quality assurance requirements to be fulfilled, documented, and reported to EPA, along with the data.

I am interested, however, in exploring the possibility of initiating a Part 7b laboratory accreditation program for other program areas of the EPA. To that end, I suggest that someone from your staff contact Mr. Christopher Timm, Director, QAMS, to explore other possible areas."

Since EPA has raised material objections to DoC making a preliminary finding of need for a wastewater laboratory accreditation program, DoC is obliged, under 15 CFR 7a.4(d), to cease further action on making such a finding. Therefore, no program will be developed.

Notice: Notice is hereby given that the Department of Commerce declines to take further action on the two formal requests to find that there is a need to accredit wastewater testing laboratories.

Dated: November 26, 1980.

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 80-37554 Filed 12-2-80; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Department of the Air Force

New Systems of Records

AGENCY: Department of the Air Force.

ACTION: Notice of a new system of records.

SUMMARY: The Air Force proposes to establish a new system of records subject to the Privacy Act of 1974. The system notice for this new system of records is published below.

DATES: This system shall be effective as proposed without further notice on, unless comments are received on or before January 2, 1981, which would result in a contrary determination.

ADDRESS: Any comments including written data, views or arguments concerning the proposed system should be addressed to the system manager identified in the notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD, Room 4A-1088, The Pentagon, Washington, D.C. 20330, Telephone: (202) 694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 522a) Pub. L. 93-579 have been published to date in the Federal Register at:

FR Doc 79-37052 (44 FR 74145) December 17, 1979
FR Doc 80-2008 (45 FR 5514) January 23, 1980
FR Doc 80-6232 (45 FR 13181) February 28, 1980
FR Doc 80-8307 (45 FR 17627) March 19, 1980
FR Doc 80-17287 (45 FR 38098) June 6, 1980
FR Doc 80-18213 (45 FR 41049) June 17, 1980

The Department of the Air Force has submitted a new system report dated September 4, 1980 for this new system report under the provisions of 5 U.S.C. 552a(o) as implemented by Office of Management and Budget (OMB) circular A-108, Transmittal Memoranda, No. 1 and No. 3, dated September 30, 1975 and May 17, 1976 respectively. The OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 26, 1980.

F21001 ESC A

SYSTEM NAME:

Historical Research and Retrieval System (HORRS).

SYSTEM LOCATION:

Command Historical Office, Headquarters Electronic Security Command (HQ ESC), San Antonio, TX 78243.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian members of ESC, including active, retired, and deceased personnel. Primarily, names of key personnel, such as commanders, operations officers, and other staff personnel mentioned in command histories and special studies, are filed in this system and are retrievable by name.

CATEGORIES OF RECORDS IN THE SYSTEM:

Coded abstracts of command history items or extracts from other documents retained for historical purposes. Will include name, rank unit assigned, position occupied, and any historically noteworthy achievements of individuals reflected in the document from which information was extracted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Research reference file used by HQ ESC Historical Office to satisfy requests for Air Force Special Intelligence (SI) historical information received from individuals within the DOD and other government agencies. Information is also used as research material for preparing special studies and monographs, and to answer requests for information under the Freedom of Information Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in bound, paper copies; jacketed microfiche; and computer magnetic tapes, discs, and computer products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers. The computer file is kept in a locked room.

RETENTION AND DISPOSAL:

Microfiche and paper copies of records, including ADP products, are retained in office files until no longer needed for reference, then destroyed by burning or pulping. Computer tapes are destroyed by overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Command Historian, HQ ESC/HO, San Antonio, TX 78243.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the Systems Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information is obtained from command histories, special studies, monographs, end-of-tour reports, oral histories, and other reference material.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 37418 Filed 12-2-80; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket Nos. 80-19-NG; 80-20-NG; 81-01-NG]

Natural Gas Exports; Orders To Show Cause

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Orders to Show Cause.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of the issuance on November 18, 1980, of several orders to show cause why certain authorizations to export natural gas from the United States into Canada or Mexico should not be amended to require that the export price charged for the natural gas be equal to prices athorized by ERA to be paid for natural gas imported into the United States from Canada or Mexico. The orders were issued pursuant to Section 3 of the Natural Gas Act. Petitions to intervene are invited.

DATES: Petitions to Intervene: To be filed on or before December 24, 1980.

FOR FURTHER INFORMATION CONTACT:

Lawrence A. DiRicco, (Division of Natural Gas), Economic Regulatory Administration, 2000 M Street, N.W., Room 7108, RG-55, Washington, D.C. 20461, Telephone (202) 653-3220

James K. White (Acting Assistant General Counsel for Natural Gas and Mineral Leasing), 1000 Independence Ave., S.W., Forrestal Bldg., Room 5E064, GC-15, Washington, D.C. 20585, Telephone (202) 252-2900

SUPPLEMENTARY INFORMATION: The ERA in its Opinion and Order Nos. 18 and 18D, issued August 18 and October 17, 1980 respectively, in ERA Docket No. 78-15-NG, *El Paso Natural Gas Company*, established a policy of equal pricing for natural gas imports from an exports to the same country on the ground that it is inequitable for the U.S. to pay more to import gas than it charges for gas exports to the same country. Natural gas is currently imported from and exported to both Canada and Mexico. The policy established in these opinions that the price of gas exported equal that of imports from the same country addresses inequities adversely affecting our balance of payments.

In Opinion and Order Nos. 18 and 18D, ERA authorized continued exportation of natural gas by El Paso Natural Gas Company (El Paso) to a mining company in Mexico, on the condition that the price charged by El Paso be raised to that which American natural gas companies are charged and authorized to pay for natural gas imported from Mexico. Currently, American pipelines are paying $4.47 per MMBtu for Mexican natural gas.

In addition the ERA recognized that raising the price of exported natural gas to the relevant international border price would result in additional revenues to the United States exporter. The authorization in Opinion and Order No. 18 was further conditioned to ensure that the revenues derived from the order export price increases would be credited to the exporter's domestic customers. El Paso has filed an application for rehearing of Opinion and Order No. 18 with respect to that condition.

The ERA has noted that it has no objection in principle to the exporter's instituting other arrangements, such as an exchange agreement at a price lower than the international border price. Furthermore, natural gas pipeline companies, including Northern Natural Gas Company, Great Lakes Gas Transmission Company, Inter-City Minnesota Pipelines Ltd., and Tennessee Gas Pipeline Company, which do not resell but merely transport or exchange exported natural gas are not considered to be within the scope of this pricing policy.

In order to ensure equitable treatment of all persons affected by the policy enunciated in Opinion and Order Nos. 18 and 18D, as well as consistency among natural gas export authorizations, the ERA in accordance with the provisions of 18 CFR 1.6(d) on November 18, 1980 issued orders to Del Norte Natural Gas Company (ERA Docket No. 80-19-NG), Montana Power Company (ERA Docket No. 80-20-NG), and Entex, Incorporated (ERA Docket No. 80-21-NG), and on November 20, 1980, to Valero Transmission Company (ERA Docket No. 81-01-NG) to show cause why their export authorizations should not be amended to conform with the above policy.

Del Norte Natual Gas Company is currently authorized to export up to 4,131,000 Mcf (thousand cubic feet) of gas annually to Mexico; Montana Power Company is authorized to export 120,000 Mcf of gas annually to Canada; Entex, Incorporated is authorized to export up to approximately 3,000,000 Mcf of gas annually to Mexico; and Valero Transmission Company is conditionally authorized to export up to approximately 3,650,000 Mcf annually to Mexico.

A company ordered to show cause must respond within 45 days and may request an opportunity for further proceedings or a hearing of the issues raised in the order.

OTHER INFORMATION: The ERA invites protests or petitions to intervene in these proceedings. Such petitions should reference the particular docket or dockets of interest and are to be filed with, Director, Division of Natural Gas, Economic Regulatory Administration, Room 7108, RG-55, 2000 M Street, N.W., Washington, D.C. 20461, In accordance with the requirements of the rules of practice and procedure (18 CFR 1.8 and 1.10). Protests or petitions to intervene will be accepted for consideration if filed no later than 4:30 p.m., on December 24, 1980.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened herein must file a petition to intervene. Any person desiring to make any protest with reference to the orders to show cause should file a protest in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding.

A hearing will not be held unless a motion for such hearing is made by any party and is granted by ERA, or the ERA on its own motion believes that such a hearing is required. A party filing a motion for a hearing must demonstrate why such a hearing will advance the proceeding, as well as identify and discuss the issues it believes should be heard. If such a hearing is required, due notice to the parties will be given.

A copy of each of the orders to show cause is available for public inspection and copying in Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., through Friday, except Federal holidays.

Issued in Washington, D.C., on November 26, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-37493 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed

Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653-3569. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 26th day of November 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Proposed Remedial Orders—Northeast District

Station	Address	Date	Violation amount	Cents per gallon in violation
Rovina Marina Ltd	134 Springville Road, Hampton Bays, N.Y. 11946.	11-10-80	$1,056.37	29.2

[FR Doc. 80-37494 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2409]

Calaveras County Water District; Notice Setting Place and Procedures for Public Session

November 25, 1980.

The Calaveras County Water District (CCWD) has filed an appliction for a major license for the proposed North Fork Stanislaus River Project No. 2409. The proposed project would be located on the North Fork Stanislaus River, Highland Creek, Beaver Creek, Silver Creek, and Duck Creek in the Counties of Calaveras, Alpine, and Tuolumne, California. The proposed project would consist of: (1) a dam immediately below Spicer Meadow Dam on Highland Creek; (2) a powerhouse on the outlet works of the proposed Spicer Meadow Dam; (3) a diversion dam on the North Fork Stanislaus River, immediately downstream of the confluence of Silver and Duck Creeks; (4) a diversion tunnel leading to Spicer Meadow Reservoir; (5) a diversion dam on the North Fork Stanislaus River at McKays Point; (6) a diversion dam on Breaver Creek, downstream of Calaveras Big Trees State Park, diverting water through a tunnel to McKays Point Reservoir; (7) a tunnel from McKays Point Reservoir to the powerhouse at Clark Flat; (8) a powerhouse at Clark Flat on the Stanislaus River, approximatley 1 mile below the confluence of the North and Middle Fork Stanislaus Rivers; (9) an afterbay dam on the Stanislaus River; (10) access roads; (11) two transmission lines; (12) recreational facilities at Spicer Meadow Reservoir; and (13) appurtenant facilities.

In June 1980, the Commission's staff issued its final environmental impact statement on the proposed project. On August 22, 1980, a public meeting was held at the Commission's offices in Washington, D.C. The purpose of that meeting was to discuss the status of the application filed by CCWD, including any issues that may have remained following the issuance of the final environmental impact statement. Before the Commission reviews the application and the associated record to decide if a major license should be granted or denied, or in the alternative to require that an evidentiary hearing be held to address any disputed material issues of fact, it has been determined that two pulic sessions should be held. These public sessions will allow members of the general public an additional opportunity to present any information they may have which should be brought to the attention of the Commission.

On February 4, 1980, CCWD filed with the U.S. Army Corps of Engineers (Corps) an application for a permit to place in the Stanislaus River below the ordinary high water elevation, fill material associated with the construction of the proposed project. For reasons of public and administrative convenience, the public meeting sessions will be conducted jointly with representatives of the Corps. An information sheet prepared by the Corps is attached.

The public sessions will be held at Veterans Memorial Hall, Main Street, Angels Camp, California on Thursday, December 18, 1980. The first three-hour session will begin at 2 p.m. and the second session will begin at 7 p.m. Any member of the public, including parties to this proceeding, desiring to present his views or information on the proposed project may do so orally or in writing. All oral and written statements presented will be transcribed by a court reporter into the written record of the public session. These public sessions do not constitute evidentiary hearings, which have not been ordered by the Commission.

To avoid confusion and to ensure that all persons wishing to present their positions can do so, the following procedures will be observed at the public meetings:

Blank cards will be available at the entrance to the meeting hall. Prior to the convening of the session, any person desiring to be heard or wishing to submit a written statement should fill out a card by placing his name, address, and organizational affiliation, if any. The card should then be given to a member of the Commission's staff.

When his name is called, the person should come forward and state his name, address, and organizational affiliation, if any. If he has a written statement, he should give the reporter a copy. If an oral statement is to be given, the person should proceed to make the statement. In cases where a person submits a written statement and also wishes to make an oral statement, the oral remarks should only summarize the written statement, since all written statements will be copied into the record as though read. The statements made at the public session do not constitute evidence, and the persons giving statements will not be subject to cross-examination.

If a person desires to make a statement for the record but is unable to be present at the time his name is called, he may leave a copy of his statement with the reporter, and that statement will be copied into the record as though read or presented orally. If for any reason a person desiring to be heard is unable to attend the public session in person, he may submit a written statement by December 16, 1980, to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and such

statement will be made a part of the record of the public session.

Kenneth F. Plumb,

Secretary.

Joint Federal Energy Regulatory Commission/U.S. Army Corps of Engineers Public Meeting Concerning the Proposed North Fork Stanislaus River Project

Application—Received by Corps of Engineers

The Calaveras County Water District has submitted an application dated 4 February 1980 to the Corps of Engineers for a permit to place fill material below the ordinary high water elevation of the Stanislaus River associated with construction of the North Fork Stanislaus River Project.

Public Notice—Issued by Corps of Engineers

U.S. Army Public Notice No. 7107 dated 2 May 1980 outlines the plans and location of the proposed project. A copy of the public notice is available for review at the Regulatory Section Office (Room 6540), 650 Capitol Mall, Sacramento, California 95814.

EIS

A final Environmental Impact Statement (EIS) entitled "North Fork Stanislaus River Project No. 2409," was prepared by the Federal Energy Regulatory Commission, Office of Electrical Power Regulation, June 1980. A copy of the EIS is available for review at the Regulatory Section Office (Room 6540), 650 Capitol Mall, Sacramento, California, 95814.

Authority

The decision whether to issue a Section 404 permit will be based on an evaluation of the impact of this activity on the public interest under authority of Section 404 (33 USC 1344) of the Clean Water Act as amended (33 USC 1251 et seq). Evaluation will include application of guidelines set forth by Administrator EPA, under authority of the act (40 CFR Part 230.5). That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production and in general the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

[FR Doc. 80-37555 Filed 12-2-80; 8:45 am]
BILLING CODE 6450-95-M

[Docket No. ER80-329]

Central Power & Light Co.; Order Granting Rehearing

Issued November 25, 1980.

On September 10, 1980, Central Power and Light Company (CP&L) filed an application for rehearing and stay of a Commission letter order dated August 14, 1980. The letter order was transmitted by the Secretary, by direction of the Commission, in response to CP&L's April 14, 1980 filing of an interconnection agreement between the company and the City of Brownsville, Texas (Brownsville). While the letter order accepted CP&L's submittal for filing and allowed the rate schedules to become effective as of April 4, 1980, the fuel adjustment clause embodied in the interconnection agreement was found to be inconsistent with the requirements of section 35.14 of the Commission's regulations. CP&L was therefore required to file a revised fuel adjustment clause in compliance with the regulations. CP&L has requested rehearing or in the alternative, stay, of that part of the order which directed the company to file a conforming fuel adjustment clause. For the reasons discussed below, we shall grant CP&L's application for rehearing of our August 14, 1980 order.

History of the Proceedings

By orders issued July 21, 1976 and September 17, 1976, in Docket No. E-9558, the Federal Power Commission determined that CP&L was a "public utility" within the meaning of section 201 of the Federal Power Act and was, therefore, subject to the jurisdiction of the Commission. In compliance with the requirements of those orders, CP&L tendered for filing on April 25, 1977, in Docket No. ER77-331, executed service agreements with all of its wholesale customers, including Brownsville. By order issued May 9, 1978, the agreements were accepted for filing and made effective as of May 4, 1976. The Commission also ordered CP&L to file a revised fuel clause under § 35.14 applicable to Brownsville.

On June 5, 1978, CP&L filed an application for rehearing of the May 9, 1978 order insofar as it required the company to file a revised fuel clause. On July 5, 1978, the Commission issued an order granting rehearing. The Commission determined that CP&L's purchase power agreement with Brownsville was a fixed rate contract. Since the contractual agreement had been executed on December 14, 1971, prior to the assertion of jurisdiction over CP&L by the Federal Power Commission, the Commission held that section 35.14 of the regulations could not be applied retroactively to the fixed rate contract.[2] Since the fuel clause was construed as "an intergral part of fixed rate contracts,"[3] the Commission determined that CP&L should not be required to file a revised fuel adjustment clause applicable to Brownsville.

On April 3, 1980, CP&L tendered for filing in this docket a revised interconnection agreement with Brownsville dated March 25, 1980. CP&L stated in its filing letter that the new interconnection agreement was intended to supersede and terminate the 1971 agreement between CP&L and Brownsville "except with respect to the rates contained therein which rates, along with the fuel adjustment clause, were previously approved by orders of this Commission. . . ." CP&L further requested waiver of the notice requirements to allow the interconnection agreement to become effective as of the date of filing, April 4, 1980.

Notice of the filing was issued on April 10, 1980, with comments due on or before May 2, 1980. On April 14, 1980, the Public Utilities Board of the City of Brownsville filed a letter in support of CP&L's request for waiver of the notice requirements and requested that the agreement be made effective, without suspension, as of the date of filing. Brownsville also filed, on April 30, 1980, a petition to intervene which affirmed its support for CP&L's request for waiver of notice.

By letter dated May 19, 1980, CP&L was notified that its filing was deficient in that its fuel clause did not conform to the requirements of section 35.14 of the regulations. CP&L responded to the deficiency letter on June 12, 1980, stating that its submittal was not intended to change either the present rate provisions or the existing fuel adjustment clause. On August 14, 1980, by direction of the Commission, the Secretary accepted CP&L's superseding interconnection

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[2] *Citing, The Electric and Water Plant Board of the City of Frankfort* v. *Kentucky Utilities Co.*, Opinion No. 780, Docket No. E-9532, issued April 29, 1976; *aff'd Electric and Water Plant Board of the City of Frankfort* v. *FERC*, D.C. Cir. No. 76-1866 (1977).

[3] *Central Power & Light Company*, "Order Granting Rehearing," Docket No. ER77-331, issued July 5, 1978.

agreement with Brownsville for filing, granted waiver of notice, and required the company to file within 30 days a revised fuel adjustment clause in compliance with section 35.14, together with appropriate cost support as required by that section.

Discussion

CP&L has pointed out in its application for rehearing that the rate provisions that were included in the proposed contract were negotiated by the parties in 1971. The parties at the time entered into an agreement providing that the rates, including the fuel clause were to remain in effect until the contract expired in 1982. Similarly, the proposed contract calls for rates contained in the 1971 agreement to remain in effect until CP&L makes 138 Kv service available to Brownsville, which is to occur sometime prior to the end of the calendar year 1982. Thus, the proposed agreement has attempted to retain the same relationship between CP&L and Brownsville as was previously negotiated between the parties and accepted by the Commission calling for the company to file a new rate schedule applicable to Brownsville prior to 1982. Brownsville, in its petition to intervene, confirms the intent of the parties to maintain the 1971 rates in effect pending the availability of 138 Kv service to the City.[4]

The history of the negotiations between CP&L and Brownsville reveals the intentions of the parties to include the present rates as an integral part of the proposed contractual provisions. As in the previous filing, CP&L and Brownsville have expressed the intent to retain the previously-negotiated rate provisions in place until 1982. In light of our prior acceptance of this contractual term and in light of the relatively short duration of time that would remain for the nonconforming fuel clause to be in operation, the Commission believes that there exists good cause to waive our regulations to give effect to the negotiated agreement of the parties. In addition, we note that any overrecoveries under the fuel clause may be taken into account in our annual review of changes in CP&L's demand charge. Accordinaly, the Commission will exercise its discretion to waive CP&L's compliance with § 35.14 with the understanding that any future rate filings by the Company (other than filings of changes in CP&L's demand charge) shall include a fuel clause which is in conformance with the Commission's applicable regulations.

The Commission orders:

(A) Rehearing of the Commission's August 14, 1980 order is hereby granted.

(B) Waiver of ¶ 35.14 of the Commission's regulations is granted.

(C) CP&L's proposed fuel adjustment clause is accepted for filing, such clause to become effective as of April 4, 1980.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37556 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[4] On October 8, 1980, the Commission received a letter from Brownsville addressing issues raised in CP&L's Application for Rehearing. CP&L, on October 9, 1980, filed with the Commission a response to Brownsville's letter. Subsequent pleadings have been filed by both parties. The Commission pursuant to its regulations, does not entertain answers to petitions for rehearing. 18 CFR § 1.34(d). Consequently, Brownsville's letter and the subsequent pleadings have not been considered by the Commission in its rehearing determination.

[Project No. 3601-000]

Continental Hydro Corp.; Application for Preliminary Permit

November 26, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on October 23, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for the proposed Project No. 3601 to be known as the Fresno Dam located on the Water and Power Resources Service's Fresno Dam on the Milk River near Fresno and Havre, in Hill County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A Gail Staker, President, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description —The proposed project would utilize an existing Water and Power Resources Service's dam and reservoir. Project No. 3601 would consist of: (1) a proposed penstock extending from the existing outlet conduit; (2) a proposed powerhouse located on the northern bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 2 MW and the annual energy output to be 6 to 8 GWh.

Purpose of Project—Energy produced at the above project would be sold to the Water and Power Resources Service. Alternatives, such as possible sale to nearby public institutions or industrial users will also be investigated by the Applicant.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36 month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated by the Applicant to be $45,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant. Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Central Montana Electric G & T Cooperative, Inc. Project No. 3280 on the Fresno Dam in Fresno and Havre, Montana under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the

Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before *January 29, 1981.*

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3601. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37557 Filed 12-2-80; 8.45 am]

BILLING CODE 6450-85-M

[Project No. 3550-000]

Continental Hydro Corp.; Application for Preliminary Permit

November 28, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on October 9, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3550 to be known as Bull Lake Power Project located on the Bull Lake Creek in Freemont County, Wyoming. The application is on file with the Commission and is available for public inspection. The proposed project would utilize Federal Lands and a Federal Dam under the jurisdiction of the U.S. Water and Power Resource Service. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The project would utilize the U.S. Water and Power Resource Service's existing Bull Lake Creek Dam and Reservoir. The project would consist of: (1) a penstock, approximately 500 feet long; and (2) proposed hydroelectric generating facilities, consisting of two units with a total capacity estimated to be between 2.0 and 2.5 MW.

The Applicant estimates that the average annual energy output would be 8 to 10 GWh.

Purpose of Project—Applicant proposes to sell the energy output to the Water and Power Resources Service.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would investigate all relevant aspects of the proposed project as part of the licensing process. This investigation would include study and analysis of project layout and design financial and economic examinations, and studies of the environmental, recreational and historic aspects of the proposed project. The cost of the studies under the permit is estimated to be $45,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive isssues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. if an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 4, 1981,* either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *April 6, 1981.* A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *February 4, 1981.*

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3550. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of

any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37558 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3584-000]

Continental Hydro Corp.; Application for Preliminary Permit

November 26, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on October 17, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3584 to be known as Trenton Dam Water Project located at the Water & Power Resources Service, U.S. Department of the Interior, Trenton Dam a flood control project, on the Republican River in Hitchcock County, Nebraska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Any person who wishes to file a response to this noice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a proposed 100-foot long penstock extending from the outlet works; (2) a proposed powerhouse with an estimated capacity of 1.5 to 1.8 MW to be located on the northern bank of the Republican River; (3) existing transmission lines; and (4) appurtenant facilities. The affected lands are owned by the U.S. government under the control of the Water and Power Resources Service, U.S. Department of the Interior.

The Applicant estimates that the average annual energy output would be 6.5 to 7.5 GWh.

Purpose of Project—Energy produced at proposed project would be sold to the Nebraska Public Power System.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive report for the project, including preliminary design and economic feasibility studies, environmental and social studies, and soils and foundation data. The study is estimated to cost $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and enivronmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 30, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 31, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 30, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3584. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37559 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3512]

David Goodman and George R. Oliger; Application for Preliminary Permit

November 28, 1980.

Take notice that David Goodman and George R. Oliger (Applicant) filed on September 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3512 to be known as the Braendly Hydro Project located on Fishkill Creek in Dutchess County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: David Goodman, 1775 Broadway, Suite 2404, New York, New York 10019. Braendly-Fishkill Dam is owned by Gerlimann Finishing Company, Beacon, New York. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would be run-of-the-river and would consist of: (1) an existing overflow gravity dam of concrete construction, 150-feet-long and 15-feet-high; (2) a reservoir having negligible pondage; (3) an intake structure; (4) a canal; (5) a penstock; (6) a powerhouse containing generating units having a total rated capacity between 550 kW and 1,000 kW; (7) a tailrace; (8) a new transmission line; and (9) appurtenant facilities.

The Applicant estimates that the average annual energy output would be between 2,200,000 kWh and 4,000,000 kWh.

Purpose of Project—Project energy would be sold to Central Hudson Gas and Electric Corporation.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be between $30,000 and $40,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. [A copy of the application may be obtained directly from the Applicant.] Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 4, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *April 6, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before *February 4, 1981*.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No 3512. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-37580 Filed 12-2-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3511]

David Goodman and George R. Oliger; Application for Preliminary Permit

November 28, 1980.

Take notice that David Goodman and George R. Oliger (Applicant) filed on September 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3511 to be known as the Groveville Power Project located on the Fishkill Creek in Dutchess County, New York. Groveville Mills Dam is owned by the Beacon Piece Dyeing Company. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David Goodman, 1775 Broadway, Suite 2404, New York, N.Y. 10019. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would be run of the river and would consist of: (1) an existing ogee gravity dam of concrete construction, 285 feet long and 30 feet high; (2) a reservoir having negligible pondage; (3) an intake structure which would be rehabilitated; (4) new penstocks; (5) a new powerhouse containing generating units having a total rated capacity of 1,000 kW; (6) a tailrace; (7) an improved transmission line; and (8) appurtenant facilities. Applicant estimates the annual generation would average 5,000,000 kWh and would save approximately 8,000 barrels of oil annually.

Purpose of Project—Project energy would be sold to Central Hudson Gas and Electric Corporation.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant will prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be between $30,000 and $40,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 4, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *April 6, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before *February 4, 1981*.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3511. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37561 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3562-000]

Maine Hydro-Electric Development Corp.; Application for Preliminary Permit

November 26, 1980.

Take notice that Maine Hydro-Electric Development Corporation (Applicant) filed on October 14, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16, U.S.C. 791(a)-825(r)] for proposed Project No. 3562 to be known as the Barker's Mill Upper Project located on the Little Androscoggin River near the City of Auburn, Androscoggin County, Maine. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence Gleeson, President, Maine Hydro-Electric Development Corporation, P.O. Box 402, Mill Lane, Belfast, Maine 04915. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the existing breached, 23-foot high, 170-foot long masonry dam to be reconstructed; (2) a reservoir with no storage capacity; (3) a new powerhouse located on the old powerhouse foundation immediately below the dam, containing a turbine-generator with a rated capacity of 950 KW and; (4) appurtenant facilities. The project would be capable of generating up to 4,900,000 kWh annually, saving the equivalent of 8,000 barrels of oil or 2,300 tons of coal.

Purpose of Project—Energy produced at the project would be sold to Central Maine Power Company for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 2, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than

April 3, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *February 2, 1980.*

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE "COMPETING APPLICATION", 'COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3562. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20456. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37582 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3568-000]

Mitchell Energy Company, Inc.; Application for Preliminary Permit

November 26, 1980.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on October 14, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3568 to be known as Starved Rock Lock and Dam located on the Illinois River in LaSalle County, Illinois. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Starved Rock Lock and Dam. The proposed project would consist of: (1) a proposed powerhouse, to be located downstream of the dam, containing five generating units with a total installed capacity of 9 MW; and (2) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 57.7 GWh.

Purpose of Project—Applicant proposes to sell energy produced to the Illinois Power Company.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time Applicant would accomplish hydrological, engineering, environmental, and economic feasibiltiy studies on the project and prepare an application for FERC license. Applicant estimates cost of studies under its permit would be about $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 2, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 3, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 2, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3568. Any comments, notices

of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulation to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37563 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3569-000]

Mitchell Energy Company, Inc.; Application for Preliminary Permit

November 28, 1980.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on October 14, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3569 to be known as Dresden Island Lock and Dam located on the Illinois River in Grundy County, Illinois. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc. 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Dresden Island Lock and Dam. The proposed project would consist of: (1) a proposed powerhouse, to be located downstream of the dam, containing eight generating units with a total installed capacity of 17.6 MW; and (2) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 93 GWh.

Purpose of Project—Applicant proposes to sell energy produced to Commonwealth Edison of Chicago.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time Applicant would accomplish hydrological, engineering, environmental, and economic feasibility studies on the project and prepare an application for FERC license. Applicant estimates cost of studies under its permit would be about $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 4, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 6, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c)(1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d)(1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 4, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3569. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37564 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-119-000]

The Montana Power Co.; Filing

November 21, 1980.

The filing Company submits the following:

Take notice that The Montana Power Company ("Montana") on November 13, 1980, tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreements with The Washington Water Power Company ("Washington"). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and Washington.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by

$1,362,027.24, based upon energy delivered from August 4, 1980, through August 31, 1980. Montana states that the rate for firm energy under these Letter Agreements was negotiated.

An effective date of August 4, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule and all its supplements, an agreement for the sale of firm energy between Montana and The Washington Water Power Company ("Washington"). Montana states that the agreement has expired as of its own terms and has not been renewed.

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 NE., Washington, D.C. 20426, in accordance with §§ 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 December 12, 1980. 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36969 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP81-5-000]

Natural Gas Policy Act; United States Geological Survey, South Central Region; Dugan Production Corp.; Preliminary Finding

Issued November 25, 1980.

On October 14, 1980, the United States Geological Survey/South Central Region (USGS) notified the Federal Energy Regulatory Commission (Commission) of its determination that production exceeding 60 Mcf per day from Dugan Production Corporation's (Dugan) Rachel No. 2 Well (JD81-1589, USGS Docket No. NM-0005-80-ER) does not qualify as production due to the use of a recognized enhanced recovery technique pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.*, and §§ 271.805-.806 of the Commission's regulations. The Commission issued notice of this determination on October 27, 1980 (45 FR ———).

Section 271.805(a) requires, *inter alia*, that the operator and purchaser of gas from a well determined to be a stripper well file a notice of disqualification if production from such well exceeds 60 Mcf per production day for any 90-day production period: In this case, El Paso Natural Gas Company (El Paso), the purchaser of gas from the subject well, submitted such a notice of disqualification.[1] Under § 271 805(c), the filing of such notice immediately disqualifies the well as a stripper well, and the right of any seller to collect the maximum lawful price under section 108 terminates as of the last day of the 90-day production period identified in the disqualification notice. However, such disqualification does not take effect if, within 30 days of service of the notice, the operator files with the jurisdictional agency a petition, as described in § 271.805(b)(2), stating that the excess production resulted from the application of a recognized enhanced recovery technique. Dugan's petition to this effect was filed on August 8, 1980, some 10 months after El Paso's notice. The USGS denied the petition solely because it was not filed within the 30-day time period set forth in § 271.805(b).

On November 25, 1980, in Docket No. RM81-6 the Commission issued an interim rule amending §§ 271.805(b) and (c) to provide that a petition or motion, as described in § 271.805(b), may be filed at any time (rather than within 30 days) after a notice of disqualification is submitted, and also to specify that a seller's right to collect a price authorized by section 108 of the NGPA terminates on the last day of the disqualifying period unless the petition or motion is submitted within 30 days of service of the notice of disqualification. In addition, the Commission amended § 271.805(d) to provide for continued collection of the price permitted by section 108 subject to refund only if the § 271.805(b) petition or motion is filed within 30 days of the date of service. In all other cases, the price permitted by section 108 is subject to refund only from the date of filing the petition or motion.

Section 503(b)(2) of the NGPA permits the Commission to issue a preliminary finding remanding a jurisdictional agency determination if:

(A) the Commission finds that a State or Federal agency determination is not consistent with information contained in the public records of the Commission, and which is not part of the record upon which such determination was made . . .

The interim rule amending § 271.805 constitutes information contained in the Commission's public records which the USGS did not consider in making the determination disqualifying the subject well.

The Commission Finds: On the basis of the record submitted with this determination, the Commission hereby makes a preliminary finding, pursuant to section 503(b)(2)(A) of the NGPA, and § 275.202(a)(1)(ii) of the Commission's regulations, that the determination submitted by the USGS in the instant docket is not consistent with information contained in the Commission's public records which was not part of the record upon which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37567 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[1] El Paso's notice states that the well produced an average of 72 Mcf per production day during the 90-day period ending in August, 1979. The Commission received a copy of El Paso's notice on October 26, 1979.

[Project No. 3513]

Ochoco Irrigation District; Application for Preliminary Permit

November 26, 1980.

Take notice that the Ochoco Irrigation District (Applicant) filed on September 30, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3513 to be known as the Prineville Dam Project located on the Crooked River in Crook County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. La Selle E. Coles, Manager, Ochoco Irrigation District, P.O. Box 6, 1001 N. Deere, Prineville, Oregon 97754. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a penstock constructed from the gate chamber of the Water and Power Resources Service's existing Prineville Dam, through an existing discharge tunnel to; (2) a powerhouse containing at least two generating units with a total rated capacity of 5.5 MW; and (3) a transmission line approximately three-quarters of a mile long.

The Applicant estimates that the average annual energy output would be 12,000 MWh.

Purpose of Project—Project power would be sold to the Central Electric Cooperative for distribution to consumers.

Proposed Scope and Cost of the Studies Under Permit—Applicant would conduct a feasibility study to determine the technical, exonomic, and financial feasibility of the project. The estimated costs of the feasibility study and obtaining necessary state and local permits is $47,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for the license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 8, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 9, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 8, 1981.

Filing and Service of Responsive documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3513. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37568 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3524-000]

Western Water Power, Inc.; Application for Preliminary Permit

Take notice that Western Water Power, Inc. (Applicant) filed on October 3, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3524 to be known as the Yuma Main Canal Power Project located on the Water and Power Resources Service's (WPRS) Yuma Main Canal and the All American Canal in Imperial County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Timothy M. Ainslie, President, Western Water Power, Inc., 4384 Bechelli Land, Redding, California 96002. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: 1) an intake structure in the All American Canal; 2) a 650-foot long penstock serving; 3) a powerhouse to be operated under a head of 32 feet and to contain a turbine-generator unit with a rated capacity of 1.4 MW; 4) an outlet channel to release the water into the Yuma Main Canal; 5) a switchyard adjacent to the powerhouse; and 6) approximately 500 feet of 33-kV transmission line to connect to an existing WPRS transmission line.

The Applicant estimates that the average annual energy output would be 11.3 million kWh.

Purpose of Project—It is anticipated the project energy would be sold to private or public utilities in the Southern California area under the terms of the Public Utility Regulatory Policies Act of 1978.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of three years, during which it would carry out the following studies and investigations: (a) preliminary design including subsurface investigation, review of available flow records, topographic survey of the project site, selections of optimum configuration for the project, and availability of suitable turbines and generators; and (b) economic feasibility of the project, including comparative studies of cost and energy output of alternative sites, estimates of power value, and expected revenues from sale of project power. The costs of the above activities, including the preparation of an environmental report, negotiating agreements with various Federal, State, and local agencies, and preparing an FERC license application, are estimated by the Applicant to be about $125,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 30, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 31, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 30, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3524. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37568 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

Issued November 26, 1980.

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION							
*KERR-MCGEE CORPORATION				RECEIVED: 10/31/80 JA: LA			
8105666	A0-3579	1772620198	103	S L 2000 NO 58	BRETON SOUND BLOCK 20	12.0	SOUTHERN NATURAL GAS
OKLAHOMA CORPORATION COMMISSION							
*ANADON CORPORATION				RECEIVED: 11/17/80 JA: OK			
8105671	06389	3501520849	102	WINSOR #1-6	WILDCAT	350.0	MICHIGAN WISCONSIN
*ARCO OIL AND GAS COMPANY				RECEIVED: 11/17/80 JA: OK			
8105670	6398	3504722041	102	CECIL COOPER #1	SOUTH DOUGLAS	37.0	
8105669	06390	3504722081	102	DALE WEHLING #2	SOUTH DOUGLAS	110.0	
*ARKLA EXPLORATION COMPANY				RECEIVED: 11/17/80 JA: OK			
8105674	06270	3505120853	102	BARNETT #1-14	SE NAPLES	700.0	ARKANSAS LOUISIANA G
*COTTON PETROLEUM CORPORATION				RECEIVED: 11/17/80 JA: OK			
8105668	06354	3505120884	102	DOVER A NO 1	WATONGA	800.0	TRANSOK PIPE LINE CO
*HARPER OIL COMPANY				RECEIVED: 11/17/80 JA: OK			
8105675	06153	3508032133	103	SCHWANDT #1	S LUCIEN	28.0	EASON OIL CO
*JET OIL COMPANY				RECEIVED: 11/17/80 JA: OK			
8105677	06148	3508321169	103	NIDA #1	ELKHORN	10.0	EASON OIL CO
8105678	06147	3504721971	103	PHARES "B" #1	N ELKHORN	20.0	AMINOIL USA INC
8105679	06146	3504721846	103	SHEDECK #1	N ELKHORN	12.0	AMINOIL USA INC
8105676	06150	3504722027	103	STATE G #2	N ELKHORN	20.0	AMINOIL USA INC
*KAISER-FRANCIS OIL COMPANY				RECEIVED: 11/17/80 JA: OK			
8105692	06369	3505120343	102	GILES #1	N W CHICKASHA	912.0	OKLAHOMA NATURAL GAS
*MAY PETROLEUM INC				RECEIVED: 11/17/80 JA: OK			
8105686	06286	3501721350	102	HUBBARD NO 1 (OTC UNASSIGNED)	WATONGA TREND	730.0	CITIES SERVICE GAS C
*MAYLON ENERGY				RECEIVED: 11/17/80 JA: OK			
8105684	05914	3503520407	108	FITZGERALD #4 OTC NO 03555804	NW WELCH	0.0	CITIES SERVICE GAS C
8105681	05911	3503520449	108	FITZGERALD #5 OTC NO 03555804	NW WELCH	0.0	CITIES SERVICE GAS C
8105682	05912	3503520450	108	FITZGERALD #6 OTC NO 03555804	NW WELCH	0.0	CITIES SERVICE GAS C
8105683	05913	3503520397	108	METZEN #11 OTC NO 03553781	NW WELCH	0.0	CITIES SERVICE GAS C
*NATOMAS NORTH AMERICA INC				RECEIVED: 11/17/80 JA: OK			
8105685	06190	3512920413	102	MERRICK #1-3		2956.0	
*PHILLIPS PETROLEUM COMPANY				RECEIVED: 11/17/80 JA: OK			
8105680	05420	3501721241	102	SCHROEDER L #1		0.0	PANHANDLE EASTERN PI
*RICKS EXPLORATION CO				RECEIVED: 11/17/80 JA: OK			
8105693	04941	3501721249	102	RAMMING #1	WATONGA TREND	0.0	MICHIGAN WISCONSIN P
*SAMEDAN OIL CORPORATION				RECEIVED: 11/17/80 JA: OK			
8105672	06304	3501700000	102	OYLER #1		475.0	PHILLIPS PETROLEUM C
8105687	06205	3501721288	102	ROYSE #1	NO NAME	500.0	DELHI GAS PIPELINE C
*SOUTHLAND ROYALTY CO				RECEIVED: 11/17/80 JA: OK			
8105673	06303	3509321806	102	STAMBAUGH #2-32	ORION	36.0	MICHIGAN WISCONSIN P

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 JD NO    JA DKT        API NO      SEC  WELL NAME                          FIELD NAME                 PROD     PURCHASER
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*WOODS PETROLEUM CORPORATION          RECEIVED:  11/17/80  JA: OK
 8105690   06320        3512920401 102   ALBRIGHT #31-1                     S W LEEDY                 1314.0 DELHI GAS PIPELINE C
 8105689   06319        3512920432 102   SMITH #33-1                        S W LEEDY                 1058.0 DELHI GAS PIPELINE C
 8105691   06321        3512920313 102   SWITZER #1                         S W LEEDY                 1460.0 DELHI GAS PIPE LINE
 8105688   06318        3512920364 102   SWITZER A #30-1                    S W LEEDY                  675.0 DELHI GAS PIPELINE C
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** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM
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*AMOCO PRODUCTION CO                  RECEIVED:  11/19/80  JA: NM  4
 8105647   NM-1269-80   3004506798 108   GALLEGOS CANYON UNIT NO 147        BASIN-DAKOTA               16.0 EL PASO NATURAL GAS
 8105650   NM-1272-80   3004523905 103   GALLEGOS CANYON UNIT WELL #110E    BASIN DAKOTA               91.0 AMOCO GAS CO
 8105649   NM-1271-80   3004521054 108   J C DAVIDSON NO 2                  FULCHER KUTZ-PICTURED CL   19.0 SOUTHERN UNION GATHE
 8105645   NM-1267-80   3003921274 108   JICARILLA APACHE 102 NO 17         TAPACITO-PICTURED CLIFFS   21.0 GAS CO OF NEW MEXICO
 8105646   NM-1268-80   3003906598 108   JICARILLA APACHE 102 NO 2          TAPACITO-PICTURED CLIFFS   15.0 GAS CO OF NEW MEXICO
 8105648   NM-1270      3003921318 108   JICARILLA APACHE 102 NO 20         TAPACITO-PICTURED CLIFFS   20.0 GAS CO OF NEW MEXICO
 8105588   NM-0049-80-A 3002526353 103   SOUTH MATTIX UNIT #35              FOWLER DRINKARD            12.8 EL PASO NATURAL GAS
 8105587   NM-5264-79   3003921489 108   VALENCIA CANYON UNIT #14           CHOZA MESA                 21.0 EL PASO NATURAL GAS
*ARCO OIL AND GAS COMPANY             RECEIVED:  11/19/80  JA: NM  4
 8105596   NM-0841-80   3002526552 103   JOHNS B DE WELL #13                MALJAMAR                    2.9 PHILLIPS PETROLEUM C
 8105641   NM-1262-80   3004524288 103   KRAUSE WN FED 3E                   BASIN DAKOTA               27.0 NORTHWEST PIPELINE C
 8105597   NM-0945-80   3004524123 103   KRAUSE WN FEDERAL 8E               BASIN DAKOTA               70.0 NORTHWEST PIPELINE C
*BOLIN OIL COMPANY                    RECEIVED:  11/19/80  JA: NM  4

 8105585   NM-5052-79A  3003922133 103   CANDADU #24                        OTERO CHACRA                0.0 EL PASO NATURAL GAS
 8105586   NM-5052-79B  3003922133 103   CANDADU #24                        BLANCO MV                   0.0 EL PASO NATURAL GAS
*BRADLEY H KEYES                      RECEIVED:  11/19/80  JA: NM  4
 8105651   NM-1273-80   3004512031 108   LUCERNE FEDERAL #1                 FULCHER KUTZ PICTURED CL    4.2 EL PASO NATURAL GAS
*COTTON PETROLEUM CORPORATION         RECEIVED:  11/19/80  JA: NM  4
 8105598   NM-0947-80   3003922216 103   APACHE #132                        LINDRITH GALLOP/DAKOTA W   20.0 NORTHWEST PIPELINE
*DAVE M THOMAS JR                     RECEIVED:  11/19/80  JA: NM  4
 8105660   NM-1287-80   3004320432 103   CHACON JICARILLA APACHE D-109      CHACON DAKOTA              41.2 EL PASO NATURAL GAS
*DUGAN PRODUCTION CORP                RECEIVED:  11/19/80  JA: NM  4
 8105610   NM-1114-80   3003922167 103   ALMAGRE #1-R                       GAVILAN PC                 55.0
 8105602   NM-1011-80   3004524329 103   CHACO PLANT #1-J                   WAW FIELD                  40.0 EL PASO NATURAL GAS
 8105611   NM-1115-80   3003900000 103   EUREKA #1                          GALIVAN PICTURED CLIFFS    35.0
 8105662   NM-1289-80   3004523427 103   FIVE OF DIAMONDS #2                WILDCAT                    18.0 EL PASO NATURAL GAS
 8105612   NM-1116-80   3004524495 103   PINEY #1                           WAW FRUITLAND PC           45.0
*EL PASO NATURAL GAS COMPANY          RECEIVED:  11/19/80  JA: NM  4
 8105591   NM-0384-80   3003920948 108   CANYON LARGO UNIT #277             BALLARD-PICTURED CLIFFS    22.0 EL PASO NATURAL GAS
 8105632   NM-1237-80   3004500000 108   CLEVELAND #5                       FULCHER KUTZ - PICTURED    18.0 EL PASO NATURAL GAS
 8105594   NM-0101-80   3004521515 108   DAY #8                             BLANCO-PICTURED CLIFFS G   21.0 EL PASO NATURAL GAS
 8105604   NM-1038-80   3004512100 108   ROELOFS A #5                       BLANCO - PICTURED CLIFFS   21.9 EL PASO NATURAL GAS
*8105593   NM-0699-80   3003906959 108   SAN JUAN 27-5 UNIT #42 MV & PC     TAPACITO-PICTURED CLIFFS   21.6 EL PASO NATURAL GAS
 8105637   NM-1259-80   3003922226 103   SAN JUAN 28-6 UNIT #27A            BLANCO MESAVERDE          120.0 EL PASO NATURAL GAS
 8105638   NM-1260-80-A 3003922186 103   SAN JUAN 28-6 UNIT #6A             BLANCO MESAVERDE          150.0 EL PASO NATURAL GAS
 8105639   NM1260-80-B  3003922186 103   SAN JUAN 28-6 UNIT #6A             BLANCO SOUTH PICTURED CL   70.0 EL PASO NATURAL GAS
 8105592   NM-0696-80   3003920860 108   SAN JUAN 28-7 UNIT #197            BLANCO SOUTH-PICTURED CL   21.0 EL PASO NATURAL GAS
 8105630   NM-1193-80   3003907671 108   SAN JUAN 29-7 UNIT #101            BASIN-DAKOTA GAS           17.0 EL PASO NATURAL GAS
 8105603   NM-1033-80   3003906283 108   VAUGHN #4 CH & PC                  BLANCO-S PIC CLIFFS OTER   22.0 EL PASO NATURAL GAS
*GETTY OIL COMPANY                    RECEIVED:  11/19/80  JA: NM  4
 8105661   NM-1288-80   3002500000 108   MYERS LANGLIE MATTIX UT #118       LANGLIE MATTIX              1.8 EL PASO NATURAL GAS
*HARVEY E YATES COMPANY               RECEIVED:  11/19/80  JA: NM  4
 8105615   NM-1140-80   3002526813 102   YOUNG DEEP 4 FEDERAL #1            WILDCAT                   600.0 EL PASO NATURAL GAS
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JD NO	JA DKT	API NO	SEC	D WELL NAME		FIELD NAME	PROD	PURCHASER
*HILLIN PRODUCTION CO				RECEIVED: 11/19/80 JA: NM 4				
8105613	NM-111980103	3001570324	103	DWU #4		WINCHESTER - WOLFCAMP	360,0	EL PASO NATURAL GAS
*INEXCO OIL COMPANY				RECEIVED: 11/19/80 JA: NM 4				
8105631	NM 1240-80	3002526184	103	FEDERAL COM 7 NO 2 WELL		WEST TUNTO WOLFCAMP (PRO	17,0	LLANO INC
*J GREGORY MERRION				RECEIVED: 11/19/80 JA: NM 4				
8105663	NM-1290-80	3003922318	103	FEDERAL COM A #4		BALLARD PICTURED CLIFFS	300,0	EL PASO NATURAL GAS
*J GREGORY MERRION&ROBERT L BAYLESS				RECEIVED: 11/19/80 JA: NM 4				
8105644	NM-1266-80	3004506033	108	FRONTIER #1		GALLEGOS GALLUP	10,0	EL PASO NATURAL GAS
8105618	NM-1150-80	3003921851	108	HILL #1		BLANCO MESA VERDE	10,0	EL PASO NATURAL GAS
*JEROME P MCHUGH				RECEIVED: 11/19/80 JA: NM 4				
8105633	NM-1242-80	3004522161	108	CHACO PLANT #20		WAW FRUITLAND P C	14,0	EL PASO NATURAL GAS
8105636	NM-1245-80	3004512087	108	HARDIE #2		BASIN DAKOTA	14,0	EL PASO NATURAL GAS
8105635	NM 1279-80	3004520683	108	NASSAU #1		BASIN DAKOTA	20,0	EL PASO NATURAL GAS
8105634	NM-1243-80	3004520956	108	PINON #1		BASIN DAKOTA	16,0	EL PASO NATURAL GAS
*KOCH INDUSTRIES INC				RECEIVED: 11/19/80 JA: NM 4				
8105654	NM-1276-80	3004524189	103	MOORE #1		BASIN DAKOTA	91,2	EL PASO NATURAL GAS
8105655	NM-1277-80	3004524193	103	WILLIAM MANSFIELD #1		BASIN DAKOTA	182,5	EL PASO NATURAL GAS
*MESA PETROLEUM				RECEIVED: 11/19/80 JA: NM 4				
8105600	NM-0975-80	3001523194	102	ANTELOPE FEDERAL #1		UNDESIGNATED ABO	74,0	
8105601	NM-0976-80	3000560600	102	ROCK FEDERAL #1		WILDCAT ABO	179,0	
8105599	NM-0974-80	3001522987	103	WILLIS FEDERAL COM #1		WILDCAT MORROW	136,0	LLANO INC
*NORTHWEST EXPLORATION COMPANY				RECEIVED: 11/19/80 JA: NM 4				
8105590	NM-0162-80	3004523094	108	MIDDLE MESA #1		SO LOS PINOS FRUITLAND	0,0	NORTHWEST PIPELINE C
*NORTHWEST PIPELINE CORPORATION				RECEIVED: 11/19/80 JA: NM 4				
8105626	NM-1160-80	3003921393	103	SAN JUAN 29-5 #97		BLANCO PICTURED CLIFFS	120,0	NORTHWEST PIPELINE C
8105627	NM-1161-80	3003921289	108	SAN JUAN 32-7 #32		BLANCO MESAVERDE	18,0	EL PASO NATURAL GAS
8105628	NM-1163-80	3004511184	108	SAN JUAN 32-8 #25		BLANCO MESAVERDE	21,0	EL PASO NATURAL GAS
*OKLAHOMA OIL COMPANY				RECEIVED: 11/19/80 JA: NM 4				
8105589	NM-0160-80	3004523031	108	BOLACK J-1 J-28-27N-11W		WEST KUTZ	10,0	EL PASO NATURAL GAS
8105607	NM-1100-80	3004524046	103	FED WELL 1E (19-27N-11W)		BASIN DAKOTA	100,0	EL PASO NATURAL GAS
*PERRY R BASS				RECEIVED: 11/19/80 JA: NM 4				
8105665	NM-131180103	3001523004	103	BIG EDDY UNIT NO 71		UNDESIGNATED STRAWN	0,0	NATURAL GAS PIPELINE
8105608	NM 111180103	3001522859	103	BIG EDDY UNIT NO 72		SAND POINT	730,0	NATURAL GAS PIPELINE
8105609	NM111280103	3001522839	103	BIG EDDY UNIT NO 74		INDIAN FLATS ATOKA	730,0	NATURAL GAS PIPELINE
*PETROLEUM DEVELOPMENT CORP				RECEIVED: 11/19/80 JA: NM 4				
8105640	NM-1261-80	3001523159	103	LLANO-MCKAY FEDERAL #2		UNDESIGNATED MORROW	912,0	LLANO INC
*PIONEER PRODUCTION CORPORATION				RECEIVED: 11/19/80 JA: NM 4				
*8105606	NM-1084-80	3004507579	103	LUCERNE #1-E		BASIN DAKOTA	91,2	PIONEER NATURAL GAS
*8105605	NM-1083-80	3004500000	103	REDFERN #4 E		BASIN DAKOTA	182,5	PIONEER NATURAL GAS
*RALPH G ABBOTT				RECEIVED: 11/19/80 JA: NM 4				
8105584	NM-4972-80-2	3004523291	108	FEDERAL 11 #3 NM0338690		WEST KUTZ PICTURED CLIFF	14,0	SOUTHWEST GAS CORP
*SOUTHLAND ROYALTY CO				RECEIVED: 11/19/80 JA: NM 4				
8105642	NM-1263-80	3004509204	108	HOLDER #1		FULCHER KUTZ	10,9	SOUTHERN UNION GATHE
*SUPERIOR OIL CO				RECEIVED: 11/19/80 JA: NM 4				
8105614	NM-1130-80	3001522946	102	MEANDER FEDERAL NO 1		WILDCAT	0,0	
*SUPRON ENERGY CORPORATION				RECEIVED: 11/19/80 JA: NM 4				
8105619	NM-1151-79	3003922156	103	JICARILLA L 2E		BASIN DAKOTA	73,0	EL PASO NATURAL GAS
8105652	NM-1275-80-A	3004523638	103	NAVAJO B 6-M		BLANCO MESAVERDE	230,0	SOUTHERN UNION GATHE
8105653	NM-1275-80-B	3004523638	103	NAVAJO B 6-M		BASIN DAKOTA	238,0	EL PASO NATURAL GAS
*TENNECO OIL COMPANY				RECEIVED: 11/19/80 JA: NM 4				
8105629	NM 1168-80	3004524194	103	BASSETT B #1		BLANCO MESAVERDE	1350,0	EL PASO NATURAL GAS
8105625	NM-1159-80	3004524135	103	CORNELL B #1-E		BASIN DAKOTA	500,0	EL PASO NATURAL GAS

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8105621	NM-1135-80	3004524283	103		CORNELL E #1-E	BASIN DAKOTA	500.0	EL PASO NATURAL GAS
8105664	NM-1295-80	3004500000	108		J C GORDON FEDERAL #1	FULCHER-KUTZ	20.1	SOUTHERN UNION GATHE
8105620	NM-1154-80	3004523950	103		NEAL #2	BASIN DAKOTA	500.0	EL PASO NATURAL GAS
8105623	NM-1157-80	3004524280	103		NEAL #20	BASIN DAKOTA	500.0	EL PASO NATURAL GAS
8105622	NM-1156-80	3004523818	103		STOREY D #2	BASIN DAKOTA	500.0	EL PASO NATURAL GAS
8105624	NM-1158-80	3004523949	103		STOREY D #3	BASIN DAKOTA	500.0	EL PASO NATURAL GAS
-YATES PETROLEUM CORPORATION			RECEIVED: 11/19/80 JA: NM 4					
8105657	NM-1280-80	3001523272	103		DIXON YATES LM FEDERAL #1	WILDCAT	0.0	
8105659	NM 1282-80	3001523326	103		IRISH HILLS-YESO NM FEDERAL NO 1	PENASCO DRAW SA YESO (AS	0.0	TRANSWESTERN PIPELIN
8105643	NM-1265-80	3000560666	103		LONG ARROYO MQ FEDERAL NO 1	WILDCAT	0.0	TRANSWESTERN PIPELIN
8105658	NM-1281-80	3001523332	103		MOBIL CI FEDERAL NO 10	PENASCO DRAW SA YESO (AS	0.0	TRANSWESTERN PIPELIN
8105656	NM-1279-80	3001523331	103		MOBIL CI FEDERAL NO 9	PENASCO DRAW SA YESO (AS	0.0	TRANSWESTERN PIPELIN
8105595	NM 808-80	3001523136	102		NORTH TURKEY TRACK MU FEDERAL NO 1	UNDESIGNATED	0.0	EL PASO NATURAL GAS
-SOUTHLAND ROYALTY CO			RECEIVED: 11/19/80 JA: UT 4					
8105617	UA 1145-80	4303700000	108		GOTHIC MESA 59 #1	GOTHIC MESA	5.5	EL PASO NATURAL GAS
8105616	UA-1144-80	4303700000	108		GOTHIC MESA 68 #2	GOTHIC MESA	5.5	EL PASO NATURAL GAS

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** U.S. GEOLOGICAL SURVEY - CASPER,WY
****

-PACIFIC TRANSMISSION SUPPLY COMPANY			RECEIVED: 11/13/80 JA: WY 5					
8105667	W 115-0	4902305124	108		PTS 2-26 FEDERAL	FONTENELLE	20.0	PACIFIC GAS TRANSMIS

OTHER PURCHASERS VOLUME NO 1326

8105593 NORTHWEST PIPELINE
8105605 EL PASO NATURAL GAS
8105606 EL PASO NATURAL GAS

The above notices of determination were received from the indicated jurisdicational agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceeding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or discription of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.04, file a protest with the Commission within fifteen (15) days after the date of publication of this notice in the Federal Register.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-37565 Filed 12-2-80; 8:45 am]
BILLING CODE 6450-85-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 80-694]

A Closed Circuit Test of the Emergency Broadcast System During the Week of December 8, 1980

November 25, 1980.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of December 8, 1980. Only ABC, MBS, NRP, AP Radio, CBS, IMN, NBC, and UPI Audio Radio network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. Television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a closed circuit test and will not be broadcast over the air.

