



highlights

PETROLEUM AND PETROLEUM PRODUCT IMPORTS

Presidential proclamation 58077

AGE DISCRIMINATION IN EMPLOYMENT ACT

Labor/W&H proposes amendments to Interpretative Bulletin and Regulations regarding exemptions for certain executive and high policymaking employees and tenured employees at institutions of higher education; comments by 1-5 and 2-12-79; hearing on 1-8-79 (Parts II and III of this issue) (2 documents)..... 58148, 58154

OCCUPATIONAL SAFETY AND HEALTH

HEW/PHS develops procedures for approving training courses in spirometry to be taken by persons treating employees exposed to cotton dust; applications by 12-12-78 58119

GRANT PROGRAMS

DOE proposes regulations providing financial assistance for schools, hospitals, and units of local government and public care institutions for the purpose of reducing use and cost of energy; requests to speak by 1-3-79; comments by 1-12-79; hearing on 1-8 through 1-10-79 (Part IV of this issue) 58158

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

USDA/FNS publishes for public comment proposed formula for distributing administrative funds to State agencies 58106

FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

HEW invites applications for new grants under two targeted competitions; closing date 2-14-79 58120

DEPOSIT INSURANCE

FDIC extends coverage on IRA and Keogh Time and Savings Deposits to \$100,000; effective 12-12-78 58081

FEDERAL CREDIT UNIONS

NCUA proposes rule to restrict borrowing to members and to establish borrowing requirements; comments by 2-23-79 58096

MILITARY PERSONNEL

DOD/Secretary of Defense establishes policies and assigns responsibilities for developing an active program of education and training in human/race relations and equal opportunity; effective 9-12-78 58083

PRIVATE ORGANIZATIONS ON DOD INSTALLATIONS

DOD/Office of the Secretary issues rules establishing operating policy; effective 9-22-78 58083

COMMERCIAL SOLICITATION AND SALES

DOD/AF revives rule updating policies governing conduct on Air Force installations; effective 9-7-78 58087

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 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	CSC		CSA	CSC
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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

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

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

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Subscription problems (GPO).....	202-275-3050
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Corrections	523-5237
Public Inspection Desk.....	523-5215
Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-5235
Code of Federal Regulations (CFR)..	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents.....	523-5235
Index.....	523-5235

PUBLIC LAWS:

Public Law numbers and dates.....	523-5266
	523-5282
Slip Law orders (GPO)	275-3030
U.S. Statutes at Large	523-5266
	523-5282
Index.....	523-5266
	523-5282

U.S. Government Manual

523-5230

Automation

523-3408

Special Projects

523-4534

HIGHLIGHTS—Continued

OIL AND GAS LEASE SALES

Interior/BLM extends time for oil and gas companies to file statements of production to enable joint bidding; effective 12-12-79 **58090**

ENERGY

DOE/ERA issues additional hearing on interim rules to permit classification of certain powerplants and installations as existing facilities; hearing on 1-15-79 **58092**

INDEPENDENT OCEAN FREIGHT FORWARDERS

FMC proposes criteria and filing requirements for submitting bids on government shipments at U.S. ports; comments by 1-5-79 **58098**

CONSERVATION PRACTICES

USDA/SCS issues rule describing development and availability of technical standards; effective 12-12-78..... **58079**

ANIMAL DRUGS

HEW/FDA amends regulations to provide for use of a tylosin premix for making complete swine feeds; effective 12-12-78... **58082**
HEW/FDA amends regulations to provide for use of injectable antibiotic for treating certain cattle diseases; effective 12-12-78 **58082**

BURLEY TOBACCO

USDA/ASCS prepares to determine and announce 1979 national marketing quotas, comments by 1-15-79 **58093**

ROT IN TOMATO PRODUCTS

HEW/FDA announces availability of an administrative guideline **58119**

RICE

USDA/CCC proposes to make determinations and issue regulations relative to 1979 price support program and the possibility of a set-aside program; comments by 1-11-79 (2 documents) **58095**

COTTON AND MAN-MADE FIBER TEXTILES FROM ROMANIA

CITA increases import restraint levels for certain products; effective 12-12-78 **58109**

COTTON AND MAN-MADE FIBER TEXTILES FROM THAILAND

CITA establishes import restraint levels for certain products during the twelve-month period from January 1, 1978 through December 31, 1978; effective 12-13-78 **58110**

HEARINGS—

DOT/FRA: Signal and Train Control Regulations and Orders, 1-17-79; statements and notification by 1-12-79.... **58100**

RESCHEDULED MEETING—

DOD/AF: USAF Scientific Advisory Board of the Electronic Systems Division Advisory Group, 1-18 and 1-19-79..... **58111**

HIGHLIGHTS—Continued

MEETINGS—

DOD/Office of the Secretary: Defense Intelligence Agency Advisory Committee, 1-11-79	58113
Working Group C of the DOD Advisory Group on Electron Devices, 1-25 and 1-26-79	58113
National Commission on Unemployment Compensation, benefit levels, financing alternatives, Federal Extended and Supplemental Programs and public testimony, 1-25 through 1-27-79	58125

NFAH/Humanities Panel: 1-3 through 1-6-79; 1-8 through 1-13-79, 1-15 through 1-20-79, 1-22 and 1-23-79 (2 documents)	58126, 58127
--	--------------

SEPARATE PARTS OF THIS ISSUE

Part II, Labor/W&H	58148
Part III, Labor/W&H	58154
Part IV, DOE	58158

reminders

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

Rules Going Into Effect Today

HEW/FDA—Progestational drug products; requirements for patent labeling 47178;
10-13-78

List of Public Laws

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

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

contents

THE PRESIDENT

Proclamations

Petroleum and petroleum products, imports 58077

EXECUTIVE AGENCIES

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices

Authority delegations:

Asia, Mission Director, et al.; loan and grants source waivers 58128

South Pacific, Representative; contracting functions..... 58129

AGRICULTURAL MARKETING SERVICE

Rules

Milk marketing orders:

Inland Empire 58079

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Proposed Rules

Rice, set-aside program and land diversion payments..... 58094

Tobacco (burley); 1979 National marketing quotas 58093

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Farmers Home Administration; Food and Nutrition Service; Soil Conservation Service.

AIR FORCE DEPARTMENT

Rules

Personal commercial affairs 58087

Notices

Meetings:

Scientific Advisory Board 58111

ARMY DEPARTMENT

Notices

Privacy Act; systems of records..... 58111

ARTS AND HUMANITIES, NATIONAL FOUNDATION

Notices

Meetings:

Humanities Panel (2 documents)..... 58126, 58127

CENTER FOR DISEASE CONTROL

See Disease Control Center.

COMMERCE DEPARTMENT

See also Industry and Trade Administration; National Oceanic and Atmospheric Administration.

Notices

Committees; establishment, renewals, terminations, etc.:

East-West Trade Advisory Committee 58108

COMMODITY CREDIT CORPORATION

Proposed Rules

Rice, proposed determinations regarding the 1979 price support program 58095

COMMODITY FUTURES TRADING COMMISSION

Notices

Meetings; Sunshine Act (3 documents) 58143

CUSTOMS SERVICE

Notices

Antidumping:

Portland hydraulic cement from Canada 58129

DEFENSE DEPARTMENT

See also Air Force Department; Army Department.

Rules

Human/race relations, education and training for military personnel 58083

Private organizations on DOD installations; proper conduct of operations 58083

Notices

Meetings:

Defense Intelligence Agency Advisory Committee 58113

Electron Devices Advisory Group 58113

DISEASE CONTROL CENTER

Notices

Occupational safety and health standards:

Spirometry training course approval 58119

ECONOMIC REGULATORY ADMINISTRATION

Rules

Powerplant and industrial fuel use:

Transitional facilities; additional hearing 58092

Notices

Oil import allocations and licensing, 1978; reports:

November 58113

EDUCATION OFFICE

Notices

Applications and proposals, closing dates:

Adult education strategies and varieties of liberal education 58120

EMPLOYMENT AND TRAINING ADMINISTRATION

Notices

Unemployment compensation: Federal extended benefits; "on" and "off" indicators; various States 58123

ENERGY DEPARTMENT

See also Economic Regulatory Administration; Federal Energy Regulatory Commission.

Proposed Rules

Schools, hospitals, local government units, and public care institutions; grant programs 58158

Notices

International atomic energy agreements; civil uses; subsequent arrangements: Netherlands 58117

ENVIRONMENTAL PROTECTION AGENCY

Notices

Air quality criteria: Carbon monoxide 58117
Oxides of nitrogen 58117

FARMERS HOME ADMINISTRATION

Rules

Rural housing loans and grants: Rental housing, construction lenders; correction 58080

FEDERAL COMMUNICATIONS COMMISSION

Rules

FM broadcast stations; table of assignments: Alaska 58091
Louisiana 58091

Proposed Rules

Experimental broadcast services: Low-power television broadcasting and television translators in National telecommunications system; extension of time 58100

FM broadcast stations; table of assignments: Arkansas 58099

Notices

AM broadcasting applications ready and available for processing 58118

FM broadcasting applications ready and available for processing 58118

Hearings, etc.:

Commercial Communications Inc., et al 58118

Television translator applications ready and available for processing 58118

CONTENTS

FEDERAL DEPOSIT INSURANCE CORPORATION

Rules
 Deposit insurance coverage, clarification and definition: IRA, Keogh time, and savings deposits, insurance maximum, increase 58081

FEDERAL ENERGY REGULATORY COMMISSION

Notices
 Hearings, etc.:
 Midwestern Gas Transmission Co 58115
 Superior Oil Co 58116
 Natural Gas Policy Act:
 Determination process report receipts 58117

FEDERAL MARITIME COMMISSION

Proposed Rules
 Licensing of independent ocean freight forwarders; bids on Government shipments at U.S. ports 58098

FEDERAL RAILROAD ADMINISTRATION

Proposed Rules
 Practice rules:
 Safety regulatory program; inquiry; hearing 58100

FEDERAL RESERVE SYSTEM

Notices
 Meetings; Sunshine Act (2 documents) 58143, 58144

FISH AND WILDLIFE SERVICE

Notices
 Endangered and threatened species permits; applications (4 documents) 58121

FOOD AND DRUG ADMINISTRATION

Rules
 Animal drugs, feeds, and related products:
 Oxytetracycline hydrochloride injection 58082
 Tylosin 58082

Proposed Rules

Human drugs:
 Over-the-counter drugs; sun-screen products; monograph establishment; correction 58097
 Over-the-counter drugs; topical optics; establishment of monograph; correction 58097

Notices

Committees; establishment, renewals, terminations, etc.:
 Technical Electronic Product Radiation Standards Committee 58119
 Tomato product rot, guidelines; availability 58119

FOOD AND NUTRITION SERVICE

Notices
 Women, infants and children; special supplemental food program:
 Funding formula; inquiry 58106

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See Disease Control Center; Education Office; Food and Drug Administration.

HERITAGE CONSERVATION AND RECREATION SERVICE

Notices
 Historic Places National Register; additions, deletions, etc.:
 Arkansas et al 58122

INDUSTRY AND TRADE ADMINISTRATION

Rules
 Export licensing:
 Butane short supply controls; correction 58082

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Heritage Conservation and Recreation Service; Land Management Bureau.

Notices

Trust Territory of Pacific Islands; quitclaim and release of rights in various islands 58123

INTERNAL REVENUE SERVICE

Rules
 Income taxes:
 Bank holding companies; elections under the Bank Holding Company Tax Act of 1976; correction 58083

INTERNATIONAL TRADE COMMISSION

Notices
 Meetings; Sunshine Act 58144

INTERSTATE COMMERCE COMMISSION

Notices
 Fourth section applications for relief 58141
 Motor carriers:
 Permanent authority applications 58129
 Petitions filing:
 Clipper Express Co 58140
 Railroad car service orders; various companies:
 Southern Pacific Transportation Co 58141
 Railroad car service rules, mandatory; exemptions 28141
 Rerouting of traffic:
 Atchison, Topeka & Santa Fe Railway Co 58140
 Waste product transportation for reuse or recycling (3 documents) 58141, 58142

LABOR DEPARTMENT

See Employment and Training Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Wage and Hour Division.

LAND MANAGEMENT BUREAU

Rules
 Outer Continental Shelf; oil and gas leasing:
 Bidders, qualified joint; extension of time 58090

MANAGEMENT AND BUDGET OFFICE

Notices
 Clearance of reports; list of requests 58127

MINE SAFETY AND HEALTH ADMINISTRATION

Notices
 Petitions for mandatory safety standard modifications:
 Braztah Corp.; correction 58124
 Climax Molybdenum Co 58124

MINE SAFETY AND HEALTH FEDERAL REVIEW COMMISSION

Proposed Rules
 Procedural rules; extension of time 58097

Notices

Meetings; Sunshine Act (2 documents) 58143

NATIONAL CREDIT UNION ADMINISTRATION

Proposed Rules
 Federal Credit Unions:
 Investment activities; extension of time 58096
 Organization and operations; borrowed funds from natural persons 58096

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Proposed Rules
 Fishery conservation and management:
 Foreign fishing; activities within fishery conservation zone (FCZ); extension of time 58104

NUCLEAR REGULATORY COMMISSION

Notices
 Meetings; Sunshine Act 58144

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Notices
 State plans; development, enforcement, etc.:
 Wyoming (2 documents) 58124, 58125

POSTAL RATE COMMISSION

Notices
 Visits to postal facilities 58128

CONTENTS

SMALL BUSINESS ADMINISTRATION

Notices

Applications, etc.:
 International Film Investors,
 L.P 58128

SOIL CONSERVATION SERVICE

Rules

Support activities:
 Technical standards; avalla-
 bility 58079

STATE DEPARTMENT

See Agency for International
 Development.

TENNESSEE VALLEY AUTHORITY

Notices

Meetings; Sunshine Act 58145

**TEXTILE AGREEMENTS IMPLEMENTATION
 COMMITTEE**

Notices

Cotton and man-made textiles:
 Romania 58109
 Thailand 58110

TRANSPORTATION DEPARTMENT

See Federal Railroad Adminis-
 tration.

TREASURY DEPARTMENT

See Customs Service; Internal
 Revenue Service.

**UNEMPLOYMENT COMPENSATION
 NATIONAL COMMISSION**

Notices

Meetings 58125

WAGE AND HOUR DIVISION

Proposed Rules

Age discrimination in employ-
 ment:
 Executive and high policy-
 making employees in the
 private sector; exemption 58148
 Tenured employees at insti-
 tutes of higher education;
 exemption 58154

list of cfr parts affected in this issue

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month. A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR		12 CFR—Continued		32 CFR	
PROCLAMATIONS:		PROPOSED RULES:		51.....	58083
3279 (Amended by Proc. 4629) ..	58077	701.....	58096	212.....	58084
4629.....	58077	703.....	58096	818a.....	58087
7 CFR		15 CFR		43 CFR	
653.....	58079	377.....	58082	3300.....	58090
1133.....	58079	21 CFR		46 CFR	
1822.....	58080	510.....	58082	PROPOSED RULES:	
PROPOSED RULES:		522.....	58082	510.....	58098
726.....	58093	558.....	58082	47 CFR	
730.....	58094	PROPOSED RULES:		73 (2 documents).....	58091
1421.....	58095	344.....	58097	PROPOSED RULES:	
10 CFR		352.....	58097	73 (2 documents).....	58099, 58100
515.....	58092	26 CFR		49 CFR	
PROPOSED RULES:		6.....	58083	PROPOSED RULES:	
450.....	58158	29 CFR		Ch. II.....	58100
455.....	58158	PROPOSED RULES:		50 CFR	
12 CFR		850.....	58148	PROPOSED RULES:	
330.....	58081	860 (2 documents).....	58148, 58154	611.....	58104
		2700.....	58097		

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING DECEMBER

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

1 CFR		7 CFR—Continued		14 CFR—Continued	
Ch. I.....	56203	PROPOSED RULES:		250.....	57243
3 CFR		271.....	57798	302.....	56878, 57141
PROCLAMATIONS:		281.....	57798	304.....	56878
3279 (See Proc. 4629).....	58077	283.....	57798	385.....	56884
3822 (See Proc. 4610).....	56869	726.....	58093	PROPOSED RULES:	
4334 (See Proc. 4610).....	56869	730.....	58094	23.....	57243
4463 (See Proc. 4610).....	56869	781.....	57236, 57607	25.....	57243
4466 (See Proc. 4610).....	56869	910.....	57156	37.....	57243
4539 (See Proc. 4610).....	56869	928.....	57259	71.....	56678-56680
4610.....	56869	1002.....	57914	73.....	56680
4611.....	57008	1062.....	57156	15 CFR	
4612.....	57013	1421.....	58095	372.....	56648
4613.....	57019	1701.....	56244	373.....	56649
4614.....	57025	2852.....	56244, 57608	377.....	57141, 58082
4615.....	57031	9 CFR		379.....	56650
4616.....	57035	3.....	56213	386.....	56653
4617.....	57043	73.....	56876	16 CFR	
4618.....	57053	78.....	56218	Ch. I.....	57244
4619.....	57059	92.....	56876	1.....	56888
4620.....	57067	PROPOSED RULES:		2.....	56888
4621.....	57073	445.....	56245	3.....	56862, 56902
4622.....	57079	447.....	56245, 56247	4.....	56888, 56903, 57593
4623.....	57087	10 CFR		13.....	56653, 57143
4624.....	57091	205.....	57583	1201.....	57244, 57594
4625.....	57101	212.....	57474	PROPOSED RULES:	
4626.....	57113	515.....	58092	13.....	57267
4627.....	57119	PROPOSED RULES:		440.....	57612
4628.....	57861	20.....	56677	457.....	57269
4629.....	58077	50.....	57157	17 CFR	
5 CFR		211.....	57627	31.....	56885
213.....	56203,	212.....	57609, 57610	200.....	57596
56204, 56873, 56874, 57489-57491		450.....	58158	231.....	57596
7 CFR		455.....	58158	241.....	57596
2.....	56204, 56637	12 CFR		251.....	57596
16.....	56205	226.....	56877	PROPOSED RULES:	
271.....	57492,	330.....	58081	1.....	56904, 57284
	57510, 57526, 57543, 57563	405.....	57863	145.....	57284
273.....	57492	526.....	57592	147.....	57284
	57510, 57526, 57543, 57563	701.....	57140	210.....	57612
403.....	56205	745.....	57140	211.....	57612
653.....	58079	PROPOSED RULES:		240.....	56247
722.....	56212	25.....	57259	18 CFR	
725.....	56874	228.....	57259	2.....	56448, 56536
729.....	57580	345.....	57259	154.....	56220, 57247
905.....	57139, 57140	563e.....	57259	157.....	56448
906.....	57912	701.....	58096	270.....	56448, 56458, 56544
907.....	57239	703.....	58096	271.....	56448, 56464, 56551
909.....	57582	13 CFR		273.....	56448, 56493, 56577
910.....	56212, 57582	309.....	56220	274.....	56448, 56503, 56586
912.....	57140	PROPOSED RULES:		275.....	56448, 56513, 56608
913.....	57140	121.....	57611	276.....	56448, 56517, 56613
967.....	57239	308.....	57918	277.....	57597
982.....	57239	14 CFR		284.....	56448, 56521, 56622
999.....	57863	39.....	56647,	286.....	57598
1133.....	58079		57241, 57242, 57864, 57865, 57867,	420.....	56654
1464.....	56643		57871	19 CFR	
1801.....	56643	71.....	56648, 57243	12.....	56655
1822.....	56643, 58080	73.....	56648	153.....	57599
1910.....	56643	PROPOSED RULES:		PROPOSED RULES:	
1945.....	56643	177.....	57921		
2859.....	56212				

FEDERAL REGISTER

20 CFR

250.....	56888
258.....	56888
259.....	56889
260.....	56890

21 CFR

193.....	57001
510.....	58082
522.....	57599, 58082
558.....	56222, 57600, 58082
561.....	57001

PROPOSED RULES:

2.....	57617
74.....	56906
81.....	56906
175.....	56247
189.....	56247
193.....	57005
310.....	56906
344.....	58097
352.....	56249, 58097
436.....	56249
446.....	56249
561.....	57005
1310.....	57922

22 CFR

PROPOSED RULES:

151.....	57159
----------	-------

23 CFR

140.....	57872, 57873
455.....	57478
625.....	56660

PROPOSED RULES:

772.....	57161
----------	-------

24 CFR

PROPOSED RULES:

51.....	57619
200.....	57619
201.....	57619, 57622
203.....	57619
204.....	57619
207.....	57619
220.....	57619
221.....	57619
232.....	57622
234.....	57622
235.....	57619
250.....	57619, 57622
340.....	57622
390.....	57619
445.....	57619
570.....	57619
590.....	57619
803.....	57622
804.....	57619
805.....	57619
865.....	57622
869.....	57619
870.....	57619
882.....	57619, 57622
886.....	57619
888.....	57619, 57622
1909.....	57619
1914.....	57619
1915.....	57619
1916.....	57619
1917.....	57619
1920.....	57619

25 CFR

PROPOSED RULES:

32a.....	56249
----------	-------

26 CFR

6.....	58083
31.....	56223
601.....	57874

28 CFR

0.....	57249
--------	-------

PROPOSED RULES:

2.....	56681
--------	-------

29 CFR

1910.....	56893, 56894, 57601
1928.....	56894
2610.....	56894

PROPOSED RULES:

850.....	58148
860.....	58148, 58154
1910.....	56907, 56909, 56910
2700.....	56682, 57923, 58097

30 CFR

75.....	56894
---------	-------

PROPOSED RULES:

715.....	56425
----------	-------

32 CFR

51.....	58083
207.....	57874
212.....	58084
360.....	56894
363.....	57875
553.....	56661
818a.....	58087

33 CFR

117.....	57249
127.....	57876, 57877
183.....	56858

PROPOSED RULES:

117.....	57305
130.....	56840
131.....	56840

36 CFR

9.....	57822
904.....	57877
1207.....	57250

37 CFR

1.....	57886
201.....	57252

38 CFR

17.....	57144
---------	-------

PROPOSED RULES:

1.....	57923
--------	-------

39 CFR

111.....	56224
----------	-------

PROPOSED RULES:

111.....	57924, 57925
----------	--------------

40 CFR

52.....	56662
65.....	56225, 56226

40 CFR—Continued

86.....	57253
124.....	58066
180.....	57000
730.....	56663

PROPOSED RULES:

50.....	56250
52.....	56910, 57161
60.....	57834
65.....	56912,
	56913, 56915, 57162-57164,
	57306, 57926
180.....	56917, 57003, 57004, 57623

41 CFR

13-1.....	57603
13-3.....	57603
13-4.....	57603

42 CFR

440.....	57253
----------	-------

PROPOSED RULES:

55.....	56918
85.....	56918
85a.....	56918
405.....	57166, 57307
449.....	57166

43 CFR

1880.....	57886
2650.....	57144, 57888
3300.....	58090

PROPOSED RULES:

8370.....	57167
-----------	-------

45 CFR

100.....	57254
100a.....	57254
100b.....	57255
105.....	57255
116.....	57255
117.....	57255
118.....	57255
119.....	57255
121.....	57255
121a.....	57255
121d.....	57255
124.....	57255
127.....	57255
129.....	57255
141.....	57255
142.....	57255
160.....	57255
162.....	57255
166.....	57255
170.....	57255
171.....	57255
1068.....	57888
1069.....	57890

PROPOSED RULES:

86.....	57927, 58070
90.....	56428
115.....	58022
144.....	57308
175.....	57308
176.....	57308

46 CFR

50.....	56798
54.....	56798
56.....	56798

FEDERAL REGISTER

46 CFR—Continued

58	56799
61	56800
107	56801
108	56807
109	56821
110	56837
111	56837
112	56838
113	56838
153	57256
310	56663
502	56897

PROPOSED RULES:

251	57624
502	56921
510	58098

47 CFR

73	57604, 58091
87	56898

PROPOSED RULES:

1	57167
73	57624, 58099, 58100

49 CFR

172	56666, 57891, 57900
173	56668, 57891, 57902
174	56668, 57903
175	56668, 57903
176	56668, 57903
177	56668, 57904
301	56900
391	56900
571	56668
600	57144
1011	57256
1033	57604
1100	57256
1102	57904
1033	56671-56675, 56902

PROPOSED RULES:

Ch. II	58100
10	56682
107	57928, 58050
171	57928
173	58050
175	57928
176	58050

49 CFR—Continued

PROPOSED RULES—Continued

178	58050
571	56697
572	56697
575	57308
620	57478
1001	57625
1048	56922
1102	57309
1249	57626
1307	57930
1309	57930
1310	57930

50 CFR

17	58030
21	57605
33	57257
227	57147
611	57148
671	57149

PROPOSED RULES:

611	58104
661	57931

FEDERAL REGISTER PAGES AND DATES—DECEMBER

Pages	Date
56203-56636	Dec. 1
56637-56868	4
56869-57137	5
57139-57237	6
57239-57487	7
57489-57859	8
57861-58076	11
58077-58174	12

presidential documents

[3195-01-M]

Title 3—The President

Proclamation 4629

December 8, 1978

Imports of Petroleum and Petroleum Products

By the President of the United States of America

A Proclamation

The Secretary of Energy has advised me that recent legislation has mandated a change in the treatment accorded residual fuel oil imports under the Emergency Petroleum Allocation Act of 1973, (Section 307 of Public Law 95-465). The congressional intent clearly contemplated simultaneous Presidential action to reduce import fees on residual fuel oil. Therefore, the Secretary recommended that I grant additional fee-exempt licenses under Proclamation No. 3279, as amended.

The Secretary also recommended changes in the distribution system for the allocation of fee-exempt licenses for imports of residual fuel oil, and changes in the extent to which refunds of license fees may be made for the payment of duties on petroleum and petroleum products.

These changes are consistent with the purposes of Proclamation No. 3279, as amended.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by the Constitution and the laws of the United States, including Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), do hereby proclaim that:

SECTION 1. Section 3(a)(1)(iii) of Proclamation No. 3279, as amended, is further amended by adding thereto the following:

“Provided, that where the applicable duty on a barrel of crude oil, unfinished oil, or finished product entered on or after Sunday, December 17, 1978, exceeds the amount of the fee paid with respect to that barrel, the reduction shall not exceed the amount of the fee nor may any excess duty be used to reduce the fee on any other barrel.”

SEC. 2. Section 4(b)(5) of Proclamation No. 3279, as amended, is further amended by deleting everything after the second sentence.

SEC. 3. Section 4(b) of Proclamation No. 3279, as amended, is further amended by adding thereto a new paragraph (6) as follows:

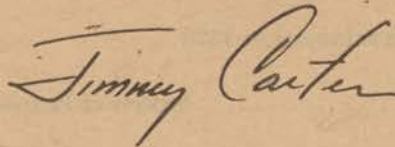
“(6) With respect to the allocation of imports into District I of residual fuel oil to be used as fuel, the Secretary shall provide until June 30, 1979, for the fair and equitable distribution of such allocation among all persons desiring to import residual fuel oil into District I. For the period beginning July 1, 1979, the Secretary shall provide that the distribution of such allocation shall be based upon a person’s actual average calendar day imports in the six calendar months preceding May 1, 1979.”

SEC. 4. Section 8 of Proclamation No. 3279, as amended, is further amended by adding at the end thereof the following unnumbered clause:

THE PRESIDENT

"For the period from November 1, 1978 through June 30, 1979, the allocation of residual fuel oil to be used as fuel in District I shall not be subject to the reductions set forth in this Section."

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of December, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

A handwritten signature in cursive script that reads "Jimmy Carter". The signature is written in dark ink and is positioned to the right of the main text block.

[FR Doc. 78-34654 Filed 12-8-78; 4:03 pm]

rules and regulations

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

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

[3410-16-M]

Title 7—Agriculture

CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER F—SUPPORT ACTIVITIES

PART 653—TECHNICAL STANDARDS

Development and Availability of Technical Standards

AGENCY: United States Department of Agriculture (USDA), Soil Conservation Service (SCS).

ACTION: Final rule.

SUMMARY: This rule describes the development and availability of SCS technical standards for conservation practices. The standards are needed to assure quality work where Federal funds are expended for technical services provided by the Soil Conservation Service.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Neil F. Bogner, Director, Engineering Division, Soil Conservation Service, P.O. Box 2890, Washington, D.C. 20013, telephone 202-447-2520.

SUPPLEMENTARY INFORMATION: On December 22, 1977, there was published in the FEDERAL REGISTER (42 FR 64122) a notice of proposed rulemaking setting forth the development and availability of SCS technical standards for conservation practices. Interested parties were given the opportunity to submit, not later than March 1, 1978, any comments regarding the proposed rules. No unfavorable comments have been received. There will not be a major impact on the public affected by these regulations.

Accordingly, 7 CFR Part 653 is published as an adopted rule.

PART 653—TECHNICAL STANDARDS

Sec.

- 653.1 General.
- 653.2 Technical standards and criteria.
- 653.3 Adaptation of technical standards.
- 653.4 Availability of technical standards.

AUTHORITY: 7 CFR 2.62.

§ 653.1 General.

The Soil Conservation Service (SCS) is responsible for the technical adequacy of conservation practices installed under all SCS programs, and those practices applied under programs administered by the Agricultural Stabilization and Conservation Service (ASCS) where SCS has the technical responsibility. SCS technical or financial assistance will be provided when the practices are applied according to established technical standards.

§ 653.2 Technical standards and criteria.

Technical standards and criteria have been established for all conservation practices. They provide the guidance and direction needed to assure that the practices meet the intended purpose and are of the quality needed to assure lasting for the design life. Standards and criteria are developed in consultation with universities, research institutions, and individual industrial and private firms and individuals. Research information and practical experience are used in setting standards. Changes and new technical standards and criteria are prepared in the same manner as set out above.

§ 653.3 Adaptation of technical standards.

Technical standards and criteria developed on a national basis may require special adaptation to meet local needs. These adaptations must be approved by the Administrator of the Soil Conservation Service or his designee.

§ 653.4 Availability of technical standards.

Information on technical standards used by SCS is available at field, area, or State offices of SCS.

R. M. DAVIS,
Administrator,
Soil Conservation Service.

DECEMBER 4, 1978.

[FR Doc. 78-34523 Filed 12-11-78; 8:45 am]

[3410-02-M]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 133]

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for December 1978 through March 1979 the limit on the amount of milk that handlers and cooperative associations may "divert" off the fluid market to manufacturing outlets. Normally, at least a certain portion of a dairy farmer's milk must be delivered to the fluid market if all of his milk is to be priced under the order. The suspension was requested by a cooperative association that handles most of the reserve supplies for the fluid market.

This action continues a similar suspension that was in effect during September through November 1978. Both actions are based on a public hearing held on July 27, 1978, and are in response to changed marketing conditions.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing—Issued July 10, 1978, published July 13, 1978 (43 FR 30066).

Order suspending certain provisions—Issued September 1, 1978, published September 8, 1978 (43 FR 39955).

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of

1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Inland Empire marketing area.

It is hereby found and determined that for the months of December 1978 through March 1979 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1133.13(c)(1) and (2), the words "50 percent in any of the months of September through March and".

STATEMENT OF CONSIDERATION

This action suspends for the months of December 1978 through March 1979 the limit on the amount of milk that a proprietary handler or cooperative association may divert from pool plants to nonpool plants. Normally, a handler or cooperative may divert not more than 50 percent of its total supply of producer milk during each of these months.

This action continues a similar suspension that was in effect for the months of September through November 1978. Continuation of the suspension was requested by Northwest Dairywomen's Association, a cooperative which handles most of the market's reserve milk supplies. The basis for the request is that the same conditions that prompted the initial request by the petitioner are expected to continue to a large extent in the next several months. The initial suspension was based on evidence received at a public hearing held for this order on July 27, 1978, at Spokane, Washington.

At the hearing, the petitioning cooperative proposed a substantial increase in the amount of producer milk that may be diverted from pool plants to nonpool plants and still continue to be priced under the order. The cooperative proposed that emergency action be taken to implement its proposed amendments to the order. It requested, however, that if the order could not be amended in time to accommodate its handling of reserve milk, the diversion limits should then be suspended until final disposition can be made of the hearing proceeding.

An order suspending certain provisions of the Inland Empire order for September through November 1978 was issued by the Department. The basis for the initial suspension was stated as follows:

"The need for the suspension stems from the adverse impact on the proponent cooperative that otherwise would occur beginning September 1978 when the basis of determining proponent's allowable diversions under the order will change. In the past, proponent's allowable diversions have been determined under the optional method whereby two or more cooperative associations may have their allowable di-

versions computed on the basis of the combined deliveries of milk of their member producers. This option for computing allowable diversions permitted the proponent cooperative to perform its reserve supply function in the market and still maintain producer status for all its dairy farmer members who are associated with the fluid milk market.

"At the hearing, proponent indicated that the present agreement with three other cooperatives for computing allowable diversions on a combined basis will not be renewed on its September 1, 1978, expiration date. As a result, beginning in September, the present order's diversion limits that are applicable to a single cooperative will not accommodate the quantity of milk that proponent must divert in handling the market's reserve supplies. Thus, the producer status of some of its member producers who have been regularly associated with the fluid market would be in jeopardy."

No decision has been reached yet on the hearing issue under consideration. In the absence of any order amendments, it is evident from the hearing record that a number of producers could lose their producer status under the order. It is apparent that their milk could remain associated with the fluid market only at considerable expense.

Under the circumstances, the previous suspension should be continued through March 1979 to assure the orderly marketing of milk. It is unlikely that extending the suspension for this temporary period will have any appreciable effect on the availability of milk for the market or will provide the means of associating greater milk supplies with the market. This action will eliminate, however, the possibility of producers who are regular suppliers of milk for the fluid market losing their producer status because of the present diversion provisions.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date;

(c) An identical suspension has been in effect since September 1978. The suspension continues to be needed to facilitate the orderly disposal of the market's reserve milk supplies; and

(d) The need for changing the diversion limits was considered at a public hearing where all interested parties

had an opportunity to participate in this rule-making proceeding.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of December 1978 through March 1979.

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

Effective date: December 12, 1978.

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

P. R. "BOBBY" SMITH,
Assistant Secretary for
Marketing Services.

[FR Doc. 78-34567 Filed 12-11-78; 8:45 am]

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.5]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures, and Authorizations

FINAL RULE; CORRECTION

AGENCY: Farmers Home Administration, USDA.

ACTION: Correction.

SUMMARY: The Farmers Home Administration (FmHA) corrects its regulation which was published as an interim rule on July 27, 1978, at 43 FR 32399 and adopted as a final rule on October 24, 1978, at 43 FR 49527. The intended effect of this action is to correct one section reference and one section number which were in error.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lynn Voigt, Multiple Family Housing Loan Officer, 202-447-7207.

SUPPLEMENTARY INFORMATION: Through interim rule on July 27, 1978, at 43 FR 32399, the FmHA amended Subpart D of Part 1822 of Chapter XVIII, Title 7 in the Code of Federal Regulations by adding § 1822.55(o); amending §§ 1822.86 (b)(1), (8)(i) and (c), and adding Exhibit I. The interim rule was adopted as a final rule on October 24, 1978, at 43 FR 49527 without republication of the text. Therefore, in the last sentence of the Supplementary Information section of July 27, 1978, which is found at 43 FR 32400,

correct "§ 1822.89" to read "§ 1822.90". In the body of the amendment the section identified as "§ 1822.80 Technical, legal, and other services" is corrected to read "§ 1822.90 Technical, legal, and other services".

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: December 4, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-34544 Filed 12-11-78; 8:45 am]

[6714-01-M]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 330—CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE

Increase in Deposit Insurance on IRA and Keogh Time and Savings Deposits to \$100,000

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: This amendment will provide increased deposit insurance to a maximum of \$100,000 on time and savings deposits containing IRA and Keogh funds. Formerly, such deposits were insured to a maximum of \$40,000 per participant. The effect of the amendment will be to except IRA and Keogh time and savings accounts from the general FDIC insurance regulations, and to provide separate insurance up to the \$100,000 maximum on these deposits in addition to the insurance afforded to other types of deposit accounts maintained by the same beneficial owner.

EFFECTIVE DATE: Decem. 12, 1978.

FOR FURTHER INFORMATION, CONTACT:

Mary D. Ryan, Attorney, Legal Division, Federal Deposit Insurance Corporation, 550—17th Street, N.W., Washington, D.C. 20429, 202-389-4270.

SUPPLEMENTARY INFORMATION: Title XIV of the Financial Institutions Regulatory and Interest Rate Control Act of 1978, Public Law 95-630, effective November 10, 1978, amends sec-

tion 11(a) of the Federal Deposit Insurance Act to provide increased insurance to a maximum of \$100,000 on time and savings deposits made pursuant to a pension or profit-sharing plan described in section 401(d) or 408(a) of the Internal Revenue Code of 1954, as amended, that is, Keogh and IRA plans. Pursuant to this authority, the FDIC Board of Directors has adopted the following amendments to sections 330.1(c), 330.10 and 331.1(d) of the Corporation's rules and regulations to provide this increased deposit insurance coverage. Section 330.1(c)(4) amends the definition of the term "trust interest" to include all employee benefit plans, including IRA and Keogh accounts even though an interest may be retained by the settlor; section 330.10 is amended to provide \$100,000 insurance on IRA and Keogh time and savings accounts while retaining the \$40,000 maximum on other types of trust deposits; and section 331.1(d) is amended to provide that IRA and Keogh deposits held by an insured bank as trustee and deposited in time and savings accounts are insured up to \$100,000 instead of the previous \$40,000 maximum. In addition, section 330.1(c)(1) of the regulations is amended by changing the reference to "section 408(d)" to "section 408(a)" in order to correct a typographical error which appeared in the regulations as published in the FEDERAL REGISTER on February 24, 1978.

Because these amendments are required by Public Law 95-630 and to correct a typographical error, the Board of Directors has determined, pursuant to § 302.6 of the rules and regulations of the FDIC (12 C.F.R. 302.6), that public participation in the rulemaking is unnecessary and that good cause exists for the waiver of the thirty-day period before the amendments become effective. The Board of Directors of the FDIC, therefore, adopts the amendments as follows:

1. Section 330.1(c)(1) is amended by changing the reference to "section 408(d)" to "section 408(a)."

2. Section 330.1(c) is amended by revising subparagraph (4) to read as follows:

§ 330.1(c) Valuation of trust interests.

(4) The term "trust interest" means the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statute, but does not include any interest retained by the settlor. Notwithstanding the foregoing, any allocable interest created pursuant to an employee benefit plan, including a plan qualified under 401(d) or section 408(a) of the Internal Revenue Code of 1954, as

amended, shall be deemed to be a trust interest.

3. Section 330.10 is amended to read as follows:

§ 330.10 Trust accounts.

All trust interests for the same beneficiary deposited in deposit accounts established pursuant to valid trust agreements created by the same settlor (grantor) shall be added together and insured up to \$40,000 in the aggregate, except time and savings deposits of the same beneficiary which qualify as pension or profit-sharing plans under section 401(d) or 408(a) of the Internal Revenue Code of 1954, as amended. The vested and ascertainable interest (excluding any remainder interest) of each beneficial owner in a time or savings deposit established under either of the above sections, shall be added together and insured to an additional \$100,000 maximum for each beneficial owner, notwithstanding the insurance provided in this section to other types of deposit accounts. The insurance of such trust interests shall be separate from that afforded deposit accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangement.

4. Section 331.1 is amended by revising paragraph (d) to read as follows:

§ 331.1 Claim by fiduciary bank for insured deposits of trust estates.

(d) *Insured deposit of a trust estate.* In arriving at the total insured deposit of a fiduciary bank or trust company with respect to any trust estate, the deposit of such estate as determined in accordance with any paragraph of this section shall be combined with that determined under any other paragraph of this section and the insured deposit shall be the total less any amount thereof in excess of \$40,000, except that trust deposits of the same beneficiary which qualify as pension or profit-sharing plans under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, as amended, and which are deposited in time or savings accounts, shall be separately insured to the maximum of \$100,000 as provided in section 330.10.

(Title XIV, Pub. L. 95-630, 92 Stat. 3641; 64 Stat. 881 (12 U.S.C. 1819).)

By Order of the Board of Directors, December 7, 1978.

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

[FR Doc. 78-34558 Filed 12-11-78; 8:45 am]

RULES AND REGULATIONS

[1505-01-M]

TITLE 15—COMMERCE AND FOREIGN TRADE

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 377—SHORT SUPPLY CONTROLS

Establishment of Supplementary Export Quota for Butane During the Fourth Quarter 1978

Correction

In FR Doc. 78-34050 appearing at page 57141 in the issue for Wednesday, December 6, 1978; on page 57142, third column, fourth line of the second paragraph under SUBMISSION DATES, insert "18" after "December".

[4110-03-M]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

Subpart G—Sponsors of Approved Applications

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The regulations are amended to reflect approval of a new animal drug application (NADA) filed for United Suppliers, Inc., providing for the use of an 0.8-gram-per-pound tylosin premix for making complete swine feeds, and to add United Suppliers, Inc., to the list of approved NADA sponsors.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: United Suppliers, Inc., P.O. Box 538, Eldora, IA 50627, is the sponsor of an NADA (102-590V) providing for the safe and effective use of a premix containing 0.8 gram of tylosin (as tylosin phosphate) per pound. The premix is used for the manufacture of a complete swine feed used for increased rate of weight gain and improved feed efficiency. Approval of this application relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12-491V. This approval does not constitute reaffirmation of the referenced NADA nor of the drug's safety and effectiveness.

United Suppliers, Inc., has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

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

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

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

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

* * *	* * *
(c) * * *	* * *
(1) * * *	* * *
Firm name and address:	Drug listing No.

* * *	* * *
United Suppliers, Inc., P.O. Box 538, Eldora, IA 50627.	017475

* * *	* * *
(2) * * *	* * *

Drug listing No.	Firm name and address
------------------	-----------------------

* * *	* * *
017475	United Suppliers, Inc., P.O. Box 538, Eldora, IA 50627.

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(46), to read as follows:

§ 558.625 Tylosin.

* * *	* * *
(b) * * *	* * *
(46) To 017475: 0.8 gram per pound;	* * *
paragraph (f)(1)(vi)(a) of this section.	* * *

Effective date. This regulation is effective December 12, 1978.

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

Dated: December 1, 1978.

LESTER M. CRAWFORD,
Director of
Veterinary Medicine.

[FR Doc. 78-34397 Filed 12-11-78; 8:45 am]

[4110-03-M]

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Oxytetracycline Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Medico Industries, Inc., providing for use of an injectable antibiotic for treating certain diseases of cattle.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Myron C. Rosenberg, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: Medico Industries, Inc., P.O. Box 338, Elwood, KS 66024, filed NADA (108-963V) providing for use of oxytetracycline hydrochloride injection in beef cattle, beef calves, nonlactating dairy cattle, and dairy calves for treatment

of certain diseases caused by oxytetracycline-susceptible organisms.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 522.1662a is amended by adding new paragraph (h) to read as follows:

§ 522.1662a Oxytetracycline hydrochloride injection.

(h)(1) *Specifications.* Each milliliter of sterile solution contains 50 milligrams of oxytetracycline hydrochloride.

(2) *Sponsor.* See No. 015562 in § 510.600(c) of this chapter.

(3) *Conditions of use.* (i) *Amount.* The drug is used in beef cattle, beef calves, nonlactating dairy cattle, and dairy calves as follows: Administer 3 to 5 milligrams of the oxytetracycline hydrochloride intramuscularly per pound of body weight per day.

(ii) *Indications for use.* The drug is used for treatment of bacterial pneumonia and shipping fever complex associated with *Pasteurella* spp.; foot-rot and calf diphtheria caused by *Sphaerophorus necrophorus*; bacterial enteritis (scours) caused by *Escherichia coli*; wooden tongue caused by *Actinobacillus lignieresii*; wound infections, acute metritis, and traumatic injury caused by staphylococcal and streptococcal organisms.

(iii) *Limitations.* In severe forms of the indicated diseases, administer 5 milligrams of oxytetracycline hydrochloride per pound of body weight per day. Continue treatment 24 to 48 hours following remission of disease symptoms, not to exceed a total of 4 consecutive days. If no improvement is noted within 24 to 48 hours, consult a veterinarian for diagnosis and therapy. In adult livestock, do not inject more than 10 milliliters at any one site. Reduce the volume administered per injection site according to age and body size. In calves weighing 100 pounds or less inject only 2 milliliters per site. Discontinue treatment at

least 22 days before slaughter. Not for use in lactating dairy cattle.

Effective date. December 12, 1978.

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

Dated: December 4, 1978.

TERENCE HARVEY,
Acting Director,

Bureau of Veterinary Medicine.

[FR Doc. 78-34398 Filed 12-11-78; 8:45 am]

[1505-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 75701]

PART 6—TEMPORARY INCOME TAX REGULATIONS UNDER THE BANK HOLDING COMPANY TAX ACT OF 1976

Elections Under the Bank Holding Company Tax Act of 1976

Correction

On page 54090 in the issue for Monday, November 20, 1978, in the correction which appeared to the Internal Revenue Service document, in the heading, "[T.D. 76701]" should have read "[T.D. 75701]".

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

[DoD Directive 1322.11]

PART 51—EDUCATION AND TRAINING IN HUMAN/RACE RELATIONS FOR MILITARY PERSONNEL

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes Department of Defense policies and assigns responsibilities for developing an active DoD program of education and training in human/race relations and equal opportunity for Military Personnel. This program is designed to eliminate human/racial tensions, unrest, and violence in keeping with the Human Goals proclamation of August 18, 1969.

EFFECTIVE DATE: September 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Colonel Clarence A. Miller, Office of the Deputy Assistant Secretary of Defense (Equal Opportunity), Room 3E326, The Pentagon, Washington, D.C. 20301, telephone: 202-695-0107.

Accordingly, 32 CFR, Chapter I, is amended by adding a new Part 51, reading as follows:

- Sec.
- 51.1 Purpose.
- 51.2 Applicability and scope.
- 51.3 Policy.
- 51.4 Organization and functions.
- 51.5 Responsibilities.
- 51.6 Programing, budgeting, and financing.

AUTHORITY: Pub. L. 92-261, sec. 301, 80 Stat. 379 (5 U.S.C. 301, 10 U.S.C. 133).

§ 51.1 Purpose.

This part:

(a) Is reissued to expand its coverage to Human/Race Relations and Equal Opportunity; extend Race Relations Education Board membership to the Coast Guard; defines the mission of Defense Race Relations Institute; establish an annual curriculum review requirement; and provide for nomination and approval of faculty and staff.

(b) Incorporates those provisions in DoD Directive 1100.15¹ relating to the Defense Race Relations Institute and the Race Relations Education Board.

(c) Establishes the policies and assigns responsibilities for developing an active DoD program of education and training in human/race relations and equal opportunity.

§ 51.2 Applicability and scope.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (referred to as "DoD Components"); and encompass all military personnel (including members of the National Guard and Reserve components), wherever assigned in the Department of Defense.

§ 51.3 Policy.

(a) An Education and Training Program in Human/Race Relations and Equal Opportunity will be conducted on a continuing basis for all military personnel in an effort to achieve equal opportunity within the Department of Defense. The program will be designed to eliminate human/racial tensions, unrest, and violence in keeping with the Human Goals proclamation of August 18, 1969. In this Part (—), the term "human/race relations" encompasses the interaction of all DoD personnel, whether of the majority or a minority group. This program will be

¹Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

under the guidance of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

(b) Military commanders will be alert to the continuing need for promoting human/racial harmony through education, training, and other leadership activities.

§ 51.4 Organization and functions.

(a) The *Race Relations Education Board (RREB)* is established to serve as an advisory board to the Secretary of Defense and operates under the policy guidance and control of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

(1) The mission of the RREB is to develop overall policy guidance for the DoD program of education and training in human/race relations and equal opportunity for DoD personnel.

(2) The RREB is chaired by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics). Other members are the Assistant Secretaries (Manpower and Reserve Affairs) of each Military Department; the Deputy Assistant Secretary of Defense (Equal Opportunity); the Deputy Assistant Secretary of Defense (Program Management); the Deputy Assistant Secretary of Defense (Reserve Affairs); the Deputy Assistant Secretary of Defense (Military Personnel Policy); the Chief of Personnel from each of the Military Services; and one representative from the Coast Guard. Other individuals may be invited from time to time by the Chairperson.

(3) The Chairperson, RREB, will designate a working group, consisting of military and civilian personnel, to conduct an annual curriculum review.

(b) The *Defense Race Relations Institute (DRRI)* is established as a DoD field activity, operating under the supervision and direction of the Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) and subject to policy guidance by the RREB. Located as a tenant on an established military installation, the DRRI will be supported administratively and logistically by the Military Department responsible for the host installation.

(1) The mission of the DRRI is to:

(i) Conduct training for DoD military and civilian personnel assigned to duties as equal opportunity specialists, staff officers or instructors in human/race relations.

(ii) Provide assistance to DoD organizations in the development of specific curricula for human/race relations and equal opportunity education and training.

(iii) Subject to its primary responsibility of training DRRI students, act as a resource and provide consultant services to DoD activities requesting

assistance in equal opportunity/equal employment opportunity.

(iv) Conduct research to keep the education and training program current, relevant, and responsive to changing needs.

(v) Evaluate DRRI's program effectiveness.

(vi) Disseminate educational and training materials to graduates to assist in keeping them current and for individual professional development.

(2) Composition:

(i) The Director shall be appointed by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) from officers, in the grade of O-6, nominated by Secretaries of the Military Departments. The Directorship will rotate among representatives of the Army, Navy, and Air Force. The Director will serve for 3 years with performance evaluation by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

(ii) Assignments of officer and enlisted personnel from the Military Departments (and the Coast Guard, National Guard, and Reserve components) augmented by qualified civilian DoD personnel, to faculty and staff duty will be made on a prorated basis, and will meet the criteria established by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

§ 51.5 Responsibilities.

(a) The *Assistant Secretary of Defense (MRA&L)* shall identify, accept, and approve nominations for key staff billets and all faculty billets at the DRRI.

(b) The *Secretaries of the Military Departments* shall:

(1) Select and assign full-time human/race relations and equal opportunity instructors and staff personnel who will be trained by the DRRI.

(2) Develop internal plans for implementation of a program of education and training in human/race relations and equal opportunity for all DoD personnel under their jurisdiction in accordance with RREB guidelines.

(3) Assure that military commanders conduct additional educational activities, as necessary, to maintain harmonious relations among assigned military and civilian personnel.

§ 51.6 Programing, budgeting, and financing.

The Military Department assigned responsibility for administrative and logistical support will be responsible for programing, budgeting, and financing all operational expenses of the DRRI, except as indicated below, and will identify separately all such expenses in its Operation and Maintenance budget and financial plan sub-

mitted to the Office of the Secretary of Defense.

(a) The pay, allowances (including subsistence), and travel reimbursements of DoD personnel permanently or temporarily assigned to assist in the management or operation of the DRRI, including instructors, will be borne by the parent Military Service of assignment. The salaries and expenses, including travel, of civilian personnel temporarily assigned will be borne by the DoD Component of assignment.

(b) Pay, allowances, and travel costs (not integral to courses of instruction) of military and civilian personnel assigned as students at the DRRI will be borne by their sponsoring DoD Components.

Dated: December 6, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 78-34535 Filed 12-11-78; 8:45 am]

[3810-70-M]

[DOD Instruction 1000.15]

PART 212—PRIVATE ORGANIZATIONS ON DOD INSTALLATIONS

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This part establishes Department of Defense policy regarding Private Organizations operating on DOD installations; defines and classifies private organizations; and provides policy guidance for their operation. This guidance is intended to assist private organizations on DOD installations in the proper conduct of their operations.

EFFECTIVE DATE: September 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Barbara E. Schoenberger, Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), OASD (MRA&L), Room 3C980, The Pentagon, Washington, D.C. 20301, Telephone: 202-697-9525 or 697-4054.

Accordingly, 32 CFR, Chapter I, is amended by adding a new Part 212, reading as follows:

Sec.	
212.1	Purpose.
212.2	Applicability and scope.
212.3	Exclusions.
212.4	Policy.
212.5	Responsibilities.
212.6	Logistical support and services.

212.7 Definitions.

AUTHORITY: 5 U.S.C. 301.

§ 212.1 Purpose.

This part states DOD policy regarding Private Organizations on DOD Installations; defines and classifies private organizations located on DOD installations; and provides policy guidance for their authorization and operation.

§ 212.2 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Defense Agencies, and the Unified and Specified Commands (hereafter referred to as "DOD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

(b) Its provisions cover private organizations authorized to operate on DOD installations and not otherwise excluded in § 212.3.

(c) Provisions of this part do not apply to nonappropriated fund instrumentalities and other officially recognized Federal Government fund entities.

(d) Policy guidance provided in this part is not intended to supplant or abrogate any specific agreements between the DOD Components and federally sanctioned or affiliated types of private organizations.

§ 212.3 Exclusions.

(a) For the purpose of this part, the following Type 1 private organizations are exempt from the provisions of this part since they are governed by specific policies and procedures contained in applicable DOD issuances referenced in the text. These include:

- (1) Credit Unions
- (2) Banking Offices
- (3) American National Red Cross
- (4) United Service Organizations
- (5) United Seamen's Service
- (6) Labor organizations subject to Executive Order 11491, as amended, and
- (7) Associations of DOD supervisors and management officials.

(b) Certain unofficial activities may be conducted on DOD installations, but need not be formally authorized as Type 3 independent private organizations because of the limited scope of their activities, membership, or funds. Examples are office coffee funds, flower funds, and similar small informal activities and funds. DOD Components may establish the basis upon which such informal activities and funds may operate.

(c) Contractor and subcontractor organizations and funds on DOD installations are excluded.

§ 212.4 Policy.

(a) Private organizations are not nonappropriated fund instrumentalities nor is there an official relationship between their activities and those of DOD personnel who are members and/or participants. They are not held to be an integral part of the military organization, due to the nature of the functions which they perform and the particular characteristics of these organizations which provide for limited Government supervision, as opposed to the extensive supervision exercised over nonappropriated fund instrumentalities. Private organizations are not entitled to sovereign immunities and privileges accorded to nonappropriated fund instrumentalities. Their operation is of interest and concern to the Department of Defense because of their:

- (1) Location on DOD installations;
- (2) Relationships with elements of both the Federal and private sectors;
- (3) Activities in support of certain recognized programs being conducted for the benefit of members of the DOD family; and
- (4) Responsibilities as employers of U.S. citizens and other personnel.

(b) Specific policy applicable to all types of private organizations:

(1) A private organization normally will not utilize in its title or letterhead (i) the name or seal of the Department of Defense or the acronym "DOD;" (ii) the name, abbreviation, or seal of any Military Department or Military Service; or (iii) the seal, insignia, or other identifying device of the local installation. However, Heads of DOD Components may authorize exceptions if clarity of identification is necessary, provided official DOD sponsorship or endorsement is neither stated nor implied.

