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federal register

WEDNESDAY, FEBRUARY 16, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

The free weekly workshops on how to use the FEDERAL REGISTER will resume on Wednesday, March 2, 1977, in Room 9409, 1100 L Street N.W., Washington, D.C. These free sessions begin at 9:00 a.m. and end at approximately 11:30 a.m.

Each session will cover the following:

1. Brief history of the FEDERAL REGISTER.
2. Difference between legislation and regulations.
3. Relationship of the FEDERAL REGISTER to the Code of Federal Regulations.
4. Elements of a typical FEDERAL REGISTER document.
5. Introduction to the finding aids.

RESERVATIONS REQUIRED: DEAN L. SMITH, 202–523–5282

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

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

Documents normally scheduled 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.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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CORRECTION

PROCLAMATION 4486

National Poison Prevention Week, 1977

In the heading for Proclamation 4486, appearing at page 9153 in the FEDERAL REGISTER issue of February 15, 1977, a typographical error resulted in an incorrect reference to Proclamation 4481. The correct number of the proclamation entitled "National Poison Prevention Week, 1977" is 4486.

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.

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

[Amdt No. 14]

PART 6—IMPORT QUOTAS AND FEES

Subpart—Section 22 Import Quotas

TRANSFER OF LICENSING AUTHORITY AND INCREASE IN MONETARY LIMITATIONS ON EXCEPTIONS FROM LICENSING REQUIREMENTS

AGENCY: Foreign Agricultural Service

ACTION: Final Rule

SUMMARY: Import Regulation 1, Revision 5, as amended (7 CFR 6.20–6.33) is further amended to reflect the transfer of functions of the licensing authority from Chief, Import Branch to the Director, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, and to incorporate the provisions of Presidential Proclamation 4482 of January 19, 1977, providing for an increase in the monetary limitation of $10 to $25 on the value of articles excepted from licensing requirements when imported for certain uses under Section 22 Import Quotas.

The action taken herewith, which involves foreign affairs functions of the United States, should be made effective as soon as possible in order that the provisions of the regulation will conform with the change made by Proclamation 4428. It is hereby found and determined that compliance with the notice and effective date provision of 5 U.S.C. 553 is impractical and contrary to the public interest and that this amendment shall become effective as set forth below.

The Subpart, Section 22 Import Quotas of Part 6, Subtitle A of Title 7, is amended as follows:

* * * * *

1. The term "Chief, Import Branch" is changed to read "Director, Dairy, Livestock and Poultry Division" wherever it appears in this subpart and appendix 1.

2. Section 6.21 is amended by revising paragraph (j) to read as follows:

§ 6.21 Definitions.

* * * * *

(j) "Licensing Authority" means the Director, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, U.S. Department of Agriculture and any other officer or employee of the Department designated in writing as Acting Director in the absence of the Director.

3. Section 6.23 is amended by revising paragraph (b) to read as follows:

§ 6.23 Exceptions.

* * * * *

(b) Articles with an aggregate value not over $25 in any shipment, if imported as samples for taking orders, for the personal use of the importer, or for research.

* * * * *

(Section 3, 62 Stat. 1248, as amended (7 U.S.C. 624), Part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202).)

Effective date: February 16, 1977.

For further information contact:

Bryant H. Wadsworth, Head, Dairy and Import Group, Dairy, Livestock and Poultry Division, FCA, Foreign Agricultural Service, 6621 So. Agricultural Bldg., United States Department of Agriculture, Washington, D.C. 20250, (202–447–7217).

Issued at Washington, D.C.

DAVID L. HUME,
Administrator,
Foreign Agricultural Service.

[FR Doc.77–4777 Filed 2–15–77;8:45 am]

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES),[1] DEPARTMENT OF AGRICULTURE

PART 26—GRAIN STANDARDS

United States Standards for Triticale

The United States Grain Standards Act, (82 Stat. 761, 7 U.S.C. 71 et seq.), as amended by an Act of October 21, 1976 (Pub. L. 94–582, 90 Stat. 2867), provides for official U.S. standards to designate the quality of grain for use by producers, merchandisers, and consumers in the domestic and export marketing of grain. The Act provides for an official grading service upon request and payment by the applicant of a fee to cover the cost of the service.

Pursuant to section 4 of the Act (7 U.S.C. 76), a notice concerning proposed U.S. Standards for Triticale (7 CFR 26.651 et seq.) was published in the FEDERAL REGISTER (41 FR 39325) on September 15, 1976, according to the administrative procedure provisions of section 553 of Title 5, United States Code.

Statement of considerations. Approximately 900 reprints of the notice were sent to interested persons in the grain industry. Interested persons were given until October 31, 1976, to submit data, views, or recommendations concerning the proposed U.S. Standards for Triticale. Six written comments were received in response to the notice. The principal points considered with regard to the proposed U.S. Standards for Triticale are set forth below:

1. Five commenters supported the adoption and promulgation of the proposed standards for triticale, indicating that the use of grade standards will assist substantially in the marketing of this grain. Standards will provide a reference point from which improvements in agronomic and end-use characteristics can be made. It will facilitate the export of triticale by providing buyer and seller with a common language for use in making marketing decisions. It has also been stated that the availability of U.S. grade standards will permit Texas producers, for example, to have triticale receipted by State licensed warehouses.

2. One commenter opposed the adoption of the proposed standards for triticale on grounds that market outlets for the crop have not been adequately developed and grain characteristics are subject to change. Most producers of triticale assure a market for their crop before planting. Moreover, the rate of market development is directly associated with the increases in the acreage planted to the crop. Changes in the characteristics of triticale are expected as improved varieties are released. Historically, grain standards have been amended to reflect such improvements in kernel quality.

After consideration of all written comments and other information available to the Department, official grade standards for triticale are hereby established and promulgated as follows:

Subpart—United States Standards for Triticale

TERMS DEFINED

Sec.
26.651 Definition of triticale.
26.652 Definition of other terms.

PRINCIPLES GOVERNING THE APPLICATION OF THE STANDARDS

26.653 Basis of determination.
26.654 Temporary modifications in equipment and procedures.
26.655 Percentages.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

26.656 Grades and grade requirements for triticale.
26.657 Grade designations.

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

26.658 Special grades and special grade requirements.
26.659 Special grade designations.

AUTHORITY: Sec. 4, United States Grain Standards, as amended (7 U.S.C. 76).

Subpart—United States Standards for Triticale[1]

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[1] Including matters within the responsibility of the Federal Grain Inspection Service.

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

TERMS DEFINED

§ 26.651 Definition of triticale.

Grain which, before the removal of dockage, consists of 50 percent or more of triticale and may contain not more than 10 percent of other grains for which standards have been established under the United States Grain Standards Act and which, after the removal of dockage, contains 50 percent or more of whole kernels of triticale.

§ 26.652 Definitions of other terms.

For the purposes of these standards, the following terms shall have the meanings stated below:

(a) *Damaged kernels (total)*. Kernels, pieces of triticale kernels, and other grains that are badly ground-damaged, badly weather-damaged, diseased, frost-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, or otherwise materially damaged in the sample after the removal of dockage and shrunken and broken kernels.

(b) *Defects (total)*. Damaged kernels, foreign material, and shrunken and broken kernels. The sum of these three factors may not exceed the limit for the factor "Defects (total)" for each individual grade.

(c) *Distinctly low quality*. Triticale which is obviously of inferior quality because it contains foreign substances or because it is in an unusual state or condition, and which cannot be properly graded by use of the other grading factors provided in the standards. Distinctly low quality shall include any objects too large to enter the sampling device; i.e., large stones wreckage etc.

(d) *Dockage*. All matter other than triticale which can be removed readily from a test portion of the original sample by use of an approved device in accordance with procedures prescribed in the Grain Inspection Manual.[2] Also, underdeveloped, shriveled, and small pieces of triticale kernels removed in properly separating the material other than triticale and which cannot be recovered by properly rescreening or recleaning. (See also §§ 26.655 and 26.657.) For the purpose of this paragraph, "approved device" shall include the Carter Dockage Tester and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(e) *Foreign material (total)*. All matter other than triticale which remains in the sample after the removal of dockage and shrunken and broken kernels.

(f) *Heat-damaged kernels*. Kernels, pieces of triticale kernels, and other grains that are materially discolored and damaged by heat which remain in the sample after the removal of dockage and shrunken and broken kernels.

(g) *Moisture*. Water content in triticale as determined by an approved device in accordance with procedures prescribed in the Equipment Manual.[2] For the purpose of this paragraph, "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(h) *Other grains*. Barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, guar, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, rye, safflower, sorghum, soybeans, spelt, sunflower, sweet corn, wheat, and wild oats.

(i) *Shrunken and broken kernels*. All matter which can be removed from a test portion of the dockage-free sample by use of an approved device in accordance with procedures prescribed in the Grain Inspection Manual.[2] For the purpose of this paragraph, "approved device" shall be the 0.064 x 3/8 inch oblong-hole sieve.[3]

(j) *Sieve, 0.064 x 3/8 oblong-hole*. A metal sieve 0.032 inch thick with oblong performations 0.064 inch by 0.375 (3/8) inch.

(k) *Stones*. Concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(l) *Test weight per bushel*. The weight per Winchester bushel (2,150.42 cubic inch capacity) as determined on a dockage-free test portion of the original sample using an approved device in accordance with instructions in the Grain Inspection Manal.[2] For the purpose of this paragraph, "approved device" shall include the Fairbanks-Morse or Ohaus Test Weight Per Bushel Apparatus and any other equipment that is approved by the Administrator as giving equivalent results.[3]. Test weight per bushel shall be expressed to the nearest tenth of a pound.

PRINCIPLES GOVERNING THE APPLICATION OF THE STANDARDS

§ 26.653 Basis of determination.

(a) *Distinctly low quality*. The determination of distinctly low quality shall be made on the basis of the lot as a whole at the time of sampling when a condition exists that may not appear in the representative sample and/or the sample as a whole.

(b) *Certain quality determinations*. Each determination of rodent pellets, bird droppings, other animal filth, broken glass, castor beans, crotalaria seeds, dockage, garlic, live weevils or other insects injurious to stored grain, moisture, odor, temperature, an unknown foreign sufbstance, and a commonly recognized harmful or toxic substance shall be upon the basis of the sample as a whole.

(c) *All other determinations*. All other determinations shall be upon the basis of the grain when free from dockage; except that the determination of heat-damaged kernels, damaged kernels (total), material other than wheat or rye, and foreign material (total) shall be upon the basis of the grain when free from dockage and shrunken and broken kernels.

§ 26.654 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the triticale standards are applicable to triticale produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvesting of triticale may require minor temporary modifications in the equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, Federal Grain Inspection Service Field Offices, official inspection agencies, and interested parties in the grain trade will be notified promptly in writing of the modification. Adjustments in interpretations (i.e., identity, quality, and condition) are excluded and shall not be made.

§ 26.655 Percentages.

(a) Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(1) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., state 0.46 as 0.5.

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure; e.g., state 0.54 as 0.5.

(3) When the figure to be rounded is even and it is followed by the figure 5, retain the even figure. When the figure to be rounded is odd and it is followed by the figure 5, round the figure to the next higher number; e.g., state 0.45 as 0.4; state 0.55 as 0.6.

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining the identity of triticale and the percentage of dockage and ergot. The percentage when determining the identity of triticale shall be stated to the nearest whole percent. The percentage of dockage when equal to one-half percent or more shall be stated in terms of half percent, whole percent, or whole and half percent, as the case may be, with other fractions disregarded as shown in the following examples: Dockage ranging from 0.5 to 0.9 percent shall be expressed as 0.5 percent, from 1.0 to 1.4 percent as 1.0 percent, from 1.5 to 1.9 percent as 1.5 percent, etc. The percentage of ergot shall be stated to the nearest hundredth percent.

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

§ 26.656 Grades and grade requirements for triticale.

(See also § 26.658.)

[2] The following publications are referenced in these standards. Copies may be obtained from the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250.

(a) Equipment Manual, GR Instruction 916-6, effective September 25, 1968, as amended, U.S. Department of Agriculture, Agricultural Marketing Service.

(b) Grain Inspection Manual, GR Instruction 918-6, effective August 28, 1972, as amended, U.S. Department of Agriculture, Agricultural Marketing Service.

[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and request for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250.

Grade [1]	Minimum test weight per bushel	Maximum limits of—					
		Damaged kernels		Foreign material		Shrunken and broken kernels	Defects (total) [4]
		Heat-damaged	Total [2]	Material other than wheat or rye	Total [3]		
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	48	0.2	2	1	2	5	5
U.S. No. 2	45	.2	4	2	4	8	8
U.S. No. 3	43	.5	8	3	7	12	12
U.S. No. 4	41	3.0	15	4	10	20	20

[1] U.S. sample grade shall be triticale which:
(a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4; or
(b) Contains a quantity of smut so great that 1 or more of the grade requirements cannot be determined accurately; or
(c) Contains 8 or more stones, 2 or more pieces of glass, 3 or more crotalaria seeds (*Crotalaria* spp.), 3 or more castor beans (*Ricinus communis*), 4 or more particles of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), or 2 or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth per 1,000 grams of triticale; or
(d) Has a musty, sour, or commercially objectionable foreign order (except smut or garlic-odor); or
(e) Is heating or otherwise of distinctly low quality.
[2] Includes heat-damaged kernels.
[3] Includes material other than wheat or rye.
[4] Defects (total) includes damaged kernels (total), foreign material (total) and shrunken and broken kernels. The sum of these 3 factors may not exceed the limit for "defects (total)" for each numerical grade.

§ 26.657 Grade designations.

The grade designations for triticale shall include in the following order: (a) The letters "U.S."; (b) the number of the grade or the words "Sample grade"; (c) the word "triticale"; (d) each applicable special grade (see also § 26.659); and (e) when applicable, the word "dockage" together with the percentage thereof.

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

§ 26.658 Special grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 26.656. Such special grades are established and determined as follows:

(a) *Ergoty triticale.* Triticale which contains more than 0.10 percent of ergot.

(b) *Light garlicky triticale.* Triticale which contains in a 1,000-gram portion two or more, but not more than six, green garlic bulblets, or an equivalent quantity of dry or partly dry bulblets.

(c) *Garlicky triticale.* Triticale which contains in a 1,000-gram portion more than six green garlic bulblets or an equivalent quantity of dry or partly dry bulblets.

(d) *Light smutty triticale.* Triticale which has an unmistakable odor of smut, or which contains in a 250-gram portion smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 14 smut balls, but not in excess of a quantity equal to 30 smut balls of average size.

(e) *Smutty triticale.* Triticale which contains in a 250-gram portion smut balls, portions of smut balls, or spores of smut in excess of a quantity equal to 30 smut balls of average size.

(f) *Weevily triticale.* Triticale which is infested with live weevils or other insects injurious to stored grain. As applied to triticale, the meaning of the term "infested" is set forth in the Grain Inspection Manual.[2]

§ 26.659 Special grade designations.

Special grade designations shall be made in addition to all other information prescribed in § 26.657. The grade designation for ergoty, light garlicky, garlicky, light smutty, smutty, and weevily triticale shall include in the order listed, following the word Triticale, the word(s) "Ergoty," "Light garlicky," "Garlicky," "Light smutty," "Smutty," and "Weevily," as warranted.

Effective date: The United States Grain Standards Act, as amended, requires that public notice shall be given when new standards are established and that no standards shall become effective less than 1 year after promulgation thereof, unless, in the judgment of the Administrator, the public health, interest, or safety require that they become effective sooner.

The new standards should become effective on May 1, 1977, before the beginning of harvest so that the 1977 crop can be marketed under official U.S. Standards in order to minimize possible disruption of normal marketing procedures. Members of the industry have reviewed the proposal, and there were no objections to such an effective date. Some industry members have asked that standards be made effective as soon as practicable. Furthermore, it does not appear that a waiting period beyond this date would make additional relevant information available to the Department on this matter.

Accordingly, it is deemed to be in the public interest to make these standards effective in less than one calendar year after promulgation; therefore, the standards shall become effective May 1, 1977.

Done at Washington, D.C., on: February 10, 1977.

DONALD E. WILKINSON,
Interim Administrator.

[FR Doc.77-4826 Filed 2-15-77;8:45 am]

PART 26—GRAIN STANDARDS

United States Standards for Wheat

In FR Doc. 76-18786 appearing on page 26670 in the FEDERAL REGISTER of June 29, 1976, paragraph (b) of § 26.303 appearing on page 26673 is corrected in the first line of that paragraph by changing "Certain Sample grade factors" to read "Certain quality determinations." Also, in the third line of that same paragraph the words "broken glass" should be added immediately following the words "animal filth" and immediately before the words "castor beans."

Dated: February 10, 1977.

DONALD E. WILKINSON,
Interim Administrator.

[FR Doc.77-4827 Filed 2-15-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Adoption of Special Rule No. 8 for Subpart C

On January 26, 1977, the Federal Energy Administration ("FEA") issued a notice of proposed rulemaking and public hearing (42 FR 5362 January 28, 1977) proposing the adoption of Special Rule No. 8 (the "Special Rule") for Subpart C of 10 CFR Part 211. The Special Rule as proposed provided for the extension of entitlement benefits to imports of No. 2 heating oil into PAD Districts I through IV in the months of February and March 1977. Written comments on the proposal were invited through February 7, 1977, and a public hearing was held on that date.

This proposal was prompted by the extremely high level of demand for home heating oil in the North Central and Northeast regions caused by the continuing unusually severe weather. As pointed out in the proposal, FEA believed that the extension of entitlement benefits to imports of No. 2 heating oil would alleviate potentially severe supply problems by inducing increased importation of that product.

The Special Rule was proposed provided for issuance of entitlements for imports of No. 2 heating oil in the months of February and March 1977 into PAD Districts I through IV. The proposed per barrel entitlement value for these imports was 65 percent of the applicable per barrel crude oil entitlement value under the entitlements program for the month in which the import takes place. FEA projected that this would result in an entitlement value of approximately $1.56 for heating oil imports. As set forth in the proposal, the 65 percent entitlement value was intended to provide an 84 cent per barrel level of protection for domestic refiners consistent with FEA's proposal now under consideration for residual fuel oil. The Special Rule treated imports of No. 2 heating oil into PAD Districts I through IV in the same manner as imports of residual fuel oil into the East Coast market are currently provided for under § 211.67(a)(3), i.e., the importer of record would be the firm eligible to receive entitlements with respect to the import of the product. As is the case with imports of residual fuel oil, imports of No. 2 heating oil from the U.S. Virgin Islands were not to be eligible for entitlement benefits.

In addition to requesting oral and written comments on the proposed Special Rule, FEA specifically requested comments on: (1) Whether imports in the month of April 1977 should also be eligible for entitlement benefits; (2) how FEA can be assured that these entitlement benefits will be passed through to consumers in the form of current price reductions, starting with appropriate billing adjustments effective from February 1, 1977; (3) whether other middle distillates, such as No. 2-D diesel fuel, kerosene, and No. 1 oils should also be eligible for import entitlements; and (4) whether adoption of the proposal with regard to No. 2 heating oil would assist domestic refiners in converting their production to yield more motor gasoline to increase gasoline stocks to normal levels prior to the high demand summer driving season.

Forty-two written comments were received in response to the notice of proposed rulemaking. FEA also has received written and oral comments in connection with its January 18, 1977 notice (42 FR 4525 January 25, 1977) providing for public hearings in Minneapolis, Minnesota, and Boston, Massachusetts, with respect to the current price levels for and the adequacy of supplies of middle distillates in the North Central and Northeastern regions. These comments were also considered in FEA's determination in this proceeding.

The public hearing on this proposal was held on February 7, and 17 persons, including members of Congress and representatives of all segments of the petroleum industry, presented oral statements at the hearing. Although representatives of certain of the larger integrated refining companies that do not market substantial volumes of heating oil on the East Coast opposed the proposal, most other parties, including a representative of marketers of heating oil in the Midwest, supported adoption of the proposal. Persons in favor of the proposal pointed out that it would remove the current disincentives to contract for additional volumes of imports, in that firms would be assured that their imported product costs would be competitive with those of domestic refiners. These additional imports, it was pointed out, would moderate what is now a very tight supply situation for No. 2 heating oil in the Northeastern states and in certain areas an actual shortage of No. 1 fuel oil or kerosene, thus insuring that adequate product was available. As to current supply levels, it was felt that, although primary stocks of No. 2 heating oil are lower than normal, no overall shortage of that product exists at this time. However, distribution problems, specifically the difficulties and increased costs of moving product inland, due to the cold weather have caused supply disruptions. As to the effects on consumer prices, testimony indicated that a large portion, if not all, of any entitlement benefits granted would flow through to consumers, although it was recognized first that distribution costs are much higher this winter than in a normal winter and second that the spot prices on the world market have risen in response to higher world demand for middle distillates. FEA's belief in this regard is that the entitlement benefits will be passed through, although import prices will probably continue to reflect increased world demand.

ADOPTION OF THE SPECIAL RULE

Based on its analysis of the material submitted in the public hearing and in the written comments, FEA has determined to adopt Special Rule No. 8 essentially as proposed, but with provision for a fixed per barrel entitlement value of $2.10 (or five cents per gallon) and providing also for coverage of imports of No. 1 heating oil (kerosene). FEA believes that adoption of the Special Rule is necessary to insure adequate supplies of heating oil, particularly to consumers in the Northeast region.

ENTITLEMENT VALUE

In providing for a fixed entitlement value of five cents per gallon, FEA recognized the concerns expressed in comments that the projected $1.56 per barrel value proposed was too low to insure the maximum level of increased imports, in that the differential in the domestic and import prices is currently in the neighborhood of six cents per gallon. In addition, persons commenting pointed out correctly that the concept of a cost differential in favor of domestic refiners was not an appropriate consideration where the regulatory action of short duration is attempting to encourage imports to address a temporary potentially emergency supply situation. FEA provided for a fixed dollar amount so that importers would be certain of the amounts to be received for their imports and so that the passthrough of these amounts would be facilitated.

PRODUCTS COVERED

FEA has also determined to make imports of No. 1 heating oil and kerosene eligible for entitlement issuances, since a significant portion of the heating oil consumed in the more Northern parts of the Northeast region is accounted for either by No. 1 heating oil or kerosene.

PERIOD FOR ELIGIBLE IMPORTS

FEA has determined that the months for which imports should be eligible for entitlement issuances are February and March 1977, as proposed. FEA believes that provision for imports in months other than February and March would not serve at this time to increase supplies of heating oil available during this heating season. Imports for January have already been landed, and the award of entitlement benefits for these imports would not provide incentives for increased supplies, although such a provision might very well bring about lower consumer prices in certain cases. But, at the same time, coverage of January imports would reward certain firms and would penalize other firms' competitive postions. FEA also concluded from the public hearing and comments that coverage of April imports would not be necessary to assure adequate supplies for the remainder of this heating season.

PASSTHROUGH OF ENTITLEMENT BENEFITS TO CONSUMERS

FEA is particularly concerned that entitlement benefits deriving from the Special Rule be passed through to consumers. The adoption of a fixed entitlement value of five cents per gallon is intended to facilitate the passthrough of such benefits, by removing any uncertainty concerning the ultimate value of the entitlement benefit that accrues upon the importation of the product. Had the entitlement value been specified as a percentage of the applicable per barrel crude oil entitlement for the month in which the import took place, the exact value of the entitlement could not have been ascertained during the month in which the import took place, since the per barrel entitlement value for crude oil is not calculated until after actual pricing data for the month in question have been reported to FEA.

With the additional supplies of imported product which should become available under this Special Rule at prices that are comparable to prices for domestic supplies, there is reason to believe that competition will bring about the passthrough of entitlement benefits to consumers. However, in order to insure that this does in fact occur, and to provide a basis for any appropriate remedial regulatory action should it not occur, FEA will begin immediately to monitor on a weekly basis the cost of No. 2 heating oil to all firms currently being surveyed as part of the middle distillate price monitoring system adopted by FEA on September 15, 1976 (41 FR 41155, September 21, 1976). These weekly cost surveys will disclose the impact of the entitlements benefits of this Special Rule on the cost for product of the firms that import No. 2 heating oil during February and March. A comparison of each firm's current costs and prices for No. 2 oils with costs and prices of the same firms in the months immediately preceding the availability of entitlement benefits will provide FEA with a means to monitor on a current basis the extent to which entitlement benefits are passed through to consumers. If, based upon these contemporaneous data, it appears that entitlements benefits are not being passed through, FEA will take appropriate remedial action.

It is important to note in regard to consumer prices that the reduced cost of imports under this Special Rule will probably not result in any overall price reduction at the consumer level as compared with current prices. Rather, the Special Rule should serve to prevent price increases that would otherwise have resulted from the greater than normal volumes of higher priced imported product which will apparently be needed to meet the high demand levels during this extraordinarily cold heating season.

Pursuant to Executive Order 11821, FEA will issue shortly its evaluation of the inflationary impact of the Special Rule, and will announce the availability thereof by a notice published in the FEDERAL REGISTER.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332 and Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641.)

In consideration of the foregoing, Part 211, Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., February 10, 1977.

DAVID G. WILSON,
Acting General Counsel.

The appendix to Subpart C of Part 211 is amended by the addition of a Special Rule No. 8 to read as follows:

SPECIAL RULE NO. 8

1. *Scope.* This Special Rule provides, for the months February and March 1977, for the issuance of entitlements under § 211.67 with respect to imports of No. 1 heating oil and No. 2 heating oil into PAD Districts I through IV.

2. *Entitlement issuances for certain middle distillate imports.* (a) For purposes of subparagraph (3) of paragraph (a) of § 211.67, imports of No. 1 heating oil and No. 2 heating oil into PAD Districts I through IV in the months February and March 1977 (other than imports into United States customs territory from the U.S. Virgin Islands) shall be considered eligible products, and any firm that imports No. 1 heating oil or No. 2 heating oil into PAD Districts I through IV for sale or use in those Districts, that is the importer of record under a license issued pursuant to Part 213 of this chapter and that owns the eligible product at the time of importation thereof pursuant to that license shall be considered an eligible firm. Importation for the purpose hereof shall be as defined in paragraph (j) of § 213.27 of Part 213 of this chapter.

(b) The entitlement value issuable under paragraph (a) above shall be equal to two dollars and ten cents ($2.10) per barrel.

(c) For purposes of this Special Rule, No. 1 heating oil means No. 1 heating oil as defined in § 212.31 of Part 212 of this chapter, and includes kerosene as defined in § 212.31.

3. *Reporting requirements.* The reporting requirements set forth in paragraph (j) of § 211.66 shall apply with respect to eligible firms' imports of No. 1 heating oil and No. 2 heating oil in the months February and March 1977.

4. *Provisions of Subpart C.* The provisions of Subpart C of Part 211 shall remain in full force and effect except as expressly modified by the provisions of this Special Rule.

[FR Doc.77-4796 Filed 2-11-77;9:26 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER H—REGULATIONS UNDER THE EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. RM 77-10]

PART 295—EMERGENCY REGULATIONS

Order Establishing Accounting and Billing Procedures for Interstate Natural Gas Pipelines

FEBRUARY 5, 1977.

Accounting and Billing Procedures of Interstate Natural Gas Pipelines to Reflect Payments and Receipts Pursuant to the Emergency Natural Gas Act of 1977, Pub. L. 95-2.

On February 2, 1977, the President signed into law the Emergency Natural Gas Act of 1977. Section 4 of the Act authorizes the President to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages. Section 6 of the Act provides authorization for short-term emergency purchases of natural gas by inter alia, interstate pipelines from producers, local distribution companies or other persons. The President has designated the Chairman of the Federal Power Commission as the administrator of the Act.

Sections 4(f) (1) and (2) of the Act provide as follows:

(f) (1) If the parties to any order issued under subsection (a) fail to agree upon the terms of compensation for deliveries (which may include compensation in kind) or transportation required pursuant to such order the President after a hearing held either before or after such order takes effect, shall, by supplemental order, prescribe the amount of compensation (which may include compensation in kind) to be paid for such deliveries or transportation and for any other expenses incurred in delivering or transporting such gas.

(2) If, for the purpose of a supplemental order pursuant to paragraph (1), the party making emergency deliveries pursuant to subsection (a)—

(A) Indicates a preference for compensation in kind, the President shall direct that compensation in kind be provided by August 1, 1977, to the maximum extent practicable.

(B) Indicates a preference for compensation, or the President determines pursuant to paragraph (A) of this subsection that any portion thereof cannot practicably be compensated in kind, the President shall calculate the amount of compensation for deliveries of natural gas, based upon the amount required to make the interstate pipeline delivering such natural gas and its local distribution companies whole for loss of sales resulting therefrom; including the actual amount paid by such interstate pipeline or any of its local distribution companies for the volumes of natural gas or higher cost gas such as synthetic natural gas which were needed to replace natural gas delivered pursuant to an order under subsection (a); and for transportation, storage, and other expenses, based upon reasonable costs, as determined by the President.

Sections 6 (a) and (b) (2) provide in part as follows:

SEC. 6. (a) The President may authorize any interstate pipeline or local distribution company served by an interstate pipeline (or class or category of such pipelines or companies) to contract, upon such terms and conditions as the President determines to be appropriate (including provisions respecting fair and equitable prices), for emergency supplies of natural gas for delivery before August 1, 1977—

(2) In exercising its authority under the Natural Gas Act, the Federal Power Commission shall not disallow, in whole or in part, recovery by any interstate pipeline, through the rates and charges made, demanded, or received by such pipeline, the amounts actually paid by it for natural gas purchased, transported, or other costs incurred pursuant to subsection (a).

Section 7 of the Act, entitled Adjustment in Charges for Local Distribution Companies, provides as follows:

Compensation received by an interstate pipeline pursuant to section 4 in excess of the amount such pipeline would have charged its local distribution companies shall be credited to such local distribution companies in proportion to their share of any natural gas not delivered together with credits necessary to make whole any local distribution company which replaced such natural gas with higher cost gas such as synthetic natural gas as prescribed in section 4(f) (2) (B). Compensation paid by an interstate pipeline for deliveries or emergency purchases of natural gas pursuant to section 4 or section 6 shall be charged to such interstate pipeline's local distribution companies in proportion to their share of such natural gas deliveries or purchases.

The effect of transactions under the above provisions as they flow through under the Natural Gas Act will be to require that compensation be paid or received by an interstate pipeline pursuant to the Emergency Act. For those transactions there is need for specific accounting procedures to account for billings to such pipeline's customers on an incremental basis. The amounts of compensation paid or received by interstate pipelines under the Act may not be accounted for under the Commission's existing PGA regulations (18 CFR 154.38(d)(4)), which establish accounting and rate adjustment procedures on a pro-rata, systemwide basis.

In order to reflect passage of the Emergency Natural Gas Act of 1977, the Commission finds that accounting and billing procedures consistent with the terms and provisions of the Act, should be established, as hereinafter ordered under the Natural Gas Act, 15 U.S.C. 717 et seq. The Commission finds that good cause exists to waive the prior notice requirements of the Administrative Procedure Act, 5 U.S.C. 553, to reflect the Emergency Natural Gas Act of 1977.

The Commission orders. (A) Compensation reflected in an authorization of the Administrator to be received by interstate pipelines for transportation service pursuant to section 4 or 6 of the Act shall be recorded in account No. 489. Compensation reflected in an authorization of the Administrator to be received by interstate pipelines for deliveries made pursuant to section 4 of the Act shall be recorded in account No. 483. Compensation reflected in an authorization of the Administrator to be paid by interstate pipelines for transportation services pursuant to section 4 or 6 of the Act shall be recorded in account No. 858. Compensation reflected in an authorization of the Administrator to be paid for deliveries pursuant to section 4 shall be recorded in account No. 803. Compensation reflected in an authorization of the Administrator to be paid by interstate pipelines for purchases from natural gas producers pursuant to section 6 of the Act shall be recorded in Account Nos. 800, 801, or 802, as appropriate. Compensation reflected in an authorization of the Administrator to be paid by interstate pipelines for purchases from intrastate pipelines pursuant to section 6 of the Act shall be recorded in account No. 803. Compensation reflected in an authorization of the Administrator to be paid by interstate pipelines for purchases from local distribution

companies or other persons pursuant to section 6 of the Act shall be recorded in account No. 804. In all cases the amounts paid or received shall be clearly identified as amounts paid or received pursuant to the Emergency Natural Gas Act of 1977.

(B) Interstate pipelines paying compensation under section 4 or 6 of the Act shall include in their monthly bills a separate charge calculated to recover the amounts of such payments from their distributor customers in proportion to each customer's share of natural gas deliveries or purchases associated with such payments. For purposes of billing, such amounts will be included in each monthly billing; for purposes of recovery the amounts net of any compensation under (C) below will be paid the following month to enable the distributor customers to generate the necessary funds.

(C) Interstate pipelines receiving compensation for deliveries of their own gas under section 4 of the Act shall include in their monthly bills a separate credit to distribute to their customers the amount of compensation received in excess of the amount such pipelines would have otherwise charged. The billing credit shall be calculated in a manner designed (1) to make whole any customer which replaced natural gas not delivered with higher cost gas such as synthetic gas as prescribed in section 4(f)(2)(B) of the emergency act, and (2) to distribute total net excess compensation to customers in proportion to their share of any natural gas not delivered as a result of the transaction giving rise to the compensation.

(D) Compensation received by interstate pipelines for transportation services pursuant to section 4 of the Act, less actual out of pocket expenses incurred in rendering the service, shall be credited to the deferred purchased gas cost account No. 191.

(E) A statement of monthly charges and credits under the terms of paragraphs (B) and (C) above, together with the supporting workpapers (including volumes, revenues or charges associated with each transaction, and the basis for such revenues or charges), shall be mailed on the date of billing to the Commission and each of the pipeline's jurisdictional customers and interested state regulatory commissions. The Commission recognizes that under Pub. L. 95-2, rates and charges authorized by the Administrator are not subject to disallowance in whole or in part by the FPC under the Natural Gas Act.

(F) The procedures established herein shall be effective upon the issuance of this order.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4898 Filed 2-15-77;8:45 am]

Title 31—Money and Finance: Treasury

SUBTITLE A—OFFICE OF THE SECRETARY OF THE TREASURY

PART 1—DISCLOSURE OF RECORDS

Information Made Available

As a result of the enactment of Pub. L. 94-409 on September 13, 1976, the Department finds it necessary to amend its Disclosure of Records regulations. The Department further finds that notice and public procedure, with respect hereto, are unnecessary under 5 U.S.C. 553(b)(3)(B) as the regulations are being amended to conform them to section 5(b) of Pub. L. 94-409.

Accordingly, and in conformance with section 6(a) of Pub. L. 94-409, the following amendment shall be effective on March 12, 1977.

Amend 31 CFR 1.2(c)(1)(iii) to read:

§ 1.2 Information made available.

* * * * *

(c) * * *

(1) * * *

(iii) Specifically exempted from disclosure by statute (other, than 5 U.S.C. 552(b)): *Provided,* That such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

* * * * *

Dated: February 10, 1977.

HENRY C. STOCKELL, Jr.,
Acting General Counsel.

[FR Doc.77-4861 Filed 2-15-77;8:45 am]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

PART 701—AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

Additional Privacy Act Exemptions

On page 51849 of the FEDERAL REGISTER of November 24, 1976, notice of proposed rule-making was published proposing to amend Subpart G of Part 701 of 32 CFR (41 FR 55061, November 17, 1976), entitled "Privacy Act Exemption," by adding two exemptions under 5 U.S.C. 552a. The first amendment to Subpart G of Part 701 adds a new paragraph (1) to § 701.123 which exempts portions of a Navy system of records entitled "White House Support Program." The second amendment to Subpart G of Part 701 adds a new paragraph (g) to 701.124 which exempts portions of a Marine Corps system of records entitled "Personnel Security Eligibility and Access Information System."

Interested persons were given until December 31, 1976, to submit written views, comments, and arguments regarding the proposed amendments to Subpart G of Part 701. The December 31 submission deadline has since passed, and no written views, comments, or arguments have been received. Therefore, pursuant to the authority of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a, the proposed amendments are adopted without change.

Accordingly, there is established in Subpart G of Part 701 of 32 CFR a new paragraph (l) to § 701.123 and a new paragraph (g) to § 701.124 as follows:

§ 701.123 Exemptions of specific Navy records systems.

* * * * *

(l) Office of the Secretary.

(1) ID—N 31698. WHSP.

SYSNAME—White House Support Program.

EXEMPTION—Portions of this system of records are exempt from the following subsections of 5 U.S.C., 552a (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

AUTHORITY—5 U.S.C. 552a(k) (1), (2), (3), and (5).

REASONS—Exempted portions of this system may contain information which has been properly classified under Executive Order 11652, and which is required to be kept secret in the interest of national defense or foreign policy. Exempted portions of this system may also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for access to classified information, and which was obtained by providing an express or implied promise to the source that his identity would not be revealed to the subject of the record. Exempted portions of this system may also contain information collected and maintained in connection with providing protective services to the President and other individuals protected pursuant to 18 U.S.C. 3056. Exempted portions of this system may also contain investigative records compiled for law-enforcement purposes, the disclosure of which could reveal the identity of sources who provided information under an express or implied promise of confidentiality, compromise investigative techniques and procedures, jeopardize the life or physical safety of law-enforcement personnel, or otherwise interfere with enforcement proceedings or adjudications.

§ 701.124 Exemptions for specific Marine Corps record systems.

* * * * *

(g) ID—MIN 00001.

SYSNAME—Personnel Security Eligibility and Access Information System.

EXEMPTION—Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G) through (I), and (f).

AUTHORITY—5 U.S.C. 552a(k) (2), (3), and (5), as applicable.

REASONS—Exempt portions of this system contain information that has

been properly classified under Executive Order 11652, and that is required to be kept secret in the interest of national security or foreign policy.

Exempt portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for federal civilian employment, military service, federal contracts, or access to classified, compartmented, or otherwise sensitive information, and was obtained by providing an expressed or implied assurance to the source that his identity would not be revealed to the subject of the record.

Exempted portions of this system further contain information that identifies sources who confidentiality must be protected to ensure that the privacy and physical safety of these witnesses and informants are protected.

Dated: February 9, 1977.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc.77-4849 Filed 2-15-77; 8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20812; RM-2647; RM-2660; RM-2671; RM-2672]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Saegertown, Pennsylvania; Carpinteria, California; Two Harbors, Minnesota; Grass Valley, California; Change Made in Table of Assignments

Adopted: February 9, 1977.

Released: February 10, 1977.

1. The Commission here considers a "Request for Reconsideration" submitted by Israel Sinofsky which asks for reconsideration of the Report and Order[1] in Docket No. 20812 in which a request to assign Channel 269A to Carpinteria, California, was denied. Classic Broadcasting Corporation filed comments in which it urged the Commission to reconsider and assign Channel 269A to Carpinteria.[2]

2. The Carpinteria portion of this proceeding was initiated after the Commission received a "Petition for Rule Making" filed by Israel Sinofsky (petitioner) which sought the assignment of Channel 269A to Carpinteria as a first FM assignment to the community. No oppositions were filed. Thereafter, the Commission issued a Notice of Proposed Rule Making[3] seeking comments on the proposal. The Commission failed to receive comments from petitioner and, consistent with our policy and procedures set forth in the Appendix to the Notice refrained in the Report and Order from making the assignment to Carpinteria in the absence of an expression of continuing interest. Upon receipt of the Report and Order, petitioner corresponded with the Commission, stating he never received a copy of the Notice and therefore could not have known when to file comments. Petitioner states that, upon discovery of the Notice, he filed a statement with the Commission reiterating his continuing interest and intent to apply for the channel if assigned. The Commission's records do not show that this statement has been received.

3. We believe, that the public interest would be served by the assignment of Channel 269A to Carpinteria. Such an assignment would provide the community an opportunity to obtain its first full-time local aural broadcast service. In view of the petitioner's failure to receive a copy of the Commission's Notice and our failure to receive petitioner's statement which was mailed to the Commission, we believe the requisite expression of interest and intent has been provided and that a reversal of our earlier denial of the petition is warranted. We will therefore assign Channel 269A to Carpinteria, California, as proposed.

4. The Mexican Government has given its concurrence to the proposed assignment at Carpinteria, California.

5. Accordingly, *it is ordered*, That effective March 25, 1977, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) is amended as to the named community to read as follows:

City	Channel No.
Carpinteria, California	269A

6. *It is further ordered*, That the Petition for Reconsideration filed by Israel Sinofsky is granted.

7. Authority for the actions taken herein is found in Sections 4(1), 5(d)(1), 303 (g) and (r), and 307(b) of Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

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.77-4905 Filed 2-15-77;8:45 am]

[Docket No. 20905, RM-2696]

PART 73—RADIO BROADCAST SERVICES

Report and Order

Adopted: February 10, 1977.

Released: February 11, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Anchorage, Alaska).