Action by the Commission November 24, 1980. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-37532 Filed 12-2-80; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 75, "MPS—Automatic Coordinate Conversion Systems"

Notice of 7th Meeting, Wednesday, December 17, 1980—9:00 a.m., Conference Room 6336, Nassif (DOT) Building, 400 Seventh Street, SW at D Street, Washington, DC

Agenda

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Discussion of draft of Minimum Performance Specifications.

Mortimer Rogoff, Chairman, SC-75, 4201 Cathedral Avenue, NW, Apartment 91W, Washington, DC 20016, Phone: (202) 362-5462

Executive Committee Meeting, Notice of December Meeting, Thursday, December 18, 1980—9:30 a.m., Conference Room 8334, Nassif (DOT) Building, 400 Seventh Street, SW at D Street, Washington, DC

Agenda

1. Administrative matters and committee reports.
2. Consideration of SC-71 Report concerning "VHF Automated Radiotelephone Systems".
3. Consideration of WJG Telephone Company petition to modify RTCM By-Laws by adding a new group to those authorized for Executive Committee representation.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-37531 Filed 12-2-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Senior Executive Service-Performance Review Board; Updated Membership

In accordance with Title IV of the Civil Service Reform Act of 1978, the Federal Home Loan Bank Board hereby gives notice of new memberships on the SES Performance Review Board. Current members are:

Rita I. Fair, Marshall Kaplan, Charles Gillum, L. David Taylor, Richard Petrocci

FOR FURTHER INFORMATION CONTACT: Doris H. McGhee, Director of Personnel, Federal Home Loan Bank Board, (202) 377-6050.

Robert D. Linder,

Acting Secretary to the Board, Federal Home Loan Bank Board.

[FR Doc. 80-37534 Filed 12-2-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Agreements Nos. 9847-6 and 10027-10]

U.S. Atlantic/Brazil Pool Agreement and Brazil/U.S. Atlantic Pool Agreement; Availability of Energy Impact Statement

Pursuant to the Energy Policy and Conservation Act of 1975, 42 U.S.C. 6362, and the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, the Office of Environmental Analysis (OEA) has assessed the possible Commission actions with regard to these agreements published at 45 FR 73135 (November 4, 1980) and determined that Commission approval of Agreements Nos. 9847-6 and 10027-10 should promote greater energy efficiency, greater energy conservation and fewer environmental impacts than Commission disapproval or modification.

This Energy Impact Statement will become final within 10 days and is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 80-37580 Filed 12-2-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The Bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 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 commended *de novo*, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 23, 1980.

A. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Mellon National Corporation, Pittsburgh, Pennsylvania (financing and leasing activities; United States): to engage, through its subsidiary, Mellon Leasing and Management Company, in making or acquiring, for its own account or for the account of others, commerical or mortgage loans or other extensions of credit, secured by real or personal property; serving loans; and making leases of real or personal property or acting as agent, broker or advisor in leasing such property. These activities would be conducted from an office in Pittsburgh, Pennsylvania, serving the United States. Comments on this application must be received by December 11, 1980.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120: 1. Rainier Bancorporation, Seattle, Washington, (industrial loan activities; Washington): to engage through its subsidiary, Rainer Industrial Loan Company, in industrial loan activities. Under the law of the State of Washington, an industrial loan company may not accept demand deposits. These activities will be conducted from offices in Aberdeen, Everett, Federal Way, Mount Vernon, Opportunity, Redmond, Rickland, Spokane, Tacoma, and Vancouver, Washington, serving the State of Washington.

2. Seafirst Corporation, Seattle, Washington, (mortgage banking and insurance activities; Nevada): to engage, through its SutterTrust Company Division, in making and acquiring loans and other extensions of credit secured by real estate mortgages and deeds of trust; and acting as agent for the sale of credit life and accident and health insurance directly related to its extension of credit. These activities would be conducted from an office in Las Vegas, Nevada, serving the State of Nevada.,

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 24, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37528 Filed 12-2-80; 8:45 am

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 255.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a

hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should indentify 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 December 26, 1980.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President), 30 Pearl Street, Boston, Massachusetts 02106: 1. First National Boston Corporation, Boston, Massachusetts (data processing activities; Maryland): to engage through its indirect subsidiary, First of Boston Computeristics, Inc. in data processing activities for the internal operations of an unaffiliated organization, Baltimore Federal Savings and Loan Association, Baltimore, Maryland. These activities would be performed at a new office located in Baltimore, Maryland serving the states of Maryland and Virginia and the District of Columbia.

2. Old Stone Corporation, Providence, Rhode Island (mortgage banking and insurance activities; Ohio): to engage through its subsidiary, UniMortgage Corporation of Ohio, in originating, selling, and servicing first and second mortgage loans; selling credit life and credit health and accident insurance offered in connection with extensions of credit, which insurance would be reinsured by another subsidiary, Motor Life Insurance Company of Jacksonville, Florida. These activities would be conducted from an office in Cincinnati, Ohio, serving metropolitan Cincinnati and Hamilton County, Ohio, and Boone, Kenton, and Campbell Counties, Kentucky. Comments on this application must be received by December 23, 1980.

B. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303: 1. Southwest Florida Banks, Inc., Fort Myers, Florida (mortgage origination and servicing activities, southwest Florida): to engage, through its subsidiary, Southwest Mortgage Services, Inc., in servicing and originating mortgage loans. These activities would be conducted from an office in Fort Myers, Florida, servicing the Florida counties of Collier, Lee, Charlotte, Manatee, Sarasota, Hillsborough and Pinellas.

2. Levy County Bancorporation, Chiefland, Florida (insurance activities, Florida): to act as agent or broker for the sale of credit life, credit accident and health directly related to extensions of credit by its subsidiary bank or branches, and acting as agent or broker in the sale of any insurance sold in a community that has a population not exceeding 5,000. These activities would be conducted from offices in Chiefland, Inglis and Bronson, Florida, serving Levy, Gilchrist, Citrus, Marion, Alachua and Dixie Counties all located in Florida.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37529 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843 (c) (8)) and § 225.4(b) (1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 26, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045: Chemical New York Corporation, New York, New York (investment advisory activities; Florida, Georgia, Alabama, South Carolina and North Carolina): to engage through its indirect subsidiary, ICM of the South, Inc., in activities that may be carried on by an investment adviser, including offering portfolio investment advice to individuals, corporations, governmental entities and other institutions on both a discretionary and non-discretionary basis. These activities would be conducted from an office in Tampa, Florida, serving the states of Florida, Georgia, Alabama, South Carolina and North Carolina.

B. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President) 30 Pearl Street, Boston, Massachusetts 02106: Industrial National Corporation, Providence, Rhode Island (insurance activities; Tennessee): to engage *de novo* through its indirect subsidiary, Southern Discount Company of Tennessee, in acting as agent for the sale of credit property insurance directly related to its extensions of credit. These activities would be conducted from an office in Jasper, Tennessee, serving all of Marion County, Tennessee.

Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, November 28, 1980.

Barbara R. Lowrey,

Assistant Secretary of the Board.

[FR Doc. 80-37570 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Colorado National Bankshares, Inc.; Acquisition of Bank

Colorado Bankshares, Inc., Denver, Colorado, 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 Arvada State Bank, Arvada, Colorado. 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 Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 24, 1980. 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, November 24, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37523 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Federated Bancshares, Inc.; Formation of Bank Holding Company

Federated Bancshares, Inc., Otterville, Missouri, 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 90.2 per cent of the voting shares of The Bank of Otterville, Otterville, Missouri. 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 Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 18, 1980. 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, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37534 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Financial Bancshares Co.; Formation of Bank Holding Company

Financial Bancshares Company, Becker, Minnesota, 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 93.3 per cent of more of the voting shares of Santiago State Bank, Santiago, Minnesota. 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)).

Financial Bancshares Company, Becker, Minnesota, 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 in the activities of a general insurance agency in a community that has a population not exceeding 5,000. These activities would be performed from Applicant's offices in Santiago, Becker and Clear Lake, Minnesota, and the geographic areas to be served are Santiago, Becker and Clear Lake, Minnesota, and surrounding areas. 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).

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 Minneapolis.

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 December 26, 1980.

Board of Governors of the Federal Reserve System, November 26, 1980.

Barbara R. Lowrey,

Assistant Secretary of the Board.

[FR Doc. 80-37571 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Golden Summit Corporation; Formation of Bank Holding Company

Golden Summit Corporation, Milton, Florida, 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 Santa Rosa State Bank, Milton, Florida. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 26, 1980. 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, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37520 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Morgan Guaranty International Bank; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Morgan Guaranty International Bank, Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Los Angeles, Califorina. Morgan guaranty International Bank operates as a subsidiary of Morgan Guaranty Trust Company of New York, New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of governors or at the Federal Reserve Bank of New York. 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 no later than December 26, 1980. 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37530 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

PTD Bancorp., Inc., Formation of Bank Holding Company

November 26, 1980.

PTD Bancorp, Inc., Potosi, Wisconsin, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Potosi State Bank, Potosi, Wisconsin. 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 Reserve Bank, to be received not later than December 26, 1980. 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, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37526 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

South Georgia Bankshares Corp.; Formation of Bank Holding Company

November 26, 1980.

South Georgia Bankshares Corp., Lyons, Georgia, 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 percent or more of the voting shares of The Peoples Bank of Lyons, Lyons, Georgia. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 26, 1980. 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, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37527 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Wells Fargo Bank International; Relocation of Home Office and Establishment of U.S. Branch by a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Wells Fargo Bank International, New York, New York, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(a)(2) of the Board's Regulation K (12 CFR 211.4(a)(2)), to move its home office from New York, New York, to San Francisco, California, and under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Miami, Florida, and New York, New York. Wells Fargo Bank International operates as a subsidiary of Wells Fargo Bank, N.A., San Francisco, California.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. 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 no later than December 26, 1980. 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37522 filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Pharmaceutical Reimbursement Board; Suspension of Maximum Allowable Cost Limits

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Suspension of Maximum Allowable Cost Limits on Phenylbutazone, oral tablets, 100 mg; Phenylbutazone Alka, oral capsules, 100 mg and Oxyphenbutazone, oral tablets, 100 mg.

SUMMARY: The Pharmaceutical Reimbursement Board hereby suspends the Maximum Allowable Cost (MAC) limits on Oxyphenbutazone, oral tablets, 100 mg; Phenylbutazone, oral tablets, 100 mg and Phenylbutazone Alka, oral capsules, 100 mg. The limits for phenylbutazone tablets and phenylbutazone alka capsules were set forth at 43 FR 57972–77, December 11, 1978 and for oxyphenbutazone at 44 FR 50651–56, August 29, 1979. The suspension of these MAC limits results from a recent price increase for these products by USV Laboratories, the only approved alternate supplier for oxyphenbutazone and phenylbutazone alka and the predominant alternate supplier for phenylbutazone.

The Board will reinstitute procedures to establish new MAC limits on these three products.

DATES: The effective date of this suspension is October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Spalding, Acting Executive Secretary, Pharmaceutical Reimbursement Board, 1-D-5 East Low Rise, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-5403.

Dated: October 21, 1980.

Charles Spalding,

Acting Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 80-37535 Filed 12-2-80; 8:45 am]

BILLING CODE 4110-35-M

Public Health Service

Privacy Act of 1974

AGENCY: Department of Health and Human Services; Public Health Service.

ACTION: Notification of new system of records: "Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography, and Biometry Studies on Aging," DHHS/NIH/NIA, 09-25-0142.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to adopt a new system of records, "Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography, and Biometry Studies on Aging," DHHS/NIH/NIA, 09-25-0142. These records will be used to

accomplish scientific research conducted by intramural scientists employed by the National Institute on Aging (NIA), and by hospitals, universities, research centers and research foundations under contract with NIA. These research activities aim at determining the health status of individuals and changes in health status over time, the incidence and prevalence of certain diseases and problems of the aged in certain populations, and changes that take place as the individuals age who are under study.

PHS invites interested persons to submit comments on the proposed routine uses on or before January 2, 1981.

DATES: PHS has sent a Report of New System to the Congress and to the Office of Management and Budget on November 19, 1980. The system of records will be effective January 19, 1981, unless PHS receives comments on the routine uses which would result in a contrary determination.

ADDRESS: Comments should be addressed to the Privacy Act Coordinator, National Institutes of Health (NIH), at the address listed below. Comments received will be available for inspection from 9 a.m. to 3 p.m. in Room 3B03, Building 31, at that address.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth Thibodeau, NIH Privacy Act Coordinator, Building 31, Room 3B07 9000 Rockville Pike, Bethesda, MD 20205, or call 301-496-4606.

SUPPLEMENTARY INFORMATION: Congress created the National Institute on Aging in 1974 and gave NIA responsibility for "biomedical, social and behavioral research and training related to the aging process and diseases and other special problems and needs of the aged." (Pub. L. 93-296). The proposed system of records reported here will comprise records created by NIA scientists and by research institutions under contract to NIA in activities undertaken to fulfill this congressionally mandated responsibility. NIA will use the data collected under this system principally, and in most cases exclusively, for research purposes. The results of the research will be reported in aggregate and statistical form and will not disclose identifying particulars about any individual. In addition, research data may be used for program review and evaluation in order to ensure that research projects are progressing towards their goals and to determine any improvements or additional research that might be necessary.

Records collected under this system will be organized and maintained according to the particular research project of which they are a part. Records will not be entered into a general or comprehensive data base. NIA scientists will protect the confidentiality of the records according to the standards of chapter 45-13 of the HHS General Administration Manual and supplementary chapter PHS hf:45-13, and of Part 6 of the HHS ADP Systems Manual. All contracts for the maintenance of records under this system will include security requirements in accordance with the HHS Procurement Regulation, 3-1-327-5(e).

The routine uses proposed for this system are compatible with the stated purposes of the system. The first proposed routine use for disclosure to DHHS contractors and collaborating researchers provides for the accomplishment of the basic purposes of this system. The second proposed routine use will enable the Department to ensure that these research activities are conducted properly.

A routine use for research is proposed because occasionally the progress, quality or fruitfulness of a research program may be enhanced, and the public interest served, by disclosing the data to additional researchers to further the advance of medical science. The routine use disclosure to the Department of Justice for Freedom of Information Act (FOIA) determinations provides an additional protection of the privacy of subject by ensuring against unwarranted releases of personal information under FOIA.

The routine use for litigation simply reserves the right of the Government to use the records to defend itself or its employees in cases that may arise in connection with these research programs.

The proposed routine use for disclosure to a congressional office would not violate the privacy of any individual because such disclosure would be made only pursuant to a request of the individual.

Dated. November 19, 1980.

Jack N. Markowitz,

Acting Director, Office of Management

09-25-0142

SYSTEM NAME:

Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system will be located in hospitals and clinics, research centers and research foundations, and in facilities of the National Institute on Aging (NIA) in Bethesda, MD. They may be stored at Federal Records Centers. A list of locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies will include: (1) individuals whose physical, genetic, social, psychological, cultural, economic, environmental, behavioral, pharmacological, or nutritional conditions or habits are studied in relationship to the normal aging process and/or diseases and other normal or abnormal physical or psychological conditions of the aged, and (2) normal volunteers who are participants in such studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system will consist of a variety of health, demographic, and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaires, or direct observations. The system will also include records of current addresses of study participants, fingerprints where relevant as a variable in studies of senile dementia, and correspondence from or about participants in the studies. When supplied on a voluntary basis, Social Security numbers will also be included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority is provided by Section 301, Research Contracting, and 463-4, Research Aging Act of 1974, of the Public Health Service Act (42 U.S.C. Sections 241g, 289k-4, k-5).

Purpose(s): The National Institute on Aging will use the data collected:

1. In research projects on (a) the health status of individuals and changes in health status over time, (b) the incidence and prevalence of certain diseases and problems of the aged in certain population, and (c) the changes that take place as individuals age;

2. For program planning and evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records may be disclosed to DHHS contractors, collaborating researchers and their staffs in order to accomplish the basic research purpose of this system. The recipients will be required

to maintain Privacy Act safeguards with respect to such records.

2. Data may be disclosed to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk, if any, to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identifiable person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

(d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

5. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, magnetic tapes or discs, punched cards, or bound notebooks. Stored data may include textual, photographic, X-ray, or other material.

RETRIEVABILITY:

Information will be retrieved by personal identifiers such as name, code number and/or Social Security number, when this is supplied on a voluntary basis.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

RETENTION AND DISPOSAL:

(1) *Authorized Users:* Access will be limited to principal investigators, collaborating researchers and necessary support staff.

(2) *Physical Safeguards:* Hard copy data will be maintained in locked file cabinets. Information stored in computer systems will be accessible only through proper sequencing of signal commands and access codes specifically assigned to the Project Officer or contractor.

(3) *Procedural Safeguards:* Access to the information will be controlled directly by the Project Officer or his or her representative at remote locations, and by the system manager at NIA locations. Contractors and collaborating researchers will be notified that they are subject to the provisions of the Privacy Act, and will be required to make formal, written agreements to comply with these provisions.

The particular safeguards implemented in each project are developed in accordance with chapter 45-13 and supplementing chapter PHS hf 45-13 of the HHS General Administration Manual and part 6, ADP Systems Security, of the HHS ADP Systems Manual, and the National Bureau of Standards Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records at contractor facilities will be retained and disposed of under the specific terms established in each contract. Records at NIA facilities will be retained and disposed of under the authority of the NIH Records Control Schedule (HHS Records Management Manual, Appendix B-361, item 3000-G-3). Write to system manager for a copy of the authorized disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Coordinator, National Institute on Aging, Building 31, NIH, 9000 Rockville Pike, Bethesda, MD 20205.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above and provide the following information in writing:

1. Full named at time of participation in the study,
2. Date of birth,
3. Home address at the time of study,
4. The facility where the examination was given or where information was collected,
5. Approximate date or dates of participation,
6. Name of study, if known,
7. Current name, address and telephone number.

The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requestor is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to $5,000 fine.

An individual who requests notification of or access to a medical or dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Contact the system manager at the above address and provide the same information as outlined under the notification procedures. Requestors

should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address above. The contestor must reasonably identify the record, specify in writing the information being contested, state the corrective action sought, and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Information will be obtained directly from individual participants and from medical and clinical research observations, or indirectly from existing source documents such as disease registries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

FR Doc. 80-37355 Filed 12-2-80; 8:45 am]

BILLING CODE 4110-08-M

Social Security Administration

Contribution and Benefit Base, Quarter of Coverage Amount, Retirement Test Exempt Amounts, Average of the Total Wages, Formulas for Computing Benefits, and Extended Table of Benefit Amounts for 1981

Correction

In FR Doc. 80-36032 appearing at page 76252 in the issue of Tuesday, November 18, 1980, make the following correction: In the table on page 76254, under "(Maximum family benefits)", the 35th and 36th entries now reading "1,861.50" and "1,863.20" should have read "1,881.50" and "1,883.20".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-80-627]

Acting Regional Administrator, Seattle Regional Office, Region X, Washington; Designation

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of the Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator; provided that no official is authorized to serve as Acting Regional Administrator unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Regional Administrator
2. Director, Office of Regional Administration
3. Director, Office of Regional Community Planning and Development
4. Director, Office of Regional Housing
5. Director, Office of Regional Fair Housing and Equal Opportunity
6. Regional Counsel, Office of Regional Counsel

Effective as of the 27th day of October, 1980.

Gordon N. Johnston,

Regional Administrator, Seattle Regional Office.

[FR Doc. 80-37548 Filed 12-2-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Environmental Quality

[Docket No. NI-36]

Intended Environmental Impact Statement; Nueva Caparra Community, Bayamon, Puerto Rico

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Nueva Caparra Community, Bayamon, Puerto Rico. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommend mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D C. November 26, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix—EIS for Nueva Caparra Community, Bayamon, Puerto Rico

The Department of Housing and Urban Development, Region II, Caribbean Area Office, intends to prepare and Environmental Impact Statement (EIS) on the project described below, and solicits comments and information for consideration in the EIS.

Description. The project site is located on State Road No. 177, at km. 14.7, Juan Sanchez Ward, Bayamon, and Frailes Ward, Guaynabo, Puerto Rico. The project may be assisted under the following Federal Programs: 203(b), 235, and Section 8. The Commonwealth of Puerto Rico is planning to develop Nueva Caparra Community, which will be an urban community for approximately 8,000 families. It includes a collection of various projects and programs which will be developed in an integrated way. The project will combine several types of structural alternatives: detached residential units, duplex, townhouses, walk-up apartments, high-rise apartments, etc. The total project area is 538.07 acres. Approximately 254.47 acres are to be allocated for residential use, and 89.36 acres for community facilities.

Need. It has been determined to prepare an Environmental Impact Statement due to the size of the development.

Alternatives. Alternatives to be considered are no project or changes to size and design.

Scoping. A scoping meeting with the participation of cooperating government agencies and the general public will be held. For further information on this meeting, contact the person listed below.

Comments. Estimated date for completion of Draft EIS: February 20, 1981. A copy of the draft will be published in Spanish, and will be available for inspection at the Area Office. All comments should address the environmental impacts of the proposed project. All such comments will be considered when preparing the Draft and shall be come part of the project's environmental file. These comments must be mailed or delivered to HUD within 21 days of the publication of this notice in the Federal Register to Jose R. Febres-Silva, Area Manager, U.S. Department of Housing and Urban Development, U.S. Courthouse and Federal Building, Carlos Chardon Avenue, Room 428, Hato Rey, Puerto Rico 00918.

[FR Doc. 80-37550 Filed 12-2-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona; Safford District Advisory Council Meeting

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part

1780, that a meeting of the Safford District Advisory Council will be held January 15, 1981 at Safford, Arizona at 10:00 a.m. at the Safford District Office, 425 East 4th Street, Safford, Arizona.

Agenda for the meeting will include:

1. Winkelman Step II Multiple Use recommendations.
2. Discussion of wilderness recommendation protests.
3. New regulations pertaining to BLM.
4. Resource programs progress and schedules.

The meeting is open to the public. Interested persons may make oral statements to the council between 1:00 p.m. and 2:00 p.m. A written copy of the oral statement must be provided at the conclusion of the presentation. Written statements may also be filed for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by January 5, 1981. Depending upon the number of persons wishing to make an oral statement, a per-person time limit may be considered.

Summary minutes of the meeting will be maintained in the district office and will be available for public inspection and reproduction (within regular business hours) within 30 days following the meeting.

Fritz U. Rennebaum,
District Manager.
November 25, 1980.
[FR Doc. 80-37585 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-84-M

Multiple Use Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Multiple Use Advisory Council; Meeting rescheduled.

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that the meeting of the Yuma District Multiple Use Advisory Council originally scheduled for December 11 and 12, 1980 has been rescheduled to Thursday and Friday, January 8 and 9, 1981, beginning at 8 a.m. M.S.T. at the Royal Quality Inn, 2941 South Fourth Avenue, Yuma, Arizona.

The original notice of the meeting was published in the November 6, 1980 issue of the Federal Register on pages 73807 and 73808. All details for the meeting remain the same except for the change of date as reported in the first paragraph of this notice.

H. M. Bruce,
District Manager.
[FR Doc. 80-37519 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-84-M

Wyoming and Montana; Intent To Hold Public Hearings and the Opening of a Comment Period on the Federal Coal Leasing Target for the Powder River Coal Production Region

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Public hearings and opening of a comment period.

SUMMARY: This notice advises the public that the Powder River Regional Coal Team intends to hold public hearings to receive oral and written comments in order to assist the Secretary of the Interior in the establishment of a Federal coal leasing target for the Powder River coal production region. The hearings will be held in Gillette, Wyoming, and Billings, Montana. Individuals wishing to comment orally at the public hearings are asked to provide written copies of their remarks. Oral and written comments on the leasing target will be accepted at the public hearings. Written comments should be addressed to the BLM Wyoming State Director at the address given below.

The Secretary of the Interior, as part of his announcement of a new Federal coal management program on June 4, 1979, set a tentative regional Federal leasing target of 776 million tons of in-place coal for the Powder River region with proposed lease sales to occur beginning in April 1982. Information received since June 4, 1979, has resulted in recalculation of the preliminary lease target to allow for the additional production of up to 92 million tons of coal in 1990. The final leasing target will be set by using both the public comments that result from this notice and the final DOE production goals when they become available.

DATE: Written comments will be accepted until close of business, January 26, 1981. Public hearings will be held in Billings, Montana, on December 18, 1980, and in Gillette, Wyoming, on December 23, 1980. The hearings will start at 7:00 p.m.

ADDRESS: Written comments on the proposed lease target should be addressed to Bureau of Land Management, Wyoming State Director, P.O. Box 1828, Cheyenne, Wyoming 82001. Public hearings will be held in Gillette, Wyoming, at the Holiday Inn, 2009 S. Douglas Highway, and in Billings, Montana, at the Northern Hotel.

FOR FURTHER INFORMATION CONTACT: J. Stan McKee, Powder River Project Manager, or Ron Moore, Wyoming Coal Coordinator, Bureau of Land Management (930), P.O. Box 1828, Cheyenne, Wyoming 82001, 307-778-2220, extension 2413, or FTS 328-2413.

SUPPLEMENTARY INFORMATION: The leasing target for the Powder River Region is based upon the difference between the Department of Energy's (DOE) coal production goals and the Department of the Interior's (DOI) estimate of production from mines within the region which are not dependent upon new Federal coal leasing for production.

The leasing target can be expressed in two ways, i.e., in terms of *in-place* Federal coal and in terms of *new annual production.* The Code of Federal Regulations call for expressing the target in terms of in-place coal, however, revisions being made will allow for the use of both in-place and annual production figures. The numerical calculations needed to determine in-place Federal coal are being deemphasized in favor of presenting the lease target in terms of annual production. This should make the target process more understandable and will keep the emphasis on any needed increases in production. The tracts will also be listed in terms of expected new annual production so that a comparison of proposed tracts to the target can easily be made. In-place coal tonnage figures will still be used since they are required by regulation and are used for planning, programming, and budgeting purposes.

The preliminary leasing target announced in June 1979 for the Powder River Region designated 1987 as the first year for the new competitive leases to achieve production. In other words, the 776 million ton target was based upon the DOE medium production goal for 1987. Since that time the DOI has begun reassessing the expected length of time for a new mine to begin production. The most current estimate of required lead time is approximately 90 months, or 7½ years. Since the first lease sale in the region is scheduled for April 1982, a production date of October 1989 can be expected. Considering that the sale schedule will extend past April 1982, 1990 has been selected as the goal year for production from the proposed lease tracts. The same lead time must be used for calculating both the target and the environmental impacts analyzed for the proposed lease tracts in the regional environmental statement that is to be prepared.

The coal production goals developed by DOE are provided at three levels of energy consumption growth rates, low, medium, and high. Due to the uncertainties regarding coal consumption over the next ten years,

especially for electric utilities, the range in the goals (low to high case) is substantial. The new DOE preliminary coal production goals for 1990 range from a low of 185.7 million tons, a medium level of 275.2 million tons, to 438.0 million tons at the high level for annual production. DOE recommends that the leasing target be prepared within a range of values corresponding to the range between the medium level and high level production goals. Note that DOE was scheduled to release the final coal production goals by November 6, 1980. The date has been changed to sometime in December, 1980.

Recalculation of the proposed Federal coal leasing target is as follows:

1. Production estimates from all existing mines were subtracted from the 1990 DOE goal.

2. Also subtracted were the DOI estimates of production from potential mines that do not require new or additional Federal leases. These are generally existing nonproducing leases that are expected to be in production by 1990.

3. Finally, the Department of Interior subtracted production estimates of Preference Right Lease Applications (PRLA's) and PRLA related coal from DOE goals. PRLA related coal means existing Federal leases, private, and State coal expected to be produced in 1990 in conjunction with PRLA's.

Projected Production From the Powder River Region in Wyoming

	1990 (million tons)
Campbell County	
Existing mines:	
Bell Ayr	19.0
Black Thunder	20.0
Caballo	12.0
Clovis Point	4.0
Cordero	15.0
Eagle Butte	20.0
Ft. Union	1.2
Jacobs Ranch	14.0
Rawhide	24.0
Wyodak	5.0
Total existing mines	134.2
Potential Mines:	
Antelope	10.0
Buckskin	1.5
Coal Creek	10.0
East Gillette	11.0
Pronghorn	5.0
Rojo Caballos	15.0
South Rawhide	7.0
Wildcat Creek	10.0
Total potential mines	69.5
PRLA's	12.2
PRLA Related	6.2
Subtotal	222.1
Converse County	
Existing mines: Dave Johnston	3.2
PRLA's	6.8

Projected Production From the Powder River Region in Wyoming—Continued

	1990 (million tons)
PRLA Related	2.1
Subtotal	12.1
Johnson and Sheridan Counties	
Existing mines: Big Horn	4.5
Potential mines:	
Texaco Lake DeSmet	6.8
Black Mountain Mine	0.5
Dutchman Mine	2.0
PSO Mine No. 1	.5
Total potential mines	9.8
PRLA's	5.1
PRLA Related	12.0
Subtotal	31.4
Total projected 1990 coal development in Wyoming portion of Powder River Region	[1] 265.6

[1] Million tons annual production.

Projected Production From the Powder River Region in Montana

	1990 (million tons)
Big Horn County	
Existing mines:	
Decker	14.6
Spring Creek	7.0
Absaloka	10.0
Total existing mines	31.6
Potential mines:	
CX-Squirrel Creek	8.0
Crow-Young Creek	8.0
Total potential mines	16.0
Subtotal	47.6
Rosebud County	
Existing Mines:	
Rosebud	19.1
Big Sky	4.2
Total existing mines	23.3
Potential Mines: Montco	9.0
Subtotal	32.3
Powder River County	
Existing mines: Coal Creek	0.3
Subtotal	.3
Total projected 1990 coal development in Montana portion of Powder River Region	[1] 80.2

[1] Million tons annual production.

Total projected 1990 production from Powder River Region not dependent on new Federal leasing:

	Million tons [1]
Wyoming	265.8
Montana	80.2
Total	346.0

[1] Million tons annual production.

Calculation of Lease Target

	Low	Medium	High
DOE preliminary 1990 production goal (million tons of annual production)	185.7	275.2	438.0
Less projected production not dependent upon new Federal leasing	−346.0	−346.0	−346.0
Shortfall in annual production (million tons)	(1)	(1)	92.0

[1] Zero.

Subtracting the projected coal production not dependent upon new Federal leasing from the preliminary 1990 DOE low, medium, and high level production goals results in an unsatisfied annual demand that ranges from 0 to 92 million tons. This estimate of shortfall in annual production is converted to coal in place by multiplying by a 30-year mine life; multiplying by 0.8, representing the average 80 percent Federal ownership of coal within the Known Recoverable Coal Resource Areas within the Powder River Region; and dividing by 0.9, representing the 90 percent recovery of coal from surface operations. The result of this calculation is a leasing target that ranges from 0 to 2,453 million tons of in-place Federal coal reserves. Based upon the DOE's final production goals, comments received from the public, and additional analytical results from the DOI studies, a final leasing target for the Powder River Region will be developed during February 1981 and will be announced by the Secretary of the Interior.

Nyles L. Humphrey,

Acting State Director.

[FR Doc. 80-37622 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Intent To Prepare a Master Plan With Environmental Impact Statement for Grays Lake National Wildlife Refuge, Idaho

November 19, 1980.

AGENCY: United States Fish and Wildlife Service.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service intends to initiate a comprehensive planning process for the purpose of developing a master plan for the Grays Lake National Wildlife Refuge. As part of the plan development an Environmental Impact Statement (EIS) will be prepared. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from

other agencies and the public on issues to be considered in the plan development. Comments and participation in this scoping process are solicited.

The Grays Lake National Wildlife Refuge was established as a unit of the National Wildlife Refuge System in 1965 and consists of 16,175 acres located in southeastern Idaho 26 miles north of Soda Springs within Bonneville and Caribou Counties. The refuge includes wetlands and uplands in and around Grays Lake.

The refuge master plan is to be a comprehensive land use plan that will set forth long-term objectives for resource management and public use of the refuge. An interdisciplinary planning team comprised of staff from the refuge, the Area Office in Boise, Idaho, and the Regional Office in Portland, Oregon, has been established to carry out the planning process. The process will include a data inventory and resource mapping phase, an analysis of land suitability to support potential uses, and evaluation of alternative ways to allocate refuge lands to potential uses in a manner consistent with the overall objectives of the National Wildlife Refuge System and the purposes for which the refuge was established.

Public involvement will be an essential component of the planning process. As a public resource management agency, the Service will make every effort to insure that attitudes, interests and desires of local, regional and national groups are considered in the planning process.

In order to obtain public input as early as possible in the planning process, a general mailing to solicit public comments will be conducted during November and December 1980. Persons, representatives of organizations and agency representatives who have suggestions regarding problems and issues that should be considered in the planning process and/or wish to be on the mailing list are invited to contact the Service by January 15, 1981. Written comments should be addressed to: Charles S. Peck, Refuge Manager, U.S. Fish and Wildlife Service, Southeast Idaho Refuge Complex, P.O. Box R, Pocatello, Idaho 33201.

DATES: Comments should be received by January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Charles S. Peck, U.S. Fish and Wildlife Service, Southeast Idaho Refuge Complex, P.O. Box R, Pocatello, Idaho 33201, telephone No. (208) 236-6833 or FTS 554-6833.

The planning process and environmental review of the master plan will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969 as amended (42 CFR, Parts 1500-1508), other appropriate Federal regulations, and Service procedures for compliance with those regulations.

It is estimated that the Draft EIS will be available to the public early 1982.

Dated: November 19, 1980.

W. D. Carter,

Acting Area Manager, U.S. Fish and Wildlife Service.

[FR Doc. 80-37584 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Mining Plan of Operations at Cape Krusenstern National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, GCO Minerals Company has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Cape Krusenstern National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37516 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Louise Gallop has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim within the Denali National Monument. These plans are available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37506 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Markay E. Hamblin has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37507 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Joe D. Denson has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37508 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Ohio Creek Mining Corporation has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.
Howard R. Wagner,
Acting Director, Alaska Area Office.
[FR Doc. 80-37509 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Northern Lights Exploration has filed a plan of operations in support of proposed mining operations on lands embracing Mining Claim Groups within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.
Howard R. Wagner,
Acting Director, Alaska Area Office.
[FR Doc. 80-37510 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, David Clark has filed a plan of operations in support of proposed mining operations on lands embracing Mining Claim Groups within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.
Howard R. Wagner,
Acting Director, Alaska Area Office.
[FR Doc. 80-37511 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Arthur J. Schmuck has filed a plan of operations in support of proposed mining operations on lands embracing Mining Claim Group within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.
Howard R. Wagner,
Acting Director, Alaska Area Office.
[FR Doc. 80-37512 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Brian Bell has filed two plans of operations in support of proposed mining operations on lands embracing two Mining Claim Groups within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.
Howard R. Wagner,
Acting Director, Alaska Area Office.
[FR Doc. 80-37513 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Donald E. Holt has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.
Howard R. Wagner,
Acting Director, Alaska Area Office.
[FR Doc. 80-37514 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Leo Mark Anthony has filed two plans of operations in support of proposed mining operations on lands embracing Mining Claim Groups within the Denali National Monument. These plans are available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.
Howard R. Wagner,
Acting Director, Alaska Area Office.
[FR Doc. 80-37515 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-70-M

Mining Plan of Operations at Gates of the Arctic National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Donald J. Ferguson, Sr. has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Gates of the Arctic National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.
Howard R. Wagner,
Acting Director, Alaska Area Office.
[FR Doc. 80-37503 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-70-M

Mining Plan of Operations at Gates of the Arctic National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, R.M. Vostry has filed a plan of operations in support of proposed mining operations on lands embracing Mining Claim Groups within the Gates of the Arctic National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.
Howard R. Wagner,
Acting Director, Alaska Area Office.
[FR Doc. 80-37504 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-70-M

Seismographic Program Plan of Operations at Gates of the Arctic National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of § 952 of 36 CFR Part 9, Subpart B, Chevron U.S.A., Inc., has filed a plan of operations in support of proposed oil and gas exploration operations on lands embracing Arctic Slope Regional Corporation subsurface estate within the Gates of the Arctic National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37505 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Noatak National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Carrie M. Ferguson has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Noatak National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37502 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Wrangell-St. Elias National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, James S. Marchini has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim within the Wrangell-St. Elias National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37500 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Wrangell-St. Elias National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Geneva Pacific Corporation has filed plans of operations in support of proposed mining operations on lands embracing Mining Claim Groups within the Wrangell-St. Elias National Monument. These plans are available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37501 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Yukon-Charley National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Au Placer, Inc., has filed a plan of operations in support of proposed mining operations on lands embracing Mining Claim Group within the Yukon-Charley National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37499 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note: All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OPI-087

Decided: November 25, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 8310 (Sub-15F), filed November 19, 1980. Applicant: JEFF'S TRUCKING, INC., 408¾ Main St., Waupun, WI 53963. Representative: Allan B. Torhorst, 217 East Jefferson St., P.O. Box 190, Burlington, WI 53105. Transporting (1) *prefabricated buildings* and *parts* for prefabricated buildings, (2) *fixtures*, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in Dodge County, WI, on the one hand, and, on the other, points in MN, IL, MI, IA, OH, MO, and IN.

MC 11220 (Sub-228F), filed November 19, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Anoka and Hennepin Counties, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Federal Cartridge Corporation or Hoffman Engineering Company, a division of Federal Cartridge Corporation.

MC 35631 (Sub-25F), filed November 6, 1980. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76060. Reresentative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transportating *building materials, lumber, and wood products*, (a) between points in TX, and (b) between points in TX, on the one hand, and, on the other, points in AR, OK, and LA.

MC 106920 (Sub-116F), filed November 19, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St., NW., Washington, DC 20001. Transporting (1) *foodstuffs* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), between Archbold, OH, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM, restricted to traffic originating at or destined to the facilities of Beatrice Frozen Specialties, Division of Beatrice Foods Co.

MC 114070 (Sub-6F), filed November 14, 1980. Applicant: WAGONER TRANSPORTATION CO., a corporation, 755 East Hackley Ave., Muskegon Heights, MI 49444. Representative: W. Scott Wagoner (same address as applicant). Transporting *petroleum products*, in bulk, from points in Brown County, WI, to points in Menominee, Delta, Dickinson, Marquette, Schoolcraft, Iron, and Barga Counties, MI.

MC 115771 (Sub-15F), filed November 18, 1980. Applicant: SEAWHEELS, INC., P.O. Box 810, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Transporting *general commodities* (except household goods as defined by the Commission, commodities of unusual value, and classes A and B explosives), between points in AL, CA, CT, DE, FL, GA, LA, ME, MD, MA, MS, NH, NJ, NY, NC, OR, PA, RI, SC, TX, VA, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 123601 (Sub-4F), filed November 19, 1980. Applicant: E & F TRUCKING, INC., R.D. 3, Denver, PA 17517. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Transporting *confectionery*, in vehicles equipped with mechanical refrigeration, from points in Berks County, PA, to points in CA, TX, CO, UT, AZ, NV, OR and WA.

MC 124821 (Sub-110F), filed November 18, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: Daniel W. Krane, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting (1) *closures* for food containers, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between Chicago, IL, on the one hand, and, on the other, Hazleton and North East, PA.

MC 143501 (Sub-7F), filed November 18, 1980. Applicant: R.G.C. CARGO CARRIERS, INC., 16651 S. Vincennes Rd., S. Holland, IL 60473. Representative: Dean N. Wolfe, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of chemicals and plastic (except commodities in bulk), between points in the U.S., under continuing contract(s) with Amoco Chemicals Corporation, of Chicago, IL.

MC 145441 (Sub-124F), filed November 20, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between the facilities of Dow-Corning Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 150101 (Sub-5F), filed November 17, 1980. Applicant: BLAZER EXPRESS, INC., Route 2, Pelham Rd., Greenville, SC 29607. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting (1) *adhesives, liquid chemicals, washing compounds, and liquid latex* (except in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract (s) with Para-Chem Southern, Inc., of Simpsonville, SC.

MC 151511 (Sub-1F), filed November 12, 1980. Applicant: TOM O'CONNOR, d.b.a. KERRY MOTOR SERVICE, 4433 South Halsted St., Chicago, IL 60609. Representative: Dennis W. Thorn, 100 No. LaSalle St., Suite 2510, Chicago, IL 60602. Transporting (1) *foodstuffs*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC.

MC 152231F, filed October 15, 1980. Applicant: EME TRANSPORT CORP., 214 Westervelt Ave., Hawthorne, NJ 07506. Representative: Harold L. Reckson, 33-28 Halsey Rd., Fair Lawn, NJ 07410. Transporting (1) *paperboard*, beween New York, NY, on the one hand, on the other, points in AR, CT, FL, GA, IL, IN, MA, MI, MO, NY, OH, PA, and VA, (2) *paper, paper products, and magnetic tape*, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (2) above, between Austin, TX, Cincinnati, OH, High Point, NC, Hudson, NH, Lakeland, FL, Memphis, TN, Riverton, NJ, San Leandro and Santa Fe Springs, CA, and Wheeling, IL, on the one hand, and, on the other, points in the U.S.

Volume No. OPI-069

Decided: Nov. 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 59640 (Sub-86F), filed November 13, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam (same address as applicant). Transporting *general commodities* (except those of unusual value, explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with American Cyanamid Company, of

Wayne, NJ, and Shulton, Inc., of Clifton, NJ.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37541 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional question) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebutal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless note otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-088

Decided: November 25, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton, and Liberman.

MC 75840 (Sub-1F), filed November 13, 1980. Applicant: MALONE FREIGHT LINES, INC., 3400 Third Avenue, South, PO Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., PO Box 1240, Arlington, VA 22210. As a *Broker*, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP2-102

Decided: November 20, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman, Member Eaton not participating.

MC 108813 (Sub-4F), filed November 7, 1980. Applicant: D & DELIVERY SERVICE., 230 N. 10th St., Philadelphia, PA 19107. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 134922 (Sub-339F), filed November 13, 1980. Applicant: B. J. McADAMS, INC., Rte. 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price (same address as applicant). Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 150883 (Sub-1F), filed November 3, 1980. Applicant: WALTER BENSON, d.b.a. WALTRANS, 425 West "E" St., Ontario, CA 91762. Representative: Walt Benson (same address as applicant). Transporting *foodstuffs*, from points in Los Angeles and Orange Counties, CA, to points in AZ, OR and WA.

MC 152633F, filed November 13, 1980. Applicant: KENNETH RAY LAMINACK & DANIEL LEON LIPPINCOTT, a partnership, D.B.A. BIG "L" TRUCKING, 423 S.E. Horgan Dr., Gresham, OR 97030. Representative: Lawrence Marquette, P. O. Box 711, Pebble Beach, CA 93953. Transporting *food or other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, *agricultural limestone and other soil conditioners, and agricultural fertilizers*, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

Volume No. OP2-104

Decided: November 20, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman. Member Eaton not participating.

MC 111732 (Sub-5F), filed November 13, 1980. Applicant: GENERAL TRANSPORTATION, INC., 208 Gansett Avenue, Cranston, RI 02910. Representative: Mark D. Russell, Suite 348, Pennsylvaniva Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 134922 (Sub-338F), filed November 13, 1980. Applicant: BOB McADAMS, Rte. 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). As a *broker*, to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 152642F, filed November 13, 1980. Applicant: FRANK T. OSOWIECKY, JR., d.b.a. FALD LEASING, RD No. 1, Box 198, Averill Park, NY 12018. Representative: Michael A. Wargula, Esq., 2550 Main Place Tower, Buffalo, NY 14202. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S. (including AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR DOc. 80-37538 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with

the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-16

The following applications were filed in Region 3.

Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 152185 (Sub-3-1TA), filed October 24, 1980. Republication—Originally published in Federal Register of November 10, 1980, page 74592, volume 45, No. 219. Applicant: MAKO MARINE, INC., 4355 NW 128th St., Miami, FL 33054. Representative: Gerard J. Donovan, 4791 SW 82nd Ave., Davie, FL 33328. *Boats,* between all points and places in the following states: AL, CT, DE, FL, GA, IN, LA, ME, MD, MA, MI, MS, NJ, NY, NC, OH, PA, RI, SC, TX, and WI. Supporting shippers: There are 20 statements of support which may be examined at the ICC Regional Office, Atlanta, GA.

MC 144069 (Sub-3-14TA), filed November 20, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, N.C. 28225. Representative: W. T. Trowbridge (Same address as applicant). *Iron and steel articles* between York County SC on the one hand, and on the other, points in an east of MS, TN, KY, IL, and WI. Supporting shipper: Carolina Rebar Inc. P.O. Box 67, Catawba, SC 29704.

MC 152544 (Sub-3-3TA), filed November 20, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blacksone Building, Jacksonville, FL 32202. *Rum, in bulk,* from Jacksonville, FL to Paducah, KY, having a prior movement by water. Supporting shipper: Southeast Carrier Corporation, 401 Bryan Street, Jacksonville, FL 32202.

MC 150211 (Sub-3-10TA), filed November 19, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Jerry Ross (address same as applicant). *General commodities, (except Class A and B explosives, commodities in bulk, household goods, and commodities which because of size or weight require the use of special equipment)* between the facilities of Weber Costello Company at or near Jackson, TN on the one hand, and, on the other, points in AL and GA. Supporting shipper: Weber Costello Company, 1035 Bendix Drive, Jackson, TN 38301.

MC 152056 (Sub-3-2TA), filed November 19, 1980. Applicant: RHETT BUTLER TRUCKING, INC., Route 6, Box 83, Andalusia, AL 36420. Representative: Maurice F. Bishop, 603 Frank Nelson Building, Birmingham, AL 35203. *(1) Non-exempt food or kindred products and materials, supplies and ingredients used in the manufacture of non-exempt food or kindred products,* between Morgan County, IL, on the one hand, and, on the other, points in AL, FL, GA, KY, LA, MS, NC, SC, TN and TX; *(2) Non-exempt farm products,* between points in AR, GA, MS, NC, SC, IL, and FL, on the one hand, and, on the other, Houston, Geneva, Covington, Escambia, Conecuh, Butler, Coffee, Dale, Henry, Barbour, Pike, Crenshaw, Bullock, Lowndes, Montgomery, Macon, Russell, and Clarke Counties, AL. Supporting shippers; Anderson Clayton Foods, Div. of Anderson Clayton & Co., P.O. Box 226165, Dallas, TX 75266; Butler Seed & Feed Co., P.O. Box 45, Andalusia, AL 36420; Dothan Seed Supply Co., 126 Columbia Hwy, Dothan, AL 36302; Elba Feed Company, P.O. Box 503, Elba, AL 36323.

MC 2900 (Sub-3-21TA), filed October 23, 1980. Republication—originally published in Federal Register of November 10, 1980, page 74589, volume 45, No. 219. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209. Representative: S. E. Somers, Jr. (same as address as applicant). (A) *Adhesives, Furniture, Foodstuffs, and Glassware* between Denver, CO; Chicago, IL; Minneapolis, MN; Kansas City, MO; Omaha, NE; Oklahoma City, OK; Dallas TX; Houston, TX; and Cheyenne, WY; on the one hand, and on the other, points in the states of AZ, CA, ID, NV, OR, UT, and WA; (B) *Cleaning Compounds, Feed or Feed Supplements, Foodstuffs, and Petroleum Products* between the states of AZ, CA, CO, ID, NV, OR, UT, and WA. Supporting shippers: Pepperidge Farm, Inc.; 595 Westport Ave., Norwalk, CT 06856; Metropolitan Distribution Centers, Inc., 1340 E. Sixth St., Los Angeles, CA 90021; Wilson Foods Corp., 4545 Lincoln Blvd., Oklahoma City, OK 73105. Note: Applicant intends to tack with existing authority MC-2900.

MC 145506 (Sub-3-1TA), filed November 21, 1980. Applicant: ODOM TRUCKING CO., INC., Route 4, Box 165, Eufaula, AL 36027. Representative: William K. Martin, Capell, Howard, Knabe & Cobbs, P.A., P.O. Box 2069, Montgomery, AL 36197. *Meat, meat products, meat byproducts and articles distributed by meatpacking houses as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk),* from the facilities utilized by Duffey Foods, Inc., at or near Sylacauga, AL, to all points in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Duffey Foods, Inc., P.O. Box 828, Sylacauga, AL 35150.

MC 109891 (Sub-3-1TA), filed November 18, 1980. Applicant: INFINGER TRANSPORTATION COMPANY, INC., P.O. Box 70698, 2811 Carner Ave., Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., 521 South Cameron Street, Winchester, VA 22601. *Malt Beverages and Commodities used in the sale and distribution of Malt Beverages,* Between Winston-Salem, NC, on the one hand, and, on the other, points in Beaufort and Berkeley Counties, SC. Supporting shipper: Henry J. Lee Distributors, Inc., 5802 N. Rhett Ave., Hanahan, SC 29410.

MC 126736 (Sub-3-6TA), filed November 20, 1980. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st St., Jacksonville, Florida 32204. Representative: L. H. Blow, 155 East 21st St., Jacksonville, Florida 32201. *Lime, in bulk, in tank vehicles (pneumatic),* from Shelby County, AL., to points in Tampa, Indiantown, and Baldwin, FL.

MC 152309 (Sub-3-1TA), filed November 18, 1980. Applicant:

CRYSTAL FREIGHT LINES, 3928 Montclair Road, Suite 218, Mountain Brook, AL. Representative: Carl McBride (address same as applicant). *Paints, stain, varnish, and materials, equipment and supplies used in the manufacture of the above named items,* between Memphis, TN on the one hand, and points in AL, AR, GA, TX, MS, LA, MO, KS, and FL on the other. Supporting shipper: United Coating, Inc., 1655 Panama, Memphis, TN 38126.

MC 31675 (Sub-3-26TA), filed November 20, 1980. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Jay R. Hanson (same as above). *Iron or Steel Articles* between Georgetown County, SC and points and places in and east of TX, AR, MO, IA, and MN. Supporting shipper(s): Andrews Wire, Div. Georgetown Steel, P.O. Box 3, Andrews, SC 29510.

MC 126305 (Sub-3-11TA), filed November 21, 1980. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., RFD 1 Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Iron and Steel,* between the facilities of Industrial Steel located at or near Niles and Youngstown, Ohio, and those points in the United States in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Industrial Steel, P.O. Box 117, Youngstown, Ohio 44501.

MC 12855 (Sub-3-13TA) filed November 19, 1980. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, Fl 33561. Representative: William L. Beasley (same as above). *Contract carrier:* irregular routes: *General commodities, (except those commodities of unusual value, harzardous materials or Class A and Class B explosives),* between points in the United States (except Alaska and Hawaii), under continuing contract(s) with Delaware Valley Shippers Assoc., of Bristol, Pa. Supporting shipper: Delaware Valley Shippers Assoc., Inc., 2209 E. Farragut Ave., Bristol, Pa. 19007.

MC 152752 (Sub-3-1TA), filed November 18, 1980. Applicant: GEORGIA WESTERN, INC., P.O. Box 1964, Dalton, GA 30720. Representative: M. C. Ellis, Practitioner, Chattanooga Freight Bureau, Inc., 1001 Market Street, Chattanooga, TN 37402. *Contract:* irregular, (1) *such commodities as are dealt in or used by manufacturers of floor coverings* and (2) *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Francisco, CA; Albuquerque, NM; Raleigh, NC; Portland, OR; Spartanburg, SC; El Paso, Houston, TX; under continuing contract(s) with (a) Colordyne, Inc., Dalton, GA; (b) Cavalier Carpets, Inc., Dalton, GA; (c) Lancer Enterprises, Inc., Dalton, GA; (d) Modern Fibers, Inc., Calhoun, GA; (e) Synthetic Industries, Inc., Chickamauga, GA; (f) Texture-Tex, Inc., Dalton, GA. Supporting shippers: There are 6 statements of support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 140389 (Sub-3-19TA) filed November 18, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment).* form the facilities of Can Go Shippers Warehouse, Seattle, WA, to points in CO, ID, MT, OR, VT, WA, and WY. Supporting shipper(s): Can Go Shippers Warehouse, 1701 First Avenue, South, Seattle, WA.

MC 109891 (Sub-3-2TA), filed November 19, 1980. Applicant: INFINGER TRANSPORTATION COMPANY, INC., P.O. Box 70698, 2811 Carner Avenue, Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., 521 South Cameron Street, Winchester, Virginnia 22601. *Ethanol (alcohol derived from agricultural products) in bulk, in tank trucks;* From Charleston, SC; North Augusta, SC; Savannah, GA and Jacksonville, FL to points in Alabama, Florida, Georgia, South Carolina, North Carolina and Virgina. Supporting shipper: Phillips Petroleum Company, 844 Adams Building, Bartlesville, OK 74004.

MC 143059 (Sub-3-26TA), filed November 21, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Kentucky 40232. Representative: Janice K. Taylor (same as applicant). (1) *Primary Metal Products,* (2) *Fabricated Metal Produclts,* and (3) *Machinery or supplies,* between points in Clark County, NV; CA, IL, OR, PA, and TX, on the one hand, and points in and west of ND, SD, OK, KS, NE and TX, on the other. Supporting shipper: Aksarben, Inc., 3110 Westwood Drive Las Vegas, NV 39109.

MC 67866 (Sub-3-1TA), filed November 20, 1980. Applicant: FILM TRANSIT, INC., 2931 Homewood Rd., Memphis, TN 38118. Representative: Warren A. Goff, 2008 Clark Tower, Memphis, TN 38137. *General commodities, (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between Lilbourn, MO, points in LA, AR, MS, those in KY, on and west of a line beginning at the IL-KY state line and extending along U.S. Hwy. 68 to junction U.S. Hwy. 641, then along U.S. Hwy. 641 to the KY-TN state line, those in TN, on and west of a line beginning at the KY-TN state line and extending along U.S. Hwy. 31W to Nashville, then along U.S. Hwy. 31 to Columbia, then along U.S. Hwy. 50 to Lewisburg, then along U.S. Hwy. 431 to the TN-AL state line, those in AL (1) on, west, and north of a line beginning at the TN-AL state line and extending along AL Hwy. 17 to Hamilton, then over U.S. Hwy. 78 to the AL-MS state line and (2) on and south of a line extending from the MS-AL state line over U.S. Hwy. 45 to Mobile, AL, then over Interstate Hwy. 10 to the AL-FL state line, those points in FL, on and south of a line beginning at the AL-FL state line, and extending over Interstate Hwy. 10 to Pensacola, FL those in MO, on and south of a line beginning at the AR-MO state line and extending along U.S. Hwy. 62 to New Madrid and the MS River, those in OK on and east of a line beginning at the OK-TX state line and extending along U.S. Hwy. 277 to junction U.S. Hwy, 81, then north along U.S. Hwy. 81 to the OK-KA state line, restricted against the transportation of (1) any package or article weighing more than 100 pounds, or exceeding 110 inches in length or 150 inches in length and girth combined, and (2) packages or articles weighing in the aggregate more than 500 pounds from one consignor to one consignee on any one day. Supporting shipper: There are 60 statements in support to this application which may be examined at the ICC Regional Office in Atlanta, GA. Applicant intends to interline at Texarkana, TX. Note: Applicant now holds authority throughout the area here sought to transport shipments which do not exceed 200 pounds a day from one consignor to one consignee, and in which no single piece exceeds 70 pounds or 96 inches in length, or 150 inches in length and girth combined. The only additional authority here sought is in the size and weight limits stated above.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304; Chicago, IL 60604.

MC 149052 (Sub-4-1TA), filed November 18, 1980. Applicant: FIRST FLIGHT AIR CHARTER, INC., P.O. Box

371, Romulus, MI 48174. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *General commodities* between Detroit Metropolitan Airport, Romulus, MI; Willow Run Airport, Ypsilanti, MI; Toledo Express Airport, Toledo, OH; Greater Pittsburgh Airport, Pittsburgh, PA; Cleveland Hopkins Airport, Cleveland, OH; and Detroit City Airport, Detroit, MI. There are seven shippers supporting this application

MC 143002 (Sub-4-14TA), filed November 18, 1980. Applicant: C.D.B., INC., 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Contract; irregular—*General Commodities* between points and places in the United States except AK and HI under contract to Replas, Inc. a subsidiary of Ferro Corp., Supporting Shipper: Replas, Inc., 5001 O'Hara Drive, Evansville, IN 47711.

MC 143032 (Sub-4-3TA), filed November 18, 1980. Applicant: WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *Lime, calcium chloride, salt and cement,* (1) from Douglas County, WI, to points in MN and ND, and (2) from St. Louis County, MN to points in WI and ND. An underlying ETA seeks 120 day authority. Supporting Shipper: Cutler-Magner Company, 12th Ave. West and Waterfront, Duluth, MN 55802.