(2) Activities of private organizations will not in any way prejudice or discredit DOD Components or other agencies of the Federal Government.

(3) A private organization will not engage in activities which compete with those of any nonappropriated fund instrumentality on a DOD installation.

(4) Discrimination with regard to race, color, marital status, age, religion, national origin, lawful political affiliation, labor organization membership, physical handicap, or sex, will not be permitted in employment practices 32 CFR Part 191. Applicable laws with respect to labor standards for employment will be observed.

(5) Membership discrimination based on race, color, national origin or sex will not be permitted. This will not prohibit, however, the establishment of cultural or ethnic private organizations, providing membership is not restricted or discriminatory on the above basis.

(6) Neither appropriated fund activities nor nonappropriated fund instrumentalities shall assert any claim to the assets or incur or assume any obligation of any private organization except as may possibly arise out of contractual relationships. Notwithstanding the foregoing, property abandoned by a private organization upon or after its disestablishment, or donated by it to the installation, may be acquired by the DOD installation under the terms of existing DOD policy on these matters and consistent with the laws applicable to that installation.

(7) Adequate insurance, if appropriate, will be secured in order to protect against public liability and property damage claims or other legal actions that may arise as a result of activities of the organization or one or more of its members acting in its behalf. Since there is no direct, vested interest of the Federal Government or any of its instrumentalities in the assets of a private organization, the direct protection of organizational assets, such as through fidelity or fire insurance, is the responsibility of each private organization's membership.

(8) Guidance on sources of income to private organizations will be as follows:

(i) Except for minimal logistical support authorized in accordance with § 212.6 and the sources of income and support authorized those private organizations referenced in the text of this Part, private organizations will be generally self-sustaining, primarily through dues, contributions, service charges, fees, or special assessment of members. There will be no direct financial assistance to a private organization from a nonappropriated fund instrumentality in the form of contributions, dividends, or other donations of monies or other assets.

(ii) Private organizations will not engage in resale activities except through (A) thrift shop sales of used clothing and used merchandise; (B) museum shop sales of items related to museum activities; or (C) occasional sales for fund-raising purposes, such as raffles, dances, or carnivals, as approved by Heads of DOD Components or their designees.

(a) Only that merchandise which is listed in DOD Directive 1330.9¹ will be offered during such sales within the continental United States (CONUS), and in no case should sales at any DOD installation be on a frequent or continuing basis.

(b) Heads of DOD Components, or their designees, may approve exceptions to the above restrictions, providing (i) military exchanges or other

¹Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120; Attention: Code 301.

nonappropriated fund instrumentalities cannot be responsive to the particular resale requirement; and (ii) merchandise is sold only to members and is directly related to the purpose and function of the private organization.

(9) All laws governing comparable private sector activities will be examined and the need for compliance by the private organization therewith determined.

(c) In addition to the foregoing policy, affiliated and independent private organizations will comply with the following:

(1) The nature, function and objectives of the local private organization will be delineated in writing and submitted for the approval of the head of the DOD installation. These written provisions will be in the form of a duly prepared constitution, by-laws, charter, articles of agreement, or other authorization documents acceptable to the membership. Documentation will also provide for:

(i) Establishment of local membership eligibility, which will be primarily for members of the DOD family.

(ii) Designation of management responsibilities, to include the accountability for assets, satisfaction of liabilities, disposition of any residual assets upon dissolution, and otherwise assuring responsible financial management.

(iii) An understanding by all members as to whether they are personally liable if the assets are insufficient to discharge all liabilities. (Also, see § 212.4(b)(9)).

(2) In reviewing the above documentation and during periodic review of private organizations, activities that result in a monetary gain to the membership, either individually or collectively, will be carefully considered by the head of the DOD installation.

(i) Income will not accrue to individual members, except through wages and salaries as employees of the private organization or through remuneration for services rendered, and will be derived primarily for the purpose of offsetting expenses of operation, which may include competitive awards or charitable contributions contemplated by the organization.

(ii) However, the head of the DOD installation may approve the operation of such a private organization as an investment club on the installation, providing compliance with all other policy provisions outlined above is required.

(3) Type 2 or Type 3 private organizations may be discontinued or dissolved upon determination of its membership or upon determination by the head of a DOD installation to withdraw authorization to operate on the installation.

§ 212.5 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics)* (ASD(MRA&L)) is responsible for all policy matters related to the organization and monitoring of private organizations, not otherwise delineated in referenced issuances. Coordination of private organization matters will be accomplished with DOD Components through normal staff procedures.

(b) *DOD Components* will assure implementation of this Instruction and compliance with its provisions. Specifically, Heads of DOD Components, or their designees, will:

(1) Maintain cognizance over all private organizations located on the installations, facilities, or activities for which responsible, including their initial identification and classification, and

(2) Conduct a periodic review of each private organization in order to:

(i) Insure that the membership provisions and purposes for which created still apply, thereby justifying continuance. Any revisions to the conditions under which originally established will necessitate further review, documentation and approval action for continued recognition;

(ii) Determine conditions under which an audit of the funds of the private organization would be appropriate as part of an official inquiry designed to preserve the best interests of the United States, based on DoD Instruction 7600.6.¹

(iii) Furnish reports or other information to the ASD(MRA&L) on private organizations as required, and in accordance with DoD Directive 5000.19.¹

§ 212.6 Logistical support and services.

(a) The amount and type of support provided and/or authorized a private organization varies according to the authority under which organized. Type 1 private organizations have Federal sanction; provide important services to the DoD family, and thereby receive certain support, both reimbursable and nonreimbursable, from the head of the DoD installation. The DoD issuances cited in the text of this Part include provisions for support to applicable Type 1 private organizations. Other Type 1 private organizations authorized by a DoD Component may be provided similar reimbursable and nonreimbursable support. Type 2, affiliated private organizations, and Type 3, independent private organizations are provided support by the head of the DoD installation as prescribed below.

¹Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120; attention Code 301.

(b) The nature of the activities conducted by most Types 2 and 3 private organizations normally should require only enough space in which to conduct organizational meetings. If the use of the space, to include Government-owned portable equipment in place, utilities, and janitorial supplies is occasional and only incidental to other uses of the facility, and provided its use will entail no added maintenance expenses, reimbursement is not required.

(1) However, if the private organization has exclusive use of the facility or space on a full-time basis, an outgrant document is required under the authority of the Head of the DoD Component concerned.

(2) Reimbursement for any space occupied, utilities, maintenance, and other support services will be determined in accordance with policies prescribed in DoD Instruction 7230.7,¹ which, in general, prescribes that charges may be waived or reduced for a nonprofit activity contributing to the welfare of DoD personnel.

(c) Private organizations are responsible for furnishing or procuring equipment, supplies, and other materials at their own expense. However, Government-owned equipment may be loaned or rented to a private organization physically located on a DoD installation within the limitations imposed by mission, availability, and statutory authority for such utilization.

(1) Neither appropriated nor nonappropriated funds will be used to repair or otherwise restore equipment which has been used on a temporary or loan basis by tenant private organizations since such costs should be properly borne by the user.

(2) Nonappropriated funds will not be used to repair private organization equipment.

(d) *Classification System For Private Organizations by Type and Subtype.*

(1) *Types of Private Organizations.*

(i) Type 1—Federally Sanctioned

(ii) Type 2—Affiliated

(iii) Type 3—Independent

(2) *Subtypes of Private Organizations.* (i) Financial Institutions

(ii) Community Services, Fraternal, and Benevolent

(iii) Labor Organizations and DoD Management Associations

(iv) Sports, Hobbies, and Crafts

(v) Distaff/Spouse Organizations

(vi) Youth Organizations

(vii) Professional, Scientific, and Management

(viii) Religious Groups

(3) *Examples of Private Organizations by Type and Subtype.*²

²Specific organizations are listed herein for categorization purpose only. These organizations, as well as those not specifically

Footnotes continued on next page

(e) Type 1—Federally Sanctioned.

SUBTYPES

Financial Institutions

Banking Offices
Credit Unions

Labor/Management

Labor Organizations
DoD Supervisors and Management Associations

Community Services, Fraternal & Benevolent

Component Relief/Aid Organizations
USO
Red Cross
United Seamen's Service

(f) Type 2—Affiliated.

SUBTYPES

Professional, Scientific and Management

Engineering or Scientific
NCO Associations
Nurses
Personnel Management
Financial Management

Sports, Hobbies & Crafts

ABC Bowling Leagues
Sports Officials
Affiliated Hobby or Craft Groups

Religious Groups

Altar Societies
Guilds
Youth Organizations

Community Services, Fraternal & Benevolent

Veterans Organizations
Surviving Spouse or Surviving Parent Organizations
Parent-Teach Association (PTA)
Ethnic Group Affiliations
Reserve or Retired Associations
Affiliated Community Service Clubs

Youth Organizations

Junior Army Navy Guild Organization (JANGO)
4-H Clubs
Scouting Organizations
Little League

Distaff/Spouse Organizations

(only those affiliated)

(g) Type 3—Independent.

Sports, Hobbies & Crafts

Model Clubs
Stamp, Coin, Other Collectors
Theater and Dance
Fish and Game
Golf Leagues
Investment Clubs

Youth Organizations

Contemporary Age Clubs (Teens, etc.)
Youth sports/recreation

Footnotes continued from last page identified, must conform to the policy provisions of this Instruction to be eligible to operate on DoD installations.

Professional, Scientific and Management

Local, independent, unaffiliated organizations or groups

Community Services, Fraternal & Benevolent

Thrift Shops
School Booster Clubs
Local Ethnic Groups
Child Care Centers
Preschool and Kindergarten
Social Problem Study Groups

Distaff/Spouse Organizations

Wives Clubs (may include Thrift Shop operation)
National origin clubs

Religious Groups

§ 212.7 Definitions.

(a) *DoD Family*. Active duty military personnel, retired members and those of Reserve components, dependents and surviving spouses of the foregoing, and authorized civilians as determined by DoD Components.

(b) *DoD Installation*. A location, facility, or activity owned, leased, assigned to, controlled, or occupied by a DoD Component.

(c) *Private Organization*. A generally self-sustaining, non-Federal entity, incorporated or not, and constituted or established and operated on a DoD installation, with the written consent of the installation commander or higher authority, by individuals acting exclusively outside the scope of any official capacity as officers, employees, or agents of the Federal Government.

(d) *Type 1—Federally Sanctioned Private Organizations*. Type 1 private organizations are those which are recognized in accordance with specific DoD authority or by special authority granted at DoD Component level. All Type 1 private organizations, except those exempted in section D., are subject to the provisions of this Instruction. Examples of federally sanctioned private organizations are provided in § 212.6.

(e) *Type 2—Affiliated Private Organizations*. Type 2 private organizations which (1) operate on a DoD installation upon the written approval of the DoD installation commander, (2) operate as local affiliations of chapters, lodges (fraternal or benevolent organizations), posts (veterans' organizations), or elements of national or State chartered organizations of the private sector, and (3) engage in activities of special interest to a voluntary membership or group of participants; examples of which are provided in § 212.6.

(f) *Type 3—Independent Private Organizations*. Independent private organizations which are organized, established, operated and controlled locally by common interest groups conducting specific activities that fulfill certain accepted needs or wants of

some members of the DoD family, and have no formal connection or affiliation with an organization outside of the installation; examples of which are provided in § 212.6. Local initiative is exercised in securing written permission from the head of the DoD installation for their operation on the DoD installation.

(g) *Subtype of Private Organizations*. For classification purposes this is a relatively homogeneous functional grouping of private organizations, based on one or more of the following characteristics, having similar purposes or objectives, furthering related interests or conducting related activities, and comprising membership or participation of contemporary age levels.

(1) A subtype designation may be applied to more than one type of private organization, since the function being performed on a DoD installation is not limited by the connection or affiliation of the organization(s) comprising the subtype.

(2) For example, the function of community services, as a subtype of private organization, may be carried out through a Type 1 federally sanctioned private organization (Red Cross), a Type 2 affiliated private organization (PTA), or a Type 3 independent private organization (Thrift Shop).

(3) Section 212.6 provides a listing of the eight authorized classifications of private organizations by subtype and furnishes examples. The examples are illustrative and not all-inclusive.

(4) Classification of each private organization by type and subtype is a basis for positive identification of all private organizations and is a means of differentiating from nonappropriated fund instrumentalities.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

DECEMBER 6, 1978.

[FR Doc. 78-34534 Filed 12-11-78; 8:45 am]

[3910-01-M]

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER B—SALES AND SERVICES

PART 818a—PERSONAL COMMERCIAL AFFAIRS

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising its rule on personal commercial Affairs to implement Department of Defense directives 1344.1, August 31, 1977, and 1344.7,

July 1, 1969. The revision is intended to update and clarify the rule for better understanding by the public.

EFFECTIVE DATE: September 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Master Sergeant Ellis R. Johnson, Air Force Military Personnel Center (AFMPC/MPCASC), Randolph Air Force Base, Texas 78148, (512) 652-3996.

SUPPLEMENTARY INFORMATION: Part 818a of Chapter VII, Title 32 of the Code of Federal Regulations is revised to update DOD policies governing the conduct of private commercial solicitation and sales on Air Force installations. The revision adds a list of references; expands and provides a more definitive explanation of terms; clarifies the responsibilities of life insurance agents to properly identify themselves when soliciting on a DOD installation; provides additional guidance on the use of DOD facilities for private commercial activities; introduces certain constraints on advertising commercial sales activities on DOD installations, and updates references and office symbols.

The provisions of this part are issued under authority of 10 U.S.C. 8012.

The revised part will read as follows:

PART 818a—PERSONAL COMMERCIAL AFFAIRS

Subpart A—Introduction

- Sec.
818a.1 Purpose.
818a.2 References.
818a.3 Terms explained.

Subpart B—Life Insurance

- 818a.4 Requirements.
818a.5 The accreditation program.
818a.6 Use of the allotment system for paying of life insurance premiums.

Subpart C—Private Commercial Solicitation on Air Force Installations

- 818a.7 Policy on soliciting.
818a.8 Solicitation practices that are prohibited.
818a.9 Revoking on-base solicitation privileges.
818a.10 Individual responsibilities for revoking or suspending on-base solicitation privileges.
818a.11 Action by the installation commander to revoke or suspend these privileges.

Subpart D—Personal Commercial Management Training

- 818a.12 Management training by the Air Training Command (ATC).
818a.13 Management training provided by installation commanders.

AUTHORITY: 10 U.S.C. 8012.

NOTE.—This part is derived from Air Force Regulation 211-16, September 7, 1978.

Subpart A—Introduction

§ 818a.1 Purpose.

This part sets policy for private commercial solicitation and sales on Air Force installations. It is designed to safeguard and promote the welfare and interests of military personnel as consumers. It requires commanders to be sure that all commercial soliciting, and selling of all types of insurance and other goods, services, and commodities are monitored and controlled. This rule applies to all Air Force installations. It implements DODD 1344.1, August 31, 1977, and 1344.7, July 1, 1969.

§ 818a.2 References.

- (a) Part 806 of this chapter.
(b) AFR 34-3, Morale, Welfare, and Recreation Basic Responsibilities, Policies, and Practices.
(c) AFR 34-3, Vol. II, Private Organizations.
(d) Part 818 of this chapter.
(e) AFR 40-735, Employee Responsibility and Conduct.
(f) Part 818b of this chapter.
(g) AFR 110-27, Preventive Law Program.
(h) AFR 145-15, Armed Services Commissary Store Regulation.
(i) AFR 147-7, Exchange Service, General Policies.
(j) Regulation Z of the Federal Reserve Board.
(k) Federal Personnel Manual.

NOTE.—Part 806 of this chapter states the basic policies and instruction governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 818a.3 Terms explained.

(a) *Agent.* An individual who is paid or compensated as a sales person for an insurer (insurance company or association).

(b) *Association.* An organization, whether or not the word "association" is in its title, which:

(1) is made up of, and serves exclusively, members of the Armed Forces of the United States and their dependents. This includes members on active duty, Reserve duty, retired, or persons who joined any of these organizations while on active duty or in the Reserves; and

(2) Has a life insurance plan, either as part of the membership dues or as a separately bought plan. These plans are bought through an insurance carrier or the association as a self-insurer, or both.

(c) *DOD Personnel.* All officers and enlisted members, and civilian employees of the Armed Forces. This includes government employees of all the of-

fices, agencies, and departments on a defense installation, including nonappropriated fund instrumentalities (NAFIs).

(d) *Insurance Carrier.* An insurance company that sells insurance through an association or by reinsuring or coinsuring such insurance.

(e) *Insurance Policy.* A policy or certificate of insurance issued by an insurer, or evidence of insurance coverage issued by a self-insured association.

(f) *Insurer.* Any company or association selling insurance.

(g) *Solicitation.* (1) The conduct of private business, including offering and selling insurance on an Air Force base. Such private business or soliciting is a privilege not a right. Its control is a responsibility of the installation commander.

(2) The term does not apply to resident services such as milk delivery, laundry services, regular newspaper deliveries, as authorized by the commander.

(h) *States.* The 50 political jurisdictions of the United States, the District of Columbia, the Territories, and possessions of the United States.

Subpart B—Life Insurance

§ 818a.4 Requirements.

(a) An agent must identify him or herself as an agent for a specific insurance company when acting in that capacity on an Air Force installation.

(b) Insurance policies offered and sold on an Air Force installation must:

(1) Comply with the insurance laws where the Air Force installation is located, including foreign countries.

(2) Show on the face of the policy any restrictions by reason of military service or Air Force job specialty.

(3) Show on the face of the policy any extra premium charges based on military service or Air Force job specialty.

(4) Show on the face of the policy any variation in the amount of death benefit or premium based on the length of time the policy has been in force.

NOTE.—The above does not include certificates or other evidence of insurance issued by a self-insured association. To comply with paragraph (b) (2), (3), and (4) of this section, a stamp or "flag" must be used to draw the attention of the policyholder to the extra premium information, or to any variation in death benefits because of the length of time the policy has been in force.

(c) Variable life insurance policies may be sold if they meet the criteria of the appropriate insurance regulatory agency (State or country) and the Securities and Exchange Commission (SEC).

(d) Premiums must show the actual premiums payable for life insurance coverage.

§ 818a.5 The accreditation program.

(a) Any life insurance company is automatically accredited in the states if it is licensed under the laws of the state where the installation is located.

(b) Many military-oriented associations offer various insurance plans to military personnel. Some, however, are not organized within the supervision of insurance laws of either the Federal or State governments. While some are organized for profit, others function as nonprofit organizations under Internal Revenue Service (IRS) regulations. Regardless of the manner in which insurance plans are offered, all associations must comply with this part.

(c) Soliciting on oversea installations is done under the regulations issued by the unified or specified command having authority in the area.

§ 818a.6 Use of the allotment system for paying life insurance premiums.

(a) Allotments of military pay for life insurance premiums must be made according to the DOD Military Pay and Allowances Entitlements Manual. Allotments are not made out to an insurer for a commingled sale such as retirement plans or securities.

(b) For members in pay grades E-1, E-2, and E-3, at least 7 days should elapse between the signing of a life insurance application and the starting of an allotment. This is a "cooling off" time to reconsider the insurance purchase.

Subpart C—Private Commercial Solicitation on Air Force Installations

§ 818a.7 Policy on soliciting.

(a) Soliciting on an installation is permitted when:

(1) The installation commander has not prohibited it.

(2) The solicitor has been specifically invited by someone who lives on the base to that person's home or other place approved by the installation commander.

(3) The solicitor is duly licensed.

(b) All agents may solicit if they meet the requirements of this part.

(c) DOD personnel may not act in an official or business capacity, either directly or indirectly, as a liaison with agents.

(d) Advertisements in unofficial military publications must observe the highest business ethics in describing goods, services, and commodities and the terms of sale. Credit term advertising must conform to the Truth-in-Lending Act as implemented by Regulation Z of the Federal Reserve Board.

(e) A sign on solicitation restrictions must be posted in such form and place as to give notice to all persons entering an Air Force base.

(f) Canvassing, soliciting, and peddling to Air Force civilian employees is governed by AFR 40-735.

§ 818a.8 Solicitation practices that are prohibited.

(a) Making appointments with, or soliciting, personnel who are in an "on-duty" status.

(b) Procuring or supplying rosters or lists for commercial solicitation, except as required or authorized by Part 806 of this chapter and the Federal Personnel Manual, Chapter 294.

(c) Offering unfair or deceptive inducements to buy or trade.

(d) Using any manipulative, deceptive, or fraudulent device, scheme, or artifice, including misleading advertising and sales literature.

(e) Practices involving rebates to help make sales or to eliminate competition. (Credit union interest refunds to borrowers are not a prohibited rebate.)

(f) Oral or written representation which suggests that the DOD or any of its components sponsor a company, its agents, or its goods or services.

(g) Any breach of warranty or contract not promptly adjusted on demand.

(h) Soliciting a "mass" or "captive" audience.

(i) Use of official identification cards by retired or Reserve members to gain access to an Air Force base for soliciting.

(j) Soliciting by a military member of another member who is lower in grade.

(k) DOD personnel may not represent or deal directly or indirectly with any private company or business as an agent for commercial soliciting on a military installation.

(l) The use of an agent to take part in military sponsored insurance education or orientation programs. This includes representatives of associations, unless they are free from self-serving interest or emphasis, direct or indirect.

(m) Agents assuming or using titles such as "Squadron Insurance Counselor," "Unit Insurance Advisor," or "SGLI Conversion Consultant."

(n) Assigning desk space for an interview for other than a specific prearranged appointment. During this appointment, the agent must not display desk or other signs.

(o) Using base bulletins or any other notice, official or unofficial, announcing an agent and his or her availability.

(p) Distributing, or availability for distributing, literature other than to the person being interviewed.

(q) Doing business in dormitory areas. Based commanders must designate an appropriate area, such as the Family Service Center, for use by the service members.

(r) Use of any portion of base facilities, to include quarters, as a showroom or store for the sale of goods or services, except as specifically authorized by:

- (1) AFR 34-3.
- (2) AFR 34-3, Vol. II.
- (3) AFR 145-15.
- (4) AFR 147-7.

NOTE.—This provision does not preclude normal home enterprises that comply with this part, and with applicable State and local laws.

(s) Advertisements citing addresses or telephone numbers of commercial sales activities conducted on the base.

(t) Soliciting of persons on the base who are not residents of the base.

§ 818a.9 Revoking on-base solicitation privileges.

The privilege of on-base solicitation may be denied for any of the following reasons, provided the offender is given written notice:

(a) Violating any provision of this part.

(b) Substantiated complaints or reports on the quality of goods or services, or the manner in which they were sold.

(c) Knowing and willful violations of the Truth-in-Lending Act as implemented by Regulation Z of the Federal Reserve Board, or any similar State or local law, ordinance, or regulation.

(d) Knowing and willful violations of the Uniform Code of Military Justice (UCMJ) or Title 18, United States Code.

(e) Failure to incorporate the Standards of Fairness in every contract of sale made on the base, as required by Part 818 of this chapter.

(f) Possession of, or any attempt to obtain, supplies of allotment forms.

§ 818a.10 Individual responsibilities for revoking or suspending on-base solicitation privileges.

Any information that might be grounds for revoking or suspending soliciting privileges must be reported to the CBPO/DPMAP, who will notify the base commander through personnel channels. (If there is no CBPO, the base commander will designate an office or officer to do this.)

§ 818a.11 Action by the installation commander to revoke or suspend these privileges.

(a) Suspension of soliciting privileges. This is done by the base commander, pending an investigation and "show cause" action.

(1) A suspension is for 30 days or less. Any exceptions to this must be approved by HQ AFMPC/MPCASC, Randolph AFB, TX 78148 (AUTOVON 487-3996). ("Show cause" means the grieved party has the right to show

facts on his or her behalf. This may be done on an informal basis.)

(2) The suspension must be in writing and sent by certified mail.

(b) *Revocations.* (1) The base commander may close the case without action and tell the complainant of the reason. The commander must offer (in writing) the accused a chance to show cause why his or her on-base soliciting privilege should not be revoked. This written notice must describe the alleged violation and offer the alleged offender the opportunity to rebut or mitigate the violation, either in person or in writing.

(2) If the alleged offender fails to respond, rebut, or mitigate the alleged violation, the commander will advise this agent (in writing) that his or her privilege to solicit on the installation has been revoked.

(i) Revocation must be for a reasonable time, but not for more than 1 year.

(ii) The commander determines whether to limit the revocation to the agent alone, or to extend it to the company he or she represents. (If the solicitor has not been licensed by civil authority, or if the license has been withdrawn, the period of revocation must be at least equal to the unlicensed period.)

(iii) A notice of revocation must be in writing and sent in person or by certified mail, return receipt requested.

(3) Revocation is published in the base bulletin. A list of individuals whose privileges have been revoked must be published at least once every 6 months.

(4) When the commander believes the offender may be soliciting on other military installations, he or she must tell the commanders of the other installations of the action taken.

(i) If warranted, the commander makes a recommendation to AFMPC/DPMASC, Randolph AFB, TX 78148, that the action be extended to additional Air Force installations.

(ii) If approved, the order may be extended to the other military departments by the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics).

Subpart D—Personal Commercial Management Training

§ 818a.12 Management training by the Air Training Command (ATC).

ATC gives comprehensive instructions on personal commercial affairs in its basic military training program. The same instruction is given at undergraduate pilot or navigator training, and other courses where personnel get initial active duty training.

§ 818a.13 Management training provided by installation commanders.

Installation commanders must set up information and education programs to help members conduct their personal commercial matters.

(a) These programs should include information about the protection and remedies offered under the Truth-in-Lending Act and Regulation Z of the Federal Reserve Board. They should also cover government benefits, savings, budgeting, commercial insurance, and the following Air Force regulations: 35-18, 110-22, and 110-27.

(b) The base credit union, bank, and other nonprofit organization may be used to help set up the program.

(c) Commercial agents (including loan and finance companies and their associations) may not be used in this program. However education programs and materials prepared by outside organizations may be used provided they are entirely educational, and are free of advertising, applications, and contracts.

[FR Doc. 78-34510 Filed 12-11-78; 8:45 am]

[4310-84-M]

Title 43—Public Lands Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

PART 3300—OUTER CONTINENTAL SHELF LEASING; GENERAL

Extension of Time To File Statement of Production

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management amends its regulations relating to joint bidding requirements to extend the time for oil and gas companies to file statements of production in order to bid jointly at outer continental shelf (OCS) oil and gas lease sales held during the present bidding period. Many of the smaller companies have overlooked the need to file before the deadline of September 17, 1978, and have requested more time. The basic purpose of the regulation has been to encourage competition and the entrance of smaller companies into the competition.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Dale Zimmerman, Chief Division of Minerals Resources, Bureau of Land Management, Department of

the Interior. (202) 343-2721.

SUPPLEMENTARY INFORMATION:

According to the regulations 43 CFR 3302.3-2(a), any person who wishes to submit a joint bid for an oil and gas lease under the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331-1343) during the six month bidding period which began on November 1, 1978, must have filed no later than 45 days before that date a sworn statement of production concerning the prior production period of January 1, 1978, through June 30, 1978. In order to bid jointly without restriction, his statement should attest to an average daily production during that time of no more than 1.6 million barrels a day of crude oil, natural gas, and liquefied petroleum products.

Since September 17, 1978, a number of companies who had not timely filed their statement of production have inquired as to whether an extension of time might be granted. It has now been determined that acceptance of statements of production until the close of business on the Friday preceding any sale held during the bidding period would be in the national interest and not incompatible with the purposes of the regulations. Therefore, the first sentence of 43 CFR 3302.3-2(a) published at 43 FR 32301, July 26, 1978 is hereby amended by striking the following language:

*** except that for the bidding period of May 1, 1978, through October 31, 1978, no joint bid may be considered at any sale unless statements of production from all parties to that bid have been received in the office of the Director, Bureau of Land Management (Attention 722), Washington, D.C. 20240, by close of business on Friday before the sale.

and substitute therefor:

*** except that for the bidding period of November 1, 1978, through April 30, 1979, no joint bid may be considered at any sale unless statements of production from all parties to that bid have been received in the office of the Director, Bureau of Land Management (Attention 722), Washington, D.C. 20240, by close of business on Friday before the sale.

The list of such qualified persons and companies will be available for examination at the field offices in New York, New York, New Orleans, Louisiana, Los Angeles, California, and Anchorage, Alaska.

GUY R. MARTIN,
Assistant Secretary
of the Interior.

DECEMBER 5, 1978.

[FR Doc. 78-34530 Filed 12-11-78; 8:45 am]

[6712-01-M]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-224; RM-3078]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Homer, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns Class C FM Channel 278 to Homer, Alaska, in response to a petition filed by Alaska Village Missions, Inc. The channel would provide for a station which could render a first local aural broadcast service to Homer and outlying areas.

EFFECTIVE DATE: January 16, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING TERMINATED

Adopted: December 1, 1978.

Released: December 6, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Homer, Alaska), BC Docket No. 78-224, RM-3078.

1. The Commission herein considers the *Notice of Proposed Rule Making* adopted July 24, 1978, 43 FR 34170, in the above-captioned proceeding, instituted in response to a petition filed by Alaska Village Missions, Inc. ("petitioner"). The petition proposed the assignment of Class C FM Channel 278 to Homer, Alaska. No oppositions to the petition were received. Comments in support of the proposal were filed by Peninsula Communications, Inc. and by petitioner. Peninsula affirmed its intention to file for the channel if it were assigned.

2. Homer (pop. 1,083)¹ is located on the Kenai Peninsula on the south shore of Alaska, 185 kilometers (115 miles) southeast of Anchorage. It has no local aural broadcast service.

3. Petitioner asserts that the Homer area has experienced steady popula-

¹Population figures are taken from the 1970 U.S. Census, unless otherwise indicated.

tion and economic growth in recent years. It states that, according to the Homer Area Analysis by the Hillas Appraisal Company, the 1977 estimated population of Homer was 1,800 with an estimated 6,000 within the general area. Petitioner has submitted sufficient information with respect to the need for a Class C FM assignment to Homer to serve the large, sparsely populated area a Class A station could not reach.

4. Channel 278 can be assigned to Homer, Alaska, in conformity with the minimum distance separation requirements. Preclusion would occur on one or more channels to three communities of over 1,000 population. Two of these already have FM assignments and AM stations, and the third has an AM station. A study shows that the proposed Class C assignment would provide a first FM service to 2,700 persons in a 7,000 square kilometer (2,700 square miles) area.

5. Ordinarily a Class A channel would be assigned to a community the size of Homer. However, Channel 278 would provide for an FM station which could render significant first FM service to a substantial sparsely populated area. In light of this, and since Homer would receive its first local aural broadcast service, we believe the public interest would be served by assigning Channel 278 to Homer, Alaska.

6. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. In view of the foregoing: *It is ordered*, That effective January 16, 1979, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with respect to the city listed below:

City	Channel No.
Homer, Alaska	278

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

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

[FR Doc. 78-34524 Filed 12-11-78; 8:45 am]

[6712-01-M]

[BC Docket No. 78-175; RM-3085]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in New Roads, La., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns Channel 292A to New Roads, Louisiana, at the request of Progressive Broadcasting Corporation. The channel can be used to bring a first full-time local aural broadcast service to the community.

EFFECTIVE DATE: January 16, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, telephone 202-632-7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: December 1, 1978.

Released: December 6, 1978.

In the Matter of Amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (New Roads, Louisiana) BC Docket No. 78-175, RM-3085.

1. The Commission has before it a *Notice of Proposed Rule Making*, adopted June 13, 1978, 43 Fed. Reg. 27571, in the above-entitled proceeding, instituted in response to a petition filed by Progressive Broadcasting Corporation ("petitioner"). Petitioner proposed the assignment of Channel 292A to New Roads, Louisiana, as that community's first FM assignment. No oppositions to the proposal were received.

2. New Roads (pop. 3,945), in Pointe Coupee Parish (pop. 22,002),¹ is located approximately 40 kilometers (25 miles) northwest of Baton Rouge, Louisiana. New Roads is served by daytime-only AM Station KWRG, licensed to petitioner. Channel 292A can be assigned to that community in conformity with the minimum distance separation requirements. Petitioner reaffirms its intention to file for the proposed channel, if assigned.

3. In support of its proposal, petitioner submitted information with respect to New Roads which is persua-

¹Population figures are taken from the 1970 U.S. Census.

sive as to its need for a first FM channel assignment.

4. We believe that the public interest would be served by the assignment of Channel 292A to New Roads, Louisiana. An interest has been shown for its use, and such an assignment would provide the community with an opportunity to acquire an FM station capable of rendering a first full-time local aural broadcast service.

5. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

6. Accordingly, *It is ordered*, That effective January 16, 1979, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, IS AMENDED as it pertains to the community listed below:

City	Channel No.
New Roads, Louisiana	292A

7. *It is further ordered*, That this proceeding IS TERMINATED.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

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

[FR Doc. 78-34525 Filed 12-11-78; 8:45 am]

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF
ENERGY

SUBCHAPTER E—ALTERNATE FUEL

[Docket No. ERA-R-78-21]

PART 515—TRANSITIONAL FACILITIES

Notice of Additional Hearing on Interim Rule To Permit Classification of Certain Powerplants and Installations as Existing Facilities

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of additional hearing.

SUMMARY: The Economic Regulatory Administration has decided to conduct an additional Public Hearing on its Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities which was published on November 22, 1978 (43 FR 54912).

DATE: Hearing date: January 15, 1979.

ADDRESS: Hearing location to be announced later.

FOR FURTHER INFORMATION CONTACT:

Barton House (Fuels Regulation Program Office), Economic Regulatory Administration, Department of Energy, Room 6128I, 2000 M Street NW., Washington, D.C. 20461, 202-254-3905.

James H. Heffernan (Office of General Counsel), Department of Energy, Room 6144, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, 202-633-9296.

SUPPLEMENTARY INFORMATION: On November 16, 1978, the Economic Regulatory Administration (ERA) of the Department of Energy issued, effective upon publication, interim rules to implement certain provisions of the Powerplant and Industrial Fuel Use Act of 1978 ("the Act"). The interim rules permit ERA to classify certain major fuel burning installations and powerplants which began substantial construction or acquisition after April 20, 1977, and before November 9, 1978, as existing facilities under the Act. At that time, ERA scheduled a public hearing on the interim rule for December 13, 1978, and requested public comments. ERA has decided to schedule an additional public hearing to be held on January 15, 1979, at a place to be announced later. Notice of this additional public hearing will be published in the FEDERAL REGISTER. Interested persons who participate in the hearing to be conducted on December 13, 1978, may also participate in the later public hearing.

(Department of Energy Organization Act, Pub. L. 95-91; Powerplant and Industrial Fuel Use Act, Pub. L. 95-620)

Issued in Washington, D.C., December 11, 1978.

DAVID J. BARDIN,
Administrator, Economic
Regulatory Administration.

[FR Doc. 78-34715 Filed 12-11-78; 11:20 am]

proposed rules

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

[3410-05-M]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation
Service

[7 CFR Part 726]

BURLEY TOBACCO

1979 National Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture is preparing to determine and announce the following determinations for burley tobacco for the 1979-80 marketing year: (1) The national marketing quota, (2) the reserve supply level, (3) the amount of the national reserve; (4) whether the Secretary should implement the provision in section 319(i) of the Agricultural Adjustment Act of 1938, as amended, to encourage additional marketings of any grades to insure traditional market patterns. The quota must be announced by February 1, 1979. You are invited to submit written comments, views and recommendations concerning the determination of the quota and related matters.

DATES: Written comments must be received by January 15, 1979, in order to be sure of consideration.

ADDRESSES: Send comments to the Acting Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert L. Tarczy, (202) 447-7601.

SUPPLEMENTARY INFORMATION:

Section 319(b) of the Agricultural Adjustment Act of 1938 (referred to herein as the "Act"), requires the Secretary to determine and announce the amount of the national marketing quota on a poundage basis for the 1979-80 marketing year by February 1, 1979.

Section 319(c) of the Act provides that the national marketing quota determined under this section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretary estimates

will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amounts as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 per centum of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established). A reserve of 1,590,000 pounds was established for the 1978-79 marketing year (43 FR 4971).

Section 301(b) of the Act defines "Reserve supply level" as normal supply plus 5 percent. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for a normal carry-over. A "Normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "Normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the ten marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports. The reserve supply level used in determining the national marketing quota for the 1978-79 marketing year was 1,678 million pounds, calculated from a normal year's domestic consumption of 515 million pounds and a normal year's exports of 110 million pounds (43 FR 4971). The proposed reserve supply level for use in determining the na-

tional marketing quota for the 1979-80 marketing year is 1,643 million pounds, calculated from a normal year's domestic consumption of 500 million pounds and a normal year's exports of 115 million pounds.

The amount of the national marketing quota for the 1978-79 marketing year is 615 million pounds based upon total utilization of 615 million pounds with no adjustments necessary to maintain or reduce supplies (43 FR 4971). For the 1979-80 marketing year, utilization in the United States is estimated to be about 500 million pounds and exports are estimated to be about 120 million pounds. Supplies for the 1978-79 marketing year are 193 million pounds greater than the proposed reserve supply level, but the amount of the downward adjustment, if any, desirable for an orderly reduction in supplies is still being considered.

Section 319(e) of the Act provides, in part, that each farm marketing quota shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection 319(c) (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined: *Provided*, That such national factor shall not be less than 95 per centum.

Section 319(i) of the Act provides, in part, that if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of burley tobacco during any marketing year to insure traditional market patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

Section 319(h) of the Act provides that effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the five years immediately preceding the year for which farm marketing quotas are being established.

PROPOSED RULE

The Secretary is preparing to determine and announce for the 1979-80 marketing year for burley tobacco:

1. The amount of the national marketing quota.
2. The amount of the reserve supply level.
3. The amount of the national reserve.
4. Whether or not the Secretary should implement the provision in section 319(i) of the Act to encourage additional marketings of any grades to insure traditional market patterns.

The national factor is not considered an issue in these determinations because it results from a mathematical computation under section 319(e) of the Act.

Prior to making any determination, the Department will give consideration to comments, views, and recommendations submitted in writing to the Acting Director, Price Support and Loan Division. All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in room 3753—South Building, U.S.D.A., 14th and Independence Avenue, S.W., Washington, D.C. 20013.

Executive Order 12044 (43 FR 12661, March 24, 1978) requires at least a 60 day public comment period on any proposed significant regulations except where the Agency determines this is not possible. Because the quota for the 1979-80 burley tobacco marketing year is required by statute to be announced by February 1, 1979, it is hereby found and determined that compliance with the 60-day comment period required by Executive Order 12044 is impossible. Accordingly, comments must be received by January 15, 1979 in order to be assured of consideration.

An approved draft Impact Analysis Statement is available from Thomas A. VonGarlem, Acting Director, Price Support and Loan Division, Room 3741—South Building, P.O. Box 2415, Washington, D.C. 20013.

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

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-34419 Filed 12-11-78; 8:45 am]

[3410-05-M]

[7 CFR Part 730]

1979 RICE PROGRAM

Proposed Determinations Regarding 1979-Crop Rice Set-Aside Program and Land Diversion Payments

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed Rule.

SUMMARY: Section 101(h) of the Agriculture Act of 1949, as added by section 702 of the Food and Agricultural Act of 1977, provides that the Secretary of Agriculture will make the following determinations with respect to the 1979-crop of rice; whether there should be a set-aside program and if so, the extent of such program and whether there should be provisions for land diversion payments and if so, the extent of such diversion. The Secretary shall provide for a set-aside program if he determines that the total supply of rice will in the absence of a set-aside be excessive. The Secretary may make land diversion payments to assist in adjusting the national acreage of rice whether or not a set-aside program is in effect. These determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Act of 1949, as amended. This notice invites written comments on the proposed determinations.

DATES: In order to be sure of consideration, comments must be received on or before January 11, 1979.

ADDRESSES: Mr. Jeffress A. Wells, Acting Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

George H. Schaefer (ASCS) (202) 447-8480.

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1979 crop of rice are to be made pursuant to the Agricultural Act of 1949, as amended.

A. *Whether there should be a set-aside program and if so, the extent of such program:* Section 101(h)(5) of the Agricultural Act of 1949, as amended, provides that the Secretary shall provide for a set-aside of cropland if he determines that the total supply of rice will, in the absence of a set-aside likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside is in effect, then as condition of eligibility for loans, purchases and payments, coop-

erators on a farm must set-aside and devote to conservation uses an acreage of cropland equal to such percentage of the farm acreage allotment as may be specified by the Secretary (but not to exceed 30 per centum of the farm acreage allotment) plus, if required by the Secretary, the acreage of cropland devoted in preceding years to soil conserving uses, as determined by the Secretary. In addition, under section 1001 of the Food and Agriculture Act of 1977, a cooperator's acreage planted to crops designated by the Secretary in 1979 can be no more than his normal crop acreage less the set-aside. Current estimates indicate that August 1, 1979 rice stocks could be about 54 million hundredweights. Assuming that the 1979 crop production could range from 119 million hundredweights to 130 million hundredweights, total supply could range from 173 million hundredweights to 184 million hundredweights. Utilization in 1979 could be as high as 121 hundredweights and as low as 110 million million hundredweights, depending principally on fluctuation in the level of exports. The combination of the lower supply and higher utilization would result in ending stocks of 52 million hundredweights; the higher supply and lower utilization would result in ending stocks of 74 million hundredweights.

B. *Whether there should be provisions for land diversion payments and if so, the extent of such diversion payment and the payment therefor:* Section 101(h)(6) of the Agricultural Act of 1949, as amended, provides that the Secretary may make land diversion payments to cooperators whether or not a set-aside for rice is in effect, if he determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Land diversion payments shall be made to cooperators on a farm who devote to approved conservation uses an acreage of cropland on the farm on the basis of land diversion contracts. Amounts payable to cooperators under land diversion contracts may be determined through submission of bids for such contracts by cooperators in such manner as prescribed by the Secretary or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the cooperators and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under contracts in any county or local community so as not to affect adversely the economy of the county or local community. Prior to determining the provisions of the 1979 rice program, consideration will be given to any data, views, and

recommendations that may be received, submitted in writing to the Acting Director, Production Adjustment Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20013.

Comments will be made available for public inspection at the Office of the Acting Director during regular business hours (8:15 a.m. to 4:45 p.m.).

Executive Order 12044 (43 FR 12661, March 24, 1978) requires at least a 60-day public comment period on any proposed significant regulations except where the agency determines this is not possible or in the best interest of the producers. Rice producers need to receive 1979 program provisions by early January 1979, in order to make effective planting decisions and arrangements. It is in the best interest of producers to have the final regulations published by early January 1979. Therefore, it is hereby found and determined that compliance with provisions of Executive Order 12044 is impossible and contrary to the public interest. Accordingly, comments must be received by January 11, 1979 in order to be assured of consideration.

NOTE.—An approved Draft Impact Analysis is available from George H. Schaefer (ASCS) 202-447-8480.

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

Signed at Washington, D.C. on December 8, 1978.

STEWART N. SMITH,
Acting Administrator, Agricultural
Stabilization and Conservation
Service.

[FR Doc. 78-34679 Filed 12-8-78; 4:46 pm]

[3410-05-M]

Commodity Credit Corporation

[7 CFR Part 1421]

1979 RICE LOAN, PURCHASE AND PAYMENT
PROGRAMS

Proposed determinations Regarding the 1979
Rice Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make determinations and issue regulations relative to the 1979 rice price support program, including (a) the loan and purchase rate for 1979-crop rice; (b) commodity eligibility and storage requirements; (c) premiums and discounts for grades, classes, other qualities and location

differentials; (d) the established (target) price; and (e) other related provisions necessary to carry out the loan, purchase and payment programs. These determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Act of 1949, as amended. This notice invites comments on the proposed determinations.

DATES: In order to be sure of consideration, comments must be received on or before January 11, 1979.

ADDRESSES: Mr. Jeffress A. Wells, Acting Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

George H. Schaefer (ASCS) (202) 447-8480.

SUPPLEMENTARY INFORMATION:

a. *Loan and purchase level:* Section 101 of the Agricultural Act of 1949, as amended by section 702 of the Food and Agriculture Act of 1977, provides that the Secretary shall make available to cooperators loans and purchases for 1979-crop rice at such level as bears the same ratio to the 1978-crop rice loan and purchase rate as the 1979-crop rice established (target) price bears to the 1978-crop established (target) price. If the Secretary determines that such loan and purchase level would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States, the Secretary may establish a loan and purchase rate for the crop at such level, not less than \$6.31 per hundredweight nor more than the rice parity price, as the Secretary determines necessary to avoid such consequences.

b. *Established (target) price level:* Section 101 of the Agricultural Act of 1949, as amended by section 702 of the Food and Agriculture Act of 1977, provides that the established (target) price for 1979-crop rice will be the established (target) price for the 1978-crop rice adjusted to reflect any change in (i) the average adjusted cost of production for the 1977 and 1978 crop years from (ii) the average adjusted cost of production for the 1976 and 1977 crop years. The adjusted cost of production for each such year shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crop involved on the basis of the proportion of the value of the total production derived from the crop. The Act of May 15, 1978, as amended, by the Agricul-

tural Credit Act of 1978 (P.L. 95-334, August 4, 1978), provides that the Secretary may increase the established (target) price for rice over the level provided by the Food and Agriculture Act of 1977 to compensate cooperators for participation in a set-aside program.

Additional information: The 1978-crop rice established (target) price is \$8.53 per hundredweight. The 1978-crop rice loan and purchase rate is \$6.40 per hundredweight. Based on the estimated changes in the two-year moving average adjusted cost of rice production (variable costs, machinery ownership costs and general farm overhead costs), as described in b, the Department's preliminary estimate for the 1979 established (target) price is \$9.04 per hundredweight and for the 1979 loan and purchase rate is \$6.78 per hundredweight.

Executive Order 12044 (43 FR 12661, March 24, 1978) requires at least a 60-day public comment period on proposed significant regulations except where the Agency determines this is not possible or in the best interests of the producers. Rice producers need to receive 1979 rice program provisions by early January 1979 in order to make effective planting decisions and arrangements. It is in the best interests of producers to have the final regulations published by early January 1979. Therefore, it is hereby found and determined that compliance with provisions of Executive Order 12044 is impossible and contrary to the public interest. Accordingly, comments must be received by January 11, 1979 in order to be assured of consideration.

PROPOSED RULE

The Secretary of Agriculture is considering the following determinations for the 1979-crop rice:

A. The loan and purchase rate and established (target) price.

B. Commodity eligibility and storage requirements.

C. Premiums and discounts for grades, classes and location differentials.

D. Other related provisions necessary to carry out the loan, purchase and payment program.

Prior to making these determinations, consideration will be given to any data, views and recommendations submitted in writing to the Acting Director, Production Adjustment Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All comments will be made available to the public at the office of the Acting Director, Production Adjustment Division, ASCS, USDA, during regular business hours (8:15 a.m. to 4:45 p.m.), Monday through Friday in Room 3630 South Building,

14th and Independence Avenue, S.W., Washington, D.C. (7 CFR 1.27 (b)).

NOTE.—An approved Draft Impact Analysis is available from George H. Schaefer (ASCS), (202) 447-8480.

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

Signed at Washington, D.C. on December 8, 1978.

STEWART N. SMITH,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-34678 Filed 12-8-78; 4:46 pm]

[7535-01-M]

**NATIONAL CREDIT UNION
ADMINISTRATION**

[12 CFR Part 701]

**ORGANIZATION AND OPERATIONS OF
FEDERAL CREDIT UNIONS**

**Proposed Rulemaking—Borrowed Funds From
Natural Persons**

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The purpose of this rule is to restrict Federal credit union borrowing from natural persons to credit union members and to establish specific requirements for such borrowing. The rule requires certain disclosures and limits the interest that may be paid on borrowing from members.

DATE: Comments must be received on or before February 23, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, NW, Washington, DC 20456.

**FOR FURTHER INFORMATION
CONTACT:**

Mike Fisher, Special Assistant for Examination and Insurance, at the above address. Telephone: (202) 254-8760.

SUPPLEMENTARY INFORMATION: On December 30, 1977, Section 701.35, Share Accounts and Share Certificate Accounts, of the National Credit Union Administration's Rules and Regulations for Federal Credit Unions became effective. Section 701.35 allowed Federal credit unions to offer to their members various types of share accounts and share certificate accounts in various amounts and with

various maturities and interest rates. Effective July 7, 1978, § 701.35 was amended to provide Federal credit unions with further flexibility to attract, maintain, and manage member savings by removing the dividend ceiling on share certificate programs for retirement accounts. Effective November 20, 1978, this regulation was further amended to permit Federal credit unions to offer \$10,000, 26-week certificates at a dividend rate pegged to the 26-week Treasury bill rate. The regulation was further amended to delete the \$500-minimum-amount requirement for IRA and Keogh accounts. The result of the issuance of § 701.35, Share Accounts and Share Certificates, and the subsequent amendments to that regulation is a flexible environment within which credit unions can offer their members rates of return competitive with other financial institutions.

The flexibility provided by § 701.35, however, was not always available. Federal credit unions, in an effort to compete and to ease disintermediation, borrowed funds from various sources, which included natural persons. Referred to as "certificates of indebtedness", these borrowed funds had all the indicia of the now authorized share certificates, except they were not insured by the National Credit Union Share Insurance Fund.

With parity in the range of savings alternatives, the certificate of indebtedness offered to members is no longer necessary to "meet the competition." To ensure that "certificates of indebtedness" are not used to circumvent the rate controls for shares and share certificates, the regulation would restrict the rate of interest that may be paid for such funds to no more than 7% per centum per annum and maturities not to exceed 6 years.

When credit unions borrow from individuals who are not members of the credit union they are competing with other financial institutions for the savings of the general public. Federal credit unions are chartered to serve a particular group; offering services (investment alternatives) to individuals outside this group is not part of the role of credit unions. It is, therefore, proposed that Federal credit unions' borrowings from natural persons be limited to credit union members.

Accordingly, 12 C.F.R. 701 is amended by adding a new section as set forth below.

LAWRENCE CONNELL,
Administrator.

DECEMBER 7, 1978.

§ 701.38 Borrowed funds from natural persons.

Federal credit unions may borrow from a natural person, PROVIDED:

(a) the individual is a member of the credit union;

(b) the borrowing is evidenced by a signed written agreement which sets forth the terms and conditions regarding maturity, early redemption, interest rate, method of computation, and method of payment;

(c) the written agreement and any advertisement for such funds contains conspicuous language indicating that:

(1) the instrument represents money borrowed by the credit union;

(2) the instrument does not represent shares and, therefore, is not insured by the Administrator of the National Credit Union Administration; and

(d) the rate of interest paid for such funds does not exceed 7% per centum per annum and the maturity does not exceed 6 years.

(Sec. 107(9), 91 Stat. 49 (12 U.S.C. 1757), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).)

[FR Doc. 78-34603 Filed 12-11-78; 8:45 am]

[7535-01-M]

[12 CFR Part 703]

**INVESTMENT ACTIVITIES OF FEDERAL CREDIT
UNIONS**

Extension of Comment Period

AGENCY: National Credit Union Administration.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comments on the proposed investment activities rule, which restricts Federal credit union involvement in certain investment activities and prohibits involvement in standby commitments and cash forward agreements, in order to provide interested parties additional time to submit comments.

DATE: Comments are now due on or before March 15, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C., 20456.

**FOR FURTHER INFORMATION
CONTACT:**

Robert F. Schafer, Office of Examination and Insurance, at the above address. Telephone: (202) 254-8760.

SUPPLEMENTARY INFORMATION: On October 17, 1978, the National Credit Union Administration published a proposed rule (43 FR 47731) that would prohibit Federal credit unions from entering into standby commitments and Cash forward agreements to purchase or sell securities

and would place restrictions on Federal credit union involvement in repurchase and reverse repurchase agreements.

The preamble to the proposed regulation cautioned Federal credit unions to refrain from engaging in the activities described in the body of the regulation and that advice continues to apply. Although the cautionary note does not prohibit those investment activities pending final rulemaking, it does serve as notice to Federal credit unions to exercise due care in making investments. Failure to exercise sound business judgment regarding investments will be considered as an unsafe and unsound practice in conducting credit union business.

Several parties have already requested additional time to review the proposed regulation and submit comments. Due to the complexity of investment transactions and market operations, and the fact that transactions involving government securities is currently highly controversial, and because the proposed rule would impact on Federal credit union investment practices in an area not previously regulated, the National Credit Union Administration has determined that an additional opportunity for interested parties to submit comments is appropriate and in the public interest. Therefore, the comment period, originally set to expire on December 15, 1978, is hereby extended to March 15, 1979.

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

LAWRENCE CONNELL,
Administrator.

DECEMBER 5, 1978.

[FR Doc. 78-34537 Filed 12-11-78; 8:45 am]

[1505-01-M]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 344]

[Docket No. 77N-0334]

OVER-THE-COUNTER DRUGS

Establishment of a Monograph for OTC Topical
Otics; Corrections

In FR Doc. 77-35320 appearing at page 63566 in the issue for Friday, December 16, 1977, make the following corrections:

1. On page 63558, second column, next to the last line of the paragraph, "tropical" should read "topical"; and the paragraph numbered "2. Cerumen" should read "a. Cerumen."

2. On page 63560, first column, in the table, in the heading, "Oct" should read "OTC"; and entries numbered 5 and 6, the second column entry of the table for each should read: "No topical otics."

3. On page 63561, third column, last line of Reference 26, "85" should read "84".

4. On page 63564, third column, second paragraph under b., next to the last line, "anestic" should read "anesthetic".

5. On page 63566, first column, last line of (a) under § 344.50, insert "wax" before "softening".

[1505-01-M]

[21 CFR Part 352]

[Docket No. 78N-00338]

SUNSCREEN DRUG PRODUCTS FOR OVER-THE-
COUNTER HUMAN USE

Establishment of a Monograph; Notice of
Proposed Rulemaking

Corrections

In FR Doc. 78-22963 appearing at page 38206 in the issue for Friday, August 25, 1978, make the following corrections:

1. On page 38206, third column, third line of the paragraph numbered 3, "date" should read "data".

2. On page 38207, second column, the first full paragraph should read as follows:

"The following FDA employees served: C. Carnot Evans, M.D., served as Executive Secretary. Lee Geismar served as Panel Administrator. Lee Quon, R.Ph., served as Drug Information Analyst until July, 1973, followed by Thomas H. Gingrich, R.Ph., until July, 1975, followed by Timothy T. Clark, R.Ph., until July, 1976, followed by Victor H. Lindmark, Pharm. D."