1. The Commission has under consideration its Notice of Proposed Rule Making, adopted September 2, 1976, 41 FR 39330, inviting comments on a proposal to assign Channel 276A to Anchorage, Alaska, to be used there as a reserved channel for noncommercial educational purposes. This proceeding was instituted on the basis of a petition filed by the Alaska Educational Broadcasting Commission, since re-named Alaska Public Broadcasting Commission ("APBC"). Supporting comments were filed by petitioner. No oppositions were filed.

2. Anchorage (pop. 48,081),[1] the largest city in the State of Alaska, is located in the south-central part of the state. APBC notes that Anchorage is the home of the University of Alaska, and is also the center of commerce for the entire state. The principal industries are petroleum production, transportation, construction, manufacturing and mining. Anchorage presently receives commercial aural service from four FM facilities and five AM stations. The Commission is presently considering an application which proposes the operation of a fifth FM station in Anchorage.[2]

3. APBC reaffirms its intent to apply (through a related entity functioning under its aegis) for Channel 276A and, upon receipt of a grant, it will activate the facility.

4. Channel 276A can be assigned to Anchorage without disturbing any existing assignments and in compliance with the minimum mileage separation requirements. Preclusion would occur on Channels 275, 276A and 277. However, only one community with a population greater than 1,000 is affected. That community, Palmer, Alaska, has three alternate channels available for assignment.

5. We are of the opinion that the public interest would be served by assigning Channel 276A to Anchorage, Alaska. It would be reserved as Anchorage's first noncommercial educational FM channel. An educational station operating on this channel could provide a needed educational service to this area.

6. In view of the foregoing, *It is ordered*, That effective March 25, 1977, § 73.202(b) of the Commission's Rules, as regarding Anchorage, Alaska, is amended as follows:

City	Channel No.
Anchorage, Alaska	263, 267, 271, *276A, 280A, 288A.

7. 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 Section 0.281 of the Commission's Rules.

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.77-4910 Filed 2-15-77;8:45 am]

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[1] Comments had been filed by Charles V. Martin and John A. Popejoy suggesting the assignment of Channel 296A instead of Channel 269A to Carpinteria. These comments were subsequently withdrawn, so we are proceeding with the original proposal of Channel 269A to Carpinteria.

[2] FM Channel Assignments—Carpinteria, California, 41 FR 44404.

[3] 41 F.R. 21365, May 25, 1976.

[1] 1970 U.S. Census.

[2] The applicant, Christian Voice of Alaska, seeks to obtain broadcast authority for the operation of a station on Channel 263 at Anchorage (BPH-9549).

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Editorial Amendments Updating Certain Rules and Deleting Parts of Others

Adopted: February 4, 1977.

Released: February 8, 1977.

In the matter of Amendment of Parts 81 and 83 of the Commission's Rules and Regulations.

1. A revised edition of Parts 81 and 83, Volume IV of the Commission's Rules and Regulations, January 1977, will contain the following editorial amendments updating certain rules and deleting parts of others which no longer apply.

2. Concluding that the adoption of these amendments will serve the public interest, the prior notice of rule making, effective date provisions, and public procedure are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553 (b)(3)(b), inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose.

3. Therefor, *it is ordered*, That pursuant to Sections 4(i), 303(r), and 5(a)(1) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, Parts 81 and 83 of the Commission's Rules and Regulations are amended as set forth in the attached Appendix, effective February 22, 1977.

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

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

§ 81.7 [Amended]

1. In § 81.7(s) delete the comma between "immediate needs" and "for obtaining vessel supplies".

§ 81.74 [Amended]

2. In § 81.74(a) the third sentence should be amended to read: * * * or suspension of a watch normally kept on 500 kHz, 2182 kHz or 156.8 MHz, notification[1] thereof shall be given * * *; In par. (b), the first sentence should be amended to read: * * * normal service of a limited coast station (provided a watch normally kept by such station on 500 kHz, 2182 kHz or 156.8 MHz is not reduced or suspended thereby) or any other station * * *; in par. (b) the third sentence should be amended to read: * * * In the event any reduction or suspension of a watch normally kept on 500 kHz, 2182 kHz or 156.8 MHz, immediate notification * * *.

§ 81.75 [Amended]

3. In § 81.75, the fourth sentence should be amended to read: * * * suspension of a watch normally kept by any coast station on 500 kHz, 2182 kHz or 156.8 MHz, immediate notification[1] thereof * * *.

§ 81.304 [Amended]

4. In § 81.304(a) under "Conditions of Use," section 81.360(b) is deleted from the carrier frequency 2638 kHz; in par. (c)(1) delete the "s" from the word "emissions".

§ 81.354 [Amended]

5. In § 81.354(a)(3) the word "authorized" is deleted.

§ 81.708 [Amended]

6. In § 81.708(a) table, under "Conditions of Use" delete limitation 38 from the frequency 2773 and add the limitation 32; the frequency 5207.5 kHz and its "conditions of use" appear twice—one should be deleted; in par. (b) limitation (32) shown as reserved should read: "(32) Available for radiotelephony only; for communication with the common carrier station located at Bethel.

§ 81.713 [Amended]

7. In 88.713, table, add 2773 kHz in the APES column to the station: Bethel.

§ 83.6 [Amended]

8. In § 83.6(1) add "of immediate need." at the end.

§ 83.183 [Amended]

9. In § 83.183, make (a) an unlettered paragraph.

§ 83.223 [Amended]

10. In § 83.223(a) and par. (b), add "in this band." at the end.

§ 83.351 [Amended]

11. In § 83.351(a) Table, delete limitation 35 from frequencies 156.675 and 156.725; delete limitation 33 from the frequency 157.325.

[FR Doc.77-4907 Filed 2-15-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE, SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

White River National Wildlife Refuge

The following special regulation is issued and is effective on February 16, 1977.

§ 32.22 Special regulations; Upland game; for individual wildlife refuge areas.

ARKANSAS

WHITE RIVER NATIONAL WILDLIFE REFUGE

Public hunting of wild turkey on the White River National Wildlife Refuge, DeWitt, Arkansas is permitted only on the area designated by signs as open to hunting. This open area is delineated on a map available at the refuge headquarters and from the Regional Director, 17 Executive Park Drive, N.E., Atlanta, Georgia 30329. Hunting shall be in accordance with all State and Federal regulations subject to the following conditions:

(1) Species permitted to be taken: wild turkey.

(2) Open season: Five separate 2-day hunts will be held as follows: April 1-2, 8-9, 15-16, 22-23, 29-30, 1977.

(3) Daily bag limits: One bearded turkey; no other game may be taken.

(4) Methods of hunting: Shotguns only.

(5) Hunting hours are from daylight until sunset. Hunters may not return to the woods with firearms after their turkey is bagged.

(6) All turkey must be checked out at official check stations.

(7) A Federal permit is required to enter the public hunting area. Permits are not transferable.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through April 30, 1977.

RAY R. VAUGHN,
Acting Regional Director,
Fish and Wildlife Service.

FEBRUARY 7, 1977.

[FR Doc.77-4850 Filed 2-15-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC-0043, FC-0044]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

In accordance with 12 CFR Part 226.1 (d), the Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

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

Official staff interpretations may be reconsidered by the Board upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

These interpretations shall be effective as of February 14, 1977.

§ 226.4(a)(5). Compliance with § 226.4(a)(5)(ii) is achieved when creditor presents the various types of insurance together, where the customer can indicate the type(s) of insurance desired and where the signature block follows the listing of the type(s) of insurance. Although one signature would be acceptable in such an instance, it must be separate from that on the contract document evidencing the credit transaction.

Compliance with § 226.4(a)(5)(ii) is achieved when the customer indicates by checkmark or the like together with the his/her signature, the type(s) of insurance desired, or where the dealer at the request of the customer indicates by checkmarks or the like, the type(s) of insurance desired and dates the request as long as the customer renders his/her personal signature subsequent to the dealer's preparation of the request.

FEBRUARY 2, 1977.

This is in response to your letter of * * *, requesting an official staff interpretation of § 226.4(a) (5) which deals with the exclusion of certain types of insurance premiums from the finance charge.

You state that credit life and/or accident and health insurance are not required by either the bank you represent or any dealer with whom the bank has a financing arrangement. You indicate that such is clearly and conspicuously disclosed in writing, together with the cost of such insurance on the bank's Sale and Security Agreement. (Please note that although you indicated that a copy of the bank's agreement was enclosed with your letter, no such agreement was included.) You indicate that the relevant portion of that document reads as follows:

Personal insurance—The following types of insurance are not required in connection with this transaction. The Buyer's desire for any such insurance must be indicated by signature below:

	Premium
____ Credit life insurance	$_____
____ Accident and health insurance	_____
Total, personal insurance premium	_____

Buyer's Approval: I desire each type of insurance coverage initialed above. Buyer must initial each type of insurance desired.

_____ _____
Date (Buyer's Signature)

You state that this authorization was originally set up in this form because the bank interprets § 226.4(a) (5) (ii) as not requiring a separately signed and dated affirmative written authorization for each type of personal insurance desired by the customer. You represent that the bank regards one signature as sufficient in providing an affirmative written indication of a customer's desire for the insurance indicated by the customer's initial. You state that the bank reads the clause "separately signed affirmative written indication of such desire" in § 226.4(a) (5) (ii) as referring to a signature separate from the customer's signature on the Sale and Security Agreement itself.

You pose the following questions with regard to § 226.4(a) (5) (ii):

1. Must the creditor obtain from the customer a "specifically dated and separately signed affirmative written indication" as to each type of insurance desired, or will a single dated and signed indication covering either or both types of insurance, as initialed by the customer, suffice?

2. Will compliance with § 226.4(a) (5) (ii) be achieved where the customer signs the specifically dated request but, in lieu of initialing the form, the customer or the dealer, at the request of the customer, indicates the desired type(s) of insurance coverage by checkmark, typewritten imprint or the like?

Where the purchase of insurance by the customer is strictly voluntary, it has long been staff's position that the intent of § 226.4(a) (5) (ii) is best served by separate disclosure of the cost of insurance together with the statement of the type(s) of insurance offered. This does not mean that § 226.4 (a) (5) (ii) requires a specifically dated and separately signed affirmative written authorization for each type of insurance desired by the customer. Furthermore, § 226.4(a) (5) (ii) permits the inclusion of the insurance authorization on the disclosure statement; no separate document is required. But § 226.4 (a) (5) (ii) does contemplate that the signature authorizing insurance coverage be separate from that on the contract document evidencing the credit transaction.

Regulation Z intends to make certain that the customer receives a disclosure of the cost of each type of insurance prior to requesting the insurance coverage(s). Therefore, staff has viewed disclosure of the cost together with the customer's signature as being the most acceptable method of achieving compliance. Staff feels that compliance with § 226.4(a) (5) (ii) is achieved where the creditor presents the various types of insurance together, where the customer can indicate the type(s) of insurance desired and where the signature block follows the listing of the type(s) of insurance. In such an instance, one signature would be acceptable.

Although staff would recommend the customer's initialing of each type of insurance desired, together with the customer's signature, staff views the use of a checkmark, typewritten imprint or the like, together with the customer's signature, as in compliance with the Regulation's requirements.

Where the dealer at the request of the customer indicates, by a checkmark or otherwise, the type(s) of insurance desired by the customer and the dealer may go so far as to date the request, compliance with the Regulation is achieved as long as the customer renders his personal signature subsequent to the dealer's preparation of the request.

This is an official interpretation of Regulation Z issued in accordance with § 226.1 (d) (3) and is confined to the facts and issues as stated. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

§ 226.8(b) (7). Where the method of rebate as described in the Colorado Code yields results identical to the Rule of 78's (at least with regard to all transactions entered into prior to October, 1975, and all subsequent transactions involving 61 or fewer installments) and since the requirements of § 226.8(b) (7) can be satisfied by using any commonly accepted term which describes the method of computing any refund due the customer, the rebate method can be identified as neither the "Rule of 78's" or the "Sum of the Balances" method.

FEBRUARY 4, 1977.

This is in reply to your letter of * * *, regarding § 226.8(b) (7) of Regulation Z and Board Interpretation § 226.818 which require disclosure of the method of computing the unearned portion of a finance charge in the event of prepayment in full of an obligation which includes precomputed finance charges.

You state that in Colorado, the method of calculating the unearned portion of the finance charge to be rebated in the event of prepayment in full of the unpaid balance of a precomputed consumer loan or consumer credit sale transaction is dictated by statute. With regard to transactions entered into prior to October 28, 1975, as well as those entered into on or after that date which, according to their original terms, are payable in sixty-one or fewer installments, the unearned portion of a precomputed finance charge in the event of prepayment in full of the unpaid balance is to be calculated in accordance with the following provisions of the Colorado Code:

"[T]he unearned portion of the loan finance charge is a fraction of the loan finance charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in which prepayment occurs, and the denominator is the sum of all periodic balances under either the loan agreement or, if the balance owing resulted from a refinancing or a consolidation, under the refinancing agreement or consolidation agreement."

You state that the method described in the Colorado statute will yield the same result, in terms of the amount of the unearned finance charge, as will application of the Rule of 78's. You also indicate that § 2.503(1) (g) of the Final Draft of the Uniform Consumer Credit Code (1974) referred to the "sum of the balance method" as alternatively being known as the Rule of 78's.

You question whether Colorado creditors would satisfy the requirements of § 226.8(b) (7) by identifying the rebate method described in the Colorado Statute in either of the following ways:

"1. As being "in accordance with the Rule of 78's;" or

"2. As being 'in accordance with the Sum of the balances method as described in § 5-3-210 [or 5-2-210 as applicable] of the Colorado Uniform Consumer Credit Code.'"

Staff reads the comments to §§ 2.210 and 3.210 of the 1969 Revised Final Draft of the Uniform Consumer Credit Code as indicating that those sections present "the 'Rule of 78' with respect to a sale, refinancing or consolidation payable in equal instalments at equal intervals from the date of the sale, refinancing or consolidation to the final scheduled payment date." While staff has consistently maintained that the Rule of 78's cannot be applied routinely to obligations involving an unequal or irregular payment schedule, the Uniform Consumer Credit Code appears to have utilized the principles of the Rule of 78's in describing the method of computing rebates. Since you claim that the rebate method described in the Colorado Code and the Rule of 78's yield identical results (at least with regard to all transactions entered into prior to October 28, 1975, and all transactions subsequent thereto involving sixty-one or fewer instalments) and since the requirements of § 226.8(b) (7) can be satisfied by using any commonly accepted term which describes a method of computing any refund due the customer, staff is of the opinion that the use of either rebate identification method set forth above would achieve compliance with § 226.8(b) (7) of the Regulation.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d) (3) of the Regulation and limited in its application to the facts set forth above. I trust that it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, February 10, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-4809 Filed 2-15-77;8:45 am]

[Docket No. R-0084]

PART 261—RULES REGARDING AVAILABILITY OF INFORMATION

Implementation of the Amendment to the Freedom of Information Act Required by the Government in the Sunshine Act

Consistent with section 5(b) of the Government in the Sunshine Act (Pub. L. 94-409), the Board of Governors of the Federal Reserve System, hereby revises § 261.6(a)(1) of Title 12 of the Code of Federal Regulations. The amendment will revise the Board's rules with regard to exemption 3 of the Freedom of Information Act. In order to accomplish this revision, § 261.6(a)(1) is revised, effective March 12, 1977, to read as follows:

261.6 Exemptions from disclosure.

(a) * * *

(1) is specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and is in fact properly classified pursuant to such Executive order, or is specifically exempted from disclosure by statute (other than section 552(b) of Title 5 United States Code) provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

* * * * *

The requirements of section 553 of Title 5 United States Code with respect to notice, public participation and deferred effective date were not followed in connection with this amendment because the amendment merely conforms the Board's rules to the language of exemption (b)(3) of the Freedom of Information Act, as amended by section 5(b) of the Government in the Sunshine Act, which amendment will become effective on March 12, 1977, and thus such procedures were found to be unnecessary.

By order of the Board of Governors of the Federal Reserve System, February 11, 1977.

THEODORE E. ALLISON
Secretary of the Board.

[FR Doc.77-5075 Filed 2-15-77;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 77-91]

PART 545—OPERATIONS

Service Corporations

SUMMARY

The following summary of the amendments adopted by this resolution is provided for the reader's convenience and is subject to the full explanation in the following preamble and to the specific provisions of the regulations.

I. PROPOSED REGULATION

(a) Would place on service corporations in which Federal associations may invest certain restrictions regarding (1) acquisition of unimproved real estate for the purpose of development, (2) development of such real estate, and (3) acquisition of real estate to be used for offices and related facilities of a savings and loan association which holds stock in the service corporation, or for such offices and related facilities and for rental or sale.

(b) Would set out Board policy regarding acquisition and development of unimproved real estate by service corporations of insured institutions.

(c) Would clarify that debt of a subsidiary of a service corporation must conform to debt limitations applicable to the parent corporation and would require that debt to the parent corporation be computed as debt for purposes of determining whether debt of the subsidiary exceeds such limitations.

II. DIFFERENCES FROM PROPOSAL.

(a) Restrictions regarding acquisition of real estate for development apply without regard to the total cost of the project and only when the cost to the service corporation exceeds 20 percent of its assets.

(b) Notification within 30 days after acquisition must be given to the District Director-Examinations instead of the Supervisory Agent, and in lieu of the use of prescribed forms certain prescribed information must be provided.

(c) The provision that would have required that information on specified subjects be obtained prior to acquisition is deleted.

(d) The three year maximum period for completion of development applies only after commencement of development, and a period of five years is allowed for completion following acquisition.

(e) Proposed restrictions on acquisition of real estate by a service corporation from individuals closely affiliated with a Federal association holding stock in such service corporation are deleted.

(f) The provision regarding application of service corporation debt limitations to subsidiaries of such corporations is further clarified.

(g) The proposed new policy statement regarding land acquisition and development by service corporations of insured institutions is not adopted.

The Federal Home Loan Bank Board, by Resolution No. 76-433, dated June 17, 1976, proposed to amend § 545.9-1 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 545.9-1) and Part 571 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 571) for the purpose of (1) placing restrictions on certain activities of service corporations in which Federal associations may invest, (2) setting out Board policy regarding certain activities of service corporations of insured institutions, and (3) revising and clarifying debt limitations applicable to subsidiaries of service corporations. Notice of such proposed rulemaking was published in the FEDERAL REGISTER on June 24, 1976 (41 FR 26031-26032), with an invitation to interested persons to submit written comments by July 25, 1976.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available to it, the Board deems it advisable to adopt the amendments, with modifications discussed below.

The proposed amendments would have placed certain restrictions on acquisition by a service corporation in which a Federal association may invest of unimproved real estate lots and other unimproved real estate for the purpose of prompt development and subdivision, principally for construction of housing or for resale to others for such construction, or for use as mobile home sites. Such restrictions would have been applicable whenever the total cost to purchase and develop such real estate exceeded the lesser of $1,000,000 or 20 percent of the assets of the service corporation. The final amendments apply restrictions only if the total cost to the service corporation to purchase and develop such real estate exceeds 20 percent of its assets. The final amendments thereby apply restriction solely on the basis of the amount of investment by the service corporation relative to its assets and without reference to the total size of the project.

The proposed amendments would have imposed two requirements in connection with any such acquisition exceeding such limits. First, the service corporation would have been required to notify the Board's Supervisory Agent on prescribed forms not later than 30 days after acquisition. The final amendments require that such notification be given to the District Director-Examinations and, in-

stead of requiring the use of prescribed forms, set out certain information that the notification must provide. These changes allow the service corporation greater flexibility and emphasize that this requirement is intended to facilitate examination and not to imply Board approval of any specific project.

The second requirement, that prior to any such acquisition the service corporation must obtain and maintain in its files data on specified subjects, is deleted. While the Board believes that acquisition of information of the type specified in the proposal is normally necessary for prudent land development activity, it has decided not to require at this time by regulation that it be obtained. It is noted, however, that the Board would expect to have such information available for consideration in evaluating any subsequent application which may be made to exercise salvage powers in connection with such activity.

The proposed amendments would also have required that development by such service corporations of real estate so acquired be completed within three years after acquisition, unless such period is extended by the Board upon written application. The final amendments make provision for the possibility of unavoidable delay following acquisition and prior to commencement of development by requiring completion within three years after commencement of development and no later than five years after acquisition of such real estate, unless such period is subsequently extended by the Board upon written application by the service corporation. Insertion of the word "subsequently" emphasizes the Board's determination that projects requiring a period of time for completion longer than that specified should not be undertaken. The proposed deletion from § 545.9-1(a) (4) (v) of the words "for sale or for rental" as superfluous is not adopted.

The proposed amendments would have prohibited acquisition by such service corporations of real estate to be used for offices and related facilities of a parent savings and loan association from certain individuals closely affiliated with the parent association. After publication of the proposed amendments for comment, the Board adopted new § 563.41 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.41), which places restrictions on real property transactions with affiliated persons of insured institutions and their subsidiaries. Those amendments rendered superfluous the prohibitions contained in the proposed service corporation amendments, which are therefore deleted from the final amendments hereby adopted.

The provision of the proposed amendments clarifying that debt of each service corporation subsidiary must conform to the limitations applicable to its parent corporation and revoking the provision for exclusion of debt of a subsidiary to its parent corporation from such limitations is adopted as proposed. Additionally, the final amendments contain further clarifying language emphasizing that the limitations apply to the consolidated debt of the service corporation and its subsidiaries as well as to the debt of each separate entity.

The proposed new policy statement regarding land acquisition and development by service corporations of insured institutions is not adopted.

Accordingly, the Board hereby amends § 545.9-1 of the Rules and Regulations for the Federal Savings and Loan System by revising paragraphs (a) (4) (iv), (a) (4) (v) and (b) (3) (i) (e) thereof, to read as set forth below, effective March 21, 1977.

§ 545.9-1 Service corporations.

(a) *General service corporations.* Subject to the provisions of this section, a Federal association which has a charter in the form of Charter N or Charter K (rev.) may invest in the capital stock, obligations, or other securities of any service corporation organized under the laws of the State, District, Commonwealth, territory, or possession in which the home office of such association is located if:

* * * * *

(4) Substantially all of the activities of such service corporation, performed directly or through one or more wholly-owned subsidiaries or joint ventures, consist of one or more of the following:

* * * * *

(iv) Acquisition of unimproved real estate lots, and other unimproved real estate, for the purpose of prompt development and subdivision, principally for construction of housing or for resale to others for such construction, or for use as mobile home sites. However, if the total cost to the service corporation to purchase and develop such real estate exceeds 20 percent of the assets of such service corporation, the service corporation shall notify the District Director-Examinations in whose district the parent association of the service corporation is located not later than 30 days after such acquisition. Such notification shall include the name and location of the project, the number of lots or acres involved, the total projected cost of the project including dollar involvement of the service corporation, and the estimated date of completion of the project.

(v) Development and subdivision of, and construction of improvements (including improvements to be used for commercial or community purposes, when incidental to a housing project) for sale or for rental on, real estate referred to in paragraph (a) (4) (iv) of this section. However, such development must be completed within three years after commencement of development of such real estate and not later than five years after acquisition of such real estate, unless such period is subsequently extended by the Board upon written application by the service corporation. Acquisition of an option to purchase is not an acquisition for the purpose of determining such period.

* * * * *

(b) *Other service corporations.* In addition to investment in a service corporation which meets the requirements of paragraph (a) of this section, a Federal association which has a charter in the form of Charter N or Charter K (rev.) may invest in the capital stock, obligations, or other securities of any service corporation organized under the laws of the State, District, Commonwealth, territory, or possession in which the home office of the association is located if:

* * * * *

(3) The following limitations are complied with:

(i) If less than 5 savings and loan associations (including any Federal association) hold capital stock in such corporation or one such association holds more than 40 percent of such stock, such corporation, including any subsidiary, does not incur or have outstanding at any time consolidated debt in excess of the following limitations:

* * * * *

(e) The debt of each subsidiary of such corporation shall also conform to the debt limitation in this paragraph (b) (3) (i).

* * * * *

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

Dated: February 4, 1977.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.77-4926 Filed 2-15-77;8:45 am]

proposed rules

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

BOARD FOR INTERNATIONAL BROADCASTING

[1 CFR Part 460]

GOVERNMENT IN THE SUNSHINE ACT

Proposed Implementation

Notice is given that the Board for International Broadcasting is considering promulgating the following rules for implementating Pub. L. 94-409 of September 13, 1976. Section 3 amends title 5, United States Code by adding after section 552a a new section 552b.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposals to the Budget and Administrative Officer, Board for International Broadcasting, Suite 430, 1030 Fifteenth Street, Northwest, Washington, D.C. 20005. All relevant material received on or before March 12, 1977, will be considered. All written comments received will be available for public inspection at the above address between the hours of 9 a.m. and 5 p.m. Monday through Friday, save holidays during the mentioned 30-day period.

Dated: February 11, 1977. Washington, D.C.

WALTER ROBERTS,
Executive Director.

PART 460—RULES FOR IMPLEMENTING OPEN MEETINGS WITHIN THE BOARD FOR INTERNATIONAL BROADCASTING

Sec.
460.1 General policies.
460.2 Definitions.
460.3 Requirement of open meetings.
460.4 Ground on which meetings may be closed.
460.5 Procedures for announcing meetings.
460.6 Procedures for closing meetings.
460.7 Reconsideration of opening or closing a meeting.
460.8 Recordkeeping of closed meeting.

AUTHORITY: Pub. L. 93-129, 87 Stat. 456.

§ 460.1 General policies.

The Board for International Broadcasting will provide the public with the fullest practical information regarding its decisionmaking processes while protecting the rights of individuals and its abilities to carry out its responsibilities.

§ 460.2 Definitions.

The following definitions apply:

(a) The term "agency" includes any establishment in the executive branch of the government headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency. The Board for International Broadcasting is a government agency headed by a five-member Board, all of whom are appointed by the President with the advice and consent of the Senate, and is therefore an "agency" under these terms.

(b) The term "meeting" means the deliberation of this Board where such deliberations determine or result in the joint conduct or disposition of official Board business.

(c) The term "member" means an individual who belongs to the Board who has been appointed by the President and confirmed by the Senate.

§ 460.3 Requirement of open meetings.

Members shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in § 460.4 every portion of every meeting of the agency shall be open to public observation.

§ 460.4 Grounds on which meetings may be closed.

The Board shall open every portion of every meeting of the agency for public observation except where the agency determines that such portion or portions of its meeting or the disclosure of such information is likely to:

(a) Disclose matters that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and

(2) In fact properly classified pursuant to such Executive Order;

(b) Relate solely to the internal personnel rules and practice of the agency;

(c) Disclose matters specifically exempted from disclosure by statute: *Provided*, That such statute:

(1) Requires that the matters be withheld from the public in such manner as to leave no discretion on the issue, or

(2) Established practical criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(e) Involve accusing any person of a crime, or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings,

(2) Deprive a person of a right to a fair trial of an impartial adjudication,

(3) Constitute an unwarranted invasion of personal privacy,

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential source,

(5) Disclose investigative techniques and procedures, or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. This shall not apply in any instance where the Board has already disclosed to the public the content or nature of its proposed action, or where the Board is required by law to make such disclosure on its own initiative prior to taking final Board action on such proposal;

(i) Specifically concern the Board's issuance of a subpoena, or the Board's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct or disposition by the Board of a particular case of formal agency adjudication pursuant to the procedures in section 554, of this title or otherwise involving a determination on the record after opportunity for a hearing.

§ 460.5 Procedures for announcing meetings.

(a) In the case of each meeting, the Board shall make public, at least one week before the meeting, the time, place, and subjectmatter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the Board to respond to requests for information about the meeting. Such anouncement shall be made unless a majority of the Members of the Board determine by a recorded vote that the Board requires that such a meeting be called at an earlier date, in which case the Board shall make public announcement of the time, place and subjectmatter of such meeting and whether open or closed to the public, at the earliest practical time.

(b) Immediately following the public announcement, the Board will publish it in the FEDERAL REGISTER.

§ 460.6 Procedures for closing meetings.

(a) The closing of a meeting shall occur only when:

(1) A majority of the membership of the Board votes to take such action. A separate vote of the Board members shall be taken with respect to each Board meeting a portion or portions of which are proposed to be closed to the public pursuant to § 460.4, or with respect to any information which is proposed to be withheld under § 460.4. A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters, and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each Board member participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the Board close such portion to the public for any of the reasons referred to in § 460.4 (e), (f) or (g), the Board, upon request of any of its Board members, shall take a recorded vote, whether to close such portion of the meeting.

(b) Within one day of any vote taken, the Board shall make publicly available a written copy of such vote reflecting the vote of each member on the question and full written explanation of its action closing the entire or portion of the meeting together with a list of all persons expected to attend the meeting and their affiliation.

(c) The Board shall announce the time, place and subject matter of the meeting at least eight (8) days before the meeting.

(d) For every closed meeting, the Executive Director of the Board shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the Board.

§ 460.7 Reconsideration of opening or closing a meeting.

The time or place of a Board meeting may be changed following the public announcement only if the Board publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the agency to open or close a meeting, or portion of meeting, to the public, may be changed following the public announcement only if a majority of the Board members determines by a recorded vote that Board business so requires and that no earlier announcement of the change was possible, and the Board publicly announces such change and the vote of each member upon such change at the earliest practicable time.

§ 460.8 Recordkeeping of closed meetings.

(a) The Board shall maintain a written record of the proceedings of each meeting, or portion of a meeting, closed to the public.

(b) The Board, after review by the Executive Director shall make promptly available to the public in a place easily accessible to the public, the written record of the discussion of any time on the agenda, or any item of the testimony of any witness received at the Board meeting, except for such item or items of such discussion or testimony as the Board determines to contain information which may be withheld under § 460.4. Copies of such record, disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication. The Board shall maintain a detailed written copy of the minutes of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any Board proceeding with respect to which the meeting or portion was held, whichever occurs later.

[FR Doc.77-4952 Filed 2-14-77;8:45 am]

COST ACCOUNTING STANDARDS BOARD

[4 CFR 331, 332, 351, 401, 402, 403, 404, 405, 406, 407, 408, and 409]

CONTRACT COVERAGE, MODIFIED CONTRACT COVERAGE, BASIC REQUIREMENTS AND COST ACCOUNTING STANDARDS

Modified Contract Coverage and Miscellaneous Amendments

AGENCY: Cost Accounting Standards Board.

ACTION: Proposed Rule.

SUMMARY: The proposed rule would exempt certain contractors and certain contracts from all or part of the requirements of the Cost Accounting Standards Board. All contracts of $500,000 or less would be exempt. Small business concerns which annually receive less than $10 million of contract awards would be exempt, and all other small business concerns would use only a part of the Board's requirements. Other contractors would also be eligible to use these partial requirements if the volume of their national defense contracts is within specified limits.

DATES: Comments must be received on or before April 18, 1977.

ADDRESS: Cost Accounting Standards Board, 441 G Street, N.W., Washington, D.C. 20548.

FOR FURTHER INFORMATION CONTACT:

Harry R. Van Cleve, Esq., General Counsel, Cost Accounting Standards Board, 441 G Street, N.W., Washington, D.C. 20548, (202) 275-5508.

SUPPLEMENTARY INFORMATION:

Public Law 91-379 requires that Cost Accounting Standards must be used in all negotiated prime contracts and subcontract national defense procurements with the United States in excess of $100,000 with certain exceptions. Section 719(h)(2) of that law authorizes the Cost Accounting Standards Board to prescribe rules exempting from its requirements such classes or categories of national defense contractors and subcontractors as it determines on the basis of the size of contracts involved or otherwise, are appropriate and consistent with the purposes sought to be achieved by Public Law 91-379. The Board has granted several exemptions to classes or categories of contractors and subcontractors.

This proposal embodies the conclusions reached by the Board after completing the study which it referred to in its notice published in the FEDERAL REGISTER on September 27, 1974 (39 FR 34669, 34670). The Board proposes to exempt all contracts of $500,000 or less from all Cost Accounting Standards Board requirements. Further, it proposes that small business concerns receiving awards of less than $10 million annually be exempt. Modified requirements are also proposed for other small business concerns. This modified requirement would also be available to business units receiving less than $100 million of covered contracts if the value of such awards equals less than 10 percent of the business unit's sales during the same period. The modified requirements applicable to these two categories of contractors would require compliance with Cost Accounting Standards 401 and 402. As a concomitant of this reduced coverage, the Board believes it would be appropriate to extend the requirement to submit a Disclosure Statement to all recipients of covered contracts.

The proposed Part 332 and amendments to Part 331 being published today would implement the foregoing proposals by the Board. In addition, numerous amendments to other Parts of the Board's Standards, rules and regulations are proposed in order to recognize, for the most part, the effect of Part 332.

All written submissions made pursuant to this notice will be available for public inspection at the Board's offices during regular business hours.

It is proposed to amend 4 CFR Parts 331, 351, and 401 through 409, and to add a new Part 332, to read as follows:

PART 331—CONTRACT COVERAGE

1. Add a definition (paragraph (K)) to § 331.20 to read as follows:

§ 331.20 Definitions.

* * * * *

(k) A "small business concern" is any concern, firm, person, corporation, partnership, cooperative or other business enterprise which pursuant to 5 U.S.C. 637(b)(6) and the rules and regulations of the Small Business Administration set forth in Part 121 of Title 13 of the Code of Federal Regulations, is determined to be a small business concern for the purpose of Government procurement.

§§ 331.30, 331.40, and 331.50 [Amended]

2. Amend §§ 331.30(a), 331.40 and 331.50 by deleting "$100,000" wherever it appears and by inserting "$500,000" in lieu thereof.

3. Amend § 331.30 by revising paragraph (b) (8) and by adding (b) (10) and (b) (11) to read as follows:

§ 331.30 Applicability, exemption, and waiver.

* * * * *

(b) * * *

(8) Any contract or subcontract of $500,000 or less.

* * * * *

(10) Any contract awarded to a small business concern, provided, that during its fiscal year immediately preceding the fiscal year in which it receives the award, the concern received total awards of less than $10 million of negotiated prime contracts and subcontracts which, in the absence of this paragraph (b) (10), would have been subject to a "Cost Accounting Standards clause," (See 4 CFR, Part 332 and this Part 331)

(11) Any contract or subcontract awarded to a contractor for performance in a business unit which is eligible to use the provisions of Part 332 of the Boards' regulations and which elects to use that Part.

4. Delete the first paragraph of § 331.50 and insert the following in lieu thereof:

§ 331.50 Contract clause.

Except as provided in either § 331.30 or Part 332 of these regulations, the following clause shall be inserted in all negotiated national defense price contracts and subcontracts in excess of $500,000.

* * * * *

5. Insert the following section after § 331.71:

§ 331.72 Relationship to Part 332.

Contracts subject to this Part 331 may be performed during a fiscal year in which a previously awarded contract subject to Part 332 is also being performed. Compliance with the requirements established by this Part 331 may compel the use of cost accounting practices for contracts covered by this Part that are not required under Part 332. Under these circumstances, the cost accounting practices applicable to contracts subject to Part 332 need not be changed. Any resulting differences in practices between the contracts subject to this Part and those subject to Part 332 shall not constitute violations of Standards 401 or 402.

6. Add a new Part 332 as follows:

Part 332—Modified Contract Coverage

Sec.
332.10 Purpose.
332.20 Definitions.
332.30 Applicability.
332.40 Solicitation.
332.50 Contract clause.
332.60 Post-award disclosure.
332.70 Interpretation.
332.80 Effective date.

§ 332.10 Purpose.

The regulations contained in this Part 332 are promulgated to provide modified contract coverage for certain classes of business units.

§ 332.20 Definitions.

The definitions set forth in § 331.20 and the following definitions shall apply to this Part 332.

(a) A "covered contract" is any prime contract or subcontract which exceeds $500,000 and pursuant to requirements of the Cost Accounting Standards Board or any other Federal agency is required to include a Cost Acounting Standards clause (see 4 CFR, Part 331 and this Part 332).

(b) A "business unit" is any segment of an organization, or an entire business organization which is not divided into segments.

(c) A "segment" is one of two or more divisions, product departments, plants, or other subdivisions of an organization reporting directly to a home office, usually identified with responsibility for profit and/or producing a product or service. The term includes Government-owned contractor-operated (GOCO) facilities, and joint ventures and subsidiaries (domestic and foreign) in which the organization has a majority ownership. The term also includes those joint ventures and subsidiaries (domestic and foreign) in which the organization has less than a majority of ownership, but over which it exercises control.

§ 332.30 Applicability.

(a) The provisions of this Part 332 may be applied to any covered contract received by a business unit which in its immediately preceding fiscal year:

(1) Was a small business concern or a segment of a small business concern and such concern received $10 million or more in awards of covered contracts and other contracts which but for Section 331.30 (b) (10) would have been covered; or

(2) Was not a small business concern or a segment of such a concern and received less than $10 milion in awards of covered contracts, providing that the sum of such awards equals less than 10 percent of the business unit's total sales during that period.

(b) If in any fiscal year the provisions of this Part 332 are applied to any one award to a business unit, they must be applied to all covered contracts awarded to that unit during that period.

(c) Any covered contract awarded subject to this Part 332 shall remain subject thereto notwithstanding the fact that a portion of the contract is performed in a subsequent fiscal year in which the business unit becomes exempt from the requirements of the Cost Accounting Standards Board or ineligible to use this Part.

§ 332.40 Solicitation.

Any covered contract awarded subject to this Part 332 shall have been made in conformity with the requirements of § 331.40, Solicitation Notice, of the Board's regulations.

§ 332.50 Contract clause.

Upon appropriate certification by the offeror that he is eligible and elects to use this Part, the following clause shall be inserted in any resulting contract in lieu of the clause prescribed in § 331.50 of these regulations.

DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES

(a) The contractor, in connection with this contract shall:

(1) Comply with the requirements of 4 CFR, Parts 401, Consistency in Estimating, Accumulating and Reporting Costs, and 402, Consistency in Allocating Costs Incurred for the Same Purpose, in effect on the date of award of this contract.

(2) By submission of a Disclosure Statement, disclose in writing his cost accounting practices as required by regulations of the Cost Accounting Standards Board. The required disclosures must be made prior to contract award unless the Contracting Officer provides a written notice to the contractor authorizing post-award submission in accordance with regulations of the Cost Accounting Standards Board. If the contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

NOTE.—See however, the Note set out following paragraph (d) of the Cost Accounting Standards contract clause in § 331.50 of the Board's regulations.

(3) Follow consistently the cost accounting practices disclosed pursuant to (2) above. A change to such practices may be proposed, however, by either the Government or the contractor, and the contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement must be amended accordingly. No agreement may be made under this provision that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with the applicable Cost Accounting Standards or to follow any practice disclosed pursuant to subparagraph (a) (2) or (a) (3) above and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the contractor has complied with an applicable Cost Accounting Standard, rule or regulation of the Cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall

be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b) of this section, and shall require such inclusion in all other subcontracts of any tier, except that:

(1) If the subcontract is awarded to a business unit which pursuant to Part 331 is required to follow all Cost Accounting Standards, the clause entitled "Cost Accounting Standards" set forth in Section 331.50 of the Board's regulations shall be inserted in lieu of this clause, or

(2) This requirement shall not apply to negotiated subcontracts in excess of $500,000 where the price negotiated is based on:

(i) Established catalog or market prices of commercial items sold in substantial quantities to the general public or

(ii) Prices set by law or regulation, or

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to accept a Cost Accounting Standards clause by reason of § 331.30(b) of the Board's regulation.

(e) Notwithstanding (d) above, if this is a contract with an agency which permits subcontractors to appeal final decisions of the Contracting Officer directly to the head of the agency or his duly authorized representative, then the contractor shall include the substance of paragraph (b) as well.

§ 332.60 Post-award disclosure.

Any business unit entering into a prime contract or subcontract containing the clause set forth in § 332.50 must submit a Disclosure Statement prior to award unless the Contracting Officer authorizes in writing post-award submission. The conditions under which post-award submission may be authorized are set forth in § 331.60(b).

§ 332.70 Interpretation.

(a) For the purpose of determining under § 332.30(a)(2) whether the sum of awards equals less than 10 percent of the business unit's total sales, an order received by one segment from another segment shall be deemed to be an award to the receiving segment. Likewise, a transfer by one segment to another shall be deemed to be a sale by the transferor.

(b) Contracts subject to this Part 332 may be performed during a cost accounting period in which a subsequently awarded contract subject to Part 331 is also being performed. Compliance with the requirements established by Part 331 may compel the use of cost accounting practices for the subsequently awarded contract that are not required under this Part 332. Under these circumstances, the cost accounting practices applicable to contracts subject to Part 332 need not be changed. Any resulting differences in practices between the contracts subject to this Part and those subject to Part 331 shall not constitute violations of Standards 401 or 402.

(c) In applying § 332.30(a)(1), business units using Federal Management Circular 73-8 (Cost Principles for Educational Institutions) or Federal Management Circular 74-4 (Principles for Determining Costs applicable to Grants and Contracts with State and Local Governments) shall use the amount of general fund expenditures in lieu of total sales.