MC 133189 (Sub-4-8TA), filed November 14, 1980. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. *Epoxy resins, varnishes, silicon, electrical tape, wire and electrical supplies,* between points in the U.S. Supporting shipper: The Bergquist Co., Inc., 5300 Edina Industrial Boulevard, Edina, Mn 55435.

MC 142059 (Sub-4-11TA), filed November 14, 1980. Applicant: CARDINAL TRANSPORT, INC., P.O. Box 911, Joliet, IL 60434. Representative: Jack Riley (Same address as applicant). *Brass and copper billets* from Kenosha, WI to Ansonia, Ct. Supporting shipper, Ananconda Industries, 1420 63rd Street, Kenosha, Wisconsin 53140.

MC 142059 (Sub-4-10TA), filed November 14, 1980. Applicant: CARDINAL TRANSPORT, INC., P.O. Box 911, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). *Prepared Composition roofing* from Belvidere, IL to points in the U.S. (except AK and HI). Supporting shipper: Apache Foam Products Co., 1005 McKinley Avenue, Belvidere, IL 61008.

MC 112239 (Sub-4-2TA), filed November 14, 1980. Applicant: LOGAN TRUCKING, INC, Prairie Hill Road, P.O. Box 41, South Beloit, IL 61080. Representative: Donald S. Mullins, 1033 Graceland Ave., DesPlaines, IL 60016. *Concrete products,* from South Beloit, IL, to Broken Arrow, OK. Supporting shipper: Interpace Corporation, Prairie Hill Road, South Beloit, IL 61080.

MC 112049 (Sub-4-4TA), filed November 14, 1980. Applicant: MC BRIDE'S EXPRESS, INC., East Route 316, Mattoon, IL 61938. Representative: Michael R. Solomon, 433 Thatcher Ave., St. Louis, MO 63147. *Common,* regular; *General commodities, with the usual exceptions,* from St. Louis, MO to IL Hwy 3, then over IL Hwy 3 to the junction of IL Hwy 13, then over IL Hwy 13 to Shawneetown, IL, and return over the same route; serving all intermediate points and points in St. Clair, Monroe, Clinton, Jefferson, Wayne, Edwards, Wabash, Lawrence, White, Hamilton, Franklin, Washington, Randolph, Perry, Macoupin, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac Counties, IL as off-route points. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 15 supporting shippers.

MC 141889 (Sub-4-4TA), filed November 14, 1980. Applicant: RONALD DEBOER d.b.a. RON DEBOER TRUCKING, Route 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. (1) *Sewing machine furniture* from Stevens Point, WI to AR, OH, KS, IL, GA, MI and MN; and (2) *particle board* from Albany, OR to Stevens Point, WI. Underlying ETA seeks 120 days authority. Supporting shipper: Sirco Manufacturing, a subsidiary of Bas Corp., 2500 Hoover Road, Route 6, Box 415, Stevens Point, WI 54421.

MC 141889 (Sub-4-3TA), filed November 14, 1980. Applicant: RONALD DEBOER d.b.a. RON DEBOER TRUCKING, Route 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Such commodities as are manufactured, processed, sold, used, distributed or dealt in by manufacturers, converters and printers of paper and paper products* (except commodities in bulk) (a) from the facilities of Consolidated Papers, Inc., at or near Stevens Point and Wisconsin Rapids, WI to points in FL and TX; and (b) from the facilities of Nekoosa Papers Inc. at or near Nekoosa, Port Edwards, and Stevens Point, WI to points in FL and TX. An underlying ETA seeks 120 days authority. Supporting shippers: Consolidated Papers, Inc., Wisconsin Rapids, WI 54494; and Nekoosa Papers Inc., Port Edwards, WI 54469.

MC 110420 (Sub-4-10TA), filed November 14, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW, Washington, DC 20004. *Liquid Resins,* in bulk, in tank vehicles, from Burlington, IA to points in AR, IL, IN, KS, KY, LA, MI, MN, MO, MS, NE, ND, NY, OH, OK, PA, SD, TN, TX, VA, WV, and WI. An underlying ETA seeks authority for 90 days. Supporting Shipper: Freeman Chemical Corp., 222 E. Main St., Port Washington, WI 53074

MC 139667 (Sub-4-2TA), filed November 17, 1980. Applicant: CHARLES SCHMIDT, JR. d.b.a. C. SCHMIDT TRUCKING COMPANY, INC., 906 Meadow Lane, Salem, IL 62881. Representative: Brenda Schmidt (Same address as applicant). *Automotive parts and articles used in the production thereof,* between Kansas City, MO, Dallas, TX, Chicage, IL, Memphis, TN, Columbus, OH, Atlanta, GA, Piscataway, NJ, St. Louis, MO, Boaz, AL, Florence, KY, Cleveland, OH, Milwaukee, WI, Sterling Heights, MI. Supporting Shipper: Wagner Electric Corporation, 6400 Plymouth Ave., St. Louis, MO 63133.

MC 124078 (Sub-4-45TA), filed November 10, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Juices, juice concentrates, drink concentrates, flavoring oils, D'Limonene, propylene glycol, food stuffs, fruit and vegetable products and by-products, in bulk.* Between Coweta County, GA, on the one hand, and points in the United States, on the other. Supporting Shipper: Nature's Best Food Products, Inc. 50 Amlajack Blvd., Shenandoah, GA 30265.

MC 144030 (Sub-4-4TA), filed November 11, 1980. Applicant: DRUE CHRISMAN, INC., P.O. Box 264, Lawrenceburg, IN 47025. Representative: Paul J. Snodgrass, P.O. Box 264, Lawrenceburg, IN 47025. Contract, Irregular, *Materials, Supplies, and Equipment used in the manufacture and distribution of overhead doors;* to, from or between: Covington, KY, Shelbyville, IN, Athens, GA, Grand Island, NE, Cortland, NY, Lewiston, PA, Hartford City, IN, and Cincinnati, OH. Overhead

Door Corp., 6750 LBJ, Freeway Suite 1200, P.O. Box 400150, Dallas, TX.

MC 145742 (Sub-4-1TA), filed November 13, 1980. Applicant: BOLES TRUCKING, INC., R.R. #1, Ina, IL 62846. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Contract, irregular: *Iron and steel articles*, between Carlinville, Centralia, Flora, Irvington, Sparta, IL, Louisiana, MO, Clarksville, OH and Dallas, TX on the one hand, and on the other, points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MO, MS, MI, OH, OK, TN, TX and WI, under continuing contracts with Valley Steel Products Company, a Div. of Valley Industries, Inc. An underlying E/T/A seeks 120 days authority. Supporting Shipper: Valley Steel Products Company, a Div. a Valley Industries, Inc., P.O. Box 429, Centralia, IL 62801.

MC 124078 (Sub-4-46TA), filed November 10, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Liquid calcium chloride*, from Sheboygan, WI and Lemont, IL to IL, WI, IA, MN. Supporting Shipper: Sicalco, Ltd., P.O. Box 415, Palos Heights, IL 60463.

MC 114632 (Sub-4-21TA), filed November 10, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David Peterson (Same address as applicant). *Such commodities as are dealt in by the manufacturers and distributors of foodstuffs*, between Evansville, IN; Mt. Vernon, IN; and Springfield, MO; on the one hand, and, on the other, points in CA, CO, FL, GA, IL, MA, MI, MN, MS, MO, NJ, NC, OR, PA, & TX. An underlying ETA seeks 90 days authority. Supporting Shipper: Mead Johnson and Company, 2404 Pennsylvania Avenue, Evansville, IN 47721.

MC 128648 (Sub-4-2TA), filed November 13, 1980. Applicant: TRANS-UNITED, INC., 425 West 152nd Street, P.O. Box 2081, East Chicago, In 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. Contract, Irregular: *such commodities as are dealt in or used by manufacturers of building materials and supplies*, from Cucamonga and Los Angeles, CA, Bridgeview and Chicago, IL, and Baltimore, MD, to points in the United States (except AK and HI), under continuing contract(s) with Chicago Metallic Corporation, of Chicago, IL, Chicago Finished Metals, Inc., of Bridgeview, IL, Chesapeake Finished Metals, Inc., of Baltimore MD, and California Finished Metals, Inc., of Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638; Chicago Finished Metals, Inc., 9900 Industrial Drive, Bridgeview, IL 60455; Chesapeake Finished Metals, Inc., 6754 Santa Barbara Court, Baltimore, MD 21227; California Finished Metals, 9133 Center Avenue, P.O. Box 713, Cucamonga, CA 91730.

MC 119974 (Sub-4-3TA), filed November 14, 1980. Applicant: L.C.L. TRANSIT COMPANY, 949 Advance Street, Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. *General Commodities* (except household goods as defined by the Commission, and Class A & B explosives, and except in bulk, in tank vehicles), between the facilities of Eastman Kodak Company at Oak Brook, IL and all points in the State of WI and the Upper Peninsula of MI. Supporting shipper: Eastman Kodak Company, 2400 Mt. Read Blvd., Rochester, NY 14650.

MC 136774 (Sub-4-2TA), filed November 13, 1980. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg; WI 53586. Representative: Donald B. Levine, 39 S. La Salle St., Chicago, IL 60603. *Foodstuffs and materials, equipment and supplies used in the manufacture and distribution thereof*, between St. Joseph, IL, on the one hand, and, on the other, IA, IN KY, MI, MN, MO, OH, TN and WI. Supporting shipper: Lincoln Land Foods, Inc., 204 N. Main, St. Joseph, IL 61873.

MC 145804 (Sub-4-1TA), filed November 17, 1980. Applicant: WILLIAM T. SMEESTER, d.b.a. UPPER PENINSULA SPECIAL DELIVERY SERVICE, Box 207, Iron Mountain, MI 49801. Representative: William T. Smeester (same as applicant). *Materials, equipment, and supplies used in the manufacture and distribution of paper and paper products; machinery parts and machinery supplies* (except commodities in bulk and those the transportation of which because of size or weight requires the use of special equipment) between points in the Upper Peninsula of Michigan, and Marinette County, Wisconsin, on the one hand, and, on the other, points in IL, IN, MI, MN, OH, and WI. An underlying ETA seeks 90 day authority. Supporting shipper: There are 16 statements of support attached.

MC 133314 (Sub-4-3TA), filed November 14, 1980. Applicant: SILVAN TRUCKING COMPANY, INC., R.R. 2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204. *General commodities (except household goods as defined by the Commission and Class A and B explosives)* between points in the U.S., under continuing contracts with United Freight, Inc., 1491 Mount Zion Road, Morrow, GA 30260 and Transtop, Inc., 666 Summer Street, Boston, MA 02210.

MC 140615 (Sub-4-3TA), filed November 14, 1980. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown (same as applicant). *Non Exempt Food or Kindred Products, and such Commodities as are dealt in by Grocery Stores* between points in the State of WI on the one hand and points in the U.S. on the other. Supporting shipper: American Farms Coop., Inc. P.O. Box 311, 111 E. Main St., Waupun, WI 53963.

MC 119654 (Sub-4-6TA), filed November, 14, 1980. Applicant: HI-WAY DISPATCH, INC., P.O. Box 509, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. *Fabricated metal products* (except ordnance), *machinery and supplies* as described in items 34 and 35 of the Standard Transportation Commodity Code, between points in IL, IN, KY, MI, MO, OH, PA, and WI. Restricted to traffic originating at or destined to the facilities of Fedders Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Fedders Corporation, Woodbridge Avenue, Edison, NJ 08817.

MC 149041 (Sub-4-1TA), filed November 17, 1980. Applicant: TANK TRANSPORT, INC., 9325 North 107th St., Milwaukee, WI 53224. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Gasoline*. From Des Plaines, IL to points in Racine and Kenosha Counties, WI. A corresponding ETA seeks 120 days authority. Supporting shipper: Service Oil Company, 1404 Durand Ave., Racine, WI 53403.

MC 123407 (Sub-4-49TA), filed November 17, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Ceiling fans, exhaust fans, electric heaters, and electric motors* from Bennettsville, SC, and Independence, KS, to Nashville, TN. Supporting shipper: Emerson Electric Co., P.O. Box 42, Bennettsville, SC 29512. An underlying ETA seeks 120 days authority.

MC 123407 (Sub-4-56TA), filed November 17, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Interior building products for walls, ceilings, floors and related supplies (except commodities in bulk)* from Westlake, OH; Medina, OH; Baltimore, MD; and Red Lion, PA to points in the U.S. (except AK and HI). Supporting shipper: Donn Corporation, 1000 Crocker Road, Westlake, OH 44145. An underlying ETA seeks 120 days authority.

MC 151921 (Sub-4-1TA), filed November 14, 1980. Applicant: MC AFEE ENTERPRISES, INC., P.O. Box 2099, Clarksville, IN 47130. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Heavy machinery and equipment including road machinery, pollution control equipment, structural steel, oil field rigs and oil field equipment,* between Jefferson County, KY, Clark County, IN and Jefferson County, IN on the one hand, and, on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper(s): Vibrantics, Inc., 500 Burnett, Louisville, KY 40221; Henry Vogt Machine Co., Inc., P.O. Box 1918, Louisville, KY 40201; Ivan Ware & Son, Inc., P.O. Box 16045, 2345 Millers Lane., Louisville, KY 40216; Hicks Equipment Co., Inc., 3908 Cane Run Rd., Louisville, KY 40211; Liberty Plastics & Metals Co., Inc., P.O. Box 734.

MC 151087 (Sub-4-5TA), filed November 14, 1980. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Highway, Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. *Contract, irregular: Building* materials, from Elk Grove, Village, IL to points in WI under continuing contract(s) with Wilson Enterprises, Inc. Supporting shipper(s): Wilson Enterprises, Inc., 1950 Pratt Boulevard, Elk Grove Village, IL 60007.

MC 145371 (Sub-4-3TA), filed November 14, 1980. Applicant: MFCH, INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *General commodities (except bananas, those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurous or contaminating to other lading),* between points in the U.S. (except AK and HI) restricted to the transportation of traffic originating at or destined to the facilities of Del Monte Corporation. Supporting shipper(s): Del Monte Corporation, 15th St., Rochelle, IL 61968.

MC 143471 (Sub-4-10), filed November 14, 1980. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 W. Blvd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD. Contract: Irregular: *Lumber, Lumber Products, Wood Products and Plywood* from points in CA, ID, MT, OR and WA to points in the U.S. in and west of WI, IL, MO, AR and LA (except AK and HI) under contract with Intermountain Orient, Inc., Hearin Forest Industries and Lumbermens Service (Inc.). Supporting shippers: Intermountain Orient, Inc., P.O. Box 4297, Boise ID 83704; Hearin Forest Inc., P.O. Box 25387, Portland, Oregon 97225; and Lumbermens Service, (Inc.), P.O. Box 4303, Madison, WI 53711.

MC 142310 (Sub-4-4TA), filed November 13, 1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are dealt in or used by wholesale, retail, or chain drugstores and food business houses,* from Chicago, IL to points in MN, ND, SD, WI, and the Upper Peninsula of MI. An underlying ETA seeks 120 days authority. Supporting shipper: Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201.

MC 145842 (Sub-4-5TA), filed November 13, 1980. Applicant: SUNDERMAN TRANSFER, INC., P.O. Box 63, Windom, MN 56101. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Fresh and frozen meats,* from Buffalo Lake and Minneapolis-St. Paul, MN; to points in FL and GA. Supporting shipper: Iowa Pork Industries, 5738 Olson Highway, Minneapolis, MN 55422.

MC 140452 (Sub-4-1), filed November 5, 1980. Applicant: ROSE BROTHERS TRUCKING, INC., 2425 U.S. Business Hwy. 41 North; Evansville, IN 47711. Representative: Sharon Tepool, P.O. Box 6, Lynnville, IN 36401. *Contract* irregular. *Coal,* in bulk, in dump vehicles, between points in U.S., under contract with Solar Sources, Inc., Greenwood, IN.

MC 143002 (Sub-4-13TA), filed November 10, 1980. Applicant: C.D.B., INC., 155 Spauling, S.E., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Contract, Irregular: *General Commodities.* Between points and places in the United States except AK and HI under contract to Shannon Industrial Corporation. Supporting shipper: Shannon Industrial Corporation, 2020 Algonquin Road, Schaumburg, IL 60195.

MC 144867 (Sub-4-2TA), filed November 14, 1980. Applicant: R & J TRANSPORT, INC., 929 North 24th Street, Manitowoc, WI 54220. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Such commodities the transportation of which require the use of special handling or special equipment, and related parts, materials, equipment and supplies* used or useful in the manufacture, sale or distribution of machines and equipment between the facilities of Lake Shore, Inc., a or near Kingsford, Marquette and Negaunee, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI). Underlying ETA seeks 120 days authority. Supporting shipper: Lake Shore, Inc., P.O. Box 809, Iron Mountain, MI 49081.

MC 152441 (Sub-4-2), filed November 14, 1980. Applicant: WILSON LEASING, INC., P.O. Box 6946, Rochester, MN 55901. Representative: Grant J. Merritt, Esq., 4444 IDS Center, 80 South Eighth St., Minneapolis, MN 55402. *Dairy products, such merchandise as in handled by the wholesale-retail chain grocery business and materials, equipment and supplies used in the manufacture of both commodities* between Olmsted County, MN on the one hand and IA, IL, IN, MN, MO ND, NE, OH, SD and WI. An underlying ETA seeks 120 days authority. Supporting shippers: (1) Rochester Cheese Sales, Inc., 4219 North Frontage Road, Rochester, MN 55901; (2) The Kroger Co., Pace Dairy Foods Company, 2700 Valley High Drive NW., Rochester, MN 55901.

MC 135640 (Sub-4-7TA), filed November 13, 1980. Applicant: STALEY EXPRESS, INCORPORATED, 2501 North Brush College Road, Decatur, IL 62526. Representative: Charles Carnahan, Jr. (same as applicant). *Cups, Bowls, Dishes, Plates, Trays, Containers, Caps, Covers, Lids, Holders, Dispensers, Straws, Knives, Forks and Spoons, Paper or Plastic; Tooth Picks, Ice Cream Cones and Ice Cream Wafers;* From the facilities of Sweetheart Cup Corporation at Chicago, IL, to points in KY and OH. Supporting shipper: Sweetheart Cup Corporation, 7575 South Kostner, Chicago, IL 60652.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 79999 (Sub-5-1TA), filed November 19, 1980. Applicant: RANGER TRUCK LINE, INC., P.O. Box 2006,

Houston, TX 77001. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. *Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products,* between points in Harris County, TX, on the one hand, and, on the other, points in MS. Supporting shipper: Pipe Marketing Concepts, Inc., 11777 Katy Freeway, Suite 425N, Houston, TX 77079.

MC 99532 (Sub-5-1TA), filed November 18, 1980. Applicant: ARNIE'S MOTOR FRIEGHT, INC., 701 1st Ave. North, Altoona, IA 50009. Representative: Russell H. Wilson, 4400 Merle Hay Road, Des Moines, IA 50310. *General commodities (except liquid products in bulk, in tank vehicles.),* between Des Moines, Marshalltown, and Newton, IA. Restricted to traffic having prior or subsequent rail or motor interstate movement. Supporting shipper(s): 6.

MC 111401 (Sub-5-21TA), filed November 19, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Petroleum products, in bulk, in tank vehicles,* from the facilities of Morgan Petroleum Co., in Calcasieu Parish, LA to points in TX. Supporting shipper: Morgan Petroleum Co., P.O. Box 8486, Shreveport, LA, 71108.

MC 114045 (Sub-5-8TA), filed November 18, 1980. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, TX 75261. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Food and kindred products,* from the facilities of Geo. A. Hormel & Co. in Beloit, WI to points in TX. Supporting shipper: Geo. A. Hormel & Co.; P.O. Box 800; Austin, MN 55912.

MC 133377 (Sub-5-1TA), filed November 19, 1980. Applicant: COMMERCIAL SERVICES, INC., 114 Memorial Road, Storm Lake, IA 50588. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* from Storm Lake, IA, to points in MN and NE. Supporting shipper: Hygrade Food Products, Corporation, Box 4771, Detroit, MI 48219.

MC 140033 (Sub-5-12 TA), filed November 18, 1980. Applicant: COX REFRIGERATED EXPRESS, INC., 16060 Goodnight Land, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Wearing apparel and supplies necessary to operate retail clothing stores;* from Arlington, TX to Birmingham, AL, Des Moines, IA, Kansas City, MO, Portland, OR, Phoenix, AZ, and St. Louis, MO. Supporting shipper: Foxmoor Casuals, 393 Manley St., W., Bridgewater, MA 02324

MC 144603 (Sub-5-30 TA), filed November 18, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry (same address as applicant). *Chemicals or allied products (except commodities in bulk, in tank vehicles* between Boonton, NJ; Decatur, AL; St. Paul, MN; Houma, LA; Houston, TX, and their respective commercial zones, on the one hand, and, on the other, states of AL, AR, CA, CO, CT, DE, FL, GA, IL, IA, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. Supporting shipper: Delta Safety and Supply, P.O. Box 101, Houma, LA 70361.

MC 144858 (Sub-5-8 TA), filed November 19, 1980. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Distilled spirits and wine and associated advertising and display materials and non-alcoholic beverage mixes (except in bulk),* from Clermont, Lawrenceburg, and Louisville, KY New Orleans, LA; Detroit, MI; and Edison, NJ, to Little Rock, AR. Supporting shipper(s): Silbernagel Company, Inc., 300 Ferry Street, P.O. Box 2581, Little Rock, AR 72203.

MC 148284 (Sub-5-1 TA), filed November 19, 1980. Applicant: DON YOUNGBLOOD TRUCKING, INC., Post Office Box 309, Mulberry, AR 72947, Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Materials, Equipment and Supplies used in the processing of Poultry Products,* from points in the United States (except AK and HI) to points in AR. Supporting shipper: OK Foods, Inc., Post Office Box 286, Ft. Smith, AR 72904.

MC 148943 (Sub-5-2TA), filed November 18, 1980. Applicant: TEJAS DESTE TRUCK LINES, INC., 2209 Mills St., El Paso, TX 79901. Representative: Greg J. Evans, Vice President, Tejas Deste Truck Lines Inc., 2209 Mills St., El Paso, TX 79901. Common, Regular; *general commodities, other than bulk liquid commodities in tank vehicles, or bulk commodities requiring special equipment or commodities which either due to size, weight or value that would require special equipment.* (1) Between El Paso, Tx., & Hillsboro N.M., serving all intermediate points & commercial zones and the Quintana Copper Flat Project as an off-line intermediate point. From El Paso, Tx., over Hwy IH 10 to Las Cruces N.M., thence over Hwy IH 25 to the junction of N.M. Hwy 90 to Hillsboro, N.M., and return. Or over U.S. Hwy 85 to the Junction of N.M. Hwy 90 to Hillsboro, N.M., and return. (2) Between junction IH 25 or Hwy U.S. 85 & N.M. Hwy 90 and Truth or Consequences N.M., and return, Serving all intermediate points & commercial zones. From junction N.M. Hwy 90 & IH 25 or U.S. 85 over IH 25 or U.S. 85 to Truth or Consequences N.M. & return. Applicant intends to tack and interline. Supporting shippers: There are 17 supporting shippers.

MC 148832 (Sub-5-4TA), filed November 19, 1980. Applicant: DELTA MOTOR FREIGHT, INC., 1616 Rowe Blvd., P.O. Box 1083, Poplar Bluff, Mo. 63901. Representative: Ronald D Dodds, P.O. Box 1083, Poplar Bluff, Mo. 63901. *Common* regular *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and those injurious to other lading),* (1) between Kansas City, MO and its commercial zone, on the one hand, and, on the other Cairo, IL and its commercial zone, serving the intermediate points of Springfield, MO to Cairo, IL, as follows: (A) from Kansas City over U.S. Hwy 71 to its junction with MO State Hwy 13 then over MO Hwy 13 to its junction with U.S. Hwy 60 then over U.S. Hwy 60 to Cairo, IL, and return over the same route. (B) From Kansas City, MO over U.S. Hwy 50 to its junction with U.S. Hwy 63 then over U.S. Hwy 63 to its junction with MO Hwy 72, then over MO Hwy 72 to its junction with MO Hwy 21 then over MO Hwy 21 to its junction with U.S. Hwy 60 to Cairo, IL, and return over the same route. (2) between St. Louis, MO and its commercial zone, on the one hand, and, on the other, Hayti, MO and its commercial zone, serving the intermediate points of Sikeston, MO to Hayti, MO as follows: (A) From St. Louis, MO over Interstate Hwy 55 to Hayti, MO, and return over the same route. (3) Between St. Louis, MO., and its commercial zone, on the one hand, and, on the other, Poplar Bluff, MO and its commercial zone, serving the intermediate points of Silva, MO to Poplar Bluff, MO as follows: (A) From St. Louis, MO over Interstate 55 to its junction with U.S. Hwy 67, then over U.S. Hwy 67 to Poplar Bluff, MO and

return over the same route. (4) Between St. Louis, MO and its commercial zone on the one hand, and, on the other, Pocahontas, AR and its commercial zone, serving the intermediate points of Pilot Knob, MO to Pocahontas, AR as follows: (A) From St. Louis, MO over Interstate Hwy 55 to its junction with U.S. Hwy 67, then over U.S. Hwy 67 to its junction with MO Hwy 32, then over Hwy 32 to its junction with MO Hwy 21, then over MO Hwy 21 to its junction with AR Hwy 115 then over AR Hwy 115 to Pocahontas, AR and return over the same route. (5) Between St. Louis, MO and its commercial zone on the one hand, and, on the other hand, Hoxie, AR and its commercial zone, serving the intermediate points of Licking, MO to Hoxie, AR as follows: (A) From St. Louis, MO over Interstate Hwy 44 to its junction with U.S. Hwy 63 then over U.S. Hwy 63 to Hoxie, AR and return over the same routes. (6) Between Poplar Bluff, MO and its commercial zone on the one hand, and on the other, West Plains, MO and its commercial zone, as follows: (A) From Poplar Bluff, over U.S. Hwy 67 to its junction of U.S. Hwy 160 then over U.S. Hwy 160 to West Plains, and return over the same route. (7) Between Campbell, MO and its commercial zone, on the one hand, and, on the other, Imboden, AR and its commercial zone, as follows: (A) From Campbell, MO over U.S. Hwy 62 to Imboden, AR, and return over the same route. (8) Between Mansfield, MO and its commercial zone on the one hand, and, on the other Ava, MO and its commercial zone as follows: (A) From Mansfield, over MO Hwy 5 to Ava, and return over the same route. (9) Between Silva, MO and its commercial zone, on the one hand, and, on the other the junction of MO Hwy's 21 and 34, as follows: (A) From the junction of U.S. and MO Hwy's 67 and 34, then over MO Hwy 34 to its junction of MO Hwy 21, and return over the same route. (10) Between Piedmont, MO and its commercial zone, on the one hand, and, on the other, Glover, MO and its commercial zone, as follows: (A) From Piedmont, over MO Hwy 49 to its junction with MO Hwy 21, and return over the same route. Serving all points in Wright, Douglass, Texas, Howell, Shannon, Oregon, Reynolds, Carter, Ripley, Iron, Wayne, Butler, Stoddard, Dunklin, Pemiscot, and New Madrid counties in Missouri and Clay, Randolph, and Lawrence counties in AR as off route points in connection with regular route operations.

Note—Applicant proposes to tack and interline. Supporting shippers: 108

MC 152069 (Sub-5-2TA), filed November 19, 1980. Applicant: C & M TRUCKING COMPANY, 2682 Brenner Drive, Dallas, TX 75220. Representative: William Sheridan, 1025 Metker, P.O Drawer 5049, Irving, TX 75062.Contract: Irregular, *Cleaning, Scouring and Washing Compounds and Related Articles* from facilities of Purex Corporation, Dallas, TX to AR, LA and OK. Supporting shipper: Purex Corporation, 2829 Merrell Drive, Dallas, TX.

MC 152700 (Sub-5-1), filed November 18, 1980. Applicant: KRIEG TRUCKING, 468 Tamarak Court, Dubuque, IA 52001. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Contract, irregular; (1) *Cleaning and polishing compounds, textile softeners, lubricants, deodorants, disinfectants, hypoclorite solution, paints, stains, varnishes, plastic bags and filters,* and (2) *Materials, supplies and equipment used in the manufacture of commodities named in (1) above,* from Dubuque, IA to points in WI on and south of U.S. Highway No. 10; points in MN on and south of U.S. Highway No. 14; points in IL on and west of U.S. Highway 51 and points in IA on and east of U.S. Highway 169. Supporting shipper: Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102.

MC 152712 (Sub-5-1F), filed November 19, 1980. Applicant: NIEMEIER BROS., INC., P.O. Box 12475, El Paso, TX 79916. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. Contract, irregular; *Building Materials,* from points in Caddo and Lincoln Counties, OK to points in Jefferson, Adams, Denver and Arapahoe Counties, CO; Maricopa and Pima Counties, AZ; Bernalillo, Sante Fe, and Chaves Counties, NM; El Paso, Ector, Midland, Potter, Lubbock, Tom Green, Pecos and Taylor Counties, TX. From points in El Paso County, TX to points in San Bernardino, San Diego, Orange, Riverside and Los Angeles Counties, CA; Jefferson, Adams, Denver and Arapahoe Counties, CO; Bernalillo, Santa Fe and Chaves Counties, NM, Pima and Maricopa County, AZ. From points in Clark County, NV and Salt Lake County, UT to points in San Bernardino, San Diego, Orange and Los Angeles Counties, CA. Supporting shipper: J. R. Niemeier Co., P.O. Box 12475, El Paso, TX 79916.

MC 152728 (Sub-5-1TA), filed November 19, 1980. Applicant: INDEPENDENT CARRIERS, INC., P.O. Box 37642, Omaha, NE 68137. Representative: Rick A. Rude, Esq., Suite 611, 1730 Rhode Island Ave., N. W., Washington, DC 20036. *Fresh and Frozen Foodstuffs,* from Richmond and Clearfield, Utah, to Omaha, NE., Modesto, CA., Sumter, SC., Salisbury, MD., and New York, NY. Supporting Shipper: Pepperidge Farm, Inc., Highway 91, Richmond, UT 84333.

The following application were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

42405 (Sub-5-1), filed November 21, 1980. Applicant: MISTLETOE EXPRESS SERVICE, P.O. Box 25614, Oklahoma City, OK 73125. Representative: T.M. Brown, P.O. Box 1540, Edmond, OK 73034. *Common;* regular. *General commodities (except Classes A and B explosives),* moving in express service, (1) Between Memphis, TN, and Florence, AL, over U.S. Hwy 72, (2) Between Memphis, TN, and Fulton, MS over U.S. Hwy 78, (3) Between Memphis, TN, and Winona, MS, (a) over U.S. Hwy 51, and (b) over Interstate Hwy 55, (4) Between Memphis, TN, and Leland, MS, over U.S. Hwy 61, (5) Between junction U.S. Hwys 61 and 49 and Greenville, MS; from junction U.S. Hwys 61 and 49 near Rich, MS, over U.S. Hwy 49 to junction MS Hwy 1, then over MS Hwy 1 to Greenville, MS, and return over the same route, (6) Between junction U.S. Hwy 61 and MS Hwy 3 and Junction U.S. Hwys 49W and 82; from junction U.S. Hwy 61 and MS Hwy 3, over MS Hwy 3 to junction U.S. Hwy 49, then over U.S. Hwy 49 to junction U.S. Hwy 49W, then over U.S. Hwy 49W to junction U.S. Hwy 82, and return over the same route, (7) Between Clarksdale and Greenwood, MS; from Clarksdale over U.S. Hwy 49 to junction U.S. Hwy 49E, then over U.S. Hwy 49E to Greenwood, MS, and return over the same route, (8) Between Holly Springs and Greenwood, MS, over MS Hwy 7, (9) Between Junction MS Hwys 9W and 7 and Eupora, MS; from junction MS Hwys 9W and 7 over MS Hwy 9W to junction MS Hwy 9, then over MS Hwy 9 to Eupora, and return over the same route, (10) Between Walnut, MS, and junction MS Hwy 15 and the Natchez Trace Parkway, over MS Hwy 15, (11) Between Corinth and Columbus, MS, over U.S. Hwy 45, (12) Between junction Natchez Trace Parkway and U.S. Hwy 82 and junction Natchez Trace Parkway and U.S. Hwy 25, over the Natchez Trace Parkway, (13) Between junction U.S. Hwy 72 and MS Hwy 25 and junction MS Hwys 25 and 8, over MS Hwy 25, (14) Between junction U.S. Hwys 45 and Alt. 45 and junction U.S. Hwys 82 and Alt. 45, over U.S. Hwy Alt. 45, (15) Between junction MS Hwy 5 and U.S. Hwy 72 and Hickory Flat, MS, over

MS Hwy 5, (16) Between junction MS Hwys 7 and 30 and junction MS Hwy 30 and U.S. Hwy 45, over MS Hwy 30, (17) Between junction MS Hwy 4 and U.S. Hwy 61 and junction MS Hwys 4 and 25, over MS Hwy 4, (18) Between Clarksdale and Tupelo, MS, over MS Hwy 6, (19) Between junction MS Hwys 32 and 1 and Amory, MS; from junction MS Hwys 32 and 1, over MS Hwy 32 to Okolona, then over MS Hwy 41 and U.S. Hwy 278 to Amory, and return over the same route, (20) Between Roesdale, MS, and junction MS Hwys 8 and 25, over MS Hwy 8, (21) Between El Dorado, AR, and Columbus, MS, over U.S. Hwy 82, (22) Between junction U.S. Hwy 167 and AR Hwy 4 and McGehee, AR, over AR Hwy 4, (23) Between junction AR Hwys 4 and 35 and junction AR Hwy 35 and U.S. Hwy 165, over AR Hwy 35, (24) Between Pine Bluff and Eudora, AR, over U.S. Hwy 65, (25) Between junction U.S. Hwys 65 and 165 and Parkdale, AR, over U.S. Hwy 165, (26) Between junction U.S. Hwy 65 and AR Hwy 81 and Eudora, AR; from junction U.S. Hwy 65 and AR Hwy 81 over AR Hwy 81 to Hamburg, then over AR Hwy 8 to Eudora, and return over the same route, (27) Between Pine Bluff, AR, and Memphis, TN: from Pine Bluff over U.S. Hwy 79 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Memphis, and return over the same route, (28) Between Little Rock and Stuttgart, AR; from Little Rock over AR Hwy 130 to junction AR Hwy 11, then over AR Hwy 11 to Stuttgart, and return over the same route, (29) Between Forrest City and Dumas, AR; from Forrest City over AR Hwy 1 to junction AR Hwy 54, then over AR Hwy 54 to Dumas, and return over the same route, (30) Between Walnut Corner, AR and junction MS Hwy 1 and U.S. Hwy 49, over U.S. Hwy 49, (31) Between Pine Bluff and Warren, AR, over AR Hwy 15, (32) Between Fordyce and Warren, AR, over AR Hwy 3, (33) Between Stuttgart and DeWitt, AR, (a) from Stuttgart over AR Hwy 11 to junction AR Hwy 152, then over AR Hwy 152 to DeWitt, and return over the same route, and (b) from Stuttgart over AR Hwy 11 to junction AR Hwy 130, then over AR Hwy 130 to DeWitt, and return over the same route, (34) Between Brinkley and Marvell, AR, over U.S. Hwy 49, (35) Between Batesville and Oxberry, MS, over MS Hwy 35, and (36) Between Falkner, MS, and junction MS Hwys 370 and 4, over MS Hwy 370, in (1) above serving all intermediate points between Memphis and junction U.S. Hwy 72 and the MS–AL state line, and serving Florence, AL for purposes of interline and interchange only and in (2) through (36) above serving all intermediate points. Supporting shippers: There are 78 supporting shippers.

Note.—Applicant intends to tack this authority with its existing regular route authority and to interline with other motor carriers at Florence, AL.

MC 112713 (Sub–5–21TA), filed November 21, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records, P.O. Box 7270, Shawnee Mission, KS 66207. *Aluminum ingots, rods; extrusions and scrap,* between Chandler, AZ, on the one hand, and, on the other, points in AR, CA, FL, KS, MI, MS, NJ. OH. PA and TX. Supporting Shipper: Pimalco (aka Induction Billets, Inc.), Box 5050, Chandler, AZ 85204.

MC 114211 (Sub–5–21TA), filed November 21, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, Iowa 50704. *Such commodities as are dealt in or used by manufacturers and distributors of metal articles,* between the facilities of Vincent Brass & Aluminum Co. at Minneapolis, St. Paul, Afton, and Little Canada, MN, on the one hand, and, on the other, points in the U.S. Supporting Shipper: Vincent Brass & Aluminum Co., P.O. Box 360, Minneapolis, MN 55440.

MC 117568 (Sub–5–2TA), filed November 21, 1980. Applicant: WADE-TRUCK LINES, INC., Box 156, Verona, MO 65769. Representative: Charles J. Fain, Fain & Fain, 333 Madison, Jefferson City, MO 65101. Contract; irregular *fine chemicals, dental instruments and equipment, veterinary products, nutritional products for infant care, dental models for industrial purposes, beauty care instruments and products and commodities used in the manufacture of products of the food, drug, and agricultural industries except in bulk, or tank or hopper containers* between points in the U.S. under continuing contracts with Syntex Agribusiness, Inc., Springfield, Missouri. Supporting Shipper: Syntex Agribusiness, Inc., Springfield, MO 65805.

MC 126822 (Sub–5–35TA), filed November 21, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (Same as Applicant). *Glass and glass products, and materials, equipment and supplies used in the manufacture and distribution of glass and glass products* between points in the U.S., restricted to the transportation of shipments from, to, or between the facilities of Libbey-Owens-Ford Company. Supporting Shipper: Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695.

MC 126930 (Sub-5–5TA), filed November 21, 1980. Applicant: BRAZOS TRANSPORT CO., P.O. Box 2746, Lubbock, TX 79408. Representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. *Iron and Steel articles and materials, equipment and supplies used in the manufacture, distribution and installation of such commodities* between the facilities of Shinko Wire America, Inc., at Houston, TX, on the one hand; and on the other hand, points in OK, LA, MS, AR, MO, KS, CO, NE, SD, ND, NM, MN, WI, IA, IL, TN, AL and TX. Supporting shipper: Shinko Wire America, Inc., 11020 Tanner Road, P.O. Box 218808, Houston, TX 77218.

MC 134467 (Sub-5–15TA), filed November 21, 1980. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Foodstuffs (except in bulk),* from the facilities of M & M/Mars, Snack-Master Division, at or near Albany, GA to points in the U.S. (except AK and HI). Supporting shipper: M & M/Mars Snack-Master Division, P.O. Box 3289, Oak Ridge Drive, Albany, GA, 31708.

MC 134637 (Sub-5–1TA), filed November 21, 1980. Applicant: SILICA TRANSPORT, INC., West Market Street, Post Office Box 232, Guion, AR 72540. Representative: Kay L. Matthews, 401 Union Life Building, Little Rock, AR 72201. *Fly Ash,* from points in Jefferson County, AR, to points in the U.S. Supporting shipper: Chem-Ash, Inc., Redfield, Arkansas 72132.

MC 135070 (Sub-5–31TA), filed November 21, 1980. Applicant: JAY LINES, INC., Box 61467, DFW Airport, TX 75261. Representative: Gailyn L. Larsen, P.O. Box 81816, Lincoln, NE 68501. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses,* from Denver, CO, to points in NY and NJ. Supporting shipper: Midwest Meat Company, 61 Second Street, Mineola, NY.

MC 138469 (Sub-5–27TA), filed November 20, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75367, Oklahoma City, OK 73147. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Such commodities as are dealt in or used by manufacturers of automotive parts,* from the facilities of Holly Special Products Division Colt, Inc., at Sallisaw, OK to Belvidere and Chicago, IL;

Detroit, MI; Kansas City and St. Louis, MO; Newark, NJ; Toledo, OH; Nashville, TN and Kenosha, WI, and the commercial zones of above-named cities. Supporting shipper: Holly Special Products Division of Colt, Inc., 1300 S. Updyke, Sallisaw, OK 74955.

MC 144622 (Sub-5-61), filed November 21, 1980. Applicant: GENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. (1) *Drugs, medicines, toilet preparations, chemicals, soaps, and animal feed supplements; and* (2) *Such commodities as are dealt in and sold by department stores, supermarkets, hardware, and drug stores* from Stamford, CT and Pearl River, NY to points in CA. Supporting shipper: American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470.

MC 145311 (Sub-5-1TA), filed November 20, 1980. Applicant: ROADRUNNER TRANSPORTATION, INC., 8406, Mosely Road, Houston, TX 77075. Representative: William D. Lynch, 1003 West 6th Street, Austin, TX 78703. *Commodities, the transportation of which, because of size or weight, requires the use of special equipment and accessories, parts and attachments* between points in the States of TX, OK, NM, CO, LA, MS, AL, AR, AZ, KS, FL, GA, and TN. Supporting shipppers: There are seven supporting shippers.

MC 146047 (Sub-5-2TA), filed November 21, 1980. Applicant: ENNIS CORP., Clarion, IA 50525. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Feed and feed ingredients,* from Riverside, ND, to points in IA and IL. Supporting shipper: Ralston Purina Company, P.O. Box 700, Iowa Falls, IA 50126.

MC 147731 (Sub-5-1TA), filed November 20, 1980. Applicant: GALVESTON CONTAINER SERVICE, INC., d.b.a. Uneeda Transfer Co., P.O. Box 3363, Galveston, TX 77552. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *General commodities, having prior or subsequent movement by water,* between points in Brazoria, Galveston, Harris, Chambers, Jefferson and Orange Counties, TX, and Calcasieu Parish, LA. Supporting Shippers: Lykes Bros. Steamship Co., Inc., P.O. Box 1339, Houston, TX 77001; American President Lines, Ltd., 608 Fannin, Houston, TX 77001; and Gulf Chemical & Metallurgical Co., P.O. 2130, Texas City, TX 77590.

MC 149026 (Sub-5-15TA), filed November 21, 1980. Applicant: TRANS-STATES LINES, Inc., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price (address same as applicant). *Electrical equipment; machinery; materials, equipment and supplies used in the manufacture, distribution and assembly of the above named articles;* Between San Antonio, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Standard Industries, P.O. 27500, San Antonio, TX 78227.

MC 149147 (Sub-5-1TA) filed November 21, 1980. Applicant: DECKERT TRANSPORT, INC., 10104 S. 197th E. Ave., Broken Arrow, OK 74012. Representative: Elaine C. Deckert (same address). Contract; Irregular. *Frozen potatoes in boxes,* between Pasco, WA and Boardman, OR, on the one hand, and, on the other, Okmulgee, OK. Supporting shipper: Randy's Frozen Meats, Inc. 706 West Sixth Street, Okmulgee, OK 74447.

MC 149199 (Sub-5-4TA), filed November 20, 1980. Applicant: O. R. Miller, d.b.a. FRONTIER EXPRESS, 905 S.W. Second, Oklahoma City, OK 73102. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. *General Commodities, (except Class A & B explosives and household goods, as defined by the Commission),* between Oklahoma City, OK, on the one hand, and on the other, points in Grady County, OK. Applicant intends to tack the authority sought with its existing authority and proposes to interline with other motor carriers. Supporting shipper: There are 7 supporting shippers.

MC 149555 (Sub-5-31TA), filed November 21, 1980. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Contract; Irregular; *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions of Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk),* from Moore County, TX to points in AL, CT, FL, GA, IL, IN, KY, MA, MI, MS, MD, NJ, NY, CA, NC, OH, PA, RI, SC, TN, VA, and DC, under continuing contract(s) with Swift Independent Packing Co., a division of Swift & Co. Supporting shipper: Swift Independent Packing Co., 115 W. Jackson Blvd., Chicago, IL 60604.

MC 150088 (Sub-5-12TA), filed November 21, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 75234. *Commodities, equipment, material and supplies dealt in or used by retail, variety or department stores,* between points in Dallas, Denton and Tarrant Counties, TX, on the one hand, and points in OK; AR; LA; and Memphis, TN; on the other hand. Supporting shippers: General Electric Company, 2010 Great South Western Parkway, Grand Prairie, Texas 75051. H. J. Wilson Company, Inc., 1844 Commercial, Port Allen, Louisiana 70767.

MC 150249 (Sub-5-4TA), filed November 21, 1980. Applicant: RICHLAND TRUCKING, INC., Route 1, Tillar, AR 71670. Representative: Douglas W. Bonner, Jr., Laser, Sharp, Haley, Young & Huckabay, One Spring Street, Suite 300, Little Rock, AR 72201. *Containers empty and loaded with paper, paper products, woodpulp and materials, equipment and supplies used in the manufacture of paper, paper products and woodpulp:* Between the facilities of Potlatch Corporation at or near the Town of Cypress Bend, County of Desha, AR on the one hand, and, on the other (a) Railroad T.O.F.C./C.O.F.C. facilities located in the Town of McGehee, County of Desha, AR, (b) Railroad T.O.F.C./C.O.F.C. facilities located in the City of Greeville, County of Washington, MS, and (c) Mississippi River port facilities located in the City of Greenville, County of Washington, MS, and in the City of New Orleans, Parish of Orleans, LA. Restriction: Restricted to the transport of containers empty and loaded with paper, paper products, woodpulp and materials, equipment and supplies used in the manufacture thereof having immediate prior or immediate subsequent movement by rail or water carrier in interstate commerce. Supporting shipper: Potlatch Corp., P.O. Box 1016, Lewiston, ID 83501.

MC 151657 (Sub-5-6TA), filed November 20, 1980. Applicant: ARM TRANSPORTATION COPRPORATION, P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Contract; irregular transporting: *Such commodities as are dealt in by wholesale or retail sewing and fabric stores* between the facilities of Cloth World at Amarillo, TX; Albuquerque, NM; Charlotte, NC; Los Angeles, CA; and Phoenix, AZ under continuing contract(s) with Cloth World. Supporting shipper: Cloth World, P.O. Box 3639, Amarillo, TX 79106.

MC 152021 (Sub-5-6TA), filed November 20, 1980. Applicant: IMPALA TRANSPORTATION SERVICES, INC., P.O. Box 678, Irving, TX 75060. Representative: Larry P. Cardin (same as applicant). Contract: Irregular. *Iron &*

steel articles NOI, KD steel buildings, between Grapevine, TX and Chester, SC and all points and places in the continental U.S. under contract with Mesco Metal Buildings Corporation. Supporting shipper: Mesco Metal Buildings Corporation, P.O. Box "G", Grapevine, TX 76051.

MC 152674 (Sub-5-2TA), filed November 21, 1980. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: David Hunter (same address as applicant). *Wet Mops, Dust Mops, Brooms, Yarn, and raw materials used for the manufacture of said products,* between points in OK, NY, PA, CA, OH, IL, and TX on the one hand, and, on the other, points in the states of MA, KY, NC, SC, GA, AL, and MS. Supporting shipper: Pettett Corporation, 404 26th St., N.W., Miami, OK 74354.

MC 152742 (Sub-5-1TA), filed November 20, 1980. Applicant: M & C DISTRIBUTING COMPANY, INC., 402 East "F" Street, Lawton, OK 73502. Representative: Ray K. Babb, Jr., 1100 Classen Dr., Ste. 221, Oklahoma City, OK 73103. Contract; Irregular: *Malt Beverages,* between Wichita Falls, TX, and Fort Sill Military Base, OK. Supporting shipper: Falls Distributing Company, Inc., 3811 Tarry Road, Wichita Falls, TX 76318.

MC 152743 (Sub-5-1TA), filed November 21, 1980. Applicant: AMERICAN CLEANING AND MAINTENANCE ENTERPRISES, INC., 524 S. Union, Springfield, MO 65802. Representative: Bruce McCurry, Dickey, Allemann & McCurry, 910 Plaza Towers, Springfield, MO 65804. Contract; irregular: *Portland cement and fly ash in bulk in tank vehicles* from Linn and Neosho Counties, KS to Greene County, MO. Supporting shipper: Concrete Company of Springfield, 510 Sherman, Springfield, MO 65802.

MC 152757 (Sub-5-1TA), filed November 21, 1980. Applicant: DOYLE JOHNSON d.b.a. DOYLE & KENNY'S WRECKER SERVICE, 1017 E. Brower, Springfield, MO 65802. Representative: Bruce McCurry, Dickey, Allemann & McCurry, 910 Plaza Towers, Springfield, MO 65804. *Disabled vehicles and operational vehicles,* between points in AR, IL, IN, KS, KY, MO, OK, TN and TX. Supporting shippers: Roadway Express, Inc., P.O. Box 55, Strafford, MO 65757; Tindle Mills, Inc., 701 E. Chestnut, Springfield, MO 65802; Prime, Inc., Box 4208, Springfield, MO 65804.

MC 152758 (Sub-5-1TA), filed November 21, 1980. Applicant: STRONG TRANSPORT COMPANY, INC., 15534 W. Hardy Rd., Suite 130, Houston, TX 77060. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. (1) *Irrigation systems,* (2) *parts for irrigation systems,* (3) *pipe, tubing, poles and such materials, equipment and supplies as are used in the installation and maintenance thereof,* (4) *iron and steel articles,* (5) *accessories, parts, equipment, materials and supplies used in the manufacture or assembly of commodities described in* (1) *through* (4) *above and ocean carrier owned or leased equipment loaded or empty* between the facilities of Valmont Industries, Inc., located in Douglas County, NE, on the one hand, and, on the other, the Ports of Houston and Galveston, TX, and New Orleans, LA. Supporting shipper: Valmont Industries, Inc., Highway 275 West, Valley, NE 68064.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37540 Filed 12-2-80; 8:45 am]

BILLING CODE 7035-01-M

[Application No. MC 1518]

Motor Carriers; Released Rates

AGENCY: Interstate Commerce Commission.

ACTION: Notice released rate application MC 1518

SUMMARY: Midwest Mortor Carriers Bureau seeks to extend existing released rates authority in MC 661 to, from and between points and places in Florida on behalf of Theatres Service Company, and other carriers in transporting property, other than ordinary livestock and classes A and B explosives, moving in express service from and to points and places in the State of Florida. Authority is sought to limit the carriers' liability in the new territory for any express shipments it may lose or damage to $50.00 or 50 cents per pound, whichever be the greater, unless the shipper declares a greater value and pays an excess value charge of 25 cents for each $100 or fraction thereof.

ADDRESS: Anyone seeking copies of the application should contact: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034, Telephone: (405) 348-7700.

FOR FURTHER INFORMATION CONTACT: Howard Rooney, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Telephone: (202) 275-7390.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 USC 10730.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37545 Filed 12-2-80; 8:45 am]

BILLING CODE 7035-01-M

[Amendment No. 3 to I.C.C. Order No. 63 Under Service Order No. 1344]

All Railroads; Rerouting Traffic

To: All Railroads—

Upon further consideration of I.C.C. Order No. 63, and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 63 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This amendment will become effective at 11:59 p.m. November 30, 1980.

This amendment 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, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 21, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-37543 Filed 12-2-80; 8:45 am]

BILLING CODE 7035-01-M

[Amendment No. 3 to I.C.C. Order No. 62 Under Service Order No. 1344]

All Railroads; Rerouting Traffic

To: All Railroads—

Upon further consideration of I.C.C. Order No. 62, and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 62 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This amendment will become effective at 11:59 p.m. November 30, 1980.

This amendment 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, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 21, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-37544 Filed 12-2-80; 8:45 am]

BILLING CODE 7035-01-M

[I.C.C. Order No. 73 Under Service Order No. 1344]

Consolidated Rail Corp.; Rerouting Traffic

To: Consolidated Rail Corporation—

In the opinion of Joel E. Burns, Agent, Consolidated Rail Corporation is unable to transport promptly all traffic offered for movement between New Lexington and Zanesville, Ohio, because of a bridge destroyed in a derailment at milepost 22.61 on the Zanesville Secondary Track.

It is ordered,

(a) *Rerouting traffic.* Consolidated Rail Corporation, being unable to transport promptly all traffic offered for movement between New Lexington and Zanesville, Ohio, because of a bridge destroyed, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cards in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those therafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 1:00 p.m., November 24, 1980.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 15, 1981, unless otherwise modified, amended or vacated.

This order 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, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 24, 1980.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 80-37542 Filed 12-2-80; 8:45 am]

BILLING CODE 7035-01-M

Award of Bonuses To Senior Executives

The ICC announces that it plans to award bonuses to Senior Executive Service members on or about December 18, 1980.

For further information contact: Gary Edles, Director, Office of Proceedings, Interstate Commerce Commission, 12th and Constitution Ave., N.W., Washington, D.C. 20423, (202) 275-7513.

By the Commission, Sanford Rederer, Managing Director

Agatha L. Mergenovich,

Secretary.

[FR Doc 80-37539 Filed 12-2-80; 8:45 am]

BILLING CODE 7035-01-M

[Section 5b Application No. 2[1]]

Western Railroads—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of postponement of compliance date, and request for additional comments.

SUMMARY: The November 1, 1980 compliance date in this proceeding is postponed to January 15, 1981. The interim approval of the proposed rate bureau agreements, entered October 26, 1976, in Ex Parte No. 297 (Sub-No. 1), is also extended to this date. The Commission requests comments regarding the new statutory provisions governing rate bureaus contained in the Staggers Rail Act of 1980, as they may affect the issues in this proceeding.

DATES: Comments should be filed on or before January 2, 1981.

ADDRESSES: An original and 15 copies, if possible, of any comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: In a decision served August 13, 1980, 364 I.C.C. 1, the Commission ordered the interim approval of these rate bureau agreements terminated October 14, 1980, or upon the filing by the railroads of amended agreements. The proceeding was held open for a period of 45 days to allow parties to file comments on: (1) the definitions of "practicably participate", and "broad tariff changes"; (2) the proposal to prohibit the docketing of independent rate actions; and (3) the findings with respect to general rate increases (or decreases) and broad tariff changes. On September 26, 1980, the October 14, 1980 compliance date was extended to November 1, 1980.

After these decisions were made, the Staggers Rail Act of 1980 was enacted. Our final decision in this case must be consistent with the new law. Therefore, comments are invited concerning the need for any changes in our decision required by the new law.

Interim antitrust immunity for current agreements is extended until January 15, 1981. The November 1, 1980 compliance date in this proceeding is postponed to January 15, 1981.

By separate notice, we are scheduling oral argument to be held December 11, 1980.

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[1] This proceeding also embraces Section 5b Application No. 3, Eastern Railroads—Agreement, and Section 5b Application No. 6, Southern Railroads—Agreement.

This action does not affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10706)

Decided: October 17, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37537 Filed 12-2-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Delegation of Authority No. 138]

Assistant Administrator for the Near East; Delegation of Authority Regarding Nationality for Procurement of Vehicles

Pursuant to the authority delegated to me by Delegation of Authority Number 1 of October 1, 1979 from the Director of the United States International Development Cooperation Agency and Executive Order Number 12163 of September 29, 1979, I hereby delegate to the Assistant Administrator for Near East, notwithstanding the provisions of section IIIB of AID Delegation of Authority Number 40 of March 5, 1978, and section 5C4 of Handbook 1, Supplement B, authority to redelegate to the Director, USAID/Cairo authority to waive nationality requirements with respect to the financing of motor vehicles for AID projects in Egypt: *Provided however,* That such redelegation shall be limited to transactions in which the total cost of such vehicles does not exceed $250,000.

This Delegation of Authority shall be effective immediately.

Dated: November 18, 1980.

Douglas J. Bennet, Jr.,

Administrator.

[FR Doc. 80-37579 Filed 12-2-80; 8:45 am]

BILLING CODE 4710-02-M

International Trade Commission

[Investigation No. 337-TA-90]

Certain Airless Paint Spray Pumps and Components Thereof

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: November 25, 1980.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 80-37595 Filed 12-2-80; 8:45 am]

BILLING CODE 7020-02-M

[731-TA-37 (Preliminary)]

Certain Iron-Metal Castings From India; Institution of Preliminary Antidumping Investigation and Scheduling of Conference

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports from India of certain iron-metal castings, provided for in item 657.09 of the Tariff Schedules of the United States (TSUS), allegedly sold or likely to be sold at less that fair value (LTFV).

EFFECTIVE DATE: November 19, 1980.

FOR FURTHER INFORMATION CONTACT: Patrick J. Magrath, Office of Investigations (202-523-0283).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted following receipt of a petition on November 19, 1980, filed by Pinkerton Foundry, Inc., Lodi, California, on behalf of domestic producers of certain iron-metal castings. The petition requested the imposition of additional duties in an amount equal to the amount by which the foreign cost of production exceeds the United States price of certain iron-metal castings imported from India.