2A. On page 38208, second column, fourth line under 1. *Active ingredients*, "Cinoxate" should be listed as a separate item.

2B. On page 38209, third column, ninth line, delete the hyphen between "Ninety-five" and insert instead: "to ninety-".

3. On page 38207, second column, twelfth line of the second paragraph, "Maiback" should read "Maibach".

4. On page 38220, second column, first line of the first full paragraph, "dutaneous" should read "cutaneous"; and in the second paragraph, fifth line, insert "120," after "60,".

5. On page 38230, first column, second paragraph, twenty-second line, "to" should read "a".

6. On page 38244, first column, last line of the first full paragraph, "bly-

cerin" should read "glycerin"; second column, second paragraph, second line, "which" should read "white".

7. On page 38245, first column, eleventh line of the paragraph at the bottom, "dioxbenzone" should read "dioxibenzone"; and in the second paragraph, twenty-second line from the top of the second column, "dioxbenzone" should read "dioxibenzone".

8. On page 38246, first column, last line of Reference 8 should read: "060135".

9. On page 38248, first column, fourth line of first full paragraph, "seat-" should read "sweat-".

10. On page 38252, third column, twelfth line from the bottom, insert the following after "ema": "to 5 (peeling). The treated sites showed no evidence of erythema * * *".

11. On page 38254, third column: (a) First paragraph lettered a., fifth line, insert a hyphen after "2"; (b) Second paragraph under a., second line, insert a hyphen after "2";

(c) Paragraph numbered (1), fourth line, insert a hyphen after "2"; and

(d) Fifth paragraph, third line, insert a hyphen after "2".

12. On page 38256, second column, first line insert ")" after " * * * norbornyliden".

13. On page 38260, first column, fifth paragraph, seventh line should read: "λ_H (50 per cent transmittance point"; and in the first line of the last paragraph, "Regardless" should read "Regardless".

14. On page 38264, first line of (a)(1) of § 352.3, "Minimal" should read "Minimal".

[6735-01-M]

FEDERAL MINE SAFETY AND HEALTH
REVIEW COMMISSION

[29 CFR Part 2700]

PROCEDURAL RULES

Extension of Comment Period on Proposed
Rules of Procedure

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Extension of comment period on proposed rules of procedure

SUMMARY: On October 21, 1978, the Federal Mine Safety and Health Review Commission proposed the amendment of its rules of procedure. The Commission invited the comments of interested persons and permitted the filing of written views and data until November 30, 1978. 43 FR 50712. On November 15, 1978, the Commission announced that a public hearing on its proposal would be held on December 5, 1978. 43 FR 53045. On

December 4, 1978, the Commission extended the comment period to 10:00 a.m., December 5, 1978, so that interested persons were accorded a fuller opportunity to comment. 43 FR 56682. The Commission heard the remarks of interested persons on December 5 and 6, 1978. Remarks made at the hearing indicated a need for a further extension of the comment period so that interested persons could submit additional comments and data on the proposed rules of procedure. Accordingly, the Commission extends the time for the submission of written comments and data on the proposed rules to January 8, 1979.

DATE: Written comments and data are due by 5 p.m., January 8, 1979.

ADDRESS: Comments should be addressed to: Donald Terry, Executive Director, Federal Mine Safety and Health Review Commission, 1730 K Street, N.W., Washington, D.C. 20006.
FOR FURTHER INFORMATION CONTACT:

Donald Terry, Executive Director,
(202) 653-5644.

Signed at Washington, D.C., this 7th day of December 1978.

JEROME R. WALDIE,
Chairman.

[FR Doc. 78-34568 Filed 12-11-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

[46 CFR Part 510]

[Docket No. 78-53]

INDEPENDENT OCEAN FREIGHT FORWARDER BIDS ON GOVERNMENT SHIPMENTS AT UNITED STATES PORTS

Proposed Criteria and Filing Requirements

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission proposes to enact a rule amending § 510.24(b) of General Order 4 by adding thereto criteria and filing requirements for licensed independent ocean freight forwarders submitting bids to United States Government agencies.

DATES: Comments on or before January 5, 1979.

ADDRESSES: Comments to: Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT:

Francis Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTAL INFORMATION: Pursuant to the authority of sections 43 and 44 of the Shipping Act, 1916 (46 U.S.C. 841a, 841b); and section 4 of the Administrative Procedure Act (5 U.S.C. 553); the Federal Maritime Commission, hereinafter referred to as the Commission, is authorized and directed to make rules and regulations affecting the activities, obligations and responsibilities of independent ocean freight forwarders engaged in carrying on the business of forwarding in the export commerce of the United States.

Section 510.24(b) of the Commission's General Order 4 (46 CFR 510.24(b)) provides that:

No licensee shall render or offer to render, any forwarding service free of charge or at a reduced freight forwarding fee in consideration of the licensee receiving compensation from oceangoing common carriers on the shipments * * *.

On March 18, 1974, the Commission initiated a proceeding, Docket No. 74-10, *Freight Forwarder Bids on Government Shipments at United States Ports—Possible Violation of the Shipping Act, 1916, and General Order 4*, for the purpose of determining whether the practices of certain licensed ocean freight forwarders, in connection with bids on General Services Administration forwarding contracts, were in violation of either section 16, Shipping Act, 1916, or the Commission's General Order 4.

On March 18, 1977, the Commission issued a decision holding that fees assessed GSA for ocean freight forwarding services were, in certain instances, in violation of section 16, First, of the Shipping Act, 1916, and General Order 4. However, the Commission stated:

We are reluctant to establish binding rules of universal application covering the level of freight forwarding fees on the basis of existing limited record * * * we will, therefore, hold under advisement, pending further study and review, the issue raised in our Order instituting this proceeding; "Whether the Commission's General Order 4 should be amended to include a rule governing the practices of forwarders bidding on GSA contracts and providing services thereunder * * *".

This review has been concluded and based on that review it has been decided that a proposed rulemaking be instituted to amend § 510.24(b) for the purpose of preventing the type of unlawful practice found existing in forwarder bidding on Government shipments.

The rule sets forth reasonable boundaries of permissible conduct for forwarders bidding for Government shipments and prevents those forwarders, who in the past have sought GSA business with abnormally low bids, from continuing this practice. It should be noted that the proposed rule requires the forwarder submitting

a bid to a Government agency, to also submit to the Commission, simultaneously with the submission of its bid to the Government agency, a report containing the pertinent data on which the bid was formulated. The Commission is, therefore, of the belief that § 510.24(b) should be amended. Therefore, pursuant to sections 43 and 44 of the Shipping Act, 1916 (46 U.S.C. 841a, 841b) and section 4 of the Administrative Procedure Act (5 U.S.C. 553), the Commission proposes to amend § 510.24(b) of Title 46 CFR to read as follows:

§ 510.24 Compensation and freight forwarder certifications.

(b)(1) No licensee shall render, or offer to render, any forwarding service free of charge or at a reduced freight forwarding fee in consideration of the licensee receiving compensation from oceangoing common carriers on the shipment; *Provided, however*, That a licensee may perform freight forwarding services for recognized relief agencies or charitable organizations, designated as such in the tariff of the oceangoing common carrier, free of charge, or at reduced fees.

(2) Bids submitted to Government agencies by licensees for handling freight forwarding shipments for export shall be subject to a minimum computed as follows:

(i) All commercial forwarding fees (excluding reimbursibles) charged by the forwarder during the previous calendar year applicable at or through the port for which the licensee is submitting a bid, shall be totaled.

(ii) The forwarding fees so totaled shall be divided by the number of shipments handled at or through that port during the previous calendar year; *Provided, however*, That a licensee submitting a bid for a port at which it has had no commercial fee experience shall compute its bid submission from a computation of commercial fees received at the nearest port it has so served during the previous calendar year.

(iii) The resulting computation applicable to the involved port city shall be considered the lawful minimum bid of the licensee offered for consideration to the involved Government agency.

(3) Each licensee submitting bids to a Government agency for handling freight forwarding shipments for export shall submit to the Commission, simultaneously with the submission of its bid to the Government agency, a report containing the following:

(i) Name, address and FMC number of the licensee submitting the bid and

identification of the Government agency such bid is responsive to.

(ii) Identification of the port involved in the bid the licensee offers to serve.

(iii) Identification of the port and the gross total fees received during the previous calendar year by the licensee for shipments exported at or through th port or next nearest port.

(iv) The number of shipments handled at or through the involved port.

(v) The forwarding fee bid submitted to the Government agency for forwarding services to be performed at or through the involved port city.

(4) In the event the licensee submits bids for two or more port cities, a separate report in the form set forth in paragraph (b)(3) of this section, shall be submitted for each bid.

All commentators participating in this rulemaking proceeding shall file an original and 15 copies of their comments with the Commission.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-34553 Filed 12-11-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-375; RM-3163; RM-3164]

FM BROADCAST STATION IN STAMPS, ARK.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of FM Channel 261A to Stamps, Arkansas. The proposal for that community's first FM assignment was made in response to petitions filed by Joseph P. Robillard and POGO Enterprises. The proposed station could provide a first local aural broadcast service to the community.

DATES: Comments must be received on or before January 29, 1979, and reply comments must be received on or before February 19, 1979.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Stamps, Arkansas), BC Docket No. 78-375, RM-3163, RM-3164.

Adopted: December 1, 1978.

Released: December 6, 1978.

1. The Commission has under consideration two separate petitions.¹ One was filed by POGO Enterprises ("POGO"), requesting the deletion of Channel 221A from Benton, Louisiana, and its assignment to Stamps-Lewisville, Arkansas, on a hyphenated basis; the other petition was filed by Joseph P. Robillard ("Robillard"), requesting the assignment of Channel 261A to Stamps, Arkansas. Both petitioners state they will file an application for the respective requested channels, if assigned. No responses to the petitions have been received.

2. Stamps (pop. 2,427) and Lewisville (pop. 1,653) are located within 8 kilometers (6 miles) of each other and are situated in Lafayette County (pop. 10,018).² Both communities are located approximately 48 kilometers (30 miles) east of Texarkana and 40 kilometers (25 miles) north of the Louisiana border. There is no local aural broadcast service in Stamps, Lewisville or elsewhere in Lafayette County.

3. Benton (pop. 1,493), in Bossier Parish (pop. 64,519), is located approximately 77 kilometers (48 miles) south of Stamps. There is no local aural broadcast service in Benton. However, an application (BPH-11003) is pending on Channel 221A which is assigned to that community.

4. Noting the fact that there is no local aural broadcast service in Lafayette County, petitioners assert that a radio facility in the Stamps-Lewisville area would provide a much needed source of local news and public service programs about community events. They note that Lafayette County is served by one weekly newspaper which is its only source of local news coverage. In support of their petitions, POGO and Robillard have submitted detailed population and demographic data and a profile of the local economy in order to demonstrate the need for the assignment of a first FM channel.

5. POGO's request for the assignment of Channel 221A to Stamps-Lewisville would require the deletion of that channel from Benton, Louisiana, on which an application is pending. Once built, such a station would provide a first local aural broadcast service. Robillard is his petition has shown that Channel 261A can be as-

¹Public Notice of both petitions was given on August 2, 1978, Report No. 1135.

²Population figures are taken from the 1970 U.S. Census.

signed to Stamps in conformity with the minimum distance separation requirements provided the transmitter site is located approximately 7 kilometers (4.5 miles) northeast of Stamps. Since Channel 261A is available for assignment we will consider this proposal rather than the one requiring a deletion elsewhere. Channel 261A would provide an opportunity for Benton and Stamps to acquire a first local aural broadcast service for their respective communities. Although POGO requests assignment of a Class A channel to Stamps-Lewisville on a hyphenated basis, no justification has been shown for doing so. Therefore, the assignment will be proposed for Stamps, the larger of the two communities. However, if Channel 261A is assigned as proposed, it would be available for use at Lewisville under the provisions of § 73.203(b) of the rules, since the communities are separated by less than 16 kilometers (10 miles).

6. In view of the foregoing information, and the fact that the proposed FM channel could bring a first local aural broadcast service to Stamps and Lafayette County, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, with respect to Stamps, Arkansas, as follows:

City	Channel No.	
	Present	Proposed
Stamps, Arkansas.....		261A

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before January 29, 1979, and reply comments on or before February 19, 1979.

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

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rulemaking* to which this Appendix is attached. Proponent(s) will be ex-

pected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them, in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 78-34526 Filed 12-11-78; 8:45 am]

[6712-01-M]

[47 CFR Part 73]

[BC Docket No. 78-253]

FUTURE ROLE OF LOW-POWER TELEVISION BROADCASTING AND TELEVISION TRANSLATORS IN THE NATIONAL TELECOMMUNICATIONS SYSTEM

Order Extending Time for Filing Comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for the filing of com-

ments in response to Federal Communication Commission Notice of Inquiry into the future role of low-power television broadcasting and television translators. (BC Docket No. 78-253). The law firm of Fleischman and Walsh had requested a 30-day extension, arguing that due to the scope and complexity of the Inquiry issues, and the press of business, it is unable to meet the filing deadline.

DATE: Comments must be filed on or before January 10, 1979.

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

FOR FURTHER INFORMATION:

Barry D. Umansky, Broadcast Bureau, (202) 632-7213.

SUPPLEMENTARY INFORMATION:

Adopted: November 30, 1978.

Released: December 5, 1978.

In the matter of an inquiry into the future role of low-power television broadcasting and television translators in the National Telecommunications System, BC Docket No. 78-253.

1. On August 14, 1978, the Commission released a *Notice of Inquiry* in the captioned proceeding.¹ The date for the filing of initial comments was set for December 11, 1978. The Commission declined to establish a date for the filing of reply comments but rather indicated that the reply comment date would be announced following the receipt of initial comments and an appraisal of their number and complexity.

2. On November 22, 1978, a request for a 30-day extension of time to file comments was submitted by the law firm of Fleischman and Walsh. The firm maintains that, while it is in the process of preparing comments on behalf of several clients, due to the scope and complexity of the *Inquiry* issues, and an asserted pressing workload in other matters, it is unable to meet the December 11, 1978, deadline.

3. In issuing the *Notice* in this proceeding the Commission provided a period in excess of three months for the filing of comments. And while we are interested in obtaining a record in this proceeding as soon as practicably possible, because of the perceived need for comprehensive policy planning in these areas, we believe that the circumstances existent here support the grant of an extension of time for the filing of comments. As set forth in the *Notice*, this is a multifaceted proceeding involving many complex and inter-related issues. Because of the nature and breadth of this proceeding we believe that every opportunity should be afforded to ensure the preparation of

¹See 43 FR 38436, August 28, 1978.

parties' complete and comprehensive comments. In view of the above, we conclude that a time extension of the kind requested is warranted. This action also is taken in light of the fact that the Commission, as yet, has not completed the formation of the staff study group which will analyze the comments, plan various and related research efforts and propose recommendations to the Commission.

4. *Accordingly, it is ordered,* That the request for extension of time filed by the firm of Fleischman and Walsh is granted.

5. *It is further ordered,* That the time for filing comments in the captioned proceeding is extended, to and including January 10, 1979. As set forth in the above-referenced *Notice*, the Commission will announce a reply comment date following receipt and analysis of initial comments.

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

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

[FR Doc. 78-34527 Filed 12-11-78; 8:45 am]

[4910-06-M]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration
[49 CFR CHAPTER II]

[Docket No. RSSI-78-5, Notice No. 6]

GENERAL SAFETY INQUIRY

Public Hearing

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of public hearing.

SUMMARY: As part of the General Railroad Safety Inquiry initiated in the notice published in the May 8, 1978 issue of the FEDERAL REGISTER (43 FR 19696), FRA will conduct the fifth of a series of two-day hearings to obtain information from the public to assist in evaluating and improving the effectiveness of its safety regulatory program. The fifth hearing will address the FRA Signal and Train Control (S&TC) Regulations and Orders.

DATES: (1) The hearing will begin at 10:00 a.m. on January 17, 1979.

(2) Prepared written statements should be submitted by January 12, 1979 in triplicate to the Docket Clerk, Office of Chief Counsel (RCC-1), Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

(3) Persons desiring to participate in the hearing should notify the Princi-

pal Program Person by January 12, 1979, and indicate the amount of time they need to present their views.

ADDRESS: Hearing Location: Trans Point Building, Room 3201, 2100 Second Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Program Person: Rolf Mowatt-Larssen, Office of Safety (RRS-20), FRA, Washington, D.C. 20590, Phone (202) 426-0924.

Principal Attorney: Barbara Betsock, Office of Chief Counsel, (RCC-40), FRA, Washington, D.C. 20590, Phone (202) 426-8285.

SUPPLEMENTAL INFORMATION:

BACKGROUND

Pursuant to §211.61 of its rules of practice (49 CFR 211.61), FRA is conducting a general safety inquiry to examine in depth selected topics covered by its safety regulations. FRA will use the information it receives in this inquiry in an assessment of the effectiveness of its safety regulatory program. On the basis of this and other information, existing regulations may be expanded in scope, revised or revoked.

The scope of the general inquiry encompasses three general areas: (1) rolling equipment (locomotives, freight cars and their safety appliances, and the power brake systems on all equipment); (2) track and related structures, appliances and devices; and (3) S&TC systems. Hearings on the first two areas were held in the summer and fall of this year.

HEARING ON SIGNAL AND TRAIN CONTROL SYSTEMS

The purposes of the fifth two-day hearing is to elicit information to assist FRA in reviewing its present safety regulatory program with respect to S&TC systems. The Signal Inspection Act (49 U.S.C. 26) authorizes the FRA to adopt regulations governing S&TC systems, to order the installation of S&TC systems, and to require reporting of failures of signal systems. It also requires a carrier to obtain FRA approval prior to discontinuance or material modification of any signal system. The existing orders and regulations on signal systems are contained in Interstate Commerce Commission (ICC) Docket Nos. 13413 and 29543 and in 49 CFR Parts 233, 235 and 236.

In 1922, an order was issued in ICC Docket No. 13413 requiring individual railroads to install automatic trainstop or train control devices on designated portions of their lines. For over 40 years numerous proceedings were held in connection with petitions by indi-

vidual railroads requesting discontinuance of these systems or other relief such as the substitution of cab signal devices for trainstop or train control devices. Railroad mergers have increased the complexity of the decisions rendered in this matter.

The order contained in ICC Docket No. 29543 was issued in 1947 and required carriers to install a manual block system or an automatic block signal system where freight trains are operated at 50 or more miles per hour and passenger trains at 60 or more miles per hour and an automatic trainstop, train control or cab signal system where any train is operated at 80 or more miles per hour. With few exceptions, Order 29543 has remained unchanged.

Part 233 requires the immediate reporting to FRA of each accident caused by the failure of any S&TC device, the reporting within five days of each failure which results in a false proceed, and the filing of annual reports concerning S&TC systems.

The Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System (Part 235) were initially issued in 1939 and have been amended several times in attempts to clarify the requirements. Despite these amendments, railroad representatives and interested parties to the numerous proceedings under this part have frequently alleged inconsistency in decisions. FRA hopes to eliminate this problem through this further revision.

The Rules, Standards and Instructions for Installation, Inspection, Maintenance and Repair of Automatic Block Signal Systems, Interlockings, Traffic Control Systems, Automatic Trainstop, Train Control and Cab Signal Systems, and Other Similar Appliances, Methods and Systems (RS&I) are contained in Part 236. The RS&I were initially issued in 1939, underwent a major revision in 1950 and were revised again to a lesser degree in 1966. In addition, amendments have also been made to individual rules at various times. Nevertheless, most of the RS&I have remained unchanged since 1950. FRA believes that RS&I are long overdue for an in-depth review to assess their relevancy in light of more recent technological developments in S&TC devices, appliances and systems.

Accordingly, FRA is initiating a major review of the S&TC Regulations and Orders. This review will not be limited to eliminating or updating existing requirements that are obsolete or no longer necessary; it will also include the development of new requirements to meet the needs of the present railroad operating environment.

The issues to be addressed in this hearing have been placed in several categories and are discussed below. Issues not listed may be addressed provided they relate to the S&TC systems or the Signal Inspection Act. Any statement made in response to these questions, or addressing other pertinent issues, should contain sufficient detailed information to justify the position taken. The information should be factual, based on scientific principles, empirical data, or practical experience.

GENERAL

1. The purpose of the S&TC regulations and orders is the achievement of safety of railroad operations. In light of this purpose, what are the principal factors which FRA should consider in revising them?

2. The S&TC regulations are intended to be minimum safety requirements. Do "minimum requirements" encourage lower levels of inspections, maintenance, testing, or repair of signal systems?

3. Do the existing regulations deter either the upgrading of existing signal systems that are obsolescent or obsolete or the initial installation of signal systems?

4. Are the existing regulations sufficiently framed as performance standards so as to encourage technological development of S&TC systems, devices, or apparatus? How could the regulations be made more flexible to allow for greater technological innovation without detracting from safety?

5. There are currently no specific Federal requirements concerning the qualifications of railroad personnel who install, maintain, and test S&TC systems. Should there be such requirements, and if so, what should they be?

6. In many areas, one of the major causes of signal problems is vandalism. Should additional circuit redundancy or other protective measures be required in areas with a high incidence of vandalism?

CONTINUANCE OF ICC ORDERS RELATING TO SIGNAL SYSTEMS

7. In 1922, the ICC issued Order No. 13413 requiring the installation of automatic train control devices over segments of the lines of certain railroads in accordance with prescribed specifications. Over the years, many railroads have obtained relief from some of the requirements of this Order.

a. Since many of the requirements of the Order are now included within the RS&I is there any need to continue the Order as a separate docket?

b. If the general requirements of the Order are incorporated in the RS&I, what provision should be made con-

cerning relief from specific requirements granted to individual railroads?

8. In 1947, the ICC issued Order No. 29543 requiring the installation of a Block Signal System on any portion of railroad over which passenger trains are operated at speeds of 60 or more miles per hour or freight trains are operated at speeds of 50 or more miles per hour and the installation of an automatic trainstop, train control, or cab signal systems on any portion of railroad over which trains are operated at 80 or more miles per hour.

a. The FRA is considering incorporating the requirements of the Order in the RS&I. Is there any reason this should not be done?

b. Are the speed restrictions adequate in today's operating environment? What other factors, if any, should be considered in determining whether signal systems are required to assure safety? For example, taking into account present operating conditions such as longer trains carrying more hazardous materials, should the maximum speed at which freight trains may operate in non-signal territory be changed?

c. Should the maximum speed at which trains are permitted to operate in other than automatic trainstop, train control, or cab signal territory be changed?

d. Should automatic train control be mandatory above certain speeds or under certain other circumstances?

REPORTING REQUIREMENTS

9. One of the requirements of Part 233 is the immediate reporting to FRA of each accident caused by the failure of any S&TC device. FRA recognizes the need to revise this requirement to conform to the Accident/Incident Reporting Requirements of 49 CFR Part 225. What other changes, if any, should be made in reporting requirements of Part 233?

DISCONTINUANCE OR MATERIAL MODIFICATION

Part 235 prescribes requirements and procedures for obtaining FRA approval prior to discontinuance or material modification of a signal system under paragraph (b) of the Signal Inspection Act. Although Part 235 specifies certain changes for which approval is not required, there are still a large number of applications for approval of changes that would result in equivalent or improved safety. To avoid unnecessary paperwork, delay and expense, there appears to be a need to develop criteria to allow additional changes without FRA approval.

10. The current working definition of the term "discontinuance" is the cessation of an S&TC system on track that remains in service for any railroad operations. A "material modifica-

tion" includes, but is not limited to, changes in the type of signal system, respacing involving removal of signals for reduction of maintenance costs, conversion of a power-operated switch or derail to one operated by hand or spring, and any series of discontinuances or modifications which do not individually require FRA approval but will eventually result in a change requiring FRA approval. What changes, if any, should be made as to what constitutes "discontinuance" or "material modification" of a signal system?

11. FRA recognizes that some situations such as derailments and abandonments make prior approval of "discontinuances" or "material modification" impracticable or unnecessary. Section 235.3 lists those circumstances in which prior approval is not now required.

a. Are there other situations in which changes in signal systems should be permitted without prior FRA approval? What, if any, measures should be required to assure safety if prior approval is not required?

b. What methods other than track circuitry could be used to provide protection on light density lines?

c. The removal of any signal in an S&TC system is prohibited except to provide adequate stopping distances. Are there other circumstances in which removal of individual signals should be allowed without prior approval?

d. Temporary or permanent signal arrangements are permitted without FRA approval if they are necessitated by rail-highway grade separations or catastrophic occurrences. Increasingly in such instances, railroads establish "permanent arrangements" that in actuality constitute "discontinuances". Should railroads be required to report all catastrophic and other occurrences that result in removal of any portion of an S&TC system for a specified period of time? Should an approval procedure be required for all arrangements that are continued past a specified time?

12. Sections 235.11 and 235.12 specify the contents required applications for approval.

a. Should other data, such as circuit plans, be required? Should any of the present data requirements be reduced or eliminated?

b. Should the starting and completion dates for the proposed changes be included in the application? Should each approval be conditioned upon completion of the change within a prescribed period following the scheduled completion date?

c. In what circumstances should an application that does not contain all of the required information be accepted and processed?

13. Notices of applications for approval of material modifications are mailed to each individual or organization that has requested inclusion in a central mailing list. Should these notices be published in the FEDERAL REGISTER instead?

WAIVER FROM REQUIREMENTS OF THE RS&I

14. Are certain requirements of the RS&I of such importance to sound signal engineering principles that applications for waiver should require a greater showing of need for relief? Should additional proof of safety, such as a safety analysis of the proposed system, be required in these cases?

PLANS

Section 236.1 specifies that plans for signal systems should be legible and available for use at designated central locations.

15. The territory for which a signal maintainer is responsible may be extensive. Hence, a trouble call may arise at some distance from where plans are kept. Is there a need to require the plans to be kept at more accessible locations?

16. During changes in signal systems, circuit changes are marked in color or symbolically. Should use of plans so marked be permitted subsequent to the completion of the changes?

REPAIR WITHOUT UNDUE DELAY

Section 236.11, which was issued in its present form by the ICC in 1966, has been the source of considerable controversy. Section 236.11 requires that "when any component of a system or interlocking, the proper functioning of which is essential to the safety of train operation, fails to perform its intended signalling function, it shall be adjusted, repaired or replaced without undue delay." Subsection (e) of the Signal Inspection Act provides in part: "It shall be unlawful for any carrier to use or permit to be used on its line any system, device, or appliance covered by this section unless such apparatus, with its controlling and operating appurtenances, is in proper condition and safe to operate in the service to which it is put, so that the same may be used without unnecessary peril to life and limb. . . ."

17. Problems of interpretation have arisen concerning the meaning of the words "undue delay." In general, FRA has taken the position that immediate action must be taken to assure the safety of train operations, but that adjustment, repair, or replacement of components may sometimes be deferred for a short time until parts or personnel are available. That is, FRA

has recognized that temporary additional safety measures may permit traffic to continue over the line prior to completion of the necessary repairs and adjustments.

However, in some cases any delay is "undue", and immediate repairs must be made.

a. How should section 236.11 be amended to specify when these repairs and adjustments must be completed?

b. Should explicit time requirements be set forth for correction of various categories of signal failures?

c. In view of the fact that a "false restrictive" indication could be caused by a ground or a broken rail, should railroads be required to investigate immediately each "false restrictive" indication and to take appropriate remedial action?

d. What is the current practice of individual railroads concerning the investigation and correction of "false restrictive" indications?

e. Should Section 236.11 address system failures, as well as component failures?

SOLID STATE EQUIPMENT

Technological advances have resulted in widespread use of electronic equipment of the solid state type in S&TC systems. There are no FRA regulations that specifically address this equipment.

18. Should FRA prescribe performance standards for solid state equipment used in S&TC systems?

19. Should FRA require a safety analysis of all solid state equipment?

20. Section 236.8 requires that electromagnetic equipment be maintained within the limits in which it is designed to operate. Should this requirement be extended to solid state equipment?

21. What, if any, inspection and testing requirements should be prescribed for solid state equipment?

ROADWAY SIGNALS

22. A large number of the requests for waiver of requirements of the RS&I involve placement or roadway signals (Section 236.21). Many of these waiver requests are granted because the prescribed placement of signals to the right of track is often impractical or not required for safety of operations. How can this placement requirement be changed to eliminate the need to file those waiver requests?

23. The spacing of roadway signals (Section 236.24) is based upon braking distances of maximum tonnage trains operating at track speed. There are no industry-wide standards for train stopping distances. Should FRA establish uniform standards to assure that signals are adequately spaced?

24. Due to improper location of a signal with respect to insulated joints,

a locomotive may occupy a block without shunting the track circuit. Where route locking is provided, protection is given by requiring that route locking be effective before the first set of wheels of the locomotive has passed more than 13 feet beyond the signal governing its movement. (Sections 236.302 and 236.408). Should other signals be required to display their most restrictive aspect before the locomotive has passed more than 13 feet beyond them?

TRACK CIRCUITS

25. Should standards be developed to prescribe the maximum permissible foreign current in track circuits?

26. Section 236.51 requires that a track circuit be de-energized under certain conditions.

a. Should the removal of a crossing frog be one of those conditions?

b. The track circuit must be de-energized when a car occupies the fouling section of a turnout. Problems occur when the limits of the fouling section are not sufficient to safely accommodate the overhang of certain equipment beyond the nearest wheel contact point. Should FRA prescribe minimum standards for clearance points?

WIRES AND CABLES

27. The existing regulations for wires carried over pole lines require only that they be tied in on insulators (Section 236.71) and that sufficient clearance be provided where persons are permitted on top of cars (Section 236.72).

a. Should FRA prescribe other safety requirements for pole lines?

b. Section 236.108 sets minimum allowable resistance standards for wires other than those carried over pole lines. Should FRA prescribe minimum allowable resistance standards for wires carried over pole lines?

INSPECTIONS AND TESTS

The existing regulations identify the devices that are to be inspected and tested and prescribe the frequency of those inspections and tests. The method of inspection and testing is determined by the railroad subject to FRA approval. Each device and apparatus must be maintained in condition to perform its intended function.

28. Are railroad inspection and test methods adequate or should FRA prescribe uniform requirements for the performance of each inspection and test?

29. There are no requirements for the performance of operating tests to determine whether a device or apparatus functions as intended.

a. Errors in connection or adjustment of devices are a frequent cause of false proceed signal failures that could be avoided by proper operational

testing after installation or adjustment. Should operating tests designed to determine whether a device or apparatus functions as intended be required subsequent to installation or adjustment?

b. Should operating tests also be required periodically?

30. Grounds are a major cause of false proceed signal failures but are not subject to periodic testing. Should such tests be required?

31. The frequency of the various periodic inspections and tests required of S&TC equipment is specified in the following subsections of Part 236: .102-.108, .376-.387, .476, .576, .577, .588-.590.

a. Certain equipment such as semaphore signals and relays and mechanical interlockings, is no longer manufactured. Does the age and failure potential of this obsolete equipment make more frequent inspection and testing necessary to assure safety?

b. Are there newer and improved types of equipment that need less frequent inspection and testing?

c. Within the past five years, there have been two major accidents involving fatalities caused by defective bridge locking. Considering the accident history and the stresses usually imposed on such moving parts, should movable bridge lockings be tested more frequently than annually (Section 236.387)?

32. Testing of approach locking, time locking, time releases, and timing relays is required only in interlockings. Should the testing of these devices used in other S&TC systems also be required?

33. Records of the required tests must now be filed in the office of the division in which the tests were made (Section 236.109). Should additional locations be allowed? How long should these records be retained?

AUTOMATIC BLOCK SIGNAL SYSTEMS

34. Section 236.204 requires in part: "In absolute permissive block signaling when a train passes a head block signal it shall cause the opposing head block signal to display an aspect requiring a stop." This requirement permits opposing trains operating on the same track to meet at locations where there is no siding. Should § 236.204 be amended to require that whenever a train passes a head block signal "it shall cause the opposing head block signal at the next siding to display an aspect requiring a stop".

INTERLOCKINGS

35. Are the current regulations governing interlockings appropriate for the present railroad environment?

36. Section 236.307 prescribes requirements assuring that the route of an interlocking cannot be changed

before all units have completed their required movements. Specifically, signals cannot be cleared once the interlocking signal indicates stop unless its approach signal indicates approach prepared to stop. Are there alternative methods which provide protection equivalent to that prescribed in the existing regulation?

37. Section 236.313 sets forth specifications for pipe used in operating connections at interlockings. Are these specifications appropriate? Should there be similar specifications for pipe in all S&TC systems?

TRAFFIC CONTROL SYSTEMS

38. Section 236.401 specifies the automatic block signal and interlocking standards that are applicable to traffic control systems. Are these standards adequate?

39. Should FRA specify where signals must be provided in traffic control systems?

AUTOMATIC TRAINSTOP, TRAIN CONTROL AND CAB SIGNAL SYSTEMS

As explained above, Subpart E of Part 236 contains many requirements that overlap those of the Order issued in ICC Docket No. 13413. Therefore, many of the issues applicable to Subpart E have already been addressed in the discussion of ICC Docket No. 13413 and will not be addressed here. FRA recognizes that Sections 236.527, 236.530, 236.533, 236.558, and 236.559 address systems that are no longer in service and intends to amend or delete these sections as appropriate.

40. Are the rules, standards, and instructions for automatic trainstop, train control, and cab signal systems contained in Subpart E otherwise appropriate in today's railroad operating environment?

41. Should the minimum allowable insulation resistance between wiring and ground prescribed in Section 236.552 be increased?

42. Seals are currently required on automatic trainstop and train control devices in the locomotive.

a. Should seals be imprinted in a manner that indicates the place of application?

b. Should seals also be required on automatic cab signal devices?

43. Section 236.567 permits a locomotive with an S&TC device that fails en route to continue to its destination under certain restrictions. Under this regulation, a train may travel long distances in equipped territory without the protection of the devices and may even pass through one or more established facilities for testing and repair of the devices. Should the prompt repair of the failed device or substitution of a locomotive with operative device be required?

44. Devices on lead locomotives must be tested within 24 hours before use in equipped territory (Section 236.586). In some cases, trailing locomotives not so tested are removed during the trip and used as lead locomotives in other service in equipped territory. Should a daily test of devices on other locomotives in a consist be required?

45. Records must be now made of the results of the various tests performed on locomotive devices. However, except for the departure test usually performed by or in the presence of the engineer, the results of the tests are not available to the engine crew. In the case of interdivisional runs, the relieving engineer does not have access to the results of the departure test. Should copies of all tests be required to be kept in the cab of the locomotive?

DEFINITIONS

Subpart G of Part 236 defines terms intended to be applicable to all sections of the rules, standards, and instructions for signal systems.

46. Section 236.831(a) defines main track as excluding auxiliary tracks. Section 236.410 requires the use of an electric lock on switches on main track in traffic control territory where speeds exceed 20 miles per hour and train movements are governed by signal indications. FRA has always held that these requirements apply to signaled sidings. However, this has been challenged recently. The problem arose when the present definition of main track was adopted to prevent the application of Sections 236.502 and 236.504 to sidings. Apparently no consideration was given to the possible effect of this change on other sections. FRA believes that the following definition of main track: "A track, the use of which is governed by block signals, or upon which trains are operated by timetable or train orders, or both" together with appropriate amendment of Sections 236.502 and 236.504, would clear up the present confusion. Would these changes create other problems?

47. Where can the definitions be improved? Do any further terms need to be defined?

REMOTELY CONTROLLED LOCOMOTIVES

Technological advancement has proven the feasibility of remotely controlled locomotives in railroad operations.

48. Should all transmitting and receiving channels of remotely controlled locomotives and their controlling locomotives be tested prior to departure to ascertain that they function properly?

49. Should there be a Federal requirement that loss of continuity of a predetermined duration will automatically result in shut-off of power in the

remotely controlled locomotive? What should this duration be?

50. Should a predeparture test be required to verify that the feed valves on all remotely controlled locomotives automatically close following loss of continuity or application of the brakes on their controlling locomotives?

51. Should physical deactivation of the command modules on all remotely controlled locomotives be required before their controlling locomotive is removed from the train consist?

PUBLIC PARTICIPATION

FRA requests that the Association of American Railroads, the American Short Line Railroad Association, individual railroads, signal and train control equipment suppliers, the National Transportation Safety Board, railroad employee organizations and other interested parties participate actively in this hearing by providing knowledgeable spokespersons and pertinent technical, manufacturing, service and cost data. FRA further requests that these spokespersons present detailed information to justify their positions.

(Section 25, Interstate Commerce Act, as amended, (49 U.S.C. 26); Section 202 and 208, Federal Railroad Safety Act of 1970 (45 U.S.C. 431 and 437); § 1.49 (g) and (n) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(g) and (n).)

Issued in Washington, D.C. on December 7, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-34576 Filed 12-11-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 611]

FOREIGN FISHING

Notice of Extension of Comment Period

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of extension of comment period.

SUMMARY: On November 2, 1978, proposed foreign fishing regulations, governing most foreign fishing activities within the fishery conservation zone (FCZ) of the United States during 1979, were published in the FEDERAL REGISTER (43 FR 51053). Under section 611.50, paragraph (e) of those regulations, entitled "Fixed Gear Avoidance," foreign fishing vessels operating in an authorized fishing area are not prohibited from fishing within two nautical miles of fixed gear

areas. However, the 1978 foreign fishing regulations (42 FR 60695) contained such a prohibition. The time for public comment on this proposed deletion is not considered sufficient. Consequently, the comment period on this specific issue is extended until December 18, 1978.

DATE: Comments are invited until December 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Denton R. Moore, Acting Chief, Regulations, Permits and Fees Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: 202-634-7454.

Signed at Washington, D.C., this 6th day of December, 1978.

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

[FR Doc. 78-34559 Filed 12-11-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

Proposed Administrative Funding Formula;
Request for Public Comment

ACTION: Notice.

SUMMARY: The Food and Nutrition Service is publishing for public comment the proposed formula for distributing administrative funds to State agencies participating in the Special Supplemental Food Program for Women, Infants and Children (WIC).

FOR FURTHER INFORMATION CONTACT:

Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-8206

NOTICE: On October 6, 1978, the Administrator of the Food and Nutrition Service signed a notice outlining the background leading up to the selection of a formula for use in allocating grants to State agencies and detailing the procedure used in applying this formula. Subsequently, the notice was published in the FEDERAL REGISTER (Vol. 43, No. 197—Wednesday, October 11, 1978, pp. 46881-46886). The notice stated that upon passage of authorizing legislation an administrative funding formula would be proposed. This legislation, Pub. L. 95-627, was signed into law on November 10, 1978.

Pub. L. 95-627 amends, Pub. L. 94-105, Section 17(d) of the Child Nutrition Act of 1966. Section 17(h)(2) as amended, requires the Secretary to allocate administrative funds based on a formula determined by the Secretary, which includes a minimum amount and takes into account the varying needs of State agencies based on factors such as the number of local agencies and the number of persons participating in the Program. Section 17(h)(1) as amended by Pub. L. 95-627, directs the Secretary to make available to State agencies for administrative costs, 20 percent of the WIC authorized appropriations. Since the background and public participation process which led to the proposed ad-

ministrative formula is addressed in detail in the notice cited above, this notice will deal directly with specifics concerning the administrative funding formula itself.

FACTORS BEARING ON THE PROBLEM OF SELECTING AN ADMINISTRATIVE FUNDING FORMULA

As described in the previous notice, a panel of interested persons met to discuss options for funding formulas. As a result of the panel discussion, three broad recommendations were proposed. The essence of those recommendations is as follows:

MINIMUM GRANT CONCEPT

The minimum grant concept is designed to assist smaller State agencies in meeting minimum Program operation requirements including certification, nutrition education, food issuance, financial management, reports and records. It was believed that a minimum grant level of \$30,000 for every State agency would cover the expenses incurred by a small State agency base on what it would cost to operate a Program using minimum operational requirements. This \$30,000 level was computed to allow the equivalent of two to three man-years, depending on salary scales used, for operation of a small WIC Program of 500 persons or less.

When under the administrative funding formula an agency receives over \$30,000, the agency will lose its designation as a minimum grant agency and will assume the status of a formula grant agency. If an agency serves more than 500 persons and receives less than \$30,000 under the formula, it will receive at least \$30,000.

This process will allow a State agency a more secure level of funding that it now has; the minimum grant would be an assured level of funding and the State agency could then project participation to determine the balance of its grant. Establishment of a minimum grant amount is consistent with the express instructions stated by Congress in Pub. L. 95-627.

FIXED ADMINISTRATIVE GRANT CONCEPT

Additionally, it was agreed that the administrative funding formula should include a hold harmless provision, plus a growth factor. This proposal has a number of benefits. It allows all State agencies to continue to maintain cur-

rent participation levels and it allows for some additional growth. State agencies that have been aggressive in expanding the WIC Program, but who would receive the minimum increase in program monies under the new formula, would not be forced to completely stay their growth to permit the other States to expand. Also, some growth in all States will allow for some expansion to new areas this year in anticipation of larger growth in fiscal 1980. The fixed administrative grant includes both a hold harmless provision and a growth factor.

The basis for computing the fixed administrative grant is as follows. Each State agency receives either 25 percent of its FY 1978 fourth quarter annualized level for food costs or 22 percent of the amount allocated under the formula for food cost in FY 1979, whichever is greater. This allocation would give State agencies a minimum amount of administrative funds to compliment the additional food funds they will receive under the separately determined program formula.

Because the level of funding for food costs is directly correlated to the number of persons who have been served by local agencies, computations based on the level of food costs satisfy the statutory mandate of Pub. L. 95-627.

DISTRIBUTION OF REMAINING ADMINISTRATIVE FUNDS

It was a point of concern among panel members that State agencies receiving funds for expansion receive enough administrative funds to finance startup costs. It was also believed that State agencies with rural local agencies should receive a slight funding advantage to defray the additional costs involved in operating small local agencies in rural areas. Therefore, it was concluded that with the administrative funds remaining after the allocation of minimum grants and fixed administrative grants, additional funding should be provided based on factors of need demonstrated primarily by the number of unfunded areas, number of rural local agencies and other special conditions that impact significantly on the level of administrative monies needed.

Regarding special conditions that might impact on the level of administrative monies needed, there was some discussion in the panel meeting on

how to provide funds in a manner which would facilitate improved service to migrant farmworkers and their families. Although the panel did not make any recommendations on procedures for providing administrative funds to benefit agencies serving migrants, the Department is concerned that some allowance be made for States which do serve significant numbers of migrants as their administrative expenses are often higher.

Reallocation: It is possible that some State agencies will not be able to spend all Program and administrative funds granted to them under the formulas. Therefore, reallocation would be a necessity in order to minimize the amount of funds remaining unspent. In view of the fact that quarterly reallocations often do not allow State agencies adequate time to expand participation; and in view of the fact that some State agencies will receive a significant increase in funds for expansion, it appears best to implement the first reallocation after six months of operation.

However, as it is extremely important that a State agency know at the beginning of the fiscal year how much money it will have for administration so it can plan accordingly. Therefore, a certain percent of the administrative monies will not be subject to withdrawal during reallocations. By setting a percentage, the State agency would know the administrative funds guaranteed, yet the remaining percentage could be recaptured if the State agency was unable to use the funds.

APPLICATION OF THE FUNDING FORMULA

Based on these recommendations, an administrative funding formula was developed. The formula incorporates the general concepts discussed above. It provides a \$30,000 minimum grant; a fixed administrative grant based on 25 percent of FY 1978 food costs or 22 percent of the FY 1979 food cost allocation, whichever is greater for the individual State agency; and distribution of remaining funds based on the proportions of 50 percent for unfunded areas as indicated in the Affirmative Action Plan, 25 percent on the number of rural counties and 25 percent on the number of high migrant impact counties. The formula includes a guarantee that 75 percent of administrative funds will not be subject to reallocation. (Specific reallocation procedures will be forthcoming from the Department at a later date.)

As discussed above, the basis for determining the fixed administrative grant is 25 percent of FY 1978 food costs or 22 percent of the FY 1979 food cost allocation, whichever is larger. This represents a hold harmless level which also assures a direct relationship between funds available

to provide supplemental foods to participants and administrative funds available to provide services to those participants. The remainder of the formula was designed to provide funds to areas that will experience higher operational expenses due to certain identified factors.

Start-up costs have been an area of concern to Program administrators since the inception of the Program. Administrators have always been faced with the problem of funding an agency during the beginning months of its operation until the new agency is generation sufficient food costs to provide enough administrative funds to cover expenses. By giving consideration based on unfunded areas, additional funds will be provided to help with the financial burden of opening new areas.

For the purpose of the formula, rural is defined as the "less urbanized" and "totally rural" categories of the National Rural Center. This will include the 2,355 counties with an aggregate urban population of less than 20,000 persons in the county. Limiting the rural definition to the "totally rural" category would restrict the target counties to 972 by excluding any county with a municipality of 2,500 persons.

Over the past few years, especially during the public hearings, the Department has been advised by various people that there are higher expenses involved with the opening and operating of agencies in rural areas than there are for more urban agencies. Therefore, States with a greater number of rural areas have a higher ratio of administrative expenses. Giving consideration to this factor should help to provide the additional assistance needed to begin and continue operation of rural agencies.

The Department considers high migrant impact counties to be those counties with 1,000 or more migrants as determined by the Department of Health, Education and Welfare. These are actually migrants that must leave their homes for agricultural employment and not seasonal framworkers that work during the agricultural season but never leave their home. Special funds are needed for this target population to cover the administrative costs generated by serving a large influx of migrant families for a few months each year, and to cover expenses that are peculiar to serving migrant families such as provision of bilingual staff and materials.

Since the allocation of administrative funds will now be based on a formula, State agencies will receive varying percentages of administrative funds. The total amount of allocable administrative funds is held stable at 20 percent of authorized program appropriations. The range for most State agencies will be 18-25 percent of the total WIC grant with the maximum being 25 percent. However, those Indian agencies receiving a \$30,000 minimum grant for administrative funds will receive a larger percentage of administrative funds.

Listed below are the annual Program and administrative grant amounts and the relative percentage of each which would have been received had both proposed formulas been used beginning with the first quarter allocation. This will not be the funding level for FY 1979, since first quarter allocations were made using alternate procedures. We are unable to quote figures for the remainder of FY 1979, because a decision has not been made on the Program formula. However, percentages for administrative funds should not change significantly.

	Program Funds	Admin. Funds	Total Funds	Percent Admin.
New England Region:				
Connecticut.....	\$9,207,601	\$2,519,533	\$11,727,134	21.49
Maine.....	2,707,292	649,441	3,356,733	19.35
Massachusetts.....	7,244,711	1,898,647	9,143,358	20.77
New Hampshire.....	1,222,978	310,588	1,533,566	20.25
Rhode Island.....	1,839,236	431,972	2,271,208	19.02
Vermont.....	4,850,695	1,113,732	5,964,427	18.67
Mid-Atlantic Region:				
Delaware.....	936,873	225,151	1,162,024	19.38
Maryland.....	8,497,980	2,015,389	10,513,369	19.17
New Jersey.....	8,933,708	2,095,478	11,029,185	18.99
New York.....	28,404,976	6,678,084	35,083,060	19.04
Pennsylvania.....	17,513,814	4,106,249	21,620,063	18.99
Puerto Rico.....	13,035,797	2,874,789	15,910,586	18.07
Seneca Nat., NY.....	127,296	32,991	160,287	20.58
Virginia.....	10,541,752	2,564,399	13,106,151	19.57
Virgin Islands.....	1,005,722	221,259	1,226,980	18.03
West Virginia.....	4,800,014	1,345,117	6,145,131	21.89
Southeast Region:				
Alabama.....	8,907,588	2,227,121	11,134,709	20.00
Florida.....	14,795,251	3,533,560	18,328,811	19.28
Georgia.....	14,289,160	3,385,765	17,674,925	19.16
Kentucky.....	11,350,399	2,783,447	14,133,846	19.69
Mississippi.....	9,257,705	2,351,595	11,609,300	20.26
North Carolina.....	18,075,512	4,423,781	22,499,293	19.66
South Carolina.....	12,344,369	2,974,565	15,318,934	19.42
Tennessee.....	10,954,149	2,575,625	13,529,774	19.04
Seminole, FL.....	58,116	30,000	88,116	34.05

	Program Funds	Admin. Funds	Total Funds	Percent Admin.
Choctaws, MS	206,237	68,746	274,982	25.00
E. Cherokee, NC	209,390	63,868	273,258	23.37
Southwest Region:				
Arkansas	5,593,532	1,411,045	7,004,577	20.15
Louisiana	11,731,043	2,836,799	14,567,842	19.47
New Mexico	2,980,571	757,215	3,737,786	20.26
Oklahoma	4,309,351	1,264,011	5,573,362	22.68
Texas	28,407,075	7,659,271	36,066,347	21.24
Acoma, NM	108,551	36,184	144,734	25.00
8 N. Pueblo, NM	123,147	31,465	154,612	20.35
Isleta Pueblo, NM	93,327	30,000	123,327	24.33
Santa Domingo, NM	70,297	30,000	100,297	29.91
Six Sandoval, NM	202,694	58,415	261,109	22.37
WCD Ent., OK	621,984	155,168	777,152	19.97
Choctaws, OK	377,415	94,470	471,885	20.02
Cherokee, OK	1,026,246	245,409	1,271,655	19.30
Chickasaw, OK	319,675	79,892	399,567	19.99
Tonkawa, OK	52,800	30,000	82,800	36.23
Midwest Region:				
Illinois	18,029,564	4,485,579	22,515,142	19.92
Indiana	7,599,972	2,200,911	9,800,883	22.46
Michigan	13,021,444	3,235,173	16,256,617	19.90
Minnesota	5,206,070	1,567,108	6,773,178	23.14
Ohio	21,201,963	5,150,555	26,352,518	19.55
Wisconsin	5,776,659	1,598,415	7,375,074	21.67
Mountain Plains Region:				
Colorado	3,796,128	1,136,433	4,932,561	23.04
Iowa	4,375,713	1,170,112	5,545,825	21.10
Kansas	2,673,141	865,723	3,538,864	24.46
Missouri	10,122,165	2,561,052	12,673,217	20.13
Montana	3,101,054	923,788	4,024,842	22.95
Nebraska	1,960,555	653,518	2,614,073	25.00
North Dakota	1,666,541	555,514	2,222,055	25.00
South Dakota	1,255,782	418,594	1,674,376	25.00
Utah	4,236,779	1,041,163	5,277,942	19.73
Shos. & Ara., WY	162,518	47,716	210,234	22.70
Ute Mtn. Tribe, CO	30,965	30,000	60,965	49.21
Nebraska ITDC	49,432	30,000	79,432	37.77
Cheyenne Rv., SD	231,232	55,161	286,393	19.26
Rosebud, SD	129,701	33,824	163,525	20.68
Standing Rock, ND	84,704	30,000	114,704	26.00
Western Region:				
Alaska	430,554	143,518	5,072	25.00
Arizona	11,140,660	2,560,167	13,700,827	18.69
California	25,408,732	5,931,502	31,340,233	18.93
Hawaii	1,270,037	295,579	1,565,616	18.88
Idaho	2,456,316	794,171	3,250,487	24.43
Nevada	1,909,410	469,475	2,378,885	19.74
Oregon	5,545,213	1,418,407	6,963,620	20.37
Washington	7,209,047	1,733,986	8,943,033	19.39
ITCN, NV	181,920	54,386	236,306	23.02

Since the authorizing legislation requires allocation of administrative funds by a formula and first quarter

funding levels were guaranteed to the State agencies, we will use the above described formula to determine second

quarter funding levels. However, the Department believes that the public should have an opportunity to comment on the contents of this notice; public comments to be assured of consideration should be received not later than February 12, 1979. All comments received by that date (2-12-79) will be carefully considered before a final decision is reached on a formula to distribute WIC administrative grants.

Comments may be sent to: Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250.

Copies of all written submissions received will be made available for public inspection in Room 4301, 201 14th Street, SW., Washington, D.C., during regular business hours (8:30 a.m. to 5 p.m.).

Dated: December 6, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-34430 Filed 12-11-78; 8:45 am]

[3510-17-M]

DEPARTMENT OF COMMERCE

Office of the Secretary

ADVISORY COMMITTEE ON EAST-WEST TRADE

Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management and after consultation with General Services Administration,

the delegate of the Secretary of Commerce has determined that the renewal of the Advisory Committee on East-West Trade is in the public interest in connection with the performance of duties imposed upon the Department by law.

The Committee was first established in 1974. Its purpose was and continues to be to advise the Deputy Assistant Secretary of Commerce for East-West Trade on ways to promote, facilitate and coordinate the expansion of two-way trade with the Soviet Union, Poland, Hungary, Czechoslovakia, Romania, Bulgaria, the People's Republic of China and certain other areas of the world with similar economic/political structures, so as to contribute materially to a more positive balance of trade and payments situation; to provide the Bureau of East-West Trade with a back-up link with the cumulative expertise of the business and academic communities which would advise in the determination of future directions and policies for the Bureau; and to provide an evaluation of the efficacy of current Bureau techniques.

The current state of trade and political relations between the United States and the countries with centrally planned economies gives continuing urgent need for the Deputy Assistant Secretary for East-West Trade to benefit from the most authoritative and expert advice available on a continuing basis in the formulation and evaluation of plans and policies. The Committee's function cannot be accomplished by any organizational element or other committee.

As initially established, the Committee will continue with a balanced representation of approximately 20 members, who will be appointed by and serve at the discretion of the Secretary of Commerce. The Committee will continue to function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress and copies will be forwarded to the Library of Congress concurrent with the publication of this notice.

Inquiries or comments may be addressed to the Committee Control Officer, Gary R. Teske, Office of East-West Policy and Planning, Bureau of East-West Trade, Industry and Trade Administration, Room 4805, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2403.

Dated: December 5, 1978.

GUY W. CHAMBERLIN, JR.,
Deputy Assistant Secretary
for Administration.

[FR Doc. 78-34519 Filed 12-11-78; 8:45 am]

[3510-25-M]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

SOCIALIST REPUBLIC OF ROMANIA

Increasing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products

DECEMBER 5, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the designated consultation levels for men's and boys' cotton shirts in Category 340; cotton underwear in Category 352; and other wearing apparel of man-made fibers in Category 659, produced or manufactured in the Socialist Republic of Romania and exported to the United States during the twelve-month period which began on January 1, 1978.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 342), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408.)

SUMMARY: Under the terms of paragraph 6 of the Bilateral Cotton Textile Agreement of January 6 and January 25, 1978, as amended, and paragraph 7 of the Bilateral Wool and Man-Made Fiber Textile Agreement of June 17, 1977, as amended, between the Governments of the United States and the Socialist Republic of Romania, the Government of the United States has acceded to the request of the Government of the Socialist Republic of Romania to increase the designated consultation levels for Categories 340, 352 and 659 during the agreement years which began on January 1, 1978.