(d) The interpretations set forth in §§ 331.70 and 331.71 shall also apply to this Part 332.

§ 332.80 Effective date.

[Reserved]

PART 351—BASIC REQUIREMENTS

§ 351.40 [Amended]

7. Amend § 351.40(a) in two places by changing "$100,000" to "$500,000."

8. Delete § 351.40(e) and § 351.40(f) in their entirety.

§ 351.130 [Amended]

9. Amend § 351.130 in two places by changing "$100,000 to "$500,000" in paragraph (a) of the Instructions and Information.

PARTS 401, 402, 403, 404, 405, 406, 407, 408, AND 409 [COST ACCOUNTING STANDARDS—AMENDED]

10. Amend §§ 401.10, 402.10, 403.10, 404.10, 405.10, 406.10, 407.10, 408.10, and 409.10 by deleting the text of each section and inserting the following text in lieu thereof: General applicability of this Cost Accounting Standard is established by § 331.30 of the Board's regulations on applicability, exemption and waiver of the requirement to include the Cost Accounting Standards contract clause in negotiated defense prime contracts and subcontracts (§ 331.30 of this chapter).

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.77-4989 Filed 2-15-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 26]

PROPOSED REVISIONS OF GRADE DESIGNATIONS FOR ALL GRAINS

Extension of Comment Period

This notice extends the period for comments to the notice published November 15, 1976 (41 FR 50268), proposing to amend procedures for grade designations for all grains. A deadline of December 30, 1976, for filing comments was established.

Unforeseen delays in the reproduction and distribution of the notice make it necessary to extend the comment period. It is found that this extension will permit sufficient time for interested parties in the grain industry to study the proposal properly and to submit their comments in a timely manner. Accordingly, the comment period is hereby extended to March 18, 1977.

Dated: February 10, 1977.

DONALD E. WILKINSON,
Interim Administrator.

[FR Doc.77-4824 Filed 2-15-77;8:45 am]

[7 CFR Part 51]

GRADES OF WATERMELONS[1]

Proposed United States Standards

Correction

In FR Doc. 77-4320 appearing at page 8644 in the issue of Friday, February 11, 1977, on page 8645, second column, the eighth line now reading, "mination consist of a least 20 water mel-" should be corrected to read, "mination consist of at least 20 water mel-".

Farmers Home Administration

[7 CFR Parts 1890r and 1901]

[FmHA Instruction 440.10]

PROGRAM RELATED INSTRUCTIONS

Procedures for the Protection of Historical and Archeological Properties; Proposed Redesignation-Revision

Notive is hereby given that the Farmers Home Administration (FmHA) has under consideration the establishment under Chapter XVIII, Title 7, Subchapter H—"General, Part 1901, Program Related Instructions," of a new Subpart F in the Code of Federal Regulations. New Subpart F, "Procedures for the Protection of Historical and Archeological Properties," (§§ 1901.251-1901.300) is revised, including a change in title, transferred and redesignated from Part 1890r of this Chapter XVIII. This new Subpart F sets forth FmHA's provisions relating to section 106 of the National Historic Preservation Act of 1966 (Pub. L. 89-665), applicable provisions of the Reservoir Salvage Act of 1960 (Pub. L. 86-523), as amended May 24, 1974 by the Archeologic and Historic Preservation Act (Pub. L. 93-291), and section 1(3) of Executive Order 11593. New Subpart F revises the current regulations by making more explicit and detailed the policies, procedures, and guidelines to be followed by FmHA in connection with the preservation and protection of historical and archeological resources.

Interested persons are invited to submit written comments, suggestions, data, or arguments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, United States Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250, on or before March 18, 1977. All written submissions pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch, during regular business hours (8:15 a.m.-4:45 p.m.)

PART 1901—PROGRAM RELATED INSTRUCTIONS

As proposed, Subpart F of Part 1901 as revised, transferred and redesignated is set forth below.

Subpart F—Procedures for the Protection of Historical and Archeological Properties

Sec.
1901.251 Purpose.
1901.252 Policy.
1901.253 Definitions.
1901.254 Scope.
1901.255 Historical and archeological assessments.
1901.256–1901.258 [Reserved]
1901.259 Actions to be taken when archeological properties are discovered during construction.
1901.260 Coordination with other Agencies.
1901.261 [Reserved]
1901.262 State supplements.
1901.263–1901.300 [Reserved]

Exhibit A—Addresses of Regional Offices, National Park Service, U.S. Department of the Interior.

AUTHORITIES: 16 U.S.C. 470; 7 U.S.C. 1989; 42 U.S.C. 1480; 52 U.S.C. 2942; 5 U.S.C. 301; sec. 10 Pub.L. 93-357, 88 Stat 392; delegation of authority by Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.

Subpart F—Procedures for the Protection of Historical and Archeological Properties

§ 1901.251 Purpose.

This Subpart prescribes Farmers Home Administration (FmHA) policies, procedures, and guidelines for compliance with section 106 of the National Historic Preservation Act of 1966 (Pub. L. 89-665), the Reservoir Salvage Act of 1960 (Pub. L. 86-523), as amended May 24, 1974 by the Archeologic and Historic Preservation Act (Pub. L. 93-291), and section 1(3) of Executive Order 11593.

§ 1901.252 Policy.

(a) The FmHA recognizes that significant scientific, prehistorical and archeological data (HA) are an important part of our National Heritage and that appropriate measures must be taken to preserve and protect those which have value.

(b) The FmHA will consult with appropriate Federal, State, and local Agencies and other organizations and individuals to assess the impact of any proposed FmHA undertaking on properties having historical or archeological significance in order to avoid or mitigate any adverse effects on the properties.

(c) The procedures in this Subpart have been developed in accordance with section 1(3) of Executive Order 11593.

§ 1901.253 Definitions.

(a) "Undertaking" means any new or continuing projects or program activities supported in whole or in part through FmHA contracts, grants, subsidies, loans, or other forms of funding assistance.

(b) "National Register" means the National Register of Historic Places, which is a register of districts, sites, buildings, structures, and objects, significant in American history, architecture, archeology, and culture maintained by the Secretary of the Interior under authority of section 2(b) of the Historic Sites Act of 1935 and section 101(a)(1) of the National Historic Preservation Act. The National Register is published in its entirety in the Federal Register each year in February. Addenda are published in the first Tuesday of each month.

(c) "National Register Property" means a district, site, building, structure, or object included in the National Register.

(d) "Property eligible for inclusion in the National Register" means any district, site, building, structure, or object which the Secretary of Interior determines is likely to meet the National Register criteria.

(e) "State Historic Preservation Officer" (SHPO) means the official within each State, or a designated representative authorized by the State at the request of the Secretary of the Interior, to act as liaison for the purpose of implementing programs related to preservation, protection and recovery of properties having historical, archeological, architectural or cultural value.

(f) "Criteria of effect" means when any condition of an undertaking causes or may cause any change, beneficial or adverse, in the scientific, historical, architectual, archeological, or cultural character of a National Register property that qualifies the property under the National Register criteria.

(g) "Historical and archeological assessment" means a determination by the FmHA State Director using the criteria of effect as a guide, as to whether a proposed undertaking may have an effect upon any properties located within the project area which are included or eligible for inclusion in the National Register.

(h) "National Register criteria" means the following criteria established by the Secretary of Interior for use in evaluating and determining the eligibility of properties for listing in the National Register: The quality of significance in American History, Architecture, Archeology, and culture is present in districts, sites, buildings, structures, and objects of State and local importance that possess integrity of location, design, setting, materials, workmanship, feeling and association and;

(1) That are associated with events that have made a significant contribution to the broad patterns of our history; or

(2) That are associated with the lives of persons significant in our past; or

(3) That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(4) That have yielded, or may be likely to yield, information important in prehistory or history.

(i) "FmHA official" means the FmHA County Supervisor, the FmHA State Director or his designated representative.

(j) "Project area" means those geographical or legally defined areas directly under or to be under the applicants control that are effected by the undertaking such as building sites, easements, rights-of-way, and leasehold interests.

(k) "Advisory Council" means the Advisory Council on Historical Preservation, Suite 430, 1522 K Street, NW., Washington, D.C., created by Title II of Pub. L. 89-665 and charged with the responsibility of advising the President, Congress, and others on matters relating to historical preservation.

§ 1901.254 Scope.

FmHA will evaluate all undertakings for possible HA significance. This Subpart covers the following types of undertakings:

(a) *Undertakings requiring a historical and archeological assessment.* Although the following undertakings are presumed to involve nonfederally owned lands, they may have an effect on properties having scientific, prehistorical, historical, or archeological significance and therefore will require a historical and archeological assessment:

(1) Loans and grants for the development of business and industry including guaranteed loans.

(2) Loans and grants for multiple family housing projects of more than 25 dwelling units.

(3) Loans for more than 25 family dwelling units of one-to-four families each in a designated subdivision.

(4) Loans and grants in rural areas to construct, enlarge, extend, or otherwise improve:

(i) Community water, sanitary sewage, solid waste disposal, and storm waste water disposal systems.

(ii) Other essential community facilities such as fire and rescue, health, safety, public buildings, schools, transportation, traffic, and law enforcement.

(5) Loans to develop community irrigation, drainage, and other soil and water conservation and use facilities.

(6) Loans to acquire and develop grazing land for livestock of an association of members.

(7) Loans in areas designated by the Soil Conservation Service, U.S. Department of Agriculture, to conserve and develop natural resources and to contribute to economic improvement of the area.

(8) Loans to protect and develop land and water resources in small watersheds.

(9) Loans to permit Indian tribes to buy land within their reservations.

(b) *Undertakings presumed not to require a historical or archeological assessment.* The following undertakings are generally presumed to involve nonfederally owned lands and not to have an effect on properties of historical or archeological value and will therefore not usually require a historical or archeological assessment. However, when the State Director or County Supervisor finds or has had communication or obtains information from a recognized historical or archeological authority that a specific undertaking may have an effect on a property included or eligible for inclusion

in the National Register, a historical and archeological assessment will be made.

(1) Loans to farmers and ranchers in rural areas for the purchase, development, and operation of farms and ranches.

(2) Loans to individual families in rural areas for the purchase, construction, or improvement of single family residences.

(3) Loans and grants for multiple family housing projects of not more than 25 family dwelling units.

(4) Loans in a designated housing subdivision of not more than 25 family dwelling units of one-to-four family units each.

(5) Loans to farmers, ranchers and other rural residents to develop land, water, and other related resources for increased production of food and other crops, improved pastures, feed crops, water facilities for livestock, and improved habitats for fish and wildlife.

(6) Emergency and disaster loans to farmers, ranchers and other rural residents in declared or designated areas as a result of a major or national disaster.

§ 1901.255 Historical and archeological assessments.

(a) The FmHA official, normally the FmHA County Supervisor, who receives a preapplication or application for loan or grant assistance on an undertaking that may have effect on HA properties will, as part of the process, take the following actions:

(1) Carefully review the State supplements issued by the State Director pursuant to § 1901.262(a) to determine whether there are any properties within the project area that appear in the National Register.

(2) Document the following:

(i) A brief narrative report of the findings and conclusions of an on-site reconnaissance of the project area.

(ii) Any "in-house" knowledge of known or suspected HA sites in the project area.

(3) Submit the information outlined in paragraph (a) (2) of this section to the FmHA State Director as part of the preapplication or application.

(b) Upon receipt of the preapplication/application, the FmHA State Director will, as a concurrent part of the preapplication/application review, prepare a historical and archeological assessment of the undertaking. In making the assessment the State Director will consider information from the following sources:

(1) State and Regional Clearinghouse comments.

(2) Information submitted by the County Supervisor pursuant to paragraph (a) (2) of this section.

(3) Factual comments or recommendations of the State Historic Preservation Officer or other responsible Federal, State or local officials.

(4) Any other reliable information concerning properties in the project area having HA significance.

(c) Upon completion of the preapplication or application review, the State Director will take the following actions:

(1) When his assessment indicates that no properties of historical or archeological significance will be effected by the proposed undertaking, he will proceed with processing of the preapplication or application.

(2) When his assessment indicates that there are properties included in the National Register that may be effected by the proposed undertaking he will in consultation with the SHPO, the applicant and its representatives, and other appropriate historical and archeological authorities plan appropriate measures to avoid or mitigate any adverse effects. He will also notify the Advisory Council and Secretary of Interior of the proposed undertaking, and of its possible effect on the National Register properties and forward to them a copy of the proposed plan in order to afford them a reasonable opportunity for comment. Comments that are received within 45 days of notification in accordance with the requirements for comment as outlined in Section 106 of the National Historic Preservation Act of 1966, shall be considered in further development of the undertaking.

(3) When his assessment indicates that there are properties that may be eligible for inclusion in the National Register, based on his application of the National Register criteria, he will request the Regional Director of the National Park Service, U.S. Department of Interior, in writing, to cause a survey of the project area to be made to determine the significance of the properties in accordance with section 3 of Pub. L. 93-291. The State Director's letter to the Regional Director should request a response within 45 days as to whether the National Park Service intends to cause a survey to be made, declines to undertake a survey, or that a survey is not warranted based on the data available. The addresses of the Regional Offices of the National Park Service are listed in Exhibit A of this Subpart. If no response is received within the 45-day period, the State Director will proceed as outlined in paragraph (c) (7) of this section.

(4) The State Director will cooperate fully with the National Park Service in the conduct of a survey should one be undertaken to assure that:

(i) The professional archeologist/historian conducting the survey provides his written opinion as to the eligibility of any identified properties for inclusion in the National Register.

(ii) When the professional archeologist/historian recommends recovery, protection, or preservation of identified properties, the National Park Service is requested to undertake this project.

(5) When the survey made in paragraph (c) (3) of this section does not identify any historical or archeological properties that may be eligible for inclusion in the National Register, or the National Park Service is not going to undertake activity pursuant to paragraph (c) (4) (ii) of this section, the State Director, after consultation with the State Historic Preservation Officer and the National Park Service, will document the findings and proceed with processing of the application.

(6) When the survey identifies properties that may be eligible for inclusion in the National Register, the State Director will request the State Historic Preservation Officer and the National Park Service to proceed with the nomination of such properties. The State Director will then proceed as outlined in paragraph (c) (2) of this section for any properties accepted for inclusion in the National Register.

(7) When the National Park Service declines to cause a survey to be made or determines that one is not warranted, the State Director will document such facts and proceed with processing of the application.

§§ 1901.256–1901.258 [Reserved]

§ 1901.259 *Actions to be taken when HA properties are discovered during construction.*

(a) When properties of significant HA value are discovered during construction, the State Director will immediately consult with the applicant, the State Historic Preservation Officer and the Regional Director of the National Park Service to detemine whether there is sufficient factual evidence to warrant a decision to stop construction and undertake detailed survey and recovery.

(b) When the consultations in paragraph (a) of this section result in a determination by the National Park Service to request the applicant to stop construction, such action should be taken so that the Park Service can initiate measures for immediate recovery within 60 days after notification of a discovery.

(c) When the consultations in paragraph (a) of this section do not result in a determination by the National Park Service to stop construction and to undertake a survey and recovery, construction should be permitted to proceed with caution. In the event that the National Park Service determines that recovery is necessary, the FmHA applicant/borrower and the Park Service should determine that the consent of all persons, associations, or public entities having legal interest in the property involved has been secured. Also, the applicant should be informed that the Secretary of Interior is authorized to compensate any person, association, or public entity damaged as a result of delay in construction or as a result of the temporary loss of the use of public or any nonfederally owned lands.

(d) No survey or recovery work will be required which in the determination of the State Director would seriously impede FmHA actions in providing assistance where the State Director determines that immediate action is required to avoid loss or damage to life or property. Nevertheless, appropriate measures

will be taken to the extent practical to preserve, protect, or mitigate any damage to properties having HA significance.

§ 1901.260 Coordination with other Agencies.

(a) When other Agencies are directly involved in any undertaking that requires a historical and archeological assessment, the State Director will contact the Agencies concerned to determine if a joint assessment will be prepared and whether a single lead Agency will assume primary responsibility for preparing the assessment.

(b) When a lead Agency is agreed upon other than FmHA, FmHA will provide that Agency with information about its respective areas of responsibility. Assessments will indicate Agency participation and concurrence.

(c) When FmHA program activities are planned that primarily supplement those of the Soil Conservation Service, U.S. Department of Agriculture, such as watershed projects; resource conservation and development measures; and irrigation and drainage projects; the Soil Conservation Service will be designated as the lead Agency.

§ 1901.261 [Reserved]

§ 1901.262 State supplements.

(a) The State Director shall be responsible for preparing a list of all properties included in the National Register in his area of jurisdiction and issuing such list as a part of a State Supplement.

(b) State Directors may also supplement this Subpart and its exhibit as appropriate to meet State and local laws and regulations.

§§ 1901.263–1901.300 [Reserved]

EXHIBIT A—NATIONAL PARK SERVICE

U.S. DEPARTMENT OF INTERIOR REGIONAL OFFICES

Contact should be made to:
Chief, Interagency Archeological Services Division, Office of Archeological and Historic Preservation, National Park Service.
The three Regional Offices are:

San Francisco office. Old Post Office Building, Mission and 7th Streets, Post Office Box 5700, San Francisco, CA 94104. *States covered.* Arizona, Utah, Idaho and West, including Hawaii and Alaska. *Attention:* Mr. Garland Gordon. Telephone: 415-556-7711.

Denver office. 1978 South Garrison Street, Denver, CO 80225. *States covered.* Wisconsin, Iowa, Missouri, Oklahoma, Texas and West to San Francisco area. Attention: Mr. Jack R. Rudy. Telephone: 303-234-2560.

Atlanta office. 730 Peachtree Street, Atlanta, GA 30308. *States covered.* All others East of Denver area. Attention: Mr. Wilford Husted. Telephone: 404-526-2611.

FRANK W. NAYLOR, JR.,
Acting Administrator,
Farmers Home Administration.

FEBRUARY 7, 1977.

[FR Doc.77-4828 Filed 2-15-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Amendments to Small Refiner Bias Under Entitlements Program Regarding Processing Agreements; Public Hearing

The Federal Energy Administration's ("FEA") domestic crude oil allocation program (the "entitlements program") provides for the issuance to small refiners of additional entitlements over and above the number of entitlements issued to all refiners generally with respect to their crude oil runs to stills. Under the monthly entitlement calculations, each refiner is issued a number of entitlements equivalent to the result of application of the domestic crude oil supply ratio to the volume (in barrels) of that refiner's crude oil runs for that month. For these purposes, a refiner's crude oil run volumes include crude oil processed for its account by another refiner and crude oil processed by it for the account of a non-refiner, but do not include crude oil processed by it for the account of another refiner.

Under 10 CFR 211.67(e), which provides for the small refiner bias, small refiners (as defined in § 211.62, with a refinery capacity not exceeding 175,000 barrels per day (B/D)) are issued bias entitlements in addition to those issued by application of the domestic crude oil supply ratio as described above. The number of additional entitlements under the bias is dependent on the level of the particular small refiner's crude oil runs in the month involved, and the per barrel bias is highest at crude run levels of up to 10,000 B/D and declines as the small refiner's crude run volume increases over 10,000 B/D. Above the 175,000 B/D crude run level no bias entitlements are issuable. The general effect of the small refiner bias is to lower crude costs for small refiners, by either permitting them to sell a greater number of entitlements or requiring them to purchase fewer entitlements with respect to their crude oil receipts.

As will be discussed in more detail below, in connection with the modification of the small refiner entitlement purchase exception, the bias was increased substantially effective for entitlement transactions for April 1976. FEA's rationale for this increase was that the bias amounts were not sufficient in many cases to ensure the competitive viability of small refiners. FEA believes that for most firms the bias, as so increased, serves its intended purpose, i.e., compensation for the higher operating costs and lesser efficiencies of the smaller refineries. Therefore, FEA has tentatively determined that the bias should not continue to compensate small refiners for crude oil processed outside their plants, in that such compensation no longer serves the rationale underlying the bias. Indeed, the current level of the bias in the lower crude run ranges provides what FEA considers to be undesirable incentives for refiners with capacities of 10,000 B/D and under to have crude oil processed for their account at other refineries. However, the incentives in this regard under the current regulations are reversed as to refiners with crude run levels of 30,000 B/D and above, so that an actual disincentive exists as to processing agreements at other refineries, since the total number of bias entitlements issued actually declines as the small refiner's crude runs increase above 30,000 B/D.

Accordingly, FEA is hereby proposing to eliminate issuances of all bias entitlements with respect to processing agreements for the account of small refiners. FEA has initially concluded that this action is appropriate, in that, first the rationale underlying adoption of the small refiner bias, as described below, does not now appear to support the provision for earning bias entitlements for processing agreements at other refineries and, second, the high level of the bias for such processing arrangements in the lower capacity ranges, in particular, appears to have created economic distortions and inefficiencies in the marketplace, counter to the objectives of the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"). This proposal would not affect a small refiner's receipt of bias entitlements with respect to crude oil processed in its facility for the account of a non-refiner.

I. BACKGROUND

The initial entitlements program notice of proposed rulemaking issued by FEA on August 28, 1974 (39 FR 31650, August 30, 1974) solicited comments on the desirability of providing for a small refiner bias but offered no specific regulatory provision therefor.

Provision for a small refiner bias first appeared in FEA's further notice of proposed rulemaking issued on November 7, 1974 (39 FR 39740, November 11, 1974). The sliding scale bias proposed thereby provided that each small refiner would receive additional entitlements as a percentage of its crude runs and that the number of entitlements so issued would be greater at the lower run levels. The rationale for providing favorable treatment for small refiners was based on FEA's stated belief that a bias was necessary to compensate for the higher operating costs, proportionately greater capital expenditure requirements, and the fact that to remain competitive many small refiners are forced to price their products below those marketed by major branded refiners. The bias, therefore, is basically designed to ensure the competitive viability of the small refiner

segment of the petroleum industry. The method initially proposed by FEA to favor small refiners was based on the sliding scale for issuances of oil import tickets under the Oil Import Program when ticket values were in the $1 per barrel range.

The final rule adopting the entitlements program issued on November 29, 1974 (39 FR 42246, December 4, 1974) reflected FEA's further consideration of the need for a small refiner bias but concluded that, while its reference to the historic treatment afforded under the Oil Import Program was valid, the benefits proposed were insufficient to ensure the competitive viability of small refiners. Accordingly, the rule adopted contained small refiner bias provisions that related the incremental entitlement issuances as to the first 30,000 B/D of crude runs to the maximum economic preferences granted under the Oil Import Program with respect to the PAD District V ticket issuances.

On December 20, 1974, FEA adopted corrective amendments (39 FR 44710, December 27, 1974) to the entitlements program, which included technical changes relating to the small refiner bias provisions, since FEA had determined that the value of import tickets issuable to small refiners in PAD District V under the Oil Import Program had been incorrectly computed. These corrective amendments adjusted bias entitlements issuances to the following levels, which were applicable through March 1976, based on an $8 entitlement price:

Value of small refiner bias prior to Apr. 1976

Crude runs (1,000 bbl/d):	*Value of bias per barrel*
0 to 10	$0.99
At 30	.45
At 50	.25
At 100	.10
At 175	0

On December 22, 1975, the Energy Policy and Conservation Act, Pub. L. 94–163 (the "EPCA"), exempted refiners whose refining capacity did not on January 1, 1975 or thereafter exceed 100,000 barrels per day from entitlement purchase requirements as to the first 50,000 barrels per day of their inputs or receipts, or both. On December 31, 1975 (41 FR 1044, January 6, 1976), FEA adopted Special Rule No. 6 for Subpart C (the "special rule") on an emergency basis to implement these exemption requirements of the EPCA. The special rule exempted all qualified small refiners from any purchase requirements they would otherwise have as to the first 50,000 barrels per day of their crude runs, For small refiners having run levels in excess of 50,000 barrels per day, the special rule exempted a proportion of the entitlement purchase requirements.

The special rule also contained a provision to the effect that the exemption did not apply to old oil receipts under new purchase, exchange or processing agreements. The rationale underlying that limitation is somewhat analogous to one of FEA's bases for modification of the bias proposed today, since the receipt limitation was designed to prevent shifts in old oil supplies to firms benefiting from the entitlement purchase exemption, and the resulting market distortions, as the instant proposal is intended to prevent artificial increases in processing agreements for the account of small refiners in the lower capacity ranges.

Section 455 of the EPCA generally permitted FEA to modify the small refiner purchase exemption (as was implemented by the special rule) where FEA determined that the exemption resulted in an unfair economic or competitive advantage for its beneficiaries with respect to other small refiners or otherwise seriously impaired FEA's ability to provide for the attainment of the objectives of the EPAA. FEA's modification of the exemption, however, was subject to review by both Houses of Congress under the procedures set forth in section 551 of the EPCA.

On February 28, 1976 (41 FR 9391, March 4, 1976) FEA stated its initial determination of the unfair effects of the full exemption as in effect under the special rule, and proposed modifications to the exemption. As a part of that proceeding, FEA invited comments on whether the exemption should be modified in a manner so that both small refiner entitlement purchasers and sellers would receive equivalent benefits. FEA suggested that such a modification of this type could be accomplished by increasing the amount of the small refiner bias as to all small refiners, thereby keeping such refiners on the same competitive basis.

On May 12, 1976 (41 FR 20392, May 18, 1976), FEA confirmed its determination that the exemption had been operating to seriously impair its ability to attain the objectives of the EPAA and was resulting in an unfair economic or competitive advantage for certain small refiners with respect to other small refiners. Accordingly, FEA modified the exemption by revoking the special rule and increased the amount of additional entitlements issuable to all small refiners under the provisions providing for the small refiner bias. These amendments were not subsequently disapproved by either House of Congress under the procedures provided by the EPCA and thus became effective with respect to entitlement issuances for April 1976.

These amendments to the bias increased entitlement issuances with respect to firms with volumes of crude oil runs to stills of less than 100,000 B/D by increasing the benefits at the 10,000 B/D level by approximately an additional 2¢ per gallon and by declining additional amounts as the refiner's volume of crude oil runs increases. At the 100,000 B/D and higher run levels, no increase over the present bias amounts was provided for. The following table shows the value of the current bias entitlement issuances, based on an $8 entitlement price:

Value of small refiner bias from Apr. 1976

Crude runs, (1,000 bbl/d):	*Value of bias, per barrel*
0 to 10	$1.83
At 30	.83
At 50	.33
At 100	.10
At 175	0

In adopting this upward adjustment to the bias provision FEA stated:

> FEA initially adopted the small refiner bias after a significant amount of analysis and public comment on the issue when the entitlements program was instituted in late 1974. At that time FEA determined that the historical preference granted to small refiners under the oil import program as in effect in 1972 was sufficient to preserve the competitive viability of this class. However, over the first year in which the program was in effect FEA received substantial evidence that the amount of the bias may in fact not be adequate for its intended purpose. For example, a large number of small refiners have been forced to seek exception relief since, for these firms, bias amounts were not sufficient to enable them to compete effectively or even in certain cases to maintain their financial viability. Due to the more restrictive exception standards for entitlement sellers as opposed to entitlement purchasers, FEA has received numerous indications that many small refiner entitlement sellers are also in need of additional bias amounts to remain competitive and financially viable. Many operating and other costs for these firms have increased since 1972, and thus the bias amounts may not be representative of the current competitive disadvantages of this class and the industry may have generally become more competitive due to increased consumer sensitivity to the higher prices.

II. Recent Increases In Processing Agreements

Since the adoption of the increased bias effective for entitlement transactions for April 1976, evidence available to FEA shows that the increase in the amount of entitlements issuable under the small refiner bias at the lower crude run levels has caused a significant growth in the utilization of processing agreements for the account of small refiners (particularly those earning maximum bias entitlements) at other refiners. FEA has concluded that these arrangements are not consistent with the objectives of the current bias provisions, in that the refined products produced are not entering the distribution systems of the small refiners concerned and, more important, the bias entitlements issuable with respect to these processing arrangements do not serve to compensate for the relative inefficiencies of the smaller refiners.

The following table shows the significant increase in crude runs for specific small refiners under the program attributable to processing agreements at other refineries:

New processing agreements for account of small refiners

[Thousands omitted]

Small refiner	Volume processed at other refineries			November 1976 volume processed as percent of total runs
	Total barrels for January 1976	Total barrels for November 1976	B/D for November 1976	
A	0	291	9.7	99.7
B	0	300	10	99
C	0	189.3	6.3	98
D	0	160	5.3	98
E	0	80	2.7	98
F	0	210	7	97
G	0	103.6	3.5	96
H	0	225	7.5	95
I	0	140	4.5	93
J	0	476.4	15.9	88
K	0	100	3.3	88
L	0	180	6	84
M	0	225	7.5	78
N	0	210	7	77
O	0	180	6	60
P	0	150	5	58
Q	0	136	4.5	50
Total		3,356	111.7	

As shown in the above table, the increases in processing agreement volumes is in most cases within the 10,000 B/D maximum bias range. One particularly good example of the incentives created by the bias is small refiner A above, whose crude oil runs (exclusive of processing agreements) were less than 1,000 B/D, and whose 9,000 B/D processing agreement was at an offshore domestic refiner, approximately 3,000 miles from small refiner A's refinery. The incremental bias entitlement represented by the above increases in processing agreement volumes were worth $6,066,000 for November 1976, and accounted for 12% of the total bias entitlements issued in that month.

Small refiners in the lower capacity ranges have evidently encountered few difficulties in persuading other refiners to process crude oil for their account, as shown by the increases, since the adoption of the revised bias, for the refiners listed below in their processing agreements for small refiners.

Increase in number of processing agreements (January 1976 compared to November 1976) for account of small refiners

Refiner	Number as of January 1976	Number as of November 1976	B/D processed for small refiners in November 1976
A	0	6	26,200
B	0	6	22,400
C	0	4	22,800
D	0	2	12,700
E	0	2	10,300

FEA has been advised that firms processing for the account of small refiners under these recent processing arrangements are in many cases sharing the bias entitlements attributable to the arrangements. FEA believes that at least several of the new agreements shown above also evidence an attempt to utilize the small refiners' exemptions for the first 5,000 B/D of their production of residual fuel oil sold into the East Coast market under § 211.67(d)(4), and thereby reduce the amount of the "reverse entitlements" penalty for the refiner performing the processing.

Finally, the total number of processing agreements in effect for the account of small refiners in the lower capacity ranges has increased from 24 in January 1976 to 58 in November 1976, with the increase being concentrated heavily in the lower capacity range.

III. Proposed Amendments

FEA is hereby proposing an amendment to § 211.67(e) that is intended to remove any incentives that may exist under the current regulatory provisions to enter into processing agreements with small refiners for the primary purpose of earning the benefits of bias entitlements. More generally, the proposal is intended to conform FEA's regulations in this regard more closely to the principal objective underlying the bias, i.e., compensation for the relative inefficiencies of the smaller refineries.

The proposed amendment to § 211.67 (e) provides that no entitlements would be issuable under § 211.67(e)(1) with respect to any volume of a small refiner's crude runs attributable to a processing agreement with another refiner, but would not eliminate from a small refiner's bias calculations crude runs attributable to processing agreements with non-refiners. FEA believes that this latter provision is desirable to permit small refiners to compete for processing agreements with such non-refiners and would also serve as an incentive to encourage utilization of small refiner capacity by non-refiner. Comments are specifically invited on this proposed treatment of non-refiner processing agreements.

FEA's analysis shows that the complete elimination of bias entitlements for out-of-plant processing agreements should not impact on small refiners with processing agreements in effect in early 1976, since the April 1976 increase in the bias has more than compensated these firms for any decrease in the bias entitlements for processing agreements that they would experience if this proposal were adopted.

Proposed Effective Date

FEA's present intent is to make the proposed changes, if adopted, effective for refiners' crude oil runs to stills in and entitlement transactions for March 1977.

Possible Alternative Regulatory Amendments

In this proceeding, FEA would also like to invite public comments on a number of alternative approaches which are not as far reaching as the changes proposed.

First, FEA solicits comments on the desirability of structuring the proposed limitation on bias entitlement issuances attributable to processing agreements by permitting bias entitlements for those agreements in effect in February 1976, since the February 28 notice of proposed rulemaking as to modification of the small refiner exemption under Special Rule No. 6 was the first public notice of the possibility of an increase in the bias.

Second, FEA could eliminate issuances of small refiner bias entitlements only as to crude runs attributable to processing agreements which, when added to the small refiner's other crude run volumes, would result in total crude runs in excess of the small refiner's capacity, or perhaps a specified portion or increment thereof.

Third, bias entitlements could be issued based on the crude oil run levels of the particular refiner actually processing the crude oil, so that, if a small refiner's plant was utilized, bias entitlements would be issuable based on that refiner's run levels. This approach would conform to that taken with respect to ticket issuances under the Oil Import Program in the early 1970's.

Finally, FEA solicits comments on the desirability of provisions to account for processing agreements entered into for the purpose of continuing product output during shutdowns due to normal maintenance, repairs or turnarounds.

IV. Written Comment and Public Hearing Procedures

Written comments regarding the subject matter of this notice will be accepted and considered if filed by March 11, 1977. Comments should be submitted to Executive Communications, Room 3309, Federal Energy Administration, Box KU, the Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted to FEA with the designation "Processing Agreements Under Small Refiner Bias". Fifteen copies should be submitted.

A public hearing on the subject matter of this notice will be held beginning at 9:30 a.m., e.s.t., on March 10, 1977, in Room 2105, 2000 M Street, N.W., Washington, D.C., to receive comments from interested persons.

Any person who has an interest in the subject matter of this notice, or who is a representative of a group or class of persons which has such an interest, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive

Communications, FEA, and must be received before 4:30 p.m., e.s.t., March 3, 1977. Such a request may be hand-delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be reached through March 8, 1977. Each person selected to be heard will be notified by FEA before 4:30 p.m., e.s.t., March 4, 1977, and must submit 50 copies of his or her statement to Allocation Regulation Development Office, FEA, Room 2214, 2000 M Street, N.W., Washington, D.C., before 4:30 p.m., e.s.t., on March 8, 1977.

FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.s.t., March 7, 1977. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. FEA, or the presiding officer if the question is submitted at the hearing, will determine whether the question is relevant, and whether 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.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

The transcript of the public hearing will be available for public review at the FEA, Freedom of Information Library, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

As required by section 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 for his comments concerning the impact of this proposal on the quality of the environment. The Administrator has no comments.

This proposal has been reviewed in accordance with Executive Order 11821, issued November 24, 1974, and has been determined not to be of a nature that requires an evaluation of its inflationary impact pursuant to Executive Order 11821.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133 and Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, it is proposed to amend Part 211 of Chapter II, Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., February 10, 1977.

DAVID G. WILSON,
Acting General Counsel.

Section 211.67 is amended in subparagraph (2) of paragraph (e) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(e) *Small refiner bias.* * * *

(2) Effective for refiners' volumes of crude oil runs to stills for March 1977, no entitlements shall be issuable under paragraph (e) (1) of this section with respect to any volume of a small refiner's crude oil runs to stills attributable to a processing agreement for the account of that small refiner with another refiner.

[FR Doc. 77-4811 Filed 2-11-77;10:15 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 115]

GUARANTEE FEES

Notice is hereby given that the Small Business Administration proposes to amend Part 115 of Chapter I, Title 13, of the Code of Federal Regulations. Interested parties are hereby given until (March 18, 1977) to submit written comments to the Associate Administrator for Finance and Investment, 1441 L Street, N.W., Washington, D.C. 20416.

INFORMATION

Section 115.7 is to be revised in order that the SBA's "guarantee fee" received from applicant contractors who are successful in obtaining the contract award will hereafter be referred to as the "contractor processing fee." The amount of the fee shall be increased from a percent rate equal to $2.00/$1,000 of the contract's face value to $5.00/$1,000 of the contract's face value. In the case of partial bonds (those payment or performance bonds for which the penal amount is less than 100 percent of the contract price), the contractor's processing fee shall be either an amount equal to 0.5 percent of the contract price or an amount equal to 50 percent of the premium charged by the surety, whichever is less.

These changes are designed to:

a. Avoid confusion in terminology as to the SBA's "guarantee fee" (payable to SBA by the surety) and the contractor's "processing fee" (payable to SBA by the contractor).

b. Provide SBA with additional revenues necessary to help offset losses sustained by the Surety Bond Guarantee Program, in compliance with the statutory requisite that the Surety Bond Guarantee Program be administered on an "economically justifiable basis." This change will enhance SBA's prospects of obtaining authority to allow the Surety Bond Guarantee Program to expand its activity level, permitting the program more fully to meet the real demand level, and to avoid further shut downs of the program when budgetary (activity level) ceiling's are reached.

Accordingly, it is proposed to amend Part 115, Chapter I, Title 13 of the Code of Federal Regulations as follows.

Section 115.7 (a) and (b) are revised to read:

§ 115.7 Processing fees.

(a) An applicant small business concern, being required to provide a bond for performance or payment equivalent to 100 percent of the contract price, shall pay to SBA a processing fee of 0.5 percent of the contract price upon obtaining the contract.

(b) An applicant small business concern, being required to provide a bond for performance or payment of less than 100 percent of the contract price, shall pay to the SBA a processing fee of 0.5 percent of the contract price or an amount equal to 50 percent of the premium charged by the surety, whichever is less, upon obtaining the contract.

(Catalog of Federal Domestic Assistance Programs No. 59.016 Surety Bond Guarantee.)

Dated: February 8, 1977.

MITCHELL P. KOBELINSKI,
Administrator.

[FR Doc.77-4854 Filed 2-15-77;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket Nos. RM76-19, etc.]

STATEMENT OF GENERAL POLICY EXCLUDING NEW INFORMATION REQUIREMENTS FROM REGULATORY INFORMATION SYSTEMS (RIS) FORMS

Amended Proposed Rulemaking

FEBRUARY 9, 1977.

Notice is hereby given pursuant to the Administrative Procedure Act, 5 U.S.C. 553; sections 10, 19, 20, 202, 205, 206, 207, 304, 309, and 311 of the Federal Power Act[1]; and Sections 8, 10, 14, 15, and 16 of the Natural Gas Act[2], that the Commission proposes to delete new information requirements from the proposed rules relating to FPC Form Nos.:

151, notice issued June 28, 1976, Docket No. RM76-19 (41 FR 29165); 153, notice issued July 28, 1976, Docket No. RM76-27 (41 FR 33642); 154, notice issued August 27, 1976, Docket No. RM76-33 (41 FR 37882); 155, notice issued July 30, 1976, Docket No. RM76-28 (41 FR 33782); 156, notice issued August 23, 1976, Docket No. RM76-32 (41 FR 36926); 157, notice issued June 30, 1976, Docket No. RM76-21 (41 FR 28416); 158, notice issued August 18, 1976, Docket No. RM76-31 (41 FR 37232); 159, notice issued July 7, 1976, Docket No. RM76-23 (41 FR 28904); 160, notice issued June 28, 1976, Docket No. RM76-20 (41 FR 29179); 161, notice issued July 20, 1976, Docket No. RM76-26 (41 FR 31714); 162, notice issued August 31, 1976, Docket No. RM76-34 (41 FR 39448); 163, notice issued August 13, 1976, Docket No. RM76-30 (41 FR 36402); 164, notice issued July 12, 1976, Docket No. RM76-25 (41 FR 31340).

The additional information proposed to be required by the new forms increases the reporting burden on the respondents and, in our opinion, is not necessary in the public interest at this particular time. If warranted, however, we reserve the right to request such information in the future. Because these amended proposals reduce reporting requirements, no requests for extensions of time beyond the 30 days hereinafter provided in which to submit comments will be entertained; further, all comments shall be limited to the data requests proposed herein to be withdrawn, as set forth in the Appendix attached below.

Any interested person may submit to the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, not later than March 11, 1977, data, views and comments or suggestions in writing concerning the proposed rulemaking. Written submittals will be placed on the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, 825 North Capitol Street, NE., Washington, D.C., 20426, during regular business hours. The Commission will consider all written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposal. The staff, in its discretion, may grant or deny requests for conference prior or subsequent to the filing of formal submittals.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[1] 41 Stat. 1068–1070, 1073, 1074; 49 Stat. 842–844, 848, 849, 851–853, 855, 856, 858, 859; 67 Stat. 461; 82 Stat. 617; 16 U.S.C. 803, 812, 813, 824a, 824d, 824e, 824f, 825c(b), 825c(c), 825h, 825j.

[2] 52 Stat. 825, 826, 828, 829, 830; 15 U.S.C. 717g, 717l, 717m, 717n, 717o.