Authority. Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) requires the Commission to make a determination of whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury or the establishment of an industry in the United States is materially retarded, by reason of imports alleged to be, or likely to be, sold in the United States at LTFV. Such a determination must be made within 45 days after the date on which a petition is filed under section 732(b) or on which notice is received from the Department of Commerce of an investigation commenced under section 732(a). Accordingly, the Commission, on November 26, 1980, instituted preliminary antidumping investigation No. 731-TA-37. This investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 7657) and particularly, subpart B thereof.

For the purposes of this investigation, the term "certain iron-metal castings" means manhole covers and frames, catch basin grates and frames, and cleanout covers and frames, provided for in item 657.09 of the Tariff Schedules of the United States.

Written submission. Any person may submit to the Commission on or before December 15, 1980, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10 a.m., e.s.t., on Wednesday, December 10, 1980, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for this investigation, Mr. Patrick J. Magrath (202-523-0283). It is anticipated that parties in support of the petition for antidumping duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the investigator.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

Issued: November 26, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-37593 Filed 12-2-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-35 (Preliminary)]

Portable Electric Nibblers From Switzerland

Determination

On the basis of the record [1] developed in investigation No. 731-TA-35 (Preliminary), the Commission determined [2] that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury.[3] By reason of the imports of portable electric nibblers from Switzerland, provided for in item 683.20 of the Tariff Schedules of the United States (TSUS), which are allegedly being sold in the United States at less than fair value (LTFV).

Background

On October 7, 1980, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by the Widder Corp., Naugatuck, Conn., alleging that portable electric nibblers from Switzerland are being, or are likely to be, sold in the United States at LTFV. Accordingly, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury, or the establishment of an industry in the United States is materialy retarded, by reason of the importation into the United States of portable electric nibblers from Switzerland. The statute directs that the Commission make its determination within 45 days of its receipt of the petition or, in this case, by November 21, 1980.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register on October 22, 1980 (45 FR 70160). The public conference was held in Washington, D.C., on October 29, 1980, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[1] The record is defined in section 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[2] Vice Chairman Michael J. Calhoun and Commissioner Catherine Bedell dissenting.

[3] The material retardation of the establishment of an industry in the United States was not an issue in this investigation.

Statement of Reasons of Chairman Bill Alberger and Commissioners George M. Moore and Paula Stern

In this investigation, No. 731-TA-35 (Preliminary), on the basis of the record, we determine that there is no reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded,[4] by reason of imports from Switzerland of portable electric nibblers,[5] allegedly sold, or likely to be sold, in the United States at less than fair value.

We base our decision on the findings of fact and conclusions of law discussed below.

Discussion

The industry: In this investigation, we consider the relevant domestic industry to consist of the producers of portable electric nibblers in the United States. Portable electric nibblers are hand-controlled power tools, with self-contained motors, used to cut sheet metal. These tools are produced in different gages for cutting different thicknesses of metal. The only portable electric nibblers being imported from Switzerland are 14 and 18 gage tools for cutting thinner gages of sheet metal. Punch and die assemblies are available at a cost of about 15 percent of the price of the nibbler to convert these tools to cut either flat or corrugated surfaces. Although thinner gage tools (14 through 18 gages) are generally used by the construction industry and manufacturers while thicker gage tools (13 gage and thicker) are used by steel fabricators, tools with different rated capacities may be and are used to cut the same gage steel (at some cost in efficiency and performance).

There are no clear lines of distinction for establishing rigid classifications of products; e.g. an 18-gage nibbler can cut 16-gage steel and a 12-gage nibbler can cut 14-gage steel. Since Section 771-(4)(A) defines the term industry as the domestic producers as a whole of the like product, or those whose collective output constitutes a substantial portion of domestic production of the like product, our determination necessarily means that we consider the "like product" to include all portable electric nibblers.[6] We believe this is consistant with past interpretations of the meaning of the term "like product" for purposes of Title VII.[7] The concept of likeness does not require exact identity, but it does require that the goods be substantially the same in uses or characteristics. A useful working definition might be that which is found in Webster's—"something similar or of the same kind". The determination must be made on the facts of each case, and depends upon the basic uses and characteristics of products which make them a substitute for the imported article. While in some cases we might establish different industry classifications for what appears to be one basic type of product, it is not appropriate here. The record before us reveals only that all nibblers are used in cutting various types of metal sheet and that there is a continuum of sizes based upon the gage of the metal to be cut. Thus, they are substantially the same, and there is no logic in segmenting them into separate industries or products. There are four producers of portable electric nibblers in the United States.[8]

Reasonable indication of material injury or threat thereof by reason of LTFV sales: On the basis of the statutory definition of material injury set forth in section 771(7) of the Tariff Act of 1930, we find no reasonable indication that the domestic industry has been materially injured by alleged LTFV sales.[9] In making a determination

[4] Since there are four domestic producers of the product in question, the question of the material retardation of the establishment of an industry in the United States was not an issue in this investigation.

[5] The product is provided for in item 683.20 of the Tariff Schedules of the United States (TSUS).

[6] Commissioner Stern finds that the imports under investigation are 14 and 18 gage portable electric nibblers. Inasmuch as the thinnest gage tools are not used to cut the thickest gage metal and vice versa, the like product is not all nibblers, but those gages used to cut the thinner gage metals. However, the best information available to the Commission concerning the profitability of domestically produced nibblers of thinner gages includes the data submitted by Black and Decker on its entire product line of nibblers. See, note 22 on page 5. Accordingly, the narrowest group or range of products which includes a like product for which necessary information is available within the meaning of subsection 771(4)(D) of the Tariff Act is all portable electric nibblers. This case is distiguishable from Plastic Animal Identification Tags from New Zealand, Inv. 303-TA-14 (Preliminary), USITC Pub. 1094 (September 1980) where in the Statement of Reasons of Chairman Alberger and myself we found, "For the purposes of our preliminary determination we are compelled to treat one- and two-piece tags as 'like products' because the best information available reveals that they are nearly identical in characteristics and end uses." The best information available in this case shows clearly that we have a distinction in end uses for thin gage and thick gage nibblers even though the line of demarcation where the two meet is somewhat blurred.

[7] Examples can be found in Certain Steel Wire Nails, Inv. 731-TA-26 (Final) USITC Pub. 1068 (August 1980), and in Plastic Animal Identification Tags from New Zealand, Inv. 303-TA-14 (Preliminary), USITC Pub. 1094 (September 1980).

[8] See Commission report (hereinafter referred to as Report), at pp. A-3; A-21.

[9] The petitioner alleged that imports of 18-gage portable electric nibblers from Switzerland were being sold at LTFV margins of 35 percent.

of material injury or threat of material injury, subsections 771(7)(B) and (C) direct the Commission to consider, among other factors: (1) the volume of imports of the merchandise subject to the investigation, (2) the effect of imports of such products on prices of like products produced in the United States and, (3) the impact of the imports on the affected domestic industry. Our decision in this case is based upon our evaluation of the best information available to the Commission as it relates to these indicia.

Volume of imports: All of the U.S. imports of portable electric nibblers from Switzerland are imported by the Robert Bosch Sales Corporation. The domestic shipments of these imports increased approximately 23 percent from 1977 to 1979. A comparison of shipments in the period January-September 1980 with those for the corresponding period in 1979, however, shows a decrease of nearly 13 percent.[10]

During the period 1977 through 1979, the U.S. market for portable electric nibblers increased steadily from 6,341 units to 8,593 units, an increase of 36 percent.[11] The relative market shares for the domestically produced tools, the Swiss imports, and imports from other countries shifted slightly during this period and the Swiss tools lost some of their U.S. marketshare to other imported nibblers.[12] Although apparent U.S. consumption of these tools declined in the January–September 1980 period when compared to the January–September 1979 period, U.S. producers were able to increase their share of the market slightly.[13] The petitioner's share of the U.S. market increased each year in the 1977–1979 period and continued to increase in 1980.[14]

Effect of imports on prices: Imported portable electric nibblers from Switzerland consistently undersold comparable domestically produced tools by margins of as much as 27 percent for the 18 gage nibbler in 1978 and by an average of 19 percent for the 14 gage nibbler from January 1978 through September 1980.[15] Different quality perceptions may account for some of the price differentials.[16]

Prices of the Swiss units increased by an average of 17 percent in 1978, and increases continued through 1979 and into 1980 at lesser percentages.[17] Prices of U.S. produced units show different trends. The Widder Corporation's average price for its 18 gage tool declined 10 percent in 1978, increased 15 percent in 1979 and declined about 3 percent from the first to the second quarter of 1980.[18] The average price of the Black and Decker 16 gage nibbler, on the other hand, increased only 5 percent in 1978 but increased by 13 percent from January–March of 1979 to July-September of 1980.[19] Within the 14–18 gage models, some German and Japanese nibblers are offered for sale at prices comparable to the Widder 18 gage nibbler. Accordingly, Widder's prices appear to be competitive with imported nibblers in general rather than suppressed by Swiss imports allegedly sold at LTFV.[20]

Impact of imports on the affected domestic industry: Domestic production of portable electric nibblers increased steadily from 2,959 units in 1977 to 3,567 units in 1979.[21] The production during the period January–September 1980 was 15 percent higher than during the comparable period in 1979. Although capacity utilization, expressed as the ratio of production to capacity, declined from 1977 to 1979 as new capacity was brought on stream, it increased sharply in 1980.[22]

The domestic shipments of U.S. producers increased annually from 2,406 units in 1977 to 3,186 units in 1979. During January–September 1980, shipments increased slightly from 1,987 units to 2,005 units for the comparable period in 1979. Although precise data concerning the employment of workers in the production of nibblers is not available, reasonable inferences from the data that is available indicate that employment and man-hours worked in the production of portable electric nibblers have increased, paralleling production and shipments.[23] Only two of the four U.S. producers of portable electric nibblers submitted profit and loss data on their nibbler operations to the Commission. The larger of these firms, Black and Decker Corporation,[24] earned substantial profits from its nibbler operations for each of the periods for which it submitted information—1978, 1979, and January–September 1980.[25] The petitioner on the other hand, experienced loses on net sales in 1977, 1978, and 1979. The firm, however, did not commence producing portable electric nibblers until 1977. It is common for a company introducing a new product line to experience losses during the first years of production.[26]

Although inventories of the Swiss portable electric nibblers on September 30, 1980, were almost twice as high as on any other date for which inventories were reported during the investigation, shipments of these imports have decreased during 1980—indicating that Bosch is apparently not attempting to sell at distress prices.

[10] Report, at A–13.
[11] Report, at A–5.
[12] Report, at A–5.
[13] Report, at A–17.
[14] Report, at A–8.
[15] Report, at A–22, A–24.
[16] Report, at A–25.
[17] Report, at A–23.
[18] Report, at A–22.
[19] Report, at A–24.
[20] Report, at A–19, A–20.
[21] Report, at A–6.
[22] Report, at A–7.
[23] Report, at A–27, A–14.
[24] Black and Decker did not allege any material injury or threat thereof. Two other domestic producers—Fenway Machine Co. and Modern Manufacturing Co., made no allegations concerning material injury or the threat of material injury.
[25] This profit and loss information was based on allocations from the sales of the company's Industrial Construction Division to its nibbler operations as a whole. Report, at p. A–16. The company did not further refine its profit and loss information between thinner and thicker gaged nibblers (Transcript of staff briefing, November 19, 1980). It is believed that an attempt to make allocations on a narrower product basis would result in financial data of questionable validity.
[26] Commissioner Stern notes that arguments have been urged on the Commission that the losses on net sales experienced by the petitioner could constitute a reasonable indication of material injury because: 1) the scope of the domestic industry should be limited to 14 to 18 gage nibblers and 2) as the petitioner represents approximately 50 percent of domestic shipments of 14 to 18 gage nibblers on a volume basis, the petitioner, therefore, constitutes a major proportion of the domestic production of the "like" product within the meaning of subsection 771(4)(D) of the Tariff Act and the discussion of this provision in the Committee Report of the House Ways and Means Committee on the Trade Agreements Act of 1979 (H.R. Rep. No. 317, 96th Cong., 1st Sess. 73 (1979)).

With respect to the argument that the domestic industry consists of 14 to 18 gage nibblers, the best information available to the Commission fails to provide a distinction between 14 and 12 or 13 gage nibblers, thereby demonstrating that the "like product" is *all* thinner gage nibblers. Further, in other preliminary determinations where the information available to the Commission raised a strong inference that additional information could confirm that there was a reasonable indication of material injury or threat thereof, the Commission has indeed reached an affirmative result. *Certain Public Works Castings from India* (Investigation No. 303–TA–13 (Preliminary), USITC Publication No. 1056, April 1980), is an example of such a case. However, in that case Commission staff felt that the preliminary data actually included considerable more than 50 percent of the industry and that it was representative of the more complete data that would be collected in a final investigation. The data in *Public Works Castings* covered hundreds of firms which were similarly situated assuring the representativeness of the available data, while in this case there are only four firms and we know that the available data is not representative of the other producers.

Thus, even in the event that more information could justify a conclusion that the proper scope of the domestic industry was confined to 14 through 18 gage portable electric nibblers, the profit and loss information already available to the Commission indicates that the petitioner's loss experiences were not representative of the industry's and were not directly attributable to LTFV competition from Switzerland. The only information the Commission could use to complement this determination would be Black and Decker's profit and loss experience with 14 through 18 gage nibblers. The Commission is aware that this data cannot be accurately developed and it would not change the result here.

The positive trends in domestic capacity utilization, production, shipments, employment, and share of the U.S. market all belie a conclusion that the domestic industry is threatened with material injury by reason of imports from Switzerland.

Conclusion

We have not found a reasonable indication of material injury or threat thereof to the domestic industry producing portable electric nibblers by reason of alleged LTFV sales of imports from Switzerland. Therefore, we find that the case should be terminated.[27]

Recommendation and Supporting Statement of the Director of Operations for a Negative Preliminary Determination in Investigation No. 731-TA-35 (Preliminary), Portable Electric Nibblers From Switzerland

Recommendation

On the basis of the record developed in this investigation, I recommend that the Commission determine that there is no reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of portable electric nibblers from Switzerland, provided for in item 683.20 of the Tariff Schedules of the United States, which the petitioner alleges are being, or are likely to be, sold in the United States at less than fair value.

Supporting Statement

Procedural background. The Commission instituted this investigation on October 16, 1980, following receipt of a petition filed by the Widder Corp., Naugatuck, Conn., on behalf of the domestic industry producing portable electric corrugated nibblers. A public conference was held in Washington, D.C. on October 29, 1980, at which parties in support of the petition and those opposed to it presented testimony. The Commission's determination in the investigation is due to be transmitted to the Department of Commerce on November 21, 1980.

Domestic Industry. The impact of allegedly dumped imports is to be measured against the industry producing a "like product" (Section 771(4)(A) of the Tariff Act of 1930). However, in assessing this impact, the statute directs the Commission to isolate the affected product lines to the extent possible. Section 771(4)(D) states:

(D) Product lines.—The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits. . . .

The Senate Finance Committee Report states:

In examining the impact of imports on the domestic producers comprising the domestic industry, the ITC should examine the relevant economic factors (such as profits, productivity, employment, cash flow, capacity utilization, etc.), as they relate to the production of only the like product, *if available data permits (sic) a reasonably separate consideration of the factors with respect to production of only the like product.* (Emphasis added) S. Rep. 96-249, 96th Cong., 1st Sess., at p. 83-84.

In the current investigation, the petitioner complained of alleged LTFV sales of portable electric corrugated nibblers imported from Switzerland. The petitioner is the sole domestic producer of a *corrugated* nibbler and would appear to constitute the domestic industry producing a "like product". However, three other domestic firms produce portable electric nibblers. Staff research has determined that nibblers are hand-directed, hand-controlled power tools, with self-contained motors, used to cut corrugated or flat sheet metal by the action of a reciprocating punch. Because of the availability of reasonably priced conversion die assemblies, nibblers are essentially interchangeable for many cutting applications. Competition in the U.S. market between domestically-produced nibblers and the alleged LTFV imports occurs on the basis of cutting capacity and price rather than end-use designations such as "corrugated" or "flat surface". Further, there are separate identifiable facilities and manpower associated with the production of portable electric nibblers. As a result, examination of the impact of imports with respect to domestic producers of all portable electric nibblers is appropriate.

Findings with respect to "no reasonable indication of material injury, or threat thereof", by reason of imports subject to the investigation. a. Domestic shipments of nibblers imported from Switzerland increased steadily from 1977 to 1979, representing an increase of 23 percent. Shipments of such imports declined by 13 percent in January-September 1980 as compared to January-September 1979 (Report, pp. A-18—A-19).

b. Inventories of nibblers imported from Switzerland declined from 1977 to 1979. Such inventories increased rapidly in January-September 1980 and at the end of that period were twice as high as inventories reported in any prior period. Counsel for the importer of these nibblers reported that this high inventory level resulted from a miscalculation of demand (Report, pp. A-14—A-15).

c. The share of the nibbler market held by imports from Switzerland increased slightly from 1978 to 1979, when they accounted for more than one third of the U.S. nibbler market. In January-September 1980 the market share of Swiss nibblers remained at the same level when compared to the market share held in the corresponding period of 1979 (Report, p. A-24).

d. By quantity, total shipments by domestic producers rose annually from 2,406 units in 1977 to 3,186 units in 1979 representing an increase of 32 percent. During January-September 1980, U.S. producers' total shipments increased to an estimated 2,005 units up from 1,987 units in the comparable period in 1979, an increase of 1 percent (Report, pp. A-11—A-12).

e. Only two of the four domestic producers of portable electric nibblers reported capacity data to the Commission. Based on these data and expressed as a ratio of production to capacity, capacity utilization declined from 85 percent in 1977 to about 70 percent in 1978-79. Although production increased throughout this period it did not increase at as fast a rate as new production capacity. In January-September 1980, the capacity utilization ratio rose to 79 percent (Report, A-11).

f. U.S. producers' share of the nibbler market declined from 38 percent in 1978 to 36 percent in 1979. During January-September 1980, producers' market share increased 13 percent as compared to the comparable period of 1979 (Report, p. A-24).

g. Profit-and-loss data on U.S. portable electric nibbler operations were only available for two U.S. producers. Although the smaller firm reported losses on its nibbler operations, the larger firm earned substantial profits from its nibbler operations in all of the periods for which it provided data. On the basis of combined data, the ratio of net operating profit to net sales for these two producers was about twice that reported in 1979 for all U.S. manufacturers (approximately 8 percent) (Report, pp. A—20-A-23).

i. Complete or partial price data were obtained from 8 of the 11 firms selling nibblers in the U.S. market. 18 gage and 14 gage nibblers imported from Switzerland have undersold comparable domestically-produced nibblers by

[27] Chairman Alberger includes, for informational purposes, the Recommended Determination and Supporting Statement of the Director of Operations in this investigation. The Director's Determination is as follows:

margins ranging from 7 percent to 40 percent. (Report, pp. A-24—A-34).

j. The staff contacted 13 nibbler distributors. In four instances the staff confirmed that the distributors had either recently become a distributor for Swiss nibblers, had increased sales of Swiss nibblers because of their lower prices, or had lost a large nibbler contract from a builder to a competing distributor of Swiss nibblers (Report, pp. A-34-A-35).

Conclusion

On the basis of the information developed in the investigation, I recommend that the Commission find that there is no reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of portable electric nibblers from Switzerland which are allegedly sold in the United States at less than fair value.

In support of my recommendation I cite: 1. Domestic production, capacity utilization, shipments, employment and share of the market are all stable or increasing in January-September 1980.

2. Profitability, although declining slightly, is still well above the average profitability of all U.S. manufacturers, based on the ratio of net operating profit to net sales.

3. Nibblers of comparable capacities such as 18 gage and 16 gage compete with each other in several applications. Imports from Switzerland are substantial but consist entirely of 18 and 14 gage units. Black and Decker produces a 16 gage and an 8 gage nibbler; Widder Corp. produces only an 18 gage unit; Fenway produces a 14 gage unit and a thicker gage unit as well.

4. Over 45 percent of the domestically-produced nibblers shipped in January-September 1980 consisted of 14 gage or thinner nibblers. Three of the domestic firms who supplied these units did not support the petition nor allege any sales losses because of import competition from Swiss nibblers.

5. The stable or increasing trends in the indices of material injury—production, shipments, capacity utilization, employment, profitability, etc.—would indicate the domestic industry is not suffering material injury nor is it threatened with material injury.

Statement of Reasons for the Affirmative Determination of Vice Chairman Michael J. Calhoun and Commissioner Catherine Bedell

On the basis of the record developed in investigation No. 731-TA-35 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of portable electric nibblers from Switzerland, allegedly sold or likely to be sold in the United States at less than fair value (LTFV).

Discussion

The Commission is directed by section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to make a determination as to whether there is a reasonable indication that an industry in the United States is being materially injured or is threatened with material injury by reason of imports of merchandise that has been designated by the Department of Commerce as the subject of an investigation commenced under section 732(a) or 732(b).[28] The determination must be based on the best information available to the Commission at the time of the determination. Section 771(7) defines material injury as harm which is "not inconsequential, immaterial, or unimportant" and provides specific factors to be considered among others when making a determination under section 733(a). A discussion of the factors we considered in reaching our determination follows.

Domestic Industry

In order to determine whether there is a reasonable indication of material injury or threat of material injury, the industry against which the impact of the alleged LTFV imports is to be analyzed must be defined. Section 771(4) states that—

> The term "industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

The term "like product" is defined in section 771(10) as—

> a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.

The portable electric nibblers being imported into the United States from Switzerland that are subject to this investigation are 14-gage and 18-gage nibblers produced by Scintilla, S.A., Solothurn, Switzerland, a subsidiary of Robert Bosch GmbH of West Germany. The petitioner suggests that the like product in this investigation should be portable electric nibblers that cut corrugated metal. However, the information available to the Commission indicates that not all the imported nibblers are sold as nibblers for cutting corrugated metal.[29] Moreover, the nibblers sold by Bosch as corrugated nibblers can be used to cut flat metal,[30] and there are die assemblies sold for the imported nibblers which provide a consumer with the flexibility of using these nibblers for cutting either corrugated or flat metal.[31] Thus, our view is that the like product must include nibblers that cut either corrugated or flat metal.

Portable electric nibblers produced in the United States are capable of cutting a wide range of metal gages. Whether all portable electric nibblers, regardless of size, can be considered like the imported 14- and 18-gage nibblers must be determined in light of the realities of the marketplace.

The information available suggests that there is a clear distinction between thick gage and thin gage nibblers with respect to their uses and consumer perception of their capabilities. Apparently, the thin gage nibblers are used at metal-building construction sites and are used by heating, air-conditioning, and ventilation installers and by certain industrial users such as manufacturers of mobile homes, recreation vehicles, snowmobiles, and automobiles. Thick gage nibblers are used primarily as shop tools by steel fabricators and bridge construction firms.[32] There is also information in the record that the domestically produced 16-gage nibbler is competitive with the 18-gage and 14-gage imported nibblers as it can be used to cut metal of all three thicknesses.[33] In addition, information indicates that the domestic 12- and 13-gage nibblers may also be competitive with the 14-gage imported nibbler,[34] but, in light of the information that distinguishes the uses of thin and thick gage nibblers, and considering that this is a preliminary investigation with data not fully developed, we find the most reasonable assessment of the "like product" to be the thin gage portable electric nibblers, those in the 14 to 18-gage range.

Finally, on the basis of our analysis of what constitutes the like product, the industry in the United States against which our injury analysis is focused includes the domestic producers of 14-

[28] Sec. 733(a) also provides for an alternative determination as to whether there is a reasonable indication that the establishment of an industry in the United States is materially retarded by reason of the imports. The establishment of an industry is not an issue in this investigation and will not be further discussed.

[29] Transcript of the conference, Oct. 29, 1980, p. 30.

[30] Transcript of the conference, p. 42.

[31] Staff report, p. A-1; transcript of the conference, p. 54; memorandum of Nov. 18, 1980, from the Director of Investigations to the Vice Chairman.

[32] Staff report, p. A-2.

[33] Staff report, pp. A-22 and A-24.

[34] Staff report, p. A-22.

of 18 gage portable electric nibblers. The producers of these nibblers are Black & Decker Corp., Fenway Machine Co., Modern Manufacturing Co., and Widder Corp., the petitioner.

Volume of Imports

Imports of nibblers from Switzerland, which had declined in 1978, rapidly increased in 1979. Such imports in January–September 1980 were 73 percent higher than imports in Janunary–September 1979 and represented 76 percent of total nibbler imports during that period.[35]

Domestic shipments of nibblers imported from Switzerland increased 23 percent from 1977 to 1979. But these shipments declined by 13 percent in January–September 1980 compared with those in January–September 1979.

With the large increase of imports from Switzerland during January–September 1980, a tenfold increase in importers' inventories developed between September 30, 1979, and September 30, 1980.[36] This exceptionally large inventory of Swiss nibblers may pose a serious threat to the sales of U.S. producers of the like product in the near future. Furthermore, Swiss imports are retaining, and have held since 1978, a share of approximately two-thirds of the U.S. market.

Effect of Imports on Prices

A significant pattern of underselling is revealed by price comparisons between imports and the like product. When comparing the 16-gage Black & Decker nibbler with the Swiss 14-gage, a heavier and presumably more costly machine,[37] we note a pattern of underselling of approximately 40 percent from January 1978 until September 1980. A direct comparison of the prices of the Widder 18-gage nibbler with those of the imported Swiss 18-gage nibbler shows a pattern of underselling that ranges from 7 to 27 percent in 1978, 16 to 23 percent in 1979, and 21 to 23 percent through March 1980. A direct comparison of the Swiss 14-gage to Fenway's 14-gage shows a pattern of underselling with a range of 19 to 22 percent in 1979 and 15 to 19 percent through September 1980.[38] There is some information in the record that there are quality differences between the imports from Switzerland and the domestic counterparts. However, the price differences at this point in the investigation seem more significant than the differences in quality would suggest.[39]

We also note a pattern of significant underselling of comparable imports from West Germany by the imports from Switzerland well beyond acknowledged quality differences. For example, in January–March 1980, the 18-gage Swiss nibbler was 34 percent lower in price than the 18-gage nibbler imported by Fein of West Germany.[40]

Information on price adjustments of the 18-gage Swiss imported nibbler and the 18-gage domestic nibbler manufactured by Widder suggests that there may be price suppression due to the pattern of underselling. We note that in 1978 the average price of the 18-gage Swiss nibblers increased by 20 percent. Widder followed 1979 by increasing its prices by 15 percent. However, in the face of only a 2.4-percent increase in price by the Swiss nibblers from March–June 1979 to July–September 1980, Widder's average price for its 18-gage nibbler decreased by about 3 percent between January–March and April–June 1980.[41] This occurred in spite of an increasing net operating loss from 1977 through 1979.[42]

Impact of Imports on the Domestic Producers

Section 771(4) of the Tariff Act of 1930, as noted earlier, defines industry as—

> The domestic producers as a whole of a like product, *or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.* (Emphasis supplied.)

The House Ways and Means Committee report on the Trade Agreements Act of 1979 discusses this definition and states, in part:

> As under current practice, the "industry" can also be producers who comprise something less than the entire group of producers of like products if the total output of this group of producers constitutes a major proportion of the total domestic production of that product. The phrase "major proportion of total domestic production" cannot be defined with mathematical precision, and the application of the phrase will therefore vary from case to case.[43]

A practical application of this provision, especially with regard to preliminary investigations, is the authority it provides for reaching a determination when data from a portion of the producers of the like product are unavailable or unreliable. This is precisely the circumstance before us.

In this regard, we have considered the profitability of only Widder Corp. in reaching our determination. Neither Modern Manufacturing Co., which represented less than 2 percent of U.S. producers' domestic shipments in 1979, nor Fenway Machine Co., which represented less than 10 percent of U.S. producers' domestic shipments in 1979, provided profit-and-loss information. Black & Decker, which represented about 41 percent of U.S. producers' domestic shipments in 1979, provided profit-and-loss information on its total nibbler production, but this information includes data on nibblers larger than 14-gage. These larger nibblers account for the bulk of Black & Decker's total sales of nibblers. Furthermore, sales of all portable electric nibblers represented only a very small share of total sales of Black & Decker's Industrial Construction Division in 1979, and since profit on nibbler sales was extracted from total profit of the Division, the data are of questionable value.[44] Relying on only the information relating to the remaining producer of the like product (Widder Corp.) poses no problem under section 771(4) as Widder represents approximately 50 percent of domestic producers' shipments of 14- to 18-gage nibblers on a volume basis.[45] This constitutes a major proportion of the total domestic production of the like product.

Examination of Widder's profit-and-loss experience regarding 18-gage nibblers shows that it experienced losses in 1978 and 1979 even though it improved its net sales by 95 percent from 1977 through 1979. While Widder's gross profit increased by 71 percent from 1977 through 1979, it experienced net losses during all these years. The company's ratio of net operating loss to net sales increased from 1977 to 1978. Although it decreased in 1979, the percentage remained relatively significant.[46]

In spite of these difficulties, we did note that the employment picture has been improving. During January 1977 through September 1980, Widder Corp. reported an increase in the number of part-time production and related workers engaged in the manufacture of nibblers.[47]

We have also observed that there have been four confirmed lost sales by Widder to the Swiss imported nibblers.

[35] Staff report, p. A-13.
[36] Staff report, pp. A-10, A-11, and A-13.
[37] Staff report, p. A-22.
[38] Staff report, p. A-24.
[39] Staff report, p. A-26.
[40] Staff report, p. A-19.
[41] Staff report, p. A-23.
[42] Staff report, p. A-16.
[43] Trade Agreements Act of 1979: Report of the Committee on Ways and Means . . ., H. Rept. No. 96-317 (96th Cong., 1st sess.), 1979, p. 73.
[44] Minutes of Commission meeting, Nov. 19, 1980.
[45] Staff report, p. A-8.
[46] Staff report, p. A-16.
[47] Staff report, p. A-15.

These included sales to a distributor which had recently increased sales of Swiss nibblers because of the lower price, with a corresponding decline in sales of the domestic nibblers occurring, and a distributor which lost a large nibbler contract with a builder to a competing distributor of the Swiss nibbler.[48]

Conclusion

Therefore, on the basis of the strong pattern of underselling of the imports from Switzerland, the significant increase in inventories of such imports, their strong market position, and the profit difficulties of the producer representing 50 percent of the production of the like product, we conclude that there is a reasonable indication that the domestic industry producing 14- to 18-gage portable electric nibblers is materially injured, or is threatened with material injury, by reason of imports from Switzerland allegedly sold or likely to be sold at less than fair value.

Issued: November 25, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-37594 Filed 12-2-80; 8:45 am]

BILLING CODE 7020-02-M

[48] Staff report, p. A-26.

NUCLEAR REGULATORY COMMISSION

Advisory Panel for the Decontamination of Three Mile Island, Unit 2

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2, will hold two meetings during the month of December. Both meetings will be open for public observation.

The first meeting will be on December 18, 1980, from 7:00 p.m. to 10:00 p.m. in the auditorium of the William Penn Museum, Third and North Streets, Harrisburg, Pennsylvania.

Representatives of the Department of Energy and Metropolitan Edison Company will be attending this meeting to discuss radioactive waste management issues pertinent to the decontamination of TMI-2.

The second meeting will be on December 30, 1980, from 7:00 p.m. to 10:00 p.m. at the same location as listed above. At this meeting the panel will discuss the issue of processed water disposition.

Further information on the meetings may be obtained from Dr. William Travers, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301/492-7811.

Dated: November 26, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-37520 Filed 12-2-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-461A and 50-462A]

Illinois Power Co., et al.; Receipt of Antitrust Information

Note.—This document originally appeared in the Federal Register for Monday November 24, 1980. It is reprinted in this issue at the request of the agency.

Illinois Power Company, on behalf of itself and Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc., has filed antitrust information for their application for operating licenses for the Clinton Power Station, Units 1 and 2. This information was filed pursuant to Part 2.101 of the Commission Rules and Regulations and is in connection with the owners' plans to operate two boiling water reactors in Dewitt County, Illinois. The application contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage. The remainder of the application for operating licenses was submitted previously and was docketed on September 9, 1980. (See Federal Register Notice 45 FR 64307.)

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the Federal Register and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the Federal Register notice. The results of any reevaluations that are requested will also be published in the Federal Register and copies sent to the Washington and local public document rooms.

A copy of the application for operating licenses and the antitrust information submitted are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and in the local public document room at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the applicants' activities since the construction permit antitrust reviews for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C, 20555. Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before January 26, 1981.

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

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-36367 Filed 11-21-80; 8:45 am]

BILLING CODE 7590-01-M

State Liaison Officers' Meeting

On December 9 and 10, 1980, the Nuclear Regulatory Commission will sponsor a meeting with State Liaison Officers to discuss mutual regulatory interests. The meeting will be conducted at the Nuclear Regulatory Commission headquarters at 1717 "H" Street, NW., Washington, DC in the Commissioners' Conference Room on the 11th floor. The meeting is open to the public for attendance and observation and will take place from 9:00 a.m. until 5:00 p.m. on Tuesday, December 9 and from 8:30 a.m. until 1:00 p.m. on Wednesday, December 10, 1980. Questions regarding this meeting should be directed to Sue Weissberg at (301) 492-7794.

Dated at Bethesda, Maryland this 1st day of December, 1980.

For the Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 80-37699 Filed 12-2-80; 8:45 am]

BILLING CODE 7590-01-M

OHIO RIVER BASIN COMMISSION

Cumberland River Basin Regional Water and Related Land Resources Plan and Draft Environmental Impact Statement (Comprehensive Coordinated Joint Plan); Available for Review

Pursuant to Section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89-80), the Ohio River Basin Commission has prepared the Cumberland River Basin Regional Water and Related Land Resources Plan (CCJP) and Draft Environmental Impact Statement. This plan constitutes the Cumberland portion of the Ohio River Region's Comprehensive Coordinated Joint Plan. The Plan/Draft EIS is under 90-day review by the governor of each state and the head of each federal and interstate agency for which a member has been appointed to the Commission.

Views, comments and recommendations are requested by February 23, 1981. Copies are available from the Ohio River Basin Commission, 36 E. 4th St., Suite 208, Cincinnati, OH 45202.

Fred J. Krumholtz,
Chairman.

[FR Doc. 80-37581 Filed 12-2-80; 8:45 am]
BILLING CODE 8410-01-M

POSTAL SERVICE

International Postal Rates and Fees

AGENCY: Postal Service.

ACTION: Final international rates and fees.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service is changing the international postal rates and fees to the levels indicated below. The levels of some of these rates and fees, marked with asterisks, depend upon the levels of certain domestic rates and fees for which increases have been proposed and are expected to become effective in March 1981. The international rates and fees marked with a single asterisk are not changed, and will remain at current levels until the proposed domestic increases take effect. Those marked with double asterisks will become effective on January 1, 1981 as interim new rates and fees, which will be revised again to reflect the domestic increases when they become effective.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Don S. Allen (202) 245-4418.

SUPPLEMENTARY INFORMATION: On October 3, 1980, the Postal Service published for comment in the Federal Register proposed changes in international postal rates and fees (45 FR 65750). Sixty-one comments were received concerning the October 3 notice. Forty-one of the comments were in regard to the increased rates for publishers' periodicals and their effect on medical and scientific publications of nonprofit organizations and associations. Twelve comments were also received from publishers concerning the increase in publishers' periodical rates. These comments are generally summarized below.

(1) The rate increase would increase the cost of circulation which could curtail the exchange of medical and scientific publications between countries.

(2) The time between the announcement of the rate increases and implementation date is too short to allow passing the increases on to subscribers.

(3) The increases will have an inflationary effect.

(4) The implementation date should be delayed until the effective date of domestic rate increases in order to avoid confusion.

(5) The percentage of the increase for certain weight categories is higher than that for other categories.

Five comments were received from import-export companies, pointing out the possible adverse effect increased rates may have on the export of American-made products. Three comments concerned the increase in letter rates and in the fee for certificates of mailing.

The Postal Service recognizes that this increase in international postage rates will be burdensome to publishers and other businesses which rely heavily upon the international mail service and may have other adverse effects as suggested in the comments summarized above. However, the Postal Service is generally required to set the postage rate for each class of mail at a level which covers the costs of providing service for that class of mail. The January 1, 1981 increase in rates is necessary in order to cover the significant increase in the amount the Postal Service will be required to pay foreign postal administrations for their handling of mail originating in the United States. The Congress of the Universal Postal Union, which establishes the rates for these "terminal dues" payments between postal administrations, met in the Fall of 1979 and adopted, over the objection of the Postal Service, a 267 percent increase in the rate for terminal dues which will become effective on January 1, 1981. Terminal dues are calculated on the basis of the weight of the mail and therefore increases in terminal dues have a more dramatic impact on heavier mail items such as publications than on letters and postcards. The Postal Service must cover this increase in terminal dues costs in its postage for each class of mail since it does not receive any congressional appropriations to subsidize the rates for any class of international mail.

Several comments suggested that the time between the announcement of the increases and the implementation date is too short and that the implementation date should be delayed. Although the specific amount of postage rate increases was not available to mailers until the October 3 notice in the Federal Register, mailers were provided with notice, in newspapers articles in the Fall of 1979 and in the January 1980 issue of the Postal Service's "Memo to Mailers", that international rates would be increased significantly because of the increase in terminal dues. Since the Postal Service must pay these increased terminal dues on all mail sent to other countries after January 1, 1981, the increase in international postage rates must become effective on that date in order to cover the costs for such mail.

The fact that the percentage increases for the various categories of printed matter appear uneven results from the creation of additional weight increments in the rate structures. This modification is authorized by a recent amendment to the Acts of the Universal Postal Union Convention and is one many mailers have been asking for to avoid paying rates which are averaged over a broader weight spectrum.

The 40 cent fee for the international certificate of mailing is the same as the proposed domestic fee for this service. It has been determined by a cost study that the attributable cost of issuing a certificate of mailing is 38 cents. A nominal markup of 2 cents has been added as contribution to other cost.

There has been a change in the proposed rates published in the October 3 notice which in effect reduced the air parcel post rates for the People's Republic of China. In addition, the rates and fees marked with a double asterisk were not published on the October 3 notice but are being adopted effective January 1, 1981. The level of the interim rates and fees is authorized by the relevant provisions of the Universal Postal Convention.

Accordingly the Postal Service hereby adopts the following rates and fees, which will be published in the Postal Service's International Mail Manual.

(39 U.S.C. 401, 403, 404(2), 407, 410(a))

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

I. International Postal Rates and Fees

A. New Rates

1. Letters and Letter packages (Surface).

Weight steps				Canada	Mexico	All other countries
Over		Through				
Pounds	Ounces	Pounds	Ounces			
.....		0	1	*$0.15	*$0.15	$0.30
0	1	0	2	*.28	*.28	.47
0	2	0	3	*.41	*.41	.64
0	3	0	4	*.54	*.54	.81
0	4	0	5	*.67	*.67	.98
0	5	0	6	*.80	*.80	1.15
0	6	0	7	*.93	*.93	1.32
0	7	0	8	*1.06	*1.06	1.49
0	8	0	9	*1.19	*1.19	2.76
0	9	0	10	*1.32	*1.32	2.76
0	10	0	11	*1.45	*1.45	2.76
0	11	0	12	*1.58	*1.58	2.76
0	12	1	0	*2.25	*2.25	2.76
1	0	1	8	*2.50	*2.50	3.78
1	8	2	0	*2.83	*2.83	4.80
2	0	2	8	*3.16	*3.16	5.55
2	8	3	0	*3.50	*3.50	6.30
3	0	3	8	*3.83	*3.83	7.05
3	8	4	0	*4.16	*4.16	7.80
4	0	4	8	*4.50	.....	.....
4	8	5	0	*4.83	.....	.....
Each additional pound				*.665	.....	.....

Maximum limit 60 pounds to Canada, 4 pounds to Mexico and all other countries.

2. Letters and Letter Packages (Air). a. Canada and Mexico; Refer to rates listed under A.1. (Surface Rates). Mail paid at this rate receives First-Class service in the United States and air service in Canada and Mexico.

b. Colombia, Venezuela, Central America, The Caribbean Islands, Bahamas, Bermuda, St. Pierre and Miquelon: 35 cents per half ounce up to and including 2 ounces; 30 cents each additional half ounce up to and including 32 ounces; 30 cents per additional ounce over 32 ounces.

c. All Other Countries: 40 cents per half ounce up to and including 2 ounces; 35 cents each additional half ounce up to and including 32 ounces; 35 cents per additional ounce over 32 ounces.

3. Post and Postal Cards. a. Surface. (1) Canada and Mexico: 10* cents each.

(2) All other countries: 19 cents each.

b. Air. (1) All countries (except Canada and Mexico): 28 cents each.

(2) Canada and Mexico: 10* cents each.

4. Aerogrammes: 30 cents each.

5. Other Articles (AO).

a. Surface. (1) Regular Printed Matter.

Weight steps		Canada and Mexico	All other countries
Over	Through		
0 oz	1 oz	*$0.20	$0.23
1 oz	2 oz	*.20	**.33
2 oz	3 oz	*.40	**.43
3 oz	4 oz	*.40	**.53
4 oz	6 oz	*.53	**.72
6 oz	8 oz	*.66	**.92
8 oz	10 oz	*.79	1.11
10 oz	12 oz	*.92	1.29
12 oz	14 oz	*1.05	1.48
14 oz	16 oz	*1.18	1.66
16 oz	18 oz	1.80	1.80
18 oz	20 oz	1.94	1.94
20 oz	22 oz	2.07	2.07
22 oz	24 oz	2.21	2.21
24 oz	26 oz	2.35	2.35
26 oz	28 oz	2.49	2.49
28 oz	30 oz	2.62	2.62
30 oz	32 oz	2.76	2.76
2 lb	3 lb	3.31	3.31
3 lb	4 lb	3.86	3.86
Each additional 1 lb		.96	.96
Direct sack to one addressee (M bag):			
Minimum 15 lb		.....	.....
Maximum 66 lb:			
Per pound or fraction		.86	.86

(2) Publishers Periodicals.

Weight steps		All countries
Over	Through	
0 oz	1 oz	$0.12
1 oz	2 oz	.17
2 oz	3 oz	.22
3 oz	4 oz	.27
4 oz	6 oz	.36
6 oz	8 oz	.46
8 oz	10 oz	.55
10 oz	12 oz	.65
12 oz	14 oz	.74
14 oz	16 oz	.83
16 oz	18 oz	.90
18 oz	20 oz	.97
20 oz	22 oz	1.04
22 oz	24 oz	1.11
24 oz	26 oz	1.17
26 oz	28 oz	1.24
28 oz	30 oz	1.31
30 oz	32 oz	1.38
2 lb	3 lb	1.66
3 lb	4 lb	1.93
Each additional 1 lb		.48
Direct sack to one addressee (M bag):		
Minimum 15 lb		
Maximum 66 lb:		
Per pound or fraction		.43

(3) Books and Sheet Music.

Weight steps		All countries
Over	Through	
0 lb	1 lb	$0.83
1 lb	2 lb	1.38
2 lb	3 lb	1.66
3 lb	4 lb	1.93
Each additional 1 lb		.48
Direct sack to one addressee (M bag):		
Minimum 15 lb		
Maximum 66 lb:		
Per pound or fraction		.43

(4) Small Packets.

Weight steps		Canada	Mexico	All other countries
Over	Up to			
0 oz	1 oz	*0.20	*0.20	$0.23
1 oz	2 oz	*.20	*.20	**.33
2 oz	3 oz	*.40	*.40	**.43
3 oz	4 oz	*.40	*.40	**.53
4 oz	6 oz	*.53	*.53	**.72
6 oz	8 oz	*.66	*.66	**.92
8 oz	10 oz	*.79	*.79	1.11
10 oz	12 oz	*.92	*.92	1.29
12 oz	14 oz	*1.05	*1.05	1.48
14 oz	16 oz	*1.18	*1.18	1.66
16 oz	18 oz		1.18	1.80
18 oz	20 oz		1.94	1.94
20 oz	22 oz		2.07	2.07
22 oz	24 oz		2.21	2.21
24 oz	26 oz		2.35	2.35
26 oz	28 oz		2.49	2.49
28 oz	30 oz		2.62	2.62
30 oz	32 oz		2.76	2.76

b. Air (Encompasses all Printed Matter, Matter for the Blind and Small Packets).

Weight steps		Canada [1]	Mexico, Colombia, Venezuela, Central America, the Caribbean Islands, Bahamas, Bermuda, and St. Pierre and Miquelon (also, from American Somoa to Western Samoa, and from Guam to the Phillipines)	South America (except Colombia and Venezuela), Europe (except Estonia, Latvia, Lithuania, and U.S.S.R.), and North Africa	Estonio, Latvia, Lithuania, U.S.S.R., Asia, Pacific Ocean Islands, Africa (other than North Africa), the Indian Ocean Islands and the Middle East
Over	Through				
0 oz	1 oz		$0.50	$0.60	$0.70
1 oz	2 oz		.76	.96	1.16
2 oz	3 oz		1.02	1.32	1.62
3 oz	4 oz		1.28	1.68	2.08
4 oz	6 oz		1.54	2.14	2.74
6 oz	8 oz		1.80	2.60	3.40
8 oz	10 oz		2.06	3.06	4.06
10 oz	12 oz		2.32	3.52	4.72
12 oz	14 oz		2.58	3.98	5.38
14 oz	16 oz		2.84	4.44	6.04
16 oz	18 oz		3.10	4.90	6.70
18 oz	20 oz		3.36	5.36	7.36
20 oz	22 oz		3.62	5.82	8.02
22 oz	24 oz		3.88	6.28	8.68
24 oz	26 oz		4.14	6.74	9.34
26 oz	28 oz		4.40	7.20	10.00
28 oz	30 oz		4.66	7.66	10.66
30 oz	32 oz		4.92	8.12	11.32
2 lb	2.5 lb		5.96	9.96	13.96
2.5 lb	3.0 lb		7.00	11.80	16.60
3.0 lb	3.5 lb		8.04	13.64	19.24
3.5 lb	4.0 lb		9.08	15.48	21.88
Each additional ½ lb over 4 lb			1.04	1.84	2.64
Direct sack to one addressee (M bag):					
Minimum 15 lb					
Maximum 66 lb:					
Per pound or fraction			1.87	3.31	4.75

[1] AO articles sent by air must be prepared as Letter mail. Refer to rates table for Letters and Letter Packages (Surface).

6. Parcel Post.

a. Surface:

1. Canada, Mexico, Central America, The Caribbean Islands, Bahamas, Bermuda, St. Pierre and Miquelon: $3.10 for the first 2 pounds and $1.00 for each additional pound or fraction.

2. All other countries: $3.25 for the first 2 pounds and $1.05 for each additional pound or fraction.

b. Air:

Air Parcel Post Rates

Weight steps	Country groups				
	A	B	C	D	E
First 4 oz	$3.00	$3.80	$4.60	$5.40	$6.20
Each additional 4 oz or fraction up to 5 lb	.50	.70	.90	1.10	1.30
Each additional 8 oz or fraction over 5 lb	.80	1.20	1.60	2.00	2.40

Air Parcel Post Rate Groups: See List.

Air Parcel Post Rate Groups

A

Anguilla
Antigua
Aruba
Bahamas
Barbuda
Belize
Bermuda
Bonaire
British Virgin Islands
Cayman
Costa Rica
Curacao
Dominica
Dominican Republic
El Salvador
Guadeloupe
Guatemala
Haiti
Jamaica
Martinique
Mexico
Montserrat
Netherlands Antilles
Nevis
Panama
Redonda
Saba
St. Christopher
St. Eustatius
St. Lucia
St. Pierre & Miquelon
St. Vincent & the Grenadines
Turks & Caicos Islands

B

Andorra
Austria
Barbados
Bolivia
Columbia
Denmark
Ecuador
Fiji
Gambia
Grenada
Guinea
Guinea-Bissau
Guyana
Honduras
Kiribati
Liberia
Liechtenstein
Luxembourg
Madeira
Nicaragua
Peru
Pitcairn Islands
Portugal
St. Helena
Santa Cruz Islands
Surinam
Switzerland
Tonga
Tristan da Cunha
Trinidad & Tobago
Tuvalu
Uruguay
Vanuatu
Venezuela
Western Samoa

C

Albania
Azores
Cameroon
Czechoslovakia
Egypt
Faeroe Islands
French Guiana
German Democratic Republic (East)
Germany, Federal Republic of (West)
Great Britain and Northern Ireland
Greece
Hong Kong
Hungary
Ireland
Israel
Italy
Jordan
Kuwait
Lebanon

Libya
Macao
Madagascar
Mali
Malta
Morocco
Nauru
Netherlands
Nigeria
Paraguay
Poland
Qatar
Romania
San Marino
Saudi Arabia
Sierra Leone
Solomon Islands
Spain
Syria
Taiwan
Tunisia
Turkey
Upper Volta
Vatican City State
Yugoslavia

D

Afghanistan
Algeria
Argentina
Australia
Bahrain
Benin
Brunei
Bulgaria
Burma
Cape Verde
Chad
Chile
China, People's Republic of
Congo
Cyprus
East Timor
Equatorial Guinea
Ethiopia
Falkland Islands
Finland
French Polynesia
Gabon
Ghana
Gibraltar
Greenland
Iceland
India
Iran
Iraq
Ivory Coast
Kenya
Korea, Republic of (South)
Malawi
Malaysia
Maldives
Mauritania
Nepal
New Caledonia
New Zealand
Niger
Norway
Oman
Pakistan
Papua—New Guinea
Philippines
Rwanda
St. Thomas and Principe
Senegal
Seychelles
Singapore
Somalia (Southern)
Sri Lanka
Sudan
Swaziland
Sweden
Thailand
Togo
Uganda
United Arab Emirates
Yemen Arab Republic
Yemen, People's Democratic Republic of
Zaire

E

Angola
Bangladesh
Belgium
Botswana
Brazil
Burundi
Central African Republic
Comoros
Corsica
Djibouti
Estonia
France
Indonesia
Japan
Lao
Latvia
Lesotho
Lithuania
Mauritius
Mozambique
Namibia
Reunion
South Africa
Tanzania
U.S.S.R.
Zambia
Zimbabwe

B. New Special Mail Services Fees. 1. Nonstandard Surcharge. a. Letters (weighing one ounce or less): 7*cents.

b. Regular Printed Matter (weighing two ounces or less): 7*cents.

2. Customs Clearance and Delivery Fee: $1.75.

3. Inquiry Fee: $2.10**.

4. Return receipt requested at time of mailing: 45*cents.

5. Registered Mail.

Limit of indemnity	Fee
1. Canada:	
$00 00 to $100	*$3 00
$100 01 to $200	*$3 30
2. All other countries:	
$15 76	*$3 00

6. Insured Mail.

Limit of indemnity[1]		Fees	
Over	Up to	Canada	All other countries
0	$15	*$0.50	$0 85
15	50	*.85	1.10
50	100	*1.10	1.65
100	150	*1.40	2.35
150	200	*1.75	2.35
200	300	*2.25	3.85
300	400	*2.75	5.10
400	500		5.40
500	600		5.70
600	700		6.00
700	800		6.30
800	900		6.60
900	1,000		6.90
1,000	1,100		7.20
1,100	1,200		7.50

[1] Limits vary by country.

7. Money Orders. a. Orders Issued on Domestic Form.

Amount of money order	Fee
$0 01 to $10	*$0.55
$10 01 to $50	*.80
$50 01 to $400	*1.10

b. Orders Issued on International Form.

Amount of money order	Fee
$0 01 to $10	$1.30
$10 01 to $50	1.50
$50 01 to $400	1.80

8. Special Handling.

Weight	Fee
Not more than 10 pounds	*$0.70
More than 10 pounds	*1.25

9. Special Delivery.

Class of Mail	Not more than 2 lbs	Over 2 lbs[1]	Over 10 lbs
Letters, letter packages, post and postal cards, and other articles (air only)	*$2.00	*$2.25	*$2.85
Other articles (surface only)	*2.25	*2.85	*3.25

[1] But not more than 10 pounds.

10. Restricted Delivery: *$0.80.

11. Certificates of Mailing.

	Fee
Individual listed pieces: Original	*$0.15
Copy of original certificate of mailing or receipt for registered or insured mail	*.15
Identical pieces: Up to 1,000 pieces	*.75
For each additional 1,000 pieces, or fraction	*.15
Duplicate copy	*.15

[FR Doc. 80-37470 Filed 12-2-80; 8:45 am]
BILLING CODE 7710-12-M

RAILROAD RETIREMENT BOARD

Actuarial Advisory Committee With Respect to the Railroad Retirement Accounts; Public Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that the Actuarial Advisory Committee will hold a meeting on December 30, 1980, at the office of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 15th Acturaial Valuation of the Railroad Retirement Account. The agenda for this meeting will include the results of the recently completed mortality, remarriage and family composition studies for the 15th Valuation, together with the recommendations of the Chief Actuary as to the mortality, remarriage and family composition assumptions to be used for the 15th Valuation.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

Dated: November 24, 1980.

R. F. Butler,

Secretary of the Board.

[FR Doc. 80-37496 Filed 12-2-80; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11459; 812-4764]

MFS/NWNL Variable Account and Northwestern National Life Insurance Co.; Application

November 26, 1980.

In the matter of MFS/NWNL Variable Account and Northwestern National Life Insurance Company, 20 Washington Avenue South, Minneapolis, MN 55440 (812-4764).

Notice is hereby given that Northwestern National Life Insurance Company ("Company" or "NWNL") a stock and mutual life insurance company organized under the laws of the state of Minnesota and MFS/NWNL Variable Account (the "Variable Account"), a separate account of NWNL registered under the Investment Company Act of 1940 ("Act") as a unit investment trust (collectively "Applicants"), filed an application on November 10, 1980 pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

The Variable Account was established by resolution of the Board of Directors pursuant to Minnesota Statutes § 61A.13 to 61A.21, as amended, on September 13, 1979 for the purpose of investing contributions received under certain variable annuity contracts issued in conjunction with plans which may or may not qualify for special tax treatment. These plans include qualified plans under Sections 401(a) of the Internal Revenue Code of 1954, as amended (the "Code"), including so called "H.R. 10 plans" or "Keogh plans" or annuity purchase plans adopted pursuant to Sections 403(b) or 408 of the Code.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program (the "Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System (the "System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted Section 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of Section 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

Sections 27(c)(1), 22(e) and 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales

loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with Section 51.358 as it pertains to redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the state's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the state of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, all sales literature that is to be used in conjuction with the sale of these Contracts will be reviewed for the existence of material representations that are inconsistent with the restrictions to be placed on these Contracts, and the salespeople involved in soliciting in this market will be instructed to bring this restriction specifically to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 22, 1980 at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following December 22, 1980, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37502 Filed 12-2-80; 8:45 am]

BILLING CODE 8010-1-M

[Release No. 11458; 812-4741]

Schenuit Industries, Inc.; Application

November 26, 1980.

In the matter of Schenuit Industries, Inc., 2360 West Joppa Road, Lutherville, Maryland 21093 (812-4741).

Notice is hereby given that Schenuit Industries, Inc. ("Applicant"), a Maryland corporation, filed an application on September 30, 1980, and amendments thereto on November 17, 1980, and November 20, 1980, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act on a temporary basis. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant, operating through its wholly-owned subsidiaries, is a diversified manufacturer of home, lawn and garden products and industrial wood products. Applicant states that it has one outstanding class of equity securities, no par common stock, which is owned by approximately 1,000 shareholders of record and is listed for trading on the American Stock Exchange. Of the approximately 855,000 such shares outstanding, approximately 50% are owned by the three daughters of Applicant's founder ("Principal shareholders") and the remainder by the public. Applicant notes that its shares are registered with the Commission pursuant to the Securities Exchange Acts of 1934 ("1934 Act"), and Applicant is subject to the reporting requirements of the 1934 Act and the rules adopted thereunder. Applicant states that it has met those reporting requirements in a timely manner since the initial registration of its shares under the 1934 Act in 1967.

The application states that on July 1, 1980, Applicant entered into an agreement ("Agreement") whereby Applicant would sell substantially all of its assets and business, subject to substantially all of its liabilities, to Allegheny Ludlum Industries, Inc. and several of its subsidiaries (collectively, "ALI") in exchange for a cash price of $28,234,800, subject to a possible downward adjustment of up to $1,000,000 should Applicant fail to satisfy certain earnings performance standards for the fiscal year ended September 30, 1980. The application further states that while ALI is assuming substantially all of Applicant's liabilities, Applicant will remain exposed to unknown and uninsured contingent liabilities attributable to Applicant's discontinued tire manufacturing operations, as well as potential liability for Applicant's obligations under the Agreement. The application states that the Principal Shareholders have represented that they

will not vote to merge, liquidate or consolidate Applicant for at least two years following the sale of assets to ALI unless the survivor corporation succeeds to all liabilities of Applicant, or other indemnification satisfactory to ALI is provided. The Agreement requires that Applicant hold ALI harmless, for a period of two years, for any losses arising out of any possible misrepresentations or breaches of warranties made by Applicant in the Agreement. Applicant further states that necessary filings were made with the Federal Trade Commission and the Antitrust Division of the Department of Justice pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and that the time period for governmental action under that act has expired without any action having been taken. Applicant also states that on September 25, 1980, the sale of assets to ALI was approved by the Applicant's shareholders.