EFFECTIVE DATE: December 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Shirley Hargrove, Trade Assistant, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On March 31, 1978, there was published in the FEDERAL REGISTER (43 FR 13604) a letter dated March 28, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton textile products, including Categories 340 and 352, produced or manufactured in Romania which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during

the twelve-month period which began on January 1, 1978 and extends through December 31, 1978. A further notice was published in the FEDERAL REGISTER on May 24, 1978 (43 FR 22232) establishing, in a letter dated May 19, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, levels of restraint for specified categories of man-made fiber textile products, including Category 659, produced or manufactured in Romania which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1978 and extends through December 31, 1978.

In accordance with the terms of the bilateral agreements, and at the request of the Government of the Socialist Republic of Romania, the United States Government has agreed to increase the designated consultation levels for Categories 340, 352 and 659 to 117,500 dozen, 241,818 dozen and 232,308 pounds, respectively, during the agreement year which began on January 1, 1978. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the previously established levels of restraint for these categories be increased to the designated levels of restraint. The levels have not been adjusted to reflect any imports during the period which began on January 1, 1978. Adjustments will be made to account for imports during the period beginning on January 1, 1978 and extending through the effective date of this action.

ARTHUR GAREL,
Acting Chairman, Committee for
the Implementation of Textile
Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF
TEXTILE AGREEMENTS

DECEMBER 5, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D. C. 20229.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directives issued to you on March 28 and May 19, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Romania.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 6 and January 25, 1978, as amended, and the Bilateral Wool and Man-Made Fiber Textile Agreement of June 17, 1977,

as amended, between the Governments of the United States and the Socialist Republic of Romania, you are directed to prohibit, effective on December 1, 1978, and for the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978; entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 340, 352, and 659, produced or manufactured in Romania, in excess of the following amended levels of restraint:

Category	Amended Twelve-Month Level of Restraint ¹
340	117,500 dozen
352	241,818 dozen
659	232,308 pounds

¹The levels of restraint have not been adjusted to account for any imports after December 31, 1977.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of cotton and manmade fiber textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the
Implementation of Textile Agree-
ments.

[FR Doc. 78-34545 Filed 12-11-78; 8:45 am]

[3510-25-M]

THAILAND

Announcing Import Restraint Levels Under New Multifiber Agreement

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile products from Thailand during the twelve-month period which began on January 1, 1978 and extends through December 31, 1978.

SUMMARY: The Governments of the United States and Thailand exchanged notes dated October 4, 1978 establishing a new Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement for the five-year period beginning on January 1, 1978 and extending through December 31, 1982. The agreement establishes specific ceilings, among other categories, for cotton knit shirts and blouses in Category 338/339; cotton shirts, not knit, in Category 340; man-made fiber coats in Category 634/635; and man-made fiber sweaters in Category 645/646,

produced or manufactured in Thailand and exported to the United States during the twelve-month period beginning on January 1, 1978. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit imports for consumption, or withdrawals from warehouse for consumption of cotton and man-made fiber textile products in Categories 338/339, 340, 634/635 and 645/646 to the designated amounts. These levels include the application of swing. Further, at the request of the Government of Thailand the levels of restraint, with the exception of Category 634/635, have also been adjusted to reflect carryforward, an amount borrowed from the following year's level and which will be deducted from that level in the following year. Carryforward was not requested in Category 634/635.

The levels of restraint set forth in the letter to the Commissioner of Customs have not been adjusted to account for imports during the period beginning on January 1, 1978 and extending through the effective date of this action. Imports during this period will be charged to the new levels.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: December 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

ROBERT E. SHEPHERD,
Chairman, Committee for the
Implementation of Textile
Agreements, and Deputy As-
sistant Secretary for Domestic
Business Development.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER: This directive cancels the directive of December 23, 1977 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry for

consumption and withdrawal from warehouse for consumption of certain cotton and man-made fiber textile products produced or manufactured in Thailand and exported to the United States during the twelve-month period which began on January 1, 1978.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 4, 1978, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 13, 1978, and for the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton and man-made fiber textile products, produced or manufactured in Thailand, in excess of the indicated twelve-month levels of restraint:

Category	Twelve-Month Level of Restraint ¹
338/339	472,583 dozen
340	83,349 dozen
634/635	287,454 dozen
645/646	59,988 dozen

¹The levels of restraint have not been adjusted to reflect any imports after December 31, 1977.

Textile products in Categories 338/339 and 634/635 that have been exported to the United States before January 1, 1978 shall not be subject to this directive.

Textile products in Categories 338/339 and 634/635 that have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) before the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject, in every year except the first year which permits adjustment solely for carryforward, to adjustment according to the provisions of the bilateral agreement of October 4, 1978, between the Governments of the United States and Thailand which provide, in part, that: (1) specific levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), and September 5, 1978 (43 FR 39408).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Thailand and with respect to imports of cotton and man-made fiber textile products from Thailand have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements,
and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-34618 Filed 12-11-78; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force USAF SCIENTIFIC ADVISORY BOARD

Meeting

DECEMBER 4, 1978.

The USAF Scientific Advisory Board meeting of the Electronic Systems Division Advisory Group Published in the FEDERAL REGISTER on November 9, 1978, page 52276, Volume 43, has been rescheduled for January 18-19, 1979. All other information remains the same.

For further information contact the USAF Scientific Advisory Board at (202) 697-8404.

CAROL M. ROSE,
Air Force Federal Register
Liaison Officer.

[FR Doc. 78-34507 Filed 12-11-78; 8:45 am]

[3710-08-M]

Department of the Army

PRIVACY ACT OF 1974

Amendment and Deletions to Systems of Records

AGENCY: Department of the Army.

ACTION: Notice of amendment and deletions to systems of records.

SUMMARY: The Army proposes to delete 8 and amend 1 system of records subject to the Privacy Act. Specific changes to the system being amended is set forth below followed by the system published in its entirety as amended.

DATES: The system shall be amended as proposed without further notice on January 11, 1979, unless comments are received on or before January 11, 1979, which would result in a contrary de-

termination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the amendment should be addressed to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus H. Fraker, The Adjutant General Center (DAAG-AMR-R), Department of the Army, 1000 Independence Avenue SW., Washington, D.C. 20314; telephone 693-0973.

SUPPLEMENTARY INFORMATION:

The Department of the Army systems of records subject to the Privacy Act of 1974 (5 USC 552a), Public Law 93-579 have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50396), September 28, 1977.

FR Doc. 78-23953 (43 FR 38070), August 25, 1978.

FR Doc. 78-25562 (43 FR 40272), September 11, 1978.

FR Doc. 78-26372 (43 FR 42026), September 19, 1978.

FR Doc. 78-25819 (43 FR 42374), September 20, 1978.

FR Doc. 78-26699 (43 FR 43059), September 22, 1978.

FR Doc. 78-26996 (43 FR 43539), September 26, 1978.

FR Doc. 78-29130 (43 FR 47604), October 16, 1978.

FR Doc. 78-29211 (43 FR 48894), October 19, 1978.

FR Doc. 78-29982 (43 FR 49557), October 24, 1978.

FR Doc. 78-31995 (43 FR 52512), November 13, 1978.

The proposed amendment is not within the purview of the provisions of 5 USC 552a(o) of the Act which requires the submission of a new or altered system report.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

DECEMBER 7, 1978.

DELETIONS

A0304.19aDAGA

System name:

Civilian Employee Travel Payment System (43 FR 50450) September 28, 1977.

Reason:

Records are now covered by amended system notice A0305.05aDACA, published below.

A0701.02bDAPC

System name:

Separated Officers—Records Transfer System (43 FR 50511) September 28, 1977.

Reason:

System generated reports are no longer required; data have been purged.

A0701.020dDAPC

System name:

Automated Control of Trainees (43 FR 50512) September 28, 1977.

Reason:

Records are covered by system notice A1002.05aDAPC, Enlisted Training Base (ACT) (43 FR 50602) September 28, 1977.

A0708.13bDAPC

System name:

Changes for Enlisted Records and Evaluation Center (43 FR 50536) September 28, 1977.

Reason:

System generated reports are no longer required; data have been purged.

A0715.07dDAPC

System name:

Colonel Information Application File (43 FR 50554) September 28, 1977.

Reason:

System duplicates information maintained in system notice A0714.02eDAPC (43 FR 50550) September 28, 1977.

A0901.07aDASG

System name:

Pathology Contributor Mailing List (42 FR 50575) September 28, 1977.

Reason:

Records are covered by system notice A0401.02bDAAG, Mailing Lists for Army Newspapers/Periodicals (43 FR 47604) October 16, 1978.

A1012.01cTRADOC

System name:

College Registration System (CRS) (42 FR 50607) September 28, 1977.

Reason:

Records are now covered by system notice A1012.14bTRADOC (43 FR 43061) September 22, 1978.

A1519.03aDAEN

System name:

Contractor Qualification Files (42 FR 50655) September 28, 1977.

Reason:

Records do not constitute a system of records as defined in 5 U.S.C. 552a.

AMENDMENT

A0305.05aDACA

System name:

305.05 Military Personnel Travel Payment System (42 FR 50450) September 28, 1977.

Changes:**System name:**

Delete "Military Personnel".

Categories of individuals covered by the system:

Delete entry and substitute therefor: "Military and civilian personnel of the Department of Defense, United States Army, Navy, and Air Force, and other individuals who perform invitational travel for Army purposes."

Authority for maintenance of the system:

Delete entry and substitute therefor: "Department of Defense Annual Appropriations Act: Title 5 U.S.C., Sections 5701-5742; Title 10 U.S.C., Sections 828, 832, 847, 946, 3012; Title 28 U.S.C., Section 1821; Title 37 U.S.C., Sections 404-427."

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

After the phrase "provide basis for reimbursing military", insert "and civilian".

Storage:

Delete entry and substitute therefor: "File folders; card files, magnetic tape, disks, cassettes, printouts, and microfiche."

Retrievability:

Delete entry and substitute therefor: "By name of individual and/or social security number; computerized indices for automated files."

Safeguards:

Add: "Buildings employ security guards and/or military police patrols. Users of automated segments are categorized as input, access, or output personnel; access is controlled by assigned passwords."

Retention:

Following "Records of travel payments:", delete entry and substitute therefor: "Retain at installation making current payments. Military member's record is transferred to new servicing Finance Office upon permanent change of station or to the U.S. Army Finance and Accounting Center upon death or separation from active duty. Civilian employee's record is transferred to new servicing Finance

Office upon reassignment and destroyed upon termination of service. Records for individuals performing invitational travel are destroyed one year from date of final payment."

A0305.05aDACA

System name:

305.05 Travel Payment System

System location:

Decentralized Segments—Approximately 175 Army Finance and Accounting Offices world-wide.

Categories of individuals covered by the system:

Military and civilian personnel of the Department of Defense, United States Army, Navy, and Air Force, and other individuals who perform invitational travel for Army purposes.

Categories of records in the system:

Individual travel vouchers and documents used to reflect travel allowance payments to military and civilian personnel, records of travel payments, and comparable forms.

Authority for maintenance of the system:

Department of Defense Annual Appropriations Act; Title 5 U.S.C., Sections 5701-5742; Title 10 U.S.C., Sections 828, 832, 946, 3012; Title 28 U.S.C., Section 1821; Title 37 U.S.C., Sections 404-427.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Finance and Accounting Offices: Purpose is to provide basis for reimbursing military and civilian personnel for expenses incident to travel for official Government business purposes and to account for such payments.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**Storage:**

File folders, card files, magnetic tape, disks, cassettes, printouts, and microfiche.

Retrievability:

By name of individual and/or social security number; computerized indices for automated files.

Safeguards:

World-wide Finance and Accounting Offices: Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared and trained. Buildings employ security guards and/or military police patrols. Users of automated segments are categorized as input, access, or

output personnel; access is controlled by assigned passwords.

Retention and disposal:

Individual vouchers and documents used for payment; Retain at installation making payment until end of month; then send to U.S. Army Finance and Accounting Center, ATTN: FINCR, Indianapolis, IN 46249.

Signature cards used for approval of certain vouchers; Retain at installation where payments are made until three years after date of revocation of authority; then destroy.

Records of travel payments: Retain at installation making current payments. Military member's record is transferred to new servicing Finance Office upon permanent change of station or to the U.S. Army Finance and Accounting Center upon death or separation from active duty. Civilian employee's record is transferred to new servicing Finance Office upon reassignment and destroyed upon termination of service. Records for individuals performing invitational travel are destroyed one year from date of final payment.

System manager(s) and address:

Comptroller of the Army, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

Finance and Accounting Officers, U.S. Army Finance and Accounting Offices, world-wide.

Notification procedure:

Request for information: For periods of current assignment, request should be made to Finance and Accounting Officer who currently pays the individual. For periods of Army service prior to current assignment, request should be made to the Commander, U.S. Army Finance and Accounting Center, ATTN: FINCR, Indianapolis, IN 46249. Individual must provide full name and social security number and current address.

Record access procedures:

Requests from individuals should be addressed to: Finance and Accounting Officer, Finance and Accounting Offices, world-wide, or to Commander, U.S. Army Finance and Accounting Center, ATTN: FINCR, Indianapolis, IN 46249.

Written requests for information should contain full name, social security number and current address.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories:

Information is received from Department of Defense (DOD) Staff agencies and field installations.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 78-34586 Filed 12-11-78; 8:45 am]

[3810-70-M]

Office of the Secretary
DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at the Institute for Defense Analyses, 400 Army Navy Drive, Arlington, VA 22202 on 25-26 January 1979.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as infrared and night vision sensors. The review will include classified program details throughout.

In accordance with section 10(d) of Appendix 1, Title 5, United States Code, it has been determined that this

Advisory Group meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1), thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

DECEMBER 7, 1978.

[FR Doc. 78-34539 Filed 12-11-78; 8:45 am]

[3810-70-M]

DEFENSE INTELLIGENCE AGENCY ADVISORY COMMITTEE

Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee (formerly known as the Scientific Advisory Committee) will be held as follows: Thursday, 11 January 1979, Pomponio Plaza, Rosslyn, VA.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on the intelligence data base required for intelligence assessments.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

DECEMBER 4, 1978.

[FR Doc. 78-34508 Filed 12-11-78; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Release No. 6]

MANDATORY OIL IMPORT PROGRAM

Oil Import Allocations and Licensing, November 1-30, 1978

The fee-exempt allocations and licenses issued in accordance with Presidential Proclamation 3279, as amended, during the period November 1-30, 1978, are given in the following tables. The allocations are listed for the appropriate sections of 10 CFR Part 213 under which the allocations are made.

Also published is a tabulation of the fee-paid crude oil and product licenses and a listing of the sale and reassignment of fee-exempt crude oil licenses issued during the month of November 1978.

Previous releases covered the issuance of allocations and licenses for the period May 1, 1978 through October 31, 1978. The releases will continue to be issued on a monthly basis.

Dated: December 5, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

INDEX

Table	Title
1	Fee-exempt allocation for imports of Canadian oil based upon exchange for domestic oil—10 CFR 213.28(b).
2	Sales of fee-exempt licenses—10 CFR 213.22.
3	Fee-exempt allocations based on new, expanded, and reactivated refinery capacity—10 CFR 213.29.
4	Fee-paid licenses issued—10 CFR 213.35.

U.S. DEPARTMENT OF ENERGY

OFFICE OF OIL IMPORTS

ALLOCATION NOVEMBER 1-30, 1978

TABLE 1.—Canadian Crude Oil—Exchange of Material Not Allocated Under Part 214, Section 213.28(b)

Company	Address	Exchange Volume Licensed Total Barrels
Shell Oil Company	Houston, Texas	7,300,009

TABLE 2.—Oil Import Licenses Sold Pursuant To § 213.22(d)

DISTRICT I-IV

Seller	Buyer	Date	Commodity	Barrels Sold
Witco Chemical	Gulf Oil Co.	11/2/78	Crude	225,000
Witco Chemical	Gulf Oil Co.	11/2/78	Crude	99,850
Northern Petrochemical	Sun Oil Co.	11/2/78	Crude	135,541
Northern Petrochemical	Sun Oil Co.	11/2/78	Crude	174,470
Northern Petrochemical	Sun Oil Co.	11/2/78	Crude	294,475
Northern Petrochemical	Sun Oil Co.	11/2/78	Crude	174,470
Diamond Shamrock	Sohio Natural	11/2/78	Unfinished	23,919
Diamond Shamrock	Sohio Natural	11/7/78	Crude	602,840
Diamond Shamrock	Sohio Natural	11/7/78	Crude	1,374,000

NOTICES

TABLE 2.—Oil Import Licenses Sold Pursuant To § 213.22(d)—Continued

DISTRICT I-IV—Continued				
Seller	Buyer	Date	Commodity	Barrels Sold
Ethyl Corporation.....	Ashland Oil.....	11/7/78	Crude.....	282,225
Champlin Petroleum.....	Getty Refining.....	11/7/78	Crude.....	1,400,000
Louisiana Land.....	Texaco Inc.....	11/8/78	Crude.....	2,500,000
Bruin Refining Inc.....	Shell Oil Co.....	11/7/78	Crude.....	1,000,000
Texas Eastman Co.....	Ashland Oil.....	11/7/78	Crude.....	283,255
Oklahoma Refining.....	Vulcan Refining.....	11/7/78	Crude.....	300,000
Lajet, Inc.....	Crown Central.....	11/14/78	Crude.....	100,000
Pride Refining Co.....	Union Oil CA.....	11/17/78	Crude.....	738,205
Pride Refining Co.....	Union Oil CA.....	11/17/78	Crude.....	1,810,035
Pride Refining Co.....	Union Oil CA.....	11/17/78	Crude.....	918,340
Pride Refining Co.....	Union Oil CA.....	11/17/78	Crude.....	500,000
Pride Refining Co.....	Union Oil CA.....	11/17/78	Crude.....	214,305
Nat'l Distillers.....	Sohio Natural.....	11/17/78	Crude.....	83,037
DISTRICT V				
Chevron USA.....	Edgington Oil Co.....	11/7/78	Unfinished.....	135,000
Mohawk Petroleum.....	Union Oil CA.....	11/8/78	Crude.....	1,400,000
Sound Refining.....	Mobil Oil Corp.....	11/13/78	Crude.....	470,000
Newhall Refining.....	Mobil Oil Corp.....	11/14/78	Crude.....	339,500
Newhall Refining.....	Mobil Oil Corp.....	11/14/78	Crude.....	500,000
Sabre Refining.....	Texaco Inc.....	11/17/78	Crude.....	200,000
Sabre Refining.....	Texaco Inc.....	11/17/78	Crude.....	100,000
Sabre Refining.....	Texaco Inc.....	11/17/78	Crude.....	154,060

TABLE 3.—Crude and Unfinished Oils—Refinery § 213.29

Company	Plant Location	On-Stream Date	1977 Inputs B/CD	Allocation Total Bbls.
T & S Refining.....	Jennings, LA.....	Aug. 1978.....	2,504,895

TABLE 4.—Fee-Paid Licenses Issued Pursuant to § 213.35

Company	Date	License Quantity Total Bbls.
CRUDE OIL—BOND POSTED		
Union Oil Co. of Calif.....	11/1/78	7,000,000
Union Oil Co. of Calif.....	11/1/78	4,000,000
Sohio Natural Resources.....	11/2/78	10,000,000
Koch Industries, Inc.....	11/3/78	1,500,000
Atlantic Richfield Co.....	11/2/78	2,000,000
Atlantic Richfield Co.....	11/2/78	2,000,000
Atlantic Richfield Co.....	11/2/78	1,000,000
Exxon Corporation.....	11/7/78	30,000,000
Southwestern Refining Co.....	11/8/78	2,000,000
Southwestern Refining Co.....	11/8/78	2,000,000
Southwestern Refining Co.....	11/8/78	2,000,000
Marathon Oil Company.....	11/9/78	5,000,000
La Jet, Inc.....	11/16/78	1,000,000
Chevron U.S.A. Inc.....	11/16/78	5,000,000
Ashland Oil, Inc.....	11/17/78	5,000,000
Texas City Refining, Inc.....	11/21/78	2,300,000
Champlin Petroleum Co.....	11/22/78	3,057,000
Gulf Oil Company—U.S.....	11/22/78	10,000,000
Amoco Oil Company.....	11/22/78	5,000,000
Amoco Oil Company.....	11/22/78	5,000,000
Amoco Oil Company.....	11/22/78	5,000,000
Shell Oil Company.....	11/24/78	5,000,000
Shell Oil Company.....	11/24/78	5,000,000
Nat'l Cooperatives Refinery.....	11/24/78	900,000
Mobil Oil Corporation.....	11/24/78	10,000,000
Phillips Petroleum Company.....	11/27/78	10,000,000
Energy Cooperatives, Inc.....	11/27/78	5,714,320
FINISHED PRODUCTS—PREPAID		
Industrias De Mexico USA.....	11/1/78	100
Masterflex Rubber Corp.....	11/2/78	66
Gas Spring corporation.....	11/2/78	310
American Hoechst Corp.....	11/3/78	5,000
Ashland Chemical Co.....	11/8/78	1,500
Ashland Chemical Co.....	11/13/78	2,000
Americhem Corporation.....	11/14/78	10,000
Apco Industries Co. Ltd.....	11/15/78	1,500
Finachem Canada Inc.....	11/16/78	45,000
Bray Oil Company.....	11/16/78	1,027
Dow Chemical Company.....	11/21/78	2,190
Keyser International Inc.....	11/22/78	775
JDM Division of Deere & Co.....	11/30/78	314

TABLE 4.—Fee-Paid Licenses Issued Pursuant to § 213.35—Continued

Company	Date	License Quantity Total Bbls.
FINISHED PRODUCTS—BOND POSTED		
Colonial Oil Industries	11/2/78	400,000
Chevron U.S.A. Inc.....	11/2/78	500,000
Koch Industries, Inc.....	11/3/78	220,000
Northville Industries Corp.....	11/6/78	400,000
Western Trading Company	11/6/78	45,000
Western Trading Company	11/8/78	34,000
Western Trading Company	11/9/78	16,400
Western Trading Company	11/13/78	33,600
Commonwealth Edison Company	11/15/78	5,536,866
Chevron U.S.A. Inc.....	11/16/78	500,000
Central Solvents & Chem. Co	11/20/78	8,000
Continental Oil Company.....	11/20/78	1,500,000
Shell Oil Company	11/24/78	1,000,000
Petro Products Inc	11/27/78	250,000
Puerto Rico Water Resources	11/28/78	476,190

[FR Doc. 78-34387 Filed 12-11-78; 8:45 am]

[6740-02-M]

Federal Energy Regulatory Commission

[Docket No. CP79-76]

MIDWESTERN GAS TRANSMISSION CO.

Application

DECEMBER 4, 1978.

Take notice that on November 20, 1978, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-76 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of an additional quantity of up to 8,000 Mcf of gas per day to its customers on its Northern Division on a *pro rata* basis under its presently effective Interruptible Service Rate Schedule I-2, all as more fully set forth in the application filed with the Commission and open for public inspection.

Midwestern states that TransCanada Pipelines Limited (TransCanada), which is the sole supplier of gas on Midwestern's Northern Division, has advised Midwestern that as a result of the expanding development of the petrochemical industry in the Province of Alberta, certain additional natural gas liquids are being removed from its gas stream causing the total heating value of its gas stream to drop below 1,000 Btu's per cubic foot, and that TransCanada desires to amend its gas purchase contracts with Midwestern to provide for a Btu content corresponding to its gas purchase contracts with its producers (the contracts generally provide for a minimum Btu content of 950 per cubic foot). Midwestern states that gas currently being purchased

from TransCanada contains approximately 996 Btu's per cubic foot and that it has been further advised by TransCanada that it anticipates the Btu content to continue to decline to a level of approximately 987 by December of 1979, at which level it should remain relatively stable until the mid 1980's.

Midwestern states that it would offer each Northern Division customer its *pro rata* share¹ of the additional daily quantity of up to 8,000 Mcf per day of natural gas which each customer would be entitled to purchase on a day to day basis. Any gas not so purchased by a customer would be offered to other customers, also on a *pro rata* basis, Midwestern asserts.

Midwestern states that the reduction in Btu content of the gas purchased from TransCanada would not have a rate impact on the customers of Midwestern's Northern Division; the gas imported from Canada is priced on a million Btu basis and Midwestern's sales price is automatically adjusted to reflect changes in Btu content pursuant to the provisions of its FERC Gas Tariff.

Midwestern further states that the decline in the Btu content of its Northern Division gas supply would require it to make certain changes relating to its Northern Division in its FERC Tariff.

Although Midwestern states that the reduction in the Btu content of the gas being handled under prior certificates does not require amendments thereto, Midwestern seeks such amendatory authorization as the Commission deems necessary.

Any person desiring to be heard or to make any protest with reference to

said application should on or before December 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

¹ See appendix below.

NOTICES

APPENDIX

MIDWESTERN GAS TRANSMISSION COMPANY—NORTHERN DIVISION
 Allocation of Additional 8,000 Mcf Per Day From Transcanada
 FOR BTU ADJUSTMENT MCF @ 14.73 PSIA

Customer	Present Mcq	Incremental Allocation
Argyle, Minnesota ¹	366	9
Great Plains Natural Gas ²	4,786	114
Hallock, Minnesota ¹	769	18
Hawley, Minnesota ³	500	12
Inter-City Gas Co. ^{2,3}	4,308	102
Lake Park, Minnesota ¹	355	9
Michigan Wisconsin ^{1,4}	271,000	6,440
Montana-Dakota ⁵	3,000	71
New York Mills ⁶	640	15
North Central Public Service ⁶	1,090	26
N. States Power Company ⁶	37,800	898
Peoples Gas Division of Northern Natural Gas Company (Ada, Audubon and Detroit Lakes) ⁶	2,344	56
Peoples Gas Division of Northern Natural Gas Company (Frazee) ⁶	762	18
Perham, Minnesota ⁶	1,300	31
Stephen, Minnesota ¹	405	10
Warren, Minnesota ¹	818	19
Wisconsin Gas Company ⁶	6,400	152
Total	336,643	8,000

¹Service authorized—Docket No. G-18313—October 31, 1959.²Service authorized—Docket No. CP64-308—August 10, 1965.³Service authorized—Docket No. CP65-159—August 25, 1965.⁴Service authorized—Docket No. CP66-119—June 20, 1967.⁵Service authorized—Docket No. CP69-58—October 31, 1968.⁶Service authorized—Docket No. CP70-24—January 6, 1970.

[FR Doc. 78-34487 Filed 12-11-78; 8:45 am]

[6740-02-M]

[Docket Nos. G-8920, etc.]

SUPERIOR OIL CO. (SUCCESSOR TO AUSTRAL OIL CO., INC.)

Redesignation

NOVEMBER 30, 1978.

On May 22, 1978, The Superior Oil Company, (Applicant) filed on Application for certificates of public convenience and necessity authorizing continuance of service being rendered by Austral Oil Company Incorporated. Effective March 31, 1978, Austral conveyed and transferred to Applicant all of its oil and gas properties and assets, with the exception of certain assets

not pertinent hereto, together with all rights, privileges, obligations and responsibilities incident thereto, set forth in "Appendix" attached hereto. Applicant requests that after the succession in interest is approved, certificates of public convenience and necessity be granted, authorizing Applicant to continue the sales of gas formerly made by Austral under its gas contracts on file with the Commission and that a new rate schedule be assigned to Applicant for each rate schedule number formerly assigned to Austral, set forth in "Appendix" attached hereto.

Any person desiring to be heard or to make any protest with reference to said application should on or before

December 28, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

LOIS D. CASHELL,
 Acting Secretary.

APPENDIX

New—The Superior Oil Company FERC Gas Rate Schedule No.	Certificate Docket No.	Old—Austral Oil Company Incorporated Gas Rate Schedule No.	Location of Sale—Field, County, State	Purchaser
214	G-10338	1	Maxie Field, Acadia Parish, La.	Transcontinental Gas Pipe Line Corporation
215	G-17563	3	Sorrento Field, Ascension Parish, La.	Transcontinental Gas Pipe Line Corporation
216	G-8920	5	Headlee Field, Ector & Midland Counties, Texas.	El Paso Natural Gas Company
217	G-13177	9	Thornwell Field, Jefferson Davis Parish, La.	Columbia Gas Transmission Corporation
218	G-14164	10	Lake Arthur Field, Jefferson Davis Parish, La.	Transcontinental Gas Pipe Line Corporation
219	G-14242	12	Willow Woods Field, Terrebonne Parish, La.	Transcontinental Gas Pipe Line Corporation
220	G-15819	13	North Freshwater Bayou Field, Vermillion Parish, La.	Trunkline Gas Company
221	CI61-427	14	Northeast Thompsonville Field, Webb & Jim Hogg Counties, Texas.	Natural Gas Pipeline Company of America
222	CI63-342	18	Lakeside Field, Cameron Parish, La.	Trunkline Gas Company
223	CI63-884	21	Huerfanito Area, San Juan County, New Mexico.	Northwest Pipeline Corporation
224	CI64-1486	22	Huerfanito Area, San Juan County, New Mexico.	Northwest Pipeline Corporation
225	G-10022	23	Thornwell Field, Jefferson Davis & Cameron Parishes, La.	Columbia Gas Transmission Corporation

APPENDIX—Continued

New—The Superior Oil Company FERC Gas Rate Schedule No.	Certificate Docket No.	Old—Austral Oil Company Incorporated Gas Rate Schedule No.	Location of Sale—Field, County, State	Purchaser
226	CI65-849	24	Ignacio Field, San Juan County, New Mexico	El Paso Natural Gas Company
227	CI66-8	25	Northwest Colquitt Field, Claiborne Parish, La.	Arkansas Louisiana Gas Company
228	CI68-234	30	S.W. Lake Arthur Field, Cameron Parish, La.	Trunkline Gas Company
229	CI72-879	34	Aqua Dulce Field, Nueces County, Texas.	Florida Gas Transmission Company
230	CI65-849	36	Ignacio Field, San Juan County, New Mexico.	Northwest Pipeline Corporation
231	CI66-5	37	Huerfanito Field, San Juan County, New Mexico.	Northwest Pipeline Corporation
232	CI67-1651	38	South Lake Arthur Field, Jefferson Davis Parish, La.	Trunkline Gas Company
233	CI75-628	39	Myero Langlie-Mattix Unit, Lea County, New Mexico.	El Paso Natural Gas Company
234	CI78-108	40	Meyero Langlie-Mattix Unit, Lea County, New Mexico.	El Paso Natural Gas Company

[FR Doc. 78-34460 Filed 12-11-78; 8:45 am]

[6740-02-M]

[Docket No. RM79-3]

NATURAL GAS POLICY ACT OF 1978

Receipt of Report of Determination Process

DECEMBER 6, 1978.

Pursuant to section 18 CFR 274.105 of the Federal Energy Regulatory Commission's regulations, a jurisdictional agency may file a report with the Commission describing the method by which such agency will make certain determinations in accordance with sections 102, 103, 107, and 108 of the Natural Gas Policy Act of 1978.

Reports in conformance with 18 CFR 274.105 have been received by the Commission from the following jurisdictional agencies:

Agency and Date

State of Ohio, Department of Natural Resources, Division of Oil and Gas, December 6, 1978.

Copies of this report are available for public inspection in the Commis-

sion's Office of Public Information, Room 1000, 825 North Capitol Street, N.E. Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-34554 Filed 12-11-78; 8:45 am]

[6450-01-M]

Office of the Secretary

PEACEFUL USES OF ATOMIC ENERGY

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States and the European Atomic Energy Community (Euratom) Concerning the Peaceful Uses of Atomic Energy.

The Subsequent Arrangement to be carried out under the above named agreement involves a short-term enrichment contract for the supply of the following material:

1977, the U.S. Environmental Protection Agency will make available on December 1, 1978, the external review draft of an Air Quality Criteria Document for Carbon Monoxide. Address all written requests for copies to the Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, N.C., 27711 (Attn: Mr. Allen Hoyt). Telephone (919) 541-3746, and a prerecorded message will provide instructions for placing a telephone request.

The Agency welcomes all comments pertaining to this document. The deadline for receipt of comments is March 1, 1979. Direct comments to Dr. David McKee at the address given above.

Dated: December 5, 1978.

STEPHEN J. GAGE,
*Assistant Administrator
for Research and Development.*

[FR Doc. 78-34505 Filed 12-11-78; 8:45]

[6560-01-M]

[ECAO-CD-78-2; FRL 1022-2]

AIR QUALITY CRITERIA DOCUMENT FOR OXIDES OF NITROGEN

Availability of External Review Draft

In accordance with Section 108 of the Clean Air Act as amended August 1977, the U.S. Environmental Protection Agency will make available on December 1, 1978, the external review draft of an Air Quality Criteria Document for Oxides of Nitrogen. Address all written requests for copies to the Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, N.C., 27711 (Attn: Mr. Allen Hoyt). Telephone (919) 541-

U.S. Export License No.	End Use	Material
XSNM-1129 and 1149, Both licenses were issued on Oct. 13, 1978.	High Flux Reactor at Petten, the Netherlands.	43.553 kgs of uranium enriched to 93.15% U-235.

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[ECAO-CD-78-3; FRL 1022-3]

AIR QUALITY CRITERIA DOCUMENT FOR CARBON MONOXIDE

Availability of External Review Draft

In accordance with section 108 of the Clean Air Act as amended August

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security of the United States.

The subsequent arrangement will take effect no sooner than fifteen days after publication of this notice.

For the Department of Energy.

Dated: December 5, 1978.

ROBERT N. SLAWSON,
*Acting Director for Nuclear
Affairs, International Programs.*

[FR Doc. 78-34548 Filed 12-11-78; 8:45 am]

3746, and a prerecorded message will provide instructions for placing a telephone request.

The Agency welcomes all comments pertaining to this document. The deadline for receipt of comments is February 1, 1979. Direct comments to Mr. Michael A. Berry at the address given above.

Dated: December 5, 1978.

STEPHEN J. GAGE,
Assistant Administrator
for Research and Development.

[FR Doc. 78-34504 Filed 12-11-78; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS
COMMISSION

AM BROADCAST APPLICATION READY AND
AVAILABLE FOR PROCESSING

Adopted: December 5, 1978.

Released: December 6, 1978.

CUT-OFF DATE: February 7, 1979.

The following application requests authority to restore AM broadcast service formerly provided by station WCLY, Columbia, Pennsylvania. The Commission will accept other applications for consolidation with this application which propose essentially the same facilities.

BP-21,261 NEW, Columbia, Pennsylvania, Ralph H. Gaze and Ted A. Perkins, dba Columbia Broadcasters, Req: 1580 kHz, 500 W, Daytime.

Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with this application, must be tendered no later than February 7, 1979.

Any party in interest desiring to file pleadings concerning this application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the rules, which specifies the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-34551 Filed 12-11-78; 8:45 am]

[6712-01-M]

FM BROADCAST APPLICATION READY AND
AVAILABLE FOR PROCESSING

Adopted: December 5, 1978.

Released: December 6, 1978.

By the Chief, Broadcast Facilities Division.

CUT-OFF DATE: January 2, 1979.

Notice is hereby given that the FM broadcast application listed below will

be considered as ready and available for processing on January 2, 1979. Since the listed application is timely filed and mutually exclusive with the earlier-filed and cut-off application of OMPC Wireless Broadcast Company (File No. BPH-10563), no other applications which involve conflict with these applications may be filed. Rather, the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the Rules and pleadings to specify issues pursuant to § 1.584.

BPH-10995 NEW, Willows, California, Willows Broadcasting Company, REQ: 105.5 MHz, #288; 3 kW; 120 feet.

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-34517 Filed 12-11-78; 8:45 am]

[6712-01-M]

PETITION FOR DECLARATORY RULING ALLEGING INCONSISTENCY BETWEEN FEDERAL "INTERCONNECTION" DECISIONS AND A NEW OKLAHOMA CORPORATION COMMISSION RULE REGULATING USE AND SUPPLY OF CUSTOMER-PROVIDED TELEPHONE EQUIPMENT

DECEMBER 16, 1978.

Commercial Communications Inc. (Oklahoma City, Oklahoma) and North American Telephone Association (Washington, D.C.) have filed a petition for declaratory ruling seeking a Commission determination that a new rule adopted by the Oklahoma Corporation Commission regulating use and supply of customer provided telephone equipment in Oklahoma is inconsistent with the Commission's interconnection policies and decisions. This rule, Rule 16, was challenged in an appeal to the Oklahoma Supreme Court, and is now scheduled to become effective with issuance of the Court's mandate in mid-December.

Because of the obvious interest of the State of Oklahoma, as well as others, we will entertain briefs and replies thereto. Briefs may be filed on or before January 5, 1979, and replies may be filed on or before January 20, 1979. Although petitioners are contending that the new rule will become effective in mid-December, Rule 16 itself establishes a ninety-day period during which Oklahoma suppliers may comply with it. We would anticipate that we will be able to rule on the petition prior to expiration of that time, and we ask that those who choose to

brief this matter adhere to the specified schedule

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-34552 Filed 12-11-78; 8:45]

[6712-01-M]

TELEVISION TRANSLATOR APPLICATIONS
READY AND AVAILABLE FOR PROCESSING

Adopted: December 5, 1978.

Released: December 11, 1978.

By the Chief, Broadcast Facilities Division:

Notice is hereby given pursuant to Section 1.572(c) of the Commission's Rules, that on January 19, 1979, the television translator applications listed in the attached Appendix will be considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on January 18, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on January 18, 1979.

Any party in interest desiring to file pleadings concerning any pending television translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Rules, which specifies the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS
COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

VHF TV TRANSLATOR APPLICATIONS

BPTTV-6151 (new), Basalt, Colo., Roaring Fork TV Association, Inc. Req: Channel 2, 54-60 MHz, 10 watts. Primary: KRMA-TV, Denver, Colo.

BPTTV-6152 (new), Redstone, Colo., Roaring Fork TV Association, Inc. Req: Channel 5, 76-82 MHz, 10 watts. Primary: KRMA-TV, Denver, Colo.

BPTTV-6153 (new), Snowmass At Aspen, Colo., Roaring Fork TV Association, Inc. Req: Channel 12, 204-210 MHz, 10 watts. Primary: KRMA-TV, Denver, Colo.

BPTTV-780717IL (K1210), Greasewood, Ariz., Greasewood Community Club. Req: Change primary TV station to KOAT-TV, Channel 7, Albuquerque, N. Mex.

BPTTV-780717IM (new), Sabana Grande & San German, P.R., Western Broadcasting Corporation of Puerto Rico. Req: Channel 8, 180-186 MHz, 1 watt. Primary: WOLE-TV, Aguadilla-Mayaguez, P.R.

BPTTV-780717IN (new), Guanica, P.R., Western Broadcasting Corporation of Puerto Rico. Req: Channel 8, 180-186

MHz, 1 watt. Primary: WOLE-TV, Aguadilla-Mayaguez, P.R.

BPTTV-780717IO (new), Isabella, P.R., Western Broadcasting of Puerto Rico. Req: Channel 10, 192-198 MHz, 1 watt. Primary: WOLE-TV, Aguadilla-Mayaguez, P.R.

BPTTV-780719ID (new), Buena Vista, N. Mex., Buena Vista TV Translator Corp. Req: Channel 10, 192-198 MHz, 1 watt. Primary: KOB-TV, Albuquerque, N. Mex.

BPTTV-780719IE (new), Buena Vista, N. Mex., Buena Vista TV Translator Corp. Req: Channel 12, 204-210 MHz, 1 watt. Primary: KOAT-TV, Albuquerque, N. Mex.

BPTTV-780724IR (new), Ganado, Ariz., Ganado Community Television Club. Req: Channel 9, 186-192 MHz, 10 watts. Primary: KOAT-TV, Albuquerque, N. Mex.

BPTTV-780724IS (new), Ganado, Ariz., Ganado Community Television Club, Inc. Req: Channel 13, 210-216 MHz, 1 watt. Primary: KGGM-TV, Albuquerque, N. Mex.

BPTTV-781002IB (new), Pahrump North, Nev., Communications Engineering, Inc. Req: Channel 6, 82-88 MHz, 10 watts. Primary: KLVX-TV, Las Vegas, Nev.

BPTTV-781002IC (new), Pahrump North, Nev., Communications Engineering, Inc. Req: Channel 7, 174-180 MHz, 10 watts. Primary: KVVU-TV, Henderson, Nev.

BPTTV-781002ID (new), Pahrump North, Nev., Communications Engineering, Inc. Req: Channel 9, 186-192 MHz, 10 watts. Primary: KLAS-TV, Las Vegas, Nev.

BPTTV-781002IE (new), Pahrump North, Nev., Communications Engineering, Inc. Req: Channel 11, 198-204 MHz, 10 watts. Primary: KORK-TV, Las Vegas, Nev.

BPTTV-781002IF (new), Pahrump North, Nev., Communications Engineering, Inc. Req: Channel 13, 210-216 MHz, 10 watts. Primary: KSHO-TV, Las Vegas, Nev.

UHF TV TRANSLATOR APPLICATIONS

BPTT-3646 (new), Roaring Fork, Crystal, Frying Pan River Valley, Carbondale & El Jebel, Colo., Roaring Fork TV Association, Inc. Req: Channel 62, 758-764 MHz, 100 watts. Primary: KRMA-TV, Denver, Colo.

BPTT-780724IC (K77AD), Globe & Miami, Ariz., Community Television Project. Req: Change frequency to Channel 55, 716-722 MHz.

BPTT-780724IE (new), Hopkinsville, Ky., Kentucky Authority for Educational Television. Req: Channel 57, 728-734 MHz, 10 watts. Primary: WKMA-TV, Madisonville, Ky.

BPTT-780724IO (new), Chester, Westwood & Canyon Dam, Calif., Almanor TV Club, Inc. Req: Channel 67, 788-794 MHz, 100 watts. Primary: KTXL-TV, Sacramento, Calif.

BPTT-780724IQ (new), Thompkinsville & Surrounding Rural Area, Ky., Kentucky Authority for Educational Television. Req: Channel 55, 716-722 MHz, 100 watts. Primary: WKSO-TV, Somerset, Ky.

BPTT-781012IA (new), Hartford, Conn., Spanish International Communications Corp. Req: Channel 61, 752-758 MHz, 1000 watts. Primary: WXTV-TV, Paterson, N.J.

BMPPT-1026 (W62AO), Fillmore & Houghton, N.Y., Board Of Cooperative Educational Services Of Allegany County. Req: Delete Houghton, New York from present principal community, change primary TV station to WXXI-TV, Channel 21, Rochester, N.Y.

BPTT-781010IA (new), Royal City, Othello, Warden & Moses Lake Area, Wash., People TV Association, Inc. Req: Channel 52, 698-704 MHz, 100 watts. Primary: KSPS-TV, Spokane, Wash.

BMPPT-1020 (K66AS), Yachats & Waldport, Oreg., State of Oregon Acting By And Through The State Board of Higher Education. Req: Change principal community to Newport, South Beach and Seal Rock, Oreg.

[FR Doc. 78-34518 Filed 12-11-78; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

TECHNICAL ELECTRONIC PRODUCT RADIATION SAFETY STANDARDS COMMITTEE

Rechartering

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the rechartering of the Technical Electronic Product Radiation Safety Standards Committee by the Commissioner, Food and Drug Administration, for an additional period of 2 years beyond December 24, 1978.

The charter for this committee will expire December 24, 1980.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFA-27), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: December 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Regulatory Affairs.

[FR Doc. 78-34512 Filed 12-11-78; 8:45 am]

[4110-03-M]

[Docket No. 78D-0392]

ROT IN TOMATO PRODUCTS

Availability of Guideline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs announces the availability of an administrative guideline for tomato products. The guideline raises the action level for mold count in spray-dried tomato powder and changes the criteria by which the Food and Drug Administration (FDA)

Field Districts will recommend legal action to be taken on tomato powders that appear to be violative.

ADDRESSES: For single copies of the guideline, write to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: The administrative guideline for tomato products was revised to provide for the increase in mold count in tomato powder caused by breakage of mold filaments in the "atomization" step when the product is spray-dried. The FDA has developed an analytical method to distinguish spray-dried tomato powder from other powders.

Copies of the administrative guideline and other pertinent information are available for public examination in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. Requests for single copies of this guideline may be made in writing to that office.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, written comments (preferably four copies) identified with the Hearing Clerk docket number found in brackets in the heading of this document regarding this guideline. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 5, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Regulatory Affairs.

[FR Doc. 78-34513 Filed 12-11-78; 8:45 am]

[4110-87-M]

Public Health Service

OCCUPATIONAL SAFETY AND HEALTH

Spirometry Course Approval

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, PHS, HEW.

ACTION: Notice of Spirometry Course Approval.

SUMMARY: NIOSH announces that it has developed procedures for approving training courses in spirometry as required by the occupational safety and health standard for exposure to

cotton dust. Spirometry is the measurement of the breathing capacity of the lungs. The standard requires that certain persons who administer pulmonary function tests to employees exposed to cotton dust must complete a NIOSH approved training course in spirometry. NIOSH approval of the training courses is expected to help assure uniformity and consistency in the administration of the medical surveillance requirements of the cotton dust standard.

DATES: Applications for course approval will be accepted beginning December 12, 1978.

ADDRESSES: Application procedures and guidelines on minimum requirements for approval are available from the Division of Training and Manpower Development, NIOSH, 4676 Columbia Parkway, Cincinnati, OH 45226.

FOR FURTHER INFORMATION CONTACT:

Division of Training and Manpower Development, NIOSH:
Mr. James Ferguson, Deputy Director—Phone: 513-684-8221, or
Dr. Paul Pedersen, Medical Officer—Phone: 513-684-8240.

SUPPLEMENTARY INFORMATION: On June 23, 1978, the Occupational Safety and Health Administration, Department of Labor, established a mandatory occupational safety and health standard for exposure to cotton dust (43 FR 27350) as 29 CFR 1910.1043. The new standard requires each employer to institute a medical surveillance program for all employer exposed to cotton dust.

Paragraph (h)(iii) of § 1910.1043 requires that persons other than licensed physicians who administer the pulmonary function tests required by the standard shall complete a NIOSH approved training course in spirometry. NIOSH has developed minimum requirements for faculty, facilities, equipment, and course content necessary for receiving approval. Training organizations interested in obtaining NIOSH approval of their spirometry courses should contact the address listed above for further information on application requirements.

Dated: December 6, 1978.

THOMAS E. SHAMBLEE,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 78-34522 Filed 12-11-78; 8:45 am]

[4110-24-M]

Office of the Secretary

FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Closing Date for Receipt of Applications for New Awards for Fiscal Year 1979

Applications are invited for new grants under two targeted competitions conducted under the Comprehensive Program of the Fund for the Improvement of Postsecondary Education. These competitions are entitled "Adapting Improvements: Better Strategies for Educating Adults" and "Examining the Varieties of Liberal Education."

Authority for this program is contained in section 404 of the General Education Provisions Act (20 U.S.C. 1221d).

This program issues awards to institutions of postsecondary education and other public and private educational institutions and agencies.

The purpose of the awards is to improve postsecondary education.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Applications for awards must be mailed (postmarked) or hand delivered by February 14, 1979.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to either "Adapting Improvements" or "Liberal Education", both at the Fund for the Improvement of Postsecondary Education, Office of the Assistant Secretary for Education, DHEW, Attention: 13.925, 400 Maryland Avenue, S.W., Room 3123, Washington, D.C. 20202. Proof of mailing must consist of a legible U.S. Postal Service dated postmark or legible mail receipt stamped with the date of mailing by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its proposal will not be considered in the current competition.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the Fund for the Improvement of Postsecondary Education, Office of the Assistant Secretary for Education, DHEW, Attention: 13.925, 400 Maryland Avenue, S.W., Room 3123, Washington, D.C.

The Office of the Assistant Secretary will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except

Saturdays, Sundays and Federal holidays.

Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

PROGRAM INFORMATION: These competitions solicit proposals for projects that will further one or more of the objectives of the Fund for the Improvement of Postsecondary Education. The objectives of the Fund are contained in 45 CFR 1501.8. The preapplication and application steps will be combined for these two competitions. A single application is thus required, but procedures applicable at both steps will apply in these competitions. Applications will be evaluated in accordance with the criteria contained in 45 CFR 1501.7. The Fund's objectives, evaluation criteria, and application procedures for these competitions are described in two publications: (1) "Program Information and Application Procedures for Adapting Improvements: Better Strategies for Educating Adults," and (2) "Program Information and Application Procedures for Examining the Varieties of Liberal Education." These documents may be obtained from the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, S.W., Room 3123, Washington, D.C. 20202.

AVAILABLE FUNDS: Approximately \$750,000 is expected to be available for new grant awards in FY 79 for these two competitions.

It is estimated that these funds could support approximately 30 new grants. Of these, approximately 15 new grants would be funded in each program.

Under the competition entitled "Adapting Improvements: Better Strategies for Educating Adults," the anticipated award for new grants will be between \$5,000 and \$80,000 for a twelve-month period. Applicants may request approval of a multi-year work plan of up to three years in duration.

Under the competition entitled "Examining the Varieties of Liberal Education," the anticipated award for new grants will be between \$5,000 and \$80,000 for a seventeen month period.

These estimates do not bind the Assistant Secretary for Education except as may be required by applicable statute and regulations.

APPLICATION FORMS: Application forms and program information packages are expected to be ready for mailing by December 14, 1978. They will be sent directly to everyone on the mailing list for the Fund for the Improvement of Postsecondary Education. Institutions and persons not on the list can obtain the material from the Fund for the Improvement of Postsecondary Education, Office of the Assistant Secretary for Education, DHEW, Attention: 13.925, 400 Maryland Avenue,

S.W., Room 3123, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

APPLICABLE REGULATIONS: The regulations governing awards made by the Fund for the Improvement of Postsecondary Education are contained in 45 CFR Part 1501. Awards are also subject to the provisions contained in 45 CFR Parts 100 and 100a, except that awards are not subject to the provisions of 45 CFR 100a. 26(b) relating to criteria for awards.

FURTHER INFORMATION: For further information contact the Fund for the Improvement of Postsecondary Education, Office of the Assistant Secretary for Education, DHEW, Attention: 13.925, 400 Maryland Avenue, S.W., Room 3123, Washington, D.C. 20202. Telephone: 202-245-8091.

(Catalog of Federal Domestic Assistance No. 13.925, Fund for the Improvement of Postsecondary Education.)

Dated: December 1, 1978.

MARY F. BERRY,
Assistant Secretary
for Education.

[FR Doc. 78-34555 Filed 12-11-78; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: James N. Layne, Archbold Biological Station, P.O. Box 180, Lake Placid, Florida 33852.

The applicant requests a permit to capture, mark, release and salvage eastern indigo snakes (*Drymarchon corais couperi*) in the vicinity of his address for scientific research.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3536. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: December 7, 1978.

DONALD G. DONAHO,
Chief, Permit Branch, Federal
Wildlife Permit Office, U.S.
Fish and Wildlife Service.

[FR Doc. 78-34541 Filed 12-11-78; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Safari Club International, 5151 East Broadway, Suite 1680, Tucson, Arizona 85711.

The applicant requests a permit to import hunting trophies of the following wildlife: 25 argali (*Ovis ammon hodgsoni*), 40 bobcats (*Felis (Lynx) rufus escuinapae*), 20 black-footed cats (*Felis nigripes*), 10 tiger cats (*Felis tigrina*), 100 cheetahs (*Acinonyx jubatus*), 15 black colobus monkeys (*Colobus satanas*), 5 red colobus monkeys (*Colobus badius rufomitratu*), Zanaibar red colobus monkeys (*Colobus badius kirki*), 10 Eld's browantlered deer (*Cervus eldi*), 10 hog deer (*Axis (Hyelaphus) porcinus annamiticus*), 10 marsh deer (*Blastocerus dichotomus*), 10 musk deer (*Moschus moschiferus moschiferus*), 10 pampas deer (*Ozotoceras bezoarcticus*), 10 Persian fallow deer (*Dama dama mesopotamica*), 10 swamp deer (*Cervus duvauceli*), 15 Clark's gazelles (Dibatag) (*Ammordorcas clarki*), 25 Dorcas gazelles (*Gazella dorcas dorcas*), 5 Rio de Oro Dama gazelles (*Gazella dama lozanoi*), 5 slenderhorned Rhim gazelles (*Gazella leptoceros*), 5 gorillas (*Gorilla gorilla*), 15 Swayne's hartebeests (*Alcelaphus buselaphus swaynei*), 5 Pyrenean ibex (*Capra pyrenaica p.*), 15 black faced impalas (*Aepyceros melampus petersi*), 40 jaguars (*Panthera onca*), 20 jaguarundis (*Felis yagouaroundi cacomilli*), (F.y. *fossata*), (F.y. *panamensis*) and (F.y. *tolteca*), 150 lechwes (*Kobus leche*), 150 leopards (*Panthera pardus*), 5 clouded leopards (*Neofelis nebulosa*), 10 snow leopards (*Panthera unica*), 40 margays (*Felis wiedii*), 50 ocelots (*Felis pardalis*), 5 orangutans (*Pongo pygmaeus*), 10 northern white rhinoceros (*Ceratotherium simum cottoni*), 10 seledangs (*Guar*) (*Bos gaurus*), 10 shapos (*Ovis vignei*), 25 tigers (*Panthera tigris*), 50 urials (*Ovis orientalis ophion*), 100 mountain zebras (*Equus zebra zebra*) 50 African slender-snouted crocodiles (*Crocodylus cataphractus*) and 20 markhors (*Capra falconeri chiltanensis*), (C.f. *megaceros*) and (C.f. *jerdoni*).

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and

Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3246. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: December 7, 1978.

DONALD G. DONAHO,
Chief, Permit Branch, Federal
Wildlife Permit Office, U.S.
Fish and Wildlife Service.

[FR Doc. 78-34542 Filed 12-11-78; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Christopher Servheen, 235 East Sussex Avenue, Missoula, Montana 59801.

The applicant requests a permit to take (capture) nestling bald eagles (*Haliaeetus leucocephalus*) for banding and release in Montana.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3474. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: December 7, 1978.

DONALD G. DONAHO,
Chief, Permit Branch, Federal
Wildlife Permit Office, U.S.
Fish and Wildlife Service.

[FR Doc. 78-34543 Filed 12-11-78; 8:45 am]

[4310-55-M]

THREATENED SPECIES PERMIT

Applicant: Crown Animals, P.O. Box 476, San Lorenzo, California 94580.

The applicant wishes to apply for a Captive-Self Sustaining Population permit authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of wild cats listed in 50 CFR 17.11 as [T(C/P)]. Humane shipment and care in transit is assured.