Appendix

Form	Schedule	Description	Prior reference
Form 151	(1)	NOTE.—Conforms to proposed RM76-15	
Form 153	0401	Data field 15, gas procurement activity statement indicator.	
	0401	Data field 16, gas supply statement filed with other Federal agency indicator.	
	0404	Data field 5, field domain, State-Federal indicator	
	0404	Data field 6, indicator field producing/nonproducing	
	0405	Data field 9, classification of reservoir	
	0405	Data field 42, indicate acres area rounding	
	0405	Data field 44, indicator net thickness rounding	
	0405	Data field 47, indicator porosity rounding	
	0405	Data field 50, indicator connate water rounding	
	0412	Data field 5, plant type. (NOTE.—Will preprint on schedule.)	
	0420	Data field 13, indicator associated company	
	0421	Data field 8, associate company indicator	
	0421	Data field 9, indicator jurisdictional/nonjurisdicational	
	0423	Data field 24, suction pressure if reversed	
	0423	Data field 25, discharge pressure if reversed	
	0426	Data field 5, quantity of gas increase of decrease by customer type for month.	
	0426	Data field 8, number customer type added for month.	
	0426	Data field 9, number customer type unfilled applications for month.	
	0441	Data field 9, State abbreviation	
	0441	Data field 13, indicator intercompany curtailment	
	0441	Data field 21, standard industrial code	
	0842	Data field 16, indicator mixed gas	
	0842	Data field 17, percentage of natural gas in mixture	
	0842	Data field 20, description of components of mixed gas	
	0847	Data field 7, field status code	
Form 154	0105	Current instructions eliminated exemption for filing the data required by data fields 8, 12, 13, and 14.	Form 2, schedule 104.
	0112	Current instructions require accounting changes under APB No. 20.	Form 2, schedule 112.
	0121	Current instructions require data for all full-time employees, rather than just the respective gas department of the respondent.	Form 2, schedule 532.
	0122	Current instructions require short-term debt data	Form 2, schedule 219.
	0124	Current instructions require distribution of salaries and wages amounts, previously charged to clearing accounts, would be included in appropriate functional accounts.	Form 2, schedule 335.
	0135	Current instructions require distribution of taxes to be reported by account numbers within departments, instead of just by departments.	Form 2, schedule 222.
	0139	Data field 9, total deferred taxes for facility	
	0139	Data field 10, amount of flow back accelerated amortization.	
	0147	Schedule to be redesigned as previously only the dollar amounts for additions, retirements and adjustments and balances were reported for account 103.	Form 2, schedule 403.
	0160	Current instructions state description change from "brief" to "detailed."	Form 2, schedule 300.
	0177	Current instructions state description change from "brief" to "concise" and require the name of the other participating companies in the R. & D. Joint ventures.	Form 2, schedule 672.
	0179	Data field 2, date of franchise	
	0182	Current instructions state description of additional detail reported by uniform system of accounts numbers and supplemental numbers previously grouped by classifications.	Form 11.
	0183	do	Do.
	0215	New schedule (monthly notes to financial data)	
Form 155	0112	Current instructions require accounting changed under APB No. 20.	Form 2, schedule 4.
Form 156	0614	Data field 4, steam energy source	
	0618	Data field 7, noncircular stacks	
	0625	Data field 6, percentage year used in combination	
	0625	Data field 22, percentage year OTC used independently	
	0625	Data field 30, percentage year pond used independently	
	0625	Data field 40, percentage of year used independently	
	0634	Data field 14, composite average Btu—all fuels	
	0634	Data field 15, composite fuel cost per-kilowatt-hour	
	0636	Data field 6, length of original contract	
	0636	Data field 7, time until expiration	
	0636	Data field 8, mode of transportation	
	0636	Data field 20, indicator coal washed	
	0647	New schedule (annual large plant unit performance data)	
	0650	Data field 7, distillate oil consumption. (NOTE.—Will be combined with data field 6 as on current form.)	
	0656	Data field 20, incremental cost of low-sulfur fuel	

Form	Schedule	Description	Prior reference
Form 157	0663	Data field 5, number other lines	
	0663	Data field 8, county code from	
	0663	Data field 13, county code to	
	0663	Data field 19, length on another line's structure	
	0663	Data field 24, conductor resistance	
	0663	Data field 25, inductive reactance	
	0663	Data field 26, capacitive reactance	
	0663	Data field 29, shield wire	
	0663	Data field 30, frequency	
	0663	Data field 33, indicate single or multiple ownership	
	0664	Data field 6, substation county code	
	0664	Data field 12, spare transformers at other location	
	0664	Data field 13, phase	
	0664	Data field 18, approximate weight bank in service	
	0664	Data field 19, shipping weight	
	0664	Data field 26, primary winding capability. (NOTE.—Will replace primary, secondary, and tertiary winding capability with transformer nameplate rating as requested on current form.)	
	0664	Data field 27, secondary winding capability	
	0664	Data field 28, tertiary winding capability	
	0664	Data field 29, primary temperature rise. (NOTE.—Will replace primary, secondary, and tertiary temperatures fields with transformer rating temperature as requested on current form.)	
	0664	Data field, 30, secondary temperature rise	
	0664	Data field 31, tertiary temperature rise	
	0666	Data field 4, phase	
	0666	Data field 5, frequency cycles	
	0666	Data field 10, maximum continuous capacity	
	0666	Data field 11, total capacity	
Form 158	(1)		
Form 159	0691	Data field 8, net base bill	
	0691	Data field 9, fuel adjustment	
	0691	Data field 10, other charge	
	0692	Data field 10, net base bill	
	0692	Data field 11, fuel adjustment	
	0692	Data field 12, gross receipts tax	
	0692	Data field 13, other charges	
	0693	Data field 8, net base bill	
	0693	Data field 9, fuel adjustment	
	0693	Data field 10, other charge	
Form 160	0705	Data field 2, standard industrial classification (SIC) code	
Form 161	0640	Data field 6, megawatt-hours losses unaccounted for. (NOTE.—will be combined with data field 5 as on current form.)	
Form 162	0105	Current instructions eliminated exemption for filing the data required by data fields 8, 12, 13, and 14.	Form 1, schedule 104.
	0112	Current instructions require accounting changes under APB No. 20.	Form 1, schedule 112.
	0121	Current instructions require data for all full-time employees, rather than just the respective electric or gas department of the respondent.	Do.
	0122	Current instructions require short-term debt data	Form 1, schedule 219.
	0124	Current instructions require distribution of salaries and wages—Amounts previously charged to clearing accounts would be included in appropriate functional accounts.	Form 1, schedule 335.
	0135	Current instructions require distribution of taxes to be reported by account numbers within departments, instead of just by departments.	Form 1, schedule 222.
	0139	Data field 9, total deferred taxes for facility	
	0139	Data field 10, amount of flow back accelerated amortization.	
	0147	Schedule to be redesigned as previously only the dollar amounts for additions, retirements and adjustments and balances were reported for account 103.	Form 1, schedule 403.
	0160	Current instructions state description change from "brief" to "detailed."	Form 1, schedule 300.
	0165	Current instructions state additional detail reported by uniform system of accounts numbers and supplemental numbers, previously grouped by classifications.	Form 5.
	0166	do	Do.
	0177	Current instructions state description change from "brief" to "concise" and require the name of the other participating companies in the R. & D. Joint ventures.	Form 1, schedule 448.
	0179	Data field 2, date of franchise	
	0215	New schedule (monthly notes to financial data)	
Form 163	0112	Current instructions require accounting changes under APB No. 20.	
Form 164	(1)		

[1] None.

[FR Doc.77-4897 Filed 2-15-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

[45 CFR Part 1440]

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Open Meeting Regulations

The National Council on Educational Research (NCER) is proposing the regulations set out below to implement the Government in the Sunshine Act, 5 U.S.C. 552b. The NCER invites and would appreciate written comments on the proposed regulations from anyone who is interested. Please send such comments to:

Peter Gerber, Chief, NCER Staff, 1200 19th Street, N.W., Washington, D.C. 20208.

The NCER can promise that any comment will be fully considered before promulgation of final regulations only if it receives the comments on or before March 4, 1977.

It is the policy of the United States and of the NCER to give the public open access to the decisionmaking of the NCER to the fullest extent that is practicable, consistent with the rights of individuals, and consistent with the ability of the NCER and the Government generally to carry out their responsibilities. Thus, the general rule under the Act and § 1440.1 of the proposed regulations is that "every portion of every meeting of the NCER will be open to public observation." Because of the need to protect the rights of citizens and the functioning of the National Institute of Education and the Government as a whole, however, there must be some exceptions. The exceptions under which portions of the NCER meetings may be closed and certain other information may be withheld are spelled out in proposed section 1440.2, which with limited and non-substantive exceptions follows the language of the Act. The NCER will be called upon to determine how these rather abstract provisions apply to specific deliberations. It will do so on a case-by-case basis, taking a separate vote for each meeting if it is considering closing any portion of the meeting. Hard-and-fast rules are not feasible here. For the guidance of the public, however, and to allow the NCER the benefit of public comment, the NCER wishes to make clear its present inclinations as to certain types of NCER deliberations.

General policy deliberations of all types will normally be open to the public and will usually take up most of any NCER meeting.

The Executive Branch of the Government has long taken the position that internal deliberations on budget matters before the President has forwarded his budget to the Congress are privileged. The NCER understands that the Office of Management and Budget (OMB) will soon provide guidance on how, if at all, the Sunshine Act affects the application of this position to budget deliberations of the NCER and other affected agencies. The NCER will follow the OMB guidance.

Occasionally meetings are devoted to considering particular proposed awards to institutions for the use of individual investigators or groups of investigators. In most cases the NCER will close those portions of its meetings in order to protect the personal privacy of the investigators and, in at least some cases, their trade secrets and confidential commercial or financial information.

Portions of meetings in which the NCER specifically considers the personal or professional qualifications of individuals will ordinarily be closed.

NCER discussions of any NIE disputes or negotiations with grantees, contractors, other Federal agencies, or other independent parties may often be closed in order to protect personal privacy, to prevent frustration of the implementation of a negotiatiating strategy, or to forestall complication of a judicial or similar proceeding.

Again, none of these indications of present NCER inclinations represents

any hard-and-fast rule. Nor are the types of NCER deliberations mentioned exhaustive. Nor are the accompanying brief explanations to be taken as legal justifications for the closings. The NCER will decide whether to open or close meetings based on specific circumstances and with the advice of counsel. Explanation of the NCER action and counsel's certificate of its propriety will be provided each time any portion or portions of a particular meeting are closed. The NCER nonetheless wishes to give the public an opportunity to understand and comment on its present thinking.

These regulations, when made final, will, like the Act they implement, apply not only to the NCER but also to its committees whenever those committees are authorized to act on behalf of the NCER. Neither these regulations nor the Act, however, will otherwise apply to the committees of the NCER for the Act applies to a "subdivision" of an affected agency only when and if the subdivision is "authorized to act on behalf of the agency". 5 U.S.C. 551b(a)(1).

The remainder of the proposed regulations concern primarily procedural, notice, and recordkeeping requirements and are self-explanatory.

TEXT OF PROPOSED REGULATIONS

PART 1440—GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

Sec.
1440.1 General rule.
1440.2 Grounds for closing meetings.
1440.3 Materials relating to closed portions of meetings.
1440.4 Opening of transcript or recording.
1440.5 Public announcement.
1440.6 Meeting changes.
1440.7 Record vote.
1440.8 Application to NCER Committees.

AUTHORITY: Government in the Sunshine Act, sec. 552b of Title 5, United States Code: 90 Stat. 1241.

§ 1440.1 General rule.

Except as otherwise provided in these regulations, every portion of every meeting of the NCER will be open to public observation.

§ 1440.2 Grounds for closing meetings.

(a) The NCER may by record vote close any portion of any meeting if it properly determines that an open meeting:

(1) Is likely to disclose matters that (i) are specifically authorized under criteria established by Executive Order to be kept secret in the interests of national defense or foreign policy and (ii) are in fact properly classified pursuant to the Executive Order;

(2) Is likely to relate solely to the internal personnel rules and practices of the National Institute of Education (NIE);

(3) Is likely to disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That the statute (i) requires in such a manner as to leave no discretion on the issue that the matters be withheld from the public, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Is likely to involve accusing any person of a crime, or formally censuring any person;

(6) Is likely to disclose persona linformation where the disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Is likely to disclose investigatory law-enforcement records, or information which, if written, would be contained in such records, but only to the extent provided in 5 U.S.C. 552b(v)(7);

(8) Is likely to disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Is likely to disclose information, the premature disclosure of which (i) In the case of information received from an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or (ii) Be likely to significantly frustrate implementation of a proposed NIE action, unless the NIE has already disclosed to the public the content or nature of its proposed action or is required by law to to make such disclosure on its own initiative before taking final action; or

(10) Is likely to specifically concern the NIE participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration.

(b) Anyone who believes his interests may be directly affected by a portion of a meeting may request that the NCER close it to the public for any reason referred to in paragraphs (a) (5), (6), or (7) of this section. This request should be addressed to the Chief, NCER Staff at the headquarters of the NIE. It will be circulated to Members of the NCER if received at least three full days before the meeting, and on motion of any Member, the NCER will determine by record vote whether to close the affected portion of the meeting.

§ 1440.3 Materials relating to closed portions of meetings.

If a portion or portions of any meeting of the NCER are closed to the public under § 1440.2;

(a) The General Counsel of the HEW shall publicly certify that, in his position, that portion or portions may properly be closed to the public. The certificate shall state the exemptions under 5 U.S.C. 552b (c) that make the closings proper.

(b) The presiding officer of the meeting (usually the Chairman of NCER) shall furnish a statement setting forth the time and place of the meeting and the persons present.

(c) The NCER shall make a complete transcript or electronic recording adequate to record fully the proceedings of each portion of the meeting that is closed to the public.

(d) The NCER office shall maintain the General Counsel's certificate, the presiding officer's statement and the transcript or recording of the meeting for at least two years after the meeting and at least one year after the NCER completes consideration of any proposal, report, resolution, or similar matter discussed in any closed portion of the meeting.

§ 1440.4 Opening of transcript of recording.

(a) Except as otherwise provided in this section, the transcript or electronic recording of every portion of every meeting closed to the public will promptly be made available on request to any member of the public in an easily accessible place. The NCER office will furnish to any member of the public on request copies of the transcript or of a transcription of the recording disclosing the identity of each speaker, and will charge for the copies or transcriptions no more than the actual cost of duplication or transcription.

(b) The NCER will, however, withhold the transcript or recording of the discussion of any agenda item if the Chairman of the NCER or a NCER Member designated by him determines that the discussion contains information which should be withheld under the same standards as apply for closing meetings under § 1440.2.

(c) The NCER will release any transcript or recording withheld under paragraph (b) of this section when the Chairman of the NCER or any person designated by him determines that the grounds for withholding it no longer apply.

(d) A request under paragraph (a) of this section should be directed in writing to the Chief, NCER Staff, NIE, should clearly state what is requested, and should contain a promise to pay the costs of any duplication or transcription requested.

§ 1440.5 Public announcement.

(a) Except as provided in paragraph (c) and (d) of this section, the NCER will make a public announcement of each meeting at least one week before the meeting takes place. The announcement will cover: (1) The time, place, and subject matter of the meeting; (2) what portions of the meeting, if any, are to be closed to the public; and (3) the name and phone number of the official designated to respond to requests for information on the meeting.

(b) Each such announcement will be promptly made available to selected journals and other appropriate publications. Immediately following the issuance of such an announcement it will be submitted for publication to the FEDERAL REGISTER.

(c) The announcement may be made less than a week before the meeting it announces or after the meeting only if (1) the NCER by record vote determines

that agency business requires the meeting to be called on such short or after-the-fact notice and (2) a full announcement is made at the earliest practicable time.

(d) All or any portion of the announcement of any meeting may be omitted if the NCER by record vote determines that the announcement would disclose information which should be withheld under the same standards as apply for closing meetings under § 1440.2.

§ 1440.6 Meeting changes.

(a) The time or place of a meeting of the NCER that has been publicly announced as provided in § 1440.5 may subsequently be changed, but any such change will be publicly announced at the earliest practicable time.

(b) The subject matter of any portion of any meeting of the NCER that has been publicly announced as provided in § 1440.5 or the determination whether any portion of any meeting so publicly announced will be open or closed may subsequently be changed, but only when: (1) The NCER determines by record vote that agency business so requires and that no earlier announcement of change was possible, and (2) the NCER publicly announces the change and the vote of each member on the change at the earliest practicable time.

§ 1440.7 Record vote.

(a) For purposes of this part of a vote of the NCER is a "record vote" if: (1) It carries by a majority of all those holding office as NCER Members at the time of the vote; (2) no proxies are counted toward the necessary majority; and (3) the individual vote of each Member present and voting is recorded.

(b) Within one day of any such record vote or any attempted record vote that fails to achieve the necessary majority under paragraph (a)(1) of this section, the NCER office will make publicly available a written record showing the vote of each member on the question.

(c) Within one day of any record vote under which any portion or portions of a NCER meeting are to be closed to the public, the NCER office will make available a full written explanation of the NCER's action and a list of all persons expected to attend the meeting, showing their affiliations.

§ 1440.8 Application to NCER Committees.

All the provisions of this part applicable to the NCER shall apply equally to the Committees of NCER whenever the Committees are authorized to act on behalf of the NCER.

Dated: February 11, 1977.

JOHN E. CORBALLY,
Chairman.

[FR Doc.77-5001 Filed 2-15-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21109; RM-2748]

TV BROADCAST STATIONS IN MEDFORD, OREGON

Table of Assignments

Adopted: February 4, 1977.

Released: February 11, 1977.

In the matter of Amendment of § 73.606(b) Table of Assignments, Television Broadcast Stations. (Medford, Oregon.)

1. Before the Commission is a Petition for Rule Making (Public Notice No. 1001, issued September 13, 1976) submitted by Southern Oregon Education Co. to reserve VHF Channel 8 at Medford, Oregon, for noncommercial educational use. No responsive comments have been received.

2. Medford presently has 3 VHF commercial channels assigned; KOBI on Channel 5 and KMED-TV on Channel 10 operate commercially, and petitioner has a permit on Channel 8 for Station KSYS which is to operate as a noncommercial educational station. The community also has one unoccupied UHF noncommercial educational assignment, Channel 18.

3. Petitioner states in support of its request that it would be appropriate to amend the TV Table of Assignments to reflect the actual proposed use of Channel 8 at Medford, Oregon.[1] Assuming Channel 8 is put to such use, we think it appropriate to consider reserving Channel 8 for noncommercial educational use at Medford. It would not be appropriate to make any such reservation in advance of the inauguration of service by the station by the station. Since petitioner has obtained a VHF channel rather than the unoccupied UHF noncommercial educational channel for its proposed educational programming, we also believe the status of educational Channel 18 should be reconsidered. Therefore, we would like interested parties to comment on an additional proposal deleting the reservation of Channel 18 at Medford in addition to the reserving of Channel 8 for noncommercial educational use.

4. Accordingly, it is proposed to amend, pursuant to sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, the TV Table of Assignments, § 73.606(b) of the Commission's Rules as follows with respect to the Community listed below:

City	Channel No.	
	Present	Proposed
Medford, Oreg.	5, 8+, 10+, *18+	5, *8+, 10+, 18+

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

6. Interested parties may file comments on or before March 21, 1977, and reply comments on or before April 11, 1977.

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

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 TV Table of Assignments, § 73.606(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 Rule Making to which this Appendix is attached. Proponent(s) will be expected 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 resubmits 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 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

[1] Southern Oregon obtained the permit for Channel 8 from Liberty Television, Inc. by asignment (BAPCT-504) effective September 7, 1973. The prior permittee proposed commercial service to Medford but never actually commenced program service. Petitioner, the present permittee, states that it has completed construction after several extensions of time and that it anticipates inauguration of program service soon.

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.77-4909 Filed 2-15-77:8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Parts 17, 222]

CARIBBEAN MONK SEAL

Proposed "Endangered" Species

The Director, National Marine Fisheries Service, and the Director, U.S. Fish and Wildlife Service, hereby issue a notice of proposed rulemaking that would list the Caribbean monk seal (*Monachus tropicalis*) as an endangered species throughout its range, pursuant to section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (hereinafter the "Act") This proposed rulemaking would add this seal to the List of Endangered and Threatened Wildlife found in 50 CFR 17.11 and would reference such listing in 50 CFR 222.23. This proposed listing is based on a preliminary determination by the Director, National Marine Fisheries Service (hereinafter the "Director" and the "NMFS," respectively) that the Caribbean monk seal is an endangered species. This species was formerly found in the Gulf of Mexico and Caribbean Sea.

BACKGROUND

Section 4(a) of the Act states:

General. The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or man-made factors affecting its continued existence.

With the exception of enforcement responsibilities for certain plants, the Act defines "Secretary" to mean either the Secretary of the Interior or the Secretary of Commerce (as program responsibilities are vested pursuant to the provisions of Reorganization Plan Number 4 of 1970). Most marine species, including the Caribbean monk seal, are the sole responsibility of the Secretary of Commerce. The authority of the Secretary has been delegated to the Director, NMFS.

An extensive aerial survey of the Caribbean monk seal's former habitat in the Gulf of Mexico and Caribbean Sea was conducted by Karl W. Kenyon for the Department of the Interior during March 1973. While this survey unfortunately indicates that the species is probably extinct, such assumptions were made for the Guadalupe fur seal (*Arctocephalus townsendi*) and the Juan Fernandez fur seal (*Arctocephalus philippi*) which fortunately proved untrue. In case some remnant members of the Caribbean monk seal species do exist in remote parts of its range, NMFS believes it should be listed and thereby provided protection under the Act. A paper entitled "Caribbean Monk Seal, *Monachus tropicalis*" (ICUN Supplementary Paper No. 39, April 1973) by Dale W. Rice, NMFS: *Provided,* The basis for most of the statements and facts cited below.

SUMMARY OF FACTORS AFFECTING THE SPECIES

The findings in support of the Director's proposal are summarized herein and described under each of the five criteria of section 4(a) of the Act.

(1) The present or threatened destruction, modification, or curtailment of its habitat or range. The former distribution of this species encompassed shores and islands of the Caribbean Sea and Gulf of Mexico, from the Bahamas west (including the Florida Keys and Cuba) to the Yucatan Peninsula, south along the east coast of Central America and through the western Caribbean Sea, and eastward in the northern Caribbean as far as the northern Lesser Antilles. It was known to occur in Jamaican waters and Seranilla Bank, in the western Caribbean, as late as 1952. Seclusion from areas frequented by man would, in all probability, be characteristic of the location(s) of any surviving Caribbean monk seals. It is believed that the habitat requirements of this species are quite similar to those of the Hawaiian monk seal—shallow lagoons, and reefs for feeding areas; sandy beaches for hauling-out grounds; and permanent islets or beaches above high tide, and adjacent to shallows, for pupping areas. Although Caribbean monk seals are seemingly tame and allow a close approach, the seal historically has abandoned habitat utilized by man for fishing or other purposes. Thus, reduction in suitable habitat due to man's encroachment has contributed to the decline or extinction of this species.

(2) Overutilization for commercial, sporting, scientific, or educational purposes. A major factor responsible for the severe reduction or extinction of the Caribbean monk seal has been exploitation by man. These animals are sluggish, apparently unsuspicious, and not easily alarmed. Their hauling-out beaches are low and sandy, which accommodate small boat landings. Thus, the Carribbean monk seal is readily approached and easily killed. Reports indicate that this species has been exceedingly scarce and indiscriminately killed since early Spanish exploration of the western heimshpere. They have been killed commercially for their hides and oil.

(3) Disease or predation. The Caribbean monk seal has evolved on remote islands where they have not been subject to terrestrial predators. In the water, however, shark predation is a factor. Predation by sharks is not believed to have caused significant mortality in this species. Disease is not known to be a factor in reduction or extinction of this species.

(4) The inadequacy of existing regulatory mechanisms. No United States protection other than that of the Marine Mammal Protection Act of 1972, as amended, is known to exist for the Caribbean monk seal. As indicated above, these regulations would provide protection to any remnant members of the species that may exist.

(5) Other natural or man-made factors affecting its continued existence. There are no other known factors significantly affecting this species.

EFFECT OF THIS RULEMAKING

Section 9(a) of the Act sets forth a series of general prohibitions which apply to all endangered species of fish and wildlife.

With respect to any endangered species listed pursuant to section 4 of the Act, it is unlawful for any person subject to the jurisdiction of the United States to:

(1) Import any such species into, or export any such species from, the United States;

(2) Take any such species within the United States or the territorial sea of the United States;

(3) Take any such species upon the high seas;

(4) Possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of (2) or (3) above;

(5) Deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(6) Sell or offer for sale in interstate or foreign commerce any such species; or

(7) Violate any regulations pertaining to such species and promulgated by the Secretary pursuant to authority provided by the Act.

The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

The Act further provides certain limited exceptions to those general prohibitions. These exceptions include: a grandfather clause for species held in captivity or a controlled environment on December 28, 1973, and not for commercial purposes (section 9(b) of the Act); a 1-year limited exemption to minimize undue economic hardship tied to a previous contract commitment (section 10(b) of the Act); and permits for scientific purposes or enhancement of propagation or survival of the species (section 10(a) of the Act).

In addition, NMFS regulations published in Parts 217–222 and Part 225 of Title 50 of the Code of Federal Regulations, set forth rules and procedures which apply to all endangered species under the jurisdiction of the Secretary of Commerce. These regulations provide for general provisions, civil procedures, seizure and forfeiture procedures, importation and exportation at designated ports, general and specific permit provisions, and Federal/State cooperation and financial assistance. In the event that the Caribbean monk seal is listed as an endangered species, these regulations would be applicable to the species.

INTERAGENCY COOPERATION

The listing herein proposed would make available the protection afforded by section 7 of the Act. That section reads as follows:

Section 7. The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

While no "critical habitat" has been determined by NMFS for the Caribbean monk seal, the other provisions of section 7 would be applicable.

No critical habitat is presently proposed for the Caribbean monk seal. If the existence of the Caribbean monk seal can be proven, the Director may propose critical habitat in the future, as appropriate. NMFS will actively consider any and all written information, including maps, submitted on the matter of establishing the existence of the Caribbean monk seal in specific areas and delineating critical habitat for the Caribbean monk seal. The concept of critical habitat was discussed in the FEDERAL REGISTER on April 22, 1975 (40 FR 17764–17765).

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any written comments or suggestions from States, interested foreign countries, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rulemaking are solicited. Comments are particularly sought concerning:

1. The existence of any living members of this species;
2. Biological or other relevant data concerning any threat (or the lack thereof) to the Caribbean monk seal; and
3. Additional information concerning the habitat, range, and disribution of the Caribbean monk seal.

Written comments, views, and other documents should be submitted, preferably in duplicate, to the Director, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235. All comments and other documents received no later than April 18, 1977, will be considered. The Director will consider requests for a public hearing, provided such requests are received by April 4, 1977. The holding of a public hearing is at the discretion of the Director.

The Director has determined that the proposed designation of the Caribbean monk seal as an endangered species is not a major Federal action which would significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Accordingly, an environmental assessment has not been prepared and an environmental impact statement on the proposed action is not required. Comments and other documents received pertaining to the proposed listing are available for public review in the Marine Mammals and Endangered Species Division, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C., or may be obtained by writing the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

Dated: February 7, 1977.

JACK W. GEHRINGER,
Deputy Director,
National Marine Fisheries Service.

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, it is proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations by adding to § 17.11(i) under the class entitled "Mammals" and immediately before "Seal, Hawaiian monk" the following:

§ 17.11 Endangered and threatened wildlife.

* * * * *

Species				Range			
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
*	*	*	*	*	*		*
Seal, Caribbean monk.	*Monachus tropicalis.*	NA	Caribbean Sea and Gulf of Mexico.	Entire	E	18	NA
*	*	*	*	*	*		*

PART 222—ENDANGERED FISH OR WILDLIFE

§ 222.23 [Amended]

In addition, it is proposed to amend § 222.23(a) of Subpart C, Part 222 of Chapter II, Title 50 of the Code of Federal Regulations by adding "Caribbean monk seal (*Monachus tropicalis*)" immediately before "Hawaiian monk seal (*Monachus schauinslandi*)" in the second sentence.

[FR Doc.77-4681 Filed 2-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Parts 17, 222]

CARIBBEAN MONK SEAL

Proposed "Endangered" Species

CROSS REFERENCE: For a document issued jointly by the Department of the Interior, U.S. Fish and Wildlife Service, and the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, on the subject of the Caribbean monk seal (*Monachus tropicalis*) as a proposed "Endangered" Species, see FR Doc. 77-4681, appearing in the proposed rules section of this issue under the Department of Commerce, National Oceanic and Atmospheric Administration.

CIVIL AERONAUTICS BOARD

[14 CFR Part 304]

[PDR-45, Docket 29880, Dated February 8, 1977]

REIMBURSEMENT FOR PUBLIC INTEREST REPRESENTATION

Advance Notice of Proposed Rulemaking

Correction

In FR Doc. 77-4468 appearing at page 8663, in the issue for Friday, February 11, 1977, the date in the 7th line of the first paragraph of column two now reading "February 1, 1977" should have read "February 21, 1977".

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON RULEMAKING AND PUBLIC INFORMATION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held at 10:00 a.m., March 10, 1977 in the library of the Administrative Conference, Suite 500, 2120 L Street, N.W., Washington, D.C.

The Committee will meet to discuss the legislative control of agency rulemaking project being conducted by Dean Ernest A. E. Gellhorn and Professor Harold H. Bruff, and other Committee business.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further in formation concerning this Committee meeting, contact Emmett J. Gavin (202-254-7020). Minutes of the meeting will be available on request.

EMMETT J. GAVIN,
Executive Director.

FEBRUARY 10, 1977.

[FR Doc.77-4848 Filed 2-15-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

California Grain Inspection Points

Statement of considerations. Rialto and Whittier, California, are assigned to the Los Angeles Grain Exchange, El Monte, California, as designated inspection points, in accordance with the provisions of section 26.99 of the regulations (7 CFR 26.99) under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.). By definition, a designated inspection point is a city, town, or other location assigned under the regulations to an official agency for the conduct of official inspections, and within which the official agency or one or more of its licensed inspectors is located (7 CFR 26.1 (b)(13)). The Los Angeles Grain Exchange has requested that the assignment of Rialto and Whittier as designated inspection points be revoked because it now believes it can provide better service to the grain trade by consolidating its inspection activities at one point.

The Los Angeles Grain Exchange has requested that its assignment of inspection points be amended in accordance with section 26.99(b) of the regulations (7 CFR 26.99(b)) to add Montebello, California, as a designated inspection point.

Notice is hereby given that the Federal Grain Inspection Service has under consideration the request from the Los Angeles Grain Exchange to revoke Rialto and Whittier, California, as designated inspection points and to add Montebello, California, as a designated inspection point under the U.S. Grain Standards Act. The Los Angeles Grain Exchange closed its Rialto and Whittier offices and opened the Montebello office on December 1, 1976; therefore, the proposed amendments of assignment are effective on an interim basis until final determination of the proposed amendments of assignment can be made.

The U.S. Grain Standards Act, as amended October 21, 1976 (Public Law 94-582) provides, in part, that a designated official inspection agency then providing official inspection services in an area, who pays fees as prescribed therein, may continue to operate in that area without a designation under the said Act, as amended on October 21, 1976. Such an agency is subject to all provisions of the said Act and regulations thereunder in effect immediately prior to the effective date (November 20, 1976) of said amendments until the designation of such agency to perform such services is granted or denied by the Administrator of the Federal Grain Inspection Service or the expiration of a period as determined by the Administrator of not more than two years. In implementing the provisions of the U.S. Grain Standards Act, as amended October 21, 1976, the Federal Grain Inspection Service is currently in the process of reviewing the designations of official inspection agencies. Therefore, the proposed amendments of assignment are effective on an interim basis until final determination can be made. It is not a designation pursuant to the Act, as amended October 21, 1976.

Opportunity is hereby afforded all interested persons to submit written views and comments with respect to this matter to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All material submitted should be in duplicate and mailed to the Hearing Clerk not later than March 18, 1977. All material submitted pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C. on February 10, 1977.

DONALD E. WILKINSON,
Interim Administrator.

[FR Doc.77-4825 Filed 2-15-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

DETERMINATION OF SAFE LEVEL OF LEAD IN PAINT

Announcement of Decision

This notice announces the decision of the Consumer Product Safety Commission under the Lead-Based Paint Poisoning Prevention Act that available scientific information is insufficient to establish that a level of lead in paint above 0.06 percent but not over 0.5 percent is safe.

BACKGROUND

In 1971 the Lead-Based Paint Poisoning Prevention Act (LBPPPA), 42 U.S.C. 4801 et seq., was enacted to help prevent the problem of lead poisoning among children caused by the ingestion of lead-containing paints. The act defined the term lead-based paint as any paint containing more than one percent lead and directed the Secretary of Health, Education and Welfare to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal government or with Federal assistance in any form. The act also established grants for the detection, treatment, and elimination of lead-based paint poisoning.

In 1973 the LBPPPA was amended (Pub. L. 93-151), among other things, to direct the Chairman of the Consumer Product Safety Commission to conduct appropriate research on multiple layers of dried paint film containing lead in order to ascertain the safe level of lead in residential paint products. If the Chairman, in a report to be submitted to Congress by December 31, 1974, determined that a level of lead no greater than 0.5 percent was safe, then the definition of lead-based paint after December 31, 1974, would be paint containing more than that level of lead. If the Chairman was unable to make such a determination, the definition of lead-based paint would be paint containing

more than 0.5 percent lead until January 1, 1975, when the definition would be paint containing more than 0.06 percent lead.

On December 23, 1974, the Chairman issued "A Report to Congress in Compliance with the Lead-Based Paint Poisoning Prevention Act, as Amended," which found a 0.5 percent level of lead in paint to be safe. This finding, based on animal studies conducted for the Commission by the New York Institute of Environmental Medicine and The Southwest Foundation for Research and Education, and other available data and information, utilized as a definition for a "safe level" of lead in paint "a level where we have a reasonable assurance with expected exposures, of the absence of serious toxic effects." On the basis of the Chairman's finding that 0.5 percent was a safe level of lead in paint, the definition of the term lead-based paint continued, after December 31, 1974, to utilize the 0.5 percent level.

Subsequently, Congress amended the definition of the term lead-based paint in the LBPPPA in passing the National Consumer Health Information and Health Promotion Act of 1976, Pub. L. 94-317 (90 Stat. 705-706). Under this amendment the full Consumer Product Safety Commission was directed to determine, by December 23, 1976, whether a level of lead in paint in excess of 0.06 percent, but not over 0.5 percent, was safe. If the Commission were able to make such a determination, lead-based paint would consist of any paint manufactured six months after such determination containing more than the determined safe level of lead. If the Commission were unable to determine a safe level of lead in paint, paint manufactured after June 22, 1977, containing more than 0.06 percent lead, would be considered lead-based paint. Until such time, lead-based paint would continue to be defined as any paint containing more than 0.5 percent lead.

In addition to providing for a Commission determination of a safe level of lead in paint, the amended LBPPPA also directs (1) the Department of Health, Education, and Welfare to take action with respect to lead-based paint on cooking, eating, and drinking utensils; (2) the Department of Housing and Urban Development to take action with respect to lead-based paint in residential structures constructed or rehabilitated by the Federal Government or with Federal assistance; and (3) the Consumer Product Safety Commission to "take such steps and impose such conditions as may be necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article."

SAFE LEVEL DETERMINATION

The Commission determination of whether a level of lead in paint in excess of 0.06 percent, but not over 0.5 percent, is safe, was to be made on the basis of available data and information after providing and opportunity for an oral hearing and after considering recommendations of the Secretary of Health, Education, and Welfare (including those of the Center for Disease Control) and of the National Academy of Sciences.

On August 10, 1976, by publication of a notice in the FEDERAL REGISTER (41 FR 33636), the Commission commenced the proceeding to determine whether it could determine a safe level of lead. This notice invited the submission of written comments and also announced the time and place of the hearing to be held in accordance with the LBPPPA. At the same time, the Commission issued a proposal under section 8 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2057, which would declare as banned hazardous products paint and other similar surface-coating materials containing more than the level of lead ultimately to be established as the definition of the term lead-based paint under the LBPPPA (41 FR 33637). The proposal also would declare as banned hazardous products toys, other articles intended for use by children, and articles of furniture bearing such paint or other similar surface-coating materials. The existing regulations, issued under the Federal Hazardous Substances Act, 15 U.S.C. 1261 et seq., banning lead-containing paint above the 0.5 percent level and toys and other articles intended for use by children bearing such paint (16 CFR 1500.17(a)(6)), would be revoked when any final CPSA regulations are issued in order to prevent an unnecessary duplication of existing regulations (41 FR 33640).

As announced in the August 10, 1976, notices, the oral hearing in both the LBPPPA and CPSA matters was held on September 13, 1976. The written comment period for both matters was scheduled through September 24, 1976, and was, by notice published in the FEDERAL REGISTER on October 6, 1976 (41 FR 44126-44128), extended to October 26, 1976. At the hearing, testimony was presented by representatives of the Center for Disease Control of the Department of Health, Education, and Welfare; the Department of Housing and Urban Development; Consumers Union; National Paint and Coatings Association; Committee for Lead Elimination Action in the District of Columbia; American Academy of Pediatrics; the Chicago Department of Health Child Lead Poisoning Prevention Program; and the National Academy of Sciences ad hoc Committee on Lead in Paint. In addition, numerous written comments and recommendations were received including recommendations from the Department of Health, Education, and Welfare (including those of the Center for Disease Control) and the National Academy of Sciences, as required under the LBPPPA.

The recommendations of the National Academy of Sciences, as stated in a report submitted to the Commission entitled "Recommendations for the Prevention of Lead Poisoning in Children" ("NAS Report"), concluded, among other things, that:

"since the CPSC-supplied studies did not adequately simulate the conditions found in young children, particularly in relation to age and diet, we were unable, on the basis of these studies, to determine that 0.5 percent lead in paint is safe." (NAS Report, p. 9.)

The NAS Report also found that 0.5 percent lead in paint represents a hazard to a child with pica for paint and specifically recommended:

"that the deliberate addition of lead to paint for residential buildings or other surfaces accessible to young children be immediately discontinued and that a level not to exceed 0.06 percent lead in the final dried product be set for regulatory purposes." (NAS Report, p. 10.)

The recommendations of the Department of Health, Education, and Welfare, including those of the Center for Disease Control, as presented at the September 13 hearing, and in written comments to the Commission, (1) generally supported the recommendations in the NAS Report, (2) criticized the lead paint studies previously conducted by the Commission as support for establishing 0.5 percent, as being safe, and (3) urged the Commission to adopt a level below 0.5 percent. They stated that they believed the 0.06 percent level to be achievable and enforceable. In addition, a representative of the American Academy of Pediatrics, medical experts, and several consumer groups expressed opinions in support of the 0.06 percent lead level.

The National Paint and Coatings Association (NPCA) stated it would support a standard of "no lead intentionally added in the formulation of the product." They suggested, however, a level of 0.2 percent in order to provide a margin for inadvertent contamination of paint with lead. Representatives of the toy industry recommended adoption of a 0.25 percent lead level primarily to achieve uniformity with certain foreign standards. Neither the NPCA nor those representing the toy industry, however, provided toxicity data in support of a determination that the suggested levels were safe. In addition, a medical consultant for NPCA expressed in written comments his concern regarding the evidence offered by NAS that 0.5 percent lead in paint represents a hazard to children. He did not, however, present information which would support a determination that the 0.5 percent level of lead in paint is safe or that another level, greater than 0.06 percent, is safe.

In addition to comments related to the toxicity of lead-containing paint, comments and testimony were also presented on various issues related to the economic and practical effects of lowering the lead level, including the cost and need for the development and establishment of methods for analyzing the lead content of paint and the possible consequences of eliminating lead as a drier in paint. Such information is relevant to the Commission's proposal of August 10, 1976, regarding the regulation under the CPSA of lead-containing paint and certain other articles bearing such paint. Since the principal concern under the LBPPPA is with toxicity and safety of lead in paint, such comments will be considered in the context of issuance of the Commission's final regulations under the CPSA.

After considering all relevant data and information with respect to the determination of a safe level of lead in paint

under the LBPPPA, the Commission has concluded that such data and information do not support a finding that a level of lead in paint above 0.06 percent but not over 0.5 percent is safe. The Commission believes it cannot ignore the criticisms contained in the comments and testimony of the representatives of the National Academy of Sciences, the Center for Disease Control of the Department of Health, Education, and Welfare and others regarding the weight of the aforementioned animal studies conducted for the Commission as evidence of the safety of paint containing 0.5 percent lead. Moreover, the Commission is unaware of any other data or information sufficient to establish the safety of lead at a level over 0.06 percent. Consequently under the LBPPPA, paint manufactured after June 22, 1977, containing more than 0.06 percent lead by weight (calculated as lead metal) in the total nonvolatile content of the paint, or the equivalent measure of lead in the dried film of paint already applied, or both, will be considered "lead-based paint." It is also noted that the August 10, 1976 notice under the CPSA proposed to regulate lead-containing paint at the LBPPPA level for consumer product paints and toys, articles intended for use by children, and furniture, bearing such paint.