Applicant states that in late January, 1981, approximately 30 days after the completion of the sale of assets, it will initiate a cash tender offer to all of its shareholders to repurchase all of Applicant's outstanding shares. The tender offer will be made at a price which will be not less than the net asset value per share at the approximate time of the commencement of the tender offer and in no event less than $32.40 per share. Rule 13e-4 under the 1934 Act generally requires an issuer making a tender offer to permit tendered securities to be withdrawn at any time until expiration of ten business days from the commencement of the tender offer by the issuer. The applications states that after such ten day period, prompt payment of the tender offer price will be made by Maryland National Bank, the depository, as properly tendered share certificates are received. Applicant further states that such tender offer will expire on May 1, 1981, but may be extended (as to time only) by Applicant for a period of thirty days. According to the application, the Principal Shareholders will not accept the tender offer, and after such offer are expected to own in excess of 50 percent of Applicant's outstanding shares. It is further stated in the application that Applicant will have passive or personal holding company income, as defined by the Internal Revenue Code, for its fiscal year 1981. The application states that, in the opinion of counsel, Applicant may become a personal holding company for federal income tax purposes for its fiscal year ending September 30, 1981, and will in all likelihood become so for subsequent years. Applicant states that, in the opinion of counsel, it will not be entitled to the favorable tax treatment accorded registered investment companies under the Internal Revenue Code and will therefore be subject to federal income tax at the corporate level. In the opinion of counsel, Applicant will also be subject to the additional 70 percent penalty tax imposed on any personal holding company income which is not distributed to its shareholders and that distributed personal holding company income, other than certain dividend income, will be subject to taxation at both the corporate and shareholder level. According to the Applicant, in its opinion there is little or no incentive for its shareholders, other than the Principal Shareholders, to refuse to tender their shares pursuant to the tender offer, but it is nonetheless impossible to predict whether Applicant will have fewer than 100 benefical owners of its common shares at the conclusion of the tender offer.

In pertinent part, Sections 3(a)(1) and 3(a)(3) of the Act respecitvely define an investment company as any issuer which: (i) is or holds itself out as being engaged primarily, or proposes to engage primarily, the business of investing, reinvesting, or trading in securities; or (ii) is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis. Applicant states that upon receipt of the cash proceeds of the sale of its assets, Applicant expects to maintian its corporate existence as a personal holding company and to invest and reinvest the proceeds for the benefit of the continuing shareholders of Applicant and to provide a source of funds to pay shareholders who tender their shares pursuant to the tender offer. Applicant therefore states that immediately after the completion of the sale of assets it will be unable to represent that its activities would not come within the definition of investment company contained in Sections 3(a)(1) or 3(a)(3) of the Act.

Section 3(c)(1) of the Act excludes from the definition of investment company any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities. Applicant states that if the tender offer is successful in reducing its shareholders to fewer than 100 it will be excluded from the definition of investment company by Section 3(c)(1) of the Act. However, Applicant states that from the time of the sale of its assets to ALI until such time as the number of its shareholders may be reduced to fewer than 100, Applicant will be an investment company as defined by the Act and absent the requested order of exemption will be subject to all the provisions thereof.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or apropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants requests an order, pursuant to Section 6(c) of the Act, of the Commission exempting Applicant from all provisions of the Act for a period commencing with the date of such order and expiring eight months thereafter, or 60 days after completion of the tender offer, whichever period is shorter. In support of its request Applicant asserts that it is not the type of organization intended by Congress to be subject to regulation under the Act, but rather that it will be in the nature of a transient investment company between the time of the closing of the sale of assets to ALI and the time it intends to qualify for the exclusion from the definition of investment company contained in Section 3(c)(1) of the Act. Applicant further asserts that a company which will technically be an investment company for a short period of time should not be required to register under the Act and subsequently deregister, if, within a reasonably short period, the company has resolved to take whatever action may be necessary to bring its status outside the definition of investment company contained in the Act and adequate measures are taken for the protection of its shareholders. Applicant asserts that it will submit to the conditions described below and that those conditions generally, and particularly the restraints on its investment activities and the short duration of the requested order of exemption, render it unnecessary to extend the additional protection which the Act was designed to provide to

shareholders of conventional investment companies. Finally, Applicant asserts that in light of: (1) its history as an operating company; (2) the continuing jurisdiction of the Commission under the 1934 Act over Applicant's activities; (3) the temporary and conditional nature of the requested order of exemption; (4) Applicant's intention, if required to register under the Act, to register but file an application to deregister as soon as its number of shareholders is reduced below 100; and (5) its special circumstances, that the granting of the requested order of exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that any order granted by the Commission in response to this application may be subject to the following conditions: (1) Applicant will use its best efforts to cause the number of its shareholders to be reduced to fewer than 100 by means of the above described tender offer and to promptly advise the Commission's staff of the date of the termination of the tender offer;

(2) During the effectiveness of the temporary order of exemption, the entire fund owned by Applicant for the benefit of its shareholders following the sale of assets to ALI will be held by a bank as custodian and will be invested under the direction of Applicant's board of directors. At least 75 percent of the value of the funds will at all times, during the period of the effectiveness of the order of exemption, be invested in short term debt securities issued or guaranteed as to principal and interest by the United States or an agency acting as an instrumentality of the United States or in high quality commercial paper obligations rated Prime-1 by Moody's Investors Service, Inc. ("Moodys") or A-1 by Standard and Poor's Corporation ("S&P"). The remaining 25% of the fund may be invested in preferred stocks traded on a national securities exchange and rated A or better by Moody's or S&P;

(3) Upon termination of the requested order of exemption, if Applicant has 100 or more shareholders, it will: (A) apply to the Commission for a temporary or permanent extension of such order; (B) engage in a recapitalization, reorganization or such other corporate activity as may be necessary to reduce the number of its shareholders to fewer than 100; or (C) promptly register under the Act and comply with all the relevant provisions thereof.

Notice is further given that any interested person may, not later than December 19, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted; or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such requests shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37591 Filed 12-2-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17342; SR-DTC-80-5]

Self-Regulatory Organizations; Approval of Proposed Rule Change: Depository Trust Co.

November 26, 1980.

In the matter of The Depository Trust Company ("DTC"), 55 Water Street, New York, New York 10041 (SR-DTC-80-5).

On August 18, 1980, DTC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change establishing a new fee schedule for DTC's major services.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-17081, August 21, 1980) and by publication in the Federal Register (45 FR 57619, August 28, 1980). One written comment was received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37452 Filed 12-2-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17339; File No. SR-NSCC-80-33]

Self-Regulatory Organizations; Proposed Rule Change by National Securities Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 7, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Amend, effective with transactions includable in the November 1980 billing cycle and thereafter, Section II.C.2. of National Securities Clearing Corporation's SCC Division Consolidated Rate Structure as follows:

For each side of each bond item entered for settlement, but not compared by NSCC, [$.006] *$.24* per [$1,000 calculated on total face value per month.] *side.*

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows: Under existing rules, NSCC's fee on bond transactions originally compared by other parties, but cleared through NSCC, the "bond trade recording fee", is currently based on the par value of trades and results in more costly clearance fees as the trade size increases. The proposed rule change should encourage the submission of large bond transactions by either existing or new members. The proposed rule change is in keeping with the comments made in a letter to Mr. Jack Nelson, President of NSCC, from Bradford Securities Processing Services,

Inc., dated July 19, 1977 and is consistent with the recent change in the bond comparison fee to a per side basis, pursuant to filing No. SR-NSCC-80-24. The twenty-four cent fee per side was derived from the Price Waterhouse audited cost study, upon which NSCC's existing fees are based.

The proposed change in NSCC's rate structure relates to NSCC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 by equitably allocating among its participants the fees for bond trade recording based on sides entered for settlement rather than on the par value of the bond. The proposed fee will encourage the submission of large bond transactions, and therefore increase NSCC's ability to facilitate the prompt and accurate clearance and settlement of securities transactions.

Comments on the proposed rule change have been solicited. Comments received by NSCC will be forwarded to the Commission.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested parties are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by December 24, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 25, 1980.

[FR Doc. 80-37453 Filed 12-2-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17343; File Nos. SR-BSPS-77-5, etc.]

Order Approving Proposed Rule Changes Submitted by Bradford Securities Processing Services, Inc., and National Securities Clearing Corp.

November 26, 1980.

In the matter of proposed rule changes submitted by Bradford Securities Processing Services, Inc. (File Nos. SR-BSPS-77-5 and SR-BSPS-80-3) and National Securities Clearing Corporation (File No. SR-NSCC-78-2).

Bradford Securities Processing Services, Inc. ("BSPS") has submitted proposed rule changes to the Commission that would establish a trade comparison and reporting system and a balance order system for transactions in municipal and government securities. National Securities Clearing Corporation ("NSCC") has submitted a proposed rule change that would make transactions in municipal securities eligible for processing through NSCC's comparison, balance order and continuous net settlement systems. BSPS also has requested that the approval of its and NSCC's proposals be conditioned on the establishment of a "free interface" between NSCC's and BSPS's systems.

The Commission has determined to approve NSCC's and BSPS's prposals for processing transactions in municipal securities subject to certain conditions.[1] Among other things, the Commission will require NSCC and BSPS to operate their systems for processing transactions in municipal securities on a test basis for six months. During the test period, BSPS and NSCC each will have to submit reports to the Commission concerning the operation of their respective systems. Approval of BSPS's and NSCC's systems also will be conditioned on the establishment of free interfaces between NSCC's and BSPS's systems for processing transactions in municipal securities.

[1] The Commission, however, has determined not to approve that portion of BSPS's filings concerning the processing of transactions in government securities. Rather, the Commission will request that BSPS submit further information concerning its proposal for processing government securities.

Introduction

BSPS's Proposals

On October 19, 1977, BSPS submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change (File No. SR-BSPS-77-5) that would have established a trade comparison and reporting service for transactions in all securities. The Commission published notice of that proposed rule change in the Federal Register on November 15, 1977, and requested comment thereon.[2] On February 2, 1978, BSPS submitted a proposed rule change (File No. SR-BSPS-78-1) that would have established a limited version of its trade comparison and reporting service pending Commission action on BSPS's previous filing. The System contemplated by that filing would have been limited to not more than fifteen participants and to transactions in "exempted securities."[3] The Commission published notice of that proposed rule change in the Federal Register on February 21, 1978 and requested comment thereon.[4] No comments were received on either of the two rule filings within the comment periods anounced in the Federal Register. A number of comment letters were received after the expiration of the respective comment periods, however.

In conjuction with its review of those proposed rule changes, the staf sent BSPS a letter dated October 19, 1978 asking a number of questions designed to provide a more detailed description of BSPS's proposed services. On December 11, 1979, the staff sent PSPS a letter asking whether BSPS still intended to offer the trade comparison and reporting service proposed in its two rule filings. By letter dated December 20, 1979, BSPS responded that it still intended to offer the proposed service and that is was finalizing its response to the questions set forth in the staff's October 19, 1978 letter. BSPS responded to those questions by letter dated December 24, 1979.

On February 25, 1980, BSPS withdrew the limited trade comparison and reporting system proposed in SR-BSPS-78-1 and submitted an amendment to SR-BSPS-77-5. In brief, that amendment replaced the trade comparison and reporting system originally proposed with an operationally different trade comparison and reporting sytem limited to transactions in municipal and government securities. Also on February

[2] Securities Exchange Act Release No. 14141 (November 11, 1977), 42 FR 59139.

[3] The term "exempted securites" is defined in Section 3(a)(12) of the Act.

[4] Securities Exchange Act Release No. 14405 (February 13, 1978), 43 FR 7277.

25, 1980, BSPS filed a proposed rule change (File No. SR–BSPS–80–3) establishing a balance order service for the clearance of transactions in municipal and government securities. In connection with its filings, BSPS requested that the proposals be considered concurrently. On March 10, 1980, BSPS submitted amendments to both proposed rule changes. The Commission published notice of the amended proposals in the Federal Register on March 21, 1980 and requested comments thereon.[5] A number of comment letters were received regarding those proposed rule changes.

NSCC's Proposals

In January 1978, NSCC advised the Commission staff that its Board of Directors was about to consider a proposal to add municipal securities to the list of securities eligible for processing at NSCC.[6] NSCC argued that this new service would not violate a Commission restriction on NSCC's offering new services.[7] The staff concluded, however, that NSCC's proposal would abridge that restriction and so advised NSCC. NSCC nevertheless filed a proposed rule change (File No. SR–NSCC–78–2) on February 9, 1978.[8] That proposal would permit NSCC for the first time to compare and clear transactions in municipal securities. The Commission published notice of the proposed rule change in the Federal Register on February 22, 1978, and requested comment thereon.[9] The Commission received a number of comment letters concerning that filing.

On March 14, 1979, the Commission, with two exceptions, released NSCC from any restriction or limitation on its operations except for the conditions to its registration.[10] Among the restrictions lifted was the prohibition against NSCC's offering new services.

Description of NSCC's and BSPS's Proposed Systems

Before discussing NSCC's and BSPS's proposed systems, the Commission believes that a brief description of the current method for processing municipal securities transactions would be helpful. The processing of transactions in municipal securities is similar to the manner in which equity and corporate debt transactions were processed prior to the advent of automated systems for transactions in those securities. After execution of a transaction in muncipial securities, the parties send confirmations to each other, generally through the mail. If those confirmations do not agree, the parties contact each other, usually by telephone or mail, and attempt to resolve the terms of the trade. Once agreement has been reached, the seller customarily delivers securities to the buyer in exchange for payment. Delivery is made either by a courier, through drafting and collection services or through physical delivery services operated by clearing agencies.[11]

Because the confirmation process largely is dependent on the mail, it often is not possible for parties to reach agreement on the terms of a transaction in time to settle on the fifth business day following execution of the trade as is customary. This problem can result in a large number of fails to deliver and fails to receive.[12] Also, because transactions are settled individually on a physical delivery basis, municipal securities brokers and dealers having both purchase and sale transactions in the same issue often cannot redeliver securities received on a given day in satisfaction of their delivery obligations in the same security. This problem also results in fails to receive and fails to deliver and imposes additional financing costs on municipal securities brokers and dealers.

NSCC's Proposed Services

NSCC's proposal would permit NSCC for the first time to include municipal securities among those securities eligible for processing through NSCC's automated systems. Those systems include NSCC's comparison system, balance order system and continuous net settlement ("CNS") system. Currently, use of those systems is limited to transactions in equity and corporate debt securities. NSCC, however, does offer physical delivery services that can be used to deliver municipal securities. Those services would be available to settle deliver and receive instructions for municipal securities transactions issued by NSCC's comparison and balance order systems.

In brief, to use NSCC's comparison system, a participant would submit municipal securities transaction information to NSCC. NSCC would match that information against information submitted by other participants and report compared transactions, uncompared transactions, and "advisories"[13] to participants. After an opportunity for participants to submit corrected trade information, NSCC would compare that corrected information and would notify participants of transactions that compared as well as those that remained uncompared. Compared transactions normally would be submitted to NSCC's balance order or CNS system.[14] Participants, however, could request that NSCC issue security orders (receive and deliver instructions) for individual transactions. Settlement of those security orders would be made on a physical delivery basis through the means chosen by the participants to the transaction.

In NSCC's balance order system, NSCC would generate a daily net "buy" or "sell" position for each municipal issue in which participants have compared trades. NSCC then would issue balance orders (deliver and receive instructions) to participants. Due to the allocation procedure used for issuing balance orders, participants could be instructed to deliver securities to, or receive securities from,

[5] Securities Exchange Act Release No. 16654 (March 14, 1980), 45 FR 18528; Securities Exchange Act Release No. 16655 (March 14, 1980), 45 FR 18530.

[6] Letter dated January 12, 1978 from Robert J. Woldow, Vice President and General Counsel of NSCC, to Robert J. Millstone, Senior Special Counsel, Division of Market Regulation.

[7] In granting clearing agency registration to NSCC in January 1977, the Commission imposed several conditions on NSCC's registration. Securities Exchange Act Release No. 13163 (January 13, 1977). Subsequently, in a letter dated October 2, 1977, the Commission advised NSCC that, until it had fulfilled the conditions to its registration, it should limit the deployment of its resources to the conduct of everyday operations and to the satisfaction of the conditions to its registration, and not offer to its participants, or to any other person, service which it is not now performing.

[8] On February 27, 1978, NSCC amended the proposed rule change to indicate that its Executive Committee had approved the proposed action pursuant to delegated authority.

[9] Securities Exchange Act Release No. 14469 (February 14, 1978), 43 FR 7886. By letter dated February 1, 1980, the staff requested additional information concerning the filing. NSCC responded to that request by letter dated February 29, 1980.

[10] *See* Securities Exchange Act Release No. 15640 (March 14, 1979), 44 FR 17838 (March 23, 1979), for a discussion of the bases of the Commission's decision.

[11] Rule G–12 of the Municipal Securities Rulemaking Board ("MSRB") specified certain requirements that municipal securities brokers and dealers must follow in comparing and settling municipal securities transactions.

[12] At the same time, the parties to a municipal securities transaction often will settle that transaction on the fifth business day following execution even if the comparison process is not yet completed. In this situation, the terms of the transaction are confirmed after settlement date. *See* MSRB Rule G–12(d)(vi).

[13] If a participant submits a trade for which there is no match (that is, corresponding transaction information was not submitted by the participant named as the *contra* party to the trade), an advisory would be sent to the participant named as the *contra* party in the submitted trade. If the participant receiving the advisory agrees with the submitted trade, it acknowledges the advisory and returns it to the clearing agency which enters it into its system as a compared trade.

[14] NSCC's proposal does not envision processing transactions through interfaces.

participants with whom they did not trade. NSCC also would issue a clearance cash adjustment statement to participants.[15] The amount specified in that statement would be paid to, or received from, NSCC by participants. Settlement, however, would be made on a physical delivery basis through the means chosen by the two participants to whom balance orders were issued. Those means would include the physical delivery services currently offered by NSCC.[16] Fails to deliver and fails to receive would be resolved between the participants to whom balance orders were issued.

NSCC's CNS system would sever the link between the parties to a compared transaction and would interpose NSCC as the *contra* party to the transaction. Following that interpositioning, NSCC would generate a net "buy" or "sell" position for each issue in which participants have compared municipal securities transactions and would net that position against any outstanding unsettled net buy or sell positions remaining in the system. NSCC also would compute a net money position for all transactions that settled that day. As the *contra* side to transactions, NSCC would be the entitly obligated to deliver, or receive, securities and money and the entity with which participants would resolve fails to deliver or receive securities. NSCC would carry fails forward from day to day as open obligations, and would protect itself against financial risk by obtaining mark-to-the-market payments from participants whose failure to satisfy their obligations places the system at risk. Because the settlement of transactions processed through NSCC's system is made by book entry movement in The Depository Trust Company ("DTC"), the use of NSCC's CNS system for processing municipal securities transactions would be limited to the issues eligible for deposit at DTC.[17]

NSCC would charge the same fees for processing municpal securities transactions as it currently does for processing equity and corporate debt securities.

BSPS's Proposed Services

BSPS's primary business is the processing of transactions in fixed income securities. That activity consists largely of the delivery, and financing of, transactions in municipal and government securities.[18] BSPS's current services would be available for settling deliver and receive instructions generated by its proposed comparison and balance order systems.

BSPS's proposed trade comparison and reporting service (the "comparison service") and BSPS's proposed balance order service would be used only for transactions in municipal and government securities.[19] To use BSPS's proposed comparison service, participants would submit transaction information to BSPS. BSP's would match that information and would provide participants with a report indicating compared transactions, uncompared transactions and advisories. Next, after participants have had an opportunity to submit corrected information, BSPS would match that information and would provide participants with a report identifying compared transactions and those that had remained uncompared. At this point, compared transactions could be routed to BSPS's proposed balance order system or to an interfaced clearing agency. Alternatively, BSPS could issue receive or deliver instructions.[20] Uncompared transactions would be dropped fro the system at this time.

Transactions processed through BSPS's proposed balance order service couls be submitted to BSPS either through BSPS's comparison service, through a comparison interface with another clearing agency or through a clearing interface with another clearing agency. After netting those transactions, BSPS would issue netted deliver and receive obligations as well as a cash adjustment statement.[21] Settlement would be made on a physical delivery basis through the means chosen by the participants to whom balance orders are issued. Those means would include BSPS's current physical delivery services. Participants would pay to, or receive from, BSPS the money amount specified in the cash adjustment statement.

BSPS's proposed fee schedules for both the comparison service and the balance order service are maximum fees from which BSPS could grant discounts. BSPS, however, is unable at this time to identify the factors which it would take into account in granting discounts. Accordingly, by letter dated March 10, 1980, BSPS undertook not to grant any discounts without first submitting a proposed rule change pursuant to Section 19(b)(3)(A) of the Act describing the factors it would use in determining discounts.

Summary of Comment Letters

The Commission has received numerous comment letters concerning the proposed rule changes filed by NSCC and BSPS, including a lengthy exchange of arguments between NSCC and BSPS. Set forth below is a brief summary of those letters. Although NSCC's and BSPS's principal arguments

[15] In a balance order system, an average daily price is assigned to an issue. An average price is used in order that transactions executed at different prices may be netted against each other. The cash adjustment reflects the net difference between the actual prices at which a participant's transactions in an issue were executed and the average price assigned to that issue by the clearing agency.

[16] Those physical delivery services are NSCC's two envelope settlement services and its Correspondent Delivery and Collection Service ("CDCS"). NSCC's New York City envelope service consists of a central location where participants can drop off envelopes containing securities and have those envelopes placed in another participant's "box." Participants can come to the central location at any time to see whether they have received an envelope. NSCC's other envelope service operates between New York City and a number of regional cities. Envelopes are shipped between cities by couriers. Participants using either envelope service submit a credit slip with each envelope which informs NSCC of the amount by which the delivering particpant's account at NSCC should be credited and the amount by which the receiving participant's account at NSCC should be debited. CDCS is a drafting and collection service similar to that provided by many banks. In brief, CDCS consists of a network of facilities through which participants can deliver securities against payment. Although an NSCC participant can use CDCS to deliver to another participant, it primarily is used for deliveries to non-participants.

[17] In January 1978, the commission approved a rule change authorizing DTC to include interchangeable municipal securities issues among those issues eligible for deposit at DTC. Interchangeable municipal securities issues are those that can be issued in either bearer or registered form. To date, however, DTC has made only a small number of municipal securities issues eligible for deposit. As a result, the use of NSCC's CNS system for processing municipal securities issues would be limited at this time.

[18] In brief, BSPS picks up securities from a seller and delivers them to a buyer against payment of the purchase price. Payment is remitted to the seller upon receipt by BSPS of the proceeds of the sale from the buyer. Alternatively, BSPS acvances the full purchase price to the seller and credits the seller's account when BSPS collects the proceeds of the sale from the buyer. BSPS also acts as agent for a buyer by picking up municipal securities from the seller pursuant to the buyer's instructions. The buyer either may pay the necessary funds to BSPS or BSPS may advance to the buyer the funds necessary to pay for the securities. BSPS also redelivers securities versus payment pursuant to the buyer's instructions. For its services, BSPS charges a transaction fee, its out of pocket expenses, and a fee based on the prime interest rate for any funds advanced.

[19] For purposes of BSPS's proposed service, municipal securities are those securities defined as municipal securities by Section 3(a)(29) of the Act and which appear in BSPS's "Book of Designated Securities." Government securities have been defined by BSPS to include (i) securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States and (ii) securities issued or guaranteed by corporations in which the United States has a direct or indirect interest and designated as exempted securities by the Secretary of the Treasury.

[20] Settlement of those receive or deliver instructions would be made on a physical delivery basis through the means chosen by the participants.

[21] BSPS also would be authorized to require participants to make mark-to-the-market payments for unsettled transactions.

are discussed later in greater detail, the Commission believes it would be useful to provide an overview of the exchange of comments between NSCC and BSPS and of the numerous other comments received on NSCC's and BSPS's proposals.

By letters dated April 6 and June 22, 1978, BSPS expressed concern about delays in Commission consideration of its proposals as well as concern that NSCC's proposal was designed to enhance NSCC's "monopoly" position and to eliminate competition. In its letter dated June 22, BSPS also argued that, because of the competitive impact of NSCC's proposal on BSPS, the Commission should disapprove NSCC's proposal. By letter dated May 12, 1978, Bradford National Corporation ("BNC"), BSPS's parent corporation, also discussed the competitive impact of NSCC's proposal and argued that it should be disapproved by the Commission.

During the Spring and Summer of 1979, the Commission received numerous comment letters urging prompt approval of NSCC's filing. Generally, those commentors stated that significant benefits would accrue from a more efficient system for processing transactions in municipal securities.

By letter dated December 14, 1979, BSPS expressed concern about the manner in which NSCC had acted in connection with the processing of certain trades in New York State Housing Finance Authority ("New York State HFA") bonds, as well as NSCC's refusal to discuss interfacing NSCC's and BSPS's proposed systems during that period.[22] BSPS also requested that, if NSCC's proposal were to be approved, approval should be conditioned on the prior establishment of a "free interface" with any requesting clearing agency.

On December 19, 1979, NSCC wrote the Commission to urge prompt approval of NSCC's proposed rule change, citing the benefits that automated comparison and clearance systems would bring to the municipal securities industry. NSCC argued that the recent problems that had arisen in connection with trading in New York State HFA bonds had created a "potential crisis" that could "either have been averted or substantially minimized if NSCC's proposed rule change had been in place."

On January 15, 1980, NSCC again wrote the Commission to express its view that the events involving the trading of New York State HFA bonds demonstrated the urgent need for approval of NSCC's rule filing. NSCC also disputed the contentions in BSPS's December 14, 1979 letter that NSCC had behaved anticompetitively in resolving the problems associated with the clearance and settlement of transactions in New York State HFA bonds. In rebuttal, NSCC argued that its refusal to discuss BSPS's demand for a free interface in the context of the HFA bond situation was not anticompetitve. Rather, NSCC believed the complexity of the free interface issue required that it be studied at length. Because of the benefits of its proposed system, NSCC continued, it would be unthinkable for the Commission to delay approving NSCC's filing while the free interface issue was being studied.

On December 21, 1979, BSPS, sent a letter to its participants urging them to write the Commission to request that the Commission condition approval of NSCC's municipal service on the prior establishment of a free interface with BSPS. The Commission received a number of letters that generally followed the model comment letter suggested by BSPS.

Over the next several months, the Commission also received a number of comment letters urging the prompt approval of NSCC's and BSPS's filings. Those commentors argued that the comparison and clearance of municipal bonds is one of the few areas of securities processing that is performed through manual systems, that such processing is costly and cumbersome, and that the need to process municipal securities transactions manually would be reduced significantly if automated systems were available.

On March 31, 1980, in response to a staff request for a more complete explanation of BSPS's concerns and for a clarification of the extent to which BSPS's earlier comments remained relevant to consideration of its proposals, BSPS submitted a memorandum discussing "the legal and policy concerns that BSPS believes compel the Commission to condition any approval [of the proposed systems] on the concurrent establishment of [comparison and clearance] interfaces between those systems."[23] BSPS argued that the absence of the interfaces would severely affect its ability to compete with NSCC in providing services for municipal securities. BSPS also argued that the interface between NSCC and BSPS should be free since the existence of interface fees would pose the same potential threat to the viability of BSPS as would the absence of interfaces. In addition, BSPS asserted that Commission approval of BSPS's and NSCC's rule changes before interfaces were established between the two systems would constitute a radical departure from the Commission's recognition of the importance of interfaces to the development of a national system as evidenced in the order approving NSCC's registration and in the Commission's proposed standards for clearing agency registration.[24]

On May 21, 1980, NSCC submitted a rebuttal to BSPS's March 31, 1980 memorandum. In its rebuttal, NSCC charged that the free interfaces proposed by BSPS were similar to a sponsored account arrangement and were "nothing more than an attempt to obtain free clearance services from NSCC." NSCC further argued that none of the policy considerations that justified the existing free interfaces between NSCC and other clearing agencies applied to BSPS. In addition, NSCC argued that "BSPS does not, in many significant respects, satisfy the standards appropriate for operation as a full-fledged clearing agency." NSCC concluded that, as a result, "the grant to [BSPS] of [free interfaces] would impose unjustifiable costs and unacceptable risks upon NSCC or any other clearing agency with which [BSPS] might deal."[25] Finally, NSCC argued that, even if free interfaces between BSPS and NSCC were warranted, there was no reason to

[22] In late November 1979, the Commission received reports concerning difficulties in the clearance and settlement of transactions in a New York State HFA bond issue. Because of the large number of fails to deliver and fails to receive that had occurred, the Commission authorized NSCC and BSPS to use their proposed systems on a one-time basis to process transactions in that issue. Although both NSCC's and BSPS's systems proved successful in comparing the transactions, NSCC and BSPS agreed that NSCC's system would be used to complete the processing. The reason only one system was used to complete the processing was that, absent an interface, the use of two systems would have reduced the number of transactions that could have been netted and thus the benefits of using the systems. NSCC subsequently informed the Commission that 493 trades totaling $70,359,530 were compared and were netted to 44 balance orders with receive and deliver obligations totaling $8,965,530.

[23] That memorandum, as well as several later submissions, was prepared by Anthony Nuland, counsel to BSPS. On June 5, 1980, NSCC filed a motion to disqualify Nuland from representing BSPS before the Commission on NSCC's and BSPS's municipal securities rule filings. NSCC's motion, which alleged a conflict of interest in Nuland's representation of BSPS, was denied by the Commission's Ethics Counsel. NSCC appealed the Ethics Counsel's decision to the Commission. On November 25, 1980, the Commission affirmed the Ethics Counsel's decision.

[24] Subsequently, the Commission decided not to adopt Commission standards but rather to publish standards that the Division of Market Regulation would use in evaluating clearing agencies' organizations, capacities and rules in accordance with the clearing agency registration provisions of Section 17A(b)(3) of the Act. Securities Exchange Act Release No. 16900 [June 17, 1980]; 45 FR 41920 [June 23, 1980].

[25] NSCC made a similar argument in a comment letter dated June 5, 1980 concerning BSPS's application for full registration as a clearing agency.

delay approving both entities' rule filings while those interfaces were being developed.

By letter dated June 4, 1980, BSPS replied to NSCC's letter of May 21, 1980. In brief, BSPS characterized NSCC's letter as reflecting "a serious misunderstanding of the proposals for clearing and comparison interfaces made by . . . BSPS." BSPS argued that it was not seeking a sponsored account arrangement with NSCC but rather an interface operationally similar to the interface for transactions in over-the-counter securities currently in operation between NSCC and other clearing agencies. BSPS explained that the interface "would be free only in the sense that BSPS and NSCC would charge participants the same fee for comparing and clearing inter-agency transactions through the interfaces as for comparing and clearing intra-agency transactions." In reponse to NSCC's charge that BSPS was not a "full-fledged" clearing agency, BSPS stated that it "is prepared to take any reasonable steps necessary to maintain the operational and financial integrity of the interfaces."

By letter dated June 4, 1980, BSPS responded to a request from the staff for further clarification concerning the extent to which the concerns expressed in BSPS's earlier comment letters still were relevant. In that letter, BSPS indicated that the "parallel operation of [NSCC's and BSPS's] proposed systems with the kinds of interfaces described in [BSPS's March 31, 1980 submission] would largely pull the anticompetitive sting of NSCC's entry into the processing of municipal securities." Absent the establishment of those interfaces, however, BSPS indicated that it still would be concerned about the competitive impact of NSCC's proposal.

On June 5, 1980, BSPS submitted a memorandum prepared by Professor Richard Posner of the University of Chicago Law School arguing that operation of the proposed systems without an interface would limit the utility and efficiency of both systems and would restrain competition among clearing agencies and competition among broker-dealers. In addition, BSPS submitted a copy of a letter it had sent to the Public Securities Association that, among other things, contained BSPS's analysis of the one-time use of its and NSCC's systems to process transactions in New York State HFA bonds. BSPS argued that its analysis indicated that operation of both systems without an interface would reduce the efficiency of both systems and would adversely affect the competitive posture of both BSPS and its participants.

By letter dated July 1, 1980, NSCC raised several additional concerns regarding BSPS's request for a free interface.[26] First, after indicating that BSPS's interface proposal was less like a sponsored account and more like the interfaces for over-the-counter transactions currently in existence, NSCC argued that BSPS's proposed interface nevertheless would result in "serious operational problems and high costs." Second, NSCC argued that a free interface would result in a "subisidy" and could result in participants' using economically less efficient means for processing municipal securities transactions. NSCC indicated that, for example, dual participation might be a more economical means for processing municipal securities transactions than use of an interface. Third, NSCC argued that BSPS's free interface demand would require the Commission to engage in rate-fixing for individual services, an endeavor for which it believed the Commission had neither statutory authority nor expertise.

Near that time, the Commission also received several comment letters stressing the benefits of NSCC's and BSPS's proposed systems and urging that the Commission's approval of those systems not be delayed pending study of the interface questions raised by NSCC and BSPS.

By letter dated October 23, 1980, NSCC wrote the Commission to express NSCC's concern about delays in the Commission's consideration of NSCC's proposal. NSCC also argued that granting BSPS's request for a free interface would only delay further the implementation of NSCC's proposed system and that, because of the benefits to the municipal securities industry of NSCC's proposed system, the Commission should approve NSCC's proposal as quickly as practicable without conditions.

Although most of the comment letters on NSCC's and BSPS's proposed rule changes were not received during the official comment periods for those filings, the Commission believes they are helpful to its consideration of the proposals and, accordingly, has exercised its discretion to include those letters in the public record.[27]

Determinations Regarding NSCC's and BSPS's Rule Proposals

Before discussing its determinations regarding NSCC's and BSPS's proposed rule changes, the Commission believes it would be helpful to provide an overview of how that discussion is organized. The discussion of the Commission's determinations is divided into six sections. First, the Commission discusses the scope of its determinations. Second, the Commission considers whether NSCC's and BSPS's proposed systems for processing transactions in municipal securities should be approved. Third, the Commission considers whether BSPS's proposed system for processing transactions in government securities should be approved. Fourth, the Commission considers whether interfaces should be established between the proposed systems. Fifth, the Commission considers whether interfaces between the proposed systems should be free as to participants. Sixth, the Commission considers when those interfaces should be established. In addition, preceding each of the three sections in which the Commission considers interface issues is a summary of the principal arguments presented by NSCC and BSPS on those issues.

Scope of the Commission's Determinations

Under Section 19(b)(2) of the Act, the Commission must approve BSPS's and NSCC's proposed rule changes if the Commission finds that they are consistent with the requirements of the Act and the rules thereunder applicable to registered clearing agencies. If the Commission is unable to make that finding, it must institute proceedings to determine whether to disapprove the proposed rule changes.

The principal provisions of the Act applicable to clearing agencies are contained in Section 17A of the Act. Paragraph (b)(3) of that section requires that the rules of a clearing agency, among other things: (i) be "designed to promote the prompt and accurate clearance and settlement of securities transactions," (ii) be "designed to assure the safeguarding of funds and securities which are in the custody or control of the clearing agency," (iii) be "designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions," (iv) be "designed to remove impediments to and perfect the

[26] On June 17, 1980, NSCC filed suit against BSPS in New York state court alleging that BSPS and BNC, by filing objections to NSCC's municipal rule filing, has breached a 1978 settlement agreement between BNC and NSCC. That suit is pending.

[27] Rule 28 of the Commission's Rules of Practice, 17 CFR § 201.28, allows the Commission in its discretion to accept and include in the public record comments received after the close of the comment period in any case or adjudication which is not determined on the record after notice and opportunity for hearing.

mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest," (v) "do not impose any burden on competition not necessary of appropriate in furtherance of the purpose of the [Act]," and (vi) "provide for the equitable allocation of reasonable dues, fees, and other charges among its participants."

The Commission's determinations regarding NSCC's and BSPS's proposals also must be made in the context of the Commission's statutory responsibility to facilitate the establishment of a national clearance and settlement system. Section 17A(a) directs the Commission to use its authority under the Act "to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities (other than exempted securities) in accordance with [certain Congressional findings and objectives.]" Those findings and objectives are that:

(A) The prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities and funds related thereto, are necessary for the protection of investors and persons facilitating transactions by and acting on behalf of investors.

(B) Inefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors.

(C) New data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement.

(D) The linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors.

In facilitating the development of the national clearance and settlement system, the Commission also is directed to have due regard for the public interest, the protection of investors, the safeguarding of securities and funds and the maintenance of fair competition among brokers and dealers and clearing agencies.

In addition to those findings and objectives, the Commission is directed by Section 17A(e) of the Act "to use its authority under [the Act] to end the physical movement of securities certificates in connection with the settlement among brokers and dealers of transactions in securities * * * ."

NSCC's and BSPS's Proposed Systems for Processing Transactions in Municipal Securities Transactions Are Approved

The Commission believes that automated comparison and clearance systems would provide substantial benefits to the municipal securities industry. Those systems have resulted in significant improvements in the processing of equity and corporate debt securities and should bring many of the same improvements to the processing of municipal securities transaction.[28] In particular, NSCC's and BSPS's proposed systems (i) will enable municipal securities brokers and dealers to compare transactions through a central entity rather than having to relate directly to each broker and dealer with whom they executed transactions, (ii) will increase standardization in the processing of transactions in municipal securities, (iii) will reduce the number of deliveries that otherwise would have to be made, (iv) will reduce the number of fails to receive and fails to deliver and the capital charges resulting therefrom and (v) will reduce the financing costs of settling municipal securities transactions. The large number of letters urging Commission approval of NSCC's and BSPS's proposals and the successful use of both systems on a test basis in November 1979 also attest to the benefits of automated systems for the comparison and clearance of municipal securities transactions.

At the same time, the Commission believes that both NSCC's and BSPS's systems should be tested thoroughly before beginning full-scale operations. Although BSPS's principal business currently is the settlement of municipal securities transactions, BSPS is not experienced in operating automated comparison and clearance systems.[29] In contrast, NSCC, although currently operating automated comparison and clearance systems for equity and corporate debt securities, is not experienced in processing municipal transactions except for its physical delivery services. Moreover, many of the persons that could be expected to use the proposed systems are not familiar with automated clearing systems.[30] Consequently, the Commission believes it would be prudent to require NSCC and BSPS to operate their proposed systems initially on a test basis with a limited number of participants.

More specifically, the Commission will require NSCC and BSPS to operate their systems on a test basis for six months. That test period will begin on December 15, 1980 and will run until June 15, 1981. Initially, each clearing agency will be able to offer its proposed systems to five participants; after the systems have been operating for two months, to ten additional participants; and after the systems have been operating for four months, to an additional ten participants. The Commission also will require NSCC and BSPS during the test period to provide a monthly report describing the operation of their respective systems and containing a statistical profile of the operation of their respective systems. In addition, the Commission will require NSCC and BSPS each to provide by May 15, 1981 an opinion report prepared by an independent public accountant concerning each clearing agency's system of internal accounting control for its proposed systems. Finally, the Commission will retain the authority to extend the test period for either system if at any time during the test period either system appears not to be operating in a safe or efficient manner.

The advantage of a test period is that it will provide a controlled environment in which NSCC and BSPS can gain experience in operating their proposed systems and can make whatever adjustments may be necessary to ensure safe and efficient operation before beginning full-scale operations. Also, by requiring NSCC and BSPS to provide the Commission with monitoring data and with reports on their respective systems of internal accounting control during the test period, the Commission will be better able to assess how well each system will operate during full-scale operation. Finally, by limiting the number of participants that can use the proposed systems during the test period, the Commission can ensure that both systems are expanded in an orderly manner and that participants are thoroughly familiar with the new

[28] Because municipal securities, except for the DTC program, still are not depository eligible and because many municipal securities brokers and dealers are not yet clearing agency participants, those systems initially would not result in all of the benefits that have resulted from automating the processing of transactions in equity and corporate debt securities.

[29] A BSPS affiliate, Bradford National Clearing Corporation ("BNCC"), was the facilities manager of the National Clearing Corporation ("NCC"), one of the entities that merged to form NSCC. As NCC's facilities manager, BNCC operated an automated system for processing transactions in equity and corporate debt securities. In addition, BNCC for a short time was the facilities manager of the Pacific Clearing Corporation. That system, however, also was confined to transactions in equity and corporate debt securities.

[30] Because many potential users of BSPS's and NSCC's proposed systems deal only in municipal securities and because automated systems for municipal securities transactions have not been available, many municipal securities brokers and dealers have not previously used automated processing systems.

systems. The disadvantage of a test period is that the full benefits of NSCC's and BSPS's proposed systems will be delayed for a short period of time. On balance, however, the Commission believes that disadvantage is more than outweighed by the advantages of a test period.

Finally, in determining to approve NSCC's proposed rule change, the Commission also has determined that NSCC at this time should not use the pricing policy known as geographic price mutualization ("GPM") for the processing of transactions in municipal securities. Instead, the Commission will condition its approval of NSCC's proposal on NSCC's imposing the same surcharge on transactions in municipal securities processed through NSCC's branch network that NSCC currently imposes on transactions in securities listed on a national securities exchange and processed through NSCC's branch network.[31]

BSPS's Proposed Systems for Processing Transactions in Government Securities Is Not Approved at this Time.

Although the Commission is approving the use of BSPS's proposed systems for processing transactions in municipal securities, the Commission has determined not to approve the use of BSPS's proposed systems for processing transactions in government securities at this time. There are many different types of government securities, each of which can have significantly different characteristics. In particular, there can be significant differences in the settlement requirements for different types of government securities and in the risks posed to a clearing agency and its participants from processing different types of government securities. In addition, there also are different types of transactions that can be entered into for a specific type of government security. Those different types of transactions also can pose varying risks and processing problems. As a result, the Commission has determined that before approving BSPS's proposed systems for processing transactions in government securities, BSPS should amend its proposal to identify the specific types of government securities that BSPS intends to process and, for each specific government security that BSPS would process, the type of transactions that would be processed. Those amendments also should discuss the risks to BSPS and its participants that would arise from processing those transactions, the steps BSPS would take to counter those risks and any special procedures that BSPS would use in processing those transactions.

Approval of NSCC's and BSPS's Proposals is Conditioned on the Establishment of Interfaces Between NSCC's and BSPS's Proposed Systems

(i) *BSPS's Arguments*—BSPS makes three principal arguments why the Commission should require BSPS and NSCC to establish an interface between their proposed systems. First, BSPS argues that the absence of an interface would reduce the efficiency of both systems. BSPS explains that, absent an interface at the comparison level, only dual participants "would be able to submit the bulk of their municipal securities transactions to automated comparison systems." In contrast, sole participants would continue to have to use the current, inefficient comparison process when trading with sole participants in the other clearing agency. At the clearance level, BSPS argues that the absence of an interface would severely curtail the principal objective of the proposed systems—that is, the netting of transactions and the corresponding reduction in the number of settlements participants are required to make.

BSPS continues that the operation of two non-interfaced systems would present three choices to users, or potential users, of the systems: (i) dual participation, (ii) sole participation or (iii) non-participation in either system. Dual participation, BSPS indicates, "would require payment of two sets of clearing agency fees and maintenance of two clearing agency processing streams." In contrast, BSPS indicates that, although sole participants would pay only one set of clearing agency fees and would maintain only one clearing agency processing stream, sole participants would have to continue to process a larger proportion of their volume, than would dual participants, by means of the current inefficient processing procedures for municipal securities transactions. Confronted with this choice, BSPS believes, a broker or dealer "with limited involvement in municipal securities trading might opt for non-participation in either system." BSPS concludes that, if this were to occur, the benefits of both systems would be further reduced.[32]

Second, BSPS believes that the absence of an interface would adversely affect the competitive position of many of the municipal securities brokers and dealers that currently are BSPS's participants. In brief, BSPS argues that many of the major municipal securities underwriters already use NSCC for processing their equity and corporate debt transactions and that, because of the back-office processing advantages of dealing with the smallest number of clearing agencies possible, those underwriters probably would use NSCC to process their municipal securities transactions. In contrast, BSPS believes that "[m]any municipal securities brokers and dealers involved in purchasing municipal securities from underwriters and selling them to other municipal securities broker-dealers, banks and a wide range of end purchasers ('wholesaling dealers') are participants in BSPS and presumably would elect to use BSPS's municipal securities comparison and clearing services."

BSPS continues that, absent an interface between the proposed systems, underwriting dealers that are NSCC participants could attempt to hold down their processing costs by not joining BSPS and by insisting that sole BSPS participants either join NSCC in order to receive deliveries of underwritten securities or accept an adjustment in price reflecting the underwriters' cost of delivering securities to them.[33] BSPS argues that, if this were to occur, wholesaling dealers "would be required to belong, and incur the costs of belonging, to two clearing agencies while underwriting dealers would be able to limit their memberships to NSCC and, accordingly, avoid the costs of

[31] Under GPM, NSCC would charge the same basic fees for transactions submitted through its branch network as for those submitted to its New York City facility. NSCC's use of GPM was remanded to the Commission for "further study and explication" by the United States Court of Appeals for the District of Columbia in *Bradford National Clearing Corporation et al. v. Securities and Exchange Commission et al.*, 590 F.2d 1085 (D.C. Cir. 1978). Until it completes its consideration of that remand, the Commission has determined that NSCC should use GPM only for those services for which NSCC used GPM at the time of the remand. *See* Securities Exchange Act Release No. 15222 (October 6, 1978), note 36. That determination has resulted in NSCC's use of GPM for processing transactions in securities traded in the over-the-counter market while imposing a surcharge on securities listed on a national securities exchange and processed through NSCC's branch network. *See* Securities Exchange Act Release No. 16085 (August 3, 1979); and Securities Exchange Act Release No. 16213 (September 21, 1979).

[32] At the settlement level, BSPS indicates that, although the increased netting resulting from the establishment of an interface would reduce the number of settlements participants would be required to make, most municipal securities transactions "would [continue to] have to be settled by certificate delivery due to the limited number of municipal securities which are eligible for inclusion in DTC or in other securities depositories."

[33] BSPS also argues that, if the municipal securities broker-dealers, banks and end purchasers (presumably institutions) that currently are NSCC participants also would use NSCC's proposed municipal securities system, wholesaling dealers competing for their business would have an additional incentive to join NSCC absent an interface.

belonging to more than one registered clearing agency."[34] In addition, BSPS argues that, to the extent underwriting dealers that are sole NSCC participants engage in wholesaling municipal securities, they would have a significant competitive advantage over wholesaling dealers that are required to incur the cost of dual participation.

Third, BSPS argues that the absence of an interface would adversely affect its competitive position. BSPS begins that, because of "the disparity in the size of the BSPS and NSCC operations and the differences in their respective potential sensitivity to fluctuations in the volume of their municipal securities processing business," the absence of an interface would severely affect the ability of BSPS to compete with NSCC in providing comparison and clearance services for municipal securities transactions. BSPS adds that, because of the costs of dual participation, BSPS participants that are induced to join NSCC "would ultimately be constrained to discontinue whichever clearing agency participation the participants could easily afford to do without." BSPS continues that, because NSCC is the system favored by underwriting dealers, wholesaling dealers probably would discontinue participating in BSPS. BSPS also suggests that the "absence of an interface is more likely to draw BSPS sole participants to NSCC than to draw NSCC sole participants to BSPS." BSPS argues that, for broker-dealers that process their equity and corporate debt transactions through NSCC, it would be inefficient and uneconomical for them to process their municipal securities transactions through another clearing agency. In contrast, BSPS contends, "a decision by a sole BSPS participant to move its municipal securities processing to NSCC would simply involving [sic] changing clearing agencies."

In addition to its arguments in support of interfaces, BSPS also describes what it believes should be the operational requisites of interfaces between the two systems. Specifically, BSPS believes that both the comparison and clearing interface must permit a sole participant in either BSPS or NSCC to submit uncompared trade data, for comparison only, or for comparison and clearing; to submit compared trade data for clearing; and, in completing those functions, to relate only to the clearing agency to which it belongs. In addition, BSPS states that balance orders must be with a participant in one of the two clearing agencies and must have a compatible format so that a participant to which a deliver obligation is issued will be settling with a participant with a matching receive obligation.[36] Aside from these general requisites, however, BSPS believes that technical matters concerning the interface should be resolved between the operational personnel of NSCC and BSPS.[36]

Finally, BSPS indicates that it recognizes that the "operation of an interface may place constraints on the freedom of each interfacing clearing agency to make improvements in its system." To ameliorate this possibility, BSPS suggests that it and NSCC form a participant committee to evaluate the need for, and to recommend, systems improvements affecting the interface.

(ii) *NSCC's Arguments*—In response to BSPS's position, NSCC states that it does not dispute BSPS's characterization of the general benefits of interfaces. NSCC argues, however, that BSPS's demand is "nothing more than an attempt to obtain free clearance services from NSCC." NSCC explains that what BSPS is requesting is not an interface but rather a sponsored account arrangement, similar to that currently existing between NSCC and DTC.[37] NSCC indicates that, under this arrangement, NSCC would clear and net all trades of BSPS's participants and forward the resulting balance orders to BSPS to be passed out to BSPS's participants. NSCC continues that it has no objection to providing that service, as long as BSPS pays the same fees that any NSCC participant would be required to pay for such an arrangement. NSCC also indicates that it would be willing to act as a comparison "hub" for all municipal securities trades of for trades between its participants and BSPS's participants. Again, however, NSCC argues that it should be paid for that service. finally, NSCC concludes that, if BSPS's proposal were to be adopted, "[i]nstead of there being two systems, each offering similar services in competition with one another, the result would effectively be *one* operation, a riskless joint venture of two ostensible competitors." (Emphasis in original.)

Next, NSCC argues that BSPS's conclusions concerning the competitive impact of non-interfaced systems are "sheer sophistry." NSCC explains that BSPS's contention that clearing agency membership is a factor in an underwriter's selection of an underwriting syndicate is "fanciful." NSCC also disputes BSPS's contention that underwriting dealers that currently use both NSCC and BSPS will drop their BSPS membership if NSCC is permitted to process municipal securities transactions. Instead, NSCC suggests that underwriters probably would retain membership in both NSCC and BSPS, absent an interface, in order to take advantage of automated clearance for as many of their transactions as possible.

NSCC also disagrees with BSPS's argument that non-interfaced systems would have an adverse competitive impact on BSPS. NSCC argues that BSPS's statement that there would be an exodus of wholesaling dealers from BSDPS to NSCC, absent an interface, "has been shown to be specious." In addition, NSCC argues that, to the extent that BSPS suggests that it is more sensitive to a reduction in the volume of its municipal securities processing business than is NSCC, that argument is "little more than a plea" that BSPS be protected from normal competitive forces.

Finally, NSCC argues that BSPS's proposal "would have a highly destructive impact upon the innovation and technological progress that genuine competition is intended to foster." NSCC explains that, because for all practical purposes the two clearing agencies would be operating an enforced joint venture, each innovation that NSCC developed would be subject to a forced sharing agreement with BSPS. NSCC also argues that it would not even be able to make appropriate systems changes without BSPS's approval. NSCC concludes that no surer recipe could be found for "technological inertia and entrepreneurial paralysis.

(iii) *BSPS's Rebuttal*—In rebuttal, BSPS argues that NSCC's characterization of BSPS's interface proposal is inaccurate. BSPS explains that, rather than a sponsored account

[34] BSPS explains that the principal costs of dual participation would be (i) the costs of maintaining two internal processing streams for municipal securities transactions; (ii) the costs of whatever clearing deposit, letter of credit or bonding requirements the clearing agencies would impose; and (iii) the participation and other non-volume-based fees that participants would have to pay.

[36] BSPS also describes several operational approaches that it believes could be used as a basis for the interface. BSPS indicates that those approaches could serve as an initial framework for discussions between it and NSCC.

[36] Among the technical matters that BSPS suggests should be resolved between the two clearing agencies are: (i) whether the interface should operate on a data exchange basis, through a shared performance of interfacing functions or through an alternating performance of interfacing functions and (ii) whether each clearing agency should interpose itself between its participants and the other clearing agency.

[37] The Commission notes that because NSCC's CNS system is tied operationally to DTC's system, NSCC participants using NSCC's CNS system also must be direct or indirect participants in DTC. The sponsored account arrangement between NSCC and DTC permits NSCC members whose transaction volume does not justify incurring the expense of full membership in DTC to join indirectly through NSCC. NSCC pays fees to DTC for transactions in the sponsored accounts and guarantees the obligations of its sponsored account participants to DTC.

arrangement, its proposal envisions that "most, or all, of the processing steps involved in comparing and clearing intra-agency transactions would be performed by each of the interfacing clearing agencies." BSPS also explains that, depending on the operational framework of the interface, the work involved in comparing and clearing inter-agency transactions could be: (i) divided between BSPS and NSCC; (ii) performed by either clearing agency under a cost-reimbursement arrangement; or (iii) performed by both BSPS and NSCC in duplicate. Finally, BSPS indicates that, if necessary, it would be willing to compare and clear NSCC intra-agency trades.[38]

(iv) *NSCC's Rebuttal*—In rebuttal, NSCC argues that, although BSPS's latest interface proposal seems more like the existing interfaces between NSCC and regional clearing agencies, BSPS's proposal would present "many operational difficulties and high unnecessary costs." NSCC explains that interfacing NSCC's and BSPS's proposed balance order systems would require each clearing agency to receive physical certificates from participants and to deliver those securities either to the other clearing agency or to the other clearing agency's participants, depending on the structure of the interface. NSCC indicates this processing would be time-consuming and costly. NSCC continues that, in contrast, a sponsored account arrangement, such as that which it believed BSPS seemed to have proposed originally, makes "a great deal of sense operationally and in terms of cost." NSCC concludes that BSPS's latest proposal "seems to make little sense from a cost or operational point of view, but has the advantage for [BSPS] of creating at least the appearance of [BSPS's] performing some function that would entitle it to services from NSCC at less than normal cost."

(v) *The Commission's Determinations*—The Commission believes that interfaces between NSCC's and BSPS's proposed system would increase the efficiency of both systems and would benefit participants in both systems, thereby furthering the establishment of the national clearance and settlement system envisioned by Congress in Section 17A of the Act.

The benefits of interfaces have been recognized by Congress in Section 17A of the Act and by the Commission in other contexts. Section 17A(a)(2) of the Act directs the Commission to use its authority to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities in accordance with certain Congressional findings. One of those findings set out in Section 17A(a)(1) of the Act is that:

> [t]he *linking* of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors. (Emphasis added.)

In addition, the Commission, in describing what should be the characteristics of a national clearance and settlement system in the order granting NSCC registration as a clearing agency, determined that participants should be able "to compare, account for and settle through one entity all trades in securities included in the system, regardless of the location of the other party to the trade or the market in which the trade is executed."[39] The attainment of that goal is dependent on the establishment of a system of interfaces among clearing agencies. In addition, the Commission's requirement that NSCC, as a condition to its registration, establish interfaces with the Midwest Clearing Corporation, the Pacific Clearing Corporation and the Stock Clearing Corporation of Philadelphia, as well as a link with the Boston Stock Exchange Clearing Corporation, also was a recognition of the importance of interfaces to the development of a national clearance and settlement system.[40]

More recently, the Division of Market Regulation's standards for registration as a clearing agency stated that "[i]nterfaces among clearing agencies are important to the development of a national clearance and settlement system composed of autonomous clearing agencies."[41]

In addition to the importance placed on interfaces by the Securities Exchange Act and the Commission, the voluntary establishment of numerous interfaces at both the clearing corporation and depository levels attest to the benefits of interfaces to the securities industry.

In the present context, interfacing NSCC's and BSPS's proposed systems would allow persons wishing to process as large a percentage of their municipal securities transactions as possible in an automated environment to do so in a single account at one clearing agency without having to become a participant in both BSPS and NSCC. Interfacing the two systems also would result in greater netting of transactions and thus would reduce further the number of settlements that currently have to be made in the municipal securities markets. That reduction should help to minimize the number of fails to receive and fails to deliver that currently exist in the settlement of municipal securities transactions as well as the financing costs of settling municipal securities transactions. Moreover, by not having to become dual participants, participants would have to pay membership and other non-volume-related fees to only one clearing agency. Finally, because participants would have to maintain only one clearing agency processing stream for municipal securities transactions and would have to be familiar with only one set of procedures and forms for those transactions, participants' back-office operations should be simpler and less costly.