NOTICES

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3480. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: December 7, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal
Wildlife Permit Office, U.S.
Fish and Wildlife Service.

[FR Doc. 78-34540 Filed 12-11-78; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National register were received by the Heritage Conservation and Recreation Service before December 1, 1978. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, Office of Archeology and Historic Preservation, U.S. Department of the Interior, Washington, DC 20240. Written comments or a request for additional time to prepare comments should be submitted by December 22, 1978.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ARKANSAS

Pulaski County

Little Rock, *Bechle House*, 1004 E. 9th St.

CONNECTICUT

Fairfield County

Bridgeport, *Eagle's Nest*, 282-284 Logan St.
Bridgeport, *East Bridgeport Historic District*, roughly bounded by RR tracks, Beach, Arctic, and Knowlton Sts.

Hartford County

Hartford, *Jefferson-Seymour District*, Cedar, Wadsworth, Seymour and Jefferson Sts.

DELAWARE

New Castle County

Wilmington, *U.S. Post Office, Courthouse and Customhouse*, 11th and Market Sts.

Sussex County

Milford vicinity, *Abbott's Mill*, SW of Milford on SR 620 (boundary increase).

GEORGIA

Clayton County

Rex, *Rex Mill, Rex Rd.*

Fulton County

Atlanta, *Atlanta Women's Club Complex*, 1150 Peachtree St., NE.
Atlanta, *First Congregational Church*, 105 Courtland St., NE.
Atlanta, *Garrison Apartments*, 1325-1327 Peachtree St., NE.

McDuffie County

Thomson vicinity, *Bowdre-Rees-Knox House*, SW of Thomson on Old Wrightsboro Rd.

Richmond County

Augusta, *Fruitlands (Augusta National Golf Club)* 2604 Washington Rd.

INDIANA

Marion County

Indianapolis, *Hammond Block (Budnick's Trading Mart)* 301 Massachusetts Ave.

Vanderburgh County

McCutchenville, *McJohnston Chapel*, Kansas Rd. and Erskin Lane.

Wells County

Bluffton, *Wells County Courthouse*, 100 W. Market St.

IOWA

Marshall County

Marshalltown, *Whitehead, C. H., House*, 108 N. 3rd St.

Woodbury County

Sioux City, *Midland Packing Company (Swift Packing Company)* 2001 Leech Ave.

KENTUCKY

Adair County

Columbia, *Gather, Dr. Nathan, House*, 100 S. High St.

Bourbon County

Shawham vicinity, *David, William, House*, N of Shawhan on Shawhan-Ruddles Mill Pike.

Caldwell County

Princeton, *Champion-Shepherdson Building*, 115 E. Main St.

Jessamine County

Nicholasville vicinity, *Dunn, Nathaniel, House* N of Nicholasville off U.S. 68.

MISSISSIPPI

Adams County

Natchez, *Eola Hotel*, Main and Pearl Sts.

Natchez, *Neibert-Fisk House*, 310 N. Wall St.

Harrison County

Biloxi, *Reed, Pleasant, House*, 928 Elmer St.

Hinds County

Jackson, *Warren-Guild-Simmons House*, 734 Fairview St.
Raymond vicinity, *Dupree House*, W of Raymond on Dupree Rd.

Marshall County

Red Banks vicinity, *Summer Trees*, NE of Red Banks on Mayhome Rd.

Warren County

Vicksburg, *Green Duff, House*, 806 Locust St.

MISSOURI

Adair County

Kirksville, *American School of Osteopathy*, 4th and Jefferson Sts.

Boone County

Columbia, *Greenwood*, 3005 Mexico Gravel Rd.
Columbia, *Missouri, Kansas and Texas Railroad Depot*, 402 E. Broadway.

Iron County

Pilot Knob, *Immanuel Evangelical Lutheran Church*, Pine and Zeigler Sts.

Jackson County

Independence, *Missouri Pacific Depot*, 600 S. Grand Ave.

Moniteau County

Tipton, *Maclay Mansion*, 209 W. Howard St.

Platte County

Platte City, *Platte County Courthouse*, 3rd and Main Sts.

St. Louis County

Florissant, *Bockrath-Wiese House*, St. Ferdinand Park.
St. Louis vicinity, *Washington University Hilltop Campus Historic District*, roughly bounded by Big Bend, Forsyth, Skinker, and Millbrook Blvds.

Wright County

Mountain Grove vicinity, *Administration Building, Missouri State Fruit Experiment Station*, N of Mountain Grove off MO 60.

NEW MEXICO

Santa Fe County

Lamy vicinity, *Apache Canyon Railroad Bridge*, 3 mi. (4.8 km) NE of Lamy over Galisteo Creek.

NORTH CAROLINA

Davidson County

Jackson Hill vicinity, *Reid Farm*, W of Jackson Hill on SR 2537.

Durham County

Durham, *Dillard-Gamble Houses*, 1311 and 1307 N. Mangum St.

Halifax County

Aurelean Springs vicinity, *Edmunds-Heptinstall House*, NW of Aurelean Springs on NC 1001.

Hollister vicinity, *White Rock Plantation*, N of Hollister on NC 1315.

Haywood County

Waynesville, *Shelton House*, 307 Shelton St.

Warren County

Inez vicinity, *Lake O'Woods (Edward & Rebecca Pilchford Davis House)* S of Inez on SR 1512.

PENNSYLVANIA*Centre County*

State College, *Ag Hill Complex*, Pennsylvania State University campus.

Lancaster County

Ephrata, *Connell Mansion*, 249 W. Main St. Lititz, *Mueller, Johannes, House*, 146 E. Main St.

Lititz, *Werner, William, House*, 66 E. Main St.

TENNESSEE*Shelby County*

Memphis, *St. Mary's Cathedral, Chapel, and Diocesan House*, 700 Poplar Ave. (Cathedral) 714 Poplar Ave. (Chapel) and 692 Poplar Ave. (Diocesan House).

TEXAS*Dallas County*

Dallas, *Waples-Platter Complex*, 2200-2211 N. Lamar St.

[FR Doc. 78-34274 Filed 12-11-78; 8:45 am]

[4310-10-M]**Office of the Secretary**

[Order No. 3030]

TRUST TERRITORY OF THE PACIFIC ISLANDS**Quitclaim and Release of Right, Title and Interest in Lands**

SECTION 1 Purpose. The purpose of this Order is to authorize the Government of the Trust Territory of the Pacific Islands to quitclaim and release all its right, title, and interest to Kili Island, Bikini Atoll and the islands of Jebet (Debet), Jar (Djar), Bokalablab, and Lojokar weto, of Jaluit Atoll, Marshall Islands, to those persons, that is the commoners, described in the "Agreement in Principle Regarding the Use of Bikini Atoll", dated November 22, 1956, and/or their heirs.

SECTION 2 Background. On January 24, 1946, the United States of America announced that the Joint Chiefs of Staff had selected Bikini Atoll for necessary experiments relating to nuclear fission, and to accomplish this purpose the people of Bikini were evacuated. After several ill-fated resettlement attempts, the Bikini people were located on Kili Island on November 3, 1948,

and were given use rights in Kili, together with use rights in the islands of Jebet (Debet), Jar (Djar), Bokalablab, or Lojokar weto, of Jaluit Atoll, all in the Marshall Islands District, Trust Territory of the Pacific Islands. Bikini Atoll is still unsuitable for the Bikini people to be relocated there for permanent habitation.

SECTION 3 Previous agreements to be superseded. a. "On or about April 27, 1951, a document entitled **RELEASE OF RIGHTS TO BIKINI ATOLL** was signed by the representatives of all the people of Bikini Atoll wherein they agreed to accept the island of Kili, together with the islands of Jebet (Debet), Jar (Djar), and Bokalablab, of Jaluit Atoll in exchange for the release by the said people of Bikini Atoll of all their rights, title and interest in Bikini Atoll to the High Commissioner of the Trust Territory of the Pacific Islands".

b. By Vesting Order dated the 27th day of September 1951, title to Jebet (Debet), Jar (Djar), and Bokalablab, and the land area on the southern end of Jebwar Island located on the eastern side of Jaluit Atoll known as Lojokar weto together with all lands south of Lojokar weto to the end of Lullol weto were vested in the Area Property Custodian of the Trust Territory of the Pacific Islands.

c. By a document entitled "Agreement in Principle Regarding the Use of Bikini Atoll", and dated November 22, 1956, signed and executed at Kili Island, with the full knowledge and consent of its Alien Property Custodian, the Trust Territory of the Pacific Islands acquired full use rights in and to Bikini Atoll in exchange for granting to the people of Bikini full use rights in and to Kili Island, the islands of Jebet (Debet), Jar (Djar), and Bokalablab, and the land area on the southern end of Jebwar Island located on the eastern side of Jaluit Atoll known as Lojokar weto, together with all lands south of Lojokar weto to the end of Lullol weto.

d. The Trust Territory Government subsequently assigned these use rights in and to Bikini Atoll to the United States of America by a "Use and Occupancy Agreement" effective as of April 15, 1946. All rights to the United States Government were terminated as of April 15, 1976.

SECTION 4 Authority to convey. a. The Alien Property Custodian of the Trust Territory of the Pacific Islands, as successor to the Area Property Custodian, transferred title to the above-mentioned lands of Kili Island and Jaluit Atoll to the Government of the Trust Territory of the Pacific Islands. The island of Kili and the lands aforementioned in Jaluit Atoll are public land of the Trust Territory of the Pacific Islands.

b. Pursuant to the authority vested in me by Executive Order 11021, the High Commissioner of the Trust Territory of the Pacific Islands is authorized and directed to quitclaim and release all right, title and interest of the Trust Territory of the Pacific Islands in or to Bikini Atoll, the island of Kili, and the lands in Jaluit Atoll described above to the people of Bikini, that is the commoners, described in the "Agreement in Principle Regarding the Use of Bikini Atoll", dated November 22, 1956, and/or their heirs. Provided, however, that such conveyance shall not transfer any right, title or interest in or to the lands required for existing public health or educational facilities located on the island of Kili or the lands of Jaluit Atoll.

SECTION 5 Superseded authority. All provisions of prior Secretarial Orders and of the Code of the Trust Territory of the Pacific Islands insofar as they are inconsistent with provisions of this Order, are hereby superseded.

SECTION 6 Effective date. This Order is effective immediately, and will remain in effect until completion of the actions prescribed in Section 4 b.

Dated: December 4, 1978.

JAMES A. JOSEPH,
Secretary of the Interior.

[FR Doc. 78-34528 Filed 12-11-78; 8:45 am]

[4510-30-M]**DEPARTMENT OF LABOR****Employment and Training Administration****FEDERAL-STATE EXTENDED BENEFITS****Ending of Extended Benefit Period in the State of Rhode Island**

This notice announces the ending of the Extended Benefit Period in the State of Rhode Island, effective on December 16, 1978.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (Title II of Pub. L. 91-373; 84 Stat. 695, 708; 26 U.S.C. 3304 note) created a program of extended unemployment benefits (referred to as Extended Benefits) as a permanent part of the Federal-State Unemployment Compensation Program, for unemployed individuals who have exhausted their rights to regular unemployment benefits under State and Federal unemployment compensation laws. This Act is implemented by regulations of the Department of Labor at Part 615 of Title 20 of the Code of Federal Regulations, 20 CFR Part 615 (43 FR 13818, March 31, 1978), and in the unemployment compensation laws of the several States.

NOTICES

Extended Benefits are payable in a State during an Extended Benefit Period, which is triggered "on" when unemployment in the State or in all States collectively reaches the high levels set in the Act. During an Extended Benefit Period the maximum amount of Extended Benefits which is payable to eligible individuals is up to 13 weeks, but the total of Extended Benefits and regular benefits together may not exceed 39 weeks.

The Act and the State unemployment compensation laws also provide that an Extended Benefit Period in a State will trigger "off" when unemployment in the State is no longer at the high levels set in the Act. A benefit period actually terminates at the end of the third week after the week for which there is an off indicator.

An Extended Benefit Period commenced in the State of Rhode Island on October 10, 1970, and has now triggered off.

DETERMINATION OF "OFF" INDICATOR

The head of the employment security agency of the State of Rhode Island has determined, in accordance with the State law and 20 CFR 615.21(e), that the average rate of insured unemployment in the State for the period consisting of the week ending on November 25, 1978, and the immediately preceding twelve weeks, has decreased so that for that week there was an "off" indicator in that State. Therefore, the Extended Benefit Period in that State terminates with the week ending on December 16, 1978.

INFORMATION FOR CLAIMANTS

Persons who wish information about their rights to Extended Benefits in the State of Rhode Island should contact the nearest employment office of the Rhode Island Department of Employment Security.

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

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

[FR Doc. 78-34573 Filed 12-11-78; 8:45 am]

[4510-43-M]

Mine Safety and Health Administration

[Docket No. M-78-93-C]

BRAZTAH CORP.

Correction

In FR Doc. 78-29921 appearing on page 49580 in the Tuesday, October 24, 1978, issue, lines seven and eight of the first paragraph should read in part "30 CFR 75.503 (trailing cables)."

Dated: December 4, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for
Mine Safety and Health.

[FR Doc. 78-34574 Filed 12-11-78; 8:45 am]

[4510-43-M]

[Docket No. M-78-64-M]

CLIMAX MOLYBDENUM CO.

Petition for Modification of Application of
Mandatory Safety Standard

Climax Molybdenum Company, 13949 West Colfax Avenue, Building No. 1, Golden, Colorado 80401, has filed a petition to modify application of 30 CFR 57.19-22 (wire rope) to its Henderson Mine in Empire, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

(1) The wire rope used for hoisting at the mine is 2¼ inches in diameter and weighs approximately 8.75 pounds per foot.

(2) This wire rope is stiff and difficult to handle under pressure, particularly the end which the standard requires to make at least one full turn on the drum shaft.

(3) because of the following measure already in effect at the mine, compliance with this part of the standard would expose miners performing the task to needless injury:

(a) The wire ropes already make a one-quarter turn around the drum through two spoke flanges and are secured by two sets of machine clamps;

(b) The mine's hoists are equipped with dynamic braking systems whose operation is detailed in the petition.

(4) The petitioner states that these measures constitute an alternative method which will achieve no less protection than that provided by the standard.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before January 11, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available at that address.

Dated: December 4, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for
Mine Safety and Health.

[FR Doc. 78-34575 Filed 12-11-78; 8:45 am]

[4510-26-M]

Occupational Safety and Health Administration

WYOMING STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 15394) of the approval of the Wyoming Plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming Plan provides for the adoption of Federal standards as State standards after public hearings. Section 1953.23(a)(2) of 29 CFR provides that whenever a Federal standard is promulgated, the State must adopt or promulgate a standard or standard change which will make the State standard at least as effective as the Federal standard or change within six months of the Federal promulgation or change. In response to Federal standard changes, the State has submitted by letters dated September 28, 1978, from Donald D. Owsley, Health and Safety Administrator, to Curtis A. Foster, Regional Administrator, and incorporated as part of the plan, State standards comparable to the 29 CFR 1910.1028 Occupational Exposure to Benzene which was published in FEDERAL REGISTER (42 FR 22516), Tuesday, May 3, 1977; (42 FR 23601), Tuesday, May 10, 1977; (42 FR 26429), Tuesday, May 24, 1977; (43 FR 5918), February 10, 1978; and (43 FR 14071), Tuesday, April 4, 1978. These standards, which are contained in the Wyoming Occupational Safety and Health Rules and Regulations for General Industry, were promulgated after hearings held on May 11, 1978 and August 11, 1978, and by resolution adoption by the Wyoming Occupational Health and Safety Commission on September 25, 1978, and became effective on September 25, 1978, pursuant to Section 27-278 Wyoming Statutes 1957 as amended 1973.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are

at least as effective as the comparable Federal standards.

3. *Location of supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Building, 1961 Stout Street, Denver, CO 80294; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, WY 82001; and the Technical Data Center, Room N2439R, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law, which included public comments, and further public participation would be unnecessary.

The decision is effective December 12, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (2 U.S.C. 667).)

Signed at Denver, Colorado, this tenth day of October 1978.

CURTIS A. FOSTER,
Regional Administrator.

[FR Doc. 78-34570 Filed 12-11-78; 8:45 am]

[4510-26-M]

WYOMING STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with Section 18(c) of the Act and 20 CFR Part 1902. On May 3, 1974, notice was published in the FEDERAL REGISTER (39 FR 15394) of the approval of the Wy-

oming Plan and the adoption of Subpart BB to Part 1952 containing the decision.

The Wyoming Plan provides for the adoption of Federal standards as State standards after public hearings. Section 1953.23(a)(2) of 29 CFR provides that whenever a Federal standard is promulgated, the State must adopt or promulgate a standard or standard change which will make the State standard at least as effective as the Federal standard or change within six months of the Federal promulgation or change. In response to Federal standard changes, the State has submitted by letters dated June 19, 1978, and September 19, 1978, from Donald D. Owsley, Health and Safety Administrator, to Curtis A. Foster, Regional Administrator, and incorporated as part of the plan, State standards comparable to the 29 CFR 1910.1045 Occupational Exposure to Acrylonitrile (Vinyl Cyanide) which was published in FEDERAL REGISTER (43 FR 2586), Tuesday, January 17, 1978. These standards, which are contained in the Wyoming Occupational Safety and Health Rules and Regulations for General Industry, were approved by Governor Ed Herscher April 17, 1978, and filed in the State Registry of the Office of the Secretary of State on April 21, 1978, and became effective on April 17, 1978, pursuant to Section 27-278 Wyoming Statutes 1957 as amended 1973.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards.

3. *Location of supplements for inspection and copying.* A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 1554, Federal Building, 1961 Stout Street, Denver, Colo. 80294; the Occupational Health and Safety Department, 200 East Eighth Avenue, Cheyenne, Wyo. 82001; and the Technical Data Center, Room N2439R, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under § 1953.2(c) of 29 CFR Part 1953, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law, which included public comments, and further public participation would be unnecessary.

This decision is effective December 12, 1978.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (2 U.S.C. 667).)

Signed at Denver, Colorado, this 10th day of October 1978.

CURTIS A. FOSTER,
Regional Administrator.

[FR Doc. 78-34571 Filed 12-11-78; 8:45 am]

[4510-30-M]

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Meeting

The tenth meeting of the NCUC will be held in the Hilton Inn West, Orlando, Fla., in the Board Room on January 25, 26, and 27. The meeting will begin at 2:00 p.m. on January 25, and will conclude at 2:00 p.m. on January 27.

AGENDA—JANUARY MEETING

Hilton Inn West, Orlando, Florida, Board Room.

Thursday, January 25

1. 2:00 p.m. to 5:30 p.m.: Commission discussion of benefit levels, financing alternatives, Federal Extended and Supplemental Programs.

Adjourn: 5:30 p.m.

Friday, January 26

2. 9:00 a.m. to 12:30 p.m.: Public Testimony:

A panel presentation by agricultural employer representatives

A panel presentation by agricultural employee representatives

Break: 12:30 p.m. to 2:00 p.m.

3. 2:00 p.m. to 5:30 p.m.: Commission discussion of benefit levels, financing alternatives, Federal Extended and Supplemental Programs.

Adjourn: 5:30 p.m.

Saturday, January 27

4. 9:00 a.m. to 2:00 p.m.: Commission discussion of benefit levels, financing alternatives, Federal Extended and Supplemental Programs.

Adjourn: 2:00 p.m.

Telephone inquiries and communications concerning this meeting should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, Room 440, 1815 Lynn Street, Rosslyn, Virginia 22209.

Signed at Washington, D.C. this 1st day of December 1978.

JAMES M. ROSBROW,
Executive Director, National
Commission on Unemploy-
ment Compensation.

[FR Doc. 78-34572 Filed 12-11-78; 8:45 am]

[7536-01-M]

**NATIONAL FOUNDATION ON THE
ARTS AND HUMANITIES**

HUMANITIES PANEL ADVISORY COMMITTEE

Meeting

DECEMBER 5, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: January 3, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Summer Stipend applications in Eighteenth and Nineteenth Century English Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
2. Date: January 4, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1025.
Purpose: To review Summer Stipend applications in Philosophy submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
3. Date: January 4, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Fellowships in Category B applications in German, French and Slavic Languages and Literatures submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
4. Date: January 5, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Fellowships in Category B applications in Classical and Spanish Languages and Literatures submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
5. Date: January 5, 1978.
Time: 9 a.m. to 5:30 p.m.
Room: 500.
Purpose: To review Summer Stipend applications in Non-Western History, Foreign Area Studies and International Relations submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
6. Date: January 5, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 307.
Purpose: To review Fellowships in Category C applications in Music submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
7. Date: January 5, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 309.
Purpose: To review Fellowships in Category B applications in English Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
8. Date: January 5, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1025.
Purpose: To review Fellowships in Category C applications in American History: for

- two-year college teachers, submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
9. Date: January 5, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1130.
Purpose: To review Division of State Programs applications submitted to the National Endowment for the Humanities for projects beginning after March 1, 1979.
 10. Date: January 6, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Fellowships in Category B applications in Modern American and English Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 11. Date: January 8, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 807.
Purpose: To review Summer Stipend applications in Sociology submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 12. Date: January 8, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Fellowships in Category C applications in Political Science submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 13. Date: January 8, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1130.
Purpose: To review Fellowships in Category C applications in Religion submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 14. Date: January 9, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Summer Stipend applications in American Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 15. Date: January 9, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1025.
Purpose: To review Summer Stipend applications in Linguistics submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 16. Date: January 10, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1025.
Purpose: To review Fellowships in Category B applications in Religion submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 17. Date: January 11, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Summer Stipend applications in Philosophy submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 18. Date: January 11, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1025.
Purpose: To review Summer Stipend applications in Spanish and Asian Languages submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 19. Date: January 11 and 12, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1130.

- Purpose: To review Youthgrants in the Humanities applications submitted to the National Endowment for the Humanities for projects beginning after May 1, 1979.
20. Date: January 12, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Fellowships in Category C applications in English Language: for two-year college teachers, submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 21. Date: January 12, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1025.
Purpose: To review Summer Stipend applications in Religion submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 22. Date: January 12, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1100.
Purpose: To review Fellowships in category B applications in Sociology and Anthropology submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 23. Date: January 12, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 309.
Purpose: To review Fellowships in Category C applications in European History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 24. Date: January 13, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Fellowships in Category B applications in European History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 25. Date: January 15, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1025.
Purpose: To review Fellowships in Category B applications in American History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 26. Date: January 16, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1025.
Purpose: To review Fellowships in Category B applications in American Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 27. Date: January 16, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1025.
Purpose: To review Fellowships in Category B applications in American Literature submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 28. Date: January 17, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 1025.
Purpose: To review Summer Stipend applications in Twentieth Century Literature and Criticism submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.
 29. Date: January 17, 1979.
Time: 9 a.m. to 5:30 p.m.
Room: 314.
Purpose: To review Fellowships in Category B applications in Non-Western History submitted to the National Endowment for

the Humanities for projects beginning after January 1, 1979.

30. Date: January 17, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 1134.

Purpose: To review NEH conference proposals submitted to the National Endowment for the Humanities for projects beginning after March 1, 1979.

31. Date: January 18, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Fellowships in Category B applications in Political Science submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

32. Date: January 18 and 19, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 1134.

Purpose: To review NEH publications proposals submitted to the National Endowment for the Humanities for projects beginning after March 1, 1979.

33. Date: January 19, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 1025.

Purpose: To review Fellowships in Category B applications in Literary Criticism and Theory; Linguistics; Writing; and Communications submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

34. Date: January 19, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Fellowships in Category B applications in Philosophy submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

35. Date: January 20, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 314.

Purpose: To review Fellowships in Category B applications in Art History submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

36. Date: January 22 and 23, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 1134.

Purpose: To review NEH publications proposals submitted to the National Endowment for the Humanities for projects beginning after March 1, 1979.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806

15th Street NW., Washington, D.C. 20506, or call 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee
Management Officer.

[FR Doc. 78-34556 Filed 12-11-78; 8:45 am]

[7536-01-M]

ADVISORY COMMITTEE HUMANITIES PANEL

Meeting

DECEMBER 5, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: January 4 and 5, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 1100.

Purpose: To review applications for the development of humanities Public Program formats submitted to the National Endowment for the Humanities for projects beginning after April 1, 1979.

2. Date: January 4 and 5, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 807.

Purpose: To review Museums and Historical Organizations Program applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1979.

3. Date: January 5 and 6, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: First Floor Conference Room.

Purpose: To review applications for the development of humanities Public Programs formats submitted to the National Endowment for the Humanities for projects beginning after April 1, 1979.

4. Date: January 10 and 11, 1978

Time: 9 a.m. to 5:30 p.m.

Room: First Floor Conference Room.

Purpose: To review Museum and Historical Organizations Program applications submitted to the National Endowment for the Humanities for projects beginning after April 1, 1979.

5. Date: January 11, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 309.

Purpose: To review Fellowships in Category C applications in Continuity and Change in English Literature: 1640-1830, submitted to the National Endowment for the Humanities for projects beginning after January 1, 1979.

6. Date: January 12, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 807.

Purpose: To review applications for the development of humanities Public Program formats submitted to the National Endowment for the Humanities for projects beginning after April 1, 1979.

7. Date: January 15 and 16, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: 1130.

Purpose: To review applications for the development of humanities Public Program formats submitted to the National Endowment for the Humanities for projects beginning after April 1, 1979.

8. Date: January 16 and 17, 1979.

Time: 9 a.m. to 5:30 p.m.

Room: First Floor Conference Room.

Purpose: To review Museums and Historical Organizations Program applications submitted to the National Endowment for the Humanities for projects beginning after April, 1979.

Because the proposed meetings will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that the meetings would fall within exemptions (4) and (6) of U.S.C. 552b(c) and that it is essential to close these meetings to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee
Management Officer.

[FR Doc. 78-34557 Filed 12-11-78; 8:45 am]

[3110-01-M]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on December 5, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes:

The name of the agency sponsoring the proposed collection of information;

The title of each request received;

The agency form number(s), if applicable;

The frequency with which the information is proposed to be collected;

An indication of who will be the respondents to the proposed collection;

The estimated number of responses;

The estimated burden in reporting hours; and

The name of the reviewer or reviewing division or office.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from

the clearance office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health
Survey of the use of biomedical information

Single-time

Practicing physicians and biomedical researchers 200 responses; 40 hours
Off. of Federal Statistical Policy & Standard, 673-7956.

Office of the Assistant Secretary for Education

IMS Program Application
IMS 102 & 103

ON occasion

Predominately private-nonprofit museums

5,000 responses; 15,000 hours

Laverne V. Collins, 395-3214.

REVISIONS

DEPARTMENT OF AGRICULTURE

Forest Service

Grants to States for establishing YCC programs

On occasion

State agencies

13,656 responses; 3,700 hours

Budget Review Division, 395-4775.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration

National Drug and Alcoholism Treatment Utilization

ADM-515

Annually

Drug and alcohol abuse treatment units

6,600 responses; 4,000 hours

Richard Eisinger, 395-3214

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

Federal Disaster Assistance

HUD-483

On occasion

State and local governments

12,500 responses; 25,000 hours

Budget Review Division, 395-4775

Policy development and research

Monthly survey of private mortgage insurance activity

Monthly

All private mortgage insurers

168 responses; 13 hours

Strasser, A., 395-6132.

Housing production and mortgage credit

Request for pre-application analysis
FHA-3550

On occasion

Spon. seeking ins. financ. for land acquis. develop.

50 responses; 50 hours

Strasser, A., 395-6132

DAVID R. LEUTHOLD,

Budget and Management Officer.

[FR Doc. 78-34514 Filed 12-11-78; 8:45 am]

[7715-01-M]

POSTAL RATE COMMISSION

NOTICE OF VISIT

DECEMBER 5, 1978.

Notice is hereby given that employees in the Office of the Officer of the Commission (OOC), Postal Rate Commission, will be visiting the parcel sorting facility of the United Parcel Service in Baltimore, Maryland, on December 12, 1978, at 1:00 p.m., for the purpose of acquiring general knowledge of UPS operations.

A report of the visit will be on file in the Commission's docket room.

By direction of the Commission.

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-34509 Filed 12-11-78; 8:45 am]

[8025-01-M]

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0354]

INTERNATIONAL FILM INVESTORS

Issuance of License To Operate as a Small Business Investment Company

On October 3, 1978, a Notice of Application for a license as a Small Business Investment Company was published in the FEDERAL REGISTER (43 FR 45661) stating that an application had been filed with the Small Business Administration pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR (1978)) for a license as a small business investment company by International Film Investors, L. P., New York, New York.

Interested parties were given until the close of business October 18, 1978, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information and the facts with regard thereto, SBA on November 22, 1978, issued License No. 02/02-0354 to International Film Investors, L. P., to operate as a small business investment company.

(Catalogue of Federal Domestic Assistance Programs, No. 59.011 Small Business Investment Companies.)

Dated: December 5, 1978.

PETER F. McNEISH,

Deputy Associate

Administrator for Investment.

[FR Doc. 78-34569 Filed 12-11-78; 8:45 am]

[4710-02-M]

DEPARTMENT OF STATE

Agency for International Development

[No. 40.11]

ASIA MISSION DIRECTORS, ET AL.

Redelegation of Authority Regarding Waivers of Source, Origin, and Nationality for Procurement

Pursuant to the authority delegated to me by Delegation of Authority No. 40 dated March 5, 1978 from the Deputy Administrator, I hereby redelegate to the Directors of A.I.D. Missions in Asia under my authority, to A.I.D. Representatives under my authority, to the Director of the Office of Project Development, Bureau for Asia, and to any duly designated person performing the functions of any such Mission Director, A.I.D. Representative, or Office Director in an acting capacity, the authority, after appropriate consultation with A.I.D. technical personnel and legal officers, to waive source, origin or nationality requirements with respect to the procurement of goods and services, other than transportation services, in cases in which the cost does not exceed \$250,000 as set out in Delegation of Authority No. 40, *Provided however*, That authority to waive source and origin requirements for motor vehicle procurement is not hereby redelegated, and *Provided further*, That A.I.D. Representatives may exercise the authority provided in this redelegation only for transactions which do not exceed \$100,000.

The authority redelegated above may not be further redelegated.

All redelegations heretofore issued by me with regard to the authority to issue waivers for source, origin and nationality for procurement are hereby revoked to the extent such prior redelegations are inconsistent with this redelegation. This redelegation shall not be construed to affect the validity of any waiver or redelegation granted by a properly authorized official prior to the effective date of this redelegation, and any such waiver shall continue in effect unless modified or revoked by an official to whom such authority has been delegated by this redelegation.

This redelegation of authority shall be effective immediately.

Dated: November 22, 1978.

JOHN H. SULLIVAN,
Assistant Administrator,
Bureau for Asia.

[FR Doc. 78-34546 Filed 12-11-78; 8:45 am]

[4710-02-M]

[No. 5.25; 38.22; 99.18; 112.10]

**REGIONAL A.I.D. REPRESENTATIVE IN THE
SOUTH PACIFIC**

Redelegation of Authority

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority Nos. 5, 38, and 99, Paragraph 2(e) of the Redelegation of Authority to the Regional A.I.D. Representative in the South Pacific, dated October 25, 1978, is amended to read as follows:

"(e) Authority to approve contractors, review and approve the terms of contracts, amendments and modifications thereto, and invitations for bids with respect to such contracts financed by funds made available under such loan or grant agreements; PROVIDED, that the aggregate amount of each individual contract does not exceed \$100,000 or local currency equivalent."

This amendment is effective immediately.

Dated: November 22, 1978.

JOHN H. SULLIVAN,
Assistant Administrator,
Bureau for Asia.

[FR Doc. 78-34547 Filed 12-11-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

**ANTIDUMPING—PORTLAND HYDRAULIC
CEMENT FROM CANADA**

Petition Filed by American Manufacturer,
Producer, or Wholesaler

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

ACTION: Notice of petition filed by an American manufacturer, producer or wholesaler, pursuant to section 516(a) of the Tariff Act of 1930

SUMMARY: This notice is to advise the public that an American manufacturer has filed a petition alleging that the U.S. International Trade Commission's issuance of a no injury determination regarding importations of Portland hydraulic cement from Canada was erroneous, and requesting that antidumping duties be assessed with regard to such importations. Interested persons are invited to submit written comments or views.

DATE: Comments must be received no later than January 11, 1979.

**FOR FURTHER INFORMATION
CONTACT:**

Steven P. Kersner, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-2938).

SUPPLEMENTARY INFORMATION:

Pursuant to section 516(a) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(a)), and § 175.21(a), Customs Regulations (19 CFR 175.21(a)), notice is hereby given that the Commissioner of Customs received on October 30, 1978, a petition filed on behalf of the Flintkote Company, Glen Falls Cement Division, alleging that an affirmative determination of injury or threat thereof should be made regarding importations of Portland hydraulic cement from Canada, and that antidumping duties should be assessed against such importations. The petitioner is an American manufacturer of Portland hydraulic cement.

On June 28, 1978, the Secretary of the Treasury determined that imports of Portland hydraulic cement from Canada were being sold at less than fair value in the United States. Accordingly, the case was referred to the United States International Trade Commission (USITC) for a determination as to whether the sales made at less than fair value have caused injury or were likely to cause injury to an industry in the United States (43 FR 28066). The USITC, on September 25, 1978, issued a no injury determination concerning the less than fair value sales of Portland hydraulic cement from Canada (43 FR 44907).

Petitioner contends that this action by the USITC was "erroneous, contrary to the facts and the law, and abusive of the Commission's discretion". Further, petitioner submits that an affirmative determination of injury or threat thereof should be made, and that the Commissioner of Customs should impose dumping duties on such imports of Portland hydraulic cement from Canada.

Before a decision is made with regard to this petition, consideration will be given to any relevant data, views or arguments submitted in writing. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, NW, Washington, D.C. 20229, in time to be received by his office not later than January 11, 1979.

Written submissions will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), at the Classification and Value Division, Headquarters,

U.S. Customs Service, Washington, D.C., during regular business hours.

This notice is being published pursuant to section 516(a) of the Tariff Act of 1930 (19 U.S.C. 1516(a)) and § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Approved: December 5, 1978.

G. R. DICKERSON,
Acting Commissioner of Customs.

H. C. STODKELL, Jr.,
Acting General Counsel
of the Treasury.

[FR Doc. 78-34549 Filed 12-11-78; 8:45 am]

[7035-01-M]

**INTERSTATE COMMERCE
COMMISSION**

Office of Proceedings

[Decisions Vol. No. 53]

DECISION-NOTICE

Decided: November 21, 1978.

The following applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the FEDERAL REGISTER. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

We Find:

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the national transportation policy. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. 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 those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of section 10930 (formerly section 210) of the Interstate Commerce Act.

It is ordered:

In the absence of legally sufficient protests, filed within 30 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 notification of effectiveness of this decision-notice. To the extent

that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. HOMME, Jr.,
Secretary.

MC 2066 (Sub-5F), filed September 21, 1978. Applicant: R. M. SULLIVAN TRANSPORTATION, INC., P.O. Box 155, Highland Station, Springfield, MA 01104. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *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), between points in MA, CT, RI, and NH, and those in Washington, Saratoga, Fulton, Montgomery, Schoharie, Albany, Schenectady, Rennselaer, Greene, Columbia, Ulster, Orange, Westchester, Putnam and Dutchess Counties, NY. (Hearing site: Hartford, CT, or Boston, MA)

MC 14702 (Sub-74F), filed September 21, 1978. Applicant: OHIO FAST FREIGHT, INC., 3893 Market Street, NW, Warren, OH 44484. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastic pipe and plastic pipe fittings*, from the facilities of Continental Industries, at Tulsa, OK, to points in IN, IL, MO, OH, MI, KY, PA, NY, NJ, MD, VA, WV, and WI. (Hearing site: Columbus, OH)

MC 20916 (Sub-33F), filed September 25, 1978. Applicant: John T. Sisk, Route 2 Box 182-B, Culpeper, VA 22701. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber*, from points in Louisa County, VA, to points in TN. NOTE: Dual operations are involved in this proceeding. (Hearing site: Richmond, VA, or Washington, DC)

MC 29886 (Sub-354F), filed September 19, 1978. Applicant: DALLAS & MAVIS FORWARDING CO., INC., an Indiana Corporation, 4314 39th Avenue, Kenosha, WI 53142. Repre-

sentative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *tractors and tractor loading attachments*, and (2) *hoisting machinery*, from Longview, TX, to points in IL, IN, KY, MI, MD, NJ, NY, OH, PA, VA, WV, and WI. (Hearing site: Dallas, TX)

MC 30844 (Sub-624F), filed September 25, 1978. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (Same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *foodstuffs* (except commodities in bulk), from Minneapolis, MN, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and from Niagara Falls, NY, to points in CO, IL, OH, and TX; and (2) *prepared animal feed*. (except in bulk), from Buffalo, NY, to points in CO, IL, OH, and TX. (Hearing site: New York, NY, or Washington, DC)

MC 41406 (Sub-88F), filed September 12, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46373. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum articles*, between Oswego, NY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cleveland, OH, or Washington, DC)

MC 41406 (Sub-89F), filed September 15, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46373. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum articles*, between Warren, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cleveland, OH, or Washington, DC)

MC 41406 (Sub-90F), filed September 15, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46373. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *aluminum articles*, between Fairmont, WV, on the one hand, and, on the other, points in the United States

(except AK and HI). (Hearing site: Cleveland, OH, or Washington, DC)

MC 46054 (Sub-79F), filed September 25, 1978. Applicant: BROWN EXPRESS, INC., 428 South Main Avenue, San Antonio, TX 78285. Representative: Phillip Robinson, 1806 Rio Grande, P.O. Box 2207, Austin, TX 78768. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Dallas, TX, and Oklahoma City, OK, over Interstate Hwy 35, serving no intermediate points, (2) Between Dallas, TX, and Tulsa, OK: From Dallas over U.S. Hwy 75 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction Indian Nation Turnpike, then over Indian Nation Turnpike to junction U.S. Hwy 75, then over U.S. Hwy 75 to Tulsa, and return over the same route, serving no intermediate points, (3) Between Dallas, TX, and Indianapolis, IN: From Dallas over Interstate Hwy 30 to Little Rock, AR, then over Interstate Hwy 40 to Nashville, TN, then over Interstate Hwy 65 to Indianapolis, and return over the same route, serving the intermediate point of Louisville, KY, and serving junction Interstate Hwy 30 and U.S. Hwy 59, and Memphis, TN, for purposes of joinder only, (4) Between Louisville, KY, and Detroit, MI: From Louisville over Interstate Hwy 71, to junction Interstate Hwy 75, then over Interstate Hwy 75 to Detroit, and return over the same route, serving the intermediate points of Cincinnati and Toledo, OH, (5) Between Houston, TX, and junction Interstate Hwy 30 and U.S. Hwy 59, over U.S. Hwy 59, serving no intermediate points, and serving junction Interstate Hwy 30 and U.S. Hwy 59 for purposes of joinder only, and (6) Between Memphis, TN, and St. Louis, MO, over Interstate Hwy 55, serving Memphis for purposes of joinder only and serving St. Louis for purposes of interchange only, restricted in Routes (3) and (4) against the transportation of traffic originating at and destined to points in IN, KS, MI, or OH. (Hearing site: Laredo or Brownsville, TX)

NOTE.—Dual operations are involved in this proceeding. Condition.—The certificate to be issued in this proceeding, insofar as it authorizes the transportation of classes A and B explosives, shall be limited to a term expiring 5 years from its date of issuance.

MC 48441 (Sub-25F), filed September 19, 1978. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting *agricultural chemicals* (except in bulk), from Wyoming, IL, to points in IN, WI, OH, MI, and KY. (Hearing site: Omaha, NE, or Chicago, IL)

MC 51146 (Sub-640F), filed September 13, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by manufacturers of glass and glass products (except commodities in bulk), between points in CA, FL, IL, IN, MD, MN, NJ, OH, PA, TX, and WV, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL)

MC 51146 (Sub-645F), filed September 21, 1978. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by discount and variety stores, (except commodities in bulk), between the facilities of K-Mart Corporation, at (a) Lawrence, KS, (b) Plymouth, MI, and (c) Fort Wayne, IN, on the one hand, and, on the other, points in WI and the Upper Peninsula of MI. (Hearing site: Chicago, IL)

MC 55896 (Sub-93F), filed September 21, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *automobile parts*, from Columbus, IN, to points in IL, MI, OH, and WI. CONDITION: The person or persons who appear to be engaged in common control must either file an application under Section 11343(a) (formerly 5(2)) of the Interstate Commerce Act or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Indianapolis, IN)

MC 55896 (Sub-94F), filed September 25, 1978. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *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), serving Franklin, IN, as an off-route point in connection with carrier's oth-

erwise authorized regular-route operations. (Hearing site: Indianapolis, IN)

NOTE.—The person or persons who appear to be engaged in common control must either file an application under Section 11343(a) (formerly Section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 69116 (Sub-205F), filed September 20, 1978. Applicant: SPECTOR INDUSTRIES, INC., a Delaware corporation, d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Hwy, Bensenville, IL 60106. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *iron castings and* (2) *materials, equipment, and supplies* used in the manufacture and distribution of iron castings, between Waupaca and Marinette, WI, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, and TN. (Hearing site: Chicago, IL)

MC 69492 (Sub-67F), filed September 28, 1978. Applicant: HENRY EDWARDS, d.b.a. HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, KY 42301. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by rubber manufacturers, from the facilities of the General Tire and Rubber Company, at or near Mayfield, KY, to Dallas and Waco, TX. (Hearing site: Fulton, KY, or Nashville, TN.)

MC 80262 (Sub-1F), filed September 15, 1978. Applicant: SOUTH ATLANTIC BONDED WAREHOUSE CORP., 2020 E. Market Street, P.O. Drawer R, Greensboro, NC 27402. Representative: A. W. Flynn, Jr., 314 S. Eugene Street, P.O. Box 180, Greensboro, NC 27402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *appliances, central heating units, central air conditioning units, carpets, kitchen cabinets, accessories* for central heating units, and *accessories* for central air conditioning units, from Greensboro, NC, to Norfolk, Richmond, Roanoke, and Lynchburg, VA. (Hearing site: Greensboro, NC.)

MC 82492 (Sub-204F), filed September 25, 1978. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, MI 49003. Representative: William C. Harris (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *frozen foodstuffs* (except commodities in bulk, in tank vehicles); and (2) *frozen meats and meat byproducts*, unfit for human

consumption (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, WI, to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, those points in NY in and west of Allegany, Livingston, and Monroe Counties, and those points in PA on and west of U.S. Hwy 219, restricted to the transportation of traffic originating at the named origins. (Hearing Site: Chicago, IL, or Milwaukee, WI.)

MC 95876 (Sub-250F), filed September 21, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., P.O. Box 1377, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, pipe fittings, valves, and hydrants*, and (2) *accessories* for the commodities named in (1) above, from the facilities of the Clow Corp., at Columbia, MO, to points in AL, AR, CT, DC, DE, FL, IL, IN, KY, LA, MA, MD, ME, MI, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VA, VT, and WV, restricted to the transportation of traffic originating at the named origin. (Hearing Site: Chicago, IL, or Minneapolis, MN.)

MC 95876 (Sub-251F), filed September 25, 1978. Applicant: ANDERSON TRUCKING SERVICE, INC., P.O. Box 1377, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *building board, insulating board, and wallboard*, from Florence, KY, to points in IL, IA, MN, and WI. (Hearing Site: Philadelphia, PA, or Washington, DC.)

MC 102616 (Sub-963F), filed September 20, 1978. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Road, Akron, OH 44313. Representative: David F. McAllister (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *plastic granules*, in bulk, in tank vehicles, from Terre Haute, IN, to points in IA. (Hearing Site: Indianapolis, IN, or Chicago, IL.)

MC 103926 (Sub-77F), filed September 15, 1978. Applicant: W. T. MAYFIELD SONS TRUCKING CO., A corporation, P.O. Box 947, Mableton, GA 30059. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *aluminum articles*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities

named in (1) above, between the facilities of Alumax, Inc., in Berkeley County, SC, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing Site: Charleston, SC, or Atlanta, GA.)

MC 107012 (Sub-283F), filed September 25, 1978. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by retail department stores (except commodities in bulk and commodities which because of size or weight require the use of specialized equipment), between points in the United States (except AK and HI). (Hearing Site: Chicago, IL, or Washington, DC.)

MC 107323 (Sub-52F), filed October 12, 1978. Applicant: GILLILAND TRANSFER CO., a corporation, 7180 West 48th Street, Fremont, MI 49412. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *anti-freeze compounds and solvent*, (except commodities in bulk), from Chicago, IL, to points in the Lower Peninsula of MI. (Hearing site: Chicago, IL.)

MC 108676 (Sub-133F), filed September 11, 1978. Applicant: A. J. Metler Hauling & Rigging Inc., 117 Chica-mauga Avenue, Knoxville, TN 37917. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, fittings, valves, and hydrants*, and (2) *accessories and parts* for the commodities named in (1) above, from the facilities of Clow Corporation, at or near Buckhannon, WV, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL, or Nashville, TN.)

MC 109294 (Sub-24F), Filed August 30, 1978. Applicant: COMMERCIAL TRUCK CO. LTD, 90 Leder Avenue, Coquitlam, British Columbia V3J 6Z9. Representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting rolled paper, from Longview, WA, to ports of entry on the International Boundary line between the United States and Canada, at Blaine and Sumas, WA, restricted to the transportation of traffic destined to Vancouver, British Columbia, Canada. **CONDITION**: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian au-

thority is necessary. (Hearing site: Seattle or Longview, WA.)

NOTE.—The restriction and condition contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the Federal Register on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the Federal Register and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 109818 (Sub-34F), filed November 13, 1978. Applicant: WENGER TRUCK LINE, INC. P.O. Box, 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except commodities in bulk), between the facilities of Continental Freezers of Illinois, at or near Chicago, IL, on the one hand, and, on the other, points in IN, KY, KS, MN, MI, MO, OH, and WI, restricted to the transportation of traffic originating at or destined to the above named facilities of Continental Freezers of Illinois. (Hearing site: Chicago, IL.)

MC 111941 (Sub-52F), filed September 22, 1978. Applicant: PIERCETON TRUCKING CO., INC., P.O. Box, 233, Laketon, IN 46943. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *asphalt*, from the facilities of the American Oil Company, at Whiting, IN, to points in Berrien, Cass, and St. Joseph Counties, MI. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 112822 (Sub-466F), filed September 29, 1978. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 N. Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *frozen foodstuffs* (except commodities in bulk, in tank vehicles); and (2) *frozen meats and meat byproducts*, unfit for human consumption (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, WI, to points in IL, IN, IA, KS, MI, MN, MO, OH, OK, and PA. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 113158 (Sub-31F), filed October 6, 1978. Applicant: TODD TRANSPORT CO., INC., Box 158, Secretary, MD 21664. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *canned goods*, from points in Sussex County, DE, Talbot, Queen Annes, Caroline, and Dorchester Counties, MD, and Northampton and Accomack Counties, VA, to points in FL, GA, NC, SC, and VA. (Hearing site: Philadelphia, PA.)

MC 113651 (Sub-287F), filed September 18, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from Omaha, NE, to points in CT, IL, NY, NJ, PA, MA, ME, NH, DE, RI, MD, VA, VT, and DC. (Hearing site: Omaha, NE, or Chicago, IL.)

MC 113651 (Sub-288F), filed September 18, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from Omaha, NE, to points in NC, SC, MS, AL, GA, and FL. (Hearing site: Omaha, NE, or Chicago, IL.)

MC 113651 (Sub-289F), filed September 18, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen foodstuffs* (except in bulk), from Greenville, Benton Harbor, and Hart, MI, to points in AL, LA, GA, MS, FL, and TN, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Boise, ID, or Chicago, IL.)

MC 114098 (Sub-49F), filed November 1, 1978. Applicant: LOWTHER

TRUCKING CO., INC., P.O. Box 3117 C.R.S., Rock Hill, SC 29730. Representative: Lawrence E. Lindeman, Suite 1032, 425 Pennsylvania Building, NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber*, from points in Georgetown County, SC, to points in NC, SC, and VA. (Hearing site: Columbia, SC, or Charlotte, NC.)

NOTE.—Dual operations are involved in this proceeding.

MC 114211 (Sub-374F), filed September 18, 1978. Applicant: WARREN TRANSPORT, INC., a Nebraska corporation, P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, fittings, valves, and hydrants*, and (2) *accessories for the commodities named in (1) above*, from Buckhannon, WV, to points in the United States (including AK but excluding HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 114211 (Sub-375F), filed September 18, 1978. Applicant: WARREN TRANSPORT, INC., A Nebraska corporation, P.O. Box 420, 210 Beck Street, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *precut log homes*, from the facilities of Northern Products, Inc., at or near Bangor, ME, to points in WI, IL, IA, and MN. (Hearing site: Madison, WI or Minneapolis, MN.)

MC 114632 (Sub-183F), filed September 18, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: Michael L. Carter (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *frozen foodstuffs* (except commodities in bulk, in tank vehicles); and (2) *frozen meats and meat byproducts*, unfit for human consumption (except commodities in bulk, in tank vehicles), from the facilities of Wisconsin, Inc., at or near Milwaukee and Beaver Dam, WI, to points in the United States (except points in AL, AK, FL, GA, HI, MS, NC, SC, and VA). (Hearing Site: Milwaukee, WI, or Chicago, IL.)

NOTE.—Dual operations are involved in this proceeding.

MC 115162 (Sub-431F), filed September 22, 1978. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber, particle-*

board, composition board, wallboard, poles, piling, pallets, timbers, and crossties, from points in FL, GA, NC, SC, TN, and VA, to those points in the United States in and east of WI, IA, NE, KS, OK, and TX. (Hearing Site: Atlanta, GA.)

MC 115311 (Sub-307F), filed September 21, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniel, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *malt beverages*, from points in the United States in and east of TX, AR, MO, IL, and WI, to points in AL, FL, LA, and MS; and (2) *malt beverage containers, malt beverage pallets, and malt beverages*, from the destination points in (1) above to the origin points in (1) above. (Hearing site: New Orleans, LA.)

MC 115311 (Sub-308F), filed September 21, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. To operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting (1) *adhesives, building materials, gypsum, and gypsum products* (except commodities in bulk), (2) *materials and supplies used in the manufacture, installation, and distribution of the commodities named in (1) above* (except commodities in bulk), between the facilities of United States Gypsum Company, at or near Shoals, IN, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX, (3) *gypsum, gypsum products, and building materials* (except commodities in bulk), and (4) *materials and supplies used in the manufacture, installation, and distribution of the commodities named in (3) (except commodities in bulk)*, between the facilities of the United States Gypsum Company, at Southard, OK, on the one hand, and, on the other, points in LA. (Hearing site: Chicago, IL.)

MC 115322 (Sub-150F), filed September 26, 1978. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. To operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting *preserved foodstuffs*, (1) between the facilities of National Fruit Products Co., Inc., at Martinsburg, WV, Winchester and Timbersville, VA, and Lincolnton, NC, and (2) from the facilities of National Fruit Products Co., Inc., at Lincolnton, NC, to points in AL, FL, GA, LA, MS, TN, SC, and VA. (Hearing site: Washington, DC.)

NOTICES

MC 115331 (Sub-465F), filed September 19, 1978. Applicant: TRUCK TRANSPORT INC., a Delaware Corporation, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. To operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting (1) *coal*, and *such commodities* as are produced or distributed by producers of foundry sand and moulding sand, and (2) *materials and supplies* used in the production and distribution of the commodities named in (1) above, between St. Louis, MO, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OK, OH, TN, TX, and WI. (Hearing site: St. Louis, MO.)

MC 115496 (Sub-105F), filed September 25, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. To operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting *wire and wire mesh*, from the facilities of Exposaic Wire Company, at or near Mount Airy, NC, to points in AL, FL, GA, IN, KY, LA, MS, OH, TN, VA, and WV. (Hearing site: Atlanta, GA.)

MC 115904 (Sub-125F), filed September 13, 1978. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, ID 83401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *plastic pipe*, (2) *fittings and connections* for plastic pipe, and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), from the facilities of R & G Sloane Manufacturing Co., Inc., at or near (a) Valley View, OH, and (b) Bakersfield, Santa Ana, and Sun Valley, CA, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 116763 (Sub-444F), filed October 10, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *Common carrier*, by motor vehicle, over irregular routes, transporting (1) *foodstuffs* (except commodities in bulk, in tank vehicles), from the facilities of Miami Margarine Co., at or near Cincinnati, OH, to points in AL, FL, GA, LA, MS, NC, SC, and TN, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, from the destinations in (1)

above to the origins in (1) above. (Hearing site: Columbus, OH.)

MC 116763 (Sub-445F), filed October 10, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of plastic bottles and containers between Columbus, OH, on the one hand, and, on the other, points in AL, IL, IN, KY, MI, PA, TN, and WV. (Hearing site: Columbus, OH.)

MC 116763 (Sub-446F), filed October 10, 1978. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by manufacturers and distributors of plastic products, (except commodities in bulk, in tank vehicles), from Nicholasville, KY, to points in GA and MO. (Hearing site: Columbus, OH.)

MC 118838 (Sub-33F), filed October 2, 1978. Applicant: GABOR TRUCKING, INC., R. R. #4, Box 124B, Detroit Lakes, MN 56501. Representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *gypsum and gypsum products*, and (2) *materials and supplies* used in the distribution and installation of gypsum and gypsum products, from the facilities of Georgia Pacific Corporation, at or near Blue Rapids, KS, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Philadelphia, PA, or Washington, D.C.)

MC 118838 (Sub-35F), filed November 6, 1978. Applicant: GABOR TRUCKING, INC., R. R. #4, Box 124B, Detroit Lakes, MN 56501. Representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts and articles distributed by meat-packinghouses*, as defined in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Food Corporation, at Albert Lea, MN, to points in CT, DE, ME, MD, MA, NH, NY, PA, RI, VT, VA, and DC, restricted to the transportation of traffic originating at the named origins and destined to the

named destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 118838 (Sub-36F), filed November 6, 1978. Applicant: GABOR TRUCKING, INC., R. R. #4, Box 124B, Detroit Lakes, MN 56501. Representative: Richard P. Anderson, 502 First National Bank Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *clay and clay products*, (except commodities in bulk, in tank vehicles), between the ports of entry on the international boundary line between the United States and Canada located in WA, ID, MT, ND, and MN, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to points in the Provinces of Alberta, British Columbia, Manitoba, and Saskatchewan, Canada. (Hearing site: Minneapolis, MN.) Condition: Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary.