ENVIRONMENTAL CONSIDERATIONS

In considering the other information available on the question of a safe level of lead under the LBPPPA, the Commission also had before it a preliminary draft environmental impact statement on the lead paint regulations proposed under the CPSA. This preliminary draft contained information on the manufacture of paint and explored the possible economic and environmental consequences of the proposed Commission regulations under the CPSA. Under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., agencies of the Federal Government are required to include in proposals for major Federal actions significantly affecting the quality of the human environment, a detailed statement on the environmental impact of the proposed action (42 U.S.C. 4332). As described above, the Commission's functions under the LBPPPA are twofold. The first is to determine whether a safe level of lead can be established, and the second is to take steps as necessary or appropriate to prohibit the application of lead-based paint to any toy or furniture article. The first function under the LBPPPA consisted of simply an evaluation of available information to determine if it supported a finding of a safe level of lead. The Commission action in this regard has been merely to determine that such a finding cannot be supported, thus allowing the Congressionally established definition of lead-based paint to become automatically effective at the 0.06 percent level. Thus, the Commission does not believe its exercise of this function constitutes a "major Federal action significantly affecting the quality of the human environment." This view is supported by the fact that the Commission and the other Federal agencies involved must undertake rulemaking and other administrative actions to implement the directives of the LBPPPA. Consequently, while the Commission considered the possible economic and environmental effects of its proposed CPSA rulemaking in reaching its safe level decision under the LBPPPA, no environmental impact statement has been prepared specifically on the LBPPPA decision.

The preliminary draft environmental impact statement on the proposed Commission action to regulate lead-containing paint under the CPSA has been revised and approved by the Commission for release and public comment. These comments will be considered in issuing a final impact statement. The final impact statement will be utilized in issuing the final CPSA regulation in accordance with the requirements of NEPA. Those persons interested in commenting on the draft environmental impact statement may obtain a copy from the Office of the Secretary of the Consumer Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207. Comments should be filed in the Office of the Secretary before the close of business, March 23, 1977. The draft statement formally became available for comment on February 4, 1977, as announced in the notice published in the FEDERAL REGISTER of that date (42 FR 6879) by the Council on Environmental Quality.

Dated: February 11, 1977.

SAYDE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.77-4903 Filed 2-15-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON INTELLIGENCE

Advisory Committee Meeting

The Defense Science Board Task Force on Intelligence will meet in closed session on 4 March 1977 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Task Force will provide a review of Intelligence requirements and Issues reporting on alternative solutions.

In accordance with Section 10(d) of Appendix 1, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552d.(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, OASD (Comptroller).

FEBRUARY 9, 1977.

[FR Doc.77-4523 Filed 2-11-77;8:45 am]

[FRL 687-6]

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Availability of Comments

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of December 1, 1976 and December 31, 1976.

Appendix I below contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II below, and the EPA source for copies of comments as set forth in Appendix VI below.

Appendix II below contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I below.

Appendix III below contains a listing of final environmental impact statements reviewed and commented upon in writing during the review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix VI below.

Appendix IV below contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the source of the EPA review as set forth in Appendix VI below.

Appendix V below contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the

Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix VI below.

Appendix VI below contains a listing of the names and addresses of the sources of EPA reviews and comments listed in Appendices I, III, IV, and V below.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW, Washington, DC 20460, telephone 202/755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: February 2, 1977.

REBECCA W. HANMER,
Director, Office of Federal Activities.

APPENDIX I.—*Draft environmental impact statements for which comments were issued between Dec. 1, 1976, and Dec. 31, 1976*

Identifying No.	Title	General nature of comments	Source for copies of comments
	AGENCY FOR INTERNATIONAL DEVELOPMENT		
D-AID-AS2098-00	AID PEST MANAGEMENT PROGRAM	ER-2	A
	CORPS OF ENGINEERS		
DS-COE-A36360-IL	Chicagoland underflow plans (TARP), water damage study, Cooke County, Ill.	ER-2	F
D-COE-B36012-MA	Furnace brook local protection, Quincy and Milton, Norfolk County, Mass.	ER-2	B
D-COE-D36022-VA	Farmville flood control, Va.	LO-2	D
DS-COE-D40042-PA	U.S. 209 relocation, supplemental air and noise analysis, Bushkill to Milford, Tocks Island Project, Pennsylvania.	ER-2	D
D-COE-E32020-00	Little River Inlet Navigation Project, Brunswick County, North Carolina and Horry County, S.C.	LO-1	E
D-COE-E35029-MS	Rosedale Harbor, navigation project improvements, Miss.	ER-2	E
D-COE-E36042-NC	Adkin Branch Flood Control Project, Lenoir County, N.C.	LO-1	E
D-COE-F32046-MN	Harrisons Boat Harbor, Portage Bay, Wabooso Bay, Leech Lake, Cass County, Minn.	EU-2	F
DS-COE-G34002-TX	Lake Brownwood modification, Pecan Bayou Watershed, Colorado River Basin, Tex.	LO-1	G
D-COE-G34026-AR	Toad Suck Ferry Lock and Dam, water supply relocation, Conway County, Ark.	LO-1	G
	DEPARTMENT OF AGRICULTURE		
D-AFS-D65003-PA	Buzzard Swamp Unit Plan, Allegheny National Forest, Pa.	LO-1	D
D-AFS-J65057-MT	Land-Use Plan, Colorado-Unionville-Travis Planning Unit, Helena National Forest, Jefferson County, Mont.	LO-2	I
D-AFS-E65014-GA	South Slope Unit, Chattahoochee National Forest, White and Union Counties, Ga. (USDA-FS-R8 DES ADM 76-14).	LO-2	E
D-AFS-J65055-UT	Land-Use Plan, Markagunt Plateau Planning Unit, Dixie National Forest, Utah.	LO-1	I
D-AFS-J65056-MT	Warm Spring and Medicine Tree Planning Unit, Bitterroot National Forest, Jefferson County, Mont.	LO-2	I
D-AFS-L67002-OR	Geothermal Development, Breitenbush Area, Mount Hood and Willamette National Forest, Linn and Marion Counties, Oreg. (FS-R6-DES-ADM-77-3).	LO-2	K
	DEPARTMENT OF COMMERCE		
RD-NOA-A99114-00	Rules and Regulations for Implementing the Coastal Energy Impact Program, sec. 308 Coastal Zone Management Act 1972 (CZM).	LO-2	A
D-NOA-B91001-00	Atlantic Herring, Preliminary Management Plan, Gulf of Maine.	LO-1	B
D-NOA-B91002-00	Other finfish, Preliminary Management Plan, Northeast United States.	LO-1	B
D-NOA-B91003-00	Short- and Long-finned Squid, Preliminary Management Plan, Northeast United States.	LO-1	B
D-NOA-B91004-00	Atlantic Mackerel, Preliminary Management Plan, Northeast United States.	LO-1	B
D-NOA-B91005-00	Red Hake and Silver Hake, Preliminary Management Plan, Northeast United States.	LO-1	B
D-NOA-L90002-00	Troll Salmon Fishery of the Pacific Coast.	LO-1	K
D-NOA-L90003-00	Sablefish of the Bering Sea and Northeastern Pacific Ocean.	LO-1	K
D-NOA-L90004-00	Trawl Fishery of the Washington, Oregon and California Region.	LO-1	K
D-NOA-L90005-00	Trawl Fishery of the Gulf of Alaska.	LO-1	K
D-NOA-L90006-00	Trawl Fishery of the Bering Sea and Aleutian Islands.	LO-1	K
D-NOA-L90007-00	King and Tanner Crabs of the Eastern Bering Sea.	LO-1	K
D-NOA-L90008-00	Shrimp of the Eastern Bering Sea and Gulf of Alaska.	LO-1	K
D-NOA-L90009-00	High Seas Salmon Fisheries of Japan.	LO-1	K

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF INTERIOR		
D-BLM-A02106-00	1977 Outer Continental Shelf (OCS) Oil and Gas Lease Sale No. 42, Offshore the North Atlantic States, Georges Bank.	3	A
D-BLM-J67000-UT	Alunite Mine and Processing Plant, Beaver County, Utah	ER-2	I
D-BLM-K08003-00	Sierra Pacific Power Co., Transmission Line, 230-345 kV, Oreana, Nev. to Hunt, Idaho.	LO-1	J
D-IBR-J34007-CO	Dolores Project, Montezuma County, Colo.	ER-2	I
D-IBR-J39003-00	Missouri River Reservoirs, Water for Energy, Montana, Wyoming, North Dakota and South Dakota.	3	I
D-IGS-J01008-MT	Proposed Plan of Mining and Reclamation, Decker Coal Co., Decker and North Extension Mines, Big Horn County, Mont.	ER-2	1
D-IGS-J01009-MT	Proposed 20-yr Plan of Mining and Reclamation, Westmoreland Resources, Tract III, Crow Indian Ceded Area, Big Horn County, Mont.	LO-2	I
D-NPS-J61016-UT	Proposed Wilderness Classification, Cedar Breaks National Monument, Utah.	LO-1	I
D-SFW-K64000-CA	Acquisition, San Francisco Bay National Wildlife Refuge, Alameda, San Mateo and Santa Clara Counties, Calif.	LO-1	J
	DEPARTMENT OF TRANSPORTATION		
D-CGD-G50002-LA	Greater New Orleans Mississippi River Bridge No. 2, Orleans and Jefferson Parishes, La.	LO-1	G
D-FAA-E51019-GA	William B. Hartsfield Atlanta International Airport, Central Air Passenger Terminal Complex, Atlanta, Ga.	ER-2	E
D-FHW-D40039-VA	VA-147, Dolfield Dr. to VA-60, Chesterfield County, Va.	LO-2	D
D-FHW-D40040-MD	MD-2 and MD-4 Extended, Lower Patuxent River Bridge to MD-235, St. Mary's County, Md.	ER-2	D
D-FHW-E40033-NC	U.S. 25, Hendersonville Rd I-40 to Blue Ridge Parkway, Buncombe County, N.C.	LO-2	E
D-FHW-E40039-SC	SC-703, Mount Pleasant and Sullivan's Island, Charleston County, S.C.	ER-2	E
D-FHW-E40090-KY	U.S. 127 and KY-151 Relocation, Anderson and Franklin Counties, Kentucky (FHWA-KY-EIS-75-09-D).	LO-2	E
D-FHW-E4 091-NC	U.S. 74, Rutherfordton to Columbus, Polk and Rutherford Counties, N.C. (FHWA-NC-EIS-76-19-D).	LO-2	E
D-FHW-E40093-KY	U.S. 119, Pikeville to Williamson Rd., U.S. 23 to Caney Branch, Zebulon, Pike County, KY. (FHWA-KY-EIS-76-01-D).	LO-2	E
D-FHW-E40094-AL	Intersection of U.S. 280 and U.S. 431, West of Phenix City, Lee and Russell Counties, Ala. (FHWA-AL-EIS-71-21-DS-1).	LO-2	E
D-FHW-F40081-IN	I-65, to I-70, North-South Distribution, Indianapolis, Marion County, Ind.	ER-2	F
D-FHW-G40056-TX	I-40, U.S. 83 in Shamrock to Alanreed, Gray and Wheeler Counties, Tex.	LO-1	G
D-FHW-J40028-CO	I-76, I-25 to I-70 at Wadsworth Blvd., Colo.	ER-2	I
D-FHW-K40047-CA	Del Monte Ave. Widening, Washington St. to Monterey, Monterey County, Calif.	ER-2	J
D-FHW-L40044-OR	East Burnside, Sandy Blvd., Traffic Improvements, Multnomah County, Oreg.	LO-2	K
D-FHW-L40046-OR	Fremont Bridge, I-405 to Union Ave., Portland, Multnomah County, Oreg. (FHWA-OR-EIS-76-04-D).	EU-1	K
DS-UMT-D54002-MD	Metro A Route, Shady Grove Extension, Maryland	LO-2	D
	FEDERAL POWER COMMISSION		
D-FPC-K03004-00	Cook Inlet, Calif. Project, Pacific Alaska LNG Co., Los Angeles County, Calif. and Alaska.	ER-2	J
	GENERAL SERVICES ADMINISTRATION		
D-GSA-G81009-TX	Federal Bldg. Alterations, 1114 Commerce St., Dallas County, Tex.	LO-1	G
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
D-HUD-C89002-NJ	NJ-23, Urban Renewal Project, NJ-179, Wayne, Passaic County, N.J.	LO-2	C
D-HUD-E85014-FL	Devon-Aire Estates, Carol Gables, Dade County, Fla. (HUD-RO-4-EIS-76-07-D).	LO-2	E
D-HUD-F85013-MN	Loring 100 Apartments, Loring Park Development District, Minn.	ER-1	F
D-HUD-F89002-IL	Springmore Sts. and Capital Improvements, Carbondale, Ill. (CDBG).	LO-1	F
D-HUD-J85009-CO	Habitat, Planned Unit Development, Boulder County, Colo.	ER-2	I
	INTERSTATE COMMERCE COMMISSION		
DS-ICC-B53001-ME	Maine Central R.R. Co. versus Amoskeag Co., Frederick C. Dumaine and Dumaines, Finance Docket Nos. 27620 and 27621.	LO-1	B
D-ICC-F53003-WI	Abandonment of Cross Lake Michigan Car Ferry Service, Muskegon County, Wis. (Docket No. AB 18, 13, Sub. No. 21, 5).	LO-1	F
D-ICC-H53000-00	Chicago and North Western Transportation Co. Abandonment between Norfolk, Nebr. and Winner, S. Dak:	LO-2	H
	TENNESSEE VALLEY AUTHORITY		
D-TVA-E06004-TN	Phipps Bend Nuclear Plant, Units 1 and 2 Hawkins County, Tenn.	ER-2	E

APPENDIX II.—DEFINITIONS OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

ENVIRONMENTAL IMPACT OF THE ACTION

LO—LACK OF OBJECTION

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—ENVIRONMENTAL RESERVATIONS

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—ENVIRONMENTALLY UNSATISFACTORY

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

ADEQUACY OF THE IMPACT STATEMENT

CATEGORY 1—ADEQUATE

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

CATEGORY 2—INSUFFICIENT INFORMATION

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

CATEGORY 3—INADEQUATE

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III.—*Final environmental impact statements for which comments were issued between Dec. 1, 1976 and Dec. 31, 1976*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
F-COE-A30064-NJ	New Jersey Coastal Inlets and Beaches, Hereford Inlet to Delaware Bay Entrance, N.J.	EPA expressed environmental reservations over the project's possible impacts on estuarine areas. EPA recommended that offshore sites be used for sand borrow operations.	C
F-COE-A30065-PA	Cooperative Beach Erosion Control Project, Presque Isle Peninsula, Erie, Pa.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA expressed concern that the partial breakwater might inhibit the exchange of water between the beach, the breakwater and the lake. EPA request the opportunity to reevaluate the project when Congress authorizes the project and the modelling studies are completed.	D
F-COE-A32154-NJ	New Jersey Coastal Inlets and Beaches, Barnegat Inlet to Longport, N.J.	EPA's concerns were adequately addressed in the final EIS. EPA requested an opportunity to review the detailed engineering and economic evaluations when they are available.	C
FS-COE-A32487-FL	Tampa Harbor Deepening Project, Fla.	EPA's review of the final EIS indicated improvements could be made to the monitoring program. In addition, the bottom at sufficient points to sensitive areas such as the outer mullet key beach site and the Cockroach Bay area should be monitored when dredging occurs in the vicinity.	E
FS-COE-A35106-SC	Chicago Bridge and Iron Co., Permit, Colleton River, Victoria Bluff, Beaufort County, S.C.	Generally, EPA's concerns were adequately addressed in the supplement to the final EIS. However, EPA requested the corps to condition the permit so that any major expansion of the CBI facility will be contingent to additional review in order to evaluate the impacts associated with the possible growth of the project.	E
F-COE-A36279-WI	Flood Control, Mississippi River, La Crosse County, Wis.	EPA continues to have environmental reservations on the proposed project. These reservations are based upon the City of La Crosse's reluctance to develop a flood plain management plan and policies to continue development and fill of wetland areas.	F
1-COE-E35004-00	Atlantic Intracoastal Waterway Maintenance Dredging, Port Royal Sound, S.C. to Cumberland Sound, Fla.	EPA continues to have environmental reservations on the proposed project. Specifically, EPA feels certain aspects need further refinement and coordination before the project can be carried out. Also, further coordination of spoil sites on a case by case basis to more accurately define disposal site boundaries is necessary before work can proceed, and improved equipment is needed to economically dredge, transport, and dispose of spoil upland, on the beach or in deep water.	E

Identifying No.	Title	General nature of comments	Source for copies of comments
F-COE-F32042-00	Fiscal Year 1977 Navigation Season Extension Demonstration Program, New York, Ohio, and Michigan.	EPA's concerns were adequately addressed in the final EIS.	F
F-COE-F36006-NM	Flood Control at Chaska, Carver County, Minn.	EPA's review of the final EIS indicated the corps was unresponsive to comments EPA made on the draft EIS. Specifically, EPA expressed concern that a more environmentally compatible alternative be investigated. EPA also requested additional information regarding spoil disposal and the project's impacts upon wetlands, water quality, land use and induced development.	F
F-COE-J36004-MT	Flathead Flood Control, Flathead River, Kalispell, Flathead County, Mont.	EPA continues to have environmental reservations over possible continued development in the flood plain. EPA believes if the decision is made to protect the existing development with levees, it would be appropriate to require the local sponsor to zone the area to preclude levee-induced development.	I
F-COE-K32007-CA	Port San Luis, San Luis Obispo County, Calif.	EPA's concerns were adequately addressed in the final EIS.	J
F-COE-K36012-AZ	New River and Phoenix City Streams, Maricopa County, Ariz.	do	J
F-COE-K36016-CA	Calleguas Creek Flood Control, Ventura County, Calif.	do	J
	DEPARTMENT OF AGRICULTURE		
F-AFS-K40029-AZ	Forest Highway 34, AZ-34, Construction Project, Swift Trail, Coronado National Forest, Graham County, Ariz.	EPA's concerns were adequately addressed in the final EIS.	J
F-AFS-J65041-00	Sioux Planning Unit, Custer National Forest, Mont. and S. Dak.	do	I
F-REA-J07003-SD	Clay County Slaton for Basin Electric Power Cooperative 260-MW Combustion Turbines, Clay County, S. Dak.	do	I
	DEPARTMENT OF DEFENSE		
F-UAF-C10001-NY	Establishment of Falcon Military Operating Area, Adirondacks, N.Y.	EPA's concerns were adequately addressed in the final EIS.	C
	DEPARTMENT OF INTERIOR		
F-BOR-J61009-CO	Dolores National Wild and Scenic River, Southwest Colorado.	EPA's concerns were adequately addressed in the final EIS.	I
	DEPARTMENT OF TRANSPORTATION		
F-DOT-A41490-NY	New Bridge over Susquehanna River, Binghamton, Broome County, N.Y.	EPA continues to have environmental reservations on the proposed project. These reservations are based on the projected noise impacts. EPA recommended project approval be withheld until the city of Binghamton responds to truck traffic restrictions.	C
F-FHW-A41716-OR	I-82/182, Prosser, Wash. to I-80N in Oregon.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA believes the air quality analysis should be revised and updated to reflect the current state-of-the-art for predicting the air quality impact.	K
F-FHW-A41792-MD	MD-210, Old Fort Rd. to MD-227, Prince Georges County, Md. (FHWA-MD-EIS-73-04-F).	EPA's concerns were adequately addressed in the final EIS.	D
F-FHW-A42416-WI	WI-59, Whitewater to Waukesha, Waukesha County, Wis.	do	F
F-FHW-D40016-PA	LR 75, Emlenton Bridge Replacement, Venango County, Pa.	EPA's concerns were adequately addressed in the final EIS. Furthermore, EPA would expect to further review the water quality aspects of the project at the permitting stage.	D
F-FHW-F40037-WI	U.S. 14, Brooklyn to Madison Rd., Dane County, Wis.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-F40039-WI	U.S. 61, U.S. 151 and WI-35, Mississippi River Bridge to Dickeyville, Grant County, Wis.	do	F
F-FHW-J40018-CO	Union Boulevard, Colorado Springs, El Paso County, Colo.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA expressed concern over the potential for continued deterioration of air quality in the Colorado Springs area. In addition, EPA requested that future phases of the project be made available for review.	I

Identifying No.	Title	General nature of comments	Source for copies of comments
F-FHW-K40026-CA	Harbor Blvd., Oxnard, Ventura County, Calif.	EPA's concerns were adequately addressed in the final EIS	J
	FEDERAL POWER COMMISSION		
FS-FPC-E09003-00	United Gas Pipeline Co., Natural Gas Curtailment Plans.	EPA continues to note that only a thorough examination of individual mission sources can produce an accurate account of localized ambient air quality impacts anticipated due to fuel switching under this plan. EPA invites the FPC to work with EPA to develop techniques which can be used to more accurately portray the specific air quality impacts of gas curtailment plans.	A
F-FPC-K05004-CA	Big Creek project Nos. 67 and 120, California.	EPA's concerns were adequately addressed in the final EIS.	J
	DEPARTMENT OF COMMERCE		
RS-NOA-A86092-00	Promulgation of regulations and proposed issuance of permits to commercial fishermen allowing the taking of marine mammals in the course of yellowfin tuna purse seine operations.	The Environmental Protection Agency has "environmental reservations" on the proposed action, due to insufficient information on the impacts of U.S. response to foreign fishing, lack of information on equipment improvement, and inadequate observer participation.	A

APPENDIX IV.—*Final environmental impact statements which were reviewed and not commented on between Dec. 1, 1976, and Dec. 31, 1976*

Identifying No.	Title	Source of review
	CORPS OF ENGINEERS	
F-COE-A36397-MO	Wears Creek, Jefferson Creek, Flood Protection Project, Jefferson City, Cole County, Mo.	H
F-COE-B30001-CT	New London Hurricane Protection Project, New London County, Conn.	B
F-COE-D36010-VA	Virginia Beach Streams, Canal No. 2, Flood Protection Project, Virginia Beach, Va.	D
F-COE-D36020-PA	Proposed Local Flood Protection, Loyalsock Township, Lycoming County, Pa.	D
F-COE-E32014-NC	Wilmington to Fayetteville, Maintenance of Cape Fear River, N.C.	E
F-COE-E32015-SC	Murrells Inlet Navigation Project, Georgetown County, S.C.	E
F-COE-E35018-NC	Maintenance, Atlantic Intracoastal Waterway, Side Channels, North Carolina.	E
F-COE-E35024-SC	Maintenance Dredging of Port Royal Harbor, Beaufort County, S.C.	E
F-COE-G36043-LA	Bayou Segnette and Barataria Bay Waterways, La.	G
F-COE-H32001-MO	Rail-to-Barge Coal Transfer Facility, St. Louis, Mo.	H
F-COE-J36002-ND	Flood Control at Grafton, Park River, Pembina County, N. Dak.	I
F-COE-L36032-OR	Operation and Maintenance, Dredging, Coos Bay and Coos and Millicoma Rivers, Navigation, Oregon.	K
	DEPARTMENT OF AGRICULTURE	
F-AFS-J65035-CO	Blacktail Land Use Plan, Routt National Forest, Grande and Routt Counties, Colo.	I
	DEPARTMENT OF DEFENSE	
F-USA-E11003-MS	Mississippi Army Ammunition Plant at NSTL, Bay St. Louis, Hancock County, Miss.	E
F-USA-J20005-CO	Disposal by Sale of Carbonyl Chloride, Phosgene, Rocky Mountain Arsenal, Adams County, Colo.	I
F-USN-B11001-CT	Naval Submarine Base, New London, Groton, Conn. (5-yr plan)	B
	DEPARTMENT OF INTERIOR	
F-BOR-E61004-TN	Proposed Obed National Wild and Scenic River, Cumberland, Fentress, and Morgan Counties, Tenn.	E
F-SFW-D84001-PA	Proposed National Fishery, Research and Development Center, Wellsboro, Tioga County, Pa.	D
	DEPARTMENT OF TRANSPORTATION	
RF-CGD-A52092-00	Regulations for U.S. Tank Vessels Carrying Oil in Foreign Tank Vessels That Enter the Navigable Waters of the United States.	A
F-FHW-A41984-MO	MO-36, Macon County, Mo. (MO-EIS-73-14-F)	H
F-FHW-A42097-NB	NB-2, 14th to 33th St. to Old Cheney Rd., Lincoln Urban Arterial, Lancaster County, Nebr. (FHWA-NEB-EIS-73-14-F/4F).	H
F-FHW-E40043-GA	GA-53, Rome to Calhoun, Floyd and Gordon Counties, Ga. (FHWA-GA-75-S-F)	E
F-FHW-E40050-SC	U.S. 276 and U.S. 76, Connector Highway, Laurens, Greenville and Anderson Counties, S.C.	E
FHW-E40062-GA	Dahlonega Connector, GA-306 to Forsyth County Line to GA-60 in Lumpkin County, Ga. (FHWA-GA-76-01-D).	E
F-FHW-E40073-NC	U.S. 501, Duke St. to Roxboro Rd., I-85 to Wellington Dr., Durham County, N.C.	E
F-FHW-G40040-TX	Loop 151, U.S. 82 to U.S. 59, Texarkana, Bowie County, Tex.	G

Identifying No.	Title	Source of review
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT	
F-HUD-G85016-TX	Henderson Sewer Improvements, Rusk County, Tex	G
F-HUD-J85008-CO	Mission Viejo, Planned Community Zone Development, Colo	I
	INTERNATIONAL BOUNDARY AND WATER COMMISSION	
F-IBW-G05003-TX	Amistad Hydroelectric Plant, Val Verde County, Tex	G

APPENDIX V.—*Regulations, legislation and other Federal agency actions for which comments were issued between Dec. 1, 1976, and Dec. 31, 1976*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
R-COE-A05445-00	33 CFR Part 221, Work for Others, Investigation and Supervision of Hydropower Power Under the Federal Power Act.	EPA generally concurred in the proposed regulation, but suggested certain revisions to ensure coordination of FPC license and permit applications with State and areawide water quality management planning agencies. EPA also noted that low-flow augmentation recommended for water quality control purposes must be coordinated with EPA under the provisions of 102(b) of the FWPCA.	A
A-COE-A39120-00	Civil Works Program, Environmental Policies, Objectives and Guidelines, Revisions.	EPA indicates that the policies, objectives and guidelines contained in the document are comprehensive and generally responsive to environmental requirements. EPA made several suggestions for improving the document including the use of the directives of Executive Order 11752; providing for public input during the operations and maintenance phases of projects; and including references to additional legislation.	A
	DEPARTMENT OF COMMERCE		
R-NOA-A99118-00	Interim Regulations, Fisheries Conservation and Management, Title 50, Wildlife and Fisheries, Chapter VI.	EPA is in general agreement with the document, but did make some comments on specific management criteria.	A
	DEPARTMENT OF INTERIOR		
R-BLN-A01039-00	43 CFR Parts, 3500, 3520, Coal Leases, Diligent Development and Continued Operation.	EPA critized the definition of "diligent development" and "continued operation" for requiring too little coal production, in light of legislative intent that coal in leased areas be mined in 40 yr. EPA also expressed major concern over the apparently unfettered right of lessees to mine only those coal deposits in leased lands that are most easily accessible and profitable, despite congressional intent to provide "maximum economic recovery" from Federal coal lands.	A
R-BLM-A01040-00	43 CFR Part 3520, Competitive Coal Leasing, Proposed Procedures.	EPA reiterated some of its concerns expressed in earlier correspondence on the energy minerals activity recommendation system (EMARS). Specifically, EPA questioned the lack of a mechanism to screen from nomination those coal lands deemed unsuitable for mining. EPA also reiterated its suggestion for environmentally sound sequencing of competitive coal leasing.	A
R-BLM-A01041-00	43 CFR Parts 3500, 9230, Federally Owned Coal Deposits, Exploration Licenses.	EPA critized the proposed regulations for defining "substantive disturbance to the natural land surface" as disturbance unnecessary in the act of locating and gaining access to potential coal deposits. EPA believes that such a definition is inconsistent with sec. 4 of the Federal Coal Leasing Amendments Act of 1975. EPA suggested other revisions to the regulations.	A
R-BLM-A01043-00	43 CFR Parts 3500 and 3510, Leasing of Mineral Other Than Oil and Gas and Prospecting Permits, Coal Leases.	EPA suggested that the provision allowing modifications of coal leases to include contiguous coal lands be based on explicit criteria defining the "interest of the United States," which is the single and undefined criteria included in the proposed regulation.	

Identifying No.	Title		Source of review
	DEPARTMENT OF TRANSPORTATION		
R-CGD-A52096-00	46 CFR Parts 31, 34, 54, 98, 154, Self-Propelled vessels Carrying Bulk Liquified Gases, Proposed Standards (CGD 74-289).	EPA's reviewed the proposed regulation and has no comments at this time.	A
R-DOT-A52099-00	49 CFR Part 527, Passenger Automobile Average Fuel Economy Standards, Petitions for Reduction (Docket No. FE76-2: Notice 1).	EPA indicated it had 3 principal concerns: NHTSAA's plan to tentatively decide approval or disapproval based only on industry's submissions and before the public comment period; the lack of timely and adequate coordination with other interested Federal agencies; and the granting of confidential treatment to industry data which are critical to the public's evaluation of petitions.	A
R-FAA-A52087-00	14 CFR Part 36, Aircraft Noise Measurements and Evaluation Specifications.	EPA had no specific comments, but did urge prompt promulgation of a final rule because of its concern that appropriate modifications be made to Federal Aviation Regulation, part 36 (FAR 36) without delay.	A
R-FRA-A53040-00	49 CFR Part 210, Railroad Noise Emission Compliance Regulations, Proposed Procedures.	EPA had no objections to the proposed rule, but did offer numerous suggestions for its improvement.	A
	ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION		
A-ERD-A00107-00	Management of Commercially Generated Radioactive Wastes, Preparation of FEIS, Notices.	EPA indicated that the proposed statement may not adequately address the environmental impact of the disposal of radioactive wastes. In EPA's opinion, the notice and statement outline is not reassuring that sufficient coverage will be given to risk-benefit consideration, alternatives, potential accidents, or the full range of sources of wastes.	A

APPENDIX VI.—SOURCE FOR COPIES OF EPA COMMENTS

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 2922, Waterside Mall, SW., Washington, D.C. 20460.

B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30308.

F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.

H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.

J. Director of Public Affairs, Region 9, Environmental Protection Agency, 100 California Street, San Francisco, California 94111.

K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc.77-4647 Filed 2-15-77;8:45 am]

AIR QUALITY STANDARDS: "EMISSION OFFSET" INTERPRETATIVE RULING

Location Change for Public Hearing

On January 21, 1977, the Environmental Protection Agency published at 42 FR 3888 a Notice of four public hearings regarding EPA's "Emission Offset" Interpretative Ruling (41 FR 55524). The first such hearing is scheduled for San Francisco, California, on February 23, 1977.

The purpose of this notice is to announce that the previously-announced location for the San Francisco hearing has been changed to another building. The date of the hearing has not been changed. The hearing will be held on February 23 in San Francisco at:

Jack Tarr Hotel, California Golden Gate Room, Mezzanine Floor, Van Ness and Gary Streets.

Dated: February 11, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc.77-4956 Filed 2-15-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 21058, 21059, File Nos. 3464-CM-P-73, 50087-CM-P-75]

AMERICAN TELEVISION AND COMMUNICATIONS CORP. AND MICROBAND CORPORATION OF AMERICA

Construction Permits in the Multipoint Distribution Service for a New Station at Urbana, Illinois

Adopted: January 12, 1977.

Released: February 11, 1977.

1. The Commission has before it the above-referenced applications of American Television and Communications Corporation (ATC), filed on November 9, 1972[1] and Microband Corporation of America (Microband), filed on April 25, 1975. Both applications propose Channel 1 operation in the Urbana, Illinois area, and thus are mutually exclusive and require comparative consideration. Both applications have ben amended as a result of informal requests of the Commission staff for additional information, and no petitions to deny or other objections to any of the applications have been received.

2. ATC, which holds licenses in point-to-point, DPLMRS, CATV, and CARS services, has fifteen MDS construction permit applications pending and has been granted permits for four cities, including Savannah, Georgia. Microband has thirteen licensed MDS stations and some thirty-five construction permit applications pending or granted.

3. Upon review of the captioned applications, we find that both applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

4. Accordingly, *it is hereby ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, and § 0.291 of the Commission's Rules, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In make such a determination, the following factors shall be considered:[2]

(a) The relative merits of each proposal with respect to service area and efficient frequency use;

(b) The nature of the services and facilities proposed, and whether they will satisfy service requirements known to exist or likely to exist in the Urbana, Illinois area;

(c) The anticipated quality and reliability of the service proposed, including selection of equipment, installation, subscriber security and maintenance;

(d) The charges, regulations and conditions of the service to be rendered, and their relation to the nature, quality and costs of service; and

(e) The managerial and entrepreneurial qualifications of the applicants.

5. *It is further ordered,* That American Television and Communications Corporation, Microband Corporation of America, and the Chief, Common Carrier Bureau, ARE MADE PARTIES to this proceeding.

6. *It is further ordered,* That parties desiring to participate herein shall file their notices of appearance in accordance

[1] ATC's application appeared on Public Notice on March 10, 1975, delayed at the request of the applicant. Accordingly, Microband's application was timely filed.

[2] Consideration of these factors shall be made in light of the Commission's discussion in Peabody Telephone Answering Service, et al., 55 F.C.C. 2d 626 (1975).

with the provisions of § 1.221 of the Commission's rules.

JOSEPH A. MARINO,
Deputy Chief, for Chief, Common Carrier Bureau.

[FR Doc.77-4911 Filed 2-15-77;8:45 am]

[FCC 77-79; Docket No. 21047]

AMERICAN TELEVISION AND COMMUNICATIONS CORP.

Revisions to Tariff F.C.C. No. 2, Transmittal No. 17

Adopted: February 2, 1977.

Released: February 11, 1977.

1. On December 23, 1976, the Commission released a Memorandum Opinion and Order, FCC 76-1183, Docket No. 21047, suspending the effective date of American Television and Communications Corporation (ATC) revised Tariff F.C.C. No. 2 until May 31, 1977, the maximum five month statutory period provided for in Section 204(a) of the Communications Act of 1934, as amended. We suspended ATC's proposed tariff because it raised questions of lawfulness under Sections 201(b) and 202(a) of the Act similar to those presently under review in Docket No. 19609, American Television Relay, Inc., 37 FCC 2d 751 (1975). We also imposed an accounting order upon ATC which requires it to keep accurate records of all amounts received should the suspension period terminate before a final decision is rendered and the increased rates become effective. Finally, ATC was notified that customer refunds might be warranted pending completion of the ordered investigation and hearing and a decision therein.

2. On December 23, 1976, the very day the Commission released its Memorandum Opinion and Order, Teleprompter Corporation (Teleprompter) withdrew its Petition to Suspend the January 1, 1977 effective date of the revised ATC tariff. Teleprompter had been the only one of ATC's twelve customers to protest the revised tariff schedules. Based on this new fact, ATC has filed a Petition for Reconsideration under Section 1.106 of our Rules and Regulations, 47 C.F.R. § 1.106, seeking a reduction in the duration of the suspension period from the five month statutory maximum to a period of one month. Reconsideration of no other aspect of our Memorandum Opinion and Order has been requested by ATC.[1]

3. In support of its Petition, ATC argues that because there are no longer any customers objecting to the revised tariff, sufficient good cause is present to reduce the suspension period to one month. ATC emphasizes that the interests of its customers will not be harmed by a reduction in the suspension period because the accounting order requires it to keep accurate account of all amounts received from each customer by reason of its rate increases, and that upon completion of the hearing, it will make any refunds the Commission may order. Thus, states ATC, customers are assured of being made whole in the event refunds are deemed necessary. In addition, ATC contends that there is no assurance that a final decision in the ATR case will be forthcoming within the suspension period. Thus resolution of the questions of lawfulness therein may not be available for ATC to revise its tariff before expiration of the suspension. Significantly, Teleprompter has filed no opposition to ATC's request for reconsideration.

4. We have carefully reviewed the arguments set forth by ATC and we agree that due to Teleprompter's subsequent withdrawal of its petition to suspend, the five month period of suspension should be reduced to a period of forty days, with the tariff to become effective February 9, 1977. With none of ATC's customer's objecting to the proposed rate increases, the original five month suspension period is no longer needed. Should ATC's rate structure be found unlawful, the scope of our accounting order is broad enough to fully safeguard ATC's customers. We have specifically reserved the right to order appropriate refunds and thus put the parties back to the position they would have been in had ATC never revised its tariff.

5. Accordingly, *it is ordered*, That the ATC Petition for Reconsideration IS GRANTED and the December 23, 1976 Memorandum Opinion and Order, FCC 76-1183, IS MODIFIED as specified in Para. 4 herein.

6. *It is further ordered*, That, the Secretary shall send a copy of this order by certified mail, return receipt requested, to American Television and Communications Corporation and Teleprompter Corporation, and to the separated Trial Staff of the Common Carrier Bureau and shall cause a copy to be published in the FEDERAL REGISTER.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-4908 Filed 2-15-77;8:45 am]

[Docket No. 21107]

JOHN H. RANDALL

Designating Application for Hearing on Stated Issues

Adopted: February 4, 1977.

Released: February 11, 1977.

In the matter of the renewal application of John H. Randall, 4142 West Manhattan Beach Boulevard, Lawndale, California 90260, for Citizens Band Radio Station License KDW-1565.

The Chief, Safety and Special Radio Services Bureau, has under consideration the above-captioned application filed February 2, 1976.

1. Mr. Randall is the president of an organization called HF International. His name and the designation HF 61 appear on the HF International Rules accompanying the HF Roster, and on correspondence assigning HF numbers through the mail. He is also listed as the owner of HF International by the city of Inglewood, California.

2. It appears that Mr. Randall, as president of HF International since approximately 1974, assigns call "numbers" to radio operators requesting these numbers through the mail. The organization also appears to have representatives who assign numbers over the air and in person.

3. As president of HF International, Mr. Randall helped formulate rules for radio operation by its members. The HF Rules contained the following statement: "It is the duty of all members of HF to discourage the use of any other numbers on the HF frequencies." The HF Rules listed the following frequencies for operation by HF members: 27.315, 27.325, 27.340, 27.345, 27.355, 27.380, 27.400, 27.420, 27.440, 27.460 MHz, etc., up to 27.500 MHz. Until January 1, 1977, these frequencies were authorized by the Commission only for licensees in the Industrial and Business Radio Services. After that date, some of these frequencies were reallocated to the Citizens Radio Service while others remain in the Industrial and Business Services. It appears that HF International promoted operation on frequencies not authorized by the licenses held by its members.

4. Additionally the HF Rules stated: "Because of the growing interest among HF members in working toward their amateur licenses, 27.480 and 27.500 have been set aside for C.W. (continuous wave, i.e., Morse Code) practice and theory discussion." These frequencies are allocated for voice emission only by the Commission.

5. Mr. Randall publishes and sells the HF International Roster through the mail—a set of booklets containing the first name, state and HF call number of each member. It also contains the HF Rules for radio operation. Use of this book by HF International members enables them to identify each other over the air, while concealing their identity and station location from the Commission.

6. The assignment by Mr. Randall of call signs to be used instead of Commission call signs; the designation of frequencies which are assigned to other radio services for the purpose of unlicensed operation by HF International members; the designation of Morse Code operation on frequencies not allocated for that mode of operation; and the promotion of HF International Rules for all members to follow which are in violation of the Communications Act of 1934, as amended, and the Commission's Rules, raise serious questions concerning Mr. Randall's qualifications to be a licensee. The Commission must examine Mr. Randall's role as president of HF International to determine the extent of his involvement in the furtherance of radio operation contrary to the Act and the Commission's Rules. The Commission, therefore, is unable at this time to con-

[1] We have also considered an Opposition to the Petition for Reconsideration filed by the Trial Staff of the Common Carrier Bureau, and a Reply thereto filed by ATC.

clude that the grant of license to Mr. Randall would serve the public interest, convenience and necessity.

Accordingly, *it is ordered*, pursuant to Section 309(e) of the Communications Act of 1934, as amended, and § 1.973(b) and 0.331 of the Commission's Rules, that the captioned application is designated for hearing, at a time and place to be specified by subsequent order, upon the following issues:

(1) To determine the manner of radio operation promoted by HF International.

(2) To determine Mr. Randall's role as president of HF International in promoting the radio operation evidenced above.

(3) To determine, based on the evidence adduced above, whether Mr. Randall possesses the requisite qualifications to be a licensee of the Commission.

(4) To determine, in light of the foregoing, whether the public interest, convenience and necessity would be served by a grant of the captioned application.

It is further ordered, That, the application for a new Citizens radio station license, filed on September 26, 1976, by Mr. Randall, is dismissed as defective, pursuant to §§ 1.958(c) and 95.411(b) of the Commission's Rules, since no person may hold more than one Citizens Band station license.