Turning to the competitive arguments raised by NSCC and BSPS, although the Commission recognizes that the events projected by BSPS could occur, BSPS has not convinced the Commission that those events inevitably would occur or that they would occur in the magnitude suggested by BSPS. More specifically, the Commission recognize that persons currently using NSCC to process their equity and corporate debt securities would have an incentive to use NSCC for their municipal securities processing.[42] By doing so, those persons would receive certain benefits. Among those benefits would be that the money settlement for municipal securities transactions would be netted with the money settlement for equity and corporate debt transactions. In addition, rather than having to relate to two clearing agencies and to use two sets of procedures, participants could use one clearing agency processing stream. Participants also would not have to pay two sets of membership and other non-volume related fees.

At the same time, the Commission cannot conclude that those persons would not use BSPS's proposed services absent an interface. That decision would depend on a number of factors, including the costs of dual participation, the cost of processing municipal securities transactions with BSPS sole

[38] BSPS also suggests that the over-the-counter interfaces between NSCC and the regional clearing agencies could serve as a model for the interface between NSCC and BSPS.

[39] Securities Exchange Act Release No. 13163 (January 13, 1977).

[40] *Id.*

[41] Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

[42] The Commission also recognizes that NSCC processes by far the largest number of equity and corporate debt transactions and that many persons doing an equity and corporate debt business as well as a municipal securities business already are NSCC participants.

participants on a nonautomated basis and the utility of BSPS's other services.[43]

In addition, BSPS has not convinced the Commission that, absent an interface, "wholesaling" dealers that initially chose to use BSPS's proposed service would be drawn inevitably into dual participation and thereafter induced to become NSCC sole participants. The Commission recognizes that in order to reduce their costs municipal securities underwriters that are sole NSCC participants may try to require as a condition to participating in an underwriting that sole BSPS participants join NSCC or accept an adjustment in price reflecting the underwriters' additional cost of delivering securities to them. The extent to which sole BSPS participants would be induced to become dual participants, however, again would depend on a number of factors, including the fees charged by each clearing agency, the range and quality of services offered by each clearing agency and the number of transactions BSPS's participants have with NSCC's participants. Similarly, the decision by a wholesaling dealer to maintain dual participation or to become a sole participant would depend on a number of factors, including the cost of dual versus sole participation, the utility and range of services offered by each clearing agency, the cost of processing municipal securities transactions on a non-automated basis and the percentage of transactions with participants in each clearing agency.

For the reasons discussed above, the Commission has determined that interfaces should be established between NSCC's and BSPS's proposed comparision systems and between NSCC's and BSPS's proposed balance order systems. Interfaces would increase the efficiency of both systems and would increase the benefits of both systems to participants. The Commission also recognizes that, absent interfaces, there would be certain economic incentives, as discussed above, for potential users of the proposed systems to choose NSCC's system. Establishment of interfaces would significantly reduce those economic incentives. Also, as discussed below, the Commission has not been persuaded by NSCC's arguments against interfacing the proposed systems.

In arguing against BSP's proposal for interfacing NSCC's and BSPS's proposed systems, NSCC makes two principal arguments. First, NSCC argues that BSPS's proposal would result in a costly and time-consuming interface. At the same time, although NSCC has not been able to agree with the specific proposals offered by BSPS, NSCC has acknowledged that there would be benefits in linking, or interfacing, the proposed systems. For example, NSCC acknowledges that linking its and BSPS's proposed systems through a sponsored account arrangement would make sense operationally and in terms of costs.

In determining that interfaces should be established between NSCC's and BSPS's comparison and balance order systems for municipal securities, the Commission has determined not to mandate the specific operational details of those interfaces nor to endorse any of NSCC's or BSPS's specific proposals at this time. As a general matter, the Commission believes it is appropriate for operational decisions to be made by the personnel of the clearing agencies. In this instance, as discussed above, although NSCC and BSPS have not been able to agree on a specific proposal, both NSCC and BSPS have suggested different ways in which their systems could be linked or interfaced. Those proposals could serve as a basis for an agreement between the two clearing agencies. Accordingly, as is discussed subsequently, the Commission will require NSCC and BSPS to establish a coordinating committee to facilitate the resolution of the operational details of the interfaces.

Second, with regard to NSCC's concern that an interface would cause technological inertia, the Commission recognizes that enhancements to existing interfaced services may have to be coordinated if an interface is to continue to operate. That problem has not proven troublesome in other contexts, however. Moreover, as a general rule, the Commission believes that the introduction of new services need not be delayed until an interfaced clearing agency has developed a comparable service. As a result, the Commission does not believe that interfacing NSCC's and BSPS's proposed systems would be a significant factor discouraging the development of new services by either clearing agency.

Approval of NSCC's and BSPS's Proposals Is Conditioned on the Establishment of Interfaces Which Are Free as To Participants

(i) *BSPS's Arguments*—In addition to requesting the establishment of interfaces between NSCC's and BSPS's proposed systems concurrently with those systems beginning operations, BSPS requests that the interfaces be free as to participants. BSPS explains that the term "free interface" means that participants would pay the same fee for comparing and clearing inter-agency transactions through an interface as they would for comparing and clearing intra-agency transactions.

BSPS continues that the term "free interface" does not refer to the costs to interfaced clearing agencies of establishing and operating an interface. BSPS indicates that it believes those costs should be allocated between interfaced clearing agencies: (i) by each bearing their respective costs of establishing the interface, and an appropriate portion of any common costs, or (ii) by each bearing an appropriate portion of all costs of establishing the interfaces, including each clearing agency's internal costs. BSPS also envisions that either of the above cost-sharing arrangements would be used to defray the ongoing expenses of operating the interface.

Next, BSPS discusses why it believes "the existence of any interface fees poses the same potential threat to the viability of its municipal securities clearing and comparison systems as the operation of the . . . Systems without interfaces." First, BSPS explains that, if interfaces are not free to their respective participants, sole participants in each clearing agency will incur an additional expense for processing transactions with sole participants in the other clearing agency. BSPS indicates that, if those participants' aggregate interface fees exceed the cost of dual participation, sole participants could decide to become dual participants rather than to continue to use the interface. Second, BSPS argues that, although high charges would favor dual participation, even low interface fees "could impair the utility of the [interfaces] to a participant whose transactions through the [interfaces] were a high percentage of all its transactions." Third, BSPS argues that underwriting dealers could adjust transaction prices to wholesaling dealers in order to pass on the underwriting dealers' costs of using the [interfaces]." Finally, BSPS concludes that, although it "recognizes that the effects of interface fees on competition between BSPS and NSCC would vary depending on the amount of the fees and the mix of municipal securities transactions processed by BSPS participants . . . [t]he effects of interface fees are so difficult to monitor, let alone predict, that the imposition of any interface fee is likely to undermine the viability of the [interfaces]."

(ii) *NSCC's Arguments*—NSCC makes a number of arguments why it believes the Commission should not mandate the

[43] For example, BSPS offers financing and physical delivery services.

establishment of a free interface between NSCC's and BSPS's proposed systems. NSCC begins by arguing that "[f]ree interfaces are departures from cost-based pricing that can be justified, if at all, only on the basis of some overriding public policy concern." NSCC explains that Section 17A(b)(3)(D) of the Securities Exchange Act requires that "[t]he rules of the clearing agency [must] provide for the equitable allocation of reasonable dues, fees, and other charges among its participants." Given this statutory mandate, NSCC concludes that, "[a]bsent overriding [national clearance and settlement or national market system] goals, the principle governing fee allocation must be the concept that fees should be based on the cost of services provided." "Failure to adhere to this principle," NSCC believes, "leads to economic distortions as use of 'free' services expands and the use of other services that must bear the actual cost of the 'free' services contracts without economic justification."

NSCC continues that the one overriding concern identified to date, and the basis of the Free Interface Condition to its registration, was the concern that NSCC might obtain an insurmountable lead over the non-New York clearing agencies unless they were able to offer one-account processing through full, and initially free, interfaces prior to NSCC's offering similar services. NSCC indicates that "[w]ithout such an interim requirement, there was concern that 'NSCC could obtain a competitive advantage by charging interface fees . . . designed to encourage brokers and dealers located outside New York City to use the NSCC network rather than another clearing corporation.' " NSCC further indicates that the opponents of interface fees hypothesized that the loss of participants by non-New York clearing agencies might, in turn, negatively impact their affiliated market places. NSCC concludes that "[i]t was to meet this specific concern, and *not* as part of any general policy favoring subsidies to competing clearing corporations, that the Commission required NSCC to establish free interfaces with [three regional clearing corporations]." (Emphasis in original.)

Next, NSCC offers three principal reasons why the justification behind the Free Interface Condition to its registration "cannot simply be carried over into the field of municipal securities as a basis for granting a similar subsidy to BSPS." First, NSCC argues that BSPS plays no national market system role.

Second, NSCC indicates that BNC, BSPS's parent, controls several bank and broker-dealer subsidiaries that compete directly with NSCC's bank and broker-dealer participants. NSCC continues that, "[i]f BSPS's free interface demand were acceded to, those [BNC] broker-dealer and bank affiliates would gain a wholly unwarrented competitive advantage over all other broker-dealers and banks." NSCC explains that its participants currently bear the cost of interfaces on a mutualized basis as part of the fees they pay and that is would not be appropriate to require them to "subsidize the operations of BSPS and its affiliated brokers and banks, which would be their own direct competitors." NCSS also concludes that BNC "should not be allowed to take advantage of a special subsidy program merely to increase the return to its own public shareholders."

Third, NSCC argues that:

> if BSPS were deemed entitled to a free interface with NSCC, it is difficult to see a principled basis for denying a similar free interface to any other securities industry entity that performs some type of clearance function and might choose to apply for registration as a clearing agency. Correspondent brokers, banks that engage in physical delivery of municipal securities, broker-dealers that offer fully disclosed clearing to other brokers—all would be entitled to free interfaces with as much legitimacy as BSPS. The Commission can avoid future free interface demands from entities such as these only by making it clear that the policyt behind the Free Interface Condition confines its application to the non-New York exchange-affiliated clearing agencies that the condition originally covered.

NSCC concludes that because of the above considerations "any interface with BSPS should not only bear normal interface charges, but also fully reflect the additional extra costs to NSCC of handling an interface transaction (*i.e.*, the interface should not only reflect the revenue that NSCC gives up from interface transactions but also the large additional cost to NSCC of operating the interface.)"

Finally, NSCC argues that the "free interface subsidy," if ever warranted, should be available "to only those entities that are in fact clearing agencies within the generally accepted critieria of today's clearing environment." NSCC explains that, although BSPS has received temporary registration as a clearing agency, "BSPS lacks mots of the essential attributes that a clearing agency should have, and would be demonstrably unable to satisfy the Commission's own standards for permanent clearing agency registration." NSCC continues that BSPS's failure "to utilize either the organizational structure or the operational safeguards of a normal clearing agency makes it inappropriate to put a contra side clearing agency and its participants at risk by requiring it to operate a free interface with BSPS."

(iii) *BSPS's Rebuttal*—In response, BSPS states that it has never requested and does not intend to request that NSCC compare and clear BSPS intra-agency transactions. Moreover, BSPS indicates it "has offered to compare and clear * * * BSPS-NSCC inter-agency transactions and, if operationally desirable, would be prepared to compare and clear NSCC intra-agency transactions." BSPS continues that it also "is prepared to absorb its share of the marginal incremental costs incurred by it and NSCC in processing transactions through the interfaces." BSPS adds, however, that "[u]nlike NSCC, [It] does not believe that the costs of an interface properly include the revenues which the clearing agency loses by not charging a participant submitting an inter-agency transaction for the side of the transaction submitted to an interfacing clearing agency." Finally, BSPS iterates that its proposed interface "would be 'free' only in the sense that BSPS and NSCC would charge participants the same fee for comparing and clearing inter-agency tranactions through the interfaces as for comparing and clearing intra-agency transactions."

With regard to NSCC's comment that BSPS is not a true clearing agency, BSPS states that BSPS, like NSCC, is currently operating under an extension granted by the Commission of its temporary registration as a clearing agency. BSPS also indicates that it "has rules defining the services it provides, fee schedules, participation standards, and mechanisms for determining initially, and thereafter monitoring, the financial condition of its participants." BSPS further indicates that it has 276 participants that are not BSPS affiliates. BSPS continues that it is prepared to take "any reasonable steps necessary to maintain the operational and financial integrity of the interfaces, including steps to provide adequate assurances that BSPS participants would satisfy receive and deliver obligations incurred in connection with inter-agency transactions." Finally, BSPS states that it, like other clearing agencies, "will be required to adopt any safeguards, procedures and governance provisions which the Commission eventually includes in its standards for the permanent registration of clearing agencies."

(iv) *NSCC's Rebuttal*—NSCC argues that it believes BSPS's interface proposal would be too costly to be attractive to many participants although BSPS believes otherwise. NSCC continues that "neither conclusion can be validated *except* by measuring the demand for the interface when it bears normal costs, undistorted by subsidies" (emphasis in original). NSCC explains that a free interface would provide an incentive to process transactions through an interface rather than through some other method, such as dual participation, that might be more efficient. NSCC concludes that market demand, unclouded by subsidies, should determine the extent of interface use.

NSCC also argues that BSPS's proposal for a free interface "would require the Commission to engage in a complicated and guideless rate-making and subsidy-cost/benefit analysis * * *," and that "[t]he Commission has no statutory authority or experience in fixing rates for individual services."

(v) *The Commission's Determinations*—In discussing the free interface issues raised by NSCC and BSPS, the Commission has considered two principal questions. First, what are the costs of an interface and how should those costs be allocated between clearing agencies? Second, how should the costs allocated to each clearing agency be recovered from its participants?

(a) *What are the costs of an interface and how should those costs be allocated between clearing agencies?*—In general, there are two types of cost associated with an interface. The first type of cost arises from additional activities that each clearing agency has to perform as a result of the interface ("interface activities"). Among those activities are data transmission and the reconciliation of interface positions. The second type of cost arises from certain activities that will have to be performed regardless of whether there is an interface ("common activities").[44] As a practical matter, those common activities have to be performed by one entity. That entity could be either clearing agency or a third party. Among those activities are the comparison and netting of inter-agency municipal securities transactions.

As previously discussed, the Commission has determined not to specify the operational details of the interfaces at this time. Rather, the Commission will require NSCC and BSPS to establish a coordinating committee to facilitate the resolution by NSCC and BSPS of those operational details. Until those operational details are resolved, it will be unclear whether NSCC, BSPS or a third party will perform the common functions of the interface.

Also as previously discussed, both BSPS and NSCC have put forward proposals to perform the common activities of the interfaces. For example, BSPS has offered to compare inter-agency municipal securities transactions and to net, and issue balance orders for, inter-agency municipal securities transactions. BSPS also has indicated that it would be willing for NSCC to perform those functions. NSCC, in turn, has offered to act as a comparison hub for inter-agency municipal securities transactions or to process transactions on a sponsored account basis. NSCC and BSPS disagree, however, on how the entity performing the common activities of the interface should be compensated. BSPS argues that the clearing agency performing the common activities should charge only its incremental cost while NSCC argues that BSPS should pay NSCC the same fees as do other NSCC participants.

As for the cost of interface activities, BSPS suggests that (i) each clearing agency could bear its own costs or (ii) that those costs could be added to the cost of the common activities of the interface and that each clearing agency then could be assigned an appropriate portion of all the costs of the interfaces. NSCC, in turn, argues that BSPS should bear the "large additional cost to NSCC of operating the interface."

In addition to giving NSCC and BSPS an opportunity to determine the operational requisites of the interface, the Commission believes that NSCC and BSPS also should be given an opportunity to determine on what basis the entity performing the common activities of the interfaces should be compensated and how the costs of the interfaces should be allocated. As discussed above, the resolution of those issues will depend in part on the determination of which entity will perform what common activities. Also, the Commission again believes it is more appropriate that the two clearing agencies initially make these types of determinations. Accordingly, the Commission will require that the coordinating committee also consider the basis on which entities performing the common activities should be compensated and the manner in which the costs of the interface should be allocated. Moreover, because the principal focus of NSCC's and BSPS's comments has been on whether interfaces should be established and not on the cost and cost allocation aspects of the interfaces, if NSCC and BSPS are not able to resolve those issues, the reports that the coordinating committee will be required to make to the Commission should provide a better record for a Commission decision.

(b) *How should the costs allocated to each clearing agency be recovered from participants?*—The Commission also considered the basis on which clearing agencies could recover the costs of an interface from participants. In a "free interface," participants pay the same fee for comparing and clearing transactions through an interface as they do for comparing and clearing intra-agency transactions. The cost of the interface thus is mutualized by each clearing agency. In contrast, if an interface is not free, the cost of an interface is charged only to those participants that process transactions through the interface.

The Commission believes that the interfaces between NSCC's and BSPS's proposed systems should be free interfaces for three principal reasons. First, interface fees have a tendency to discourage use of an interface and, if set at a sufficiently high level, could undermine, or effectively eliminate, the benefits of an interface. Second, the Commission agrees with BSPS that the effects of interface fees are difficult to monitor, let alone predict, and there would be considerable regulatory costs associated with monitoring and evaluating those fees. Free interfaces would reduce the need for the Commission to become involved in disputes over cost allocation and would avoid the risk that undesirable effects may result from interface fees.

Third, absent overriding policy reasons, the Commission believes that all of a clearing agency's participants should contribute toward a clearing agency's participation in a national system. In discussing the free interface condition to NSCC's registration, the Commission determined that:

> Current trading practices obligate the selling side of a transaction to make delivery to the buying side of the transaction. Once interfaces are in place, a party to a transaction effected on an exchange or through use of an OTC trading mechanism will not know the location at which the other party to the transaction has elected to clear and settle securities transactions. As a result, all parties to exchange and OTC transactions would have an equal likelihood of entering

[44] This statement assumes that transactions processed through an interface would be processed by one of the two clearing agencies absent an interface.

into sale transactions which would occasion the use of interfaces.[45]

That reasoning applies equally to the municipal securities market. More specifically, when executing a municipal securities transaction an entity will not know the location at which the other party to the transaction will process that transaction. For example, in a given transaction, an NSCC participant could deal with another NSCC participant, a BSPS participant or a dual participant. In addition, due to the allocation feature of balance order systems, a participant in one clearing agency that executes a transaction with a participant in an interfaced clearing agency could be instructed to receive securities from, or deliver securities to, a participant in its own clearing agency, while a participant that deals only with participants in its own clearing agency could be instructed to deliver securities to, or receive securities from, a participant in an interfaced clearing agency. Similarly, the netting feature of balance order systems could result in a participant "netting-out" even though it executed a transaction with a participant in another clearing agency.

The Commission also has not been persuaded by NSCC's arguments that interfaces between the two systems should bear interface charges. NSCC argues that free interfaces are departures from cost-based pricing that can be justified, if at all, only on the basis of some overriding public policy concern. The Commission does not agree with NSCC's premise. Rather, as discussed above, as a general matter, the Commission believes that all participants of a clearing agency should contribute toward a clearing agency's participation in a national system.

NSCC also makes six other arguments why it believes BSPS's request should not be granted. First, NSCC argues that the basis for the Free Interface Condition to its registration was concern that interface fees might result in the loss of participants by non-New York clearing agencies, and that loss, in turn, might negatively impact their affiliated marketplaces. NSCC adds that BSPS plays no national market system role. The Commission disagrees with NSCC's characterization of the purpose of the Free Interface Condition. While the Commission agrees that the effect of NSCC's registration on regional exchanges was a consideration in the Commission's decision to impose conditions on NSCC's registration, that effect was only one of a number of considerations that formed the basis for the Commission's determination.[46]

Second, NSCC argues that a free interface would grant BSPS's broker-dealer and bank affiliates an unwarranted competitive advantage over other broker-dealers by allowing the BSPS affiliates to clear through BSPS and avail themselves of essentially free services through the use of BSPS's interfaces. The Commission is not persuaded by this argument. Because BSPS's affiliates would have to pay the same fees and meet the same participation standards as BSPS's other participants, they would not receive preferential treatment over other BSPS participants. The Commission also does not believe that a free interface would give BSPS's affiliates an unwarranted advantage over NSCC's participants. In a free interface, each clearing agency incurs costs in operating an interface and recovers those costs in full from its participants on a mutualized basis. As a result, participants that do not process transactions through the interface, or that process only a small number of transactions, pay the same fee as participants that have a large number of interface transactions. Participants that do not use the interface or do so only occasionally thus could be characterized as "subsidizing" the heavier users of the interface. However, such a "subsidy" would result in NSCC participants "subsidizing" other NSCC participants and in BSPS participants' "subsidizing" other BSPS participants but not in NSCC participants' "subsidizing" BSPS participants. Moreover, as discussed above, the Commission believes that it is difficult to determine to what extent participants "use" an interface and that as a general matter all participants of a clearing agency should contribute toward that clearing agency's participation in the national clearance and settlement system.

Third, NSCC argues that, if the Commission grants BSPS a free interface, it would be difficult to deny free interfaces to other securities industry entities that perform some type of clearance function and that register as clearing agencies. NSCC adds that "correspondent brokers, banks that engage in physical delivery of municipal securities, broker-dealers that offer fully disclosed clearing to other brokers—all would be entitled to a free interface with as much legitimacy as BSPS." Although NSCC does not identify the basis for that concern, the Commission assumes that NSCC is concerned that free interfaces would encourage new entry and that multiplicity of interfaced clearing agencies would result in a costlier, less efficient system. In addition, NSCC may be arguing that free interfaces would make entry into the securities processing field more attractive and that, to the extent new entrants attract volume away from an existing clearing agency, that existing clearing agency's per unit costs, and thus its fees for its remaining participants, would increase significantly.

The Commission recognizes that, if there is a proliferation of linked clearing agencies, at some point the costs of interfacing those entities could outweigh the efficiencies that result from the interfaces. The Commission believes that concern is somewhat speculative in this context, however. There have been no clearing corporation registrations since NSCC was required to establish free interfaces with three regional clearing agencies. Moreover, there are significant costs to registering as a clearing agency. In addition to the monetary cost of complying with the requirements of Section 17A of the Act, compliance with those requirements limits the manner in which a clearing agency can conduct its business. Absent more persuasive evidence, the Commission does not believe that NSCC's concern about the potential for a proliferation of clearing agencies is a reason for not requiring a free interface.

Fourth, NSCC argues that a free interface with BSPS is especially inappropriate because BSPS is not a "true" clearing agency, as that term is accepted in today's clearing environment. NSCC further argues that, because BSPS is not a true clearing agency, a free interface with BSPS presents particular risks to NSCC and its participants.

The Commission does not share NSCC's concern. BSPS has been granted temporary registration as a clearing agency, as has NSCC, pursuant to Securities Exchange Act Rule 17Ab-2. In addition, pursuant to the Division of Market Regulation's standards for clearing agency registration, BSPS soon will have to file an amended application for registration as a clearing agency. Prior to granting BSPS full registration as a clearing agency, the Commission will have to determine that BSPS's rules and procedures are in compliance with the requirements of Section 17A of the Act.

With regard to NSCC's concern that BSPS presents particular risks to NSCC and its participants, the Division of Market Regulation's standards for clearing agency registration recognize the right of one clearing agency to

[45] Securities Exchange Act No. 13163 (January 13, 1977).

[46] *See generally*, Securities Exchange Act Release No. 13153 (January 13, 1977).

"require reasonable assurance of another clearing agency's ability to meet its obligations of its participants." Also as discussed, BSPS has agreed to take "any reasonable steps necessary to maintain the operational and financial integrity of the interfaces, including steps to provide adequate assurances that BSPS participants would satisfy receive and deliver obligations incurred in connection with inter-agency transactions."

Fifth, NSCC argues that BSPS's interface proposal would be costly but that, if that interface were free, there would be an economic incentive for participants to use the interface in spite of the cost rather than some other method to process transactions, such as dual participation, that might be more efficient. The Commission is not persuaded by NSCC's arguments for several reasons. The Commission at this time has not mandated any particular interface structure. More importantly, however, NSCC has not persuaded the Commission that, in light of the well recognized benefits of interfaces, dual participation would be a more efficient method of processing municipal securities transactions. As discussed, the Commission believes that interfacing NSCC's and BSPS's proposed systems would improve the efficiency of both systems and would increase the value of those systems to participants. Dual participation, on the other hand, would negate many of those benefits. For example, dual participation would reduce the number of municipal securities transactions that could be netted, and would correspondingly increase the number of settlements that would have to be made. That effect would increase fails to deliver and fails to receive between municipal securities brokers and dealers and would increase particpants' financing costs. Dual participation also would mean that municipal securities brokers and dealers would have to pay two sets of membership and other non-volume related fees and would have to maintain two clearing agency processing streams. Finally, also as discussed, the Commission believes that as a general matter all participants of the clearing agency should contribute toward its involvement in the national clearing and settlement system.

Finally, the Commission strongly disagrees with NSCC's argument that the Commission has no statutory authority to determine whether an interface should be free as to participants. Contrary to NSCC's assertion, section 17A of the Act makes plain that the Commission's responsibilities include such determinations. For example, 17A(b) of the Act requires that the Commission determine that the "rules of clearing agencies provide for the equitable allocation of dues, fees and other charges." The fees NSCC and BSPS will charge for use of interfaces clearly are within that statutory charge. Section 17A(b) of the Act also requires the Commission to determine that the "rules of the clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency, and to remove impediments to and perfect the mechanism of a national system." As discussed, the imposition of interface fees could affect significantly the efficiency and utility of NSCC's and BSPS's proposed systems.

In addition, in *Bradford National Clearing Corporation v. securities and Exchange Commission,* the United States Court of Appeals for the District of Columbia in reviewing the scope of the Commission's authority in Section 17A, held that any decision by a clearing agency is reviewable by the Commission if that decision "may affect the realization of the national clearing system envisioned by Congress—*i.e., one that is safe, efficient and* competitive." [47] The Commission believes that the decision by a clearing agency to impose interface fees clearly could impair the efficiency and utility of interfaced services.

Approval of NSCC's and BSPS's Prosposals Is Conditioned on the Establishment of Interfaces Concurrently With the Termination of the Operation of the Systems on a Test Basis

(i) *BSPS's Arguments*—BSPS makes two principal arguments why the Commission should require NSCC and BSPS to establish an interface at the tiem their proposed systems begin operations. First, BSPS argues that it operationally is easier and less disprutive to establish an interface prior to, rather than aftr, commencement of the proposed systems. BSPS estimates that, assuming good faith by both clearing agencies, an interface could be fully operational "within less than six months" if established prior to the systems beginning operations. In contrast, BSPS believes that, if interfacing is not initiated until after the systems are fully operational, it "would take considerably longer." BSPS indicates, for example, that, once the systems are operational, establishing an interface would require both clearing agencies to reprogram various operations and replace forms, and may entail hardware modifications and changes in fee schedules.

Second, BSPS argues that delaying an interface would have an adverse effect on both clearing agencies' participants. In brief, BSPS indicates that to the extent NSCC and BSPS have to change their systems to accommodate an interface, participants in both systems would have to modify recently established back office operations. BSPS also indicates that "decisions made by participants regarding their processing streams, the clearing organization to which they belong and their trading activities [would be] affected by the availability or unavailability of interfaces and [would be] difficult and expensive to reverse once taken." Finally, BSPS fears that because of the operational problems and costs resulting from non-interfaced systems, participants could become disenchanted with the proposed systems and could revert to exception processing "rather than make the adjustments to their back-office operation necessary to inferact with interfaced systems."

In addition, BSPS argues that, without Commission action, the two systems would operate independently and inefficiently, "and that progress toward interfaces will be sufficiently delayed for both wholesaling dealers and BSPS to become victims of the competitive inequities inherent in a non-interfaced operation of the systems." BSPS argues that, despite the generally acknowledged advantages of interfaced clearing systems, "the history of interfacing in securities processing has been one of halting progress, usually achieved only at the Commission's insistence." BSPS indicates that the reason for that halting progress has been that the implementation and operation of almost every proposed interface has been of more importance to one of the two interfacing clearing agencies than to the other. BSPS indicates that, typically, the reluctant clearing agency either believed it was more appropriate to allocate its energies and resources to other areas or was concerned that the establishment of an interface would dilute a competitive advantage. BSPS concludes that in this instance, "NSCC will be the reluctant party." As support for its conclusion, BSPS argues that, although revenues from municipal securities processing are important to BSPS, they are relatively unimportant to NSCC. BSPS also argues that BSPS has

[47] 590 F.2d 1085, 1114 (D.C. Cir. 1978) (emphasis in original).

had difficulty in getting NSCC to discuss establishing an interface.

Next, BSPS argues that "the strongest inducement to both it and NSCC to promptly establish the interfaces would be a Commission determination not to permit either BSPS's or NSCC's systems to be implemented unless comparison and clearing interfaces were in place." BSPS explains that both BSPS and NSCC participants are anxious to obtain automated municipal securities services and that, if one party were perceived to be dilatory in establishing the interface and delaying the availability of the proposed systems, that clearing agency would risk losing business.

BSPS also outlines two measures the Commission could take if it is concerned that either NSCC or BSPS would not work diligently toward the establishment of the interface. First, BSPS suggests requiring NSCC and BSPS to establish a schedule for implementing the interface and to report periodically whether the scheduled is being met. If one party were found to be responsible for a delay, BSPS suggests that the Commission allow the other party to implement its system while conditioning the implementation of the dilatory party's system on the completion of the interface. BSPS also suggests that the Commission could take other action against the dilatory clearing agency, including a proceeding under Section 19(h) of the Act. Second, BSPS suggests the Commission could require each clearing agency to post a bond to indemnify participants against savings that would be lost because of a failure by one or both clearing agencies to meet that schedule.

(ii) *NSCC's Arguments*—In response, NSCC argues that it is easier operationally to establish an interface between operating systems than it is to construct an interface at the outset. NSCC explains that the "testing of an interface would be easier with real transactions from existing systems." NSCC also believes that BSPS's contention that approval of both systems should be delayed until an interface is established is base less, "since interfaces of the type currently in operation are transparent to participants in interfaced clearing agencies * * *."

NSCC also argues that BSPS's demand for an interface concurrent with commencement of operations is designed to delay implementation of both proposals. NSCC believes that BSPS long has sought to delay NSCC's proposed clearance system for municipal securities and that BSPS's request for an interface concurrent with commencement of operations is the latest facet of that plan. NSCC explains that "[f]or two years, [BSPS] was quite content to sit back, without competition from a modern balance order clearance system for municipal securities, and carry on a lucrative business in trade-for-trade settlement, reaping large profits from transaction fees and interest revenues that would be reduced through the netting achieved by balance order clearance." NSCC continues that "[n]ow, when the municipal securities industry will no longer tolerate the continued absence of netting and balance order clearance, [BSPS] demands a *free* interface, knowing that this demand is unacceptable to the industry." (Emphasis in original.) NSCC concludes that BSPS hopes to create a "no lose situation for itself—either there will be no change in the *status quo*, in which case [BSPS] will happily continue to profit from transaction fees and interest charges on trade-for-trade settlement at the industry's expense, or NSCC will be forced to accept a free interface, in which case * * * NSCC will be required to grant [BSPS] free clearance services."

(iii) *The Commission's Determinations*—Because of the benefits that would result from the establishment of interfaces between NSCC's and BSPS's proposed systems, the Commission believes that the interfaces should be established at an early date. At the same time, the Commission recognizes that it will take time for NSCC and BSPS to work-out the operational details of the interfaces and to test the interfaces prior to putting them into operation. Consequently, establishing an interface concurrently with the commencement of the operation of the proposed systems on a test basis would delay the implementation of beneficial systems.

The Commission believes the best solution to those conflicting demands is to allow the test period to begin immediately but to require that an interface be established concurrently with the termination of the test period and the expansion of both systems to full-scale operation. This approach has a number of benefits. First, it would allow NSCC and BSPS to implement and begin testing their systems immediately. In addition, it would enable those participants chosen to participate in the test period to receive the benefits of automated municipal securities processing at the earliest possible date.

Second, this approach would address the operational concerns raised by both NSCC and BSPS. More specifically, this approach would address NSCC's comment that it is easier to interface systems after they are operational. At the same time, although this approach does not adopt BSPS's concern about the difficulty of interfacing existing systems, if BSPS and its participants know that interfaces are to be developed by the two clearing agencies and that those interfaces would be established at the end of the test period, they should be able to maintain sufficient flexibility in their operations to accommodate any changes necessitated by the interfaces. NSCC and its participants similarly should be able to accommodate any operational changes necessitated by the interfaces. Moreover, only the limited number of participants using the systems during the test period would be faced with the possibility of having to make operational changes to their systems.

Third, this approach would focus pressure from the securities industry on NSCC and BSPS to resolve their differences. The Commission recognizes that the relationship between NSCC and BSPS has not been a paradigm of cooperation. Rather, both clearing agencies, not only in this proceeding but also in other contexts, have had serious disagreements. The Commission is concerned that those differences may interfere with the speedy establishment of interfaces. The Commission believes that not authorizing NSCC and BSPS to operate their systems on a full-scale basis until an interface is established should result in the municipal securities industry's working with NSCC and BSPS in an effort to insure that interfaces are established as quickly as possible.

As an additional step to encourage the speedy establishment of interfaces, the Commission will require NSCC and BSPS to establish a coordinating committee whose task will be to facilitate the development by NSCC and BSPS of: (i) the operational framework of the interfaces; (ii) the method of compensation for performing the common activities of the interfaces; (iii) the method of allocating the costs of the interfaces between NSCC and BSPS; and (iv) the steps necessary to maintain the operational and financial integrity of the interfaces. That committee should consist of at leat ten persons. Two of those persons should be management personnel from NSCC; two should be management personnel from BSPS; and the remainder should be equally divided between participants or potential participants in NSCC's and BSPS's proposed systems. The committee should meet at least biweekly to resolve outstanding operational details concerning the establishment of the

interfaces.[48] In addition, the committee should report to the Commission in writing soon after each meeting on (i) the progress that has been made in establishing the interfaces; (ii) the issues that remain unresolved and (iii) the position each clearing agency takes on unresolved issues.[49]

In order to encourage the speedy establishment of interfaces, the Commission also will require NSCC and BSPS to submit a joint plan for establishing interfaces no later than April 15, 1980. That plan should provide for the establishment of those interfaces concurrently with the termination of the operation of those systems on a test basis and on the expansion of those systems to full scale operation. That plan also should specify, among other things: (i) the operational framework of the interfaces, including the entity or entities that will perform the common activities of the interfaces; (ii) the method of compensation for performing the common activities of the interfaces; (iii) the method of allocating the costs of the interfaces between NSCC and BSPS; and (iv) the assurances that each clearing agency will provide to maintain the financial and operational integrity of the interfaces.

Finally, if the interfaces are not established by the time the test period is scheduled to terminate, NSCC's and BSPS's authority to operate their systems for processing municipal securities transactions shall expire absent affirmative Commission action.

Conditions and Directives

In accordance with the provisions of Section 19(b)(2) of the Act, the Commission has determined that, subject to the terms contained in this order, NSCC's proposed rule change and BSPS's proposed rule changes, insofar as they apply to municipal securities transactions, are consistent with the requirements of the Act and the rules and regulations applicable to registered clearing agencies, and in particular: (i) are designed to promote the prompt and accurate clearance and settlement of securities transactions; (ii) are designed to assure the safeguarding of funds and securities which are in the custody or control of NSCC or BSPS; (iii) are designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions; (iv) are designed to remove the impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and in general, to protect investors and the public interest; (v) do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act; (vi) provide for the equitable allocation of reasonable dues, fees, and other charges among their participants; and (vii) reduce the physical movement of securities certificates;

It therefore is ordered that SR-NSCC-78-2 and that SR-BSPS-77-5 and SR-BSPS-80-3, insofar as they apply to transactions in municipal securities, are approved, subject to the terms contained in this order, including the following conditions and directives:

(i) NSCC and BSPS shall operate their proposed automated systems for processing municipal securities transactions on a test basis for a six month period commencing December 15, 1980. Initially, NSCC and BSPS each shall offer their proposed systems to no more than five participants; after the systems have been operating for two months, to no more than 15 participants each; and after the systems have been operating for four months, to no more than 25 participants each; and

(ii) During the test period, NSCC and BSPS shall provide the Commission with a monthly report describing the operation of their respective systems and containing a statistical profile of the operation of their respective systems. Furthermore, NSCC and BSPS each shall provide by May 15, 1981 and opinion report prepared by an independent public accountant concerning the operation of its system of internal accounting control during the first four months of operation of its proposed systems; and

(iii) NSCC may not use the pricing policy known as geographic price mutualization for the processing of transactions in municipal securities. Rather, NSCC must impose the same surcharge on municipal securities transactions processed through its branch network that NSCC currently imposes on transactions in securities listed on a national securities exchange and processed through NSCC's branch network; and

(iv) On or before April 15, 1981, NSCC and BSPS shall submit to the Commission a joint plan for the establishment of interfaces between their comparison systems and balance order systems for municipal securities transactions. That plan shall provide for the establishment of those interfaces concurrently with the termination of the operation of those systems on a test basis; and

(v) NSCC and BSPS shall establish interfaces between their comparison systems and between their balance order systems concurrently with the termination of the operation of the systems on a test basis. In the event that those interfaces are not established, NSCC's and BSPS's authority to operate their systems shall expire absent affirmative Commission action. Also in connection with those interfaces, neither NSCC nor BSPS shall charge their participants an interface fee or any fee which would operate as an interface fee; and

Further ordered, the NSCC and BSPS shall form a coordinating committee to facilitate the determination by NSCC and BSPS of: (i) the operational framework of the interfaces, (ii) the method of compensation for performing the common activities of the interfaces, (iii) the method of allocating the costs of those interfaces between NSCC and BSPS, and (iv) the steps necessary to maintain the operational and financial integrity of the interfaces. The coordinating committee shall consist of at least ten persons: (i) two members shall be management personnel from NSCC, (ii) two members shall be management personnel from BSPS, and (iii) the remainder shall be equallly divided between participants or potential participants in NSCC's and BSPS's respective systems. The coordinating committee shall meet at least biweekly to resolve outstanding operational details concerning the establishment of the interfaces and shall report to the Commission shortly after each meeting on (i) the progress that has been made in the establishing the interfaces, (ii) the issues that remain unresolved, and (iii) each clearing agency's position on unresolved issues.

Finally, because the Commission has requested BSPS to submit additional information on its proposed systems for processing transactions in government securities, the Commission has not considered those portions of SR-BSPS-77-5 and SR-BSPS-80-3 relating to the processing of transactions in government securities.

By the Commission.

George A Fitzsimmons,

Secretary.

[FR Doc 80-37451 Filed 12-2-80; 8:45 am]

BILLING CODE 8010-01-M

[48] The Commission believes that, in view of the importance of automated clearing to the municipal securities industry, organizations such as the Municipal Securities Rulemaking Board and the Public Securities Association could provide important assistance in this process by attending the meetings of the coordinating committee and offering their expertise to BSPS and NSCC.

[49] An additional benefit of the committee is that its written reports will help provide a record on which the Commission can rely if interfaces are not established by the end of the test period and further Commission action is required.

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Authority Act of 1933 and Public Utility Regulatory Policies Act of 1978; Proposed Policy on Dispersed Power Production and Interim Program and Guidelines for Implementation

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of proposed policy on dispersed power production and proposed interim program and guidelines for implementation.

SUMMARY: TVA has developed a proposed policy for encouraging dispersed power production in the Tennessee Valley region and an interim program and guidelines to assist TVA and its power distributors in implementation of the policy. The policy, program, and guidelines encompass cogeneration and small power production facilities included under sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95-617). That act and the Federal Energy Regulatory Commission's (FERC) regulations implementing said statutory provisions provide that TVA, for itself and its power distributors, take appropriate actions reasonably designed to encourage congeneration and small power production and further provide that TVA, after notice and opportunity for public hearing, implement the above regulations for itself and its power distributors. Comments are invited from interested person and the comments will be considered in making final determinations regarding the proposed policy, program, and guidelines.

DATES: Comments in writing must be received by 5 p.m. January 23, 1981, to be assured of being considered. An oral comment session will be conducted on January 19, 1981.

ADDRESS: Written comments should be sent to: Presiding Officer, Dispersed Power Production Hearing, Tennessee Valley Authority, 840 Power Building, Market Street, Chattanooga, Tennessee 37401.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford, Tennessee Valley Authority, 400 Commerce Avenue, EPB20, Knoxville, Tennessee 37902 (615) 632-4402.

PROCEDURES: On January 19, 1981, TVA will conduct an oral comment session on the proposed policy, interim program, and guidelines for implementation in the Provident Life and Accident Insurance Building, Room 151, Fountain Square, Chattanooga, Tennessee 37402, beginning at 9:30 a.m. Any person who wishes to offer comments on the proposed policy and interim program and guidelines during this session is requested to notify Dawn S. Ford.

After further consideration following review of public comments, including those received during the oral comment session, the TVA Board will make its final determinations as to the policy and interim program and guidelines.

SUPPLEMENTARY INFORMATION: The proposed policy and interim program and gudielines being submitted for public comment are intended to encourage the development of cogeneration and small power production facilities in the Tennessee Valley region.

Cogeneration facilities simultaneously produce two forms of useful energy, such as electric power and steam. Cogeneration facilities use significantly less fuel to produce electricity and steam (or other forms of energy) than would be needed to produce the two separately. Thus, by using fuels more efficiently, congeneration facilities can make a significant contribution to the Nation's effort to conserve its energy resources.

Small power production facilities rely mainly on biomass, waste, or renewable resources, including wind, solar and water, to produce electric power. Reliance on these sources of energy can reduce the need to consume fossil fuels to generate electric power.

In August of 1979 TVA initiated an Experimental Cogeneration Program to provide a market for electrical energy produced by cogenerators in the TVA region. The principal features of the program are: (1) Purchase prices designed to encourage cogeneration when TVA is experiencing system peak loads, (2) availability of arrangements for up to ten years, (3) standby power charges for energency and maintenance power requested by a cogenerator, (4) technical assistance to potential cogenerators, and (5) with respect to a cogenerator's firm power requirements, firm power availability under appropriate standard resale rate schedules and the customary arrangements generally applicable to commercial and industrial customers.

There is a growing opportunity for and interest in the development of small power production and cogeneration facilities within the region which suggest that additional efforts to encourage dispersed power production can be beneficial. Factors contributing to this interest include financial incentives under various State and Federal energy programs and recent Federal rulemaking under PURPA whereby TVA and its power distributors are required to interconnect with and purchase the output of qualifying facilities. TVA plans to adopt a policy with implementing guidelines and purchase price/resale rate schedules that will foster the development of cost-effective dispersed power production facilities may and provide the means by which such facilities be integrated with TVA's generation and construction activities and conservation programs.

In general this involves:

—A policy that commits TVA to the support of cost-effective dispersed power production developments in the region.

—Interim guidelines and experimental purchase/resale schedules for purchase from and service to qualified producers by TVA and the distributors as required by FERC's rules under PURPA.

—Additional interim guidelines for purchase from and service to certain small power production and cogeneration facilities that may be acquired by the distributors of TVA power.

The guidelines include uniform arrangements for the region with respect to such things as producer qualifications, responsibilities for interconnection facilities, metering equipment, and safety and system protection requirements.

Criteria under FERC's rules for determining the eligibility of production facilities for the benefits prescribed by PURPA are followed in TVA's proposed program and include the following:

Criteria for qualifying small power production facilities limit power production or capacity to 80 megawatts. The primary energy source of a facility must be biomass, waste, or renewable resources, and the use of oil, natural gas, and coal may not exceed 25 percent of the facility's total energy imput. Electric utilities or their affiliates are not permitted to have more than 50 percent equity interest in the facilities.

Cogeneration facilities must qualify on two general criteria: efficiency and ownership. Minimum efficiency standards are stated separately for topping- and bottoming-cycle facilities. The ownership criterion is the same as for small power production facilities. The only fuel use criterion for qualifying a new facility is that it may not be diesel powered.

TVA plans to adopt interim guidelines and pricing schedules. This recognizes

that subsequent changes may need to be made on the basis of early experience of TVA and the distributors in this rapidly developing area.

The pricing of the power to be purchased by TVA and the distributors from qualified production facilities will be a significant factor in the proposed program. TVA recently completed the process of compiling data on the avoided costs of production or purchased power from the TVA system and for the distributors. After preliminary analysis of such costs, TVA believes that the price schedule being used in the Experimental Cogeneration Program should be applied to dispersed power production generally.

However, establishing a final pricing schedule does not appear to be feasible at this time in view of the fact that there is some likelihood of significant pricing modifications to accommodate changes in the wholesale rate that may result from pending rate change proceedings between TVA and the distributors. TVA therefore proposes that the price schedule applicable in the subject policy proposal be based on the schedule authorized for use with the Experimental Cogeneration Program as an interim measure until such time as the wholesale rate may be revised to reflect time-of-use variations in TVA's costs.

Although dispersed power production facilities owned and operated by distributors would not be qualified facilities under PURPA, TVA distributors may be able to contribute significantly to the development of dispersed power production in the Tennessee Valley. Accordingly, TVA's program includes distributor owned facilities.

To accommodate full distributor participation in the dispersed power production program, TVA is prepared to make changes in the present contractual arrangements with its distributors that require them to purchase all their power requirements from TVA.

Contract provisions limiting the use of power revenues have been used by TVA to help ensure that power is made available to consumers at the lowest possible cost, while at the same time, ensuring the viable financial operation of distributor electric systems. In light of the broadening of the scope of the distributors' activities contemplated by the dispersed power production program, TVA believes the present provisions should be modified to permit limited use of revenues for the evaluation and funding of cost-effective projects.

TVA as necessary will monitor and take appropriate measures to ensure that implementation of the interim dispersed power production program by the distributors is carried out in a manner consistent with these program guidelines. Included in this oversight activity would be the review and approval before initial application by the distributors of any additional specifications they may wish to adopt to supplement these guidelines. Also, during the period that the interim guidelines are in effect, the TVA staff would work with representatives of the distributors, the general public, and other interested parties to explore various modifications and changes in the price schedules and guidelines that might enhance their effectiveness in achieving policy objectives.

The proposed TVA policy, interim guidelines and experimental price and rate schedules for dispersed power production are printed below.

Dated: November 24, 1980.

W. F. Willis,

General Manager.

Proposed Interim Program for Dispersed Power Production

Proposed TVA Policy Statement

Consistent with the provisions of the TVA Act and the national goals of energy conservation, efficient use of resources, and fair rates to all electric consumers, TVA encourages the use of cost-effective dispersed power production projects by the region's power distributors and electric consumers and will make such changes in its wholesale and resale contract provisions and rate schedules, develop programs for dispersed power production, and take such other actions, all as TVA deems necessary to permit optimum development of such projects in an environmentally acceptable manner.

Proposed Interim Guidelines

A. Facilities Owned by all Entities Except Distributors of TVA Power

1. Criteria for Qualified Facilities

Criteria for qualification of small power production facilities and cogeneration facilities are the same as set out in FERC's rules (18 CFR Part 292).

2. Purchase of Output from Qualified Facilities

a. Owners of qualified facilities (qualified producers) will be allowed the option of either (1) using the output of their production facilities to supply their own requirements or (2) selling their surplus or entire output to the local distributor of TVA power or TVA.

b. Until October 1, 1982, owners of qualified cogeneration facilities may make arrangements to sell their output under the provisions of TVA's Experimental Cogeneration Program which was initiated on August 30, 1979.

c. The qualified producer's right to sell power to the distributor or TVA may be subject to temporary curtailments when, as a result of operational circumstances, the delivery of such power would interfere with the safe and efficient operation of TVA's and/or distributor's respective power systems.

d. All qualified producers that desire to sell power to the distributors of TVA power or TVA will be required to execute contractual agreement.

3. Purchase Price for Power from Qualified Facilities

a. Until October 1, 1982, qualified producers will have the option of (1) receiving payments for the output of their facilities billed under the experimental pricing schedule (see Experimental Price Schedule DPP–X) or (2) any alternative pricing schedule that TVA may publish for use by itself and the distributors of TVA power prior to that date.

b. Qualified producers that enter into contracts prior to October 1, 1982, for the sale of power will be entitled to continue to be paid on the basis of the contracted pricing schedule for the term of the contract but not in excess of 10 years.

c. Payments under the pricing schedule to qualified producers that elect to sell their output to other than the interconnected utility will be subject to adjustments for line losses and wheeling charges.

4. Availability of Standby Power to Qualified Facilities for Scheduled Maintenance and Emergency Backup

a. The purchase of standby power by qualified producers will be optional.

b. Qualified producers contracting for the purchase of standby power requirements will do so under the experimental pricing schedule (see Experimental Standby Power Rate Schedule SP–X).

c. When the purchase of standby power requires the distributors or TVA to provide additional interconnection or metering facilities, qualified producers will pay for the additional costs of such facilities in accordance with subsections A.6.a. and c. of the guidelines.

5. Sale of Power to Qualified Facilities

a. Qualified producers located within the area served with TVA power may

purchase their firm, supplemental, or interruptible power requirements under the standard rates for their customer classifications currently in effect for the portion of the area in which a particular producer is located.

b. Qualified producers will contract for their expected maximum supply requirements including, as appropriate, amounts that may be needed to compensate for scheduled or unscheduled loss of output from their own production facilities when a particular qualified producers elects not to purchase standby power.

c. Neither TVA nor the distributors of TVA power will contract or otherwise become obligated to sell power to any qualified producers that are not located within the area in which TVA power can be made available under the provisions of the TVA Act.

6. Responsibility for Interconnection and Metering Costs

a. Owners of qualified facilities will be required to pay for any additional transmission or distribution costs (including the costs of metering, system protection, and safety equipment) to the extent that such costs are in excess of those that the distributors of TVA power and TVA would have incurred if the qualified producer's output had not been purchased. For the duration of the Experimental Cogeneration Program, TVA will continue to pay the cost of cogeneration metering installations for facilities qualifying thereunder.

b. Existing customers of the distributors or TVA that subsequently install qualified facilities may also be required to compensate the distributor or TVA for the unamortized costs of any existing transmission or distribution facilities that are rendered surplus by changes in the customer's supply requirements.

c. The payment of the above interconnection, metering, and other costs may take the form of a lump-sum payment or equivalent monthly payments provided for in contracts with the owners of qualified facilities. Deferred payments for acceptabled expenses may be extended for the term of the contract but not in excess of 10 years and may be financed at a rate equivalent to purchaser's current cost of money, adjusted annually.

7. Compliance with Safety, System Protection, and System Operating Guidelines (see also section C for supplemental details)

a. Qualified producers will be required to provide and maintain suitable apparatus to prevent operation of their production facilities from causing unusual fluctuations or disturbances on the distributors' or TVA's systems.

b. Qualified producers will cooperate with the distributors and TVA in developing mutually acceptable operating procedures for delivery of the output of the qualified producers' facilities.

c. Qualified producers will be responsible for providing and maintaining all equipment they deem necessary for the protection of their own property and operations.

d. All protection, safety, and interconnecting equipment installed by qualified producers must meet standards of good utility practices and be capable of continuous parallel operation with TVA's and distributors' systems.

B. Facilities Owned by Distributors of TVA Power

1. Criteria for Authorized Facilities

a. Distributors will be permitted to develop, own, and operate facilities that meet the qualifying criteria referred to in section A.1. with the exception of criteria in FERC's rules limiting electric system participation in facility ownership; provided the distributors comply with the following additional requirements.

b. Without prior approval from TVA, distributors will not undertake the construction or acquisition of production facilities with design production capacities in excess of (1) 80 MW for any individual facility or (2) any amount that would cause the aggregate production capacity of all production facilities owned by the distributor to exceed 10 percent of the distributor's peak capacity requirements projected for the year in which the facilities become operational.

c. Without prior approval from TVA, distributors will not undertake the construction of acquisition of production facilities for which the annual cost commitment (including debt service) will cause the projected aggregate annual cost commitment for all production facilities of the distributor to exceed 10 percent of the distributor's projected annual net revenues (resale revenues less purchased power costs) during any year after the facilities become operational.

2. Purchase of Output from Distributor-Owned Facilities

a. Distributors owning authorized facilities will be allowed the option of either (1) using the output to partially supply their own power requirements or (2) selling their surplus or entire output to TVA.

b. Distributors' right to sell power to TVA may be subject to temporary curtailments when, as a result of operational circumstances, the delivery of such power will interfere with the safe and efficient operation of TVA's bulk power supply system.

3. Purchase of Output from Distributor-Owned Facilities

a. Until October 1, 1982, distributor producer will have the option of (1) receiving payments for the output of authorized facilities billed under the pricing schedule (see Experimental Price Schedule DPP-X) or (2) any alternative pricing schedule that TVA may publish for use by itself and the distributor of TVA power prior to that date.

b. Distributor producers that enter into contracts prior to October 1, 1982, for the sale of their output will be entitled to continue to be paid on the basis of the contracted pricing schedule for the term of the contract not to exceed 10 years.

c. Payments under the pricing schedule to distributor producers will be increased as appropriate to reflect any savings in TVA's transmission losses resulting from TVA's purchases from the distributor.

4. Availability of Standby Power to Distributors for Scheduled Maintenance and Emergency Backup

a. TVA will make arrangements for the supply of standby power to distributors for resale to qualified producers interconnected with their systems. Qualified producers contracting for the purchase of standby power requirements will do so under the experimental pricing schedule (see Experimental Standby Power Rate Schedule SP-X).

b. When distributors own production facilities and elect to use the output of their facilities to reduce their supply requirements from TVA or when distributors contract with qualified producers for the same purpose and the aggregate supply of a particular distributor from other than TVA sources exceeds 10 percent of the distributor's total peak supply requirements, TVA reserves the right to require the distributor to purchase reasonable amounts of standby power from TVA. In the event this level of supply is achieved through dependence upon facilities operated by customers of the distributor, TVA will work with distributor to develop an appropriate method for allocating the charges for said supply of standby power among those customers.

c. When the purchase of standby power requires TVA to provide additional interconnections or metering facilities, distributors will pay for the

additional costs of such facilities in accordance with subsection B.6.a. of the guidelines.

5. Sale of Power to Distributors Owning Authorized Production Facilities or Purchasing Partial Requirements from Qualified Producers

a. Distributors obtaining part of their total supply requirements from their authorized facilities or their customers' qualified facilities may purchase the balance of their supply requirements from TVA at the then-current wholesale rate for municipal and cooperative distributors of TVA power; provided, however, as indicated in 4.b above, distributors that purchase less than 90 percent of their peak capacity requirements from TVA may be required to purchase reasonable amounts of standby power from TVA.

b. For planning purposes, distributors should anticipate that the structure of TVA's wholesale rate may be changed to track TVA production costs from time of use—peak responsibility standpoints—and that these changes could affect the economics of distributor owned facilities. Such modifications should have little or no effects on the economics of distributor purchases from qualified facilities owned by their customers since it is contemplated that their output will be purchased under price schedules that reflect the wholesale rate.

6. Responsibility for Transmission and Metering Costs

a. Distributors that acquire production facilities for partial supply of their own requirements or for sale to TVA will be required to pay TVA for any additional transmission or distribution costs (including the costs of metering, system protection, and safety equipment) to the extent that any such additional costs are in excess of those that TVA would have incurred if the distributor did not acquire production facilities.

b. Distributors that purchase output for their own use from qualifying facilities owned by their customers will be required to pay TVA for any additional transmission or delivery costs (including the costs of metering, system protection, and safety equipment) imposed on TVA to the extent that any such additional costs are in excess of those that TVA would have incurred if the distributors did not purchase part of their requirements from qualified producers. Likewise, distributors shall require qualified producers to bear the additional distribution costs resulting from their purchase commitments to qualified producers.

c. Distributors that accept delivery of the output purchased by TVA from qualifying facilities owned by the distributor's customers will be repaid by TVA for any additional transmission, distribution, and administration costs that the distributor incurs to the extent that such additional costs are in excess of those the distributor would have incurred if TVA had not purchased output from the distributor's customers. For the duration of the present Experimental Cogeneration Program, this will take the form of 1½ percent of the sum of (1) all standby power charges (reservation, demand use, and energy use) billed to cogenerators plus (2) the total amount paid by TVA for cogenerated energy purchased from cogenerators connected to the distributor's system.

d. Distributors that operate production facilities or purchase output from their customers for their own requirements may be required to compensate TVA for the unamortized costs of any existing transmission or distribution facilities owned by TVA that are rendered surplus by any reduction in the customer's supply requirements from TVA.

7. Compliance with Safety, System Protection, and System Operating Guidelines (see also section C for supplemental details)

a. Distributor producers will be required to provide and maintain suitable apparatus to prevent operation of their production facilities from causing unusual fluctuations or disturbances on TVA's system.

b. Distributor producers will cooperate with TVA in developing mutually acceptable operating procedures for integrating the output of their production facilities with the output from TVA's production facilities.

c. Distributor producers will be responsible for providing and maintaining all equipment they deem necessary for the protection of their own property and operations.

d. All protection, safety, and interconnection equipment installed by distributor producers must meet standards of good utility practices and be capable of continuous parallel operation with TVA's system.