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the Federal Register on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate Canadian officials regarding this issue. If the policy statement is changed, appropriate notice will appear in the Federal Register and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 119493 (Sub-226F), filed August 10, 1978. Applicant: MONKEM CO. INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Koleppel (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs, processed grain, and processed soybeans*, (except commodities in bulk) from Hutchinson, KS, to points in AR, CA, CO, IL, IA, KS, LA, MN, MO, NE, NM, OK, OR, TX, VA, and WI. (Hearing site: Wichita, KS, or Kansas City, MO.)

MC 119789 (Sub-529F), filed October 31, 1978. Applicant: CARVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75226. Representative: Lewis Coffey (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *drugs*, from New Brunswick Somerset, and South

Plainfield, NJ, to Mission, KS. (Hearing site: New York, NY.)

MC 120761 (Sub-44F) filed September 21, 1978. Applicant: NEWMAN BROS. TRUCKING CO., a corporation, 6559 Midway Road, P.O. Box 18728, Fort Worth, TX 76118. Representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *asbestos cement pipe, couplings, and fittings*, and, (2) *accessories* used in the installation of the commodities named in (1) above (except commodities in bulk), and (3) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) and (2) above (except commodities in bulk), between the facilities of Certain-Teed Corporation, at or near Hillsboro, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 121366 (Sub-5F), filed September 19, 1978. Applicant: SUPERIOR FAST DRAYAGE, a corporation, d.b.a. SUPERIOR EXPRESS, P.O. Box 60100, Terminal Annex, Los Angeles, CA 90060. Representative: Michael J. Stecher, 256 Montgomery Street, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), moving on bills of lading of freight forwarders as defined in Section 10102(8) (formerly Section 402(a)(5)) of the Interstate Commerce Act, between points in CA, on the one hand, and, on the other, points in ID, OR and WA. (Hearing site: Los Angeles or San Francisco, CA.)

NOTE: The person or persons who appear to be engaged in common control must either file an application under Section 11343(a) (formerly Section 5(2)) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 123048 (Sub-420F), filed November 3, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021-21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *chain link fence, pipe, and posts*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank or hopper-type vehicles), between Goodfield, IL, on the one hand, and, on the

other, points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Washington, DC.)

MC 123048 (Sub-421F), filed November 6, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021-21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *conveyors, conveyor components, and conveyor drive machinery*, from points in Rutherford County, TN, to points in AL, AZ, AR, CO, GA, ID, IL, IN, KY, MI, MN, MS, NM, NY, NC, OH, PA, SC, UT, VA, WY, WI, and WY; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank and hopper-type vehicles), from points in IN, to points in Rutherford County, TN. (Hearing site: Memphis or Nashville, TN.)

MC 123061 (Sub-104F), filed September 21, 1978. Applicant: LEATHAM BROTHERS INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 310 South Main, Salt Lake City, UT 84101. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *salt, salt products, animal feed, and poultry feed*, from Newark, CA, to points in UT, and points in Storey, Washoe, and Ormsby Counties, NV. (Hearing site: Salt Lake City, UT, or Oakland, CA.)

MC 123872 (Sub-91F), filed September 27, 1978. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowman (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts, and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from Dodge City, KS, to points in AL, GA, NC, SC, TN, and VA. (Hearing site: Washington, DC, or Dodge City, KS.)

MC 124078 (Sub-899F), filed November 2, 1978. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *vegetable oil*, in bulk, in tank vehicles, from Columbus, OH, to points in WI. (Hearing site: Columbus, OH.)

MC 124328 (Sub-124F), filed November 1, 1978. Applicant: BRINK'S, INC., a Delaware corporation, Thorndal Circle, Darien, CT 06820. Representative: Richard H. Streeter, 1729 H Street, NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *currency*, Great Falls, MT, to Helena, MT, under continuing contract(s) with the Federal Reserve System. (Hearing site: Washington, DC.)

MC 124988 (Sub-6F), filed October 16, 1978. Applicant: TRUCK SERVICE CO., an Oklahoma corporation, 2169 East Blaine, Springfield, MO 65803. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *drugs and cleaning compounds*, (except commodities in bulk), from Rensselaer, NY, to Menlo Park and Vernon, CA, and Dallas, TX, under continuing contract(s) with Sterling Drug, Inc., of New York, NY. (Hearing site: New York, NY.)

MC 126118 (Sub-105F), filed October 30, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by institutional and retail suppliers, between Lincoln, NE, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Lincoln, NE.)

NOTE.—Dual operations are involved in this proceeding.

MC 126822 (Sub-51F), filed September 18, 1978. Applicant: WESTPORT TRUCKING COMPANY, a Missouri corporation, 812 South Silver, P.O. Box 401, Paola, KS 66071. Representative: Kenneth E. Smith, 6405 Metcalf, Suite 322, Shawnee Mission, KS 66202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *canned fruit juices and canned vegetable juices*, from the facilities of the TEXSUN CORP., at or near Weslaco, TX, to points in the United States (except AK, HI, and TX). (Hearing site: McAllen or San Antonio, TX.)

MC 126822 (Sub-52F), filed September 25, 1978. Applicant: WESTPORT TRUCKING COMPANY, a corporation, 812 South Silver, P.O. Box 401, Paola, KS 66071. Representative: Kenneth E. Smith, 6405 Metcalf, Suite 322, Shawnee Mission, KS 66202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *refractory products and commodities* used in the installation of re-

fractory products (except commodities in bulk), from Chicago, IL, to points in KS and MO. (Hearing site: Kansas City, MO.)

MC 126899 (Sub-124F), filed October 30, 1978. Applicant: USHER TRANSPORT, INC., P.O. Box 3156, Paducah, KY 42001. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Commodities*, in bulk and in bags, between the facilities of the Hickman-Fulton County Riverport Authority, at or near Hickman, KY, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, LA, MS, MO, OH, TN, VA, and WV. (Hearing site: Paducah or Louisville, KY.)

MC 127042 (Sub-227F), filed September 18, 1978. Applicant: HAGEN, INC., P.O. Box 98, Leeds Station, Sioux City, IA 51108. Representative: Robert G. Tessar (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *frozen foodstuffs* (except commodities in bulk, in tank vehicles); and (2) *frozen meats, meat products, and meat byproducts*, unfit for human consumption (except commodities in bulk, in tank vehicles), from the facilities of Wiscold, Inc., at or near Beaver Dam and Milwaukee, WI, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, KS, KY, LA, MI, MS, MT, NV, NM, NC, OH, OK, OR, SC, TN, TX, UT, WA, WI, and WY. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 128273 (Sub-321F), filed October 11, 1978. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *animal feed, feed ingredients, and materials, equipment, and supplies* used in the manufacture and distribution of animal feed and feed ingredients, (except commodities in bulk, in tank vehicles), between the facilities used by Perk Foods, at or near (a) Kansas City, KS, and (b) Camp Hill and Mechanicsburg, PA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the above named facilities of Perk Foods. (Hearing site: Chicago, IL, or Washington, DC.)

MC 128648 (Sub-14F), filed October 6, 1978. Applicant: TRANS-UNITED, INC., a Texas corporation, 425 West 152d Street, P.O. Box 2081, East Chicago, IL 46312. Representative: Joseph Winter, Suite 930, 29 South LaSalle Street, Chicago, IL 60603. To operate

as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *water heaters*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of water heaters (except commodities in bulk and those which because of size or weight require the use of special equipment), from points in the United States (except AK and HI), to the facilities of Bradford-White Corporation, at Middleville, MI, under continuing contract(s) with Bradford-White Corporation, of Philadelphia, PA. (Hearing site: Chicago, IL, or Philadelphia, PA.)

MC 129026 (Sub-5F), filed September 19, 1978. Applicant: J. C. D. TRANSPORTATION CORP., P.O. Box 487, East Syracuse, NY 13057. Representative: Martin Werner, 15th Floor, 888 Seventh Avenue, New York, NY 10019. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk, in tank vehicles), between the facilities of Seneca-Lincoln foods Division of Seneca Foods Corp., at or near Mountain Home, NC, on the one hand, and, on the other, points in AL, FL, GA, IN, KY, MD, MS, NC, OH, SC, TN, VA, WV, and DC, under continuing contract(s) with Seneca Foods Corp., of Dundee, NY. (Hearing site: Syracuse, NY.)

MC 129032 (Sub-55F), filed September 28, 1978. Applicant: TOM INMAN TRUCKING, INC., 6015 So. 49th West Ave., Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular route, transporting *animal feed, and materials and supplies* used in the manufacture and distribution of animal feed (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near (a) Hutchinson, KS, (b) Terre Haute and Indianapolis, IN, and (c) Columbus, OH, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the above named facilities. (Hearing site: Los Angeles or San Francisco, CA)

MC 134286 (Sub-82F), filed September 25, 1978. Applicant: ILLINI EXPRESS, INC., a Nebraska Corporation, P.O. Box 1564, Sioux City, IA 51102. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *frozen bakery products*, (except commodities in bulk), from the facilities of Arnold Bakers, Inc., at or near Stan-

ford, CT, to Baltimore, MD. (Hearing site: Sioux City, IA or Omaha, NE.)

MC 134472 (Sub-11F), filed September 20, 1978. Applicant: RICHARD KUSTERMANN, doing business as, KUSTERMANN TRUCK SERVICE, R.R. #2, Highland, IL 62249. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *dairy products, foodstuffs, paper supplies, and plastic supplies* used by drive-in restaurants and dairy stores, in containers, in vehicles equipped with mechanical refrigeration, from Granite City, IL, to points in AR, IA, and KS, and under continuing contract(s) with P.F.D. Supply Corporation, of Granite City, IL. (Hearing site: St. Louis, MO or Chicago, IL.)

MC 135639 (Sub-9F), filed October 10, 1978. Applicant: QUEENSWAY, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, Camp Hill, PA 17011. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *foodstuffs* and (2) *materials and supplies* used in the manufacture and distribution of foodstuffs, between the facilities of Beechnut Baby Foods, at Canajoharie, NY, on the one hand, and, on the other, New York NY and points in IL, IN, MI, NJ, OH, and PA, restricted to the transportation of traffic originating at or destined to the above named facilities of Beechnut Baby foods. (Hearing site: Harrisburg, Pa.)

MC 135873 (Sub-7F), filed October 9, 1978. Applicant: K.S.S. TRANSPORTATION CORPORATION, P.O. Box 3052, North Brunswick, NJ 08902. Representative: Daniel C. Sullivan, 10 So. LaSalle Street, Suite 1600, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *metal tool and utility boxes, medical cabinets, benches, and shelves*, between points in the United States (except AK and HI), under continuing contract(s) with Waterloo Industries, Inc. (Hearing site: Kansas City, MO or Chicago, IL.)

MC 13226 (Sub-2F), filed September 21, 1978. Applicant: BOB DANIELS, P.O. Box 696, Montesano, WA 98563. Representative: Bob Daniels (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *red cedar shakes, red cedar shingles, red cedar ridge, and red cedar trim*, between points in Grays Harbor, Clallam, Jefferson, and Pacific Counties, WA, on the one hand, and, on the other, points in CA, OR, and WA. (Hearing site: Seattle, WA.)

MC 136226 (Sub-3F), filed September 21, 1978. Applicant: BOB DANIELS, P.O. Box 696, Montesano, WA 98563. Representative: Bob Daniels (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *alcoholic beverages*, (except in bulk), from points in CA to Seattle, WA. (Hearing site: Seattle, WA.)

MC 136786 (Sub-141F), filed September 14, 1978. Applicant: ROBCO TRANSPORTATION, INC., a Minnesota corporation, 4333 Park Ave., Des Moines, IA 50321. Representative: William L. Libby, 7525 Mitchell Road, Eden Prairie, MN 55344. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *cereals* (except in bulk), from Battle Creek, MI, and Lancaster and Sharonville, OH, to Clearfield, UT. (Hearing site: Minneapolis, MN or Des Moines, IA.)

MC 138388 (Sub-4F), filed November 3, 1978. Applicant: CHESTER CAINE, JR., d/b/a CAINE TRANSFER, 225 Beaver Dam Street, Lowell, WI 53557. Representative: Thomas P. Shannon, 622 N. Water Street, Milwaukee, WI 53202. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *dry feed*, from points in Dodge County, WI, to points in IL, IN, MI, and MN. (Hearing site: Milwaukee or Madison, WI.)

MC 138652 (Sub-4F), filed September 25, 1978. Applicant: BAKER TRUCK SERVICE, INC., 407 No. C Street, Grangeville, ID 83830. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *particleboard*, from the facilities of Collins Pine Company, at Chester, CA, to the facilities of Browning Cut Stock, at Juliaetta, ID. (Hearing site: Spokane, WA or San Francisco, CA.)

MC 138882 (Sub-153F), filed September 11, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber*, from points in IL, MO, IA, TN, and AR, to ports of entry on the international boundary line between the United States and Canada located in MN, ND, and MT, restricted to the transportation of traffic destined to points in the Provinces of Manitoba, Saskatchewan, Alberta, and British Columbia, Canada. **CONDITION:** Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hear-

ing site: Jackson, MS, or Montgomery, AL.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the Federal Register on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of Alberta, Saskatchewan, and Manitoba regarding this issue. If the policy statement is changed, appropriate notice will appear in the Federal Register and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 138882 (Sub-157F), filed September 18, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *building materials*, from Mobile, AL, to points in Harris County, TX. (Hearing site: Mobile, AL, or Dallas, TX.)

MC 138882 (Sub-160F), filed September 25, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *brick and tile*, and *commodities* used in the installation of brick and tile, from Los Angeles, CA, to points in AZ, NM, TX, AR, MS, TN, LA, AL, GA, and FL. (Hearing site: Los Angeles, CA or Washington, DC.)

MC 138882 (Sub-161F), filed September 25, 1978. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber and lumber products*, from points in Wheatland County, MT, to points in WY, CO, KS, NE, IA, IL, MO, IN, OH, and AR. (Hearing site: Lewiston, MT or Washington, DC.)

MC 139113 (Sub-13F), filed October 10, 1978. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *foodstuffs* (except frozen and commodities in bulk), from the facilities of

Knouse Foods, Inc., at or near Peach Glen, Orrtanna, and Chambersburg, PA, to points in AL, AR, FL, GA, LA, MS, OK, TN, and TX, under continuing contract(s) with Knouse Foods, Inc., of Peach Glen, Pa. (Hearing site: Washington, DC.)

NOTE.—Dual operations are involved in this proceeding.

MC 139571 (Sub-1F), filed September 20, 1978. Applicant: A. S. MASON, INC., 3110 Gibson Street, Bakersfield, CA 93308. Representative: Michael J. Stecher, Silver Rosen, Fischer & Stecher, 256 Montgomery Street, San Francisco, CA 94104. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Oil well drilling rigs*, and *oil well drilling machinery*, and (2) *equipment, materials and supplies* incidental to or used in the drilling and development of oil wells, between points in Kern, Kings, Fresno, and Tulare Counties, CA, on the one hand, and, on the other, points in AZ, NM, UT, CO, WY, and NV. (Hearing site: Bakersfield or Los Angeles, CA.)

MC 142672 (Sub-31F), filed September 27, 1978. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., Post Office Drawer F, Mulberry, AR 72947. Representative: Don Garrison, 324 North Second Street, Rogers, AR 72756. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *meats, meat products and meat byproducts and articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of L & H Packing Company, Inc., at or near San Antonio, TX, to points in AR, GA, IA, IL, KS, KY, MA, MO, NC, NH, NY, OH, OK, PA, SC, and TN. (Hearing site: San Antonio, TX or Tulsa, OK.)

NOTE.—Dual operations are involved in this proceeding.

MC 143032 (Sub-5F), filed September 19, 1978. Applicant: THOMAS J. WALCZYNSKI, doing business as, WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: James B. Hovland, P.O. Box 1680, 414 Gate City Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *bag house fume*, from the facilities of North Star Steel Company, at St. Paul, MN, to points in the United States (except AK and HI); and (2) *steel grinding balls*, from the facilities of North Star Steel Company, at Duluth, MN, to points in ND, WI, IA, NE, MO, IL, CO, IN, MI, OH, and PA.

(Hearing site: Duluth or Minneapolis, MN)

MC 143032 (Sub-6F), filed September 22, 1978. Applicant: THOMAS J. WALCZYNSKI, doing business as, WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: James B. Hovland, P.O. Box, 1680, 414 Gate City Building, Fargo, ND 58102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *snowmobiles, motorcycles, parts and accessories for snowmobiles and motorcycles, snowmobile clothing, motorcycle clothing, and snowmobile oil*, from Duluth, MN, to points in the United States (except AK and HI). (Hearing site: Duluth or Minneapolis, MN)

MC 143059 (Sub-33F), filed November 2, 1978. Applicant: MERCER TRANSPORTATION CO., a Texas Corporation, P.O. Box, 35610, Louisville, KY 40232. Representative: Clayte Binion, 1108 Continental Life Bldg., Fort Worth, TX 76102. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *pipe, pipe fittings*, and commodities used in the installation of pipe and pipe fittings, from the facilities of Continental Industries, Inc., at Broken Arrow, OK, to points in AZ, CA, CO, NV, NM, and TX, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), from points in AZ, CA, CO, NV, NM, and TX, to the facilities of Continental Industries, Inc., at Broken Arrow, OK. (Hearing site: Tulsa, OK, or Washington, DC)

MC 143423 (Sub-7F), filed October 10, 1978. Applicant: WILLIAM T. AUSTIN, d/b/a AUSTIN TRUCKING COMPANY, 2026 Clayton Avenue SW., Decatur, AL 35601. Representative: D. H. Markstein, Jr., 512 Massey Building, Birmingham, AL 35203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *copper rods*, from the facilities of Cerro Wire & Cable Company, at Syosset, NY, to the facilities of Cerro Wire & Cable Company, at Hartselle, AL, under continuing contract(s) with Cerro Wire & Cable Company, at Hartselle, AL. (Hearing site: Decatur or Birmingham, AL)

MC 143423 (Sub-8F), filed October 10, 1978. Applicant: WILLIAM T. AUSTIN, d/b/a AUSTIN TRUCKING COMPANY, 2026 Clayton Avenue SW., Decatur, AL 35601. Representative: D. H. Markstein, Jr., 512 Massey Building, Birmingham, AL 35203. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *generators, motors, and internal combustion engines*, and (2) *parts* for the commodities named in

(1) above, between the facilities of Onan Corporation at Huntsville, AL, on the one hand, and, on the other, points in AZ, CO, CA, GA, KS, KY, MO, NM, NC, OH, OK, OR, PA, SD, TN, TX, UT, WA, and IL, under continuing contract(s) with Onan Corporation of Minneapolis, MN. (Hearing site: Decatur or Birmingham, AL)

MC 143478 (Sub-3F), filed October 30, 1978. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 420 South Lawrence Street, Montgomery, AL 36104. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *communication equipment*, and (2) *materials, equipment, and supplies* used in the manufacture and installation of communication equipment, between the facilities of Communication Equipment and Contracting Co., Inc., at or near (a) Union Springs, AL, and (b) Yucaipa, CA, on the one hand, and, on the other, points in the United States (except AK & HI), under continuing contract(s) in (1) and (2) above with Communication Equipment and Contracting Co., Inc., of Union Springs, AL. (Hearing site: Montgomery or Birmingham, AL)

MC 143570 (Sub-3F), filed August 11, 1978, previously noticed in the FEDERAL REGISTER issue of September 14, 1978. Applicant: D & G TRUCKING, INC., 4420 E. Overland Rd., Meridian, ID 83642. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *feed, feed ingredients, and feed supplements*, (except liquid commodities in bulk, in tank vehicles), (1) from points in Ada, Canyon, Gem, Washington, Owyhee, and Payette Counties, ID, to points in AZ, CA, CO, MT, NV, OR, UT, WA, and WY, and (2) from points in AZ, CA, CO, MT, NV, OR, UT, WA, and WY, to those points in ID in and south of Adams, Valley, and Lemhi Counties, and points in Malheur County, OR. (Hearing site: Boise, ID, or Reno, NV.)

NOTE.—This republication shows MT and NV as States to be served rather than MO and NE.

MC 143678 (Sub-3F), filed November 2, 1978. Applicant: PAUL NICKLAUS, d/b/a NICK'S TRUCKING, 1805 Lloyd Street, Apartment 1B, Bellevue, NE 68005. Representative: Paul D. Kratz, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *concrete products*, from the facilities of Wilson Concrete Co., at or near Washington and Buffalo, IA, to points in IL and MO; and (2) *steel articles*, from points in IL, to the facilities of

Wilson Concrete Co., at or near Washington and Buffalo, IA. (Hearing site: Omaha, NE.)

MC 144101 (Sub-6F), filed September 7, 1978. Applicant: R. R. STANLEY, Box 95, Mesquite, TX 75149. Representative: Richard T. Churchill, Suite 106, 5001 S. Hulen, Fort Worth, TX 76132. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *hams*, in containers, in vehicles equipped with mechanical refrigeration, from the plant-site of Garland Foods, Inc., at Dallas, TX, to points in CA and FL, under continuing contract(s) with Garland Foods, Inc., of Dallas, TX. (Hearing site: Dallas, or Ft. Worth, TX.)

MC 144418 (Sub-1F), filed October 27, 1978. Applicant: CAMDEN TIMBER COMPANY, INC., Highway 17 South, P.O. Box 717, Woodbine, GA 31569. Representative: J. Robert Morgan, P.O. Box 458, Woodbine, GA 31569. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *wood chips*, from points in Nassau, Duval, Bradford, Baker, and Clay Counties, FL, to St. Marys, GA.

MC 144544 (Sub-1F), filed September 15, 1978. Applicant: CARL M. ILLIFF, doing business as GLENCOE PRODUCE, P.O. Box 146, Glencoe, MN 55336. Representative: Samuel Rubenstein, 301 N. Fifth St., Minneapolis, MN 55403. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) *wearing apparel*, and (2) *commodities* which are otherwise exempt from economic regulation under Section 10526(6) (formerly Section 203(b)(6)) of the Interstate Commerce Act when moving in mixed loads with wearing apparel, (a) from New York, NY and Los Angeles, CA, to Minneapolis, MN, and (b) from Minneapolis, MN, to points in CO, KS, MO, and WY, under continuing contract(s) with Buttrey Stores, Inc., of Minneapolis, MN. (Hearing site: Minneapolis, MN.)

MC 144622 (Sub-19F), filed September 22, 1978. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Phillip Glenn (same address as applicant). To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *medical equipment* from Los Angeles, CA, to points in AL, FL, GA, IL, KS, LA, MA, MO, MD, MN, NY, NJ, PA, OH, TN, TX, and WA. (Hearing site: Los Angeles, CA.)

NOTE.—Dual operations are involved in this proceeding.

MC 144954 (Sub-1F), filed August 23, 1978. Applicant: ROADRUNNER WRECKERS, INC., Route 1, Box 120, Ontario, OR 97914. Representative:

Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *wrecked or disabled trucks, wrecked or disabled tractors, and wrecked or disabled trailers*, by wrecker equipment only, from points in MT, OR, WY, ID, NV, CA, WA, and UT, to points in Ada, Canyon, and Payette Counties, ID, and Malheur County, OR; (2) *replacement power units* for the commodities in (1) above, by wrecker equipment only, from Payette, Ada, and Canyon Counties, ID, and Malheur County, OR, to points in OR, MT, ID, NV, CA, WA, WY, and UT; and (3) *automobiles and pickup trucks*, by wrecker equipment only, from points in CA to points in Malheur County, OR. (Hearing site: Boise, ID.)

MC 145306 (Sub-2F), filed September 21, 1978. Applicant: WEST TRUCKING LINE, INC., West Chester, IA 52359. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, 50309. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *livestock confinement systems*, and (2) *materials equipment and supplies* used in the manufacture, distribution and construction of livestock confinement systems, (except commodities in bulk), from the facilities of Confinement Specialists, Inc., at or near Kalona, IA, to points in AR, IL, IN, KS, MN, MO, NE ND, SD, and WI. (Hearing site: Des Moines, IA, or Kansas City, MO.)

MC 145352F, filed September 12, 1978. Applicant: R. W. MCDANIEL TRANSPORTATION CORPORATION, 21917 Garrison, Dearborn, MI 48124. Representative: James F. Schouman, 21925 Garrison, Dearborn, MI 48124. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *carbonated soft drinks, beverage compounds, and containers*, between points in MD, PA, VA, NY, OH, IL, DE, WV, MI, IN, WI, and NJ, under continuing contract(s) with Faygo Beverages, Inc., of Detroit, MI. (Hearing site: Detroit, MI, or Washington, DC.)

MC 145432F, filed September 19, 1978. Applicant: GEORGE RICHARDS TRANSPORT LIMITED, Box 100, King Street, Arkona, Ontario, Canada NOM 1B0. Representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *soy bean meal*, in bulk, in dump vehicles, from Goodells, MI, to the ports of entry on the international boundary line between the United States and Canada located in MI on the St. Clair River, under continuing contract(s) with Pillsbury Canada Ltd., of London, On-

tario, restricted to the transportation of traffic destined to points in Canada. **CONDITION:** Prior receipt from applicant of an affidavit setting forth its complementary Canadian authority or explaining why no such Canadian authority is necessary. (Hearing site: Lansing or Detroit, MI.)

NOTE.—The restriction and conditions contained in the grant of authority in this proceeding are phrased in accordance with the policy statement entitled Notice to Interested Parties of New Requirements Concerning Applications for Operating Authority to Handle Traffic to and from points in Canada published in the FEDERAL REGISTER on December 5, 1974, and supplemented on November 18, 1975. The Commission is presently considering whether the policy statement should be modified, and is in communication with appropriate officials of the Provinces of Alberta, Saskatchewan, and Manitoba regarding this issue. If the policy statement is changed, appropriate notice will appear in the FEDERAL REGISTER and the Commission will consider all restrictions or conditions which were imposed pursuant to the prior policy statement, regardless of when the condition or restriction was imposed, as being null and void and having no force or effect.

MC 145523F, filed October 10, 1978. Applicant: CAMP TRUCK SERVICE, INC., 3268 Pleasant Hill Road, Nesbit, MS 38651. Representative: Joel P. Walker, Box 276, Hernando, MS 38632. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *wrecked, disabled, and repossessed motor vehicles and trailers* (except trailers designed to be drawn by passenger automobiles), and (2) *replacement vehicles and trailers* (except trailers designed to be drawn by passenger automobiles), by wrecker equipment only, between Memphis, TN, on the one hand, and, on the other, points in MS, TN, AR, AL, MO, and LA. (Hearing site: Memphis, TN, or Jackson, MS.)

MC 145598 (Sub-2F), filed October 23, 1978. Applicant: QUICK AIR FREIGHT, INC., Cargo Bldg., Port Columbus Airport, Columbus, OH 43219. Representative: E. H. van Deusen, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *materials, equipment, and supplies* used in the manufacture and repair of mining machinery, between points in the United States (except AK and HI), under continuing contract(s) with Jeffrey Mining Machinery Division, Dresser Industries, Inc., of Columbus, OH. (Hearing site: Columbus, OH.)

NOTE.—Dual operations are involved in this proceeding.

MC 145658F, filed October 30, 1978. Applicant: FAST FREIGHT TRANSPORT, INC., 1075 West 21st Street, Hialeah, FL 33013. Representative: J. B. Curasi, Suite 858, Barnett Bank Bldg,

Tallahassee, FL 32301. To operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *such commodities* as are dealt in by discount and variety stores (except commodities in bulk and perishable commodities), between points in FL, under continuing contract(s) with K Mart Corporation, of Troy, MI. (Hearing site: Washington, DC, or Troy, MI.)

NOTE.—Dual operations may be involved in this proceeding.

PASSENGER AUTHORITY

MC 37958 (Sub-3F), filed November 3, 1978. Applicant: TRENTON LAMBERTVILLE BUS LINE, INC., Amwell Road, East Millstone, NJ 08873. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, NW, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points in Burlington, Camden, Hunterdon, Mercer, Middlesex, Monmouth, Ocean, Somerset, and Union Counties, NJ, and points in Bucks and Philadelphia Counties, PA, and extending to those points in the United States in and east of MN, IA, MO, AR, and LA (except NY, OH, PA, VA, MD, DE, MA, CT, and RI). (Hearing site: Trenton, NJ.)

MC 109736 (Sub-42F), filed August 25, 1978. Applicant: CAPITOL BUS COMPANY, a Corporation, 1061 S. Cameron St., Harrisburg, PA 17104. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passengers, in charter operations, in round-trip tours beginning and ending at Wilmington, DE, Bel Air and Havre de Grace, MD, Burlington, Camden, Cherry Hill, Cinnaminson, Moorestown, Mt. Holly, and Trenton, NJ, and Allentown, Bethlehem, Carlisle, Chambersburg, Chester, Easton, Shippensburg, and York, PA, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Harrisburg, PA, or Washington, DC)

MC 126942 (Sub-1F), filed September 18, 1978. Applicant: INTER CITY BUS LINES, INC., doing business as ALLSTATE BUS CHARTERS, 176 East 19th Street, Holland, MI 49423. Representative: Bruce E. Mitchell, Fifth Floor—Lenox Towers I, 3390 Peachtree Road, Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers and their baggage* in the same vehicle with passen-

gers, in round-trip special and charter operations, beginning and ending at points in Allegan, Ottawa, Muskegon, and Kent Counties, MI, and extending to points in the United States (including AK, but excluding HI). (Hearing Site: Lansing or Grand Rapids, MI)

BROKER AUTHORITY

MC 130533F, filed October 10, 1978. Applicant: RAVENEL TRAVEL AGENCY, 172 Meeting Street, Charleston, SC 29401. Representative: James H. Rike, Jr. (Same address as applicant). To engage in operations, in interstate or foreign commerce, as a broker, at Charleston, SC, in arranging for the transportation, by motor vehicle, of passengers and their baggage, in round-trip special and charter operations, beginning and ending at points in SC, and extending to points in the United States (except AK and HI). (Hearing site: Charleston or Columbia, SC)

NOTE.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, NY*, 54 M.C.C. 291 (1952).

FREIGHT FORWARDER AUTHORITY

FF 513F, filed October 10, 1978. Applicant: MURPHY WAREHOUSE COMPANY, a Corporation, 701 24th Avenue SE, Minneapolis, MN 55414. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a freight forwarder, through the use of the facilities of surface common carriers, in the transportation of general commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from Minneapolis, MN, to points in IA, MN, MT, NE, ND, SD, WI, and the Upper Peninsula of MI. (Hearing site: Minneapolis, MN.)

[FR Doc. 78-34489 Filed 12-11-78; 8:45 am]

[7035-01-M]

[No. FF-C-74]

CLIPPER EXPRESS CO.

Petition for Declaratory Order; Exempt Status of Agricultural Commodities

Petitioner's Representative: Charles A. Webb, Vorys, Sater, Seymour and Pease, Suite 800-South, 1800 M Street NW., Washington, D.C. 20036.

AGENCY: Interstate Commerce Commission.

ACTION: Request for comments on the exempt status of agricultural commodities transported by a regulated freight forwarder.

SUMMARY: Petitioner, a regulated freight forwarder, wishes to establish an intermodal service in which perishable agricultural commodities will be transported TOFC primarily as backhaul for its dry freight forwarding operations. Petitioner requests the entry of a declaratory order determining that the proposed operations are exempt from economic regulation by the Commission by virtue of the provisions of 49 U.S.C. 10562, formerly Section 402(b)(2) of the Interstate Commerce Act.

DATES: Comments are due January 11, 1979.

ADDRESS: Send comments to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

SUPPLEMENTARY INFORMATION: Petitioner, a regulated freight forwarder engaged in the transcontinental transportation of general commodities, proposes to establish an intermodal service in which agricultural commodities will be transported TOFC in refrigerated trailers, largely from points on the West Coast to points in the east and midwest. The purpose of petitioner's proposal is to generate backhaul for its primarily westbound dry freight forwarding business. The agricultural commodities will not be commingled in any way with the dry freight.

Petitioner believes that its plan is economically feasible if it can negotiate satisfactory rail rates and if the proposal is not subject to economic regulation by the Commission. Petitioner requests the entry of a declaratory order determining the exempt status of its proposal.

The statutory underpinnings of the petition are contained in 49 U.S.C. 10562, formerly section 402(b) of the Interstate Commerce Act, which provides, in part:

"The provisions of this part shall not apply . . . (2) where the property with respect to which service is performed consists of ordinary livestock, fish (including shellfish), agricultural commodities (not including manufactured products thereof), or used household goods, if the person performing such service engages in service subject to this part with respect to not more than one of the classification of property above specified."

Petitioner interprets the above passage as exempting from economic regulation any person engaged in the transportation of not more than one of the above classifications (i.e., livestock, fish, agricultural commodities, and used household goods), irrespective of its existing regulated freight forwarding operations.

Petitioner's position is at variance with the decision of the Commission in *Routed thru Pac, Inc., Freight Forwarder Application*, 332 I.C.C. 352 (1968), which, relying on legislative history, held that the exemption contained in 49 U.S.C. 10562 was intended to exempt only a forwarding service which is confined exclusively to one of the commodities enumerated in the exemption. The *thru-Pac* decision, however, involved a request for a household goods exemption rather than one for agricultural commodities, and petitioner advances several arguments for limiting the decision to its facts, should the Commission not wish to overrule it. In addition, it believes that its intermodal proposal will help to alleviate a perceived future shortfall in the industry's capacity to transport perishable agricultural commodities if the present trend of decreased rail carloadings continues. Alternatively, petitioner requests that the Commission grant the exemption to a commonly controlled affiliate to be set up specifically for this purpose.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34536 Filed 12-11-78; 8:45 am]

[7035-01-M]

[I.C.C. Order No. P-14]

THE ATCHISON, TOPEKA & SANTA FE RAILWAY CO.

Passenger Train Operation;

Decided December 1, 1978.

The National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Seattle, Washington, and Los Angeles, California. The operation of these trains requires the use of tracks and other facilities of Southern Pacific Transportation Company (SP) between Portland, Oregon, and Los Angeles, California. A portion of these SP tracks between Port Chicago, California, and Richmond, California, are temporarily out of service because of a derailment. An alternate route is available between these points via The Atchison, Topeka and Santa Fe Railway Company. It is the opinion of this Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, (a) Pursuant to the authority vested in me by order of the Commission served December 10, 1976, and of the authority vested in the

Commission by Section 402(c) of the Rail Passenger Service Act of 1970 (45 USC 562(c)), The Atchison, Topeka and Santa Fe Railway Company is directed to permit the use of its tracks and facilities for the movement of trains of the National Railroad Passenger Corporation between Port Chicago, California, and Richmond, California.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 8:10 a.m., PST, December 1, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., PST, December 2, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

This order shall be served upon The Atchison, Topeka and Santa Fe Railway Company and upon the National Railroad Passenger Corporation, and a copy of this order shall be filed with the Director, Office of the FEDERAL REGISTER.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-34562 Filed 12-11-78; 8:45 am]

[7035-01-M]

[Ex Parte No. 241; Rule 19; Exemption No. 154]

EMERGENCY MOVEMENT OF MILITARY SUPPLIES

Exemption Under Mandatory Car Service Rules

It appearing, That there is an emergency movement of military supplies from Crane, Indiana, to Port Chicago, California; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on

the lines of the originating carrier and on its connections; and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee), the railroads designated by the Car Service Division are authorized to move to, and the Milwaukee is authorized to accept, assemble, and load not to exceed 50 empty plain boxcars with military supplies from Crane, Indiana, to Port Chicago, California, regardless of the provisions of Car Service Rules 1 and 2.

It is further ordered, That this exemption shall constitute a modification of the provisions of Section (a)(2)(ii) of Second Revised Service Order No. 1332, and of all provisions of Revised Service Order No. 1301.

Effective November 29, 1978.

Expires December 20, 1978.

INTERSTATE COMMERCE
COMMISSION,
ROBERT S. TURKINGTON,
Agent.

[FR Doc. 78-34560 Filed 12-11-78; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 7, 1978.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 27, 1978.

FSA NO. 43639, Companhia Portuguesa de Transportes Maritimos, Sarl (Portuguese Line), No. 3, intermodal rates on general commodities in containers, from rail carriers' terminals at New Orleans, La., and Houston, Tex., to ports in Europe, in its Tariff No. 1, I.C.C. No. 1, to become effective January 1, 1979. Grounds for relief—water competition.

FSA NO. 43640, Companhia Portuguesa de Transportes Maritimos, Sarl (Portuguese Line), No. 2, intermodal rates on general commodities in containers, from ports in Europe to rail carriers' terminals at United States Pacific and Gulf Coast Ports, in Tariff No. 2, I.C.C. No. 2, to become effective January 1, 1979. Grounds for relief—water competition.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34563 Filed 12-11-78; 8:45 am]

[7035-01-M]

[Exception No. 7 Under Section (a), Paragraph (1), Part (v), Second Revised Service Order No. 1332]

SOUTHERN PACIFIC TRANSPORTATION CO.

Decided: December 1, 1978.

By the Board:

Because of traffic interruptions and power problems, the Southern Pacific Transportation Company (SP) is temporarily unable to forward all cars within 60-hours as required by Section (a)(4)(i) of Second Revised Service Order No. 1332.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, the SP is required to forward loaded cars or empty foreign or private cars from the points named below within 72-hours.

SP

Eugene, Oregon, Roseville, California, West Colton, California.

Effective December 1, 1978.

Expires 11:59 p.m., December 15, 1978.

JOEL E. BURNS,
Chairman,
Railroad Service Board.

[FR Doc. 78-34561 Filed 12-11-78; 8:45 am]

[7035-01-M]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before January 2, 1979. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-13-78 (SPECIAL CERTIFICATE—WASTE PRODUCTS)

(AMENDMENT), filed July 11, 1978, published in the FEDERAL REGISTER issue of July 19, 1978, and republished this issue. Applicant: VICTORY EXPRESS, INC., 2600 Willowburn Avenue, Dayton, OH 45427. Representative: Harold G. Hernly, Jr., 118 North St. Asaph Street, Alexandria, VA 22314. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes transporting: *waste products* for recycling or reuse, between points in the United States (except AK and HI), in furtherance of a recognized pollution control program sponsored by Imperial Paper Stock Company of St. Louis, MO; National Fiber Supply Co. of Chicago, IL; Capitol Waste Materials Co., of Dayton, OH; International Cellulose, Inc., of Chicago, IL; Alton Box Board Company of Alton, IL; Consolidated Fibres Inc., of Chicago, IL; Diamond International Corporation of Middletown, OH; and Golpher Supply Co., Inc., of Appleton, WI.

NOTE.—The purpose of this amendment is to add the sponsor of Golpher Supply Co., Inc., of Appleton, WI.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34564 Filed 12-11-78; 8:45 am]

[7035-01-M]

TRANSPORTATION OF "WASTE" PRODUCTS
FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgat-

ed in "Waste" Products, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before January 2, 1979. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-18-78 (SPECIAL CERTIFICATE—WASTE PRODUCTS), filed November 7, 1978. Applicant: G. G. PARSONS TRUCKING CO., a Corporation, P.O. Box 1085, North Wilkesboro, NC 28659. Representative: James E. Savitz, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes in the transportation of *waste products* for recycling or reuse, between points in the United States (except AK and HI) in furtherance of a recognized pollution control program sponsored by Radiation Physics Consultants, Inc. of Winston-Salem, NC for the purpose of transporting and recycling waste products.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34565 Filed 12-11-78; 8:45 am]

[7035-01-M]

TRANSPORTATION OF "WASTE" PRODUCTS
FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request

participation in a Special Certificate of Public Convenience and Necessity for the transportation of "Waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC-85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before January 2, 1979. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence *within 30 days* of the date of its notice in the FEDERAL REGISTER, subject to its tariff publication effective date.

P-19-78 (SPECIAL CERTIFICATE—WASTE PRODUCTS), filed November 27, 1978. Applicant: JUNIUS ELMORE, JR., doing business as JR'S TRUCKING SERVICE, 815 East 2nd Street, Cheyenne, WY 82001. Representative: Richard Waring, 5226 Brighton Blvd., Denver, CO 80221. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes in the transportation of waste products for recycling or reuse, from points in WY, to points in CO in furtherance of a recognized pollution control program sponsored by Action Automotive, Inc. of Cheyenne, WY; and Department of Environmental Quality, of Cheyenne, WY for the purpose of transporting and recycling waste products.

By the Commission.

H.G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34566 Filed 12-11-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1-3
Federal Mine Safety and Health Review Commission.....	4, 5
Federal Reserve System	6, 7
International Trade Commission	8
Nuclear Regulatory Commission	9
Tennessee Valley Authority	10

[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 237 December 8, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., December 12, 1978.

CHANGES IN THE MEETING: The time has been changed to 11:30 a.m.

[S-2502-78 Filed 12-8-78; 3:54 p.m.]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., December 12, 1978.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Dealer Option Regulations Published on November 21, 1978.

Petition of New York Coffee and Sugar Exchange Concerning Dealer Option Regulations.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2503-78 Filed 12-8-78; 3:54 pm]

[6351-01-M]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2:30 p.m., December 21, 1978.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Judicial Session.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-2504-78 Filed 11-8-78; 4:00 pm]

[6735-01-M]

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 9 a.m., Thursday, December 7, 1978.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C. 20006.

STATUS: Closed (pursuant to 5 U.S.C. 552b(c)(10)).

MATTER CONSIDERED: Part of this meeting involved the Commission's participation in a civil action, namely, *Southern Ohio Coal Co. v. Secretary of Labor, et al.*, Civil Action No. C-2-78-1041, filed U.S. District Court of Southern Ohio, Eastern Division.

Vote: Voting to close that part of the meeting: Commissioners Waldie (Chairman), Jestrab, Lawson, and Nease. It was determined by this vote that Commission business required that this meeting be closed. Further, the Commission members voted to hold the meeting immediately on the basis that agency business so required and to issue public notice as soon as practicable.

Attendance: Present at that closed part of the meeting were: Commissioners Waldie (Chairman), Jestrab, Lawson, Backley, and Nease; Al Treherne; Robert Phares; Mary Masulla; Daniel Delacey; James Lastowka; Arthur Sapper; General Counsel Rober Pleasure; and Gerry Dixon, Secretary.

CONTACT PERSON FOR MORE INFORMATION:

Donald Terry, Office of Executive Director, 202-653-5644.

CERTIFICATION OF CLOSED MEETING

The General Counsel, in accordance with section 3(f)(1) of the Government in the Sunshine Act (5 U.S.C. 552b(f)(1)), hereby certifies that the Commission meeting of December 7, 1978, at which the Commission discussed a civil action (*Southern Ohio Coal Co. v. Secretary of Labor et al.*, Civil Action No. C-2-78-1041 filed U.S. District Court of Southern Ohio, Eastern Division) was properly closed to the public on the basis of the exemption set forth in 5 U.S.C. 552b(c)(10).

ROBERT PLEASURE,
General Counsel.

DECEMBER 7, 1978.

[S-2495-78 Filed 12-8-78; 11:35 am]

[6735-01-M]

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., December 15, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C. 20006.

STATUS: This meeting will be open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Cowin & Co., Inc.*, Docket No. IBMA 75-57 (remanded from the Court of Appeals for the District of Columbia Circuit).

2. *Secretary of Labor v. Peabody Coal Co.*, Docket No. VINC 77-91 (petition for discretionary review).

3. *Secretary of Labor v. Canterbury Coal Corp.*, Docket Nos. PITT 78-127, 78-128, 78-301-P, 78-302-P (petition for discretionary review).

CONTACT PERSON FOR FURTHER INFORMATION:

Donald Terry, 202-653-5644.

[S-2501-78 Filed 12-8-78; 3:48 pm]

[6210-01-M]

6

FEDERAL RESERVE SYSTEM (Board of governors).

TIME AND DATE:

Closed Portion: 11:30 a.m., Friday, December 15, 1978.

Open Portion: 2:15 p.m., Friday, December 15, 1978.

SUNSHINE ACT MEETINGS

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

CLOSED PORTION

1. Proposed Federal Reserve Bank officers' salaries for 1979.
2. Federal Reserve Bank and Branch director appointments.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any agenda items carried forward from a previously announced meeting.

OPEN PORTION

1. Administrative issues under the Board's Regulatory Improvement Program.
2. Final action on two proposed amendments to Regulation Y (Bank Holding Companies):
 - a. Substitution of FEDERAL REGISTER notices for notices in local newspapers of applications to engage in nonbank activities. (Proposed earlier for public comment; docket no. R-0132).
 - b. Institution of procedures for establishing a foreign office by a nonbanking subsidiary. (Proposed earlier for public comment; docket no. R-0151).
3. Proposed mandatory date for the filing of applications and divestiture plans by ten-year grandfathered bank holding companies.
4. Any agenda items carried forward from a previously announced meeting.

NOTE.—The open portion of this meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: December 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-2497-78 Filed 12-8-78; 11:35 am]

[6210-01-M]

7

FEDERAL RESERVE SYSTEM
(Board of Governors).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR, 56996-56997, December 5, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Friday, December 8, 1978.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward

from a previous meeting; the following such closed item was added:

Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a closed meeting on November 13, 1978).

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: December 8, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[S-2500-78 Filed 12-8-78; 3:48 pm]

[7020-02-M]

8

[USITC SE-78-61]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, December 19, 1978.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary: (a) Cyclotrons (Docket No. 543) and (b) Silicon metal from Canada (Docket No. 549).
5. Quarterly East-West Trade Report (if action jacket is not approved).
7. Any items left over from previous agenda.

PORTIONS CLOSED TO THE PUBLIC

6. Status report on Investigation 332-101 (MTN Study), if necessary.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary (202) 523-0161.

[S-2498-78 Filed 12-8-78; 11:35 am]

[7590-01-M]

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: December 7, 11, 12, and 14, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/Closed (changes).

MATTERS TO BE CONSIDERED:

THURSDAY, DECEMBER 7—9:30 A.M.

1. Discussion of Bailly (approximately one-half hour, closed—exemption 10) (re-

scheduled form 2:30 p.m.) Replaces Discussion of Sua Sponte Review Standards and Handling of Generic Unresolved Safety Issues, which is postponed to December 11.

2. Discussion and vote on ALAB-500 (Off-shore Power Systems) (Approximately one-half hour, public meeting) (rescheduled from 11:30 am).

3. Discussion of Policy Statement on Alternative Site Evaluation Under NEPA for Nuclear Generating Stations (as scheduled).

THURSDAY, DECEMBER 7—2:30 P.M.

1. Discussion of Hearing in Tarapur (Approximately 1 hour, public meeting) (replaces 1 above).

MONDAY, DECEMBER 11—11 A.M.

1. Briefing on Intelligence Matters (approximately 1 hour, closed—exemption 1).

MONDAY, DECEMBER 11—1:30 P.M.

1. Discussion of Reporting the Progress of Resolution of "Unresolved Safety Issues" in the NRC Annual Report (as scheduled).
2. Discussion of Sua Sponte Review Standards and Handling of Generic Unresolved Safety Issues (approximately 1 hour, public meeting) (rescheduled from December 7).
3. Discussion of Final Budget Mark (approximately 1 hour, closed—Exemption 9).

TUESDAY, DECEMBER 12—10:30 A.M.

1. Discussion of Policy Statement on Alternative Site Evaluation Under NEPA for Nuclear Generating Stations (Continuation of December 7 meeting) (approximately 1 hour, public meeting). Replaces Discussion of PIRG Petition on Population Density, which is postponed).

THURSDAY, DECEMBER 14—9:30 A.M.

1. Briefing on Use of WASH-1400 by NRC Staff (approximately 1 hour, public meeting).
2. Briefing on fiscal year 1979 Operating Plans (approximately 1 hour, public meeting).

THURSDAY, DECEMBER 14—1:30 P.M.

1. General Administrative Meeting (approximately 1 hour, public meeting).
2. Affirmation session (approximately 10 minutes, public meeting). Teletherapy Calibration Requirement.
3. Discussion of Personnel Matter (approximately 2 hours, continuation of December 12 meeting) (closed—Exemption 6).

ADDITIONAL INFORMATION: On December 7, 1978, the Commission voted 5 to 0 to hold the Discussion of Hearing in Tarapur (2:30 p.m., December 7), and the Discussion of Final Budget Mark (3:30 p.m., December 11) on less than 7 days notice to the public. Prompt scheduling of these items was required in order to insure timely action on matters which must be completed in an orderly fashion.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed (202) 634-1410.

ROGER M. TWEED,
Office of the Secretary.

DECEMBER 7, 1978.

[S-2498-78 Filed 12-8-78; 3:48 pm]

[8120-01-M]

10

[Meeting No. 1203]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, December 14, 1978.

PLACE: Conference room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS FOR DISCUSSION: Expanded commercial and industrial energy conservation program.

MATTERS FOR ACTION:

OLD BUSINESS

No. 1 Req. No. 822499—Balance of plant ANSI B31.1 principal piping systems for Yellow Creek Nuclear Plant.

NEW BUSINESS

CONSULTING AND PERSONAL SERVICE CONTRACTS

1. Amendment to consulting contract with the S. M. Stoller Corp., New York, N.Y., for advice and assistance in connection with power resource planning matters, requested by the Office of Power.

PURCHASE AWARDS

1. Req. No. 823698 (reissue)—Intermediate

metal sheet conduit and rigid steel conduit (hot-dipped galvanized) for the Yellow Creek Nuclear Plant.

2. Req. No. 824201—Structural steel for 161- and 500-kV switchyards for the Phipps Bend Nuclear Plant.

3. Req. No. 824597—Insulated conductor, Types PXJ and PXMJ, for the Bellefonte Nuclear Plant.

4. Req. No. 822064—Structural steel for auxiliary building steam tunnel for the Hartsville and Phipps Bend Nuclear Plants.

5. Req. No. 576762—Tower-mounted cranes for construction pool equipment.

6. Rejection of bids received in response to Invitation No. 56-152991 for grading and drainage work for North Shelby 500-kV Substation.

7. Rejection of bids received in response to Invitation Nos. 98-45-1 and 98-45-2 for transporting coal to Colbert Steam Plant.

PROJECT AUTHORIZATIONS

1. No. 3347—Cooperative program with Electric Power Research Institute to demonstrate electric vehicles and determine electric utility impacts.

2. No. 3393—Provide a 161-kV delivery point for the Greeneville Light and Power System at Greeneville, Tenn.

3. No. 3394—Land acquisition for stream access—Clinch River, Powell River, North Fork Holston River, Little River, and Toccoa River.

POWER ITEMS

1. Lease and amendatory agreement with the city of Okolona, Miss.—TVA's Okolona

District Substation and Okolona District 46-kV line.

2. Deed conveying to Duck River Electric Membership Corp., a 0.50-acre portion of TVA's Lewisburg Substation site located in Marshall County, Tenn.

REAL PROPERTY TRANSACTIONS

1. Filing of condemnation suits.

2. Sale of permanent easement for a parking lot affecting a portion of the Kingston Steam Plant access railroad property, located in Roane County, Tenn.—Tract XEEPRR-5PL.

UNCLASSIFIED

1. Resolution authorizing the Comptroller to write off certain uncollectible accounts receivable.

2. Settlement of air quality compliance litigation.

DATED: December 7, 1978.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

[S-2496-78 Filed 12-8-78; 11:35 am]

The history of the United States is a story of growth and expansion. From a small collection of colonies on the eastern coast, the nation grew to encompass a vast continent. The early years were marked by struggle and the search for a common identity. The American Revolution was a pivotal moment, leading to the birth of a new nation. The subsequent decades saw the westward movement of settlers, the acquisition of new territories, and the development of a unique American culture. The Civil War, a defining conflict, tested the nation's unity and led to the abolition of slavery. The Reconstruction era followed, a period of rebuilding and the struggle for civil rights. The late 19th century brought industrialization and the rise of a powerful nation on the world stage. The early 20th century saw the United States emerge as a global superpower, leading the world in the fight against fascism and communism. The mid-20th century was a period of social change and the Vietnam War. The late 20th century brought the end of the Cold War and the beginning of a new era of global cooperation and challenges. The 21st century has seen the United States continue to shape the world, facing new technological, environmental, and social challenges.

**Register
Federal Order**

TUESDAY, DECEMBER 12, 1978

PART II



**DEPARTMENT OF
LABOR**

Wage and Hour Division



**AGE DISCRIMINATION IN
EMPLOYMENT ACT—
EXEMPTION FOR CERTAIN
EXECUTIVE AND HIGH
POLICYMAKING
EMPLOYEES**

Interpretations: Hearing

[4510-27-M]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 850 and 860]

RECORDS TO BE MADE OR KEPT RELATING TO AGE; NOTICES TO BE POSTED; ADMINISTRATIVE EXEMPTIONS; INTERPRETATIONS

Age Discrimination in Employment Act—Exemption for Certain Executive and High Policymaking Employees

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed amendment to Interpretative Bulletin and Regulations, and notice of hearing thereon.

SUMMARY: The Interpretative Bulletin on the Age Discrimination in Employment Act of 1967, as amended ("ADEA" or "Act"), sets forth various interpretations which indicate the construction of the ADEA that the Department of Labor believes to be correct and which will guide it in the performance of its administrative and enforcement duties under the Act. The Regulations on the ADEA set forth rules that the Department of Labor is specifically authorized by the Act to promulgate. As a result of the Age Discrimination in Employment Act Amendments of 1978, Pub. L. 95-256, 92 Stat. 189 (approved April 6, 1978), several sections of the Interpretative Bulletin and the Regulations must be revised, and new sections must be added, in order to take account of the amendments, as well as to clarify interpretations which have previously been misunderstood. The revisions and additions reflect the statutory changes in 1978, the intent of Congress as reflected in the legislative history, and the general purposes of the Act. Each major change in the Interpretative Bulletin and the Regulations necessitated by the 1978 amendments will be published as a separate document in the FEDERAL REGISTER. This document deals with the exemption for certain executive and high policymaking employees. Other documents to be published deal with the prohibition of involuntary retirement, and the exemption for certain tenured employees at institutions of higher education. A document dealing with employee benefit plans was published in the FEDERAL REGISTER on September 22, 1978 (43 FR 43264).

DATES: Written comments must be received by the Department of Labor on or before February 12, 1979.

A public hearing on the proposed amendment will be held beginning at 10 a.m. on January 8, 1979. Persons or organizations wishing to present their views at the hearing must provide the Department with written comments

and a request to testify by January 5, 1979.

ADDRESSES: The hearing will be held in Conference Room N-5437, A and B, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D. C. 20210. Written comments and requests to testify at the hearing should be submitted in quadruplicate to Francis V. LaRuffa, Jr., Chief, Branch of Age Discrimination, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-3028, Washington, D. C. 20210. A copy of all such written comments may be examined during normal business hours at the office of Xavier M. Vela, Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-3028, Washington, D. C. 20210. The entire record, or any part thereof, may be purchased at the actual cost of duplication as computed pursuant to the fee schedule in 29 CFR 70.62(b).