It is further ordered, That, to avail himself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intent to appear on a date to be fixed for hearing and to present evidence on the issues specified in this Order.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

[FR Doc.77-4906 Filed 2-15-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

REPORTING AND RECORDKEEPING REQUIREMENTS

Expiration or Extension of Certain Forms

The Federal Energy Administration (FEA) hereby gives notice that the expiration dates applicable to thirteen reports are extended, that three forms have expired, and that three forms which have expired have been submitted to the General Accounting Office (GAO) for approval of extension.

I. The following FEA forms have been approved for extension by GAO and have new expiration dates as follows:

Form No.	Form title	New expiration date
FEA-101A	Owners of Stored Product Report	Oct. 31, 1978
FEA-P103-M-0	Old Oil Entitlements Program Entitlement Transaction Report	Do.
FEA-P105-S-0	Complainant's Report	Do.
FEA-P106-S-0	Application to State for Petroleum Product Hardship or Emergency Relief	Do.
FEA-P107-S-0	State Office of Petroleum Allocation; State Action on Application for Hardship or Emergency Relief.	Do.
FEA-P108-S-0	Wholesale Purchaser-Reseller's Certification of Distribution to Purchasers for Uses Under and Allocation Level Not Subject to an Allocation Fraction.	Do.
FEA-P302-M-1	Petroleum Industry Monthly Report for Product Prices	June 30, 1978
FEA-P306-M-0	Refiner/Importer Monthly Report of Petroleum Product Distribution	Dec. 31, 1979
FEA-P314-M-0	Monthly Survey of Distillate and Residual Fuel Oil Sales to Ultimate Consumers.	Do.
FEA-P315-M-0	Monthly Survey of Propane Sales Volume to Ultimate Consumers	Do.
FEA-G318-M-0	Underground Gas Storage Report	June 30, 1979
FEA-U501-S-0	Lighting and Thermal Operations Application for Award	Dec. 31, 1978
FEA-F701-M-0	Transfer Pricing Report	Oct. 31, 1978

II. The following FEA forms expired on December 31, 1976.

FEA-P109-S-0	Surplus Propane/Butane Purchase Report.
FEA-P304-M-0	Monthly Survey of Distillate and Residual Fuel Oil Sales to Ultimate Consumers.
FEA-90	Crude Petroleum Production Monthly Report.

III. The following forms expired on December 31, 1976, and have been submitted to GAO for an extension of clearance with no change in form or instructions.

FEA-100A	Producers and Wholesale Purchaser-Resellers Monthly Report.
FEO-17	Request for Assignment of a Supplier or Adjustment of Base Period Supply Volume.
FEA-25	Certification of Requirements for Use Under Allocation Levels Not Subject to an Allocation Fraction.

Dated: February 10, 1977.

DAVID G. WILSON,
Acting General Counsel.

[FR Doc.77-4836 Filed 2-11-77;12:02 p.m.]

MIDDLE DISTILLATE PRICES

Revision to Post-Exemption Monitoring

BACKGROUND

On September 15, 1976, the FEA issued a notice specifying the details of the middle distillate price monitoring system which the FEA had decided to adopt in order to meet its commitment to assure that no unwarranted price increases would occur once controls were removed. (41 FR 41155, September 21, 1976) As part of the system, an index value was established which would project price levels that would have occurred had regulatory controls remained in effect for middle distillers, plus a flexibility factor of two cents per gallon to allow for statistical error, short-term market aberrations and factors not otherwise included in the index equation that could have affected prices under controls. The index value included factors for increases in costs of crude oil, the costs of doing business for refiners and marketers, the costs and volumes of imported distillate, and a seasonal adjustment factor.

The formula operates so that the factors for increases crude oil costs and increased prices for imported distillate were included with a two-month lag. The two-month lag was adopted so that these costs could be based on actual data reported to the FEA. Under continued controls, these costs could have been passed through with a one-month lag. The FEA specifically recognized the additional one-month lag problem with respect to crude oil in its September 21, 1976 notice and decided to continue to consider alternative methods for projections of actual crude oil prices with a one-month lag.

TWO-MONTH LAG IN COST REFLECTION REPLACED BY ONE-MONTH LAG

The computation of the index value in accordance with the procedures outlined in the September 21, 1976 notice does not permit the index price to reflect OPEC price increases until the close of the second month following the month in which they occurred. Thus, for example, under the September 21 procedure, an increase in OPEC prices during January 1977 would not be reflected in the index price until the end of March 1977.

Except to the extent that actual increases in middle distillate prices resulting from the OPC price increase were absorbed by the two-cent per gallon flexibility factor, the index prices assume that refiners absorb the increased costs due to the OPC price rise for two months. Under continued controls, on the other hand, refiners would have been required to absorb the increase for only one month before passing it through. Such a result is not consistent with the intent of the index value mechanism.

Therefore, effective February 1, 1977, the FEA has adopted a revision to the index methodology outlined in the September 21, 1976 notice. The revised procedure will reduce the two-month lag for reflecting increased crude oil costs to one month, by projecting average crude oil costs to be used in the index computation.

REVISIONS TO PRICE MONITORING SYSTEM

The Appendix in the September 21, 1976 notice is revised. The revised methodology changes the former crude oil costs term to reduce the two-month lag in reflecting costs to one month.

The estimated average cost of imported crude oil included in the computation of the new term (C^{t-1}) is computed by adding to the latest actual costs of imported crude oil reported to the FEA any announced percentage increases in the price of foreign oil, based on the official Saudi Arabian price for 34° gravity crude oil, during the two-month period immediately preceding the month for which the index is calculated. Thus, the index price for February 5, 1977 will reflect reported and estimated costs of imported crude oil for January 1977.

The average refiner acquisition cost for domestic crude oil will be estimated, based on estimated changes in upper tier, lower tier, and stripper well crude oil, which will be used to adjust the latest actual average domestic refiner acquisition costs reported to the FEA. Such costs are not available to FEA on a current basis. The changes in the prices of upper- and lower-tier crude oil will be equal to changes in these prices as noted in FEA's latest published schedule. The price of stripper crude oil is assumed to increase by the same amount as imported crude oil. The percentage weights for these three costs are the latest actual figures for percentages collected by the FEA. Thus, for example, the index prices for weeks in February 1977 will reflect reported costs for upper tier crude oil in November 1977 adjusted downward by $0.20 per barrel to account for the $.20 per barrel reduction in the upper tier ceiling price that became effective January 1, 1977, and adjusted upward to reflect the OPEC price increases announced for January, 1977.

The percentages of domestic and imported volumes of crude oil used in the computation are estimated by adjusting the latest actual percentages reported to the FEA. After actual data upon which the index computation is based become available, the projected index value will be replaced by the actual index value.

The FEA herein also adopts a change to the weekly index calculation. In accordance with the procedure outlined in the September 21, 1976, FEDERAL REGISTER notice, the FEA has been computing weekly index values by adding to the latest weekly or monthly index value one-fourth of the difference between the two latest monthly index values.

The intent of this method of weekly index value computation was to approximate, as accurately as possible, the values which would ultimately be obtained for the monthly index value, which is computed from actual data collected by the FEA, had such data been available on a values per weekly basis. At the end of the month, the weekly index values were replaced by the new monthly index values when the FEA had collected the actual data from which the monthly index value was computed.

The FEA has revised the weekly index value computation, by including the projection for crude costs and that information which is known at the time of the computation, and continuing its one-fourth method for the unknown components of the index.

The seasonal adjustment factor is predetermined, the crude oil cost factor projected, and the import adjustment is known by about the end of the first week of the month on a sampling basis. The revision to the weekly computation that the FEA has adopted takes these three factors as predetermined for the month.

Other component factors of the index value, that is, refiner and distributor non-product costs, will continue to be extrapolated by the one-fourth method until actual data for these factors become available.

The Appendix in the September 21, 1976 notice is redesignated Appendix I and Sections A. and B. are replaced by new Sections A. and B; Section D. is deleted, and Sections E. and F. are redesignated Sections D. and E. The revised methodology changes the old crude oil costs term (C^{t-2}–C^{a}) to a new term (C^{t-1}—C^{m}), which reduces the two-month lag to one month.

A new Appendix II is added which provides the details of the average crude oil costs computation.

Issued in Washington, D.C., February 11, 1977.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

APPENDIX I

A. DETAILED FORMULAS FOR COMPUTING NATIONAL INDEX PRICES

No. 2 Heating Oil

$$I_h^t = S_h^t \left[P_h^J + (C^{t-1} - C^m) + \frac{(N_r^{t-2} - N_r^a)}{V^{t-2}} + b_h \left(\frac{W^{t-2}}{W^a} - 1 \right) M_h^J \right]$$

Import adjustment

$$+ \Delta P_i R^q + \Delta R^t (P_i^J - P_a^J)$$

Flexibility factor

$$+2 \text{ cents}$$

No. 2 Diesel Fuel

$$I_d^t = S_d^t \left[P_d^J + (C^{t-1} - C^m) + \frac{(N_r^{t-2} - N_r^a)}{V^{t-2}} + b_d \left(\frac{W^{t-2}}{W^a} - 1 \right) M_d^J \right]$$

Import adjustment

$$+ \Delta P_i R^q + \Delta R^t (P_i^J - P_a^J)$$

Flexibility factor

$$+2 \text{ cents}$$

Superscripts used in the formulas refer to time periods as follows:

- t refers to the month for which the index is being computed.
- $t-1$ refers to the month one month before the month for which the index is being computed (when t=September, $t-1$=August).
- $t-2$ refers to the month two months before the month for which the index is being computed (when t=September, $t-2$=July).
- J refers to June 1976.
- a refers to April 1976.
- m refers to May 1976.
- Q refers to the quarter in 1972 which includes June (June–August).
- q refers to the quarter in 1972 which includes the month corresponding to the month t in 1976–1977.

Subscripts used in the formulas refer to the following:

- h refers to No. 2 heating oil.
- r refers to refiners.
- i refers to imported middle distillates.
- a refers to domestic middle distillates.
- d refers to No. 2–D diesel fuel.

I_h^t=National index price for No. 2 heating oil sales in month t.

I_d^t=National index price for No. 2–D diesel fuel sales in month t.

S_h^t=Multiplicative seasonal adjustment factor. Seasonal factor derived from BLS No. 2 heating oil price index for the period 1960 through 1967.

S_d^t=Multiplicative seasonal adjustment factor for diesel fuel sold in truck stops. Given the limited amount of available price data the FEA has not been able to identify a significant seasonal pattern for diesel fuel prices. Thus, the seasonal factor has been set at 1.0 for all months (see Section C.2, below).

P_h^J=Weighted national average price for No. 2 heating oil sold to ultimate consumers during June 1976, determined by a statistically valid sample of sellers of No. 2 oils.

P_d^J=Weighted national average price for No. 2–D diesel fuel sold to ultimate consumers for highway use during June 1976, estimated on the basis of sales of diesel fuel in truck stops and retail service stations, which account for the majority of diesel fuel sales.

C^{t-1}=Average crude oil costs in cents per gallon in month $t-1$ as estimated in accordance with procedures set forth in Appendix II. Crude oil cost estimates will be revised one month later with new estimates, and two months later with actual data.

C^m=Unit crude oil costs in cents per gallon in May 1976, reported to FEA on FEA Form P110.

N_r^{t-2}=Nonproduct costs for refiners during month t-2 reported to the FEA on form FEA P–110. These costs represent the amount of nonproduct costs that refiners can pass through under current pricing regulations.

N_r^a=Nonproduct costs for refiners in April 1976.

V^{t-2}=Total volume of sales of refined products derived from refining operations. Total volume derived from refined products reported to the FEA on form P302 adjusted for import volumes.

b_h=Percentage of No. 2 heating oil sales to ultimate consumers accounted for by non-refiners estimated from 1974 market shares data reported to the FEA.

b_d=Percentage of total diesel fule sales to ultimate consumers accounted for by non-refiners. Estimated from diesel fuel direct sales by refiners reported to the FEA on form P302 for the period July, 1975, through April, 1976.

W^{t-2}=Bureau of Labor Statistics wage index for Truckers and Warehousemen (SIC42) for the month $t-2$.
W^a=Bureau of Labor Statistics wage index for Truckers and Warehousemen (SIC42) for April 1976.
M_h^J=Margin for nonrefiners selling No. 2 heating oil for the period June 1976 estimated from statistically valid survey of heating oil resellers.
M_d^J=June 1976 margin for truck stop operators and retail service stations that sell diesel fuel, estimated from Lundberg Survey, Inc. survey of truck stops and retail gasoline stations conducted for the FEA.
ΔP_i=Change in the weighted average cost of middle distillate imports for the months April through month $t-2$ reported to the FEA on form FEA P302.
R^a=Historical national proportion of middle distillate imports during the quarter in 1972 which includes the month corresponding to the month t in 1976–1977.
$\Delta R^t = R^a - R^Q$
R^Q=Historic national proportion of middle distillate imports in the quarter June through August 1972.
P_i^J=Average price of imports of No. 2 oils in June 1976 reported to FEA on Form P–112.
P_a^J=Average price of domestic No. 2 oils in June 1976 reported to FEA on Form P–112

B. DETAILED FORMULA FOR COMPUTING REGIONAL INDEX PRICES

No. 2 Heating Oil

$$I_{hj}^t = S_h^t \left[P_{jh}^J + (C^{t-1} - C^m) + \frac{(N_r^{t-2} - N_r^a)}{V^{t-2}} + b_{jh} \left(\frac{W^{t-2}}{W^a} - 1 \right) M_h^J \right]$$

Import adjustment

$$+\Delta P_i R_j^a + \Delta R_j^t (P_i^J - P_a^J)$$

Flexibility factor

$$+2 \text{ cents}$$

No. 2 Diesel Fuel

$$I_{dj}^t = S_d^t \left[P_{jd}^J + (C^{t-1} - C^m) + \frac{(N_r^{t-2} - N_r^a)}{V^{t-2}} + b_d \left(\frac{W^{t-2}}{W^a} - 1 \right) M_d^J \right]$$

Import adjustment

$$+\Delta P_i R_j^a + \Delta R_j^t (P_i^J - P_a^J)$$

Flexibility factor

$$+2 \text{ cents}$$

Superscripts used in the formulas refer to time periods as follows:
t refers to the month for which the index is being computed.
$t-1$ refers to the month one month before the month for which the index is being computed (when t=September, $t-1$=August).
$t-2$ refers to the month two months before the month for which the index is being computed (when t=September, $t-2$=July).
J refers to June 1976.
a refers to April 1976.
m refers to May 1976.
Q refers to the quarter in 1972 which includes June (June–August).
q refers to the quarter in 1972 which includes the month corresponding to the month t in 1976–1977.

Subscripts used in the formulas refer to the following:
h refers to No. 2 heating oil.
r refers to refiners.
i refers to imported middle distillates.
a refers to domestic middle distillates.
d refers to No. 2–D diesel fuel.
j refers to a particular region.

I_{hj}^t=Index price for No. 2 heating oils sales in month t in region j.
I_{dj}^t=Index price for No. 2–D diesel fuel sales in month t in region j.
S_h^t=Multiplicative seasonal adjustment factor for heating oil. Seasonal factor derived from BLS No. 2 heating oil price index for the period 1960 through 1967.
S_d^t=Multiplicative seasonal adjustment factor for diesel fuel sold in truck stops. Given the limited amount of available price data the FEA has not been able to identify a significant seasonal pattern for diesel fuel prices. Thus, the seasonal factor has been set at 1.0 for all months (see Section C.2, below).
P_{jh}^J=Weighted average price for No. 2 heating oil sold to ultimate consumers in region j during June 1976, determined by a statistically valid sample of sellers to ultimate consumers of No. 2 oils.
P_{jd}^J=Weighted average price for No. 2–D diesel fuel for highway use sold to ultimate consumers in region j during June 1976, estimated on the basis of sales of diesel fuel in truck stops and retail service stations, which account for the majority of diesel fuel sales.
C^{t-1}=Average crude oil costs in cents per gallon in month $t-1$ as estimated in accordance with procedures set forth in Appendix II. Crude oil cost estimates will be revised one month later with new estimates, and two months later with actual data.
C^m=Unit crude oil costs in cents per gallon in May 1976, reported to the FEA on FEA Form P110.
N_r^{t-2}=Nonproduct costs for refiners during month $t-2$ reported to the FEA on form FEA P–110. These costs represent the amount of nonproduct costs that refiners can pass through under current pricing regulations.

N_r^a=Nonproduct costs for refiners in April 1976.
V^{t-2}=Total volume of sales of refined products derived from refining operations. Total volume derived from refined products reported to the FEA on form P302 adjusted for import volumes.
b_{jh}=Percentage of No. 2 heating oil sales to ultimate consumers accounted for by nonrefiners in region j estimated from 1974 market shares data reported to the FEA.
b_d=Percentage of total diesel fuel sales to ultimate consumers accounted for by nonrefiners. Estimated from diesel fuel direct sales by refiners reported to the FEA on form P302 for the period July, 1975, through April, 1976.
W^{t-2}=Bureau of Labor Statistics wage index for Truckers and Warehousemen (SIC42) for the month t-2.
W^a=Bureau of Labor Statistics wage index for Truckers and Warehousemen (SIC42) for April 1976.
M_h^J=Margin for nonrefiners selling No. 2 heating oil for the period June 1976 estimated from statistically valid survey of heating oil resellers.
M_d^J=June 1976 margin for truck stop operators and retail service stations that sell diesel fuel estimated from Lundberg Survey, Inc. survey of truck stops and retail gasoline stations conducted for the FEA.
ΔP_t=Change in the weighted average cost of middle distillate imports for the months April through month t-2 reported to the FEA on form FEA P302.
R_j^a=Historical proportion of middle distillate imports into region j during the quarter in 1972 which includes the month corresponding to the month t in 1976-1977.
$\Delta R_j^t = R_j^a - R_j^Q$
R^{tQ}=Historic regional proportion of middle distillate imports in the quarter June through August 1972.

APPENDIX II

Projected average refiner acquisition costs:

$$C^{t-1*} = e_1^{t-1}(C_i^{t-3} + Ks^{t-3}) + e_2^{t-1}[C_d^{t-3} + a_1^{t-3}(C_u^{t-1} - C_u^{t-3}) + a_2^{t-3}(C_L^{t-1} - C_L^{t-3}) + a_3^{t-3}Ks^{t-3}]$$

Where:
e_1^{t-1}=estimated percentage of foreign crude oil purchases in month $t-1$, including imports into the Virgin Islands.
e_2^{t-1}=estimated percentage of purchases of domestic crude oil.
C_i^{t-3}=refiner acqusition costs of imported crude oil reported to FEA for month $t-3$ on form P110 in cents per gallon.
K=estimated percentage increase in price of foreign crude oil during the two-month period immediately prior to the month t. Until FEA collects data from which better estimates can be derived, an estimated seven percent will be used.
s^{t-3}=marker price for Arabian light 34° gravity crude oil as posted by Saudi Arabian government for the month $t-3$.
C_d^{t-3}=refiner acquisition costs of domestic crude oil reported to FEA for month $t-3$ on form P110 in cents per gallon.
a_1^{t-3}=percentage of upper tier crude oil purchases for month $t-3$ reported to FEA on form P124.
a_2^{t-3}=percentage of lower tier crude oil purchases for month $t-3$ reported to FEA on form P124.
a_3^{t-3}=percentage of stripper crude oil purchases reported for month $t-3$ reported to FEA on form P124.
$C_u^{t-1} - C_u^{t-3}$=change in price of upper tier crude oil during the two-month period from month ($t-3$) to month ($t-1$), as set by FEA.
$C_u^{t-1} - C_u^{t-3}$=change in price of lower tier crude oil during the two-month period from month ($t-3$) to month ($t-1$), as set by FEA.

[FR Doc.77-4855 Filed 2-11-77;2:05 pm]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 221]

SEARS, ROEBUCK AND CO. AND ALLSTATE ENTERPRISES, INC.

Receipt of Application

FEBRUARY 11, 1977.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Allstate Enterprises, Inc., Northbrook, Illinois, a unitary savings and loan holding company incorporated under Delaware law, for approval of acquisition of control of Security Savings and Loan Association, San Jose, California, under the provisions of Section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and Section 584.4 of the Regulations for Savings and Loan Holding Companies. Allstate Enterprises, Inc., is controlled by Sears, Roebuck and Co., Chicago, Illinois. Security Savings and Loan Association is currently controlled by California Financial Corporation. Allstate Enterprises, Inc. intends to effect its acquisition of Security Savings and Loan Association by the purchase for cash of shares of said company by Allstate Savings and Loan Association, an insured subsidiary of Allstate Enterprises, Inc. As a result of said transaction Allstate Savings and Loan Association will be merged into Security Savings and Loan Association, with the name of the resulting association being changed to Allstate Savings and Loan Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before March 18, 1977.

RONALD A. SNIDER,
Assistant Secretary, Federal Home Loan Bank Board.

[FR Doc.77-4927 Filed 2-15-77;8:45 am]

[No. AC-28]

UNITED FEDERAL SAVINGS AND LOAN ASSOCIATION

Approval of Conversion

Notice is hereby given that on February 9, 1977, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation by Resolution No. 77-130, approved the application of United Federal Savings and Loan Association, San Francisco, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

Dated: February 11, 1977.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.77-4928 Filed 2-15-77;8:45 am]

FEDERAL MARITIME COMMISSION

UNITED STATES LINES, INC. AND LYKES BROS. STEAMSHIP CO., INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary Federal Maritime Commission, Washington, D.C. 20573, on or before March 8, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Stuart R. Breidbart, Corporate Counsel, United States Lines, Inc., One Broadway, New York, New York 10004.

Agreement No. 10284 between United States Lines, Inc. (USL) and Lykes Bros. Steamship Company, Inc. (Lykes) is an agency agreement whereby USL appoints Lykes as its husbanding agent for its vessels at the ports of Beaumont, Port Arthur, Freeport, Houston and Galveston, Texas; Mobile, Alabama; and Lake Charles and New Orleans, Louisiana; on the terms and conditions and to the extent set forth therein.

By order of the Federal Maritime Commission.

Dated: February 11, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-4934 Filed 2-15-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. RI76-119, etc.]

ANADARKO PRODUCTION CO. ET AL.

Amended Petition for Special Relief

FEBRUARY 9, 1977.

Take notice that on February 3, 1977, Diamond Shamrock Corporation (Petitioner), P.O. Box 631, Amarillo, Texas 79173, filed a proposed settlement agreement in the above-captioned dockets which amends its petition for special relief filed June 29, 1976,[1] for natural gas produced in waters more than 250 feet deep, pursuant to § 2.56a(g)(2) of the Commission's rules of practice and procedure. By this amendment petitioner seeks a flat rate of approximately $1.75 per Mcf, commencing March 1, 1977, for all gas attributable to its 15 percent working interest in West Cameron Block 639, Offshore Louisiana. Petitioner, on the basis of the record submitted to date, was seeking a comparable rate of approximately $1.93 per Mcf.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before March 4, 1977, file with the Federal Power 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). 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4882 Filed 2-15-77;8:45 am]

[1] Notice issued July 9, 1976. Published in the FEDERAL REGISTER on July 19, 1976 at 41 FR 29752.

[Project No. 271]

ARKANSAS POWER AND LIGHT CO.

Issuance of Annual License(s)

FEBRUARY 9, 1977.

On February 4, 1970, Arkansas Power and Light Company, Licensee for Carpenter and Remmel Developments Project No. 271, located on the Ouichita River in Hot Spring and Garland Counties, Arkansas, filed an application for a new license pursuant to the Federal Power Act and Commission regulations thereunder.

The license for Project No. 271 was issued effective February 7, 1923, for a period ending February 6, 1973. Since expiration of the original license, the project has been maintained and operated under annual licenses, the most recent of which will expire on February 6, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the Arkansas Power and Light Company.

Take notice that an annual license is issued to the Arkansas Power and Light Company for the period February 7, 1977, to February 6, 1978, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Carpenter and Remmel Developments Project No. 271 subject to the terms and conditions of the original license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before February 6, 1978, a new annual license will be issued each year thereafter, effective February 7 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4879 Filed 2-15-77;8:45 am]

[Docket No. CP77-126]

COLUMBIA GAS TRANSMISSION CORP.

Order Authorizing Limited Term Importation of Natural Gas; Correction

JANUARY 21, 1977.

In FR Doc. 77-2812 appearing at page 5417 in the issue of Friday, January 28, 1977, make the following changes:

On page 5417, second paragraph add "a total of 15 Bcf at an average rate of" after phrase, "Columbia proposes to import".

On page 5418, ordering paragraph add "a total of 15 Bcf at an average rate of" after phrase "Columbia Gas Transmission Corporation is herein authorized to commence the importation of".

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4830 Filed 2-15-77;8:45 am]

[Docket No. RP73-65, (PGA77-3)]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in Gas Tariff

FEBRUARY 8, 1977.

Take notice that Columbia Gas Transmission Corporation (Columbia) on January 28, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1, as follows:

Thirty-sixth Revised Sheet No. 16.
Seventeenth Revised Sheet No. 64A.

These proposed changes to be effective March 1, 1977, result from the implementation of Columbia's Purchased Gas Cost Adjustment provision contained in Section 20 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4870 Filed 2-15-77;8:45 am]

[Docket No. CP77-182]

COLUMBIA GAS TRANSMISSION CORP.

Findings and Order Authorizing Importation of Natural Gas

FEBRUARY 4, 1977.

On February 3, 1977, Columbia Gas Transmission Corporation (Columbia) filed in Docket No. CP77-182 an application pursuant to section 3 of the Natural Gas Act to import up to two 35,000 cubic meter shiploads of liquefied natural gas (LNG) from Algeria to the United States through the LNG terminal facilites of Distrigas of Massachusetts Corporation (DOMAC), all as more fully set forth in the application.

Columbia seeks authorization to import up to approximately 70,000 cubic

meters of LNG (equivalent to approximately 1,500,000 Mcf of vaporous natural gas), to be purchased from Societe Nationale Pour La Recherche, La Production, Le Transport, La Transformation Et La Commercialisation Des Hydrocarbures (Sonatrach), a national corporation of Algeria. It has been agreed in principle that Columbia will provide the necessary shipping and that loading of such LNG at Skikda must commence no later than February 4, 1977.

The first shipload of LNG will be loaded aboard a cryogenic tanker provided by Columbia under contract with Multinationale Gas and Petrochemical Company (Multinationale), a Liberian corporation, and transported to the LNG facilities of DOMAC at Everett, Massachusetts. Multinationale has agreed to make available to Columbia the SS *Kenai Multina*, a 35,000 cubic meter cryogenic LNG tanker of Liberian registry. Columbia and Multinational will enter into a contract of affreightment, whereby the LNG will be loaded, transported and discharged under standard maritime terms and conditions. The application alleges that the SS *Kenai Multina* will obtain necessary U.S. Coast Guard certification prior to commencement of deliveries of LNG herein authorized. The SS *Kenai Multina* is said to have previously delivered LPG to Providence, Rhode Island, at which time the U.S. Coast Guard issued a letter of compliance for the ship to operate in U.S. waters. The second shipload will be transported under arrangements yet to be made by Columbia.[1]

Due to press of time in mobilizing this project, Columbia has not entered into written contracts with Sonatrach. However, oral agreements have been reached as to functions and costs. Columbia states that formal agreements will be executed as promptly as possible to reflect such oral arrangements. Estimated costs are as follows: [2]

Purchase per shipload

	Volume (thousand cubic feet)	Amount per thousand cubic feet	Total
Purchase cost	750,000	$1.40	$1,050,000
Ocean transportation less boiloff—3.25 pct	725,625	.498	361,361
Terminalling and unloading at Everett, Mass	725,625	.975	707,484
6-pct fuel and unaccounted for	43,533		
Pipeline transportation: Boston Gas Co. displacement	682,087	.235	160,290
Total delivered	682,087	[1] 3.342	2,279,135

[1] Includes $0.234 per thousand cubic feet for fuel and boiloff.

[1] The SS *Kenai Multina* is said to have previously delivered LNG to Everett on August 16, 1976, with appropriate Coast Guard approval.

[2] Use of SS *Kenai Multina* to transport Algerian LNG will reduce total costs of shipping Alaskan LNG by approximately $340,000.

Columbia is currently in a grave emergency situation which has been created by a number of factors. The primary factor is the extremely cold weather experienced throughout Columbia's service area during the end of its underground storage injection season last October and extending from the commencement of its winter heating season, November 1, 1976, to date. The months of October and November 1976 and January 1977 are the coldest October, November and January ever experienced in Columbia's service area. From October 1, 1976, through January 31, 1977, Columbia's overall service area experienced a degree day deficiency (DDD) of 4108. This is 1066 DDD's or 35 percent colder than normal and 604 DDD's or 17 percent colder than the coldest period experienced on Columbia's system during the past 30 years.

This abnormally cold weather has had a drastic impact on Columbia's underground storage inventories. Due to an extremely severe cold spell during the last 16 days of October, Columbia entered the winter season with a storage deficiency of approximately 25 million Mcf out of a total scheduled capacity of 590 million Mcf, 211 million Mcf of which represent turnover storage volumes available for withdrawal during the winter season. Columbia has not been able to make up this deficiency. Rather, such deficiency has nearly quadrupled due to the continued unprecedented cold weather and the increased heating requirements that have existed throughout the current winter season.

In addition to the inadequate gas supply available to meet the requirements of Columbia's customers over the remainder of the current winter season, Columbia faces a severe problem in meeting its customers' peak-day requirements due to the present deficiency in storage inventories. As a result of the severe drain on Columbia's storage facilities, Columbia has already withdrawn 192 million Mcf from storage and is approximately 91 million Mcf ahead of scheduled storage withdrawals. Thus, only 19 million Mcf of storage turnover remains for the rest of the winter season. With Columbia's storage in such depleted condition, it is essential that supplemental flowing gas be obtained immediately. In addition, it is essential during the summer injection season that Columbia have sufficient supplies such as this LNG to assure that LNG storage will be adequate to meet storage requirements for the 1977–78 heating season.

The impact of the gas shortage on Columbia's system was compounded by the recent explosion at the Green Springs Synthetic Gas Plant owned and operated by Columbia's affiliate, Columbia LNG Corporation (Columbia LNG). While this plant's design output of 250,000 Mcf per day is not considered a part of Columbia's own gas supply, all of this synthetic gas is sold directly to Columbia's wholesale customers, is transported to said customers by Columbia and is relied upon by them as part of their total gas supplies. One of the two trains in this plant was restored to operation on January 16, 1977, at a reduced level of production.

The Commission has heretofore authorized the importation of LNG to the United States from Skikda by Distrigas Corporation (Distrigas). Natural gas at Skikda is subject to claims of entitlements by Distrigas and Gaz de France. The instant application does not indicate the source of the LNG proposed to be imported by Columbia. However, the authorization hereinafter granted is not intended and shall not prejudice any claim which Distrigas may have for gas from Skikda under any authorization which has heretofore been granted by the Commission or in any proceeding presently before the Commission. The Commission is cognizant of the unprecedented cold weather which has affected the nation east of the Rocky Mountains, including the area served by Columbia. By order issued January 18, 1977, in Docket No. CP77–126 the Commission authorized Columbia to import 15,000,000 Mcf of natural gas to meet the immediate needs of its system and for the same reason will authorize the proposal in the instant application. The authorization granted herein is under the broad powers conferred upon the Commission by Sections 3 and 16 of the Natural Gas Act. "Public Service Commission of the State of New York v. FPC," 327 F. 2d 893; "Niagara Mohawk Power Corp. v. FPC," 379 F. 2d 153.

The Commission finds. (1) A natural gas supply emergency exists on the system of Columbia which has substantially diminished Columbia's ability to render natural gas service for high priority end uses.

(2) It is not inconsistent with the public interest to authorize the importation of natural gas as proposed by Columbia.

(3) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act to waive the regulations of the Commission thereunder to permit the granting of authorization as hereinafter provided.

(4) Prior public notice of this proceeding is impracticable, unnecessary, and contrary to the public interest, given the circumstances set forth above.

The Commission orders. (A) Columbia is authorized to import up to two shiploads of approximately 35,000 cubic meters each of LNG from Algeria to the United States, as hereinbefore described and as more fully described in the application, upon the terms and conditions of this order.

(B) The natural gas herein authorized to be imported shall not be used to displace alternate fuel capability or cause other gas to displace alternate fuel capability.

(C) The regulations under the Natural Gas Act are waived to permit the acceptance of the instant application for filing and the expeditious granting thereof in view of the demonstrated emergency;

however, within 10 days from the date the LNG is unloaded at Everett, Massachusetts, Columbia shall file the following with the Commission:

(1) Copies of any contracts with Sonatrach for the purchase of LNG,

(2) Copies of any contracts with Multinational and/or others for transportation of the LNG from Algeria to the United States, and

(3) Copies of any contracts with DOMAC, other natural gas companies, or other persons or municipalities for transportation of the LNG or equivalent volumes of vaporus natural gas for or to Columbia, by displacement or otherwise, in the United States.

(D) Columbia shall advise the Commission of the arrival of each ship at Everett, Massachusetts, within one day (24 hours) thereof and of the volume of LNG carried by said ship for Columbia.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4864 Filed 2-15-77;8:45 am]

[Docket No. ER77-178]

CONNECTICUT LIGHT AND POWER CO.

Amendment to Transmission Agreement

FEBRUARY 9, 1977.

Take notice that on January 31, 1977, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed Amendment to Transmission Agreement (Amendment) dated November 1, 1976 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Long Island Lighting Company (LILCO).

CL&P states that LILCO has executed a contract with the Vermont Electric Power Company (VELCO) of Rutland, Vermont for the purchase of power from VELCO's entitlement in the Vermont Yankee nuclear generating facility (the LILCO purchase) in the amount of 30,000 kilowatts for the period November 1, 1975 to April 30, 1976, 33,000 kilowatts for the period May 1, 1976 to October 31, 1976, 70,000 kilowatts for the period November 1, 1976 to November 30, 1976 and 28,000 kilowatts for the period December 1, 1976 to March 31, 1977.

CL&P states that the Amendment provides for an extension of the termination date of the Transmission Agreement from October 31, 1976 to March 31, 1977 together with changes in LILCO's entitlement from Vermont Yankee nuclear generating facility.

CL&P states that after arrangements had been completed by all interested parties, there was not sufficient time to prepare, execute and file the Amendment with the Commission more than thirty days prior to the proposed effective date.

CL&P therefore requests that, in order to permit LILCO to receive transmission service to wheel the LILCO purchase, the Commission, pursuant to § 35.11 of its regulations, waive the thirty-day notice period and permit the Amendment filed to become effective on May 1, 1976.

CL&P states that the monthly transmission charge is equal to one-twelfth of the estimated annual average unit cost of transmission service on the Northeast Utilities system determined in accordance with § 13.9 (Determination of Amount of PTF Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee multiplied by the number of kilowatts of winter capability which LILCO is entitled to receive.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and LILCO, Hicksville, New York.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4884 Filed 2-15-77;8:45 am]

[Docket No. CP68-113]

CONSOLIDATED GAS SUPPLY CORP.

Petition to Amend

FEBRUARY 9, 1977.

Take notice that on January 31, 1977, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP68-113 a petition to amend the Commission's order of December 20, 1967 (38 FPC 1203), issued in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize Petitioner to use certain exchange facilities constructed and operated under said certificate for the purpose of correcting any imbalances which may occur under a separate exchange agreement with Cabot Corporation (Cabot), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that pursuant to the certificate issued in Docket No. CP68-113, Petitioner is authorized to exchange natural gas with Cabot in Calhoun and Pleasants Counties, West Virginia.

It is further stated that Petitioner and Cabot are parties to another exchange agreement, known as the "Multi-well Exchange" and authorized in Docket No. G-5236, under which deliveries are received by Petitioner from Cabot at various points in southern West Virginia, and equivalent volumes are returned to Cabot by delivery into Cabot's Southern West Virginia distribution system. It is asserted that by the end of January 1976, deliveries by Cabot had declined to approximately 33,352 Mcf per month, and a cumulative deficit in Cabot exchange deliveries of 241,406 Mcf had resulted. Petitioner states that in order to correct this imbalance, it entered into a supplement to exchange agreement with Cabot dated February 20, 1976, which provided for the addition to Multi-well Exchange of two producing oil and gas leaseholds and one new delivery point to Petitioner in McDowell County, West Virginia. Petitioner further states that by November 30, 1976, the imbalance had been eliminated, and, in fact, Petitioner's monthly Multi-well deliveries are now running approximately 48,000 Mcf less than Cabot's.

Petitioner states that in anticipation of such future excess deliveries by Cabot occasioned by the addition of the abovementioned leaseholds, it has entered into an amendment to exchange agreements with Cabot dated October 15, 1975, under which it would return excess deliveries to Cabot at its existing X-9 delivery point in Pleasants County, West Virginia, for a charge of 3.0 cents per Mcf.

It is stated that the proposed amendment would enable Petitioner and Cabot to achieve greater flexibility in the operation of existing jurisdictional transmission facilities, and would avoid the necessity of constructing duplicate facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before March 4, 1977, file with the Federal Power 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4896 Filed 2-15-77;8:45 am]

[Docket No. CP77-189]

CONSOLIDATED GAS SUPPLY CORP.

Findings and Order Authorizing Importation of Natural Gas

FEBRUARY 8, 1977.

On February 7, 1977, Consolidated Gas Supply Corporation (Consolidated) filed in Docket No. CP77-189 an application pursuant to section 3 of the Natural Gas Act and Part 153 of the Commission's regulations for authorization to import up to 58,000 cubic meters of liquefied nat-

ural gas (LNG) from Algeria. Consolidated proposes to purchase two shiploads of LNG from Sonatrach at Skikda, Algeria, and has arranged for its transportation to the LNG terminal and revaporization facilities of Distrigas of Massachusetts Corporation (DOMAC). The revaporized LNG will be physically delivered through the local distribution facilities of Boston Gas Company (Boston Gas) and Consolidated will receive gas via exchange with either Tennessee Gas Pipeline Company, a Division of Tenneco Inc., or, alternatively, a combination of Texas Eastern Transmission Corporation and Algonquin Gas Transmission Company. The proposal is more fully set forth in the application.

Consolidated proposes to purchase the subject gas from Sonatrach F.O.B. Skikda, Algeria, at a price of $1.40 per million Btu and has arranged with Hilmar Rekston, a Norwegian corporation, for its transoceanic transportation at a rate of $0.75 per million Btu. DOMAC will charge Consolidated 97.5 cents per million Btu to receive, terminal, and revaporize the LNG imported. In addition, Boston Gas will impose a charge of 23.5 cents per million Btu as a handling and Btu equalization charge. It is estimated that the total cost will be approximately $3.40 per Mcf, plus any charges assessed as a result of exchanges with other pipelines. No contracts for the purchase of the transoceanic transportation were submitted with the application by Consolidated pursuant to § 153.4 of the Commission's regulations. However, in view of the emergency to be addressed, we will waive this requirement. The authorization herein granted will be conditioned upon the filing of such contracts within 10 days from the date the LNG is unloaded at Everett, Massachusetts.

The Commission has heretofore authorized the importation of LNG to the United States from Skikda by Distrigas Corporation (Distrigas). The application states that Consolidated and DOMAC have received assurances from Sonatrach that the instant transaction will in no way impinge on Sonatrach's ability or existing contractual obligations to deliver LNG to DOMAC. Applicant has been authorized to state that these assurances are satisfactory to DOMAC.

No applications, either under the Natural Gas Act or the recent emergency legislation, are submitted concurrently with this import request for authority to effectuate the exchanges with other pipelines from Boston to the Consolidated system. Our order is conditioned upon satisfactory evidence of these arrangements. Should the exchanges be commenced under the emergency provisions contained in a § 157.22 of the Commission's regulations, we wish to remind the pipelines participating of the requirement of prompt notification of the Commission upon commencement of service, and the time limitations imposed.

Consolidated proposes to flow through these charges under the purchase gas adjustment clause of its tariff and specifically requested a waiver of § 154.38(d)(4) of the Commission's regulations to the extent that it would prohibit Consolidated from flowing through the cost related to the LNG to be imported under its PGA clause. Consolidated's application does not identify any charges to be assessed by other pipelines for exchanges. Given this fact, as well as the lack of written contracts for purchase and ocean transport, the impact of the PGA treatment requested by Consolidated cannot be fully assessed. Moreover, as we see it, the urgency relates to approval of the import itself, not the PGA treatment, and notice of this request for waiver of § 154.38(d)(4) will permit interested persons to comment, as well as the actual charges by contract for ocean transport and exchanges to be ascertained. Accordingly, we take no action on the PGA treatment requested at this time.