8. Contract Amendments for Distributors

TVA will enter into contract amendments that:

a. Recognize that there may be limited distributor ownership and operation of production facilities meeting the criteria set forth in section B.1. and that distributors may purchase power from qualifying cogeneration facilities and qualifying small power production facilities as referred to in section A.

b. Permit distributors to use up to 2 percent of their annual net revenues (resale revenue less wholesale power cost) for the evaluation of proposed dispersed power production projects. Evaluations requiring expenditures above this amount would be subject to prior review and approval by TVA.

c. Provide that TVA be given reasonable advance notice of all power production facilities that either the distributors or their customers plan to acquire, and to coordinate with TVA the development of any necessary power supply and operating arrangements.

C. Supplemental Safety and System Protection Requirements Applicable to Owners of Qualified Production Facilities

These requirements shall be applicable to assure system safety and reliability of interconnected operations. The adequacy of safety and system protection facilities for interconnection with qualified producers will be determined by TVA and, as appropriate, by the distributors but only insofar as necessary for such facilities to be determined compatible with the respective connecting system.

1. Fault Protection

a. Adequate protection facilities shall be provided by the owner to protect the line(s) connecting the production facility to the electric system from faults originating from the production facility. This includes primary fault disconnecting switchgear and secondary relaying and control circuitry.

b. It shall be the responsibility of the owner to provide adequate protection of its production facility from fault currents originating in the electric system because of a fault in the production facility.

2. Overvoltage and Undervoltage

a. It shall be the responsibility of the owner to provide adequate protection or safeguards to prevent damage to the connecting electric system caused by overvoltage originating from the operation of the production facility.

b. It shall be the responsibility of the owner to provide adequate protection of its production facility from inadvertent overvoltages originating on the connecting electric system.

c. It shall be the responsibility of the owner to provide facilities adequate to prevent the production facility from being damaged by undervoltage conditions on the connecting electric system.

3. Synchronization and Isolation

a. The owner shall provide adequate facilities for the proper synchronization of its production facility with the connecting electric system such that synchronism is accomplished without causing undesirable currents, surges, or voltage dips on the connecting electric system.

b. The owner shall provide means for properly disconnecting the production facility from the connecting electric system for system line interruptions and for the proper resynchronization of the production facility following such interruptions.

c. In order to provide safety for the connecting electric system's employees performing emergency repairs or routine maintenance to its lines, the owner must provide equipment for disconnecting and isolating the production facility during electric system interruptions. Such equipment must be capable of preventing the production facility from energizing the system's lines during such interruptions and must include a device (or devices) which the electric system's employees can operate and lock so as to isolate the production facility and all means of backfeed into the connecting electric system.

4. Grounding

The facilities (generator, connecting transformer, etc.) that connect to the electric system must be grounded in such a way that coordination is maintained with the relay protection system in use by the connecting electric system and prevents the connecting facility from being subjected to deleterious voltages during fault conditions.

5. Harmonics

a. Adequate design precautions must be taken by the owner to prevent excessive and deleterious harmonic voltages or currents caused by the production facility from occurring on the connecting electric system.

b. The production facility must be designed to operate with normal harmonic voltages and currents that originate from the connecting electric system.

6. Power Factor

The operation of the production facility shall not produce excessive reactive power during offpeak conditions nor consume excessive reactive power during onpeak conditions.

7. Voltage Regulation

The owner shall provide necessary voltage regulation equipment to prevent the production facility from causing excessive voltage variation on the connecting electric system. The voltage variation caused by the production facility must be within ranges capable of being handled by the voltage regulation facilities used by the connecting electric system.

8. Voltage Flicker

The voltage surges caused by the operation, synchronization, or isolation of the production facility shall be within the standards of frequency of occurrence and magnitude established by the connecting electric system to prevent undue voltage flicker on the connecting electric system.

9. Voltage Balance

a. The voltage produced by the production facility must be balanced if it is a three-phase installation. The waveform must be sinusoidal and compatible with the operation of the connecting electric system.

b. The owner will be responsible for protecting its production facility from the inadvertent phase unbalance in electric system's voltage.

10. Operational Oversight

a. The owner will be responsible for operating its production facility in a manner that will not cause undesirable or harmful effects to the connecting electric system or its other customers.

b. The owner will not begin initial operation of the production facility until it has received written approval from the connecting electric system.

c. The owner shall supply the connecting electric system with technical specifications and drawings upon request relating to the production facilities and related interconnection, operation, and protective equipment.

d. The connecting electric system shall have the right at any time to inspect and test the operation of any control and protective equipment owned and maintained by the owner.

Experimental Price Schedule DPP-X

Availability

The output of small power production and cogeneration facilities that qualify under TVA's Dispersed Power Production Program will be purchased by TVA or distributors of TVA power in accordance with the current guidelines for this program.

Character of Purchased Power

Unless otherwise provided by contract, the character of purchased power will be alternating current, single or three-phase, 60 hertz. Voltage shall be determined by the voltage of TVA's or Distributor's distribution lines in the vicinity unless otherwise agreed.

Purchase Prices

Energy from qualifying dispersed power production facilities will be paid for on the following basis:

A. For small power producers with production capacity of less than 100 kW, without time-of-day metering capability, payment on a monthly basis of an amount per kWh at 1.00 times the base price for all energy purchased.

B. For small power producers with production capacity of less than 100 kW with time-of-day metering capability; all small power producers with production capacity of 100 kW or greater; and all cogenerators, payment on a monthly basis of an amount per kWh determined as follows:

(1) 1.35 times the base price for energy purchased during onpeak hours, and

(2) 0.85 times the base price for energy purchased during offpeak hours.

The base price shall equal the sum of the following: (1) The demand charge of the Wholesale Power Rate (Wholesale Power Rate—Schedule WS) expressed in cents per kW, divided by 730 hours, and (2) the energy charge of said Wholesale Power Rate—Schedule WS (exclusive of any exempt or special energy charges). The demand charge and energy charge under items (1) and (2) above shall both reflect any changes in or modifications to Wholesale Power Rate—Schedule WS, including any replacement thereof, and shall both be adjusted by TVA from time to time in accordance with the adjustment provisions of TVA's Wholesale Power Contracts.

Onpeak hours shall be:

During months of January–April and October–December from 6 a.m. to 12 noon and from 4 p.m. to 10 p.m., excluding Sundays and Federal holidays. During months of May–September from 10 a.m. to 10 p.m., excluding Sundays and Federal holidays.

Offpeak hours shall be:

All hours not onpeak hours.

All hours on Sundays and Federal holidays.

The above times shall be the applicable standard times prescribed under the Uniform Time Act of 1966, as amended. The time periods are subject to change by published notice from TVA but the total number of onpeak hours will not be less than 45 per week.

Experimental Standby Power Rate Schedule SP-X

Availability

Available for small power producers and cogenerators that qualify under TVA's Dispersed Power Production Program and that elect to purchase standby service for scheduled maintenance and emergency backup power supply.

Character of Standby Service

Alternating current, single or multiphase, 60 hertz. Voltage supplied shall be at the discretion of Distributor and shall be determined by the voltage available from distribution lines in the vicinity or as otherwise agreed upon.

Standby Power Charges

Reservation charges:

30 percent of the Demand Charge per month per kilowatt of the customer's standby contract demand, plus

4 percent of the Demand Charge per month per kilowatt of the aggregate production capacity of customer's facilities.

Demand use charges*:

20 percent of the Demand Charge per week per kilowatt of maintenance power prescheduled by the customer, plus

40 percent of the Demand Charge per week per kilowatt of emergency backup power used by the customer.

Energy use charge*:

3 percent of the Demand Charge per day per kilowatt of maintenance power prescheduled by the customer and emergency backup power used by the customer.

Demand Charge as used above refers to the demand charge set out in Part B of the TVA General Power Rate Schedule, as adjusted pursuant to any then effective Adjustment Addendum, that is applicable for service to customer.

Contract Requirement

Customers to whom this rate schedule is applicable shall be required to execute contracts, and such contracts shall be for a term not to exceed 10 years.

Payment

Bills under this rate schedule will be rendered monthly. Any amount of bill unpaid after due date specified on bill may be subject to additional charges under Distributor's standard policy.

*Standby demand use charges will be prorated for periods of less than one week. The energy use charge is in addition to the energy charge under the applicable resale rate schedule which is applicable to all energy furnished to the customer.

Single-Point Delivery

The charges under this rate schedule are based upon the supply of standby service through a single delivery and metering point, and at a single voltage. If service is supplied to the same customer through more than one point of delivery or at different voltages, the supply of service at each delivery and metering point and at each different voltage shall be separately metered and billed under this rate schedule.

Service is subject to rules and regulations of the Distributor and guidelines in TVA's Dispersed Power Production Program.

Currently Effective Prices and Charges for the Purchase of Power From and the Supply of Standby Power to Small Power Production and Cogeneration Facilities

October 2, 1980*

Purchase of Power by TVA or Distributor—Schedule DPP-X

A. For small power producers with production capacity of less than 100 kW, without time-of-day metering capability

Energy price:

All kilowatthours per month at 2.792 cents per kilowatthour

B. For small power producers with production capacity of less than 100 kW with time-of-day metering; all small producers with production capacity of 100 kW or greater; and all cogenerators

Energy price:

All onpeak kilowatthours per month at 3.770 cents per kilowatthour

All offpeak kilowatthours per month at 2.374 cents per kilowatthour

Purchase of Standby Power by Customer—Schedule SP-X

Reservation charges:

$1.70 per month per kilowatt of customer's standby contract demand, plus

$0.23 per month per kilowatt of customer's aggregate production capacity

Demand use charges:

$1.13 per week per kilowatt of maintenance power prescheduled by customer, plus

$2.27 per week per kilowatt of emergency backup power used by customer

Energy use charge:

$0.17 per day per kilowatt of maintenance power prescheduled by customer and emergency backup power used by customer

*All prices and charges are subject to subsequent adjustments, changes, and other provisions as set forth in the price and rate schedules.

[FR Doc. 80-37518 Filed 12-2-80; 8:45 am]
BILLING CODE 8120-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 80-286]

Vessels in Foreign and Domestic Trades; Fee Schedule for Vessel Services

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

ACTION: General notice.

SUMMARY: The "Customs Procedural Reform and Simplification Act of 1978" repealed several statutes under which Customs charged and collected fees for specific services provided to vessels by Customs officers. That Act authorized the Secretary of the Treasury to establish a new schedule of fees to return to the Government the approximate costs of the services provided. This document sets forth the revised schedule of fees to be charged and collected for 1981 for the specified services.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 95-410, the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978 (the "Act"), repealed sections 2654, 4381, 4382, and 4383 of the Revised Statutes of the United States (19 U.S.C. 58; 46 U.S.C. 329, 330, and 333), the statutory authority under which Customs had been charging and collecting fees for specific services provided to vessels by Customs officers.

Because these "Navigation Fees," which are set forth in § 4.98(a), Customs Regulations (19 CFR 4.98(a)), did not cover the costs of providing the services, section 214 of the Act authorized the Secretary of the Treasury to establish a new schedule of fees to be charged and collected for furnishing these services. The fees are to be consistent with section 501 of the Independent Officers Appropriation Act, 1952 (31 U.S.C. 483a), the so-called "User Charges Statute," which provides that the costs of specific services for private interests shall be reimbursed to the Government.

By Treasury Decision 80-25, published in the Federal Register on January 18, 1980 (45 FR 3570), Customs established a fee schedule to be used for 1980, and amended § 4.98(a), Customs Regulations, to provide that a revised fee schedule will be published in the Federal Register and Customs Bulletin in December of each year setting forth a revised schedule of navigation fees for the specified vessel services to be performed during the following year. The revised fee schedule is to reflect changes in the rate of compensation paid to the Customs officer performing the service. The fees are to be calculated in accordance with §§ 19.5(b) and 24.17(d), Customs Regulations (19 CFR 19.5(b), 24.17(d)), and based upon the amount of time the average service requires of a Customs officer in the fifth step of GS-9.

Because of the Federal pay increase which became effective October 5, 1980, it is necessary for Customs to revise the schedule of fees for 1981 to take into account this increased cost in accordance with § 4.98(a), Customs Regulations. The hourly rate utilized is $13.88, thereby reflecting the change in the rate of compensation paid to a Customs officer in the fifth step of GS-9 performing the service. The fees have been rounded off to the nearest tenth of a dollar.

Action

The following revised schedule of navigation fees shall be effective during 1981:

Fee No. and description of services	Fee
1 Entry of vessel, including American, from foreign port:	
(a) Less than 100 net tons	$6.90
(b) 100 net tons and over	13.90
2 Clearance of vessel, including American to foreign port:	
(a) Less than 100 net tons	6.90
(b) 100 net tons and over	13.90
3 Issuing permit to foreign vessel to proceed from district to district, and receiving manifest	13.90
4 Receiving manifest of foreign vessel on arrival from another district, and granting a permit to unlade	13.90
5 Receiving post entry	6.90
6 Receiving official bond not otherwise provided for	3.50
7 Certifying payment of tonnage tax for foreign vessels only	3.50
8 Furnishing copy of official document, including certified outward foreign manifest, and others not elsewhere enumerated	13.90

Authority

R.S. 251, as amended, sec. 501, 65 Stat. 290, 92 Stat. 888 (19 U.S.C. 66, 31 U.S.C. 483(a), Pub. L. 95-410).

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: November 17, 1980.

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 80-37588 Filed 12-2-80; 8:45 am]

BILLING CODE 4810-22-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 234
Wednesday, December 3, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, December 12, 1980.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-5314.

[S-2204-80 Filed 12-1-80; 1:18 pm]

BILLING CODE 6351-01-M

2

EXPORT-IMPORT BANK.

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act", 5 U.S.C. 552b, notice is hereby given that the Board of Directors of the Export-Import Bank of the United States will meet in open session on Tuesday, December 16, 1980, at 2 p.m., to consider the Medium-Term Programs of the Bank.

The meeting will be held in room 1143 at 811 Vermont Avenue, N.W., Washington, D.C.

Requests for information concerning this meeting may be directed to Warren W. Glick, General Counsel, telephone 202-566-8334.

Dated: November 28, 1980.

Warren W. Glick,

General Counsel, Export-Import Bank of the United States.

[S-2199-80 Filed 12-1-80; 11 17 am]

BILLING CODE 6690-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Agency Meeting

Purusant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, December 8, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552 (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii),(c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

The Bank of Northern New Mexico, a proposed new bank, to be located between 7th and 8th Streets, on the south side of Mills Avenue, Las Vegas, New Mexico

American Heritage Bank, a proposed new bank, to be located at 2409 Country Club Road, El Reno, Oklahoma

Andover Savings Bank, Andover, Massachusetts, an operating noninsured mutual savings bank

The Bank for Savings, Malden, Massachusetts, an operating noninsured mutual savings bank

Medford Savings Bank, Medford, Massachusetts, an operating noninsured mutual savings bank

Mutual Bank for Savings, Newton, Massachusetts, an operating noninsured mutual savings bank

Quincy Savings Bank, Quincy, Massachusetts, an operating noninsured mutual savings bank

Ware Savings Bank, Ware, Massachusetts, an operating noninsured mutual savings bank

Williamstown Savings Bank, Williamstown, Massachusetts, an operating noninsured mutual savings bank

Applications for consent to establish a branch:

United Bank Alaska, Anchorage, Alaska, for consent to establish a branch at NHN Ridgecrest Drive, Bethel, Unincorporated Borough, Alaska

Dauphin Deposit Bank and Trust Company, Harrisburg, Pennsylvania, for consent to establish a branch at the northeast corner of the intersection of Route 39 and Forest Hill Drive, Lower Paxton Township, Pennsylvania

Request for modification of a condition imposed in granting consent to establish a branch:

Pioneer Citizens Bank of Nevada, Reno, Nevada

Request for rescission of a condition imposed in granting consent to purchase bank premises:

First Bank, Colorado Springs, Colorado

Request for rescission of a condition imposed in granting consent to change location:

Crosby State Bank, Crosby, Texas

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,500-L—Southern National Bank, Birmingham, Alabama

Case No. 44,547-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee

Case No. 44,550-L—First State Bank of Northern California, San Leandro, California

Case No. 44,569-L—Franklin National Bank, New York, New York

Case No. 44,574-L—The Drovers' National Bank of Chicago, Chicago, Illinois

Case No. 44,576-L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee

Case No. 44,583-L—American City Bank & Trust Company, National Association, Milwaukee, Wisconsin

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and, (c)(9)(A)(ii))

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6))

Reports of committees and officers:

Report of actions taken by the Division of Liquidation under delegated authority—Sale of Lots

Report of actions taken by the Division of Liquidation under delegated authority—Status of Approved Committee Cases

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: December 1, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2201-80 Filed 12-1-80; 11:26 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, December 8, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Uniform Policy for Classification of Consumer Installment Credit Based on Delinquency Status—Application to Mutual Savings Banks.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: December 1, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2202-80 Filed 12-1-80; 11:27 a.m.]

BILLING CODE 6714-01-M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 11 a.m., December 4, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

Branch Office Application—Fidelity Federal Savings and Loan Association, Greenville, South Carolina

Branch Office Application—Midwest Federal Savings and Loan Association of Minot, Minot, North Dakota

Management Interlock—(Proposed) Central State Savings and Loan Association, Mount Clements, Michigan

Preliminary Application for Conversion to a Federal Mutual Charter—First Savings and Loan Association of Saginaw, Saginaw, Michigan

ONR Budget Reallocation Calendar Year 1980 Budget

Proposed 1981 Budget of the Office of Neighborhood Reinvestment

Application for Bank Membership—United Mutual Savings Bank, New York, New York

Bank Membership and Insurance of Accounts—Capitol Savings and Loan Association, Salem, Oregon

Branch Office Application—East-West Federal Savings and Loan Association, Los Angeles, California

Branch Office Application—Vermont Federal Savings and Loan Association, Baltimore, Maryland.

No. 426, December 1, 1980.

[S-2203-80 Filed 12-1-80; 12:21 pm]

BILLING CODE 6720-01-M

6

[FCSC Meeting Notice No. 1-801]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time

Wed., Dec. 3, 1980 at 10:30 a.m. (canceled)
Wed., Dec. 10, 1980 at 10:30 a.m. (canceled)
Wed., Dec. 17, 1980 at 10:30 a.m. (canceled)
Wed., Dec. 24, 1980 at 10:30 a.m. (canceled)
Wed., Dec. 31, 1980 at 10:30 a.m. (canceled)

Dated at Washington, D.C. on November 20, 1980.

Judith H. Lock,

Administrative Officer.

[S-2205-80 Filed 12-1-80; 2:17 pm]

BILLING CODE 4410-01-M

7

NATIONAL LABOR RELATIONS BOARD.

Meeting.

TIME AND DATE: 11 a.m., Monday, December 1, 1980.

PLACE: Board conference room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION:

Robert Volger, Acting Executive Secretary, Washington, D.C. 20570, telephone: (202) 254-9430.

Dated: Washington, D.C., December 1, 1980.

By direction of the Board.

Robert Volger,

Acting Executive Secretary, National Labor Relations Board.

[S-2207-80 Filed 12-1-80; 2:49 pm]

BILLING CODE 7545-01-M

8

[1P0401]

PAROLE COMMISSION.

National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND PLACE: 9:30 a.m., Tuesday, December 2, 1980.

PLACE: Room 724, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble,

Case Analyst, National Appeals Board, U.S. Parole Commission, (202) 724–3094.

[S-2200-80 Filed 12-1-80; 11:17 am]

BILLING CODE 4410-01-M

9

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 a.m., December 11, 1980.

PLACE: Board's meeting room, 8th floor, headquarters building, 844 Rush Street, Chicago, Illinois 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

(1) Continuance of the Board's office at Springfield, Massachusetts.

(2) Mandatory payment of taxes by employers by means of the Treasury Financial Communications System.

(3) President's Reorganization Project—Report on Strengthening Federal Cash Management.

(4) Fiscal Year 1981 travel situation.

(5) Appeal on computation of supplemental annuity, Hewlett G. Skidmore.

(6) Appeal on computation of annuity involving military service, John N. Parrish.

(7) Appeal of nonwaiver of overpayment, Alberta E. Burns.

(8) Appeal from referee's denial of spouse's annuity, Ellen C. Thompson.

Portion closed to the public:

(A) Appeal from referee's denial of disabled child's insurance annuity, Donald L. Rhine.

(B) Appeal from referee's denial of disability annuity, Dolores M. Foster.

(C) Appeal from referee's denial of disability annuity, William J. Boese.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board, COM No. 312–751–4920; FTS No. 387–4920.

[S-2206-80 Filed 12-1-80; 2:38 pm]

BILLING CODE 7905-01-M

10

[Meeting No. 1257]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:15 a.m., EST, Monday, December 8, 1980.

PLACE: Conference room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

OLD BUSINESS ITEMS: 1. Final rate review.

ACTION ITEMS:

A—Project Authorizations

1. Project Authorization No. 3465.1—Amendment to Project Authorization to replace reheater outlet pending elements on Units 5 and 7–9 at Kingston Steam Plant.

2. Project Authorization No. 3531—Land acquisition for solid waste storage for Paradise Steam Plant.

3. Project Authorization No. 3536—Provide a 161–kV delivery point for the Warren Rural Electric Cooperative at Aberdeen, Kentucky; 161–kV Substation.

4. Project Authorization No. 3539—Convert the Water Valley, Mississippi, 46–13–fV Substation to 161–13–kV.

B—Purchase Awards

1. Req. No. 176666—Architect/Engineering services for coal gasification plant.

C—Power Items

1. Contract with the city of Lawrenceburg, Tennessee; Mineral Gas Company, Inc., of Tennessee; and James S. Russ, James J. Russ, and Richard T. Heagy covering the development and implementation of a process for the extraction of minerals from coal fly ash.

D—Personnel Actions

*1. Change of status for John T. Shields from Assistant Director to Director of Agricultural Development, Office of Agricultural and Chemical Development, Muscle Shoals, Alabama.

*2. Change of status for Orvis P. Engelsted from Chief, Soils and Fertilizer Research Branch to Assistant Director of Agricultural Development, Office of Agricultural and Chemical Development, Muscle Shoals, Alabama.

*3. Change of status for Ralph H. Brooks from assistant Director to Director of Water Resources, Office of Natural Resources, Knoxville, Tennessee.

4. Further consideration of personal service contract with GKT Gesellschaft fur Koble-Technologie mbH, Essen, West Germany, for performance of a process test program of the Koppers-Totzek gasification process at the Nitrogen Fertilizer Industries, S.A., gasification facility in Ptolemais, Greece.

E—Real Property Transactions

1. Sale of permanent easement to Trustees, Foster-Hixson Cemetery, for a drive, parking area, and landscaping affecting approximately 0.65 acre of Chickamauga Reservoir land in Hamilton County, Tennessee—Tract No. XCR–677BL

*2. Grant of permanent easement to town of Vonore, Tennessee, for municipal facilities, affecting 2.0 acres of Tellico Reservoir land—Tract No. XTTELR–10E.

3. Grant of permanent easement to Greene County, Tennessee for bridge abutment and public highway affecting 6 acres of Nolichucky River Land—Tract No. XTNOR–4H.

4. Grant of Permanent Easement to State of North Carolina Department of Crime Control and Public Safety for an access road, affecting approximately 0.21 acre of Hiwassee Reservoir land—Tract No. XTFHR–28H.

5. Grant of coal easement supplementing an existing coal easement to Shamrock Coal Company affecting approximately 417 acres of land in Leslie County, Kentucky-Tract No. XEKCR–4M–9M.

6. Grant and conveyance of certain property in Polk County, Tennessee to Louisville and Nashville Railroad Company,

7. Filing of Condemnation Suits.

F—Unclassified

1. Proposed sale of surplus property—used construction equipment at various locations.

DATED: December 1, 1980.

CONTACT PERSON FOR MORE INFORMATION: Graven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

[S-2208-80 Filed 12-1-80; 3:26 pm]

BILLING CODE 8120-01-M

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*Approved by individual Board members. This would give formal ratification to the Board's action.

federal register

Wednesday
December 3, 1980

Part II

Department of the Interior

Office of the Secretary

Non-Discrimination Against Minority and Women-Owned Business Enterprises in Outer Continental Shelf Leasing Activities; Final Rule

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 35

Non-Discrimination Against Minority and Women-Owned Business Enterprises in Outer Continental Shelf Leasing Activities

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: Issuance of this rule establishes a Departmental program to assure non-discrimination against minority and women-owned business enterprises in all activities related to the Department of the Interior's Outer Continental Shelf (OCS) mineral leasing activities. Section 604 (43 U.S.C. 1863) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629), herein referred to as the Act, requires each Agency or Department having responsibility for the promulgation or enforcement of regulations relating to the OCS to take affirmative action, as deemed necessary, "to assure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of that Act or the Outer Continental Shelf Lands Act." A proposed rule was published May 9, 1980 (45 FR 31040). The proposed rule described new practices and procedures under which the Director of the Geological Survey would receive, evaluate, and act upon affirmative action plans for the procurement of goods and services submitted by Federal lessees and the holders of other Federal authorizations issued under the Act. Issuance of this final rule puts those practices and procedures into effect in compliance with the Act (43 U.S.C. 1863) and other applicable laws.

EFFECTIVE DATE: January 2, 1981.

ADDRESSES: A copy of this final rule may be obtained from the following offices of the Geological Survey:

Director, Geological Survey, National Center, Mail Stop 640, 12201 Sunrise Valley Drive, Reston, Virginia 22092

Conservation Manager, Alaska OCS Region, 800 "A" Street, Suite 109, Anchorage, Alaska 99501

Conservation Manager, Atlantic OCS Region, 1725 K Street, N.W., Suite 204, Washington, D.C. 20006

Conservation Manager, Gulf of Mexico OCS Region, 151 Imperial Office Building, P.O. Box 7944, Metairie, Louisiana 70010

Conservation Manager, Pacific OCS Region, 1340 West Sixth Street, Room 160, Los Angeles, California 90017

FOR FURTHER INFORMATION CONTACT: Gerald D. Rhodes, U.S. Geological Survey, Mail Stop 640, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 860-6461.

SUPPLEMENTARY INFORMATION:

Background

During the process of considering amendments to the OCS Lands Act of August 7, 1953 (43 U.S.C. 1331-1343), Congress expressed concern that the several Federal programs designed primarily to assure equal opportunity in employment and Federal contracting might not be automatically applicable to activities on the OCS. In order to ensure that the requirements of those programs are applicable to the OCS, Congress enacted Section 604 (43 U.S.C. 1863) of the Act (92 Stat. 629). Section 604 requires Federal regulators of OCS activities to develop a program which ensures that minority and women-owned business enterprises (MBE's and WBE's) shall not, because of discrimination, be excluded from Federal OCS mineral leasing activities. This rule is being issued to ensure that there are opportunities for MBE's and WBE's to participate in all facets of the Department of the Interior's OCS leasing activities. The Department views such activities as being inclusive of those activities on the OCS and onshore which support OCS activities.

The Department's Notice of proposed rule published May 9, 1980 (45 FR 31040), indicated that it was particularly interested in receiving comments on:

(1) The time frame allotted for the submission of the affirmative action plan (AAP) as required by proposed § 35.5(c).

(2) Alternative but equally effective ways of obtaining significantly increased MBE and WBE participation in OCS activities short of requiring the submission of an AAP.

(3) How the Department should treat the renewal of AAP's, i.e., how should the life span of an AAP be defined?

(a) Should it be limited?

(b) How long should it be?

(4) Whether the 12 actions delineated in § 35.5(g) should constitute the makeup of a minimally acceptable AAP.

Comments

A total of 59 comments and recommendations were timely submitted in response to the invitation contained in the Notice of proposed rule. The comments varied widely as to their nature, scope, and content. Some were general in nature, while others were detailed and specific as to the recommended actions for the Department to initiate. The responses represented the views of private citizens, special interest groups, State and local government agencies, and oil and gas companies and trade organizations.

Difference Between Proposed Rule and Final Rule

For the most part, the differences between the provisions of the final rule published today and the proposed rule published May 9, 1980, are the result of the Department's efforts to bring the provisions of the final rule into closer conformance with the provisions of the Act with special attention focused on the provision and intent of Section 604 of the Act (43 U.S.C. 1863). This was accomplished through the incorporation of many of the comments and recommendations received from the public.

Discussion of Major Comments

General Comments

Alternative but equally effective ways of obtaining significantly increased MBE and WBE participation in OCS activities short of requiring the submission of an AAP.

A number of respondents expressed the view that most companies in the petroleum and petrochemical industries have affirmatively supported equal opportunity in business for socially and economically disadvantaged individuals. Those respondents recommended voluntary commitment as their preferred alternative to the program described in the proposed rule. Those respondents further maintained that the requirements of the proposed rule were not necessary since there is already ample legislation to assure that minorities and women receive maximum consideration in all business dealings involving Government. The recommendation that the present "voluntary" systems of compliance be viewed as alternative but equally effective ways of obtaining significantly increased MBE and WBE participation in OCS activities is rejected. As we indicated in the Notice of proposed rule (45 FR 31040), Congress enacted Section 604 of the Act (43 U.S.C. 1863) in order to insure that the Federal programs designed to assure equal opportunity in employment and in Federal contracting would be applicable to activities under the Act. We believe that regulations such as these are needed to make the applicability of those programs to OCS activities clear.

The search for oil and gas resources involves a variety of offshore activities such as geophysical surveying, exploratory drilling, development drilling, and production. These activities also require a considerable amount of onshore support facilities such as temporary and permanent service bases, repair and maintenance yards, steel and/or concrete platform fabrication yards, pipelines and landfalls, and other general shore activities. It is in this support services area of OCS activities that the Department believes a real potential exists for the involvement of MBE's and WBE's.

Finally, the Secretary of the Interior directed that regulations be promulgated to ensure opportunity for minority and women-owned business participation in all onshore and offshore facets of the Department's programs which involve the leasing of OCS lands after a number of minority and women-owned business concerns expressed an interest in the delivery of certain support services such as oil field pipe distribution, catering, barging, construction, and other services of a similar nature.

Lifespan of an AAP—should it be for a limited time? If so, what should be the lifespan for an AAP?

The respondents who commented on this point provided a variety of suggestions. Their recommendations varied from suggestions that AAP's be accepted on a calendar year basis with renewals and changes, if any, occurring at the beginning of each calendar year, to suggestions that AAP's be general and cover all leases and other DOI authorizations in an area. In the latter situation nothing more than a notice of the acquisition of a lease or other authorization would be required once an AAP had been submitted and approved. The Department has not fully accepted any of the suggestions that were received. Under the final rule issued today, an AAP must be submitted within 60 days following the first occurrence of any one of five triggering actions, i.e., (1) issuance of a lease; (2) approval of a lease assignment; (3) granting of a right-of-way; (4) approval of the assignment of a right-of-way; or (5) approval of a designation of operator for the conduct of OCS leasehold activities. Each year, at the beginning of the calendar year, an annual compliance report must be submitted to demonstrate progress under the AAP. The annual report must contain a justification for a failure to meet any of the established percentage goals for MBE and WBE participation in OCS activities and must also set forth new goals for the coming year.

Should the twelve elements delineated in § 35.5(g) constitute the requirements for a minimally acceptable AAP?

Responses which specifically addressed this question varied from recommendations that the twelve actions found in proposed § 35.5(g) should be deleted completely to recommendations that the minimum required contents and administrative procedures for an acceptable AAP found in proposed § 35.5(g) be retained. In between were recommendations such as (1) the scope of § 35.5(g) be changed from spelling out specific minimum requirements to providing broad guidelines that encourage flexibility in program design and operation; (2) the provisions of § 35.5(g) be condensed and reduced with several portions being completely omitted; (3) lessees and holders of other Federal authorizations be required to file AAP's describing their proposed activities and their efforts to utilize qualified minority and women-owned business enterprises; (4) the regulations be revised to provide sufficient due process protection; (5) the regulations be revised to protect sensitive information contained in an AAP from disclosure; (6) the regulation be revised to assure that no delays or work stoppages will occur prior to the time that an enforcement action goes to hearing; and (7) provisions for considering competence and competition be incorporated into the AAP process. A number of these recommendations have been incorporated in the final rule as § 35.5(e). The provisions of the final rule are more condensed, and the requirements call for less detail. The reduction in detail is designed to minimize the required recordkeeping burden and to avoid the inclusion of trade secrets or proprietary data in an AAP. The final rule combined with the civil penalties procedures in 30 CFR Part 250, and the appeal procedures of 30 CFR Part 290, provide ample due process protection to lessees and holders of other Federal authorizations. The civil penalties procedures call for a notice of an alleged violation, an opportunity to correct that alleged violation, and an opportunity for a hearing before a penalty assessment is made. An assessment under 30 CFR Part 250 is subject to appeal to the Interior Board of Land Appeals pursuant to 30 CFR Part 290 and 43 CFR Subpart E. Similarly, the proposed rule was and this final rule is designed to assure that enforcement proceedings cannot result in work stoppages at any point in the enforcement process. The only enforcement tool available to the authorized officer is the civil penalties procedures found in 30 CFR Part 250, unless a knowing and willful violation is involved that warrants the initiation of a criminal action by the Department of Justice. Neither procedure permits production delays or work stoppages due to the pendency of a case. The questions of competence and competition remain the responsibility of the lessee or holder of another Federal authorization. If, in fact, there are no qualified MBE's or WBE's offering a given service, there is no requirement that an MBE or WBE which is not qualified be given a contract to provide that service.

Time frame allotted for the submission of an AAP plan as required by proposed § 35.5(c).

A number of respondents took issue with the requirement in § 35.5(c) that an AAP be submitted within 60 days of the effective date of one of the five triggering actions. Recommended alternatives include:

(1) Lessees or holders of more than one other Federal authorization be permitted to file one encompassing AAP each calendar year.

(2) AAP not be filed with the U.S Geological Survey (USGS) in a designated office, but rather it be retained by the lessee or holder of an authorization in each designated area for review by the USGS if review is deemed necessary.

(3) Removal of the requirement that AAP's must be submitted for approval.

(4) AAP be submitted 1 year after acquisition of a lease or other Federal authorization or 30 days prior to the commencement of physical operations on the site, whichever first occurs.

(5) AAP be submitted within 120 days following the Department of the Interior's approval of the first exploration plan on a lease issued subsequent to the effective date of the regulation.

(6) AAP be submitted within 90 days following the first occurrence of one of the triggering actions.

The Department has rejected all of the proposed changes. Bidders for OCS oil and gas leases and applicants for other Federal authorizations know in advance of their acceptance of a lease or other Federal authorization that an AAP must be prepared and submitted within 60 days of the effective date of the lease or other Federal authorization. Thus they can do much, if not all, of the work involved in preparing an AAP even before they submit a lease offer or an application for another Federal authorization. Lessees or holders of other Federal authorizations who have a

current AAP in good standing on file in the area need only submit a notice that the exploration, development, and production activities and related activities are to be conducted in accordance with the current AAP within the 60-day time frame called for in subsection 35.5(c). Since this final rule becomes effective January 2, 1981, the current applicants for OCS leases and other Federal authorizations and those who submit applications during the time between publication and January 2, 1981, will experience the minimum lead time necessary for preparation and submission of an AAP. The Department believes that those applicants will have adequate time to prepare and submit the AAP's required by this rule. The recommendation that individual companies be permitted to submit one nationwide AAP was rejected in favor of the requirement that a separate AAP be submitted for each of four major OCS areas, (1) Alaska; (2) Atlantic; (3) Gulf of Mexico; and (4) Pacific (California, Oregon, and Washington). This breakdown will require lessees and other holders of authorizations to concentrate upon each of the four identified areas of activity. Inaction in one area cannot be hidden by aggressive actions in another area. The recommendations that AAP's not be submitted for approval or that they be retained by the lessee or holder of other authorizations in each of the designated areas for review by the USGS was rejected because such an approach may be interpreted as an indication that the provisions of this rule will not be actively enforced. The Department expects the USGS to actively and effectively enforce the requirements of this rule. The USGS will be carefully reviewing the contents of the AAP's submitted for approval and the annual compliance reports on the success of lessees and the holders of other authorizations at obtaining increased involvement of MBE's and WBE's in OCS activities. Recommendations that the submission of an AAP be tied to the commencement of work under a given lease or other authorization were rejected. AAP's, as envisioned by these regulations, will normally be designed to cover work related to more than one lease or other Federal authorization. To tie the submission of an AAP to a given activity would be meaningful only if a separate AAP were required for the activities relating to each OCS lease or other Federal authorization.

Need for a Regulatory Analysis

Several respondents indicated that the implementation of the regulations, as proposed, represents a significant regulatory action that, pursuant to Executive Order 12044, requires preparation of a regulatory analysis. Prior to the publication of the proposal to promulgate new regulations on the "Involvement of Minority and Women-owned Business Enterprises in Outer Continental Shelf Leasing Activities" as a new Part 35 in Title 43 of the Code of Federal Regulations, the Department determined that the proposed rule was not a significant rule and did not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. Moreover the authors of this rule have worked to reduce the administrative burden below that called for in the proposed regulations. Specific changes will be identified in the section-by-section analysis which follows the analysis of the respondents' general comments and recommendations. The Department continues to believe that this rule is not "significant" and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Administrative burden

Several respondents objected to the increased administrative burden that the new regulations place upon lessees and holders of other Federal authorizations, MBE's and WBE's, and the USGS. The Department recognizes that, by necessity, policies of this nature do impose some administrative burdens on the regulated parties. The necessity for monitoring the performance of OCS lease holders and/or holders of other Federal authorizations, and for ensuring that only bona fide minority and women-owned business enterprises benefit from the program, requires the creation of some recordkeeping and reporting requirements. The Department also recognizes that the initial implementation of this final rule may require a considerable effort on the part of some lessees and/or holders of other Federal authorizations. In order that these administrative burdens may be held to a minimum, this rule specifically authorizes lessees and holders of other Federal authorizations to base their lists of MBE's and WBE's, see § 35.5(e)(2), upon lists of MBE's and WBE's, compiled by vendor trade organizations and by Federal, State, and local agencies, provided those lists are developed and maintained in accordance with the requirements of § 35.5(e)(3). Lessees and/or holders of other Federal authorizations may also use lists prepared by others, e.g., Federal, State, and local agencies, which do not develop and maintain their lists in accordance with the requirements of § 35.5(e)(3). However, lessees and holders of other authorizations who use such lists are required to investigate each MBE and WBE taken from such lists to assure that it qualifies as an MBE or WBE as defined in §§ 35.2 (g) or (k). The Small Business Administration's Procurement Automated Source System (PASS) contains a comprehensive list of MBE and WBE sources. Other such lists are developed by organizations such as the Houston Regional Minority Purchasing Council and the Gulf South Minority Purchasing Council, Inc.

Duplication of other Federal regulations

Respondents who point out the similarity between the Department of Commerce's regulations (41 CFR 1–1.13 as amended) which require Government contractors or subcontractors to develop and administer a program for MBE utilization and these regulations indicated that the proposed rule was redundant to those regulations. Clearly this rule is not overlapping nor duplicative of the Department of Commerce regulations issued in the implementation of Executive Order 11625. Those regulations establish procedures to increase the participation of MBE's in Government procurement activities, at the prime subcontractor level. This rule covers a different area. It establishes practices and procedures to ensure non-discrimination against MBE's and WBE's in OCS exploration, development, and production activities in compliance with Section 604 (43 U.S.C. 1863) of the Act. The OCS lessees and holders of other Federal authorizations on the OCS are not participating in Government procurement activities. The fact that one of the elements of an integrated organization such as a major oil company may participate in Government procurement activities while another element functions as a Federal OCS lessee does not serve to change the nature of the Federal regulatory activities or cause those activities to be overlapping or duplicative activities. On the other hand, to the extent that one corporate entity has experience working with MBE's under the Department of Commerce regulations, it should be less difficult for that corporate entity to comply with this final rule.

Conformance of rule with those established under Title VI and Title VII of the Civil Rights Act of 1964

Respondents questioned the legality of the proposed rule on a number of grounds which include:

(1) The use of racial and sexual "preferences" in the awarding of OCS

related business is not legally supportable.

(2) The proposed regulations do not conform with Congress' decision to depart from race and sex specific business assistance programs.

(3) The proposed regulation far exceeds its statutory bases.

(4) Titles VI and VII are limited in scope—Title VI applies to race-based discrimination in Federally assisted programs while Title VII extends only to employment practices, i.e., employer-employee relationships, but not contracting, i.e., client-contractor relationships.

(5) The boundaries of the OCS Lands Act are limited to offshore and coastal facilities, whereas the proposed regulation would apply to onshore facilities.

(6) The Department's attempt to accomplish on its own what only Congress or a court of equity on an appropriate record has the constitutional power to do, represents an overreaching of administrative authority.

(7) There is no Congressional mandate that MBE's or WBE's must participate or that their participation in OCS activities must increase. The mandate is that these businesses not be denied the opportunity to participate.

(8) DOI is constitutionally prohibited from enacting racially and sexually based percentage goal enforcement programs absent specific findings of past discriminatory acts.

Comments (1) and (2) above can be answered jointly:

(1) *The use of racial and sexual "preferences" in the awarding of OCS related business is not legally supportable.*

(2) *The proposed regulations do not conform with Congress' decision to depart from race and sex specific business assistance programs.*

It is important to recognize that this rule does not require a "preference" in awarding contracts. It requires lessees and holders of other DOI authorizations to seek out qualified MBE's and WBE's.

In light of the Supreme Court opinion in *University of California Board of Regents* v. *Bakke*, 438 U.S. 625 (1978), we have revised the definition of "minority" to allow members of minority groups other than those specifically enumerated in § 35.2(i) to qualify as owners of an MBE under procedures established by the Small Business Administration.

(3) *The proposed regulation far exceeds its statutory basis.*

We feel that the final regulations are rationally related to the congressional mandate contained in Section 604 and a reasonable method amongst the myriad that could have been chosen of assuring equal opportunity in OCS related business. Moreover, the final regulations have been written to keep the amount of paperwork required to create and the effort needed to administer an AAP for the procurement of goods and services to the minimum compatible with accomplishing the desired objectives.

(4) *Titles VI and VII are limited in scope—Title VI applies to race-based discrimination in Federally assisted programs while Title VII extends only to employment practices, i.e., employer-employee relationships, but not contracting, i.e., client-contractor relationship.*

Regulations which are published pursuant to Section 604 are to "be similar to those established and in effect under Title VI and Title VII of the Civil Rights Act of 1964." However, the limitation on the form of regulations published under Section 604 cannot be impliedly read backwards to limit the congressional mandate contained in Section 604.

Section 604 requires the Department of the Interior to take affirmative action "to prohibit all unlawful employment practices and to assure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act." It is the latter congressional mandate which these regulations are primarily meant to implement. That mandate sweeps with sufficient breadth to reach more than just Federally assisted programs.

There is no legislative history which indicates exactly what Congress meant when it said that this Department's rules implementing Section 604 shall "be similar to those established and in effect under Title VI and Title VII of the Civil Rights Act of 1964." To follow Congress' directive, we have made sure that this final rule is not in any way inconsistent with any rules under Title VI and Title VII of the Civil Rights Act of 1964.

(5) *The boundaries of the OCS Lands Act are limited to offshore and coastal facilities, whereas the proposed regulation would apply to onshore facilities.*

We disagree that the scope of those regulations should be interpreted to exclude onshore facilities which support offshore related activities. Congress did not intend the 1978 Amendments to the OCS Lands Act to be so narrowly construed. This is reflected, for example, in the definition of "Development" in Section 2(1) of the Amendments which specifically includes onshore and offshore support facilities. For those respondents who believe that the provision in Part 35 should be limited to "OCS" activities, we point out that "Development" specifically includes onshore support activity while "Production" specifically includes the transfer of minerals to shore. Thus, the application of the requirements of this Part 35 to onshore support of offshore activities reflects the view of Congress regarding the scope of activities that fall within the purview of the administrators of the Act.

(6) *The Department's attempt to accomplish on its own what only Congress or a court of equity on an appropriate record has the constitutional power to do, represents an overreaching of administrative authority.*

We disagree with the above statement. We feel that the final regulations are in accord with the broad congressional mandate contained in Section 604 and with the Supreme Court decisions in the *Bakke* and *Fullilove* v. *Klutznick*, 48 LW 4979 (July 2, 1980), cases. The goals established in an AAP for the procurement of goods and services are not quotas; they are just goals. A lessee or holder of any other Federal authority who fails to achieve its goals will be deemed in compliance with these regulations if it can show that it made good faith efforts to achieve its goals, in accordance with its AAP, and that despite such efforts, it failed to meet its goals.

(7) *There is no Congressional mandate that MBE's or WBE's must participate or that their participation in OCS activities must increase. The mandate is that these businesses not be denied the opportunity to participate.*

We agree with the substance of this comment. The final regulations do not require that MBE's and WBE's must participate in OCS activities.

As noted above, the goals established in an AAP are just that: No civil penalties will be assessed if a lessee shows that it has good cause for its failure to achieve its goals.

We believe that establishment of goals will result in nondiscrimination. If lessees and holders of other authorizations must look for qualified MBE's and WBE's, they will be forced not to overlook qualified MBE's and WBE's to perform prime and subcontracts. These regulations are designed to ensure that qualified MBE's and WBE's are not overlooked.

(8) *DOI is constitutionally prohibited from enacting racially and sexually based percentage goal enforcement programs absent specified findings of past discriminatory acts.*

We disagree. Section 604 of the Act states that, "The Agency or Department shall promulgate such rules as it deems necessary to carry out the purposes of this section . . . ." As noted above, we believe that the establishment of goals in an AAP and the requirement that failure to attain goals be explained in an annual compliance report will help to eliminate any discrimination in procurement activities by lessees or holders of other Federal authorizations.

Section-by-Section Discussion

The discussion in the preceding section was intended to give the reader an overview of the major comments that were received, together with a brief statement of reasons for accepting or rejecting the suggestions that were offered. In this section, specific changes in the proposed rule will be described.

§ *35.1 Purpose.*

This section is unchanged from the proposed rule. The responses which contended that the requirements of Section 604, "Antidiscrimination provisions," of the Act have been misconstrued are discussed in the general comments.

§ *35.2 Definitions.*

This section has been revised by:

(1) Expanding the introductory statement;

(2) Substituting "women-owned business enterprises (WBE)" for "female-owned business enterprises (FBE)," and adding the statement that State community property laws will not be taken into consideration for purposes of determining whether businesses are at least 51 percent owned, controlled and operated by women.

(3) Arranging the defined terms in alphabetical order;

(4) Deleting the definitions of "Discrimination" and "Secretary";

(5) Modifying the definition of "Minority"; and

(6) Adding definitions for "Exploration," "Development," and "Production."

These changes are designed to reduce confusion and to help clarify the meanings of the terms used in Part 35. The definition of "Discrimination" and "Secretary" were deleted because the terms do not appear in Part 35 as issued. The definition of "Minority" has been modified by striking the phrase "the Indian Subcontinent" in accordance with the suggestions of a number of respondents. It has also been modified by the addition of a new criteria incorporating procedures established by the Small Business Administration in 13 CFR 124.1-1(e)(3)(iii). The terms "Exploration," "Development," and "Production" are used in Part 35. Although these terms are defined in the Act and in 30 CFR Part 250, it seems appropriate that they also be defined in § 35.2.

§ *35.3 Applicability.*

The primary difference between the final rule and the proposed rule is the deletion of the third sentence that was contained in the proposed rule. That sentence indicated that the requirements of Part 35 applied to "contractors, subcontractors, or other entities and individuals providing goods and/or services or involved in any way with exploration, development, or production of oil and gas from a lease issued for an area of the OCS." This modification was made in recognition of the fact that only lessees and the holders of other Federal authorizations are required to submit AAP's.

One respondent questioned whether or not an MBE or WBE that was an operating lessee or holder of other Federal authorization would also be required to submit an AAP. The answer to the question is yes. MBE's and WBE's are subject to the provisions of Part 35 when they are operating lessees or holders of other Federal authorizations.

§ *35.4 Policy.*

The text of this section has been modified to more clearly present the Department's statement of policy. The responses which related to the provisions of this section are discussed under the General Comments. The Department of the Interior intends to enforce a positive program. Lessees and the holders of other Federal authorizations are expected to actively seek out qualified business enterprises that are owned and operated by minorities and women.

§ *35.5 Affirmative Action Plan.*

The final rule has been modified by deletion of those provisions which appeared to require details that were not needed to reach the objectives of Part 35 and by presenting the remaining requirements in an order which groups related requirements together. In view of the length of § 35.5, the changes made in the section will be discussed subsection-by-subsection.

The substance of § 35.5(a) and (b) are unchanged from the substance of the proposed rule.

Paragraph 35.5(c) has been modified by: (1) deleting the phrase "of the first" from between the words "date" and "of," and (2) adding a new sentence which reads:

"A lessee or holder of a Federal authorization who has a current AAP on file with the authorized officer may comply with the requirements of this subsection by requesting that the existing approved AAP for an area also cover the activities relating to the additional lease or other Federal authorization within the area."

Paragraphs 35.5(d), (e), and (f) have been combined as a single subsection, § 35.5(d), and the provisions of the new subsection have been organized and the language modified for clearer presentation. A reference to goals submitted in subsequent years pursuant to § 35.7 has been added.

Paragraph 35.5(e) (proposed § 35.5(g)) has been revised to organize the provisions of the subsection for a clearer presentation and to delete the unnecessarily detailed reporting requirements that were contained in the proposed rule. In view of the length of this subsection, a paragraph-by-paragraph discussion of the changes follows:

The introductory paragraph for § 35.5(e) has been shortened by eliminating unnecessary verbiage from the first sentence and by substituting language designed to more clearly present the objectives of the Department.

Paragraph 35.5(e)(1) is unchanged from the language of § 35.5(g)(1) of the proposed rule.

Paragraph 35.5(e)(2) has been modified from the language of proposed § 35.5(g)(2) by adding "s" to "MBE" and "WBE," by deleting the word "sources" from between "WBE" and "including," and by deleting the last sentence of the paragraph and replacing it with a new sentence which reads:

"Lists of MBE's and WBE's compiled by vendor trade organizations and by Federal, State, and local agencies will be acceptable provided those lists are developed and maintained in accordance with the requirements of paragraph (e)(3) of this section."

Paragraph 35.5(e)(3) contains the provisions published as proposed § 35.5(g)(9). The requirements of this paragraph have been moved to this new location because they closely relate to the requirements of the preceding paragraph.

Paragraph 35.5(e)(4) contains the substance of the provisions published as proposed § 35.5(g) (3) (6), and (8).

Paragraph 35.5(e)(5) contains the provision published as proposed § 35.5(g)(5). The provision which was published as proposed § 35.5(g)(4) has been deleted.

Paragraph 35.5(e)(6) contains the substance of the provision published as proposed § 35.5(g)(10).

Paragraph 35.5(e)(7) contains the substance of the provision published as proposed § 35.5(g)(11) modified to incorporate the suggestion that goals be based upon available qualified MBE and WBE sources.

Paragraph 35.5(e)(8) contains the substance of the provision published as proposed § 35.5(g)(12).

§ 35.6 Certification of exemption.

The differences between this section and the proposed rule are editorial.

§ 35.7 Compliance reviews.

This section contains the substance of the provision published in the proposed rule as § 35.8 and proposed § 35.5(g)(7). The provisions of proposed § 35.7 were deleted as duplicative of § 35.5(c). Specific changes found in the final rule are as follows:

(1) Subsection (a) has been rewritten for a clearer presentation of the requirements of the provision. A provision has been added which requires that goals for the coming year submitted in an annual compliance report be reviewed and accepted or rejected by the authorized officer.

(2) A new subsection (b) has been added.

(3) Proposed subsection (b) has been identified as subsection (c), and the first sentence has been modified to indicate that audits will be of a periodic nature. The phrase "when requested by the OIG" has been added as an introductory phrase to the second sentence.

§ 35.8 Enforcement provisions.

The text of this section is changed from that published as proposed Section 35.9 by substituting "authorized officer" for "Secretary," by incorporating language to recognize that a civil penalty may be assessed if a lessee or holder of a Federal authorization fails without good cause to reach its goals, and by adding a reference to the regulations in 30 CFR 250.80 which implement Section 24 of the Act.

Authors

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Environmental Impact and Regulatory Analysis Statements

The Department of the Interior has determined that the issuance of these new regulations as 43 CFR Part 35 does not constitute a major Federal action significantly affecting the quality of the human environment, and therefore preparation of an Environmental Impact Statement is not required. The Department has also determined that this Notice of final rule is not a significant action and does not require the preparation of a regulatory analysis under Executive Order 12044.

Dated: November 25, 1980.

James A. Joseph,

Under Secretary.

A new Part 35 is being added to Subtitle A of Title 43 of the Code of Federal Regulations which reads as follows:

PART 35—NON-DISCRIMINATION AGAINST MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES IN OUTER CONTINENTAL SHELF LEASING ACTIVITIES

Sec.
35.1 Purpose.
35.2 Definitions.
35.3 Applicability.
35.4 Policy.
35.5 Affirmative action plans.
35.6 Certificate of exemption.
35.7 Compliance reviews.
35.8 Enforcement provisions.

Authority: Section 604, P.L. 95-372, 43 U.S.C. 1863 (1979 Supp.).

§ 35.1 Purpose.

The purpose of this Part is to implement the provisions of Section 604 of the Outer Continental Shelf Lands Act Amendments of 1978. Section 604 requires that each Agency or Department having responsibility for the promulgation or enforcement of regulations under the Outer Continental Shelf Lands Act, as amended, take such affirmative action as deemed necessary to assure that "no person shall on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of this Act."

§ 35.2 Definitions.

When used in the regulations in this Part, the following terms shall have the meaning given below:

(a) "Act" means the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. 1331 et seq.

(b) "Affirmative action plan" or "AAP" means a formal written statement describing specific result-oriented procedures that will be taken to assure non-discrimination against MBE's and WBE's in procurement activities associated with the conduct of activities on the Outer Continental Shelf.

(c) "Authorized Officer" means the Director, Geological Survey, or a designee of the Director.

(d) "Contract" means any business agreement or arrangement (in which the parties do not stand in the relationship of employer and employee) between a lessee or holder of other Federal authorization and any person which creates an obligation to furnish supplies or services, or to provide real or personal property for use. The term "contract" also includes any business agreement or arrangement between two persons which is related in any way to the discharge of activities conducted under any lease or Federal authorization issued pursuant to the Act.

(e) "Development" means those activities which take place following discovery of minerals in paying quantities, including but not limited to geophysical activity, drilling, platform construction, and operation of all directly related onshore support facilities, and which are for the purpose of ultimately producing the minerals discovered.

(f) "Exploration" means the process of searching for minerals. Exploration activities include, but are not limited to: (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off a known geological structure. Exploration also includes the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well, after a discovery, which is needed to delineate a reservoir and to enable the lessee to determine whether to proceed with development and production.

(g) "Lease" means (1) any form of authorization which is issued under Section 8 or maintained under Section 6 of the Act and which authorizes exploration for, and development and production of, minerals, or (2) the area covered by that authorization, whichever is required by the context.

(h) "Lessee" or "Holder of other Federal Authorizations" means the party authorized by a lease, grant of right-of-way, or an approved assignment thereof, to explore, develop, and produce the leased deposits in accordance with the regulations in 30 CFR Part 250, and 43 CFR Part 3300. The terms include all parties holding such authority by or through the lessee or holder of other Federal authorization.

(i) "Minority" includes:

(1) Black Americans (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(2) Hispanic Americans (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish Culture or origin regardless of race);

(3) Asian Pacific Americans and Pacific Islanders (all persons having origins in any of the Far East, Southeast Asia, or the Pacific Islands); and

(4) American Indians or Alaskan Natives (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(5) Individuals other than members of the specifically enumerated minority groups who qualify for inclusion in the definition of minority pursuant to procedures established by the Small Business Administration in 13 CFR 124.1-1(e)(3)(iii).

(j) "Minority-owned business enterprise" or "MBE" means a sole proprietorship, partnership, unincorporated association, joint venture, or corporation that is at least 51 percent owned, controlled, and operated by minority individuals. "Control" as used in this context means exercising the power to make policy decisions. "Operate" as used in this context means to be actively involved in the day-to-day management.

(k) "OCS" means the Outer Continental Shelf, as that term is defined in 43 U.S.C. 1331(a).

(l) "OIG" means the Office of Inspector General within the Department of the Interior.

(m) "Person" means a person or legal entity, including but not limited to, a corporation, partnership, association, joint-stock venture, a trust or a mutual fund, and any receiver, trustee in bankruptcy, or official acting in a similar capacity for a legal entity.

(n) "Production" means those activities which take place after the successful completion of any means for the removal of minerals. Production includes removal of minerals, field operations, transfer of minerals to shore, operations monitoring, maintenance, and/or workover drilling, and depends upon the context in which the term is used.