FOR FURTHER INFORMATION CONTACT:

Francis V. LaRuffa, Jr., Chief, Branch of Age Discrimination, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-3028, Washington, D.C. 20210, Telephone: (202) 523-7640 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of Labor has under consideration a proposal to add a new 860.97 to the Interpretative Bulletin on the Age Discrimination in Employment Act and to add a new subsection (c) to 850.1 and a new section 850.17 to the Regulations under the Act. The purpose of these additions is to take account of an exemption in section 12(c) of the Act which takes effect on January 1, 1979, when the maximum age of individuals in the non-Federal sector protected by the Act is extended from age 65 to age 70. The exemption is as follows:

(c)(1) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least \$27,000.

(2) In applying the retirement benefit test of paragraph (1) of this subsection, if any such retirement benefit is in a form other than a straight life annuity (with no ancillary benefits), or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with regulations prescribed by the

Secretary, after consultation with the Secretary of the Treasury, so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made.

Paragraph (1) of the exemption describes the types of employees who fall within it; paragraph (2) requires that the Secretary of Labor issue regulations indicating how the \$27,000 annual retirement income benefit is to be calculated under specified circumstances. A proposed interpretation of paragraph (1) is contained in new § 860.97 below; a proposed regulation with respect to paragraph (2) is contained in new subsection (c) of § 850.1 and new § 850.17 below.

The proposed interpretation also deals with the issue of whether employees who fall within the exemption may be offered a change in position or status which is short of forced retirement, and which therefore allows them to remain as employees. The statutory test by its terms excuses only "compulsory retirement." However, if this language were interpreted literally, it would lead to the anomalous result that an employer having an employee within the exemption would be able to force the employee to retire, but would not be able to offer the employee a position of lesser status or (in the case of a full-time employee) a part-time position. The Department does not believe that the exemption was intended to lead to such a situation. In light of these considerations, where an employee falls within the exemption the Department will not question an offer of a position of lesser status, conversion to part-time status, or other change in position or status short of forced retirement, provided that the employee voluntarily accepts this new position or status, and that he or she is treated no less favorably than similarly situated younger employees. The proposed interpretation reflects this position.

The proposed interpretation of paragraph (1) of the exemption adopts most of the joint explanatory statement of the House and Senate conferees, contained in the Conference Committee Report (H.R. Rept. No. 95-950, pp. 8-10). That statement consists largely of a description of the kinds of "executive" and "high policymaking" employees intended to be exempted by the provision. While this description provides a general indication of what kinds of employees are exempt, it does not purport to indicate in every instance whether or not the exemption may apply.

Accordingly, the Department would welcome comments suggesting where more detailed guidance is thought necessary. In particular, it would be desir-

able to know whether there should be an annual dollar volume test for the establishment or department supervised, or whether there should be a minimum number of employees supervised by the individual, in order for the exemption to apply. With the assistance of such commentary, the Department intends to draw a series of concrete examples of employees subject to the provision. (Of course, any examples used in the guidelines will be drafted so as to protect the identities of particular employers and employees who offer comments.) Whether or not a particular individual falls within the exemption will necessarily depend upon all the facts in each case.

The proposed interpretation follows the statutory requirement that an employee must have been in a bona fide executive or high policymaking position, within the meaning of the exemption, "for the 2-year period immediately before retirement * * *." This requirement, according to the legislative history, prevents an employer from placing an employee within such a position just before age 65 (or any other age less than 70) in order to be able to force the employee to retire on account of age (Conference Report, p. 9).

In implementing paragraph (2) of the exemption, the proposed regulation takes the position that an employee, in order to fall within the exemption, must have the option of in fact receiving, *during each year of his or her lifetime following retirement*, at least \$27,000 per year (exclusive of amounts attributable to Social Security, employee contributions and contributions of prior employers). This requirement is met where the employee has the option of receiving, during each year of his or her lifetime following retirement, an annual payment of at least \$27,000, or periodic payments on a more frequent basis which, in the aggregate, equal at least \$27,000 per year. The requirement is also met where the employee has the option of receiving, upon retirement, a lump sum payment with which it is possible to purchase a single life annuity (with no ancillary benefits) yielding at least \$27,000 per year.

Where an employee who has any of the options described above instead freely selects still another available option (or options) providing for payments after his or her death, the proposed regulation takes the position that the value of these payments may be included in determining whether all of the retirement benefits are actuarially equivalent to a single life annuity (with no ancillary benefits) of at least \$27,000 per year. On the other hand, where an employee has no choice but to have certain benefits provided after his or her death, the value of these

benefits may not be included in this determination.

This approach is designed to assure that no employee who is required to receive less than \$27,000 per year during his or her lifetime in retirement (because of other benefits being provided only after death) will fall within the exemption.

Under the proposed interpretation, the nonforfeitable annual retirement benefit is considered "immediate" within the meaning of the exemption if the first payment of plan benefits is made not later than 60 days after the compulsory retirement. Any further delay could impose serious financial hardship on employees whose salary is cut off because of compulsory retirement.

The proposed regulation, in accord with the legislative history, takes the position that the only retirement benefits which may be counted towards the \$27,000 annual benefit are those from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans.

Also in accord with the legislative history, the proposed regulation excludes from the calculation of the retirement income "amounts attributable to social security, employee contributions, and contributions of prior employers" (Conference Report, p. 9). In the Department's view, it is unnecessary to set forth special rules explaining how amounts attributable to Social Security are to be calculated. These amounts appear to be readily determinable. However, if there are situations where this may not be the case, the Department would welcome comments to that effect, together with suggested means of handling the problem.

Excluding amounts attributable to employee contributions requires further explanation. The proposed regulation generally follows section 411(c) of the Internal Revenue Code (as added to the Code by section 1012(a) of ERISA), and the Treasury regulations thereunder. Here, too, the Department would welcome comments.

The proposed regulation also deals with the issue of excluding contributions by previous employers from the determination of the value of the retirement benefits. The purpose of this restriction, according to the legislative history, is to assure that "the employee's retirement income will be adjusted to reflect the level of retirement income actually provided by the employer wishing to initiate compulsory retirement." (Senate Report, p. 8).

The contributions to the pension, profit-sharing, savings, or deferred compensation plan made by the employer which actually makes the decision to force the employee to retire

may be counted, as the legislative history makes clear. The proposed interpretation adds to this the requirement that the employer which in fact forces the employee to retire must be the employer which in fact forces the employee to retire must be the employer which customarily and regularly makes such decisions. If this second requirement were not imposed there would be a broad loophole. For example, if a subsidiary of a parent corporation customarily and regularly makes its own decisions about whether to discharge employees (and institute other important personnel actions), the subsidiary might ask the parent to force an employee to retire on account of age so that both parent and subsidiary would be deemed the last employer, with the result that pension contributions made by both could be counted towards the \$27,000. The proposed regulation closes this loophole.

REGULATORY ANALYSIS

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044, Improving Government Regulations (43 FR 12661, Mar. 24, 1978), or the Department of Labor's proposed guidelines for implementing the Executive Order (43 FR 22915, May 26, 1978).

This document was prepared under the direction and control of Xavier M. Vela, Administrator, Wage and Hour Division. The principal authors were James B. Leonard, Counsel for Legal Advice, and Paul D. Brenner, Attorney, Office of the Solicitor, and Sandra K. Bollhoefer, Wage-Hour Analyst, Wage and Hour Division. They were assisted by staff from the Office of the Solicitor and the Wage and Hour Division.

Accordingly, it is proposed to add new §§ 850.17 and 860.97, and new subsection (c) § 850.1 of Title 29, Code of Federal Regulations, as follows:

Subpart A—General

§ 850.1 Purpose and scope.

* * * * *

(c) Subpart D of this part sets forth the Department of Labor's regulations issued pursuant to section 12(c)(2) of the Act, providing that the Secretary of Labor, after consultation with the Secretary of the Treasury, shall prescribe the manner of calculating the amount of qualified retirement benefits for purposes of the exemption in section 12(c)(1) of the Act.

* * * * *

Subpart D—Statutory Exemption

§ 850.17 Calculating the amount of qualified retirement benefits for purposes of the exemption for bona fide executive or high policymaking employees.

(a) Section 12(c)(1) of the Act, added by the 1978 amendments, provides: "Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least \$27,000." The Department of Labor's interpretative statements regarding this exemption are set forth in § 860.97 of this Chapter.

(b) Section 12(c)(2) of the Act provides: "In applying the retirement benefit test of paragraph (a) of this subsection, if any such retirement is in a form other than a straight life annuity (with no ancillary benefits), or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with regulations prescribed by the Secretary [of Labor], after consultation with the Secretary of the Treasury, so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made."

(c) The requirement that an employee be entitled to the equivalent of a \$27,000 straight life annuity (with no ancillary benefits) is satisfied in any case where the employee has the option of receiving, during each year of his or her lifetime following retirement, an annual payment of at least \$27,000, or periodic payments on a more frequent basis which, in the aggregate, equal at least \$27,000 per year. *Provided, however,* that the portion of the retirement income figure attributable to Social Security, employee contributions, rollover contributions and contributions of prior employers is excluded in the manner described in subsection (e) below. (A retirement benefit which excludes these amounts is sometimes referred to herein as a retirement benefit, "as adjusted.") The requirement is also met where the employee has the option of receiving, upon retirement, a lump sum payment with which it is possible to purchase a single life annuity (with no ancillary benefits) yielding at least \$27,000 per year as adjusted. Where an

employee has the option of receiving at least \$27,000 per year for each year of his or her life in retirement or of receiving a single lump sum payment of an actuarially equivalent value, but instead selects another option (or options), the test is also met. On the other hand, where an employee has no choice but to have certain benefits provided after his or her death, the value of these benefits may not be included in this determination.

(d) The only retirement benefits which may be counted towards the \$27,000 annual benefit are those from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans. The value of benefits from any other employee benefit plans, such as health or life insurance, may not be counted.

(e) In calculating the value of a pension, profit-sharing, savings, or deferred compensation plan (or any combination of such plans), amounts attributable to Social Security, employee contributions, contributions of prior employers, and rollover contributions must be excluded. Specific rules are set forth below.

(1) *Social Security.* Amounts attributable to Social Security must be excluded. Since these amounts are readily determinable, no specific rules are deemed necessary.

(2) *Employee contributions.* Amounts attributable to employee contributions must be excluded. The regulations governing this requirement are based on section 411(c) of the Internal Revenue Code and Treasury Regulations thereunder (section 1.411(c)-(1)), relating to the allocation of accrued benefits between employer and employee contributions. Different calculations are needed to determine the amount of employee contributions, depending upon whether the retirement income plan is a defined contribution plan or a defined benefit plan. Defined contribution plans (also referred to as individual account plans) generally provide that each participant has an individual account and the participant's benefits are based solely on the account balance. No set benefit is promised in defined contribution plans, and the final amount is a result not only of the actual contributions, but also of other factors, such as investment gains and losses. Any retirement income plan which is not an individual account plan is a defined benefit plan. Defined benefit plans generally provide a definitely determinable benefit, by specifying either a flat monthly payment or a schedule of payments based on a formula (frequently involving salary and years of service), and they are funded according to actuarial principles over the employee's period of participation.

(i) *Defined contribution plans.*

(A) *Separate accounts maintained.* If a separate account is maintained with respect to an employee's contributions and all income, expenses, gains and losses attributable thereto, the balance in such an account represents the amount attributable to employee contributions.

(B) *Separate accounts not maintained.* If a separate account is not maintained with respect to an employee's contributions and the income, expenses, gains and losses attributable thereto, the proportion of the total benefit attributable to employee contributions is determined by multiplying that benefit by a fraction—

(1) The numerator of which is the total amount of the employee's contributions under the plan (less withdrawals), and

(2) The denominator of which is the sum of the numerator and the total contributions made under the plan by the employer on behalf of the employee (less withdrawals).

Example: A defined contribution plan does not maintain separate accounts for employee contributions. An employee's annual retirement benefit under the plan is \$40,000. The employee has contributed \$96,000 and the employer has contributed \$144,000 to the employee's individual account; no withdrawals have been made. The amount of the \$40,000 annual benefit attributable to employee contributions is

$$\frac{\$40,000 \times \$96,000 / \$96,000 + \$144,000}{\$144,000} = \$16,000$$

Hence the employer's share of the \$40,000 annual retirement benefit is \$40,000 minus \$16,000 or \$24,000—too low to fall within the exemption.

(ii) *Defined benefit plans.*

(A) *Separate accounts maintained.* If a separate account is maintained with respect to an employee's contributions and all income, expenses, gains and losses attributable thereto, the balance in such an account represents the amount attributable to employee contributions.

(B) *Separate accounts not maintained.* If a separate account is not maintained with respect to an employee's contributions and the income, expenses, gains and losses attributable thereto, all of the contributions made by an employee must be converted actuarially to a single life annuity (without ancillary benefits) commencing at the age of forced retirement. An employee's accumulated contributions are the sum of all contributions (mandatory and, if not separately accounted for, voluntary) made by the employee, together with interest on the sum of all such contributions compounded annually at the rate of 5 percent per annum from the time each such contribution was made until the date of retirement. This amount must be multiplied by an "appropriate conversion factor" in order to convert it

to a single life annuity (without ancillary benefits) commencing at the age of actual retirement. The appropriate conversion factor depends upon the age of retirement. In accordance with Rev. Rul. 76-47, 1976-2 C. B. 109, the following conversion factors shall be used with respect to the specified retirement ages:

Retirement Age:	Conversion Factor
65 through 66.....	10%
67 through 68.....	11%
69.....	12%

Example. An employee is scheduled to receive a pension from a defined benefit plan of \$50,000 per year. Over the years he has contributed \$150,000 to the plan, and at age 65 this amount, when contributions have been compounded at an annual interest rate of 5 percent, is equal to \$240,000. In accordance with Rev. Rul. 76-47, 10 percent is an appropriate conversion factor. When the \$240,000 is multiplied by this conversion factor, the product is \$24,000, which represents that part of the \$50,000 annual pension payment which is attributable to employee contributions. The difference—\$26,000—represents the employer's contribution, which is too low to meet the test in the exemption.

(3) *Contributions of prior employers.* Amounts attributable to contributions of prior employers must be excluded.

(i) *Current employer distinguished from prior employers.* The current employer—as distinct from prior employers—is the employer which (a) in fact forces the employee in question to retire and (b) customarily and regularly makes hiring, promotion, and discharge decisions with respect to similarly situated employees. Any employer which does not meet these criteria is a prior employer.

(ii) *Benefits attributable to current employer and to prior employers.* Where the current employer maintains or contributes to a plan which is separate from plans maintained or contributed to by prior employers, the amount of the employee's benefit attributable to those prior employers can be readily determined. However, where the current employer maintains or contributes to the same plan as prior employers, the following rule shall apply. The benefit attributable to the current employer shall be the total benefit received by the employee, reduced by the benefit that the employee would have received from the plan if he or she had never worked for the current employer. For purposes of this calculation, it shall be assumed that all benefits have always been vested, even if benefits accrued as a result of service with a prior employer had not in fact vested.

(4) *Rollover contributions.* Amounts attributable to rollover contributions must be excluded. For purposes of subsection 850.17(e), a rollover contribution (as defined in sections 402(a)(5), 403(a)(4), 408(d)(3), and 409(b)(C) of

the Internal Revenue Code) shall be treated as an employee contribution. These amounts have already been excluded as a result of the computations set forth in subsection 850.17(e)(2). Accordingly, no separate calculation is necessary to comply with this requirement.

§ 860.97 Exemption for bona fide executive or high policymaking employees.

(a) Section 12(c)(1) of the Act, added by the 1978 amendments, provides: "Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least \$27,000."

(b) Since this provision is an exemption from the non-discrimination requirements of the Act, the burden is on the one seeking to invoke the exemption to show that every element has been clearly and unmistakably met. Moreover, as with other exemptions from the Act, this exemption must be narrowly construed.

(c) An employee within the exemption can lawfully be forced to retire on account of age at age 65 or above. In addition, the employer is free to retain such employees, either in the same position or status or in a different position or status. For example, an employee who falls within the exemption may be offered a position of lesser status or a part-time position. An employee who accepts such a new status or position, however, may not be treated any less favorably, on account of age, than any similarly situated younger employee.

(d)(1) In order for an employee to qualify as a "bona fide executive," the employer must initially show that the employee satisfies the definition of a bona fide executive set forth in § 541.1 of this Chapter. Each of the requirements in subparagraphs (a) through (e) of § 541.1 must be satisfied, regardless of the level of the employee's salary or compensation.

(2) Even if an employee qualifies as an executive under the definition in § 541.1 of this Chapter, the exemption from the ADEA may not be claimed unless the employee also meets the further criteria specified in the Conference Committee Report in the form of examples (see H.R. Rept. No. 95-950, p. 9). The examples are intended to make clear that the exemption does

not apply to middle-management employees, no matter how great their retirement income, but only to a very few top level employees who exercise substantial executive authority over a significant number of employees and a large volume of business. As stated in the Conference Report (H.R. Rept. No. 95-950, p. 9):

Typically the head of a significant and substantial local or regional operation of a corporation [or other business organization], such as a major production facility or retail establishment, but not the head of a minor branch, warehouse or retail store, would be covered by the term "bona fide executive." Individuals at higher levels in the corporate organizational structure who possess comparable or greater levels of responsibility and authority as measured by established and recognized criteria would also be covered.

The heads of major departments or divisions of corporations [or other business organizations] are usually located at corporate or regional headquarters. With respect to employees whose duties are associated with corporate headquarters operations, such as finance, marketing, legal, production and manufacturing (or in a corporation organized on a productline basis, the management of product lines), the definition would cover employees who head those divisions.

In a large organization the immediate subordinates of the heads of these divisions sometimes also exercise executive authority, within the meaning of this exemption. The conferees intend the definition to cover such employees if they possess responsibility which is comparable to or greater than that possessed by the head of a significant and substantial local operation who meets the definition.

(e) The phrase "high policymaking position," according to the Conference Report (H.R. Rept. No. 95-950, p. 10), is limited to " * * * certain top level employees who are not 'bona fide executives' * * *." Specifically, these are:

* * * individuals who have little or no line authority but whose position and responsibility are such that they play a significant role in the development of corporate policy and effectively recommend the implementation thereof.

For example, the chief economist or the chief research scientist of a corporation typically has little line authority. His duties would be primarily intellectual as opposed to executive or managerial. His responsibility would be to evaluate significant economic or scientific trends and issues, to develop and recommend policy direction to the top executive officers of the corporation, and he would have a significant impact on the ultimate decision on such policies by virtue of his expertise and direct access to the decisionmakers. Such an employee would meet the definition of a "high policymaking" employee.

On the other hand, as this description makes clear, the support personnel of a "high policymaking" employee would not be subject to the exemption even if they supervise the development, and draft the recommenda-

tion, of various policies submitted by their supervisors.

(f) In order for the exemption to apply to a particular employee, the employee must have been in a "bona fide executive or high policymaking position," as those terms are defined in this section, for the two-year period immediately before retirement.

(g) The Conference Committee Report expressly states that the exemption is not applicable to Federal employees covered by section 15 of the Act (H.R. Rept. No. 95-950, p. 10).

(h) The "annual retirement benefit," to which covered employees must be entitled, is the sum of amounts payable during each one-year period from the date on which such benefits first become receivable by the retiree. Once established, the annual period upon which calculations are based may not be changed from year to year.

(i) The annual retirement benefit must be immediately available to the employee to be retired pursuant to the exemption. For purposes of determining compliance, "immediate" means that the payment of plan benefits (in a lump sum or the first of a series of periodic payments) must occur not

later than 60 days after the effective date of the retirement in question.

(j) The annual retirement benefit must equal, in the aggregate, at least \$27,000. Accordingly, the exemption may not be applied to any employee for whom anticipated benefits are calculated, as of the effective date of retirement, to be less than that amount in any one-year period. Payments which are calculated to exceed the minimum statutory level in any one-year period may not be set off against payments which are calculated to fall below that level in any other year, except in the case of a single lump sum payment. (Regulations issued pursuant to section 12(c)(2) of the Act, regarding the manner of calculating the amount of qualified retirement benefits for purposes of the exemption, are set forth in § 850.17 of this Chapter.)

(k) (1) The annual retirement benefit must be "nonforfeitable." Accordingly, the exemption may not be applied to any employee subject to plan provisions which could cause the cessation of payments to a retiree or result in the reduction of benefits to less than \$27,000 in any one year. For example, where a plan contains a pro-

vision under which benefits would be suspended if a retiree engages in litigation against the former employer, or obtains employment with a competitor of the former employer, the retirement benefit will not be deemed to be "nonforfeitable."

(2) An annual retirement benefit will not be deemed forfeitable merely because the minimum statutory benefit level is not guaranteed against the possibility of plan bankruptcy or is subject to benefit restrictions in the event of early termination of the plan in accordance with Treasury Regulation 1.401-4(c). However, as of the effective date of the retirement in question, there must be at least a reasonable expectation that the plan will be sufficiently funded to meet its obligations.

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

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

[FR Doc. 78-34592 Filed 12-11-78; 8:45 am]

Federal Register

TUESDAY, DECEMBER 12, 1978

PART III



DEPARTMENT OF
LABOR

Wage and Hour Division

AGE DISCRIMINATION IN
EMPLOYMENT ACT—
EXEMPTION FOR CERTAIN
TENURED EMPLOYEES AT
INSTITUTIONS OF
HIGHER LEARNING

Interpretations

[4510-27-M]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 860]

INTERPRETATIONS

Age Discrimination in Employment Act—Exemption for Certain Tenured Employees at Institutions of Higher Education

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed amendment to Interpretative Bulletin and notice of hearing thereon.

SUMMARY: The Interpretative Bulletin on the Age Discrimination in Employment Act of 1967, as amended ("ADEA" or "Act"), sets forth various interpretations which indicate the construction of the ADEA that the Department of Labor believes to be correct and which will guide it in the performance of its administrative and enforcement duties under the Act. As a result of the Age Discrimination in Employment Act Amendments of 1978, Pub. L. 95-256, 92 Stat. 189 (approved April 6, 1978), several sections of the Interpretative Bulletin must be revised, and new sections must be added, in order to take account of the amendments, as well as to clarify interpretations which have previously been misunderstood. The revisions and additions reflect the statutory changes in 1978, the intent of Congress as reflected in the legislative history, and the general purposes of the Act. Each major change in the Interpretative Bulletin necessitated by the 1978 amendments will be published as a separate document in the FEDERAL REGISTER. This document deals with the exemption for certain tenured employees at institutions of higher education. Other documents to be published deal with the exemption for certain executive and high policymaking employees, and the prohibition of involuntary retirement. A document dealing with employee benefit plans was published in the FEDERAL REGISTER on September 22, 1978, (43 FR 43264).

DATES: Written comments must be received by the Department of Labor on or before February 12, 1979. A public hearing on the proposed amendment will be held beginning at 10 a.m. on January 8, 1979. Persons or organizations wishing to present their views at the hearing must provide the Department with written comments on this proposed amendment and a request to testify by January 5, 1979.

ADDRESSES: The hearing will be held in Conference Room N-5437, A and B, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washing-

ton, D.C. 20210. Written comments and requests to testify at the hearing should be submitted in quadruplicate to Francis V. LaRuffa, Jr., Chief, Branch of Age Discrimination, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-3028, Washington, D.C. 20210. A copy of all such written comments may be examined during normal business hours at the office of Xavier M. Vela, Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-3502, Washington, D.C. 20210. The entire record, or any part thereof, may be purchased at the actual cost of duplication as computed pursuant to the fee schedule in 29 CFR 70.62(b).

FOR FURTHER INFORMATION CONTACT:

Francis V. LaRuffa, Jr., Chief, Branch of Age Discrimination, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-3028, Washington, D.C. 20210, Telephone: (202) 523-7640. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of Labor has under consideration a proposal to add new section 860.98 to the Interpretative Bulletin in order to set forth the Department's interpretation of section 12(d) of the Act, which takes effect on January 1, 1979, when the maximum age of individuals in the non-Federal sector protected by the Act is extended from age 65 to age 70. Section 12(d) provides a temporary exemption for newly-covered employees, serving under a contract or similar arrangement of unlimited tenure, at an institution of higher education. The statutory text provides:

(d) Nothing in this Act shall be construed to prohibit compulsory retirement of an employee who has attained 65 years of age but not 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).

As provided by section 3(b)(3) of the 1978 amendments, this exemption is repealed on July 1, 1982.

One principal problem of interpretation presented by this exemption is whether the word "employee" in section 12(d) should be restricted to those whose sole (or at least primary) duty is teaching. The concept of tenure has traditionally been applied to teachers as a means of assuring academic freedom. On the other hand, when the exemption emerged from the Senate Committee, there was a companion provision exempting tenured "teach-

ers" employed by a local educational agency of a state (see S. Rept. No. 95-493, p. 9). Failure to use the same word in section 12(d), which instead specifies "any employee" (emphasis added), suggests that a broader application of the exemption was in fact intended with regard to institutions of higher education. Indeed, although the Senate floor debates refer largely to "teachers", there is also discussion of the exemption as applying to all tenured "faculty members" (see 123 Cong. Rec. S17278-S17295). This is reflected in the Conference Committee Report, which states that the exemption permits the mandatory retirement of "faculty members" (H.R. Rept. No. 95-950, p. 10), as well as in the statements of the House and Senate floor managers (124 Cong. Rec. H2270, S4449). While faculties may differ from one institution to another, they are usually comprised of those groups of employees who are eligible to receive "tenure". Moreover, while teachers do constitute the largest group of employees eligible for tenure at any institution of higher education, certain other groups (such as academic deans, scientific researchers, professional librarians and counselling staff) are frequently also eligible. See, e.g., Commission on Academic Tenure in Higher Education, *Faculty Tenure* (San Francisco: Jossey-Bass, Inc., Publishers, 1973), p. 77.

In light of this legislative history and these facts, the Department's proposed interpretation does not limit the exemption solely to teachers who meet the tenure requirements. Other employees, such as those described above, may also be exempt if they meet the tenure and other tests of the exemption.

A second major problem arises with regard to the phrase "unlimited tenure", which is not defined in the Act. The Department's proposed interpretation adopts the almost universally accepted definition of academic "tenure" set forth in the 1940 Statement of Principles on Academic Freedom and Tenure, jointly adopted by the Association of American Colleges and American Association of University Professors. See *Faculty Tenure*, *supra*, pp. 251-252.

See also *AAUP Policy Documents and Reports*, 1977 edition (American Association of University Professors, Washington, D.C.), p. 2. The legislative history of the exemption shows clear Congressional recognition that there are certain rights and privileges associated with tenure. Senator Chafee, who introduced the measure, referred to a wide range of policies and practices, such as the important requirement that an institution must "prove incompetence or just cause" before discharging a tenured employee

(123 Cong. Rec. S17286; see also 123 Cong. Rec. S17279, S17287). Although the legislative history does not contain a comprehensive list of the minimum standards required for a tenure system to qualify under the exemption, the standards specifically discussed in the floor debates indicate that the sponsors had in mind the most widely accepted definition as set forth in the 1940 Statement of Principles on Academic Freedom and Tenure. This definition will be the standard against which any tenure plan must be judged for adequacy.

The proposed interpretation, in accord with the statutory text, adopts the definition of "institution of higher education" used in the Higher Education Act of 1965.

The proposed interpretation also deals with the issue of whether employees who fall within the exemption may be offered a change in position or status, which is short of forced retirement, and which therefore allows them to remain as employees. The statutory text by its terms excuses only "compulsory retirement." However, if this language were interpreted literally, it would lead to the anomalous result that an employer having an employee within the exemption would be able to force the employee to retire, but would not be able to offer the employee nontenured status or (in the case of a full-time employee) a part-time position. The Department does not believe that the exemption was intended to lead to such a situation. In light of these considerations, where an employee falls within the exemption, the Department will not question a conversion to part-time status or other change in position or status short of forced retirement, provided that the employee voluntarily accepts this new position or status, and that he or she is treated no less favorably than similarly situated younger employees. The proposed interpretation reflects this position.

REGULATORY ANALYSIS

It has been determined that this document does not contain a major proposal requiring the preparation of a regulatory analysis under Executive Order 12044, Improving Government Regulations (43 FR 12661, March 24, 1978), or the Department of Labor's proposed guidelines for implementing the Executive Order (43 FR 22915, May 26, 1978).

This document was prepared under the direction and control of Xavier M. Vela, Administrator, Wage and Hour Division. The principal authors were James B. Leonard, Counsel for Legal Advice, and Paul D. Brenner, Attorney, Office of the Solicitor, and Sandra K. Bollhoefer, Wage-Hour Analyst, Wage and Hour Division. They

were assisted by staff from the Office of the Solicitor and the Wage and Hour Division.

Accordingly, it is proposed to add new § 850.98 to Title 29 Code of Federal Regulations, as follows:

§ 860.98 Exemption for employees serving under a contract of unlimited tenure.

(a)(1) Section 12(d) of the Act, added by the 1978 amendments, provides: "Nothing in this act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age but not 70 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965)."

(2) This exemption from the Act's protection of covered individuals takes effect on January 1, 1979, and is repealed on July 1, 1982 (see sections 3(b)(1) and 3(b)(3) of the Age Discrimination in Employment Act Amendments of 1978, Pub. L. 95-256, 92 Stat. 189). Individuals are not subject to the exemption if they are employed by an institution of higher education as of July 1, 1982, regardless of whether their duties for the current academic year ceased before, or had not begun by, that date. Receipt of regular salary and employee benefits (except retirement benefits) will be treated as conclusive proof of an employment relationship.

(b) Since section 12(d) is an exemption from the nondiscrimination requirements of the Act, the burden is on the one seeking to invoke the exemption to show that every element has been clearly and unmistakably met. Moreover, as with other exemptions from the ADEA, this exemption must be narrowly construed.

(c) Section 1201(a) of the Higher Education Act of 1965, as amended by 20 U.S.C. 403(b), provides in pertinent part:

The term "institution of higher education" means an educational institution in any state which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association approved by the Commissioner (of Education) for this purpose or, if not so accredited, (A) is an institution with respect to which the Commissioner has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time if any, during which

it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. * * *

The definition encompasses almost all public and private universities and two- and four-year colleges. The omitted portion of the text of section 1201(a) refers largely to one-year technical schools, which generally do not grant tenure to employees, but which, if they do, are also eligible to claim the exemption.

(d)(1) Use of the term "any employee" indicates that application of the exemption is not limited to teachers, who are traditional recipients of tenure. The exemption may also be available with respect to other groups, such as academic deans, scientific researchers, professional librarians and counselling staff, who frequently have tenured status.

(2) The Conference Committee Report on the 1978 amendments expressly states that the exemption does not apply to Federal employees covered by section 15 of the Act (H.R. Rept. No. 95-950, p. 10).

(e)(1) The phrase "unlimited tenure" is not defined in the Act. However, the almost universally accepted definition of academic "tenure" is an arrangement under which faculty appointments in an institution of higher education are continued until retirement for age or physical disability, subject to dismissal for adequate cause or unavoidable termination on account of financial exigency or change of institutional program. Adopting that definition, it is evident that the word "unlimited" refers to the duration of tenure. Therefore, a tenure contract or arrangement which is limited to a specific term (for example, one year or 10 years), will not meet the requirements of the exemption.

(2) The legislative history shows that Congress intended to allow the exemption only where the minimum rights and privileges traditionally associated with tenure are guaranteed to an employee by contract or similar arrangement. While tenure policies and practices vary greatly from one institution to another, the minimum standards set forth in the 1940 Statement of Principles on Academic Freedom and Tenure, jointly developed by the Association of American Colleges and the American Association of University Professors, have enjoyed widespread adoption or endorsement. Arrangements which meet those standards will, therefore, satisfy the tenure requirements of the exemption. The

1940 Statement of Principles on academic tenure provides as follows:

(a) After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

In the interpretation of this principle it is understood that the following represents acceptable academic practice:

(1) The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.

(2) Beginning with appointment to the rank of full-time instructor or a higher rank, the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution it may be agreed in writing that his new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years. Notice should be given at least one year prior to the expiration of the probationary period if the teacher is not to be

continued in service after the expiration of that period.

(3) During the probationary period a teacher should have the academic freedom that all other members of the faculty have.

(4) Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges against him and should have the opportunity to be heard in his own defense by all bodies that pass judgment upon his case. He should be permitted to have with him an advisor of his own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from his own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.

(5) Termination of a continuous appointment because of financial exigency should be demonstrably bona fide.

(f) Employees who are not assured

of a continuing faculty appointment either by contract of tenure or other similar arrangement (such as a state statute) would not, of course, be exempted from the prohibitions against compulsory retirement, even if they perform functions identical to those performed by employees with appropriate tenure.

(g) An employee within the exemption can lawfully be forced to retire on account of age at age 65 or above. In addition, the employer is free to retain such employees, either in the same position or status or in a different position or status. For example, an employee who falls within the exemption may be offered a non-tenured position or part-time employment. An employee who accepts a non-tenured position or part-time employment, however, may not be treated any less favorably, on account of age, than any similarly situated younger employee.

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

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

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Federal Register

TUESDAY, DECEMBER 12, 1978

PART IV



DEPARTMENT OF ENERGY



**ENERGY MEASURES AND ENERGY
AUDITS; GRANT PROGRAMS FOR
SCHOOLS AND HOSPITALS, AND
BUILDINGS OWNED BY UNITS OF
LOCAL GOVERNMENT AND PUBLIC
CARE INSTITUTIONS**

Proposed Rulemaking and Public Hearing

[6450-01-M]

DEPARTMENT OF ENERGY

[10 CFR Part 450, 455]

ENERGY MEASURES AND ENERGY AUDITS

Grant Programs for Schools and Hospitals, and Buildings Owned by Units of Local Government and Public Care Institutions

Proposed Rulemaking and Public Hearings

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearings.

SUMMARY: The Department of Energy proposes to issue regulations for administration of two grant programs to provide financial assistance, subject to cost-sharing requirements, for schools, hospitals, units of local government and public care institutions for the purpose of reducing the consumption, and associated costs, of conventional energy resources. This objective is to be achieved through the adoption of improved operation and maintenance procedures and the implementation of selected energy conservation measures. Financial assistance which may be provided under these regulations will be for the conduct of preliminary energy audits and energy audits as a part of larger programs the Department is developing for (1) schools and hospitals, and (2) buildings owned by units of local government and public care institutions. Under both programs, financial assistance will be provided through grants which the Secretary may make to States. A State may participate in either program or both.

The Department proposes to amend 10 CFR Part 450 by making technical revisions and adding a new Subpart E to establish requirements for the conduct of preliminary energy audits and energy audits, the qualifications of persons conducting them and allowable costs of energy audits, for the two grant programs. The Department also proposes to add a new Part 455 to Title 10 of the Code of Federal Regulations. Written comments will be received and public hearings will be held with respect to this proposal.

DATES: Written comments must be received by January 12, 1979, 4:30 p.m., e.s.t.; requests to speak at the national hearing must be received by January 3, 1979, 4:30 p.m., e.s.t. Regional hearings will be held on the dates and at the times and places indicated below. The regulations are proposed to become effective upon publication of the final rule. The reason for this effective date is to allow States the maximum time possible to plan, fund and conduct preliminary energy audits and energy audits.

ADDRESSES: Send comments and requests to speak at the national hearing to Margaret Sibley, Office of State Specific Programs, Mail Stop 461, Room 6456, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Requests to speak at the regional hearings should be submitted by the dates and at the times and places indicated below.

The national hearing will be held on January 8, 9 and 10, 9:30 a.m., e.s.t., Room 3000A, 12th & Pennsylvania Ave., N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Michael Willingham, Director, State Specific Programs, Office of Conservation and Solar Applications, Room 6456, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202) 633-8640.

SUPPLEMENTARY INFORMATION:

- A. Introduction.
- B. Financial assistance.
- C. Preliminary energy audits.
- D. Energy audits.
- E. Energy audit distinctions.
- F. Conversion factors.
- G. State responsibilities.
- H. Auditor qualifications.
- I. Allocation of funds.
- J. Redistribution of funds.
- K. Use of funds.
- L. Application procedure.
- M. Comment procedures.
- N. Consultation with other Federal agencies, environmental and urban reviews and regulatory analysis.

A. INTRODUCTION

Parts 1 and 2 of Title III of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3206 amend Title III of the Energy Policy and Conservation Act (Act) by establishing Parts G and H. Part G creates a cost-sharing energy conservation grant program for States and public and nonprofit schools and hospitals to assist them in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring and installing energy conservation measures to reduce the energy and anticipated energy costs of schools and hospitals.

Part H creates a cost-sharing energy conservation grant program for States, units of local government and public and nonprofit public care institutions to assist them in conducting preliminary energy audits and energy audits, in identifying and implementing energy conservation maintenance and operating procedures, and in evaluating energy conservation measures to reduce the energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.

As a first step, Parts G and H direct the Department of Energy (DOE) to

prescribe guidelines for preliminary energy audits and energy audits. Accordingly, this proposal contains regulations governing provision of financial assistance for, and requirements for conduct of, audits, as well as the qualifications of persons conducting and allowable costs of, energy audits.

The proposed rulemaking for preliminary energy audits and energy audits is in two segments. It is proposed to amend Part 450 to Title 10, Chapter II of the Code of Federal Regulations, titled *Energy Measures and Energy Audits*, to prescribe the content of preliminary energy audits, energy audits, auditor qualifications, reports, and cost constraints. It is also proposed to amend Title 10, Chapter II of the Code of Federal Regulations, to establish a new Part 455 titled *Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Governments and Public Care Institutions*. This proposed part contains provisions and application requirements for financial assistance to conduct preliminary energy audits and energy audits. It includes a description of the formulae which will be used by DOE to allocate grant funds among the States, guidelines for preparation of grant applications, and administrative procedures concerning grant management and reporting.

DOE solicits comments on two issues that were considered but unresolved during the preparation of this proposed rule and which may appear in the final rule. First, in the definition of "unit of local government", the Act provides that general purpose units of local government are to be determined on the basis of the same principles used by the Bureau of the Census. The question is whether to include "parish" and "borough" in the definition since they are included in the Bureau of the Census reports. Second, the legislative history of NECPA reflects an intention on the part of the House and Senate conferees that the term "public or nonprofit institution" should be construed to include libraries which derive their principal support from tax revenues, even though such libraries may not be owned or operated by units of local government, as that term is defined. The question is whether it would be appropriate or useful to include "library" as a defined term in the regulation, and what criteria should be used in determining whether a given library derives its "principal support" from tax revenues.

B. FINANCIAL ASSISTANCE

In accordance with regulations to be promulgated by DOE, financial assistance will be available for activities other than audits. The program for schools and hospitals will also provide financial assistance for energy conser-

vation projects. The program for buildings owned by units of local government and public care institutions will also provide financial assistance for technical assistance programs. A technical assistance program calls for an in-depth study which measures the consumption or cost of energy in order to identify and facilitate the implementation of energy conservation maintenance and operating procedures or energy conservation measures. An energy conservation project provides for a technical assistance program or financial assistance for the purchase and installation of an energy conservation measure, or both. As required by the Act, DOE expects to issue a subsequent notice of proposed rulemaking which will describe requirements for technical assistance programs and energy conservation projects, together with requirements for State plans for each program and application procedures for grants.

As required by the Act, States may receive financial assistance to conduct preliminary energy audits and energy audits of schools and hospitals. Similarly, States may receive financial assistance for purposes of conducting preliminary energy audits and energy audits of buildings owned by units of local government or public care institutions. In all cases, a participating State will be responsible for the overall planning and administration of the energy audit program. To carry out the energy audits programs, States may provide financial assistance to schools and hospitals under proposed § 455.16(a), for the one program and to units of local government and public care institutions under proposed § 455.16(b), for the other. Requests by eligible institutions for such assistance may only be made to the State.

As provided in proposed § 455.12, the Federal share of the costs incurred in connection with the operations of either program shall not exceed 50 percent, except that a State may request, and DOE may approve, in accordance with proposed § 455.12(b), a Federal share of up to 100 percent for preliminary energy audits and energy audits for schools and hospitals. Section 398(a)(3) of the Act provides that when a State exercises this option, the amount allocated to such State for energy conservation projects in that fiscal year shall be reduced by an amount equal to the excess over 50 percent of the costs.

The matching funds must be provided from sources other than the Federal government. The non-Federal portion must come from State, local, or private sources and cannot, for example, be derived from revenue sharing or other Federal funds. Grantees may substitute in-kind contributions for cash in providing their share of

the funds. Examples of in-kind contributions are salaries, equipment which may be used during the survey, and printed materials. The State must ensure that at least 75 percent of the matching funds are used for the purpose of conducting energy audits, as opposed to those matching funds which may be used for State administration, training or the conduct of preliminary energy audits.

C. Preliminary Energy Audits

The preliminary energy audit gathers basic information concerning the building audited to determine energy consumption characteristics, including the size, type, and rate of energy use as provided in proposed § 450.42. Major energy-using systems are also to be identified by designating each in terms of fuel source or physical characteristics, or both. Preliminary energy audits are to be conducted only for the purpose of providing information which includes, among other items, a determination of the extent of efforts to conserve energy in the building audited. The preliminary energy audit must indicate, in accordance with proposed § 450.42(b)(1), whether someone has been designated to monitor and evaluate energy use in eligible buildings since it has been found that formal assignments of responsibility for energy management tend to increase the effectiveness of energy conservation efforts. DOE urges the owners and operators of buildings participating in this program to designate an energy manager or coordinator if they have not already done so.

States may apply for and receive financial assistance from DOE for preliminary energy audits. Information derived from preliminary energy audits will be used by States in the development of the State plan for technical assistance programs and the State plan for energy conservation projects programs.

In order to obtain reasonably accurate estimates of the preliminary energy audit information for all eligible institutions within a State, as required by proposed § 455.15(a)(4), it is important that the State either gather the required information from all such institutions or use an appropriate sampling technique. If a sampling approach is used, the institutions to be sampled should be selected randomly, based upon probability proportionate to their size. For example, with respect to units of local government, the State could obtain from existing census data a list of all eligible local governments, together with information on the number of employees or the payroll of each unit of local government. Based on such a list, a sample of these institutions could be made. In developing such a sampling

approach, the State should establish and consider major categories of eligible institutions or units of local government. In addition, all those institutions or units of local government large enough to significantly affect the overall State totals must be included. DOE intends to provide further information on available sampling techniques. Even if a sampling approach is taken, the State should plan to take further actions as soon as practicable in order to obtain the required information from all institutions.

D. Energy Audits

In accordance with proposed § 450.43, the energy audit is a brief survey and analysis of a building, its energy use patterns, its potential for achieving energy savings through operating changes or maintenance actions, and an assessment of its need for energy conservation measures. The audit has three distinct aspects:

(1) Basic information about the building, such as size, functional use, energy use in the past, hours of operation, and other factors bearing on energy use, must be gathered by questionnaire or an on-site visit of the building. Such information is essentially the same as that required by a preliminary energy audit, but is slightly expanded for analytical purposes.

(2) Operating changes or maintenance actions that might improve the building's energy efficiency are identified. The energy saving potential of such actions is significant. Accordingly, because many buildings will not be the object of technical assistance programs or energy conservation projects, DOE proposes to require at least an approximation of potential energy savings being made in order that managers and operators understand their present opportunities to save energy.

Proposed § 450.43(b) requires an analysis of operating changes or maintenance actions either on the basis of actual records of energy use which demonstrate a reduction in energy usage of not less than 20 percent on an annual basis or on the basis of an on-site inspection. The on-site inspection must include a review of any scheduled preventive maintenance plan and a general estimate of energy and cost savings resulting from the actions listed in proposed § 450.43(b)(2). Consideration was given to requiring an estimate of energy savings from each operational change or maintenance action identified. However, such a requirement may be overly complex for the energy audit phase of the program, especially since persons performing the audit in many cases may not be professional engineers or architects.

Public comments are solicited on any steps which may be taken to en-

courage building owners and operators to make changes in operations and maintenance recommended by energy audits.

(3) In accordance with proposed § 450.43(c), the energy audits shall indicate the need for energy conservation measures requiring capital outlays. These measures include the installation or modification of systems in buildings which are intended to facilitate the use of renewable energy resources, such as solar energy systems. One of several approaches may be used by an auditor to assess this need, as required by proposed § 450.43(c). One permitted approach is to use an index such as Btu per gross square foot per year or a combination of similar factors. Another would be to analyze energy costs per gross square foot. The third approach requires an evaluation of physical characteristics of the building. Whichever approach is chosen, the energy audit shall consider such factors as occupancy, hours of operation, types of activity housed, types of fuels used, climate, and effects of changes to operating and maintenance procedures and may also contain an assessment of some simple energy conservation measures.

It is believed that nearly all buildings exceeding 200,000 gross square feet are likely to be under electric rate schedules which require them to pay demand charges. If the examination reveals peaks or "spikes", then an investigation of measures to reduce or spread these demands could result in large cost savings. Accordingly, as an option, an examination of daily or annual use patterns is suggested.

While a detailed evaluation of renewable resource energy measures is generally beyond the scope of an energy audit, initial assessments of building characteristics that affect solar heating or cooling installations or other renewable resource applications are feasible. Consideration of solar energy and other renewable energy applications is encouraged. DOE anticipates that detailed consideration of renewable resource applications will be made under subsequent phases of the grant programs, especially those cases where a significant reduction in energy consumption can be achieved through the use of a renewable energy source. The information contained in an energy audit report should be useful in evaluating applications for technical assistance programs or energy conservation projects which propose an examination of renewable resource energy measures, particularly solar hot water. DOE encourages States to review the energy audit reports with an eye toward early indications regarding the potential for renewable resource energy measures.

E. ENERGY AUDIT DISTINCTIONS

The NECPA defines the term "energy audit" and § 450.41 further defines this term. Nonetheless, there are a number of other analytical tools and techniques of surveying energy conservation potential. The difference between an energy audit and some of these other tools and techniques is discussed here in an effort to avoid confusion.

The energy audit proposed in this rulemaking differs from a detailed engineering analysis conducted by architects or engineers in two major respects. The energy audit is limited to a list of relatively simple opportunities which focuses largely on maintenance and operating actions. The architect or engineer may or may not use such a list and usually examines all reasonable options. Averages and other approximations are used in the energy audit to estimate the costs and benefits of an applicable energy conservation opportunity, and the results are expressed as a range intended to be indicative rather than precise. In a study conducted by an architect or engineer, the flow of energy is usually charted and the costs and benefits of energy conservation opportunities are calculated precisely. A further difference is that the study done by an architect or engineer may include design information.

The energy audit employed for the grant programs is very similar to the information audit under § 450.10 to § 450.14. Major differences exist in point of view, the level of detail and use of the results. An information audit is required to analyze the energy and cost savings of a specific energy conservation measure. An energy audit does not focus on a specific energy conservation measure. Instead it provides an overall analysis of the building as a system. In other words, an information audit examines a specific change to a building while an energy audit evaluates the performance of the entire building. The information resulting from energy audits facilitates State participation in planning and administering the grant programs. An energy audit must consider operation and maintenance actions, while this is not required in an information audit.

However, in some cases, work done for an information audit can qualify as an energy audit. Where information audits completed by a State encompass all of the requirements of an energy audit, such information audits may be used by the State as an energy audit. Work done using the Public School Energy Conservation Survey (PSECS) computer analysis, if done using both PSECS I and II or the updated PSECS III, may also qualify. Use of PSECS as an energy audit may

be subject to verification by the State to assure DOE that the input data were accurate, review of a few additional operating and maintenance procedural items, and completion of an on-site survey of suggested actions to determine which are applicable.

In those instances when States or institutions believe that previously conducted audits would qualify as energy audits, the State must determine that the work done meets the requirements of § 450.40 through § 450.46.

DOE emphasizes the necessity for States to apply for preliminary energy audit and energy audit funds. DOE will not make a determination that previously conducted audits qualify a State to use its preliminary energy audit and energy audit funds for technical assistance or energy conservation projects, as appropriate, unless application for financial assistance for those purposes has been made.

F. CONVERSION FACTORS

The regulations require conversion of fuel units to Btu equivalents. For ease of reference, the cited conversion factors are:

- (a) Electricity—10,500 Btu per kilowatt-hour;
 - (b) Natural gas—1,030 Btu per cubic foot;
 - (c) Distillate—5.825 million Btu per barrel;
 - (d) Residual fuel—6.287 million Btu per barrel;
 - (e) Coal—22.5 million Btu per standard short ton; and
 - (f) LPG—4.01 million Btu per barrel.
- To obtain conversion factors on a per gallon basis rather than per barrel for liquid fuels, divide by 42.

G. STATE RESPONSIBILITIES

The State will be responsible for adopting technical materials and making these available to auditors to assist them in carrying out energy audits. These materials may be prepared by the State or adopted from existing materials. Examples of existing materials useful for the conduct of energy audits are "Identifying Retrofit Projects for Buildings", "Energy You Can Bank On", materials adopted for use in conducting class A audits under the Supplemental State Energy Conservation Program (ECPA), or materials which provide background information on the use of renewable resource energy measures.

The audit may also be conducted using a computer program, such as the PSECS. In either case, it is the State's responsibility to ensure the materials adopted will be applied throughout the State and that the results will satisfy the requirements of an energy audit. DOE, however, intends to make available an energy audit workbook for those States which may wish to

adopt it rather than develop their own energy audit. An energy audit shall in all cases include an on-site survey of the building by a qualified energy auditor except where not less than a 20 percent energy use reduction has already been achieved as required in proposed § 450.43(b)(1).

The State is also responsible for assuring that persons who conduct energy audits have the qualifications required by proposed § 450.44 and for providing training for persons who are to conduct energy audits. See proposed § 455.15(b)(3). DOE seeks to assure that reasonably consistent results are obtained. Accordingly, DOE recommends a three-day training session to present the technical materials and to conduct a trial energy audit in a building or buildings. Satisfactory participation in such a training course should suffice to ensure that the auditor has the knowledge necessary to satisfy the qualification requirements. The State may also specify categories of persons whose education and experience (e.g., mechanical engineers) may be accepted as meeting the qualifications without having to attend the training course.

An important element of the State program management activity is the review of energy audits for effectiveness and financial auditing of subgrantees to assure grant funds are properly used. In accordance with proposed § 455.15(e)(2), DOE requires States to monitor a sampling of on-site energy audits, either simultaneously with the performance of the energy audit or at a later date. DOE may also conduct such on-site reviews to evaluate the efficacy of State reviews, or conduct financial audits, or both.

Proposed § 455.17 specifies reporting requirements. One requirement is that States provide a quarterly report of progress. DOE wishes to emphasize that it is the States's responsibility to identify and report management problems which may occur during the implementation of the energy audit programs.

H. AUDITOR QUALIFICATIONS

No qualification criteria have been established for persons conducting preliminary energy audits. It is important, nevertheless, for participating States to assure collection of reasonably comprehensive and accurate data.

With respect to energy audits, however, proposed § 450.44 requires that

the auditors be familiar with the systems and operations of the types of buildings to be audited. Additionally, the auditor must have received State training (or its equivalent) in conducting energy audits. States should provide appropriate documentation of an individual's qualification to perform energy audits. Lastly, the audit is to be conducted using the technical materials adopted by the State.

The auditor need not be required to have a degree in architecture or engineering or equivalent professional status to meet these requirements. Persons having practical experience with one or more energy-using systems in buildings (e.g., electricians, HVAC maintenance personnel, building operators) should be able to perform energy audits given a workbook and proper training. In training the auditor, it is helpful to go beyond a classroom presentation of the technical material to a trial application in buildings in order to gain familiarity with design and equipment variations. The audit should not be conducted by the building operator, although the auditor may be an employee of the building owner. While the auditor should be familiar with the building type and its major energy-using systems, he or she should not be asked to evaluate his or her own performance as a building operator or manager. However, DOE emphasizes that it is necessary for such operators or managers to be made a part of the audit process both to elicit the best information about the building and to provide some informal training concerning energy conservation techniques.

Persons performing energy audits are required to fully disclose any financial interest relating to the audit or resulting recommendations. Because the results of an energy audit provide the basis for making technical assistance available, or may induce the institution to use its own funds to obtain a detailed engineering analysis or implement retrofit actions, disclosure of any such interest is a prudent requirement to bring potential conflicts of interest to light. DOE is interested in comments regarding the necessity and type of qualifications for auditors.

I. ALLOCATION OF FUNDS

In proposed § 455.13, provision is made for the allocation of funds among the several States for prelimi-

nary energy audits and energy audits, taking into account population, climate and such other factors as are deemed appropriate. The sum of grants to a State and its eligible institutions shall not exceed this allocation.

The design of the funding formulae includes three factors. The first, expressed by the term $.1(l)/(n)$ where n is the number of States and territories (i.e., 55), assures that each participating State will have some minimum share of the funding in order to participate in the program. This factor in effect states that 10 percent of the money available will be shared equally to meet this need.

The second term is $.7(\text{State Population})/(\text{National Population})$. It is assumed that population and the number of eligible buildings are fairly well correlated. Since it is intended that, to the extent permitted by resource constraints, all eligible buildings receive an energy audit, 70 percent of the available funds are proposed to be distributed on the basis of population. State and District of Columbia population figures are drawn from 1976 census estimates, "Current Population Reports", Series P-25, number 642; those of the territories are drawn from the latest available figures, which are for 1973, Series P-25, number 603, and are as shown in Table 1.

The third term of the formula, $.2(\text{State Heating Degree Days} + \text{State Cooling Degree Days})/(\text{Summation of all States' Heating} + \text{Cooling Degree Days})$, considers climate. In the case of energy audits, climate is of less significance compared with the need to provide the broadest coverage of eligible buildings possible. Accordingly, the portion of the total allocated in this factor is proposed to be limited to 20 percent based on State heating and cooling degree days compared with the summation of these for the Nation as a whole. The data were taken from the National Oceanic and Atmospheric Administration State level heating and cooling degree day tables reflecting the average for 30 years, 1941 through 1970. Table 2 presents this data.

Combining these factors as indicated by the proposed formula produces a State allocation factor as shown in Table 3.

The totals shown on all tables may not reflect an addition of the columns due to the effect of rounding individual entries.