In its application, Consolidated asserts that prompt authorization of the importation and purchase is urgently needed to assist in mitigating the unprecedented emergency gas supply situation over its system. Consolidated describes its supply situation as follows: On January 16, 1977, Consolidated instituted a force majeure curtailment requiring the curtailment of all industrial loads except plant protection as defined by § 2.78 of our Statements of General Policy and Interpretations. We noted in the order issued February 5, 1977, in Docket No. RP77-29, that the implementation of the force majeure provisions of its tariff resulted in the closing of 1600 industrial plants throughout Consolidated's service area. More than 130,000 employees are out of work.

Consolidated has requested that its commercial and human needs customers such as schools and hospitals reduce consumption. Despite all the measures Consolidated has taken, a grave supply shortage still exists on its system. On February 1, 1977, Consolidated's storage inventories were 50 million Mcf below the normal level for that date. Although Consolidated recently proposed, in Docket No. RP77-29, to implement shortly an interim emergency tariff plan that would partially lift the force majeure curtailment, making limited amounts of gas available for resale to high priority industrial loads, but Consolidated notes that the continuing cold winter may make replenishment of storage more difficult.

The Commission is cognizant of the unprecedented cold weather which has affected the eastern portions of the country including Consolidated's service region. We take notice of the state of emergency declared by the Governors of Ohio and Pennsylvania, states within Consolidated's service area, and the intent of the Emergency Natural Gas Act of 1977. The application by Consolidated for an authorization for the limited project herein clearly demonstrates that additional gas is needed to assist Consolidated in maintaining its ability to render natural gas service to its high priority customers. Viewed in this context, we shall grant authorization for the proposed importation under the broad powers conferred upon the Commission by sections 3 and 16 of the Natural Gas Act. "Public Service Commission of the State of New York v. FPC," 327 F. 2d 893; "Niagara Mohawk Power Corp. v. FPC." 379 F. 2d 153.

The Commission finds. (1) A natural gas supply emergency situation exists on the Consolidated Gas Supply Corporation system which has substantially diminished Consolidated's ability to render natural gas service to its high priority customers.

(2) It is not inconsistent with the public interest to authorize the importation of natural gas as proposed by Consolidated.

(3) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act to waive the regulations of the Commission thereunder to permit the granting of authorization as hereinafter provided.

(4) Prior public notice of this proceeding is impracticable, unnecessary, and contrary to the public interest, given the circumstances set forth above.

The Commission orders. (A) Consolidated is authorized to import up to two shiploads of approximately 29,000 cubic meters each of LNG from Algeria to the United States, as hereinbefore described and as more fully described in the application, upon the terms and conditions of this order.

(B) The natural gas herein authorized to be imported shall not be used to displace alternate fuel capability or cause other gas to displace alternate fuel capability.

(C) The Regulations under the Natural Gas Act are waived to permit the acceptance of the instant application for filing and the expeditious granting thereof in view of the demonstrated emergency; however, within 10 days from the date the LNG is unloaded at Everett, Massachusetts, Consolidated shall file the following with the Commission:

(1) Copies of any contracts with Sonatrach for the purchase of LNG,

(2) Copies of any contracts with Hilmar Rekston and/or others for transportation of the LNG from Algeria to the United States, and

(3) Copies of any contracts with DOMAC, other natural gas companies, or other persons or municipalities for transportation of the LNG or equivalent volumes of vaporous natural gas for or to Consolidated, by displacement or otherwise, in the United States.

(D) Consolidated shall advise the Commission of the arrival of each ship at Everett, Massachusetts, within one day (24 hours) thereof and of the volume of LNG carried by said ship.

(E) The Secretary shall prepare a notice of the request for a waiver of § 154.38(d)(4) of the regulations submitted by Consolidated authorizing flow through the importation of the LNG authorized herein through the operation

of the PGA clause contained in Volume No. 1 of its FPC gas tariff.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4875 Filed 2-15-77;8:45 am]

[Docket No. CP77-155]

EL PASO NATURAL GAS CO.

Notice of Application

FEBRUARY 9, 1977.

Take notice that on January 27, 1977, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP77-155 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon from its interstate system certain gas purchase facilities, together with the natural gas service rendered by means of such facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon the following gas purchase meter stations and pipeline:

(1) The Warren-Tatum Plant No. 29 meter station located in Lea County, New Mexico, and authorized in Docket No. G-12599 (18 FPC 623), due to the decline in availability of the gas supply from Warren Petroleum Company;

(2) The J. Cleo Thompson Pure University "A" No. 1 meter station located in Crane County, Texas, and authorized in Docket No. CP67-60 (36 FPC 979), due to the depletion of the gas produced from the zone in which Applicant has been purchasing gas from the University "A" No. 1 Detrital Well also located in Crane County, Texas; and

(3) The Walterschied Com. No. 1 meter station and approximately 0.09 mile of 4½-inch O.D. pipeline located in Eddy County, New Mexico, and authorized at Docket No. CP74-85 (51 FPC 386), due to the plugging and abandonment of such well by the producer, Cities Service Oil Company.

Applicant also proposes to abandon the following gas sales meter station and pipeline:

(1) The U.S.I.I.S. Diesel Plant meter station served by the distributor, Southwest Gas Corporation, located in Pinal County, Arizona, and authorized at Docket No. G-288 (4 FPC 486), since gas service has not been rendered by Applicant since 1972 and is no longer required; and

(2) The Dallas Street Sales Lateral pipeline, consisting of approximately 0.07 mile of 4½-inch O.D. pipeline, authorized in Docket No. G-287 (7 FPC 886), and located in El Paso County, Texas, inasmuch as the abandonment of the Peyton tap serving the Peyton Packing Company on July 20, 1976, obviated the need for such pipeline and the deliveries associated therewith and since Applicant does not envision a further use for such pipeline.

It is stated that Applicant further proposes to abandon an approximate 3.0 mile segment of the 12¾-inch El Paso to Douglas Mainline Loop pipeline authorized in Docket No. G-288 (4 FPC 486), and located in Luna County, New Mexico, in order that approximately 2.1 miles of such pipeline may be utilized after reconditioning to replace a deteriorated segment of Applicant's 12¾-inch O.D. El Paso to Douglas Mainline transmission pipeline. It is stated that due to a misunderstanding by Applicant's field operating personnel as to the regulatory requirements respecting removal of the segment of 3.0 miles of loop pipeline herein proposed to be abandoned, such segment was physically removed during the period of August 17 through August 20, 1976, and is currently awaiting reconditioning.

It is further stated that the four meter stations, with appurtenances, would be removed, salvaged and placed into stock pending a future need, and that the Dallas Street pipeline would be abandoned in place.

Applicant estimates the cost of the proposed abandonment to be $27,400, including filing fees.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1977, file with the Federal Power 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 the jurisdiction conferred upon the Federal Power 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 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 permission and approval for the proposed abandonment are 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4878 Filed 2-15-77;8:45 am]

[Docket No. E-7740]

INDIANA & MICHIGAN POWER CO.

Filing of Motion for Approval of Negotiated Settlement and for Approval of an Offer of Settlement

FEBRUARY 9, 1977.

Take notice that on December 13, 1976 the Indiana & Michigan Power Company has transmitted to the office of the Secretary of the Federal Power Commission a motion for approval of a Negotiated Settlement and for approval of an Offer of Settlement of the captioned docket. An opportunity is hereby provided for comments thereon by all interested parties.

The Negotiated Settlement, now pending before the Commission would resolve the issues in the captioned docket as to twelve of Indiana & Michigan Power Company's municipal wholesale customers, collectively known as the Indiana & Michigan Municipal Distributors Association (IMMDA), by providing for a refund of a portion of the amount collected under the initial filing made by Indiana & Michigan Power Company in the captioned docket. The Office of Settlement would offer the same terms to the cities of Anderson, Auburn, and Richmond, Indiana. Copies of the Negotiated Settlement and Offer of Settlement are on file for the inspection of all interested parties.

Any person desiring to comment upon any of the matters contained in the Offer of Settlement above described should file such comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 22, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4881 Filed 2-15-77;8:45 am]

[Docket No. ER76-714]

INDIANA & MICHIGAN ELECTRIC COMPANY

Motion for Approval of Negotiated Agreement of Settlement and Compromise

FEBRUARY 8, 1977.

Please take notice that on January 28, 1977, Indiana & Michigan Electric Company ("I&M") filed a "Motion for Approval of Agreement of Settlement and Compromise", to which there was attached the Agreement of Settlement and Compromise entered into by I&M and Michigan Power Company. In addition, there was attached to the Agreement of Settlement and Compromise as "Exhibit A" a Fourth Supplemental Agreement to the 1950 Agreement between I&M and Michigan Power Company. According to I&M the Agreement of Settlement and Compromise and the amendment to the Fourth Supplemental Agreement disposes of all of the issues in the captioned Docket, which I&M seeks to sever from other Dockets with which it is consolidated. Copies of all of the foregoing documents

are available for inspection in the offices of the Commission.

Any party desiring to file comments with respect to the Motion may do so and all such comments, if any, shall be filed on or before February 23, 1977. Comments so filed, if any, will be considered by the Commission in determining what action it should take on the Motion, but will not serve to make the party filing such comments as intervenor herein. Persons wishing to become parties shall, unless they have already done so, file a petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4871 Filed 2-15-77;8:45 am]

[Docket No. CS77-294, etc.]

JERRY C. OLDS, ET AL.

Applications for "Small Producer" Certificates [1]

FEBRUARY 10, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 25, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rule 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rule of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS77-294	Jan. 19, 1977	Jerry C. Olds, 625 High St., Worthington, Ohio 43805.
CS77-295	Jan. 21, 1977	James S. Robertson, Jr., 2928 LTV Tower, Dallas, Tex. 75201.
CS77-296	do	John R. Keith, 700 1st National Bank Bldg., P.O. Box 1066, Enid, Okla. 73701.
CS77-297	Jan. 23, 1977	E. L. Larry, P.O. Box 881, Vidalia, La. 71373.
CS77-298	Jan. 24, 1977	Tortuga Oil & Gas, Inc., 3647 University Blvd., Dallas, Tex. 75205.
CS77-299	do	Enerco Exploration & Management Co., 418 Market, suite 730, Shreveport, La. 71101.
CS77-300	do	Robert H. Hanniffin, P.O. Box 218, Midland, Tex. 79702.
CS77-301	Jan. 27, 1977	W. A. Skees, Box 1015, Midland, Tex. 79702.
CS77-302	do	Royce E. Lawson, Jr., P.O. Box 1463, Midland, Tex. 79702.
CS77-303	do	Eastern Kentucky Oil & Gas, Inc., Route 40, Richmond Village, Paintsville, Ky. 41240.
CS77-304	Jan. 31, 1977	Melvin Klotzman, P.O. Box 3723, Victoria, Tex. 77901.
CS77-305	Jan. 21, 1977	Zia Energy, Inc., P.O. Box 763, Hobbs, N. Mex. 88240.
CS77-306	Jan. 31, 1977	Bill P. Jennings, P.O. Box 18607, Oklahoma City, Okla. 73118.
CS77-307	do	J. C. Gravens, 1919 Penn Square, Oklahoma City, Okla. 73118.
CS77-308	do	Hazelwood, Inc., Cuidad Bldg., suite 141, 3000 United Founders Blvd., Oklahoma City, Okla. 73112.
CS77-309	do	Ratliff Drilling Co., P.O. Box 983, Duncan, Okla. 73533.
CS77-310	do	Fitkin Oil Co., suite 1024, Hightower Bldg., Oklahoma City, Okla. 73102.
CS77-311	do	Fitkin 1976-II Drilling Fund, Ltd., suite 1024, Hightower Bldg., Oklahoma City, Okla. 73102.
CS77-312	do	C. W. and J. E. Richards, 2005 Foley Dr., Parkersburg, W. Va. 26101.
CS77-313	do	Roger E. Canter, 900 Capital National Bank Bldg., Houston, Tex. 77002.
CS77-314	do	Lora M. Canter, 900 Capital National Bank Bldg., Houston, Tex. 77002.

[FR Doc.77-4876 Filed 2-15-77;8:45 am]

[Docket No. CP77-176]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Application

FEBRUARY 9, 1977.

Take notice that on February 1, 1977, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), 300 N. St. Joseph Avenue, Hastings, Nebraska 68901, filed in Docket No. CP77-176 an application pursuant to section 7 of the Natural Gas Act for permission and approval to abandon certain existing facilities and for a certificate of public convenience and necessity authorizing the contruction and operation of natural gas pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has recently obtained a gas purchase contract on reserves produced from the Lance and Cody formations in Fremont County, Wyoming, from which initial delivery of gas into Applicant's gathering pipeline system is estimated to average 11,300 Mcf per day with a peak day potential of approximately 17,000 Mcf per day. Applicant also states that it anticipates a substantial increase in daily delivery volumes upon the 1977 completion and connection of a third Cody well. Applicant asserts that it must substantially increase its gathering pipeline capacity in the Cody formation in order to meet its existing and reasonably projected future gas purchase contract obligations.

Applicant, therefore, proposes to install approximately 22 miles of 12-inch pipeline extending from Applicant's existing 10-inch pipeline in section 23, Township 37 North, Range 90 West, Fremont County, Wyoming, south to a point of delivery on the transmission pipeline system of Northern Utilities, Inc. (Northern) at an estimated cost of $1,600,000.

It is stated that pursuant to an existing transportation agreement between Applicant and Northern dated September 14, 1965, as amended, Northern would deliver to Applicant, at Applicant's Casper, Wyoming, compressor station, that volume of gas delivered to (Northern) by Applicant. It is further stated that the transportation of such gas by Northern would be performed pursuant to Northern's FPC Gas Tariff, First Revised Volume No. 1.

Applicant states that it was authorized by order of the Commission issued in Docket No. CP62-248 (28 FPC 885) to construct approximately 33.9 miles of 6-inch gathering pipeline facilities to purchase gas produced from the Dolis Hill Field in Fremont County, Wyoming. It is further stated that when the Dolis Hill Field was abandoned, the pipeline was utilized to purchase gas from wells in the Lost Cabin and Madden Fields. Applicant states that the capacity in this line is inadequate to transport the additional volumes of Madden Area Cody and Lance formation gas which Applicant has and reasonably expects to purchase, but Northern Gas Company (Northern Gas) is willing to acquire said line for its intrastate operations in the area.

Applicant proposes to abandon by sale an approximate 29.3 mile segment of the 6-inch pipeline together with a connecting 2.3 mile segment of 4-inch pipeline.

It is stated that Applicant would continue to purchase all gas dedicated to it from the wells presently connected to the gathering pipeline facilities to be abandoned to Northern Gas. Applicant states that the volumes so purchased would be received by it by adjustment of volumes purchased from wells where Applicant

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

and Northern Gas are joint purchasers under contracts with no restriction for use of the gas in interstate systems.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 4, 1977, file with the Federal Power 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 the jurisdiction conferred upon the Federal Power Commission by section 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 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 and permission and approval for the proposed abandonment are 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4888 Filed 2-15-77;8:45 am]

[Docket No. RP73-97 and RP76-93, [(PGA 77-2)]

KENTUCKY WEST VIRGINIA GAS CO.

Proposed Change in Rates

FEBRUARY 9, 1977.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on January 27, 1977, tendered for filing with the Commission First Revised Second Substitute Original Sheet No. 27 to its FPC Gas Tariff First Revised Volume No. 1 to become effective March 1, 1977. Kentucky West states that the change in rates results from the application of the Purchase Gas Cost Adjustment provision in Section 9, General Terms and Conditions of FPC Gas Tariff, Original Volume No. 1, approved by the Commission in Docket No. RP73-97 and the Purchase Gas Cost Adjustment provision in Section 18, General Terms and Conditions of FPC Gas Tariff, First Revised Volume No. 1, approved by the Commission in Docket No. RP76-93.

Kentucky West states that a copy of its filing has been served upon the purchasers and interested state commissions and upon each party on the service list of Docket No. RP76-93.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4865 Filed 2-15-77;8:45 am]

[Docket No. CP77-174]

MID LOUISIANA GAS CO.

Application

FEBRUARY 9, 1977.

Take notice that on February 1, 1977, Mid Louisiana Gas Company (Applicant), 300 Poydras Street, New Orleans, Louisiana 70130, filed in Docket No. CP-77-174 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of certain facilities so as to receive gas from Trunkline Gas Company (Trunkline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has contracted to purchase from HNG Oil Company (HNG) certain quantities of gas produced in Hemphill County, Texas, but states that it has no pipeline facilities in Texas. Applicant further states that in order to receive the gas into its system, it has assigned to Kansas-Nebraska Natural Gas Company (Kansas-Nebraska) the right to purchase from HNG one-half of the gas delivered under the contract between HNG and Applicant, and has contracted with Kansas-Nebraska to gather and deliver its one-half of the gas to Panhandle Eastern Pipe Line Company (Panhandle). Applicant also states that it has contracted with Panhandle and Trunkline to transport and deliver the gas to a point adjacent to Applicant's system in Richland Parish, Louisiana. It is stated that Panhandle has agreed to receive for the account of Applicant certain quantities of gas at the existing interconnection of the facilities of Kansas-Nebraska and Panhandle in Dewey County, Oklahoma, and would transport such gas to its subsidiary, Trunkline, which would deliver to Applicant equal quantities at a proposed point of interconnection of Applicant and Trunkline in Richland Parish, Louisiana. It is asserted that the quantity of gas to be thus transported would not exceed 4,000 Mcf per day.

Applicant proposes to construct and operate a connection between its transmission pipeline facilites and those of Trunkline in section 23, Township 16 North, Range 6 East, Richland Parish, Louisiana, together with a meter and necessary appurtenant facilities. It is stated that the connecting pipeline would be 4½-inch O.D. in diameter and would extend a distance of approximately 150 feet. Applicant estimates the cost of the proposed construction to be $20,000 which would be financed out of available company funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 4, 1977, file with the Federal Power 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 the jurisdiction conferred upon the Federal Power 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 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4895 Filed 2-15-77;8:45 am]

[Docket No. CP77-38]

NATIONAL FUEL GAS SUPPLY CORP.

Order Granting Petition for Declaratory Order

FEBRUARY 8, 1977.

On February 1, 1977, National Fuel Gas Supply Corporation (Supply) requested that the Commission provide appropriate relief in order to enable it to cope with the emergency situation that currently exists on its system due to the

abnormally cold winter and extreme curtailments of Supply's pipeline suppliers.

Supply stressed in its petition that it can no longer maintain adequate service to its Priority 1 customers to meet their essential requirements in order to prevent damage to life and property unless it secures emergency supplies pursuant to § 157.29 of the Commission's Regulations under the Natural Gas Act.

Supply, in its petition for a Declaratory Order, asserted that it has negotiated a 60-day emergency purchase of gas produced in Chautaugua County, New York, from Paragon Resources, Inc. (Paragon) pursuant to § 157.29 of the Commissions regulations. Supply states that gas produced by Paragon would be delivered into the interstate pipeline of Tennessee Gas Pipeline Company (Tennessee) near Sherman, New York, for transportation and redelivery near Aurora, New York. Supply's line that is involved transports gas sold by Supply to its affiliate National Fuel Gas Distribution Corporation (Distribution) in the area of Buffalo, New York.

Paragon has signed a long term contract to sell this gas to Distribution, which lacks pipeline capacity to take the gas directly into its system and has arranged for Tennessee and Supply to transport the gas to its distribution system. Those companies have applied for authority to transport the gas for Distribution in Docket No. CP77-38 on a long term basis.

In view of the emergency currently existing in Supply's system which imperils Supply's ability to serve essential Priority 1 requirements, Distribution has released Paragon to sell approximately 5,000 Mcf per day for 60 days to Supply at $1.62 per Mcf, which is the price Distribution would have paid Paragon under an intrastate contract filed in this proceeding. Tennessee is prepared to transport said gas through use of its existing facilities from Chautaugua County to Erie County, New York pursuant to §§ 157.29 and/or 157.22 of the Commission's regulations. Paragon has not previously made such sales to Supply and Supply's request is for a Declaratory Order stating that Paragon would not become a natural gas company subject to the jurisdiction of the Commission should it make such sale of gas to Supply for a period not to exceed 60 days.

It appears that Supply's showing now satisfies the prudent pipeline standard under the circumstances here before the Commission. We have considered the pipelines need for gas, the abnormally cold weather prevailing in the New York area, the availability of other gas supplies, the amount of gas dedicated to the purchase, the comparison of the price with appropriate market prices in the same or nearby areas, and the relationship between the purchaser and the seller. The substantially colder than normal winter weather now prevailing East of the Rocky Mountains has resulted in extreme emergency conditions on many of the pipelines serving that area resulting in increasing difficulties by a number of pipelines in procuring emergency supplies of gas to cope with the current crisis confronting them.

In light of the foregoing, it is necessary and appropriate for the purposes of the Natural Gas Act to grant the relief requested by Supply, and find that Paragon will be exempt, from section 7 of the Natural Gas Act if it sells natural gas to Supply in the Manner described in its petition for a declaratory order.

The Commission orders. (A) The relief requested by Supply is granted and Paragon will be exempt from the requirement of section 7 of the Natural Gas Act if it sells natural gas to Supply pursuant to § 157.29 of the Commission's regulations as contemplated in the context of this order.

(B) For good cause shown, this order is effective on date of issuance and the Secretary shall cause this order to be published in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4874 Filed 2-15-77;8:45 am]

[Docket No. E-9306]

NEVADA POWER CO.

Order Denying Petitions To Intervene Out of Time and Accepting Brief on Exceptions as Amicus Curiae

FEBRUARY 9, 1977.

On March 3, 1975, Nevada Power Company (Nevada) tendered for filing a notice of cancellation of wholesale service to California-Pacific Utilities Company (Cal-Pac) at Henderson, Nevada, to become effective as of June 1, 1975. In its notice of cancellation, Nevada stated that the reason for termination is its inability to attract capital to support its sales to Cal-Pac at Henderson.

Notice of the March 3, 1975, filing was issued on March 18, 1975, with comments, protests, or petitions to intervene due on or before May 1, 1975. Subsequently, Cal-Pac filed a motion to intervene within the prescribed period. Cal-Pac resisted the notice of cancellation of service at Henderson, Nevada and moved that Nevada's tendered filing of March 18, 1975, be rejected for not conforming with the terms of § 35.15 of the Commission's regulations under the Federal Power Act.

The Initial Decision of Administrative Law Judge Curtis L. Wagner, Jr., in Docket E-9306, rendered December 15, 1976, permits Nevada to terminate service to Cal-Pac.

On January 18, 1977, North Carolina Electric Membership Corporation (N.C. EMC) and Four County Electric Membership Corporation (Four County EMC) filed a motion for Allowance of Untimely Petition to Intervene, For Acceptance of Brief on Exceptions or, in the Alternative, For Acceptance of Brief on Exceptions as amicus. N.C. EMC and Four County EMC receive most of their power at wholesale in transactions governed by the Federal Power Act, and therefore seek to intervene in order to protect their interests and the interests of N.C. EMC's distribution member systems. We find that good cause does not exist to permit intervention out of time but we will accept their Brief on Exceptions as amicus curiae.

On January 21, 1977, the City of Anderson, Indiana (Anderson) filed its Motion for Leave to File Petition to Intervene Out of Time and Petition to Intervene. Anderson receives most of its power at wholesale in transactions governed by the Federal Power Act, and therefore seeks to intervene in order to protect its interests, currently the subject of litigation in Docket Nos. E-9548 and E-9549. We find that good cause does not exist to permit intervention out of time, but we will accept its Brief on Exceptions as amicus curiae.

On January 21, 1977, ElectriCities of North Carolina (ElectriCities) filed its Petition to Intervene Out of Time and Motion to File Brief on Exceptions. ElectriCities is an unincorporated association whose members are representative of all municipalities in North Carolina which, within and within the vicinity of their municipal boundaries, own and operate their own electric systems serving their citizens and customers. These municipalities purchase electric power and energy at wholesale from utilities subject to the FPC's jurisdiction and resell such power and energy at retail to their own citizens and customers including, in a few instances, other municipalities. ElectriCities and their member municipal systems depend upon the private investor-owned systems for the bulk of their power supply and anticipate a continuing relationship in this regard. We find that good cause does not exist to permit intervention out of time, but we will accept its Brief on Exceptions as amicus curiae.

I. According to § 1.8(b)(2) of the Commission's rules of practice and procedure, intervention is to be granted if petitioner has:

> (a)n interest which may be directly affected and which is not adequately represented by eisting parties and as to which petitioners may be bound by the Commission's action in the proceeding (the following may have such an interest: Consumers served by the applicant, defendant, or respondent; holders of securities of the applicant, defendant, or respondent).

Petitioners have no direct economic interest in this proceeding and any indirect interest is found to be adequately represented by Cal-Pac, the wholesale customer. Petitioners are neither customers, suppliers, competitors nor shareholders of either Nevada Power or Cal-Pac.

The Commission addressed this issue in "Permian Basin Area Rate Proceeding," 26 FPC 193, 194 (1961):

> Although these petitioners do not purchase gas produced in the Permian Basin area, they contend that their interest in the regulatory principles which may be adopted herein justify their intervention. However,

in our view, petitioners' desire to participate in shaping precedents does not afford a basis for intervention, either as of right or of our discretion.

Similarly we deny the Petitions to Intervene Out of Time of N.C.EMC and Four County EMC, Anderson, and ElectriCities.

II. Administrative Law Judge Wagner found Nevada Power's termination of its service to Cal-Pac to be in the public interest. If this determination is interpreted as strictly limited to the facts of this particular proceeding, movants have no interest in this proceeding.

However, if the precedents established in this case are applied to similar proceedings to which movants are or will be parties, movants may be strongly affected by this proceeding. In an Order Denying Reconsideration of Denial of Intervention and Granting Leave to File Briefs in the "Permian Basin Area Rate Proceeding," 32 FPC 1382 (1964), the Commission refused to allow untimely intervention but granted petitioners leave to file Briefs on Exceptions as amici curiae. The Commission said:

> In view of the far reaching effects of the precedents which may be established in this proceeding, all the movants should be permitted to present their views as amici curiae. 32 FPC at 1382.

This order granted three associations (apparently representing between them approximately one thousand small producers of oil and gas in the Permian Basin as well as seventy public utilities distributing natural gas in fifteen states) leave to file Briefs on Exceptions as amici curiae.

We grant the request of N.C.EMC and Four County EMC that we accept its Brief on Exceptions as amicus curiae. We accept sua sponte the Briefs on Exceptions filed by Anderson and ElectriCities as amici curiae. They may well be affected by the precedents established in this proceeding if Administrative Law Judge Wagner's decision is interpreted broadly and applied to proceedings movants are parties to.

On January 31, 1977, Nevada moved for an extension of time within which to file its brief opposing exceptions from February 10, 1977 to March 8, 1977. Cal-Pac declined to agree to the extension unless Nevada agreed to similarly extend the period before Nevada's termination of service to Cal-Pac.

We are granting Nevada twenty days from the date of this order to file its Brief Opposing Exceptions and to respond to the amici briefs. Although we are granting Nevada more time to file its briefs, we are not unmindful of the May 31, 1977 termination of service date. If this extension causes a delay in the Commission's resolution of the issues that are the subject of this proceeding, we will take all reasonable steps to preserve the public interest.

The Commission finds. 1. Good cause does not exist to permit N.C.EMC and Four County EMC to intervene out of time.

2. Good cause does not exist to permit Anderson to intervene out of time.

3. Good cause does not exist to permit ElectriCities to intervene out of time.

4. Good cause exists to allow N.C.EMC and Four County EMC to file their Brief on Exceptions as amicus curiae.

5. Good cause exists to accept the Briefs on Exceptions of Anderson and ElectriCities as amici curiae.

The Commission orders: (A) The Motion for Allowance of Untimely Petition to Intervene and for Acceptance of Brief on Exceptions of North Carolina Electric Membership Corporation and Four County Electric Membership Corporation is denied.

(B) The Motion for Leave to File Petition to Intervene Out of Time and Petition to Intervene of the City of Anderson, Indiana is denied.

(C) The Petition to Intervene Out of Time and Motion to File Brief on Exceptions of ElectriCities of North Carolina is denied.

(D) The Motion for Acceptance of Brief on Exceptions as Amicus of North Carolina Electric Membership Corporation and Four County Electric Membership Corporation is granted.

(E) The Briefs on Exceptions filed by The City of Anderson, Indiana and ElectriCities of North Carolina are accepted as amici curiae.

(F) Nevada Power Company has twenty days from the date of this order to file its Brief Opposing Exceptions and to respond to the above accepted Briefs on Exceptions as amici.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4880 Filed 2-15-77;8:45 am]

[Docket No. CP77-187]

NIAGARA MOHAWK POWER CORP.

Order Authorizing Importation of Natural Gas

FEBRUARY 5, 1977.

On February 5, 1977, Niagara Mohawk Power Corporation (Niagara Mohawk) acting for itself and as agent for certain members of the New York Gas Group (NYGG),[1] filed in the captioned docket an application under section 3 of the Natural Gas Act for importation of natural gas acquired from Ontario Hydro-electric Power Commission (Ontario Hydro), and under section 202(e) of the Federal Power Act for the exportation of electric energy to Ontario Hydro. Niagara Mohawk states that the concurrent importation of natural gas and exportation of electric energy would be an emergency basis commencing immediately upon Commission authorization and terminating Febraury 28, 1977. Niagara Mohawk requests that Part 153 of the Commission's regulations under the Natural Gas Act and §§ 32.30 et seq. of the Regulations under the Federal Power Act be waived. Niagara Mohawk requests also that notice requirements be waived prior to issuance of this order. Because of the emergency situation which exists on the systems of the requesting NYGG members and the necessity for immediate action to alleviate this emergency, the Commission shall authorize the requested importation of natural gas and the exportation of electric energy; shall waive the requirements of the applicable regulations; and, shall waive notice requirements prior to the issuance of this order.

The Commission takes administrative notice of the severe weather conditions which have affected upstate New York State this winter. Niagara Mohawk states in its application that these severe weather conditions "have resulted in complete curtailment, with the exception of plant protection volumes, of almost all industrial customers on the systems of the NYGG members." The natural gas to be imported under this application would provide the NYGG additional volumes to prevent further curtailment and thus avoid severe and lasting economic harm in this area.

Niagara Mohawk, acting for itself and as agent for the named NYGG members, entered into an agreement with Ontario Hydro by which Ontario Hydro agrees to make available 50,000 Mcf of natural gas per day for the period through February 28, 1977.[2] Ontario Hydro would otherwise use this gas in the production of electric energy. Niagara Mohawk, in agreement with the New York Power Pool, will transmit 600 megawatts of electric energy to Ontario Hydro concurrently during the period when the importation of natural gas occurs to replace power which would have been generated by the gas being sold to Niagara Mohawk. The charge at the international border for the natural gas to be imported by the requesting parties will be $2.28 per Mcf plus transportation costs. The electric energy transmitted will be made available at a cost equal to Ontario Hydro's cost of producing energy with the use of natural gas.

The natural gas will be transported to the international border by TransCanada Pipeline Ltd. where it will be taken into existing facilities of Tennessee Gas Pipeline Company (Tennessee). A portion of the gas will then be transported through Tennessee's facilities directly to facilities of New York State Electric & Gas, Na-

[1] New York State Electric and Gas Company, National Fuel Gas Supply Corporation, Orange and Rockland Utilities, Inc., Columbia Gas Distribution Company of New York, and Rochester Gas and Electric Corporation.

[2] The gas made available would be apportioned to the named NYGG members in this manner:

	Thousands of cubic — feet per day
New York State Electric & Gas	6,410
National Fuel Gas Supply Corp	16,850
Orange & Rockland Utilities, Inc	1,390
Columbia Gas Distribution of New York	3,480
Rochester Gas & Electric Corp	5,060
Niagara Mohawk	13,230

tional Fuel Gas Supply and Orange and Rockland. Other portions will be transported to the facilities of Columbia Gas Transmission for transmission to Columbia Distribution of New York, and to the facilities of Consolidated Gas Supply Corporation for transmission to Rochester Gas & Electric and to Niagara Mohawk. The application states that these transportation arrangements have not been reduced to written form. It states further that no additional facilities will be required by any of the parties in order to carry out this arrangement, nor are any additional facilities required at the international border by Niagara Mohawk or Tennessee. In light of this latter point, the application states Niagara Mohawk's belief that a Presidential Permit under Executive Order 10485 is not required by Niagara Mohawk for this importation and that no modification of Tennessee's existing Presidential Permit, granted in Docket No. G-1922, is required.

The exportation of electric energy will be accomplished through existing facilities of Niagara Mohawk. An order authorizing the transmission of electric energy by Niagara Mohawk to Canada was issued in "Niagara Mohawk Power Corp." Docket No. IT-5637, 14 FPC 749 (1955). This original authorization has been superseded by an order in "Niagara Mohawk Power Corporation", Docket No. E-6797, 36 FPC 758 (1966), which increased the authorization to "an amount not in excess of 1,000,000,000 kwh per year at a rate not to exceed 1,000,000 kw." (Id. at 759). Niagara Mohawk states that "all amounts of electric energy transmitted will be within the 1,000,000,000 kwh annually authorized by the Commission."

The Commission's review of the application indicates that it is not inconsistent with the public interest. Because this proposal involves the transportation of natural gas by jurisdictional pipelines to distribution companies the applicability of § 157.22 of the Commission's regulations as interpreted by "Cascade Natural Gas Corporation," 51 FPC 1192 (1974), arises. This situation does not involve the diversion of a jurisdictional pipeline's gas supply from one customer to another outside the confines of the pipeline's curtailment plan, as is prohibited by Cascade. "Cascade Natural Gas Corporation," order clarifying Prior Order, 52 FPC 168, 169 (1974). In the instant case, the jurisdictional pipeline companies are transporting gas obtained by the applicants from a Canadian source. This transportation does not divert gas from one customer to another. What is contemplated is the transportation by the pipelines of Canadian gas which does not cause a diminution of the supplies available to the transporting pipelines. In such circumstances, the Commission does not believe the interpretation of § 157.22 in "Cascade," supra, precludes the transportation of this gas.

This application provides for the delivery of critically needed natural gas supplies to be made in the Northern New York State region for the protection of high priority uses. In addition, it assures, through the concurrent exportation and sale of electric energy, that Ontario Hydro's electric energy capacity will not be impaired by sale of the natural gas to United States customers. The Commission believes that both aspects of this application are consistent with the public interest and, therefore, the application should be approved. Because these supplies are needed immediately, the Commission believes that good cause exists to waive the applicable filing and notice requirements at this time. However, this waiver shall be limited to further conditions as ordered herein.

The Commission finds. (1) A natural gas supply emergency exists on the systems of the applicants which limits their ability to render service for high priority uses.

(2) The proposed importation of natural gas and exportation of electric energy are not inconsistent with the public interest.

(3) Good cause exists to waive the pertinent filing and notice regulations at this time, subject to the conditions ordered herein.

(4) Prior public notice of this proceeding is impractical, unnecessary, and contrary to the public interest, given the circumstances set forth above.

(5) Good cause exists to authorize transportation by Tennessee, Columbia and Consolidated.

The Commission orders. (A) Pursuant to section 3 of the Natural Gas Act and the regulations thereunder, Niagara Mohawk is hereby authorized to import natural gas in the amount of 50,000 Mcf per day, from the issuance of this order through February 28, 1977.

(B) The authorization for importation of natural gas granted in this docket is conditioned upon the appropriate authorization being issued by the National Energy Board of Canada.

(C) The natural gas imported under this order shall not be used to displace alternate fuel capability or cause other gas to displace alternate fuel capability.

(D) Niagara Mohawk shall file within 10 days of the issuance of this order, copies of all contracts relating to the importation, transporation and sale of natural gas to the applicants authorized by this order, all contracts relating to the exportation of electric energy authorized herein, and all contracts under which Niagara Mohawk may act as agent for any party involved in these arrangements. Also, Niagara Mohwak shall file a report showing the accounting and billing procedures by which the transactions between the Canadian and United States systems will be completed, and how the U.S. Systems will account for the transaction among themselves. This report shall have final NEB approval and the costs basis which the NEB sets forth for Canadian gas involved.

(E) Waiver of Part of 153 of the Commission's regulations under the Natural Gas Act and §§ 35.30 et seq. is hereby granted.

(F) Tennessee, Columbia, and Consolidated are hereby authorized to perform transportation services required under the proposals approved by this order.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4863 Filed 2-15-77;8:45 am]

[Project No. 2773]

OAK CREEK POWER CO.

Extension of Time

FEBRUARY 10, 1977.

On February 2, 1977, Steamboat 200 filed a motion to extend the time for filing petitions to intervene and protests fixed by notice issued November 26, 1976, in the above-designated matter.

Upon consideration, notice is hereby given that an extension of time is granted to and including March 15, 1977, for filing petitions to intervene and protests.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4894 Filed 2-15-77;8:45 am]

[Docket No. E-9582]

PACIFIC POWER & LIGHT CO.

Application

FEBRUARY 9, 1977.

Take notice that on January 27, 1976, Pacific Power & Light Company, a Maine corporation, qualified to transact business in the States of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Power Commission, pursuant to section 203 of the Federal Power Act, seeking authority to acquire from the United States of America, acting by and through the Administrator of the General Services, certain electric transmission facilities located in Washington and Oregon.

Applicant proposes to acquire from the United States of America the following facilities and associated easements and other property rights relating thereto which Bonneville Power Administration has stated are in excess of its plant requirements.

(1) Certain electric transmission utility plant, including a transmission substation, poles, lines, transformers, related transmission facilities, real property and all easements necessary for the operation thereof, owned, operated and maintained by the United States of America in Cowlitz and Yakima Counties, Washington, and Clatsop County, Oregon.

(2) The facilities and properties to be acquired by Applicant are shown in exhibits accompanying the Application on file with the Commission.

Applicant represents that upon purchase of these facilities there will be no change in their operation.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before March 8, 1977, file with the Federal Power Commission, 825 North Capitol

Street, NE., Washington, D.C. 20426, petitions to intervene or protest 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 the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4877 Filed 2-15-77;8:45 am]

[Docket Nos. RP77-9, etc.]

PACIFIC GAS TRANSMISSION CO. ET AL.

Order Accepting for Filing and Making Effective Without Suspension Proposed Rate Increases and Granting Interventions; Correction

JANUARY 26, 1977.

Pacific Gas Transmission Company, Docket No. RP77-9; Midwestern Gas Transmission Company, Docket No. RP71-16 (PGA77-1); Great Lakes Gas Transmission Company, Docket No. RP72-140 (PGA77-1); Northwest Pipeline Corporation, Docket No. RP72-154 (PGA77-2).

In the order issued December 17, 1976, published at 41 FR 56.235, December 27, 1976, in the captioned dockets, ordering paragraph (B) referred to:

(B) Midwestern's Sixteenth Revised Sheet No. 9 * * * The correct tariff sheet designation is:

Midwestern's Sixteenth Revised Sheet No. 5 * * * The order should be changed accordingly.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4891 Filed 2-15-77;8:45 am]

[Docket No. CP77-169]

PANHANDLE EASTERN PIPE LINE CO.

Application

FEBRUARY 9, 1977.

Take notice that on January 31, 1977, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, and P.O. Box 1348, Kansas City, Missouri 64141, filed in Docket No. CP77-169 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation in interstate commerce of natural gas for Northern Natural Gas Company operating as and through its Peoples Natural Gas Division (Peoples), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that by the Commission's order issued October 19, 1971, in Docket No. CP71-153, et al. (46 FPC 842), Panhandle was authorized to transport and deliver certain quantities of natural gas, up to 20,000 Mcf per day, from Peoples' Southern Division in Western Kansas to Peoples' Kansas Pipeline System in Central Kansas. Panhandle states that pursuant to such authorization, it installed 2 interconnections with Peoples, consisting of taps, side valves, and measuring and regulating facilities, located in Reno County, Kansas, and Harper County, Kansas.

It is further stated that as a result of a decline in deliverability and of an overproduced situation, Peoples no longer has gas volumes available from the Hugoton Field to deliver to Panhandle for transportation, and accordingly, has elected to terminate their gas transportation agreement dated November 19, 1970.

Panhandle, therefore, proposes to abandon such transportation service provided to Peoples. Panhandle also proposes to retain in place as emergency interconnections with Peoples the facilities installed to accommodate the said transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1977, file with the Federal Power 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 the jurisdiction conferred upon the Federal Power 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 on this application if no petition to intervene is filed within the time required review of the matter finds that permission and approval for the proposed abandonment are 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4887 Filed 2-15-77;8:45 am]

[Docket No. ER76-301]

PENNSYLVANIA ELECTRIC CO.

Filing of Revised Sheets Pursuant to Settlement Agreement

FEBRUARY 9, 1977.