(o) "Subcontract" means any business agreement or arrangement between a contractor, and a party other than a lessee or holder of other Federal authorization (in which the parties do not stand in the relationship of employer and employee) which in any way relates to the performance of any one or more contracts as defined above.

(p) "Women-owned business enterprise" or "WBE" means a sole proprietorship, partnership, unincorporated association, joint venture, or corporation that is at least 51 percent owned, controlled, and operated by women. "Control" as used in this context means exercising the power to make policy decisions. "Operate" as used in this context means to be actively involved in the day-to-day management. State community property laws will not be taken into consideration for purposes of determining whether businesses are at least 51 percent owned, controlled and operated by women.

§ 35.3 Applicability.

The provisions of this Part apply to oil and gas lease activities connected with the OCS including the procurement of goods and services by lessees and other holders of Federal authorizations related to the OCS. The provisions of this Part apply only to those leases, assignments, and other authorizations issued or approved by the Department of the Interior after January 2, 1981, the effective date of these regulations. Persons holding ownership interests only may be exempted in accordance with the provisions under § 35.6.

§ 35.4 Policy.

It is the policy of the Department of the Interior to assure that no person shall on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment conducted pursuant to the provisions of the OCS Lands Act, as amended. The Department views the AAP's required by this rule as a necessary device for assuring non-discrimination against WBE's and MBE's by lessees and other holders of other Federal authorizations. While it shall be the Department's policy to require completeness in the filing of AAP's and to conduct a credible and appropriate review of AAP's, the Department does not intend to substitute its judgment of business relations for that of lessees or holders of other Federal authorizations or their contractors.

§ 35.5 Affirmative action plans.

(a) A written affirmative action plan (AAP) for the procurement of goods and services must be submitted by the lessee, or holder of other Federal authorization for each offshore area in which activities will be conducted. The AAP shall provide for outreach to business enterprises owned and controlled by minorities and women as contractors, subcontractors, and/or suppliers of goods and services in activities of the lessee or holder of other Federal authorization related to the OCS. For the purpose of this section there are four offshore areas: (1) the Gulf of Mexico, (2) the area offshore the Pacific coast (California, Oregon, and Washington), (3) the area offshore the coast of Alaska, and (4) the area offshore the Atlantic coast.

(b) The AAP shall be broad enough in scope to cover all applicable activities of the lessee or holder of another Federal authorization that are expected to be undertaken during the full term of the lease or Federal authorization. An AAP may encompass one, several, or all leases and authorizations in an offshore area.

(c) The AAP shall be submitted to the Director, Geological Survey, or an appropriate designee, within 60 days of the effective date of any of the following actions:

(1) The issuance of a lease;

(2) The approval of the assignment of a lease;

(3) The approval of a grant of a right-of-way;

(4) The approval of the assignment of a right-of-way; or

(5) The approval of the designation of an operator who will conduct activities on the OCS.

A lessee or holder of a Federal authorization who has a current AAP on file with the authorized officer may comply with the requirements of this subsection by requesting that the existing approved AAP for an area also cover the activities relating to the additional lease or other Federal authorization within the area.

(d)(1) The authorized officer shall establish a specific location where AAP's will be kept on file and made available for public inspection.

(2) The authorized officer shall review and accept or reject each AAP within 60 days from the date of its receipt.

(3) In the event the authorized officer rejects an AAP, the lessee or holder of a Federal authorization who submitted the AAP shall be informed of the rejection, in writing, and given a detailed listing of all deficiencies noted in the AAP. Normally the authorized officer shall grant the lessee or holder of a Federal authorization a period of 30 days to correct the noted deficiencies. However, the authorized officer may grant a longer period of time if he/she determines that the correction of the noted deficiencies will require more than 30 days.

(4) When changes in circumstances warrant, the authorized officer shall require that additional data be submitted to support a previously submitted or approved AAP. Data requested by the authorized officer shall be submitted within 30 days of the receipt of the request therefor, unless,

for good cause, the authorized officer grants a longer period of time for response.

(5) The authorized officer may initiate civil penalty procedures as provided in § 35.8 when a lessee or holder of a Federal authorization fails: (i) to timely submit an AAP; (ii) to correct the deficiencies noted in a rejected AAP; (iii) to correct deficiencies noted in goals rejected by the authorized officer pursuant to § 35.7; or (iv) to respond to a request for data within the time specified.

(e) The lessee or holder of a Federal authorization shall include in the AAP a description of the specific actions to be taken to assure non-discrimination against qualified MBE's and WBE's in OCS exploration, development, and production activities. The AAP shall contain the following:

(1) The identification of a liaison officer who will administer the lessee's affirmative action program and a brief description of the liaison officer's duties, responsibilities, and authorities. The liaison officer shall be the principal contact point for MBE's and WBE's to obtain information and present proposals for their involvement in OCS activities.

(2) The development, maintenance, and utilization of up-to-date separate listings of MBE's and WBE's including:

(i) A description of each business;

(ii) Type of organization;

(iii) The product or service offered;

(iv) Information on ownership and control; and

(v) All additional relevant data and affidavits which establish that the enterprise is owned, controlled, and managed by minorities and/or women. Lists of MBE's and WBE's compiled by vendor trade organizations, and by Federal, State, and local agencies will be acceptable provided those lists are developed and maintained in accordance with the requirements of paragraph (e)(3) of this section.

(3) Specific procedures to be adopted for the purpose of certifying and verifying ownership and control of companies identified as MBE's and WBE's. The procedures shall include the requirements that firms submit affidavits as to their status as MBE's and WBE's as defined in § 35.2 (g) and (k) of this Part.

(4) Identification of the steps that will be taken to ensure timely and full consideration of qualified MBE's and WBE's in all procurement decisions, including:

(i) A description of how such procedures will be implemented;

(ii) A description of procedures for the identification and elimination of nonessential technical requirements and procedures;

(iii) A description of specific efforts that will be made to participate in MBE and WBE technical and other assistance programs of Federal and State agencies, including the Small Business Administration, the Minority Business Development Agency, and the Economic Development Administration; and

(iv) A description of the lessee's or authorization holder's efforts to involve qualified MBE and WBE distributorships in their procurement of fabricated tubular goods, pipe fittings, valves, and other equipment.

(5) Specific procedures for the compilation and dissemination of information on procurement opportunities in OCS business practices to MBE and WBE trade organizations and associations, in sufficient detail and with sufficient advance notice to permit maximum opportunities for MBE and WBE participation.

(6) Specific practices that will be followed in explaining MBE and WBE policies and procedures to executives, managers, supervisors, employees and all procurement office personnel, stressing individual responsibilities for the effective implementation of those policies and procedures.

(7) Separately established goals, expressed as a percentage of the lessee's or the authorization holder's total annual expenditures relating to the activites covered by the AAP, for MBE and WBE participation in all identified, planned, or anticipated OCS related activities. Such goals shall be based on available qualified MBE and WBE sources.

(8) A planned MBE and WBE subcontracting program for all prime contract awards valued at $500,000 or more. The subcontracting program must include a description of the method by which potential prime contractors will be informed that plans to assure non-discrimination against MBE's and WBE's in the selection of subcontractors will be a significant consideration in the selection of prime contractors to meet the lessee's or other authority holder's requirements. It must also include details on how MBE and WBE subcontractors will be verified and reported.

§ 35.6 Certificate of exemption.

In lieu of submitting an AAP, a lessee or holder of a Federal authorization may submit a certificate of exemption in those instances where that entity has only an ownership interest in a lease or other Federal authorization and does not, in any way, intend to engage in any post-lease activities related to the OCS.

§ 35.7 Compliance reviews.

(a) An annual compliance report shall be submitted to the authorized officer by the lessee or holder of a Federal authorization within 90 days after the end of each calendar year subsequent to the first anniversary of the approval of the AAP. The compliance report shall be submitted in format and level of detail approved or prescribed by the authorized officer. The annual report shall also contain a justification for any failure to meet the goals for MBE or WBE participation established in accordance with § 35.5(e)(7) of this Part or with this subsection. The justification shall describe those good faith efforts which the lessee or holder of a Federal authorization has made to meet its goals. The annual report shall set forth goals for MBE and WBE participation for the coming year. Changes in a lessee's or other authorization holder's goals from the previous year shall be based on changes in the availability of qualified MBE and WBE sources. The goals for the coming year shall be reviewed and accepted or rejected by the authorized officer in accordance with § 35.5(d) (2) and (3), as if they were an AAP. In reviewing an annual compliance report, the authorized officer may request that changes be made in the lessee's or authorization holder's AAP. In determining subsequently, pursuant to § 35.8, whether a lessee or authorization holder failed without good cause to meet any of its goals, the authorized officer may consider whether the lessee or authorization holder made and implemented the changes in the AAP requested by the authorized officer.

(b) The authorized officer may request that lessees and the holders of other Federal authorizations participate in studies or surveys relating to the effectiveness of the efforts to assure non-discrimination against MBE's and WBE's in OCS mineral activities. When requested by the Director, lessees and holders of other Federal authorizations shall make all requested information available to the authorized officer, within 30 days of their receipt of the request for information, unless, for good cause, the authorized officer grants a longer time for compliance.

(c) The Office of Inspector General (OIG) will, on a periodic basis, verify the accuracy of the annual reports submitted in accordance with § 35.7(a). When requested by the OIG, the lessee or holder of a Federal authorization shall make all pertinent information available to the OIG in connection with such verification.

§ 35.8 Enforcement provisions.

In the event a lessee or holder of a Federal authorization fails to comply with any of the provisions or requirements of this rule, or fails without good cause to accomplish any of its goals, the authorized officer may undertake appropriate civil penalty proceedings as provided in Section 24(b) of the Act and the implementing regulations in 30 CFR 250.80.

[FR Doc. 80-37489 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-10-M

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Wednesday, December 3, 1980

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

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 September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

Deadlines for Comments On Proposed Rules for the Week of December 7 through December 13, 1980

ACTION

74521 11-10-80 / Volunteer payments and services; treatment by governmental program; comments by 12-10-80

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

77448 11-24-80 / Walnuts grown in Calif.; free and reserve percentages for 1980-81 marketing year; comments by 12-10-80

Animal and Plant Health Inspection Service—

67307 10-10-80 / Export livestock; addition to lists of ports of embarkation for animals; comments by 12-9-80

67052 10-9-80 / Veterinary Services policy and procedures in cooperative programs concerning the eradication of Exotic Newcastle Disease from populations of birds including poultry; comments by 12-8-80

Commodity Credit Corporation—

66471 10-7-80 / 1981 Crop Flaxseed Price Support Program; comments by 12-8-80

Federal Grain Inspection Service—

70425 10-23-80 / Elimination of mandatory requirements for inbound weighing of grain at export elevators; comments by 12-8-80

Food and Nutrition Service—

66447 10-7-80 / Special supplemental food program for women, infants, and children; comments by 12-8-80

74384 11-7-80 / Summer food service for children; comments by 12-7-80

Rural Electrification Administration—

66472 10-7-80 / Architectural services contract; proposed revision to REA form 220; comments by 12-8-80

CIVIL AERONAUTICS BOARD

66473 10-7-80 / Air carriers; removal of certificate restrictions; reply comments by 12-8-80

63500 9-25-80 / Charters; use of insurance policies to satisfy financial security requirements and use of letters of credit as an arrangement for protecting charter passengers' payments; reply comments by 12-9-80

67357 10-10-80 / Small communities; guidelines for increasing essential service by certified airlines; comments by 12-9-80

COMMERCE DEPARTMENT

Economic Development Administration—

67062 10-9-80 / Clarification of requirements concerning certain types of projects which EDA may fund under the Public Works and Development Facilities Program; final rule; comments by 12-8-80

National Oceanic and Atmospheric Administration—

77489 11-24-80 / Atlantic mackerel allocation, transfer of reserve to total allowable level of foreign fishing; comments by 12-10-80

66460 10-7-80 / Emergency regulations modifying threatened sea turtle resuscitation procedures; comments by 12-8-80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

66632 10-7-80 / Federal Energy Management and Planning Programs; Methodology and Procedures for Life Cycle Cost Analyses (Average Fuel Costs); comments by 12-8-80

Economic Regulatory Administration—

67355 10-10-80 / Motor gasoline; retailer price rule and fixed cents per gallon markups; comments by 12-9-80

ENVIRONMENTAL PROTECTION AGENCY

67564 10-10-80 / Air programs ambient air quality monitoring data reporting and surveillance provisions for lead; comments by 12-9-80

74518 11-10-80 / Air quality, Louisiana; volatile organic compound emissions in designated nonattainment areas; comments by 12-10-80

74516 11-10-80 / Air quality, New Mexico; approval of implementation plan, nonattainment areas; comments by 12-10-80

74515 11-10-80 / Air quality, North Carolina; approval of implementation plan, 1979 CO revisions; comments by 12-10-80

77465 11-24-80 / Air quality, Ohio; sulfur dioxide emissions from B.F. Goodrich Co., requests for hearing by 12-9-80

73976 11-7-80 / Availability for review of Arizona's Hazardous Waste Management Program Phase I interim authorization application; comments by 12-11-80

73977 11-7-80 / Availability for review of California's application for interim authorization of Plan I of its Hazardous Waste Management Program; comments by 12-9-80

73972 11-7-80 / Consideration of Ohio State Implementation Plan for carbon monoxide and ozone; comments by 12-8-80

73969 11-7-80 / Consideration of revision to Ohio State Implementation Plan; comments by 12-8-80

74737 11-12-80 / Implementation plan revision relating to Georgia Power Plant, Harllee Branch; comments by 12-12-80

66736 10-7-80 / Pesticide Programs data call-in; initiation of pilot program; comments by 12-8-80

73975 11-7-80 / Proposed alternative Ohio State Implementation Plan compliance schedule for a power plant in Coshocton, Ohio; comments by 12-8-80

73521 11-5-80 / Standards of performance for new stationary sources; organic solvent cleaners; comments by 12-8-80

[*See also* 45 FR 39766, 6-11-80 and 45 FR 56373, 8-25-80]

68328 10-14-80 / Steam Electric Power Generating Point Source Category; pollutant discharge limitations; comments by 12-9-80

73521 11-5-80 / Vermont application for interim authorization, Phase I; Hazardous Waste Management Program; comments by 12-10-80

FEDERAL COMMUNICATIONS COMMISSION

59351 9-9-80 / AM stereophonic broadcasting; comments by 12-9-80

63011 9-23-80 / Cable television systems and postponement of divestiture requirement; comments by 12-8-80

71628 10-20-80 / Changes in the corporate structure and operations of COMSAT; comments by 12-12-80

64991 10-1-80 / FM broadcast stations in Bath and Hammondsport, N.Y.; changes in table of assignments; reply comments by 12-10-80

64993 10-1-80 / FM station in Blairsville, Pa.; changes in table of assignments; reply comments by 12-10-80

64984 10-1-80 / FM broadcast stations in Brookville and Versailles, Ind.; changes in table of assignments; reply comments by 12-10-80

63533 9-25-80 / FM broadcast station's in Casper, Wyo.; changes in table of assignments; reply comments by 12-8-80

64994 10-1-80 / FM broadcast station's in Denison, Tex.; changes in table of assignments; reply comments by 12-10-80

63532 9-25-80 / FM broadcast station's in Farmville and Appomattox, Va.; changes in table of assignments; reply comments by 12-8-80

64988 10-1-80 / FM broadcast station;s in Hastings, Nebr.; changes in table of assignments; reply comments by 12-10-80

64985 10-1-80 / FM broadcast station's in Hays, Kans.; changes in table of assignments; reply comments by 12-10-80

63531 9-25-80 / FM broadcast station in Madras, Oreg.; changes in table of assignments; reply comments by 12-8-80

63530 9-25-80 / FM broadcast station in Munising, Mich.; changes in table of assignments; reply comments by 12-8-80

64990 10-1-80 / FM broadcast station in McCook, Nebr.; changes in table of assignments; reply comments by 12-10-80

64981 10-1-80 / FM broadcast station in Visalia, Calif.; changes in table of assignments; reply comments by 12-10-80

76717 11-20-80 / FM quadraphonic broadcasting; comments period extended to 12-10-80

[Originally published at 45 FR 55491, 8-20-80]

65639 10-3-80 / Maritime radio services; public coast stations operating on frequencies below 27,500 kHz, establishment limitation removed; comments by 12-10-80

74523 11-10-80 / MTS and WATS market structure; interstate telecommunications services; Alaska submarket; comments by 12-8-80 and 12-10-80

[*See also* 45 FR 55777, 8-21-80 and 45 FR 61646, 9-17-80]

76498 11-19-80 / Overseas communications services regulations; comments by 12-12-80

65637 10-3-80 / Radio stations, table of assignments; FM broadcast station in International Falls, Minn.; reply comments by 12-8-80

64987 10-1-80 / TV broadcast station in Paintsville, Ky.; changes in table of assignments; reply comments by 12-10-80

64983 10-1-80 / TV broadcast station in Fort Pierce, Fla.; changes in table of assignments; reply comments by 12-10-80

FEDERAL MARITIME COMMISSION

75244 11-14-80 / Status of bulk commodities; comments by 12-12-80

FEDERAL RESERVE SYSTEM

71575 10-29-80 / Securities of member State banks; comments by 12-12-80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

59540 9-9-80 / Establishment of conditions under which over-the-counter (OTC) anthelmintic drugs products, which destroy pinworms, are generally recognized as safe and effective and not misbranded; comments by 12-8-80

[Corrected at 45 FR 65609, 10-3-80]

INTERIOR DEPARTMENT

Fish and Wildlife Service—

59909 9-11-80 / Endangered and threatened wildlife and plants; proposal to determine "Isotria medealoides" (small whorled pagonia) to be an endangered species; comments from Governors of affected States by 12-10-80

Surface Mining Reclamation and Enforcement Office—

67361 10-10-80 / Oklahoma; permanent program submission under the Surface Mining Control and Reclamation Act of 1977; comments by 12-9-80

67372 10-10-80 / Tennessee, permanent program submission under the Surface Mining Control and Reclamation Act of 1977; comments by 12-9-80

INTERSTATE COMMERCE COMMISSION

70030 10-22-80 / Elimination of Annual Report Form TCS for motor carriers of property; comments by 12-8-80

76718 11-20-80 / Motor common carriers of household goods; operational rules; comments on or before 12-11-80

74488 11-10-80 / Railroad consolidation procedures, time revisions; comments by 12-10-80

NATIONAL CREDIT UNION ADMINISTRATION

75224 11-14-80 / Share accounts and share certificate accounts; comments by 12-10-80

NUCLEAR REGULATORY COMMISSION

76446 11-19-80 / Action plan developed as a result of the Three Mile Island accidents; comments by 12-12-80

74493 11-10-80 / Application review fees; comments by 12-8-80

70874 10-27-80 / Technetium-99 and low-enriched uranium as residual contamination in smelted alloys; exemption and licensing requirements; comments by 12-11-80

70166 10-22-80 / Utility Management and Technical Resources; Report NUREG/CR-1658; comments by 12-8-80

POSTAL SERVICE

38419 6-9-80 / Poisons and controlled substances—nonmailability; comments by 12-8-80

[*See also* 45 FR 20118, 3-27-80 and 45 FR 26983, 4-22-80]

TRANSPORTATION DEPARTMENT

Coast Guard—

70918 10-27-80 / Tankships; hatch covers on cargo tanks; comments by 12-11-80

70920 10-27-80 / Uninspected vessels of 200 gross tons or more, removal of affirmative minimum manning requirement; comments by 12-11-80

Federal Aviation Administration—

67283 10-9-80 / Flight crewmember flight and duty time limitations and rest requirements; comment period extended to 12-10-80

[*See also* 44 FR 53316, 8-11-80]

67100 10-9-80 / Petition for rulemaking of Rosenbalm Aviation, Inc. to exempt large, cargo-only aircraft from installing ozone control equipment or using ozone avoidance procedures; comments by 12-10-80

Urban Mass Transportation Administration—

60306 9-11-80 / Project management procedures for grantees; comments by 12-8-80

70412 10-23-80 / Urban initiatives program; comments by 12-8-80

TREASURY DEPARTMENT

Internal Revenue Service—

67360 10-10-80 / Income tax; definition of a private foundation; comments by 12-9-80

Deadlines for Comments On Proposed Rules for the Week of December 14 through December 20, 1980

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

70224 10-23-80 / Exportation of animals from rinderpest or foot-and-mouth Disease infected countries; comments by 12-19-80

Farmers Home Administration—

68661 10-16-80 / Discontinuation of making section 502 weatherization loans through public utilities; comments by 12-15-80

68952 10-17-80 / Relocation and real property acquisition provisions; comments by 12-16-80

CIVIL AERONAUTICS BOARD

67680 10-14-80 / Air taxi operators, elimination of requirement to reregister every 2 years; comments by 12-15-80

73085 11-4-80 / Imposition of 2-year limit for starting service or continuing service after a fitness determination; comments by 12-15-80

COMMERCE DEPARTMENT

Foreign-Trade Zones Board—

67681 10-14-80 / Review of regulations concerning special subzones and operations detrimental to the public interest; comments by 12-15-80

Maritime Administration—

68393 10-15-80 / Construction-differential subsidy repayment; total repayment policy (interim rule); comments by 12-15-80

77445 11-24-80 / Construction-differential subsidy repayment; total repayment policy; interest calculation; comments by 12-14-80

National Oceanic and Atmospheric Administration—

74948 11-13-80 / Foreign fishing; 1981 fee schedule; collection procedures, etc.; comments by 12-15-80

70525 10-24-80 / Proposed amendments to High Seas Salmon Fishery Management Plan; comments by 12-15-80

COMMODITY FUTURES TRADING COMMISSION

77043 11-21-80 / Contract market rules and practices for imposition and maintenance of price limits; comments extended to 12-18-80

[Originally published at 45 FR 55469, 8-20-80]

DEFENSE DEPARTMENT

Army Department—

78727 11-26-80 / Privacy Act of 1974; exemptions; comments by 12-16-80

EDUCATION DEPARTMENT

69378 10-20-80 / Research in education of the handicapped; comments by 12-19-80

ENERGY DEPARTMENT

Economic Regulatory Administration—

73499 11-5-80 / Powerplant and Industrial Fuel Use Act of 1978; cogeneration exemption; comments extended from 11-7-80 to 12-15-80

[*See also* 45 FR 53368, 8-11-80]

Federal Energy Regulatory Commission—

76700 11-20-80 / Ceiling prices; high cost gas from tight formations; comments by 12-15-80

74934 11-13-80 / Eligibility, rates and exemptions for qualifying and utility-owned small power production facilities; comments by 12-15-80

78701, 78702, 78703 11-26-80 / High-cost gas produced from tight formations; ceiling prices; Colorado; comments by 12-19-80 (3 documents)

76696 11-20-80 / Public utilities, licensees, and natural gas companies; preservation of records; comments by 12-15-80

ENVIRONMENTAL PROTECTION AGENCY

75711 11-17-80 / Air pollution requirements, Administrative Order to DOE, Argonne National Laboratory to achieve compliance under the Illinois State Implementation Plan; comments by 12-17-80

68405 10-15-80 / Air quality implementation plan; Florida; variance for particulates, SO_2, visible emissions and excess emissions for Florida Power & Light Generating Plants; comments by 12-15-80

74521 11-10-80 / Hazardous waste management, Montana; application for Phase I interim authorization; comments by 12-15-80

74737 11-12-80 / Iowa application for interim authorization, phase I, Hazardous Waste Management Program; comments by 12-16-80

76210 11-18-80 / Massachusetts application for interim authorization, Phase I, Hazardous Waste Management Program, Worcester, Mass., 12-19-80

68514 10-15-80 / National Emission Standards for Hazardous Air Pollutants; test methods; revisions and addition; comments by 12-15-80

75488 11-14-80 / Pesticide Chemical Active ingredients; proposed registration standards ranking schemes; comments by 12-15-80

76211 11-18-80 / Polyamide polymer derived from Sebacic acid; exemption from requirement of tolerance; comments by 12-18-80

74945 11-13-80 / Premanufacture notification requirements and review procedures; availability of proposed economic impact and draft regulatory analyses; comments by 12-15-80

76496 11-19-80 / Proposed revision to Virginia State Implementation Plan; comments by 12-19-80

68616 10-15-80 / Standards of performance for new stationary sources; sodium carbonate; comments by 12-15-80

EXPORT-IMPORT BANK

68963 10-17-80 / Post employment conflict of interest provisions; comments by 12-16-80

FEDERAL COMMUNICATIONS COMMISSION

69496 10-21-80 / FM broadcast stations in Farwell and Morton, Tex.; proposed changes in table of assignments; reply comments by 12-18-80

67399 10-10-80 / FM radio broadcast stations in Louisiana; changes in table of assignments; reply comments by 12-18-80

71393 10-28-80 / FM broadcast station in South Lake Tahoe, Calif.; table of assignments; comments by 12-18-80

54778 8-18-80 / Inquiry relating to radio operator licensing program; reply comments by 12-15-80

[*See also* 41 FR 22981, 6-7-76; 42 FR 40939, 8-4-77]

77093 11-21-80 / Permitting the use of 12.5 KHz offset assignments in the 450-470 MHz band in the Private Land Mobile Radio Services; reply comments extended to 12-15-80

[Originally published at 45 FR 69504, 10-21-80]

73979 11-7-80 / Provisions for one-way paging stations in the domestic public land mobile radio service; comments by 12-15-80

70920 10-27-80 / Radio broadcasting financial reporting requirements; reply comment period extended 12-17-80

[See also 45 FR 35370, 5-27-80, and 45 FR 54786, 8-18-80]

72902 11-3-80 / Television channel allotments at less than specified minimum mileage separation distances; comments by 12-15-80

[Corrected at 45 FR 78736, 11-26-80]

74946 11-13-80 / TV Broadcast Station in East St. Louis, Ill.; changes in table of assignments; comments by 12-15-80

67400 10-10-80 / TV broadcast stations in Indiana, changes in table of assignments; reply comments by 12-18-80

70921 10-27-80 / TV Broadcast Station in Victoria, Tex., change in table of assignments; comments by 12-15-80

FEDERAL EMERGENCY MANAGEMENT AGENCY

67686 10-14-80 / Environmental considerations; comments by 12-15-80

FEDERAL TRADE COMMISSION

66809 10-8-80 / Mobile home sales and service; post-record; comments by 12-15-80

[*See also* 45 FR 53839, 8-15-80]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

75194 11-14-80 / Antibiotic drugs, daunorubicin hydrochloride, comments by 12-15-80

68971 10-17-80 / Revised dissolution test for human and animal drugs tetracycline hydrochloride and oxytetracycline hydrochloride; comments by 12-15-80

Public Health Service—

68902 10-16-80 / Grants for establishment of Department of Family Medicine; comments by 12-15-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

68886 10-16-80 / Proposal to determine the Borax Lake chub to be an Endangered Species and Borax Lake, Harney Co., Oregon to be its critical habitat; comments by 12-15-80

73876 11-6-80 / United States and Foreign Country proposals to amend the Appendices to the Convention on International Trades in Endangered Species of Wild Fauna and Flora; comments by 12-15-80

Geological Survey—

68665 10-16-80 / Intent to develop requirements to be used for periodic structural inspection of fixed offshore oil and gas platforms; comments by 12-15-80

National Park Service—

86867 10-16-80 / Noise Abatement plan for Jackson Hole Airport; comments by 12-15-80

[Corrected at 45 FR 70287, 10-23-80 and 45 FR 70916, 10-27-80]

Surface Mining Reclamation and Enforcement Office—

71815 10-30-80 / Surface coal mining and reclamation operations, permanent regulatory program, performance bonding; comments by 12-15-80

69249 10-20-80 / West Virginia, permanent program submission; partial approval/partial disapproval; comments by 12-19-80

INTERSTATE COMMERCE COMMISSION

72233 10-31-80 / Motor vehicles, loading and unloading responsibility, information; required on bills and receipts; comments by 12-15-80

72665 11-3-80 / Rail carriers; joint rates; surcharge or cancellation; rail variable cost and revenue determination procedures; comments by 12-18-80

NATIONAL CREDIT UNION ADMINISTRATION

68396 10-15-80 / Flood insurance regulations; revision of; comments by 12-15-80

NUCLEAR REGULATORY COMMISSION

67673 10-14-80 / Petition to permit persons exempt from regulation to receive ionizing radiation measuring instruments which contain more than one source of byproduct material; comments by 12-15-80

PERSONNEL MANAGEMENT OFFICE

75217 11-14-80 / Retirement; current survivor benefits; comments by 12-15-80

67669 10-14-80 / Subsistence payments for training assignments lasting more than 30 days; comments by 12-15-80

SECURITIES AND EXCHANGE COMMISSION

69476 10-21-80 / Exemption from registration of interests and participations in certain H.R. 10 Plans; comments by 12-15-80

63724 9-25-80 / Reports; informal quarterly reports to stockholders and financial information requirements; form 10-Q revision; comments by 12-15-80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

67677 10-14-80 / Type certification procedures for gliders; comments by 12-15-80

Federal Highway Administration—

68663 10-16-80 / Traffic safety in highway and street work zones; separation of opposing traffic and edge of pavement excavation requirements; comments by 12-15-80

National Highway Traffic Safety Administration—

71832 10-30-80 / Federal motor vehicle safety standards, controls and displays; comments by 12-15-80

71834 10-30-80 / Federal motor vehicle safety standards, tire selection and rims for motor vehicles other than passenger cars; comments by 12-15-80

TREASURY DEPARTMENT

Comptroller of the Currency—

68611 10-15-80 / Rules, policies, and procedures for corporate activities; comments by 12-15-80

68586 10-15-80 / Rules, policies, and procedures for corporate activities; comments by 12-15-80

68607 10-15-80 / Rules, policies, and procedures for corporate activities; change in bank control; comments by 12-15-80

68603 10-15-80 / Rules, policies, and procedures for corporate activities; charter policy; comments by 12-15-80

68612 10-15-80 / Rules, policies, and procedures for corporate activities: organization of an interim national bank; delegated authority; comments by 12-15-80

Internal Revenue Service—

68399 10-15-80 / Secretarial authority to add items to the list of items eligible for the residential energy credit; comments by 12-15-80

Newt Week's Meetings

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

76720 11-20-80 / Rulemaking and Public Information Committee, Washington, D.C. (open), 12-10-80

AGRICULTURE DEPARTMENT

Forest Service—

74739 11-12-80 / Gospel-Hump Advisory Committee, Grangeville, Idaho (open), 12-9-80

74739 11-12-80 / Lincoln National Forest Grazing Advisory Board, Alamogordo, N. Mex. (open), 12-9-80

68700 10-16-80 / Umatilla National Forest Grazing Advisory Board, Pendleton, Oregan (open), 12-10-80

Rural Electrification Administration—

73996 11-7-80 / Public scoping meetings on Basin Electric Power Cooperative draft environmental impact statement, Bulah, and Killdeer, N. Dak. (open), 12-9 and 12-10-80

ARTS AND HUMANITIES, NATIONAL FOUNDATION ON

77527 11-24-80 / Artists-in-Schools Panel, Washington, D.C. (open), 12-10 through 12-12-80

77203 11-21-80 / Humanities Panel, Washington, D.C. (open), 12-8 and 12-9-80

75368 11-14-80 / Humanities Panel, Washington, D.C. (closed), 12-8, 12-9, 12-11 and 12-12-80

76276 11-18-80 / Humanities Panel, Washington, D.C. (closed), 12-8, 12-10, 12-12 and 12-13-80

77527 11-24-80 / Visual Arts Panel (Workshops, Residencies, Crafts Apprenticeships), Washington, D.C. (closed), 12-9 through 12-11-80

CIVIL RIGHTS COMMISSION

74954 11-13-80 / Rhode Island Advisory Committee, Providence, R.I. (open), 12-10-80

COMMERCE DEPARTMENT

International Trade Administration—

77099 11-21-80 / Semiconductor Technical Advisory Committee, Arlington, Va. (partially open), 12-9-80

77499 11-24-80 / Semiconductor Technical Advisory Committee, Discrete Semiconductor Device Subcommittee, Washington, D.C. (closed), 12-10-80

78193 11-25-80 / Semiconductor Technical Advisory Committee, Microcircuit Subcommittee, Washington, D.C. (closed), 12-10-80

77500 11-24-80 / Semiconductor Technical Advisory Committee, Semiconductor Manufacturing Materials and Equipment Subcommittee, Washington, D.C. (closed), 12-10-80

National Oceanic and Atmospheric Administration—

75252 11-14-80 / Caribbean Fishery Management Council, Culebra, Commonwealth of Puerto Rico (open), 12-9 through 12-11-80

74948 11-13-80 / Foreign fishing; proposed 1981 fee schedule; collection procedures, etc., Washington, D.C., 12-8-80

74959 11-13-80 / Mid-Atlantic Fishery Management Council, Philadelphia, Penn., (open), 12-10 through 12-12-80

76217 11-18-80 / North Pacific Fishery Management Council, its Scientific and Statistical Committee and its Advisory Panel, Anchorage, Alaska, 12-8 through 12-12-80

74951 11-13-80 / Spiny Lobster Fisheries of the Western Pacific Region; draft environmental impact statement/Fishery Management Plan (DEIS/FMP) for the spiny lobster fisheries of the Western Pacific Region, Honolulu, Hawaii, 12-8-80; American Samoa, 12-11-80

74959 11-13-80 / South Atlantic Fishery Management Council, Jacksonville Beach, Fla., 12-3 and 12-4-80; Charleston, S.C., 12-9-80

74950 11-13-80 / South Atlantic Fishery Management Council, South Atlantic Scientific and Statistical Committee, and Advisory Panel (preparation of a fishery management plan for shrimp), Charleston, South Carolina (open), 12-9-80

DEFENSE DEPARTMENT

Air Force Department—

73728 11-6-80 / USAF Scientific Advisory Board, Mass. (closed), and 12-9-80

75273 11-14-80 / USAF Scientific Advisory Board, Kirtland Air Force Base, N. Mex. (closed) 12-11 and 12-12-80

Army Department—

75273 11-14-80 / Military Traffic Management Command, Military Personal Property Claims Symposium, Falls Church, Va. (open), 12-10-80

76222 11-18-80 / Shoreline Erosion Advisory Panel, Alexandria, Va., (open), 12-10-80

Navy Department—

77110 11-21-80 / Chief of Naval Operations Executive Panel Advisory Committee, Alexandria, Va. (closed), 12-10 and 12-11-80

78755 11-26-80 / Chief of Naval Operations Executive Panel Advisory Committee, Alexandria, Va. (closed), 12-10 and 12-11-80

73119 11-4-80 / Naval Postgraduate School; Board of Advisory to the Superintendent, Monterey, Calif., 12-11 and 12-12-80

Office of the Secretary—

76505 11-19-80 / Anti-Tactical Missiles Task Force of the Defense Science Board, Arlington, Va. (closed), 12-10 and 12-11-80

[Changed at 45 FR 79527, 12-1-80]

74960 11-13-80 / Defense Science Board, Anti-Submarine Warfare Review Panel, Washington, D.C. (closed), 12-10-80

74960 11-13-80 / DOD Advisory Group on Electron Devices, Arlington, Va. (closed), 12-11-80

73120 11-4-80 / Electron Devices Advisory Committee, Working Group A, Arlington, Va. (closed), 12-10 and 12-11-80

73120 11-4-80 / Electron Devices Advisory Group, Working Group B, Arlington, Va. (closed), 12-10-80

70039 10-22-80 / Wage Committee, Washington, D.C. (closed), 12-9-80

EDUCATION DEPARTMENT

77111 11-21-80 / Education Statistics Advisory Council, Hyattsville, Md. (open), 12-11 and 12-12-80

77111 11-21-80 / Vocational Education National Advisory Council, New Orleans, La. (open), 12-8-80

ENERGY DEPARTMENT

75740 11-17-80 / National Petroleum Council, Washington, D.C. (open), 12-10-80

76507 11-19-80 / National Petroleum Council, Subcommittee on Unconventional Gas Sources, Washington, D.C. (open), 12-9-80

Consumer Affairs Office—

76743 11-20-80 / Consumer Affairs Advisory Committee, Washington, D.C. (open), 12-8 and 12-9-80

Federal Energy Regulatory Commission—

77043 11-21-80 / Revision of annual report of gas supply for certain natural gas pipelines; Form No. 15, Washington, D.C., 12-9-80

ENVIRONMENTAL PROTECTION AGENCY

77077 11-21-80 / Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel, Arlington, Va. (open), 12-11 and 12-12-80

76790 11-20-80 / Science Advisory Board, Research Outlook Review Subcommittee, Washington, D.C. (open), 12-11 and 12-12-80

77516 11-24-80 / Science Advisory Board, Sampling Protocol Study Group, Denver, Colo. (open), 12-11-80

75757 11-17-80 / Science Advisory Board, Study Group on Environmental Measurements, Denver, Colo. (open), 12-8 through 12-10-80

71682 10-29-80 / State FIFRA Issues Research and Evaluation Group (SFIREG), Washington, D.C. (open), 12-10 and 12-11-80

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

76797 11-20-80 / Meeting, Washington, D.C. (partially open), 12-11-80

FINE ARTS COMMISSION

64863 11-8-80 / Meeting, Washington, D.C. (open), 12-9-80

75272 11-14-80 / Meeting, Washington, D.C. (open), 12-9-80

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service—

75324 11-14-80 / National Archives Advisory Council, Qualifications review panel for the position of Assistant Archivist for the National Archives Subcommittee, Washington, D.C. (partially open), 12-12-80

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Disease Control—

75760 11-17-80 / Intravenous Therapy-Related Infections Work Group, Atlanta, Ga. (open), 12-12-80

Food and Drug Administration—

75326 11-14-80 / Anesthetic and Life Support Drugs Advisory Committee, Rockville, Md. (open), 12-11 and 12-12-80

75325 11-14-80 / Miscellaneous Internal Drug Products Panel, Silver Spring, Md. (open), 12-13 and 12-14-80

75326 11-14-80 / Pulmonary-Allergy Drugs Advisory Committee, Rockville, Md. (open), 12-8 and 12-9-80

74062 11-7-80 / Small Business Exchange meeting, Chicago, Ill. (open), 12-10-80

National Institutes of Health—

77139 11-21-80 / Bladder and Prostatic Cancer Review Committee, Bladder Subcommittee, Arlington, Va. (open), 12-11 and 12-12-80

74062 11-7-80 / Breast Cancer Task Force Committee, Bethesda, Md. (open), 12-9 and 12-10-80

62562 9-19-80 / Clinical Cancer Program Project and Cancer Center Support Review Committee; Clinical Cancer Program Project Subcommittee, Bethesda, Md. (partially open), 12-8-80, (closed) 12-9 and 12-10-80

71864 10-30-80 / National Institute of Dental Research Programs Advisory Committee, Periodontal Diseases Subcommittee, Bethesda, Md. (open), 12-8 and 12-9-80

65319 10-2-80 / President's Cancer Panel, Bethesda, Md. (open), 12-9-80

77139 11-21-80 / Transplantation Biology and Immunology Committee, Bethesda, Md. (open), 12-8-80

Human Development Services Office—

74777 11-12-80 / White House Conference on Aging, technical meeting, Washington, D.C. (open), 12-8 and 12-9-80

73800 11-6-80 / White House Conference on Aging, Technical Committee, Washington, D.C. (open), 12-10 and 12-11-80

74776 11-12-80 / White House Conference on Aging, Technical Committee, Washington, D.C. (open), 12-7 and 12-8-80

75760 11-17-80 / White House Conference on Aging, Technical Committee on Governmental Structures, Washington, D.C. (open), 12-8 and 12-9-80

77521 11-24-80 / White House Conference on Aging, Technical Committee on Retirement Income, Washington, D.C. (open), 12-10 and 12-11-80

Public Health Service—

77146 11-21-80 / Vital and Health Statistics National Committee, Washington, D.C. (open), 12-9 and 12-10-80

Office of the Secretary—

76519 11-19-80 / Rights and Responsibilities of Women, Secretary's Advisory Committee, Washington, D.C. (open), 12-11-80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Environmental Quality Office—

74996 11-13-80 / Beckett Ridge, intended environmental impact statement, Chester, Ohio (open), 12-10-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

68575 10-17-80 / Consideration of proposed endangered status and critical habitat for the Kentucky cave shrimp, Bowling Green, Ky. (open), 12-10-80

Land Management Bureau—

73806 11-6-80 / Eugene District Advisory Council, Eugene, Oreg. (open), 12-9-80

76537 11-19-80 / Grand Junction District Grazing Advisory Board, Grand Junction, Colo. (open), 12-10-80

73808 11-6-80 / Moab District Grazing Advisory Board, Moab, Utah (open), 12-12-80

73807 11-6-80 / Multiple Use Advisory Council, Yuma, Ariz. (open), 12-11 and 12-12-80

74998 11-13-80 / Outer Continental Shelf Advisory Board North Atlantic Technical Working Group, Providence, R.I. (open), 12-8-80

72296 10-31-80 / Salmon District, Grazing Advisory Board, Salmon, Idaho (open), 12-9-80

[Corrected at 45 FR 72297, 11-26-80]

75768 11-17-80 / Salmon District Multiple Use Advisory Council, Challis, Idaho (open), 12-11-80

National Park Service—

78240 11-25-80 / Delta Region Preservation, New Orleans, La. (open), 12-10-80

74074 11-7-80 / Options for the future of Crater Lake Lodge, various cities in Oregon (open), 12-9 through 12-11-80

Office of the Secretary—

76803 11-20-80 / Oil Shale Environmental Advisory Panel, Grand Junction, Colo. (open), 12-9-80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

International Development Agency—

77189 11-21-80 / International Food and Agricultural Development Board, Agricultural Development Joint Committee, Wash., D.C., Rosslyn, Va., and Arlington, Va., 12-8-80 (open); Arlington, Va. (open), 12-9-80

77190 11-21-80 / International Food and Agricultural Development Board, Joint Research Committee, Rosslyn, Va. (open), 12-9 and 12-10-80

77189 11-21-80 / Voluntary Foreign Aid Advisory Committee, Wash., D.C. (open), 12-10-80

INTERSTATE COMMERCE COMMISSION

78140 11-25-80 / Legal assistance referral program conference, Washington, D.C. (open), 12-17-80

JUSTICE DEPARTMENT

Attorney General—

76554 11-19-80 / Immigration and Naturalization Federal Advisory Committee, New Orleans, La. (open), 12-11 and 12-12-80

Federal Bureau of Investigation—

78848 11-26-80 / National Crime Information Center, Advisory Policy Board, San Diego, Calif. (open), 12-10 and 12-11-80

Justice Statistics Bureau—

77191 11-21-80 / Advisory Board meeting, Arlington, Va. (open), 12-12 and 12-13-80

LABOR DEPARTMENT

Labor Statistics Bureau—

76268 11-18-80 / Labor Research Advisory Council Committees, Washington, D.C. (open), 12-9 through 12-11-80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

77526 11-24-80 / NASA Advisory Council, Space and Terrestrial Applications Advisory Committee, Satellite Communications Applications Subcommittee, Washington, D.C. (open), 12-11-80

NATIONAL SCIENCE FOUNDATION

75027 11-13-80 / Engineering and Applied Science Advisory Committee, Science and Technology to Aid the Handicapped Subcommittee, Washington, D.C. (closed), 12-11 and 12-12-80

76556 11-19-80 / Materials Research Advisory Committee, Subcommittee on Metallurgy, Polymers, and Ceramics, Washington, D.C. (partially open), 12-8 and 12-9-80

NUCLEAR REGULATORY COMMISSION

78320 11-25-80 / Reactor Safeguard Advisory Committee, Reactor Radiological Effects and Site Evaluation Subcommittees, Wash., D.C. (open), 12-11-80

78849 11-26-80 / Reactor Safeguards Advisory Committee, Subcommittee on Reactor Radiological Effects, Washington, D.C. (open), 12-12-80

73836 11-6-80 / South Carolina Electric & Gas Co., et al. (Virgil C. Summer Nuclear Station, Unit 1), Columbia, S.C. (open), 12-11-80

PENSION POLICY, PRESIDENT'S COMMISSION

61058 9-15-80 / Symposium on ownership and control of pension assets, Washington, D.C. (open), 12-11-80

SCIENCE AND TECHNOLOGY POLICY OFFICE

78321 11-25-80 / Weather Modification Advisory Group, Wash., D.C. (open), 12-11 and 12-12-80

SELECT COMMISSION ON IMMIGRATION AND REFUGE POLICY

75825 11-17-80 / Meeting, Irvington, Va. (partially open), 12-7-80

SMALL BUSINESS ADMINISTRATION

76313 11-18-80 / National Advisory Council, Hollywood Beach, Florida (open), 12-9 through 12-12-80

STATE DEPARTMENT

Office of the Secretary—

76564 11-19-80 / International Radio Consultative Committee, Study Group 1 of the U.S. Organization, Washington, D.C. (open), 12-10-80

TRANSPORTATION DEPARTMENT

Coast Guard—

74523 11-10-80 / Damage stability standards for Great Lakes bulk dry cargo vessels, Cleveland, Ohio (open), 12-11-80

Federal Aviation Administration—

76834 11-20-80 / Radio Technical Commission for Aeronautics, Special Committee 136—Installation of Emergency Locator Transmitters in Aircraft, Washington, D.C. (open), 12-9 through 12-10-80

National Highway Traffic Safety Administration—

75831 11-7-80 / Innovators Seminar No. 5, Free Wheeling and Engine Cutoff Devices for Fuel Savings, Washington, D.C., 12-8-80

77532 11-24-80 / International Automotive Ratings Symposium, Lancaster, Pa. (open), 12-9 through 12-11-80

43921 6-30-80 / Symposium on Automotive Ratings, East Lancaster, Pa. (open), 12-9 through 12-11-80

59245 9-8-80 / Symposium on automotive ratings, East Lancaster, Pa., 12-9 through 12-11-80

Research and Special Programs Administration—

75046 11-13-80 / Technical Pipeline Safety Standards Committee, Wash., D.C. (open), 12-9 and 12-10-80

VETERANS ADMINSTRATION

75046 11-13-80 / Station Committee on Educational Allowances, Nashville, Tenn. (open), 12-9-80

59470 9-9-80 / Wage Committee, Washington, D.C. (closed), 12-11-80

Next Week's Public Hearings

CIVIL RIGHTS COMMISSION

71636 10-29-80 / Miami Hearing—the State of Civil Rights, Miami, Fla., 12-8-80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

78738 11-26-80 / Atlantic bluefin tuna fishery

Madiera Beach, Fla., 12-8-80

Ft. Pierce, Fla., 12-9-80

Corpus Christi, Tex., 12-10-80

Kenner, La., 12-11-80

67404 10-10-80 / North Pacific Fishery Management Council, Anchorage, Alaska, 12-9-80

77101 11-21-80 / South Atlantic Fishery Management Council

Raleigh, N.C. 12-10-80

Atlantic Beach, N.C., 12-10-80

Kill Devil Hills, N.C. 12-11-80

DEFENSE DEPARTMENT

Navy Department—

68704 10-16-80 / Navy Discharge Review Board, Albany, New York, 12-8 through 12-12-80

68704 10-16-80 / Navy Discharge Review Board, Atlanta, Ga.; New Orleans, La.; and Tampa, Fla., 12-7 through 12-15-80

60468 9-12-80 / Naval Discharge Review Board; Atlanta Ga., New Orleans, La. and Tampa, Fla. 12-1 through 12-15-80

EDUCATION DEPARTMENT

74558 11-10-80 / Education Appeal Board; appeals of the State of Arizona, Washington, D.C., 12-10 and 12-11-80

ENERGY DEPARTMENT

71498 10-28-80 / Consolidated State Grant Program, Washington, D.C., 12-9 and 12-10-80

Conservation and Solar Energy Office—

71746 10-29-80 / Price support loans for municipal waste energy projects, Washington, D.C., 12-11-80

ENVIRONMENTAL PROTECTION AGENCY

73976 11-7-80 / Consideration of Arizona's application for interim authorization for Phase I of its Hazardous Waste Management Program, Phoenix, Ariz., 12-11-80

73977 11-7-80 / Consideration of California's application for interim authorization of Phase I of its Hazardous Waste Management Program; San Francisco, Calif., 12-9-80

72713 11-3-80 / Steam electric power generating point source category; pretreatment regulations, Washington, D.C., 12-9-80

INTERIOR DEPARTMENT

Indian Affairs Bureau—

79094 11-28-80 / Heritage preservation; Seattle, Wash., 12-12; Tri-County Ojibwa Center, Hertel, Wis., 12-13-80

Land Management Bureau—

74074 11-7-80 / Consideration of draft environmental impact statement on Energy Transportation Systems, various cities in Kans., Colo., and Nebr., 12-8, 12-10, and 12-11-80

Surface Mining Reclamation and Enforcement Office—

74728 11-12-80 / State-Federal Cooperative Agreements; Montana, Helena, Mont., 12-10-80

TRANSPORTATION DEPARTMENT

Coast Guard—

73716 11-6-80 / Radar Observer Endorsement—Demonstration of Skills, 12-11-80

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing December 1, 1980

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

RULES GOING INTO EFFECT

79032 11-28-80 / ED—Higher education programs in modern foreign language and area studies; call 202-245-2356 for effective date

79035 11-28-80 / ED—Secretary's Discretionary Program (to solve educational problems); call 202-426-7220 for effective date

79071 11-28-80 / FEMA—State Assistance Program for the National Flood Insurance Program; effective 11-28-80

DEADLINES FOR COMMENTS ON PROPOSED RULES

78700 11-26-80 / DOE/Solar—Energy Auditor Training and Certification grants; comments period extended to 12-8-80

[*See also* 45 FR 66970, 10-8-80]

78962 11-26-80 / ED—Bilingual Education Training Projects Program; comments by 1-25-81

APPLICATIONS DEADLINES

79134 11-28-80 / Commerce/MBDA—Financial assistance for programs in San Francisco Region; apply by 1-9-81

79134 11-28-80 / Commerce/MBDA—Financial assistance; project I.D. Nos.: 09-10-50610-00, 09-10-50620-00, 09-10-50630-00, 09-10-50640-00; applications closing dates changed to 12-29-80

[*See also* 45 FR 75731, 11-17-80]

78966 11-26-80 / ED—Bilingual Education Programs and Bilingual Vocational Education Programs; revision of closing dates for transmittal of applications

[*See* 45 FR 66564, 10-7-80]

78965 11-26-80 / ED—Bilingual Education Support Services Projects Program; apply 2-13-81

78964 11-26-80 / ED—Bilingual Education Training Projects Program; apply by 2-13-81

78194 11-25-80 / ED—Ethnic Heritage Studies Program; apply by 1-8-81

79138 11-28-80 / ED—Higher education programs in modern foreign language training and area studies (Fulbright-Hays); apply by 1-15-81

78755 11-26-80 / ED—Improvement of Postsecondary Education; apply by 12-2-80 and 1-21-81

[Originally published at 45 FR 66564, 10-7-80]

77519 11-24-80 / HHS/ADAMHA—Psychobiology of depression—biological studies collaborative program; invitation of cooperative agreement applications for data analyses; apply by 1-23-81

79166 11-28-80 / HHS/HSA—Home health program; possible availability of grants for home health services and training projects; apply by 5-1-81 (service development and expansion) and 6-1-81 (training of personnel)

77526 11-24-80 / Justice/NIJ—Differential Police Response to Calls for Service Program; solicitation for competitive research cooperative agreement program to evaluate field test; papers must be received by 1-21-81

78328 11-25-80 / State—United States Joint Committee for Scientific and Technological Cooperation; Postdoctoral research and short-term travel awards; apply by 2-25-81

MEETINGS

78195 11-25-80 / ED—Puerto Rico; compliance with title I, Elementary and Secondary Education Act, Hato Rey, P.R., 12-3-80

79167 11-28-80 / HHS/NIH—Arteriosclerosis Hypertension and Lipid Metabolism Advisory Committee, Bethesda, Md. (open), 1-13-81

79168 11-28-80 / HHS/NIH—Cardiology Advisory Committee, Bethesda, Md. (open), 1-12 and 1-13-81

79168 11-28-80 / HHS/NIH—High Blood Pressure Working Group, Bethesda, Md. (open), 1-12-81

79386 11-28-80 / HHS/NIH—Recombinant DNA Advisory Committee, Bethesda, Md. (partially open), 1-8-81 (and 1-9 if necessary)

77527 11-24-80 / NFAH—Artists-in-Schools Panel, Washington, D.C. (open), 12-10 through 12-12-80

78848 11-26-80 / NFAH—Correction to Humanities Panel Meeting notice, Washington, D.C (closed), 12-16-80

[*See* 45 FR 75369, 11-14-80]

78848 11-26-80 / NFAH—Humanities Panel, Washington, D.C. (closed), 12-15-80

[*See also* 45 FR 76276, 11-18-80]

79204 11-28-80 / NFAH—Humanities Panel, Washington, D.C. (closed), 12-16 and 12-17-80, and 1-8, 1-12, and 1-14-81

78848 11-26-80 / NFAH—Media Arts Panel (In Residence/Workshop), Washington, D.C. (closed), 12-15 and 12-16-80

77527 11-24-80 / NFAH—Visual Arts Panel (Workshops, Residences, Crafts Apprenticeships), Washington D.C. (closed), 12-9 through 12-11-80

78848 11-26-80 / NFAH—Visual Arts Panel (Drawing/Printmaking / Artists Books), Washington, D.C. (closed), 12-15 and 12-16-80

OTHER ITEMS OF INTEREST

78918 11-26-80 / Commerce—Semiannual Agenda of Regulations; Minority Business Development Agency

78194 11-25-80 / ED.—Regional Education Programs for Deaf and Other Handicapped Persons; Gifted and Talented Children's Education Programs; Discretionary Program for Model Education; corrections to notice published October 7, 1980

78735 11-26-80 / HHS/CDC—Formula Grants to states for Preventative Health Service Programs; decision to develop regulations

78229 11-25-80 / HHS—Alcohol, Drug Abuse, and Mental Health Administration; statements of organizations, functions, and delegations of authority

77439 11-24-80 / HHS—Debarment and suspension from eligibility for financial assistance; corrections
[*See also* 45 FR 67262, 10-9-80]

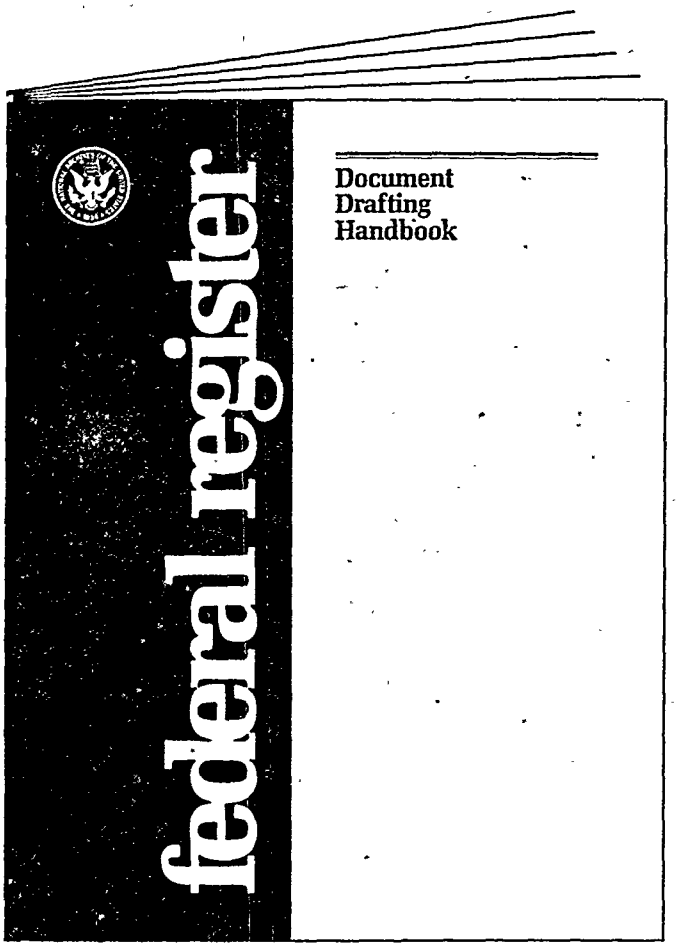
78231 11-25-80 / HHS—Health Resources Administration and Health Services Administration; statement of organization, functions, and delegations of authority

79386 11-28-80 / HHS/NIH—Recombinant DNA research; proposed actions under guidelines; comments by 12-29-80

77526 11-24-80 / LSC—Gulfcoast Legal Services in St. Petersburg, Fla.; consideration of grant application to serve Manatee and Sarasota Counties

78302 11-25-80 / NFAH—National Endowment for the Humanities; announcement for 1981-1982 program

78313 11-25-80 / NSF—Notice of permits issued under Antarctic Conservation Act of 1978



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