PROPOSED RULES

[6450-01-C]

TABLE 1

STATE	POPULATION (IN THOUSANDS)	STATE SHARE OF NATIONAL POP.	STATE SHARE * .7
ALABAMA	3665	0.0168	0.0118
ALASKA	382	0.0018	0.0012
ARIZONA	2270	0.0104	0.0073
ARKANSAS	2109	0.0097	0.0068
CALIFORNIA	21520	0.0988	0.0692
COLORADO	2583	0.0119	0.0083
CONNECTICUT	3117	0.0143	0.0100
DELAWARE	582	0.0027	0.0019
DIST. OF COL.	702	0.0032	0.0023
FLORIDA	8421	0.0387	0.0271
GEORGIA	4970	0.0228	0.0160
HAWAII	887	0.0041	0.0029
IDAH0	831	0.0038	0.0027
ILLINOIS	11229	0.0516	0.0361
INDIANA	5302	0.0243	0.0170
IOWA	2870	0.0132	0.0092
KANSAS	2310	0.0106	0.0074
KENTUCKY	3428	0.0157	0.0110
LOUISIANA	3841	0.0176	0.0123
MAINE	1070	0.0049	0.0034
MARYLAND	4144	0.0190	0.0133
MASSACHUSETTS	5809	0.0267	0.0187
MICHIGAN	9104	0.0418	0.0293
MINNESOTA	3965	0.0182	0.0127
MISSISSIPPI	2354	0.0108	0.0076
MISSOURI	4778	0.0219	0.0154
MONTANA	753	0.0035	0.0024
NEBRASKA	1553	0.0071	0.0050
NEVADA	610	0.0028	0.0020
NEW HAMPSHIRE	822	0.0038	0.0026
NEW JERSEY	7336	0.0337	0.0236
NEW MEXICO	1168	0.0054	0.0038
NEW YORK	18084	0.0830	0.0581
NORTH CAROLINA	5469	0.0251	0.0176
NORTH DAKOTA	643	0.0030	0.0021
OHIO	10690	0.0491	0.0344
OKLAHOMA	2766	0.0127	0.0089
OREGON	2329	0.0107	0.0075
PENNSYLVANIA	11862	0.0545	0.0381
RHODE ISLAND	927	0.0043	0.0030
SOUTH CAROLINA	2848	0.0131	0.0092
SOUTH DAKOTA	686	0.0031	0.0022
TENNESSEE	4214	0.0193	0.0135
TEXAS	12487	0.0573	0.0401
UTAH	1228	0.0056	0.0039
VERMONT	476	0.0022	0.0015
VIRGINIA	5032	0.0231	0.0162
WASHINGTON	3612	0.0166	0.0116
WEST VIRGINIA	1821	0.0084	0.0059
WISCONSIN	4609	0.0212	0.0148
WYOMING	390	0.0018	0.0013
AMERICAN SAMOA	28	0.0001	0.0001
GUAM	100	0.0005	0.0003
PUEERTO RICO	2951	0.0135	0.0095
VIRGIN ISLANDS	83	0.0004	0.0003
U.S. TOTAL	217820	1.0000	0.7000

TABLE 2

STATE	HEATING	COOLING	STATE SHARE	STATE SHARE
	DEGREE DAYS	DEGREE DAYS	HDD + CDD	* .2
ALABAMA	2695	1999	0.0134	0.0027
ALASKA	12012	8	0.0344	0.0069
ARIZONA	2298	2624	0.0141	0.0028
ARKANSAS	3214	1892	0.0146	0.0029
CALIFORNIA	2728	669	0.0097	0.0019
COLORADO	7004	336	0.0210	0.0042
CONNECTICUT	6130	507	0.0190	0.0038
DELAWARE	4780	1021	0.0166	0.0033
DIST. OF COL.	4750	1015	0.0165	0.0033
FLORIDA	704	3368	0.0117	0.0023
GEORGIA	2684	1859	0.0130	0.0026
HAWAII	1	3528	0.0101	0.0020
HAWAII	6917	415	0.0210	0.0042
ILLINOIS	6058	950	0.0201	0.0040
INDIANA	5713	952	0.0191	0.0038
IOWA	6834	876	0.0221	0.0044
KANSAS	4900	1543	0.0184	0.0037
KENTUCKY	4414	1254	0.0162	0.0032
LOUISIANA	1701	2636	0.0124	0.0025
MAINE	8002	222	0.0235	0.0047
MARYLAND	4782	1015	0.0166	0.0033
MASSACHUSETTS	6232	467	0.0192	0.0038
MICHIGAN	6739	593	0.0210	0.0042
MINNESOTA	8729	473	0.0263	0.0053
MISSISSIPPI	2411	2223	0.0133	0.0027
MISSOURI	5024	1332	0.0182	0.0036
MONTANA	8292	239	0.0244	0.0049
NEBRASKA	6347	1099	0.0213	0.0043
NEVADA	4370	1500	0.0168	0.0034
NEW HAMPSHIRE	7535	297	0.0224	0.0045
NEW JERSEY	5470	877	0.0182	0.0036
NEW MEXICO	4766	972	0.0164	0.0033
NEW YORK	5899	677	0.0188	0.0038
NORTH CAROLINA	3392	1454	0.0139	0.0028
NORTH DAKOTA	9484	421	0.0284	0.0057
OHIO	5779	797	0.0188	0.0038
OKLAHOMA	3508	2003	0.0158	0.0032
OREGON	5254	193	0.0156	0.0031
PENNSYLVANNIA	5755	723	0.0185	0.0037
RHODE ISLAND	5924	445	0.0182	0.0036
SOUTH CAROLINA	2697	1885	0.0131	0.0026
SOUTH DAKOTA	7681	801	0.0243	0.0049
TENNESSEE	3801	1458	0.0151	0.0030
TEXAS	2015	2669	0.0134	0.0027
UTAH	6580	630	0.0206	0.0041
VERMONT	7873	293	0.0234	0.0047
VIRGINIA	4286	1113	0.0155	0.0031
WASHINGTON	5752	171	0.0170	0.0034
WEST VIRGINIA	5108	849	0.0171	0.0034
WISCONSIN	7531	541	0.0231	0.0046
WYOMING	7895	326	0.0235	0.0047
AMERICAN SAMOA	1	5325	0.0152	0.0030
GUAM	1	5520	0.0158	0.0032
PUERTO RICO	704	4907	0.0161	0.0032
VIRGIN ISLANDS	704	5427	0.0176	0.0035
U.S. TOTAL	271860	77389	0.9655	0.1931

PROPOSED RULES

TABLE 3

STATE	.1*I/N	+ .7*SF/NF	+ .2*SC/NC	= ALLOCATION FACTOR
ALABAMA	.0018	.0118	.0027	.0163
ALASKA	.0018	.0012	.0069	.0099
ARIZONA	.0018	.0073	.0028	.0119
ARKANSAS	.0018	.0068	.0029	.0115
CALIFORNIA	.0018	.0692	.0019	.0729
COLORADO	.0018	.0083	.0042	.0143
CONNECTICUT	.0018	.0100	.0038	.0156
DELAWARE	.0018	.0019	.0033	.0070
DIST. OF COL.	.0018	.0023	.0033	.0074
FLORIDA	.0018	.0271	.0023	.0312
GEORGIA	.0018	.0160	.0026	.0204
HAWAII	.0018	.0029	.0020	.0067
IDAHO	.0018	.0027	.0042	.0087
ILLINOIS	.0018	.0361	.0040	.0419
INDIANA	.0018	.0170	.0038	.0227
IOWA	.0018	.0092	.0044	.0155
KANSAS	.0018	.0074	.0037	.0129
KENTUCKY	.0018	.0110	.0032	.0161
LOUISIANA	.0018	.0123	.0025	.0166
MAINE	.0018	.0034	.0047	.0100
MARYLAND	.0018	.0133	.0033	.0185
MASSACHUSETTS	.0018	.0187	.0038	.0243
MICHIGAN	.0018	.0293	.0042	.0353
MINNESOTA	.0018	.0127	.0053	.0198
MISSISSIPPI	.0018	.0076	.0027	.0120
MISSOURI	.0018	.0154	.0036	.0208
MONTANA	.0018	.0024	.0049	.0091
NEBRASKA	.0018	.0050	.0043	.0111
NEVADA	.0018	.0020	.0034	.0071
NEW HAMPSHIRE	.0018	.0026	.0045	.0089
NEW JERSEY	.0018	.0236	.0036	.0290
NEW MEXICO	.0018	.0038	.0033	.0089
NEW YORK	.0018	.0581	.0038	.0637
NORTH CAROLINA	.0018	.0176	.0028	.0222
NORTH DAKOTA	.0018	.0021	.0057	.0096
OHIO	.0018	.0344	.0038	.0399
OKLAHOMA	.0018	.0089	.0032	.0139
OREGON	.0018	.0075	.0031	.0124
PENNSYLVANIA	.0018	.0381	.0037	.0436
RHODE ISLAND	.0018	.0030	.0036	.0084
SOUTH CAROLINA	.0018	.0092	.0026	.0136
SOUTH DAKOTA	.0018	.0022	.0049	.0089
TENNESSEE	.0018	.0135	.0030	.0184
TEXAS	.0018	.0401	.0027	.0446
UTAH	.0018	.0039	.0041	.0099
VERMONT	.0018	.0015	.0047	.0080
VIRGINIA	.0018	.0162	.0031	.0211
WASHINGTON	.0018	.0116	.0034	.0168
WEST VIRGINIA	.0018	.0059	.0034	.0111
WISCONSIN	.0018	.0148	.0046	.0213
WYOMING	.0018	.0013	.0047	.0078
AMERICAN SAMOA	.0018	.0001	.0030	.0050
GUAM	.0018	.0003	.0032	.0053
PUERTO RICO	.0018	.0095	.0032	.0145
VIRGIN ISLANDS	.0018	.0003	.0035	.0056
U.S. TOTAL	.1000	.7000	.2000	1.0000

J. REDISTRIBUTION OF FUNDS

Funds allocated for preliminary energy audits and energy audits to any State for a fiscal year but not obligated by grants to a State shall be reallocated to all States in the succeeding fiscal year.

When a State demonstrates in its application to the Secretary that preliminary energy audits and energy audits, or their equivalent, of all eligible buildings within the State have already been conducted or will be conducted, using less than the full State allocation, funds which would have been available to conduct preliminary energy audits or energy audits may be added to the amounts available for technical assistance or energy conservation projects, as appropriate. However, the State must apply for its preliminary energy audit and energy audit allocation and request redistribution to technical assistance or energy conservation projects.

K. USE OF FUNDS

The objective of this program is to provide as broad a coverage of energy audits as is possible within funding limits. In furtherance of this goal, there are several provisions in the rule concerning costs. Proposed §450.46 places limits on the Federal share of costs to conduct and report energy audits. These limitations reflect DOE's judgment of a reasonable compensation for the auditors. These limitations do not place restrictions on costs which may be incurred by a State. Rather, the limits simply reflect an absolute ceiling on allowable costs for purposes of calculating the Federal share of costs for the conduct and report of energy audits.

Proposed §455.16(e) provides that 75 percent of the funds allocated to a State must be used in direct support of energy audits. Other expenses, most or all of which will be incurred by the State, are limited to 25 percent of the total allocation. Within this overall limitation, proposed §455.16(d) establishes separate sub-limitations for administrative expenses, development of energy audit materials or training of personnel, preliminary energy audits, and sampling of energy audits. In order to provide the State some flexibility to determine levels of each activity appropriate to its circumstances, the sub-limits should be considered as maximum amounts and it is the State's responsibility to assure the overall 25 percent limitation is not exceeded. DOE encourages comments on these sub-limits, particularly in the cases of administrative expenses, development of energy audit materials, and the training of personnel.

Proposed §455.16(c) also sets a number of specific prohibitions, including restrictions on the use of grant

funds to acquire equipment or to audit certain buildings.

L. APPLICATION PROCEDURE

Section 455.14, dealing with the procedure for applying for grants under these programs, has been kept as simple as possible in order to allow applications to be prepared speedily. Crucial elements of the State application will be the description of program objectives, the understanding of and compliance with DOE and other implementing regulations, and the specific actions and time table proposed to bring about the desired results. States may make appropriate arrangements to provide funds to eligible institutions for carrying out the work, and are encouraged to do so when the institution has an interest and staff resources to handle the job. The primary beneficiaries are the eligible institutions, and the basic objective is to increase their capability to manage energy use. While DOE does not feel that it would be generally necessary to allow more than a 60-day extension for State preliminary energy audits and energy audit applications, appropriate consideration will be given to each request. DOE intends that States discuss the application with affected institutions and local governments. DOE feels that involvement of these institutions and local governments is essential to successful operation of the program. Such direct involvement would also help institutions to develop the expertise essential to effective ongoing energy conservation programs.

DOE intends to receive and review applications from States as long as funds are available in the State allocation. DOE reserves the right to also determine a final date for applications, even if funds remain available.

The State is to provide program management and support, but the mechanisms for implementing the program must be acceptable to affected institutions, particularly where the institution has the ability and desire to perform its energy audits.

Section 455.11(c) provides that the Secretary may make grants to States to assist in conducting preliminary energy audits and energy audits of buildings owned by units of local government and public care institutions. DOE has, pursuant to Section 455.11(c), selected a single procedure for receiving applications from and making grants to States only for all energy audits, whether for units of local government, public care institutions, schools or hospitals. The use of this procedure should greatly ease grant program administration.

DOE has been advised by the Office of Management and Budget that this program is exempted from the requirements of OBM Circular A-95.

M. COMMENT PROCEDURES

(1) *Written Comments.* Interested persons are invited to submit written comments with respect to the proposed regulation to the Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the document with the designation "PEA/EA". Fifteen (15) copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. All comments and related information must be received by January 12, 1979, before 4:30 p.m., e.s.t., in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. Any material not accompanied by a statement of confidentiality will not be treated as confidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

(2) *Public Hearings.* DOE has determined that, in addition to the national hearing in Washington, D.C., it will hold hearings in two DOE Regions, to receive oral presentations from interested persons.

A. NATIONAL HEARINGS

The Washington, D.C. hearing (hereafter referred to as the national hearing) will be held at 9:30 a.m., e.s.t. on January 8, 9 and 10, 1979, Room 3000A, 12th and Pennsylvania Ave., N.W., Washington, D.C.

Any person who has an interest in the proposed regulation or who is a representative of a group or class of persons which has an interest in it may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Margaret Sibley, Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, and must be submitted on or before January 3, 1979, by 4:30 p.m., e.s.t. The person making the request should describe his or her interest in the proceeding and provide a concise summary of the proposed oral presentation and a phone number where he or she may be reached. Each person who, in DOE's judgment, proposes to present relevant material and information shall be selected to be heard and shall be notified by DOE of their participation before 4:30 p.m., e.s.t., January 5, 1979, and shall submit 15 copies

of their proposed statement to Margaret Sibley, Office of State Specific Programs, Department of Energy, Room 6456, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 by 9 a.m., e.s.t., January 8, 1979.

B. Regional hearings. Each of the regional hearings will be held on January 8, 9 and 10, 1979, beginning at 9:30 a.m., local time, on the dates and at the locations specified below.

Any person who has an interest in

this proceeding or is the representative of a group or class of persons which has an interest in it may make a written request for an opportunity to make an oral presentation. Such a request should be directed to DOE, at the address given below for the appropriate region and must be received before 4:30 p.m., local time on January 3, 1979. Procedures for notification shall be the same as in the case of the national hearing.

DOE Region	Hearing Date	Submit Requests to testify to—	Hearing Location
IX.....	January 8, 9 and 10.	Robert Laffel, DOE, 1111 Pine Street, San Francisco, CA 94111.	San Francisco Hotel, Crystal Ball Room, 1231 Market Street, San Francisco, CA
V.....	January 8, 9 and 10.	Ken Johnson, DOE, 175 W. Jackson, Third Floor, Chicago, IL 60604.	Pick Congress Hotel, 520 South Michigan Ave., Chicago, IL
National.....	January 8, 9 and 10.	Margaret Sibley, DOE, Room 6456, Federal Building, 12th & Penn. Ave., NW., Wash., D.C. 20461.	Federal Building, 12th & Penn. Ave., NW., Room 3000A, Wash., D.C. 20461

3. *Conduct of Hearings.* DOE reserves the right to arrange the schedule of presentations to be heard, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated as presiding officer to chair the hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room GA 152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

N. CONSULTATION WITH OTHER FEDERAL AGENCIES, ENVIRONMENTAL AND URBAN REVIEWS AND REGULATORY ANALYSIS

In preparing this proposed rulemaking, issues and options were reviewed by representatives of the Secretary of Health, Education and Welfare. The Department also received comments and assistance from its Regional Offices.

In accordance with DOE's obligation under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, DOE has undertaken an environmental assessment of the entire Title III NECPA programs. This assessment and any additional NEPA review will be completed and considered prior to the promulgation of this rulemaking. Because the Act requires DOE to issue a final rule for the two grant programs within a specified period after enactment and since DOE seeks to afford members of the public a comment period of at least 30 days on its notice of proposed rulemaking, time does not enable DOE to complete an environmental assessment to accompany this notice of proposed rulemaking.

The proposed rulemaking has been reviewed in accordance with Executive Order 12044, 43 FR 12661, and DOE's proposed directive implementing the Order published at 43 FR 18634. DOE has determined that the proposed rulemaking is "significant" but not "major" and therefore does not require regulatory analysis. Notwithstanding the determination of significance which would usually require a 60 day comment period, a shorter comment period has been selected so that, consonant with the Act, the final rule

may be issued at the earliest practicable date.

The proposed rulemaking has also been reviewed in accordance with OMB Circular A-116 to assess the impacts on urban centers and communities. DOE has found that the proposed rule does not constitute a major proposal which requires formal analysis.

As required by § 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In consideration of the foregoing, the Department of Energy proposes to amend Part 450 of Chapter II Title 10 of the Code of Federal Regulations, and to add a new Part 455 to Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., December 8, 1978.

OMI WALDEN,
Assistant Secretary, Conservation and Solar Applications,
Department of Energy.

1. In 10 CFR Part 450, the authority is revised as follows:

AUTHORITY: Part B of Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 42 U.S.C. 6801 *et seq.*; also issued under Part C of Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321 *et seq.*; also issued under Part 1 and Part 2 of Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, which establishes Parts G and H, respectively, of Title III of the Energy Policy and Conservation Act; Department of Energy Organization Act, Pub. L. 95-91, 42 U.S.C. 7101 *et seq.*; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, 41 U.S.C. 501 *et seq.*, E.O. 12009, 42 FR 46267; E.O. 12044, 43 FR 12661.

§ 450.1 [Amended]

2. 10 CFR 450.1 is amended by designating the provisions of the first sentence as paragraph (a), deleting the word "also" from the second sentence following the word "Part" and designating that sentence as paragraph (b), and adding a new paragraph (c) as follows:

(c) This part also provides the requirements for the conduct of preliminary energy audits and energy audits by Section 393 and Section 400 C of the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321, as amended by Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*

§ 450.2 [Amended]

3. 10 CFR 450.2 is amended to add a new paragraph (d) as follows:

* * * * *

(d) To establish minimum requirements for the preliminary energy audits and energy audits to be carried out under the program of financial assistance for schools and hospitals and the program of financial assistance for units of local government and public care institutions.

§ 450.3 [Amended]

4. 10 CFR 450.3 is amended by deleting the definitions of "Administrator", "Cooling degree days", "FEA", "Heating degree days", "Regional Administrator" and by adding in the appropriate alphabetical order definitions of "Cooling degree days", "DOE", "Heating degree days", "Regional Representative" and "Secretary" as follows:

* * * * *

"Cooling degrees days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature above 65° for a given locality.

* * * * *

"DOE" means the Department of Energy.

* * * * *

"Heating degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature below 65° for a given locality.

* * * * *

"Regional Representative" means a Regional Representative of the Department of Energy.

* * * * *

"Secretary" means the Secretary of the Department of Energy.

5. 10 CFR Part 450 is amended by establishing a new Subpart E as follows:

Subpart E Preliminary Energy Audits and Energy Audits

Sec.

- 450.40 Purpose and scope.
- 450.41 Definitions.
- 450.42 Contents of a preliminary energy audit.
- 450.43 Contents of an energy audit.
- 450.44 Auditor qualifications.
- 450.45 Audit reports.
- 450.46 Cost of energy audits.

AUTHORITY: Parts 1 and 2 of Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, which establishes Parts G and H, respectively, of Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321 *et seq.*; Sections 365 (e)(2), 42 U.S.C.

6325 (e)(2), of the Energy Conservation and Production Act, Pub. L. 94-385, 42 U.S.C. 6801 *et seq.*; Department of Energy Organization Act, Pub. L. 95-91, 42 U.S.C. 7101 *et seq.*; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, 41 U.S.C. 501 *et seq.*; E.O. 12009, 42 FR 46267; E.O. 12044, 43 FR 12661.

Subpart E—Preliminary Energy Audits and Energy Audits

§ 450.40 Purpose and scope.

This subpart establishes requirements for the conduct of preliminary energy audits and energy audits, the qualifications of persons conducting them and allowable costs of energy audits. Preliminary energy audits and energy audits are required in the program of financial assistance for schools and hospitals and the program of financial assistance for units of local government and public care institutions, as provided under Subpart B, Part 455, Chapter II of Title 10, Code of Federal Regulations.

§ 450.41 Definitions.

For purposes of this subpart—

"Building" means any structure the construction of which was completed on or before April 20, 1977, which includes a heating or cooling system, or both.

"Complex" means a group of buildings on a contiguous site; or a group of buildings which are closely situated and served by a central utility plant.

"Energy audit" means a survey of a building or buildings that is conducted in accordance with the requirements of this subpart which—

- (1) Identifies the type, size, energy use level and the major energy using systems of such building or buildings;
- (2) Determines appropriate energy conservation maintenance and operating procedures; and
- (3) Indicates the need, if any, for the acquisition and installation of energy conservation measures.

"Energy conservation measure" means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including, but not limited to—

- (1) Insulation of the building structure and systems within the building;
- (2) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;
- (3) Automatic energy control systems;
- (4) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(5) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(6) Solar water heating systems;

(7) Furnace or utility plant and distribution system modifications including—

(A) Replacement burners, furnaces, boilers, or any combination thereof, which substantially increase the energy efficiency of the heating system;

(B) Devices for modifying flue openings which will increase the energy efficiency of the heating system;

(C) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights; and

(D) Utility plant system conversion measures including conversion of existing oil-and gas-fired boiler installations to alternative energy sources, including coal;

(8) Caulking and weatherstripping;

(9) Replacement or modification of lighting fixtures which replacement or modification increases the energy efficiency of the lighting system without increasing the overall illumination of a building, unless such increase in illumination is necessary to conform to any applicable State or local building code or, if no such code applies, the increase is considered appropriate by the Secretary;

(10) Energy recovery systems;

(11) Cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings owned by a school or hospital and which meet such fuel efficiency requirements as the Secretary may by rule prescribe;

(12) Such other measures as the Secretary identifies by rule for purposes of this part, as set forth in Subpart D of this part; and

(13) Such other measures as a grant application shows will save a substantial amount of energy and as are identified in an energy audit in accordance with Subpart C of this part.

"Fuel" means any commercial source of energy used within the building or facility being surveyed such as natural gas, fuel oil, electricity or coal.

"Gross square feet" means the sum of all floor area enclosed in a building, calculated from the outside dimensions, or from the centerline of common walls.

"Hospital" means a public or non-profit institution which is a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and is duly authorized to provide hospital services under the laws of the State in which it is situated.

"Hospital facilities" means buildings housing a hospital and related facilities, including laboratories, laundries,

outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

"Maintenance" means activities undertaken in a building to assure that equipment and energy-using systems operate effectively and efficiently.

"Operation" means the operation of equipment and energy-using systems in a building to achieve or maintain specified levels of environmental conditions or service.

"Preliminary energy audit" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy-using systems of such building.

"Public care institution" means a public or nonprofit institution which owns—

(1) A facility for long-term care, rehabilitation facility, or public health center, as described in Section 1633 of the Public Health Service Act; or

(2) A residential child care center, which is an institution, other than a foster home, operated by a public or non-profit agency and is primarily intended to provide full-time residential care with an average length of stay of at least 30 days for at least 10 minor persons who are in the care of such agency as a result of a finding of abandonment or neglect or of being persons in need of treatment or supervision.

"Public or nonprofit institution" means an institution owned and operated by—

(1) A State, a political subdivision of a State or an agency or instrumentality of either;

(2) A school or hospital which is, or would be, in the case of a Territory, exempt from income tax under § 501(c)(3) of the Internal Revenue Code of 1954; or

(3) A local government or public care institution which is, or would be, in the case of a Territory, exempt from income tax under sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

"School" means a public or nonprofit institution which—

(1) Provides, and is legally authorized to provide, elementary education or secondary education, or both on a day or residential basis; or

(2)(A) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(B) Admits as students only persons having a certificate of graduation from a school providing secondary

education, or the recognized equivalent of such certificate;

(C) Is accredited by a nationally recognized accrediting agency or association; and

(D) Provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the preceding requirements and which provides such a program; or

(3) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions cited in subparagraph (2)(A), (B), or (C); or

(4) Is a local education agency.

"School facilities" means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"Simple payback period" means the time required for an initial investment to be amortized from net savings, without consideration of future fuel price increases or discount rates.

"Unit of local government" means the government of a county, municipality, or township, which is a unit of general purpose government below the State, determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes; the District of Columbia, Guam, American Samoa and the Virgin Islands; and the recognized governing body of an Indian tribe or Alaska native village which governing body performs substantial governmental functions.

§ 450.42 Contents of a preliminary energy audit.

(a) A preliminary energy audit shall provide a description of the building or complex audited and determine the energy-using characteristics, including—

(1) The name or other identification, and address of the building;

(2) An indication that the building meets the requirements of one of the following—

(i) A school facility;

(ii) A hospital facility; or

(iii) A building owned and primarily occupied by offices or agencies of a unit of local government or by a public care institution which shall not include any building intended for seasonal use or any building used primarily by a school or hospital;

(3) A description of the functional use made of the building identifying whether it is a—

(i) School—

(A) Elementary;

(B) Secondary;

(C) College or university;

(D) Vocational; or

(E) other;

(ii) Hospital—

(A) General;

(B) Tuberculosis; or

(C) other;

(iii) Local government building—

(A) Office;

(B) Storage;

(C) Service;

(D) Library; or

(E) other; or

(iv) Public care building—

(A) Nursing home;

(B) Long term care;

(C) Rehabilitation facility;

(D) Public health center;

(E) Residential child care center; or

(F) other;

(4) The name and address of the owner of record, and whether the institution is a public or nonprofit institution;

(5) The size of the building, expressed in gross square feet;

(6) The age of the building;

(7) Hours of operation, including periods of partial use and vacation periods if applicable, and the average number of occupants during each period;

(8) An identification of major energy-using systems, including—

(i) Primary heating and air-conditioning, such as, gas-fired steam boiler, oil hot-air furnace, etc.;

(ii) Terminal heating and air-conditioning, such as, radiator, unit ventilator, fancoil unit, double-duct reheat, etc.;

(iii) domestic hot water, such as, electric, natural gas, etc.;

(iv) Special systems, such as, food service, laundry, etc.; and

(v) Lighting, such as incandescent, fluorescent;

(9) Energy use and cost data by type of fuel for the preceding 12 month period, by month if practicable using actual data or an estimate if actual figures are unavailable;

(10) Total annual energy use expressed in Btu's, using the conversion factors set forth in § 450.21 (b)(5) or other common and generally accepted factors from engineering reference manuals for fuels not listed; and

(11) Total annual energy use expressed in Btu's per gross square foot and energy cost per gross square foot.

(b) A preliminary energy audit shall provide a brief description of activities which have been undertaken to conserve energy in the building being audited, including whether—

(1) A person has been designated to monitor and evaluate energy use;

(2) Work partially or fully satisfying the requirements of an energy audit has been performed;

(3) Detailed engineering studies have been conducted of energy use and energy conservation; and

(4) Any major energy conservation measures have been considered or implemented, together with a listing of such measures.

§ 450.43 Contents of an energy audit.

(a) An energy audit shall contain the information required for a preliminary energy audit, in accordance with § 450.42, and shall also include a description of—

(1) Major changes in functional use or mode of operation planned in the next fifteen years, such as demolition, rehabilitation, or conversion from office to warehouse;

(2) For a building in excess of 200,000 gross square feet, if available—

(i) Peak electric demand for both daily and annual cycles; and

(ii) Annual energy use by fuel type of major mechanical or electrical system if the information is available or can be reasonably estimated; and

(3) A description of general building conditions.

(b) An energy audit shall provide a determination of appropriate energy conservation maintenance and operating procedures for the building by providing—

(1) A demonstration based on actual records of energy use that energy use has been reduced by not less than 20 percent on an annual basis through implementation of changes in operations and maintenance; or

(2) Recommendation, on the basis of an on-site inspection, of energy-saving changes including a scheduled preventive maintenance plan, and a general estimate, expressed as a range, of energy and cost savings resulting from the following actions—

(i) Effective operation of ventilation systems and control of infiltration conditions, including—

(A) Repair of caulking or weatherstripping around windows and doors;

(B) Reducing outside air, or shutting down ventilation systems in unoccupied areas, or both; and

(C) Assuring central or unitary ventilation controls, or both, are operating properly;

(ii) Changes in the operation of heating and cooling systems through—

(A) Lowering or raising indoor temperatures;

(B) Locking thermostats;

(C) Adjusting supply or heat transfer medium temperatures; and

(D) Reducing or eliminating heating and cooling at night or at other times when a building is unoccupied;

(iii) Changes in the operation of lighting systems through—

(A) Reducing illumination levels;

(B) Maximizing use of daylight;

(C) Using higher efficiency lamps; and

(D) Reducing or eliminating evening cleaning of buildings;

(iv) Changes in the operation of water systems through—

(A) Repairing leaks;

(B) Reducing the quantity of water used, e.g., flow restrictors;

(C) Lowering settings for hot water temperatures; and

(D) Raising temperature setting for chilled water systems;

(v) Changes in the operation and maintenance of the utility plant and distribution system through—

(A) Cleaning equipment;

(B) Adjusting air/fuel ratio;

(C) Monitoring combustion;

(D) Adjusting fan, motor, or belt drive system;

(E) Maintaining steam traps; and

(F) Repairing distribution pipe insulation; and

(vi) Such other changes as the State determines would be useful or necessary.

(c) An energy audit shall indicate the need, if any, for the acquisition and installation of energy conservation measures and shall include an evaluation of the need and potential for retrofit based on consideration of one or more of the following—

(1) An energy use index or indices, for example, Btu's per gross square foot per year;

(2) Annual energy costs per gross square foot; or

(3) Physical characteristics of the building envelope and major energy-using systems.

(d) An energy audit may include an assessment of the estimated costs and energy savings, and the projected simple payback period likely to result from the purchase and installation of an energy conservation measure.

§ 450.44 Auditor qualifications.

Subject to the approval of the Secretary, a State shall develop procedures for establishing the qualifications of auditors who will conduct energy audits in accordance with Subpart B of 10 CFR Part 455 which—

(a) Ascertain that a person conducting the energy audit is qualified by virtue of successful completion of an approved training program or demonstration of equivalent skills gained by prior training and experience, together with familiarity with the systems and operations of the types of buildings being audited.

(b) Assure that the person responsible for the energy audit is not the person directly responsible for the day-to-day operation of the building being audited.

(c) Assure full disclosure by an auditor of his or her financial interests relating to the energy audit or any

energy measures considered by the audit.

§ 450.45 Audit reports.

(a) The results of a preliminary energy audit or an energy audit, conducted in accordance with the requirements of this subpart, shall be contained in an audit report.

(b) The audit report shall be furnished to the State, and the owner and operator of the building audited.

(c) An audit report for an energy audit shall include a statement signed by the auditor that—

(1) the auditor meets the applicable qualifications as set forth in § 450.44;

(2) the auditor has made a full written disclosure of any financial interests in accordance with § 450.44; and

(3) the audit was conducted in accordance with the requirements of § 450.43.

§ 450.46 Cost of energy audits.

The allowable cost of an energy audit, for the purpose of calculating the Federal share thereof, under this program, shall not exceed the following—

BUILDING GROSS SQUARE FEET AND MAXIMUM COST

Up to 30,000—	\$400.00
30,000 to 100,000—	\$500.00.
More than 100,000—	\$600.00.
Complex—The sum of individual building allowances up to 150,000 gross square feet; and above 150,000 gross square feet, at a rate of \$600 per 150,000 gross square feet.	

6. Subchapter D, Chapter II of Title 10 Code of Federal Regulations, is amended by establishing Part 455 as follows:

PART 455—GRANT PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

Subpart A—General Provisions

Sec.	
455.1	Purpose and scope.
455.2	Definitions.
455.3	Administration of grants.
455.4	Recordkeeping.
455.5	Suspension and termination of grants.

Subpart B—Preliminary Energy Audit and Energy Audit Grant Procedures

455.10	Purpose and scope.
455.11	Financial assistance.
455.12	Cost sharing.
455.13	Allocation of funds.
455.14	Submission and review of applications.
455.15	Content of applications.
455.16	Use of funds.
455.17	Reporting requirements.

AUTHORITY: Parts 1 and 2 of Title III of the National Energy Conservation Policy

Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, which establishes Parts G and H, respectively, of Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321 *et seq.*; Section 365(e)(2), 42 U.S.C. 6325(e)(2), of the Energy Conservation and Production Act, Pub. L. 94-385, 42 U.S.C. 6801 *et seq.*; Department of Energy Organization Act, Pub. L. 95-91, 42 U.S.C. 7101 *et seq.*; Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95-224, 41 U.S.C. 501 *et seq.*; E.O. 12009, 42 FR 46267; E.O. 12044, 43 FR 12661.

Subpart A—General Provisions

§ 455.1 Purpose and scope.

(a) This part establishes programs of financial assistance pursuant to Parts 1 and 2 of Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, which adds Parts G and H, respectively, to Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321 *et seq.*

(b) This subpart authorizes grants to States and to public and non-profit schools and hospitals to assist them in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring and installing energy conservation measures to reduce the energy use and anticipated energy costs of schools and hospitals.

(c) This subpart authorizes grants to States and units of local government and public care institutions to assist them in conducting preliminary energy audits and energy audits, in identifying and implementing energy conservation maintenance and operating procedures, and in evaluating energy conservation measures to reduce the energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.

§ 455.2 Definitions.

"Act", as used in this part, means the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321 *et seq.*, as amended by the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206.

"Auditor" means any person who is qualified in accordance with 10 CFR 450.44 to conduct an energy audit.

"Building" means any occupied structure which includes a heating or cooling system, or both, the construction of which was completed on or before April 20, 1977.

"Complex" means a group of buildings on a contiguous site; or a group of buildings which are closely situated and served by a central utility plant such as a college campus or a multi-building hospital.

"Cooling degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature above 65° for a given locality.

"DOE" means the Department of Energy.

"Energy audit" means any survey of a building, or complex conducted in accordance with the requirements of Subpart E of 10 CFR Part 450.

"Energy conservation measure" means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including, but not limited to—

(1) Insulation of the building structure and systems within the building;

(2) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(3) Automatic energy control systems;

(4) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(5) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(6) Solar water heating systems;

(7) Furnace or utility plant and distribution system modifications including—

(A) Replacement burners, furnaces, boilers, or any combination thereof, which substantially increases the energy efficiency of the heating system;

(B) Devices for modifying flue openings which will increase the energy efficiency of the heating system;

(C) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights; and

(D) Utility plant system conversion measures including conversion of existing oil and gas-fired boiler installations to alternative energy sources, including coal;

(8) Caulking and weatherstripping;

(9) Replacement or modification of lighting fixtures which replacement or modification increases the energy efficiency of the lighting system without increasing the overall illumination of a facility unless such increase in illumination is necessary to conform to any applicable State or local building code or, if no such code applies, the increase is considered appropriate by the Secretary;

(10) Energy recovery systems;

(11) Cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings owned by an eligible institution and which meet such fuel efficiency requirements as the Secretary may by rule prescribe;

(12) Such other measures as the Secretary identifies by rule for purposes of this part, as set forth in Subpart D of 10 CFR Part 450; and

(13) Such other measures as a grant application shows will save a substantial amount of energy and as are identified in an energy audit in accordance with Subpart C of 10 CFR Part 450.

"Governor" means the chief executive officer of a State, including the Mayor of the District of Columbia, or a person duly designated in writing by the Governor to act upon his or her behalf.

"Grantee" means the person named in the Notification of Grant Award as the recipient of the grant.

"Heating degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature below 65° for a given locality.

"Hospital" means a public or non-profit institution which is a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and is duly authorized to provide hospital services under the laws of the State in which it is situated.

"Hospital facilities" means buildings housing a hospital and related facilities, including laboratories, laundries, outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

"Indian tribe" means any tribe, band, nation or other organized group or community of Native Americans, including any Alaska native village, or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203; 85 Stat. 688, which (a) is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans; or (b) is located on, or in proximity to, a Federal or State reservation or rancheria.

"Local educational agency" means a public board of education or other public authority or a nonprofit institution legally constituted within, or otherwise recognized by, a State for either administrative control or direction of, or to perform administrative services for, a group of schools within a State.

"Maintenance" means activities undertaken in a building to assure that equipment and energy-using systems operate effectively and efficiently.

"Native American" means a person who is a member of an Indian tribe.

"Operation" means the operation of equipment and energy-using systems

in a building to achieve or maintain specified levels of environmental conditions or service.

"Preliminary energy audit" means any survey of a building or complex conducted in accordance with the requirements of Subpart E, of 10 CFR Part 450.

"Public care institution" means a public or nonprofit institution which owns—

(1) A facility for long-term care, rehabilitation facility, or public health center, as described in Section 1633 of the Public Health Service Act; or

(2) A residential child care center, which is an institution, other than a foster home, operated by a public or non-profit agency and is primarily intended to provide full-time residential care with an average length of stay of at least 30 days for at least 10 minor persons who are in the care of such agency as a result of a finding of abandonment or neglect or of being persons in need of treatment or supervision.

"Public or nonprofit institution" means an institution owned and operated by—

(1) A State, a political subdivision of a State or an agency or instrumentality of either; or

(2) A school or hospital which is, or would be, in the case of a Territory, exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954; or

(3) A local government or public care institution which is, or would be, in the case of a Territory, exempt from income tax under section 501(c)(3) of 501(c)(4) of the Internal Revenue Code of 1954.

"School" means a public or nonprofit institution which—

(1) Provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis; or

(2)(A) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(B) Admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(C) Is accredited by a nationally recognized accrediting agency or association; and

(D) Provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the preceding requirements and which provides such a program; or

(3) Provides not less than a one-year program of training to prepare stu-

dents for gainful employment in a recognized occupation and which meets the provisions cited in subparagraph (2)(A), (B), or (C); or

(4) Is a local educational agency.

"School facilities" means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"Secretary" means the Secretary of the Department of Energy.

"State" means, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"State energy agency" means the State agency responsible for developing State energy conservation plans pursuant to section 362 of the Energy Policy and Conservation Act, or, if no such agency exists, a State agency designated by the Governor of such State to prepare and submit the State plan required under section 394 of the Energy Policy and Conservation Act, as amended by the Energy Conservation and Production Act.

"State hospital facilities agency" means an existing agency which is broadly representative of the public hospitals and the nonprofit hospitals, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this definition.

"State school facilities agency" means an existing agency which is broadly representative of public institutions of higher education, nonprofit institutions of higher education, public elementary and secondary schools, nonprofit elementary and secondary schools, public vocational education institutions, nonprofit vocational education institutions, and the interests of handicapped persons, in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this definition.

"Unit of local government" means the government of a county, municipality, or township, which is a unit of general purpose government below the State, determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes; and the District of Columbia, American Samoa, Guam, and the Virgin Islands, and means the recognized governing body of an Indian tribe or Alaska native village which governing body performs substantial governmental functions.

§ 455.3 Administration of grants.

(a) Grants provided under this part shall comply with the requirements of—

(1) Federal Management Circular 732, 34 CFR Part 251, entitled "Audit on Federal Operations and Programs by Executive Branch Agencies";

(2) Federal Management Circular 74-4, 34 CFR Part 255, entitled "Cost Principles Applicable to Grants and Contracts with State and Local Government";

(3) Office of Management and Budget Circular A-102, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments";

(4) Office of Management and Budget Circular A-89, entitled "Catalog of Federal Domestic Assistance";

(5) Office of Management and Budget Circular A-97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968"; and

(6) Treasury Circular 1082, entitled "Notification to States of Grant-in-Aid Information".

(b) Grants provided under this part shall comply with such additional procedures applicable to this part as DOE may from time to time prescribe for the administration of grants.

§ 455.4 Recordkeeping.

Each State or other entity within a State receiving financial assistance under this part shall make and retain records required by DOE, including records which fully disclose the amount and disposition of the financial assistance received; the total cost of the administration and the activities for which assistance is given or used; the source and amount of any funds not supplied by DOE, and any data and information which DOE determines are necessary to protect the interests of the United States and to facilitate an effective financial audit and performance evaluation. The Secretary, or any of his or her duly authorized representatives, shall have access, until three years after the completion of the activities involved, to any books, documents, records or receipts which the Secretary determines are related or pertinent, either directly or indirectly, to any financial assistance provided under this part.

§ 455.5 Suspension and termination of grants. [Reserved]

§ 455.10 Purpose and scope.

(a) This subpart contains the regulations to provide financial assistance for preliminary energy audits and energy audits.

(b) The preliminary energy audit and energy audit programs are to survey as many school and hospital facilities and buildings owned by units

of local government and public care institutions as possible to assist in—

(1) Establishing a reliable information concerning energy use and cost;

(2) Identifying and encouraging adoption of changes in maintenance and operation and energy conservation measures; and

(3) Providing, to the greatest extent practicable, consistent information for selecting the buildings to receive additional financial assistance.

§ 455.11 Financial assistance.

(a) DOE shall provide financial assistance from sums appropriated only upon application in accordance with the provisions of this subpart.

(b) The Secretary may make grants to States for purposes of conducting preliminary energy audits and energy audits, of school and hospital facilities.

(c) The Secretary may make grants to States for purposes of conducting preliminary energy and energy audits of buildings owned by units of local governments and public care institutions.

§ 455.12 Cost sharing.

(a) Amounts made available under this subpart, together with any other amounts made available from other Federal sources, may not be used to pay more than 50 percent of the costs of a preliminary energy audit or an energy audit, except as provided in paragraph (b) of this section.

(b) Upon the request of the Governor, the Secretary may make a grant to a State of up to 100 percent of the costs of any preliminary energy audit or energy audit for schools and hospitals pursuant to § 455.11(b) if the Secretary has determined that the State has demonstrated that—

(1) The State would otherwise be unable to participate in the program; and

(2) The amount of the additional financial assistance requested is the minimum necessary to allow the State to participate.

(c) If the Secretary determines that a State has made expenditures after November 9, 1978 to cover preliminary energy audits without Federal financial assistance, the Secretary may treat the expenditures, after approving the State's application, as if the expenditures would be made by the State after the date of the notice of grants award.

(d) Amounts made available from other than Federal sources shall come from State, local, or private sources

¹ Section 398(a)(3) of the Act provides that when a State exercises this option, the amount allocated to such State for energy conservation projects in that fiscal year shall be reduced by an amount equal to the excess over 50 percent of the costs.

and shall not be derived from revenue-sharing or any other Federal source. At least 75 percent of such non-Federal funds shall be used in conducting energy audits of buildings owned by eligible institutions.

§ 455.13 Allocation of funds.

(a) Financial assistance for conducting preliminary energy audits and energy audits of school facilities and hospital facilities shall be allocated among the States by multiplying the sum available by the allocation factor (F).

(b) Financial assistance for conducting preliminary energy audits and energy audits of buildings owned by units of local government and public care institutions shall be allocated among the States by multiplying the sum available by the allocation factor (F).

(c) The allocation factor (F) shall be determined by the formula—

$$F = (.1)/(n) + (.7 SP)/(NP) + (.2 SC)/(NC)$$

where, as determined by DOE—

(1) n is the total number of States;

(2) SP is the population of the State, as determined from 1976 census estimates, "Current Population Reports", Series p-25, number 642, or territory as determined from 1973 census estimates, "Current Population Reports", Series p-25, number 603;

(3) NP is 217,820,000, the total population of all States;

(4) SC is the sum of the State's heating and cooling degree days, as determined from National Oceanic and Atmospheric Administration data for thirty year period, 1941 through 1970; and

(5) NC is 349,249, the sum of all States' heating and cooling degree days.

(d) Financial assistance allocated among the States for a fiscal year under this subpart but not obligated in such fiscal year, if available, shall be reallocated under paragraph (a) or (b) of this section, as appropriate, in the subsequent fiscal year.

§ 455.14 Submission and review of applications.

(a) To be eligible to receive financial assistance, a State shall submit 10 copies to the Secretary of the State application executed by the Governor.

(b) The first annual State application shall be submitted not later than 30 days after the effective date of this subpart. Subsequent annual State applications shall be submitted on or before the date established by the Secretary for—

(1) Schools and hospitals;

(2) Buildings owned by units of local government and public care institutions; or

(3) Both.

(c) The State shall consult with representatives of schools, hospitals, units of local government and public care institutions during the preparation of applications for financial assistance for preliminary energy audits and energy audits.

(d) The Governor may request an extension of the submission date for a State's application by sending a written request to the Secretary not less than 15 days prior to the date upon which it is due. An extension will only be provided for good cause shown. Such a request shall include a brief discussion of work remaining to be done on the application and time required for its completion. An extension shall not exceed 60 days except where additional time is required by a State to enact enabling legislation.

(e) The Secretary shall review each timely State application and provide financial assistance if the Secretary determines that the application meets the objectives of the Act and the requirements of this part.

(f) All or any portion of an application under this section may be disapproved to the extent that funds are not available under this subpart to carry out such application or portion.

(g) The Secretary shall state the reasons for his or her disapproval in the case of any application which is disapproved. Any application not approved by the Secretary may be resubmitted by the applicant at any time in the same manner as the original application, and the Secretary shall approve such resubmitted application if the Secretary determines it to be in compliance with the requirements of this part. Amendments of an application shall, except as the Secretary may otherwise provide, be subject to approval in the same manner as the original application.

§ 455.15 Content of applications.

(a) An application shall contain—

(1) The name and address of the State grantee;

(2) A budget which shall include identification of the sources, amounts, and intended use of non-Federal funds required to meet the cost-sharing provisions of § 455.12; and

(3) Assurance that audit procedures to be employed will meet the requirements of Subpart E of 10 CFR Part 450.

(b) For each program for which financial assistance is sought, a State application shall also contain—

(1) A timetable, including a listing of milestones, for the activities to be carried out by calendar quarters for each program for the year in which financial assistance will be provided;

(2) A description of technical materials to be developed and adopted, or an

identification of existing materials to be used, to meet the requirements concerning preliminary energy audits and energy audits set forth in Subpart E of 10 CFR Part 450;

(3) A description of the provisions for training auditors and the procedures for identifying qualified auditors; and

(4) An explanation of how the size of the sample and the selection of sample buildings for preliminary energy audits will be determined, if all eligible buildings will not be audited, in order to provide reasonably accurate estimates of the preliminary energy audit data required under § 450.42 for all eligible buildings within the State.

(c) A State application for the program for schools and hospitals shall contain—

(1) A justification if funding is applied for in excess of the 50 percent limit provided in § 455.12(a);

(2) A description of the method by which funds will be apportioned between school facilities and hospital facilities including a justification for the apportionment if fewer than all of these buildings will be audited;

(3) An explanation of the manner in which activities to be conducted shall be consistent with—

(i) Related State programs for educational facilities in such State; and

(ii) State health plans under Section 1524(c)(2) of the Social Security Act; and

(4) A description of the actions taken by the State to solicit and consider the views of representatives of schools and hospitals during the preparation of the State's application.

(d) A State application for the program for units of local government and public care institutions shall contain a description of—

(1) The method by which funds will be apportioned between buildings owned by units of local government and public care institutions including a justification for the apportionment if fewer than all these buildings will be audited; and

(2) The action taken by the State to solicit and consider the views of representatives of units of local government and public care institutions during the preparation of the State's application.

(e) A State application shall set forth procedures—

(1) By which buildings owned by eligible applicants and schools and hospitals will be identified, and an inventory prepared and maintained, which shall include the information required for a preliminary energy audit in accordance with 10 CFR § 450.42;

(2) For the State to participate, on a selective sampling basis, in the performance of on-site energy audits to assure that the findings represent a reasonably thorough and accurate as-

essment of the buildings surveyed; and

(3) For the State to conduct follow-up visits, on a selective sampling basis, to ascertain the degree of implementation of energy audit results.

§ 455.16 Use of funds.

(a) A State may carry out preliminary energy audits and energy audits by providing financial assistance, which the State has received pursuant to § 455.11(b), to schools and hospitals.

(b) A State may carry out preliminary energy audits and energy audits by providing financial assistance, which the State has received pursuant to § 455.11(c), to units of local government and public care institutions.

(c) No financial assistance provided under this subpart shall be expended for—

(1) The audit of—

(i) A vacant, unused or condemned building;

(ii) A stadium which is part of a school facility used primarily for exhibitions for which admission is charged and which is not also generally used for intramural sports and physical fitness programs generally available to all students;

(iii) A building owned but not primarily occupied by a unit of local government or a public care institution or which is intended for seasonal use; or

(iv) A building owned by a local educational agency which is used principally for administration; and

(2) The purchase or acquisition of any equipment other than for a test or measurement, exceeding a cost of \$250, to be used in conducting energy audits, unless prior written approval has been obtained from DOE.

(d) Of the financial assistance provided under this subpart to States—

(1) No more than 5 percent shall be used for administrative expenses;

(2) No more than 10 percent shall be used for development of energy audit materials or training of personnel to conduct energy audits; and

(3) No more than 15 percent shall be used to conduct preliminary energy audits and conduct sample energy audits.

(e) Of the financial assistance provided under this part, at least 75 percent shall be used in conducting energy audits of buildings, and no more than 25 percent shall be used by the State for the purposes stated in paragraph (d) of this Section.

§ 455.17 Reporting requirements.

(a) Each State receiving financial assistance under this part shall submit to DOE a quarterly program performance report and a quarterly financial statement. The reports shall contain such information as DOE may prescribe in order to effectively monitor

the implementation of the State plan. The reports shall be submitted to DOE within 30 days following the end of each calendar quarter.

(b) The quarterly program performance report shall include, for those buildings which have received an energy audit—

(1) A summary of energy use levels;

(2) Estimated energy savings anticipated from operation or maintenance procedure changes; and

(3) Approximate energy savings indicated from applicable energy conservation measures if the procedure used by the State results in such information.

(c) A report of the total sum required for energy audits of buildings whose owners have been advised of selection shall be sent to the Secretary semiannually commencing six months after notice of grant award has been received.

(d) Reports shall contain such other information as may be required by DOE.

REGULATORY EVALUATION PLAN

GRANT PROGRAMS FOR STATES, SCHOOLS AND HOSPITALS, AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS; PRELIMINARY ENERGY AUDITS AND ENERGY AUDITS

The major goal of the grant programs for schools and hospitals and units of local government and public care institutions is to reduce the consumption, and associated costs, of conventional energy resources used by eligible public and non-profit institutions. This goal is to be achieved through the adoption by the eligible institutions of both improved maintenance and operating procedures and the implementation of selected energy conservation measures.

Each program is to be established in two parts. The first part, which provides financial assistance for the conduct of preliminary energy audits and energy audits, is the subject of this proposed rulemaking. The second part, which will provide financial assistance for technical assistance and energy conservation projects, will be the subject of a subsequent rulemaking. Although both parts of the programs are designed to contribute to the achievement of the goal, this regulatory evaluation plan addresses only the conduct of preliminary energy audits and energy audits. A more comprehensive plan will be incorporated in the Supplementary Information accompanying the proposed rules for Technical Assistance and Energy Conservation Projects.

The major objective of the preliminary energy audits funded under the first phase of each program is to gather reliable data on *all of the build-*

ings owned by each of the categories of eligible institutions. This data is to include information on the energy consumption characteristics of the buildings, including data on their size, type, rate of energy use and major energy using systems. Information on the extent of current efforts to conserve energy will also be gathered. This data is intended to assist the States and DOE in more effectively implementing, and evaluating the programs. For example, it will provide a data base against which the energy and cost savings resulting from the program may be measured.

In evaluating the effectiveness of the preliminary energy audits funded under the programs, DOE will assess the reliability and effectiveness of the data gathered by each State. Areas of special concern are likely to include: (1) the State sampling technique used, if any; (2) the State plan for completing audits of all eligible buildings, if a sampling approach was chosen; (3) the steps taken by the State to check the reliability of the data gathered; (4) the cost of the preliminary energy audits; and (5) the extent to which the data was used effectively by the State or the eligible institutions in planning, implementing and monitoring energy audits, technical assistance and energy conservation projects.

This assessment by DOE of preliminary energy audits will be based upon information obtained from a variety of sources, including State applications for assistance, quarterly, annual and final reports submitted by the States, State Plans developed under the

second phase of the program and on-site reviews conducted by DOE of selected States or institutions.

The two major objectives of the energy audits funded under the first phase of each program are to:

- Identify low-cost maintenance and operating changes that would conserve energy; and

- Provide information on the likely need for a more detailed survey or the installation of conservation measures. An energy audit, or its equivalent, may be required before a grant is made for technical assistance or an energy conservation project.

The energy audits require the on-site inspection of a building by an experienced or trained auditor and the completion of a report to be submitted to the institution and the State. States will be required to provide for the training of auditors and to specify the technical materials to be used in conducting an audit.

In evaluating the energy audits funded under the programs, DOE will attempt to determine the actual energy and cost savings resulting from the maintenance and operating changes identified by the audits and will assess the effectiveness of the audits in providing a basis upon which the institutions and the States could select those buildings in need of more detailed surveys or conservation measures. Areas of special concern are likely to be: (1) the training programs provided by the States; (2) the technical materials specified by the State; (3) the cost of the energy audits and the resulting savings; (4) the allocation among eligible institutions of

funding assistance for energy audits by each State and the percentage of the total number of eligible buildings audited; (5) the steps taken by the States to check the reliability of the audit reports submitted; (6) the extent to which the recommendations contained in the audit reports were adopted by the institutions; and (7) the usefulness of the data in the selection of institutions to receive funds for technical assistance.

This assessment of the energy audits funded by the programs will be based upon information obtained from a variety of sources, including State applications, quarterly, annual and final reports submitted by the States, State Plans developed under the second phase of the program and on-site reviews conducted by DOE of selected States or institutions.

The assessments of the preliminary energy audits and energy audits described above could be used for a number of purposes, including changes to the regulations prior to the second year of funding, improvements to the materials or techniques used by the States and institutions under this or other programs, and modifications to the second phase of the programs, concerning technical assistance and energy conservation projects.

Because the preliminary energy audits and energy audit phase of these programs is to be completed in just two years, the evaluation of these activities will proceed simultaneously with their implementation in order to provide useful results as soon as possible.

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