Take notice that on January 31, 1977, Pennsylvania Electric Company ("Penelec") tendered revised sheets to its FPC Electric Tariff, and Wheeling and Supplemental Power Agreement with Alleghany Electric Cooperative, Inc. The revised sheets incorporated all changes provided by a settlement agreement approved in the Commission's order in this proceeding issued January 14, 1977. Penelec requests an effective date of February 26, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-4869 Filed 2-15-77;8:45 am]

[Docket No. E77-14]

PHILLIPS, TRANSCO, NATURAL, HOUSTON, AND AMOCO GAS

Emergency Natural Gas Act of 1977; Emergency Order

On February 10, 1977, Phillips Petroleum Company (Phillips) requested pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Pub. L. 95-2):

1. Authorization permitting Phillips to sell 15,000 Mcf per day of natural gas to Transcontinental Gas Pipe Line Corporation (Transco); and
2. An order directing Houston Pipe Line Company (Houston) and Amoco Gas Company (Amoco Gas) to transport the gas volumes necessary to effect Phillips' sale to Transco.

Phillips has executed an agreement with Transco to utilize ethane in its Sweeny, Texas refinery and to sell the natural gas thereby released to Transco. Phillips will purchase the ethane at a price of 15 cents per gallon from Exxon Corporation and Transco will pay Phillips 16 cents per gallon for the ethane which is equal to or less than Phillips cost plus 7 percent. The term of the proposed sale is sixty (60) days with termination on or about April 10, 1977. The anticipated volumes under this arrangement are approximately 15,000 Mcf per day. The

terms of the proposed sale are in accordance with Order No. 2.

Houston will transport the volumes of natural gas to be sold to Transco from the Needville Field in Ft. Bend County, Texas to Texas City, Texas and deliver these volumes to Amoco Gas for the account of Phillips. Then Amoco Gas will complete the transportation by exchange with the delivery of gas to Natural Gas Pipeline Company of America (Natural) within the vicinity of the Old Ocean Field, Brazoria County, Texas for Transco's account.

Pursuant to delegated authority of the President, Executive Order 11969, dated February 2, 1977, I have determined that Phillips' request to transfer natural gas used in its Sweeny refinery for Transco's use, that the price paid by Transco for Phillips' alternate fuel source, ethane, is within the guidelines set forth in paragraph two of Order No. 2, and that the transportation arrangements agreed to in connection therewith should be ordered. Accordingly, such exchange is authorized and the transportation is hereby ordered pursuant to Section 6 of Pub. L. 95-2.

Houston and Amoco Gas agreed to transport this gas and advised that the deliveries can be accomplished through existing intrastate pipeline facilities. Therefore, no reason exists to require the construction and operation of facilities as permitted under section 6(c)(1) of Pub. L. 95-2.

Phillips is ordered to make a weekly report pursuant to section 12 of Pub. L. 95-2, commencing on February 16, 1977. The report shall set forth the price and volumes of natural gas delivered, transported or contracted for pursuant to this order and the transportation costs (including fuel gas shrinkage) incurred in transporting those volumes.

In the course of such transportation by Houston and Amoco Gas from point of origin to destination, there may be a commingling of interstate natural gas with Houston's or Amoco Gas' normal system gas supplies or with volumes of gas owned by third parties. This order shall be considered as applying to all such commingled gas and under the provisions of Pub. L. 95-2 the producers of such gas, which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as a common carrier under any provision of State law. Contractual termination or prohibition provisions in any such contracts as referred to above are not enforceable by reason of sectin 9 of Pub. L. 95-2 since Houston and Amoco Gas are transporting gas for Transco pursuant to section 6(a) of that Act. Houston, Amoco Gas and any third person whose gas is commingled with Transco's gas shall refer all relevant information concerning any attempt to terminate existing contracts to the Administrator for appropriate action.

According to the official files of the Federal Power Commission, Houston and Amco Gas are not classified as Natural Gas Companies within the meaning of the Natural Gas Act. Section 6(c)(2) of Pub. L. 95-2 provides:

> Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of state law.

This order shall be served on Phillips, Transco, Natural, Houston, and Amoco Gas. This order shall also be published in the FEDERAL REGISTER.

This order and the authorization herein granted are subject to the continuing authority of the Administrator under Pub. L. 95-2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 10, 1977.

[FR Doc.77-4862 Filed 2-15-77;8:45 am]

[Docket No. ER77-167]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Filing of Agreement

FEBRUARY 9, 1977.

Take notice that Public Service Company of New Hampshire (PSNH) on January 24, 1977, tendered for filing as an initial rate schedule a Transmission Contract with Long Island Lighting Company (the Buyer).

Under the Contract, PSNH transmitted through its system entitlements of power which the Buyer will be purchasing from Vermont Electric Power Company, Inc.

PSNH requests that the Commission waive the normal 30-day notice requirement and permit the rate schedule to be effective as of November 1, 1976.

According to PSNH, a copy of the filing was served upon the Buyer as well as the New Hampshire Public Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4867 Filed 2-15-77;8:45 am]

[Docket No. ER77-164]

PUBLIC SERVICE COMPANY OF OKLAHOMA

Filing of Agreement

FEBRUARY 8, 1977.

Take notice that the Public Service Company of Oklahoma on January 24, 1977 tendered for filing an electric service wholesale for resale contract with the City of Marlow, Oklahoma. The Applicant contends that this filing supercedes and in effect cancels the existing contract dated September 9, 1971 with the City of Marlow which is designated FPC Rate Schedule No. 185. The filed Rate Schedule FPC No. 185 would have expired on September 9, 1977 by its own terms. The Applicant contends that higher demand by the City of Marlow has necessitated the new rate contract.

The Applicant contends that copies of the filing were served upon the City of Marlow and Oklahoma Corporation Commission.

Any person desiring to be heard or to protest said application shall file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4872 Filed 2-15-77;8:45 am]

[Docket No. RP77-32]

SOUTH GEORGIA NATURAL GAS CO.

Proposed Increase in Rates

FEBRUARY 9, 1977.

Take notice that South Georgia Natural Gas Company (South Georgia), on February 1, 1977, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1. The proposed changes are based on the 12-month period ending October 31, 1976, as adjusted, and would increase jurisdictional revenues by $337,657. The increased rates are proposed to become effective on March 1, 1977.

South Georgia states that the principal reasons for the proposed rate increase are to reflect (1) an increase in the overall rate of return to 10.98%; (2) increased operation and maintenance expense; and (3) a projected decline in sales volumes.

Copies of this filing have been served upon South Georgia's jurisdictional cus-

tomers and interested state public service commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR, 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1977. Petitions will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4885 Filed 2-15-77;8:45 am]

[Docket No. CP77-18]

SOUTH TEXAS NATURAL GAS GATHERING CO.

Amendment to Application

FEBRUARY 9, 1977.

Take notice that on January 31, 1977, South Texas Natural Gas Gathering Company (South Texas), Five Greenway Plaza East, Houston, Texas 77046, filed in Docket No. CP77-18 an amendment to its application filed in said docket pursuant to section 7 of the Natural Gas Act by which amendment South Texas deletes the request for permission for and approval to abandon the 4 miles of 4½-inch O.D. pipe located at the Brooks County, Texas, delivery point, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

In the initial application, South Texas proposed to abandon a gas exchange service to Trunkline Gas Company (Trunkline), and consequently proposed to abandon the following facilities:

Facilities	*Location*
4 mi of 8-5-in o.d. pipe	Hidalgo County delivery point.
500 bhp compressor	Hidalgo County delivery point.
4 mi of 4½-in o.d. pipe	Brooks County delivery point.
120 bhp compressor	Brooks County delivery point.

South Texas states that it has determined that the 4 miles of 4½-inch O.D. pipe located at the Brooks County, Texas, delivery point is currently being used to gather gas purchased from McCormick Oil and Gas Corporation (McCormick) and is still used. South Texas, therefore, proposes to amend its application in order to continue to utilize this gathering line.

Any person desiring to be heard or to make any protest with reference to said request should on or before February 25, 1977, file with the Federal Power 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). 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.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4883 Filed 2-15-77;8:45 am]

[Docket No. RP77-31]

SOUTHERN NATURAL GAS CO.

Proposed Increase in Rates

Take notice that Southern Natural Gas Company (Southern) on January 28, 1977, tendered for filing proposed changes in its FPC Tariff, Sixth Revised Volume No. 1. The proposed changes are based on the 12-month period ending October 31, 1976 and as adjusted would increase jurisdictional revenues by $37,971,081.

Southern states that the principal reasons for the proposed rate increase are to reflect (1) increased costs of acquiring gas supply reserves for its pipeline system; (2) increased costs of expanding the withdrawal capacity of its Muldon Underground Storage Facility from 459,000 Mcf/d to 750,000 Mcf/d; (3) increases in operation, maintenance and other expenses; (4) decline in volumes available for sale; and (5) an increase in the overall rate of return of 10.68 percent.

Copies of the filing have been served upon Southern's jurisdictional customers and interested state public service commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4873 Filed 2-15-77;8:45 am]

[Docket No. RI77-31]

THOMAS A. BARTOE

Independent Producer Rate Change Filing

FEBRUARY 9, 1977.

Take notice that on January 31, 1977, the Pennsylvania Oil and Gas Association (POGA), Drawer D, 26 West Warren Road, Custer City, Pennsylvania, 16725, filed a "Notice of Independent Producer Rate Change Filing" on behalf of one of its members, Mr. Thomas A. Bartoe, P.O. Box 215, Bruin, Pennsylvania, 16022.

Mr. Bartoe asks that his present rate, for sales of natural gas from the Cady No. 1 well located in the Eau Claire Field, Venango Township, Butler County, Pennsylvania that are made to Columbia Gas Transmission Corporation, should be increased from a base of 29 cents to 68 cents per Mcf at 14.73 psia, in order to bail and clean out the well and set a packer at a cost of $4,080.

Any person desiring to be heard or to make any protest with reference to said notice should on or before February 28, 1977, file with the Federal Power 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). 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 party 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4866 Filed 2-15-77;8:45 am]

[Docket No. CP72-182]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND TEXAS GAS TRANSMISSION CORP.

Joint Application To Amend

FEBRUARY 9, 1977.

Take notice that on January 28, 1977, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas, 77001, and Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky, 42301, filed in Docket No. CP72-182 a joint application to amend a certificate of public convenience and necessity and request for temporary certificate of public convenience and necessity for exchange of natural gas, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Under the proposal therein, Transco and Texas Gas seek authorization for three additional delivery points, in accordance with the letter agreements be-

tween them, dated December 8, 1976, and January 17, 1977. Transco and Texas Gas have further amended the Exchange Agreement between them, dated July 27, 1973, as amended, to add the following points of delivery: (1) At the existing point of interconnection between the systems of Transco and Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), where Tennessee's 20-inch pipeline intersects Transco's 30-inch pipelines near Kinder in Allen Parish, Louisiana; (2) At the intersection of a proposed pipeline to be constructed by Transco pursuant to its current budget-type certificate authorization and Texas Gas's 12-inch Bayou Pigeon pipeline near Myette Point in St. Mary's Paris, Louisiana; and (3) At an existing point of interconnection between Transco and Texas Gas located near Eunice, Louisiana. (The addition of this point will allow Texas Gas to deliver volumes of natural gas to Transco. Transco presently is authorized to deliver volumes to Texas Gas at this point.)

The addition of the Kinder delivery point will allow Transco to receive volumes of natural gas, for Texas Gas' account, being transported by Tennessee. The addition of the Myette Point and Eunice delivery points will assist Transco in taking available gas into its system from the Myette Point Field.

Any person desiring to be heard or to make any protest with reference to said application, on or before March 4, 1977, should file with the Federal Power Commission, 825 North Capitol Street, NE., 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). 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 the jurisdiction conferred upon the Federal Power 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 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4889 Filed 2-15-77;8:45 am]

[Docket No. ER77-177]

TUCSON GAS & ELECTRIC CO.

Filing of Los Angeles-TGE 1977 Energy Agreement

FEBRUARY 9, 1977.

Take notice that Tucson Gas & Electric Company ("TGE") on January 31, 1977 tendered for filing the Los Angeles-TGE 1977 Energy Agreement (the "Agreement") dated January 13, 1977 between TGE and the Department of Water and Power of the City of Los Angeles ("Los Angeles").

The primary purpose of this Agreement is to establish terms and conditions between the parties for the delivery of electrical power and energy by TGE to Los Angeles on Sundays only during the term provided in the Agreement. The parties desire that this Agreement shall extend as an initial rate schedule until May 31, 1977.

A copy of this transmittal together with all attachments has been mailed to the Department of Water and Power of the City of Los Angeles, California.

Any person desiring to be heard or to make any application with reference to said Agreement should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 23, 1977. Protests will be considered by the Commission 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 must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4886 Filed 2-15-77;8:45 am]

[Docket No. E-9563]

UNITED STATES DEPARTMENT OF THE INTERIOR, BONNEVILLE POWER ADMINISTRATION

Amendment to Transmission Rate Schedule Filing

FEBRUARY 8, 1977.

Take notice that on January 19, 1977, the Secretary of the Interior (Interior), on behalf of the Bonneville Power Administration (BPA), filed an amendment to its proposed transmission rate schedules requesting that the proposed rates be made effective immediately on an interim basis, subject to retroactive confirmation, or subject to higher or lower retroactive adjustment, with interest in accordance with such amended or modified rates as are subsequently approved by the Commission.

Interior, in its July 30, 1976 filing, had previously requested that the proposed rates be more applicable on the first day of the billing month following approval by the Commission, or as soon thereafter as permissible by contract.

Any person desiring to be heard or to protest said filing should submit written comments to the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All such comments should be filed on or before February 23, 1977. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4869 Filed 2-15-77;8:45 am]

[Docket No. CP77-138]

SOUTHERN NATURAL GAS CO.

Certificate Application

FEBRUARY 11, 1977.

Take notice that on February 4, 1977, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP77-138 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) and in accordance with the condition set forth in the Commission's order issued January 27, 1977, in Docket Nos. CP77-139 et al. (57 FPC _____), for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Pennzoil Producing Company (Pennzoil), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport for Pennzoil approximately 2,500 Mcf of natural gas per day for an unspecified period[1] for use at Pennzoil's Tinsley Field, Mississippi, oil production facilities. It is stated that the subject gas would be received by United Gas Pipe Line Company (United) from Pennzoil Offshore Gas Operators Inc. (POGO) and Pennzoil Louisiana and Texas Offshore, Inc. (PLATO), at Grand Bay, Louisiana, and transported by United through capacity it has contracted for with Mid Louisiana Gas Company to an existing point of interconnection with Applicant. Applicant would transport the gas so received to the Tinsley Field.

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[1] The Commission's order issued January 27, 1977, in Docket Nos. CP77-139, et al., authorized the transportation service for 60 days.

It is indicated that pursuant to two gas sales contracts between Pennzoil and POGO and PLATO, dated April 5, 1976, Pennzoil would purchase about 2,500 Mcf per day of natural gas produced from interests owned by POGO and PLATO in Block 140, Main Pass Area, offshore, Louisiana.

Applicant states that the transportation charge would be 13 cents per Mcf. The subject natural gas supply is said not to be available for purchase by Applicant, and, it is said, the proposed service would have no impact on Applicant's ability to deliver to Priority 1 markets. It is further stated that the subject gas would be diverted for general use in Applicant's pipeline system should the gas be required to relieve Priority 1 curtailments.

It is indicated that Pennzoil requires approximately 3,000 Mcf of natural gas per day to fuel engines which pump about 150 oil wells and fuel about 50 salt water injection wells for water flood operations at the Tinsley Field. Applicant states that it is curtailing deliveries to the field to meet essential Priority 1 requirements and to serve customers not properly classified in Priority 1 but which cannot safely sustain curtailment.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1977, file with the Federal Power 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4992 Filed 2-14-77;11:13 am]

[Docket No. CP77-186]

TEXAS EASTERN TRANSMISSION CORP.

Application

FEBRUARY 11, 1977.

Take notice that on February 4, 1977, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP77-186 an application pursuant to Section 3 of the Natural Gas Act for authorization to import from Mexico to the United States and purchase up to 40,000 Mcf of natural gas per day for a period to expire no later than August 1, 1977, to meet emergency needs, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application indicates that Applicant would pay Petroleos Mexicanos (Pemex) $2.25 per million Btu's at 14.73 psia for the subject gas and that the gas would be imported into the United States through the existing facilities of Applicant in the vicinity of McAllen, Texas. Applicant states that the contract between Pemex and Applicant for this emergency supply which would be produced from new fields located in northeast Mexico is for an initial term of 60 days with provisions for extension to August 1, 1977, by mutual agreement.

Applicant asserts that prompt authorization of its proposal is in the public interest and is urgently required to assist Applicant in meeting the requirements for high priority uses of natural gas, including short-term storage replenishment or injection for protection of high priority uses.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1977, file with the Federal Power 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). 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4991 Filed 2-14-77;11:13 am]

[Docket No. CP77-180]

TENNESSEE NATURAL GAS LINES, INC., ET AL.

Application

FEBRUARY 11, 1977.

Take notice that on February 3, 1977, Tennessee Natural Gas Lines, Inc. (TNGL), 2008 Parkway Towers, Nashville, Tennessee 37219, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP77-180 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing for a 60-day period the transportation and delivery of up to 150 Mcf of natural gas per day to Nashville Gas Company (Nashville Gas) for Collins & Aikman Corporation's (Collins & Aikman) account, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Collins & Aikman, a diversified integrated manufacturer of textile products, conducts a carpet manufacturing and sales business through its wholly-owned subsidiary Tennessee Tufting Company (Tufting). It is further stated that Tufting's Nashville, Tennessee, carpet and rug manufacturing plant purchases gas from Nashville Gas, an existing customer of TNGL, and that TNGL informed Tufting that due to an emergency situation on its system it would no longer be able to supply Tufting's facility with natural gas for Priority 2 process uses until the conclusion of the winter heating season. As a result Tufting was forced to shut down operations and lay off 585 employees, it is said.

It is stated that Collins & Aikman has available allocations of propane that are not needed in its other manufacturing operations but that Tufting's Nashville facility does not have installed propane capability. In order to replace the curtailed volumes of gas Collins & Aikman has entered into an exchange agreement with the City of LaGrange, Georgia, (LaGrange), a municipal distributor of gas supplied by Southern, whereby Collins & Aikman would transfer to LaGrange 13.33 gallons of propane for each Mcf of natural gas provided by LaGrange, up to 150 Mcf of gas, it is said. It is stated that in terms of Btu's exchanged, Collins & Aikman would be transferring approximately 1.25 Btu's for every Btu delivered to Collins & Aikman. It is further stated that Collins & Aikman have agreed that on days that Southern is curtailing its Priority 1 service and when necessary to maintain pressure on its system, Collins & Aikman would transfer to Southern for the account of LaGrange, volumes of propane up to the equivalent in Btu's of 150 Mcf of natural gas, if LaGrange's propane air plant has capacity available for such amounts. It is said that in return Southern would compensate Collins & Aikman for quantities of propane transferred by providing equivalent amounts of natural gas, up to 150 Mcf per day, on subsequent days when Priority 1 requirements are being met.

In order to effectuate the exchange TNGL, Tennessee, and Southern propose to transport and deliver up to 150 Mcf of gas per day to Nashville Gas for Collins & Aikman's account. It is stated that Southern would deliver at an existing point of interconnection up to 150 Mcf of gas per day released by LaGrange. It is stated that Tennessee would deliver at an existing point of delivery equivalent volumes to TNGL, which would deliver the gas to Nashville Gas, Tufting's distributor. It is stated that Tennessee would charge 23.73 cents per Mcf for all quantities transported to TNGL for Collins & Aikman's account. It is further stated that TNGL would charge 4.0 cents per Mcf for all quantities transported to Nashville Gas and Nashville Gas would charge 30 cents per Mcf for the local distribution service.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1977, file with the Federal Power 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 the jurisdiction conferred upon the Federal Power 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 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-4990 Filed 2-14-77;11:13 am]

FEDERAL RESERVE SYSTEM

CENTRAL WISCONSIN BANKSHARES, INC.

Acquisition of Bank

Central Wisconsin Bankshares, Inc., Wausau, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 77 percent or more of the voting shares of Eagle River State Bank, Eagle River, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 7, 1977.

Board of Governors of the Federal Reserve System, February 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-4800 Filed 2-15-77;8:45 pm]

FIRST BANCSHARES OF KIRKSVILLE, INC.

Formation of Bank Holding Company

First Bancshares of Kirksville, Inc., Kirksville, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 87.5 percent or more of the voting shares of First National Bank, Kirksville, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 10, 1977.

Board of Governors of the Federal Reserve System, February 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-4807 Filed 2-15-77;8:45 am]

FIRST MAYWOOD, INC.

Formation of Bank Holding Company

First Maywood, Inc., Maywood, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent or more of the voting shares of First National Bank of Maywood, Maywood, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 2, 1977.

Board of Governors of the Federal Reserve System, February 10, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-4799 Filed 2-15-77;8:45 am]

FIRST NATIONAL BOSTON CORP.

Order Approving Acquisition of Bank

First National Boston Corporation, Boston, Massachusetts, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of the successor by merger to The First National Bank of Yarmouth, Yarmouth, Massachusetts ("Bank"). The bank with which Bank is to be consolidated has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.[1]

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application together with all comments received, including those of the Comptroller of the Currency,[2] in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest commercial banking organization in Massachusetts controls four banks with aggregate domestic deposits of approximately $3.493 billion,[3] representing 23.52 percent of total domestic deposits in commercial banks in the State. Acquisition of Bank would increase Applicant's share of commercial bank deposits in the State only slightly and would not have a significant effect upon the concentration of banking resources in Massachusetts.

Bank (deposits of $33.2 million)[4] operates six banking offices in the Barnstable County (Cape Cod) banking market, the relevant geographic market for purposes of analyzing the competitive effects of the proposed acquisition. Bank is the fourth largest of eight banks in the Barnstable County banking market with 13.5 percent of the total deposits held by offices of commercial banks in that market,[5] and is the sixty-ninth largest commercial bank in the State with .20 percent of the total commercial bank deposits in the State. Inasmuch as Applicant has no subsidiary banking offices in that market (the nearest office of Bank to any office of Applicant's subsidiary banks is approximately 73 miles), the Board is of the opinion that Applicant's acquisition of Bank would not result in the elimination of a significant amount of existing competition.

While the market is somewhat concentrated and Applicant possesses the financial and managerial resources to enter the Barnstable County market de novo, the amount of potential competition that would be eliminated in the context of the subject proposal would not be significant, in view of Bank's market share and rank in the Barnstable County market.

In the context of this proposal, the Board regards the financial and managerial resources of Applicant and its subsidiaries as generally satisfactory and their future prospects as favorable. On March 18, 1976, the Board denied an unrelated bank acquisition application filed by Applicant. The Board expressed the view that Applicant should direct its financial and managerial resources toward its existing structures.[6] That application

[1] Applicant previously filed an application to acquire shares of Bank, but withdrew that application in February 1975, prior to Board action on that application.

[2] The Comptroller of the Currency recommended that the Board approve the instant application.

[3] Deposit data are as of March 31, 1976, unless otherwise indicated.

[4] As of September 30, 1976.

[5] As of December 31, 1975.

[6] Board's order of March 18, 1976, denying the application of First National Boston Corporation, Boston, Massachusetts, to acquire Blackstone Valley National Bank, Northbridge, Massachusetts. 62 F. Res. Bull 372 (1976).

contemplated a proposed cash purchase of shares; whereas the instant application contemplates an exchange of shares. Applicant's financial condition has improved somewhat this past year and that improvement is expected to continue. The financial and managerial resources and future prospects of Bank, absent consummation of the proposed acquisition, are not entirely satisfactory but are expected to show improvement as a result of Bank's affiliation with Applicant. Applicant has committed that, upon consummation of the acquisition, it would make a contribution of funds to increase Bank's equity capital position and would provide Bank with managerial assistance. Accordingly, the financial and managerial factors, as they relate to Bank, lend weight toward approval of the application.

Affiliation with Applicant would enable Bank to draw upon Applicant's resources and expertise and thereby offer expanded services to Bank's customers. Applicant states that, following consummation of the acquisition, Bank would make available to its customers new services, including free checking accounts, overdraft privileges, and 90-day notice accounts. Through affiliation with Applicant, Bank would also expand existing services, such as revolving auto loans, credit card services, and smaller denomination certificates of deposit. It is expected that enabling Bank's customers to obtain additional and expanded services through Bank would result in Bank becoming a more attractive banking alternative and stronger competitor in the relevant banking market. Considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application and, considered together with the financial and managerial factors discussed above, outweigh any adverse competitive effects that might result from consummation of the proposal.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order, or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Boston, pursuant to delegated authority.

By order of the Board of Governors,[7] effective February 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-4803 Filed 2-15-77;8:45 am]

LINCOLN NATIONAL CO.

Acquisition of Shares of Bank

Lincoln National Company, Bala Cynwyd, Pennsylvania, has applied for the Board's approval under 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(c)(3) to acquire, indirectly, 9.9 percent of the voting shares of The Bryn Mawr Trust Company, Bryn Mawr, Pennsylvania. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 7, 1977.

Board of Governors of the Federal Reserve System, February 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-4804 Filed 2-15-77;8:45 am]

QUIVIRA BANC SHARES, INC.

Order Approving Formation of Bank Holding Company

Quivira Banc Shares, Inc., Hutchinson, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80 percent or more of the voting shares of The First National Bank of Sterling, Sterling, Kansas ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § (b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized under the laws of the State of Kansas for the purpose of becoming a bank holding company through the acquisition of Bank. Upon consummation of the proposed transaction, Applicant would own the 393rd largest bank in Kansas, controlling less than 0.1 percent of the total deposits in commercial banks in the State.[1] Bank (deposits of $5.4 million) is the third largest of eight banks in the relevant banking market[2] and controls approximately 13.4 percent of the total deposits in commercial banks in the market.

Several principals of Applicant are also principals in four other bank holding companies in Kansas. However, none of these banking organizations operates in Bank's market. Thus, it appears that no meaningful competition would be eliminated as a result of this proposal. Inasmuch as the proposed transaction represents a reorganization of the ownership of 80 percent or more of the shares of Bank from individuals to a corporation owned by the same individuals, it appears that the acquisition of Bank by Applicant would not have any significant adverse effect upon either existing or potential competition within the relevant banking market. Accordingly, on the basis of the record, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant and Bank are regarded as satisfactory. The future prospects of Applicant are dependent upon those of Bank, which are also regarded as satisfactory. While Applicant will incur acquisition debt as a result of this proposal, Applicant plans to meet its debt servicing requirements through dividends to be declared by Bank. In the Board's view, Applicant's earnings prospects appear to be adequate in order to service that debt without adversely affecting the financial condition of Bank. Furthermore, the financial and managerial resources of the other bank holding companies with which several of Applicant's principals are associated are regarded as satisfactory. Accordingly, the Board concludes that considerations relating to the banking factors are consistent with approval of the application. Applicant proposes to increase the interest rates paid on depositors' time and savings accounts and to speed customer servicing by computerizing records of customers' accounts. Considerations relating to the convenience and needs of the community to be served are regarded as being consistent with approval of the application. Accordingly, it is the Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order nor (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[3] effective February 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-4806 Filed 2-15-77;8:45 am]

TEXAS COMMERCE BANCSHARES, INC.

Acquisition of Bank

Texas Commerce Banschares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holing Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares)

[7] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Partee, and Lilly. Absent and not voting: Governors Coldwell and Jackson.

[1] All banking data are as of December 31, 1975.

[2] The relevant banking market is approximated by the southern half of Rice County.

[3] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Coldwell, Partee, and Lilly. Absent and not voting: Governor Jackson.

of the voting shares of Southern Bank and Trust Company, Garland, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 8, 1977.

Board of Governors of the Federal Reserve System, February 8, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-4805 Filed 2-15-77;8:45 am]

TORRINGTON NATIONAL CO.

Formation of Bank Holding Company

Torrington National Company, Torrington, Wyoming, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent of the voting shares of First National Bank, Torrington, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 9, 1977.

Board of Governors of the Federal Received not later than March 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-4801 Filed 2-15-77;8:45 am]

UNION STATE BANCSHARES, INC.

Formation of Bank Holding Company

Union State Bancshares, Inc., Clinton, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Union State Bank, Clinton, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 9, 1977.

Board of Governors of the Federal Reserve System, February 10, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-4798 Filed 2-15-77;8:45 am]

WILBER CO.

Formation of Bank Holding Company

Wilber Co., Wilber, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent (less directors' qualifying shares) of the voting shares of Saline State Bank, Wilber, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 9, 1977.

Board of Governors of the Federal Reserve System, February 9, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-4802 Filed 2-15-77;8:45 am]

FEDERAL TRADE COMMISSION

[File No. 742 3171]

LAS ANIMAS RANCH, INC., ET AL.

Consent Agreement with Analysis to Aid Public Comment

Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34, 40 FR 15236, April 4, 1975), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited on or before April 15, 1977. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14), 40 FR 15236, April 4, 1975). Comments should be directed to:

Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Las Animas Ranch, Inc., Mount Blanca Estates, Inc., Mount Blanca Valley Ranches, Inc., Chubasco, Inc., Pine Cone Properties, Inc., O'Keefe-Baldwin & Associates, Ltd., Trinchera Creek Estates, Ltd., Charles R. Baldwin, and Danny W. O'Keefe.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint alleges that the various companies have sold lots in several Colorado subdivision projects, including Las Animas Ranch, Mount Blanca Estates, Mount Blanca Valley Ranches, and Trinchera Creek Estates. In marketing these subdivisions, it is alleged that the respondents misrepresented the value of their land as an investment and its suitability as a homesite. Further, it is alleged that respondents did not inform customers that their purchase was a risky investment and that they would probably be unable to resell their lot. Additional allegations include that the respondents misrepresented the cost and availability of water, sewage disposal, electricity, and telephone service and that they used unfair contract provisions.

The proposed order prohibits respondents from making investment, homesite, or utility service misrepresentations while requiring respondents to inform potential purchasers that buying their lots is risky and that resale at a profit is unlikely. Additionally, respondents agree to clearly disclose to potential customers the cost and availability of utilities for their lots. The proposed order also provides for a ten day "cooling-off" period after purchase of a lot and for a three day "cooling-off" period following a property inspection tour if a refund is based on such a tour.

There is no consumer redress in the order, but the agreement reserves for the Commission the right to later file a consumer redress action.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

LAS ANIMAS RANCH INC., ET AL

[File No. 742 3171]

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Las Animas Ranch, Inc., a corporation; Mount Blanca Estates, Inc., a corporation; Mount Blanca Valley Ranches, Inc., a corporation; Chubasco, Inc., a corporation; Pine Cone Properties, Inc., a corporation; O'Keefe-Baldwin & Associates, Ltd., a limited partnership; Trinchera Creek Estates, Ltd., a general partnership; Charles R. Baldwin, individually and as an officer, stockholder and managing partner of said corporations and partnerships; and Danney W. O'Keefe, individually and as an officer, stockholder and managing partner of said corporations and partnerships.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Las Animas Ranch, Inc., Mount Blanca Estates, Inc., Mount Blanca Valley Ranches, Inc., Chubasco, Inc., and Pine Cone Properties, Inc., corporations; O'Keefe-Baldwin & Associ-

ates, Ltd., and Trinchera Creek Estates, Ltd., general partnerships; and Charles R. Baldwin, individually and as an officer, stockholder and managing partner of said corporations and partnerships, and Danny W. O'Keefe, individually and as an officer, stockholder and managing partner of said corporations and partnerships, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Las Animas Ranch, Inc., Mount Blanca Estates, Inc., Mount Blanca Valley Ranches, Inc., Chubasco, Inc., Pine Cone Properties, Inc., O'Keefe-Baldwin & Associates, Ltd., and Trinchera Creek Estates, Ltd., by their duly authorized officers and Charles R. Baldwin, individually and as an officer, stockholder and managing partner of said corporations and partnerships, and Danny W. O'Keefe, individually and as an officer, stockholder and managing partner of said corporations and partnerships, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Las Animas Ranch, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 2860 South Circle Drive, Colorado Springs, Colorado.

Proposed respondent Mount Blanca Estates, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 2860 South Circle Drive, Colorado Springs, Colorado.

Proposed respondent Mount Blanca Valley Ranches, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 2860 South Circle Drive, Colorado Springs, Colorado.

Proposed respondent Chubasco, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 2860 South Circle Drive, Colorado Springs, Colorado.

Proposed respondent Pine Cone Properties, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 2860 South Circle Drive, Colorado Springs, Colorado.

Proposed respondent O'Keefe-Baldwin & Associates, Ltd., is a partnership existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 2860 South Circle Drive, Colorado Springs, Colorado.

Proposed respondent Trinchera Creek Estates, Ltd., is partnership existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 2860 South Circle Drive, Colorado Springs, Colorado.

Proposed respondents Charles R. Baldwin and Danny W. O'Keefe are officers, managing partners, managers or stockholders of the above corporations and partnerships. They formulate, direct and control the policies, acts and practices of said corporations and partnerships, and their business address is also 2860 South Circle Drive, Colorado Springs, Colorado.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; provided, however, that respondents, without admitting the findings of fact and conclusions of law contained in Appendix A attached below, waive any right to contest in administrative proceedings the findings and conclusions contained in said Appendix should the Commission make said findings and conclusions and include them in its decision; provided further, that in the event the Commission makes such findings and conclusions, then the decision shall also expressly provide that, in any action which may be brought under section 19 (a) (2) of the Federal Trade Commission Act, as amended, the said findings and conclusions shall not be deemed conclusive within the meaning of section 19(c) (1) (B) (i) of the Federal Trade Commission Act, as amended.

(c) All rights to seek judicial review or otherwise to settle or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim that the signing of this agreement and the Commission's decision and order pursuant thereto bar any action under section 19 of the Federal Trade Commission Act, as amended, or that the Commission's decision containing the findings and conclusions set out in this Agreement constitute an inadequate basis for an action under section 19 of the Federal Trade Commission Act, as amended.

4. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached, its findings of fact and conclusions of law as attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint, findings of fact, and conclusions of law and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint, findings of fact and conclusions of law may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

8. Notwithstanding item 2., supra, for purposes of this agreement, proposed respondents specifically reserve the right to contest the jurisdictional facts of this matter in any action which may be brought under section 19(a) (2) of the Federal Trade Commission Act, as amended.

ORDER

As used in this order, a requirement to cease and desist from representing or misrepresenting shall include representing or misrepresenting, directly or indirectly, and by any manner or means.

As used in this order, the term "subdivision" means:

Land which has been or will be divided into 50 or more lots, whether contiguous or not, where said lots are being, have been, or will be offered for sale or lease as part of a common promotional plan.

It is ordered, That respondents Las Animas Ranch, Inc., Mount Blanca Estates, Inc., Mount Blanca Valley Ranches, Inc., Chubasco, Inc., and Pine Cone Properties, Inc., corporations; O'Keefe-Baldwin & Associates, Ltd., and Trinchera Creek Estates, Ltd., general partnerships, their successors and assigns; and Charles R. Baldwin, individ-

ually and as an officer, managing partner and stockholder of said corporations and partnerships; and Danny W. O'Keefe, individually and as an officer, managing partner and stockholder of said corporations and partnerships, and respondents' officers, agents, representatives and employees, directly or through any corporation, partnership, subsidiary, division or other device, in connection with the advertising, offering for sale or sale of subdivisions, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting:

1. That real estate is a good or safe investment, or that the purchase of a lot in one of respondents' subdivisions is a good or safe investment.

2. That there is little or no financial risk involved in the purchase of respondents' lots.

3. That the resale of a lot purchased from respondents is not difficult.

4. That the value of, or demand for, any land, including lots being offered for sale or previously sold by respondents, has increased, or will or may increase, or that purchasers have made, or will or may in the future make, a profit by reason of having purchase respondents' land.

5. That the prices of respondents' lots periodically rise or that prices of said lots are increasing, have increased or will increase, without clearly and conspicuously disclosing at the same time, and by the same medium by which the price increases are communicated, that the price increases of respondents' lots do not in any way relate to the value of said lots.

6. That the purchase of a lot in one of respondents' subdivisions is a way to achieve financial security or prosperity, to deal with inflation or to become wealthy.

7. That the land in any of respondents' subdivisions will soon be unavailable or that prospective purchasers must purchase a lot in one of respondents' subdivisions immediately to ensure that such lot will be available.

8. That respondents' subdivision land and the area surrounding said land are comparable, similar or analogous either to urban, metropolitan and industrial areas or to mountain resort areas or to recreation areas.

9. That ski lifts, resorts, motels or other developments are planned on or near respondents' subdivisions, thereby increasing the value and desirability of the subdivisions.

10. That respondents will repurchase lots or resell lots for purchasers, unless such is a fact.

11. That lots being offered for sale have been repossessed, reduced in price, or may be purchased on an assumption basis, or that purchasers will be assigned or receive the benefit of a former purchaser's equity or payments.

12. That sales commissions are not paid to respondents' sales agents.

B. Including in any contract for the sale of respondents' land, or in any document shown or provided to purchasers or prospective purchasers of respondents' land:

1. Language to the effect that no express or implied representations have been made in connection with the sale or offering for sale of respondents' land, other than those set forth in the contract or document, or that any particular representation has not been made in such connection.

2. Language to the effect that upon a failure of the purchaser to pay any installment due under the contract or otherwise to perform any obligation under the contract, the seller shall be entitled to retain sums previously paid thereunder by the purchaser in excess of the seller's actual damages.

3. Any waiver, limitation or condition on the right of a purchaser to cancel a transaction or receive a refund under any provision of this order, except as such waiver, limitation or condition is expressly allowed by this order.

C. Misrepresenting the right of a purchaser under any provision of this order or any applicable statute or regulation to cancel a transaction or receive a refund.

D. Making any statement or representation, concerning the proximity of any city or place to a subdivision or a part thereof, without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation, the distance in road miles from the geographic center of the subdivision or part thereof to the other city or place referred to, including subtotals showing number of road miles paved and unpaved.

E. Misrepresenting the purpose or effect of any provision in the contract for sale, or other forms, completed at the time of sale or thereafter, whereby the purchasers are required to declare their intention as to establishing a permanent or principal place of residence on the land.

F. Misrepresenting the cost, availability or method of obtaining water, electric power, telephone or natural gas service, sewage treatment systems or any other type of improvement.

G. Misrepresenting, or failing to disclose, any type of zoning, covenant, easement, encumbrance, exception, reservation, restriction or condition or other matters of record which may significantly affect the use, enjoyment or value of lots sold by respondents.

H. Advertising for sale, offering for sale, contracting to sell or selling any interest in:

1. Subdivision lots represented in any manner as being useable now or in the future as a homesite, unless at the time of sale respondents include as a part of the sales contract a statement disclosing the then existing costs, availability, and feasibility of acquiring water, sewage disposal, electricity and telephone service for the lot being sold under such sales contract.

2. Any subdivision lots not covered in paragraph I.H.1. of this Order unless:

a. There shall appear in the form and place described in paragraph II.C. of this order as an additional paragraph immediately following the first two paragraphs required by paragraph II.C., the following statement:

This undeveloped land is being sold "as is." Electricity, water, sewer and telephone service are not planned for this subdivision and may be impossible for you to obtain at a reasonable cost. Your lot will be accessible, if at all, only by unpaved roads which will not be maintained by us. The use of such roads may be impossible without maintenance. As a result, your lot may have no use as a homesite.

b. Each piece of advertising, sales or promotional material contains the following statement, in the same size type as that which is predominantly used in such material:

Lots in this subdivision may not be useable as homesites.

If respondents fail for any reason to make the disclosures required by the above paragraph (I.H.2.) of this order, they shall refund to each purchaser to whom the disclosures were not made all monies paid by such purchaser to respondents under the terms of the land sales contract when requested to do so by such purchaser.

II

It is further ordered, That respondents and respondents' officers, agents, representatives and employees, directly or through any corporation, partnership, subsidiary, division or other device, in connection with the advertising, offering for sale or sale of subdivisions, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith:

A. Include clearly and conspicuously:

1. In all sales presentations, promotional materials and advertising, other than any TV or radio advertisements, in the same size type as that which is predominantly used in such material, the following statement:

You should consider the purchase of our land to be risky. The future value of this land is uncertain—Do not count on an increase in its value. In the past, it has not always been possible for purchasers of this land to resell the land at a profit.

It is suggested that you discuss any possible purchase with a lawyer, realtor, or other qualified professional.

2. In all TV and radio advertisements, the following statement:

You should consider the purchase of our land to be risky.

B. Set forth on the first page of any contract for the sale of land in 24-point boldface type, "Contract for the Purchase of Land," with no other writing except that required by paragraphs II.C. and I.H. of this order.

C. Print the following in 12-point boldface type as the only writing, in addition to that required by paragraphs II.B. and I.H. of this order, on the first page of all contracts for the sale of land:

This is a contract by which you agree to purchase land. The future value of this land is uncertain—Do not count on an increase in its value. You should not consider this purchase as a profitmaking investment. In fact, purchasers may not be able to resell their land.

It is suggested that you consider your needs carefully and contact a lawyer, realtor or other qualified professional about this purchase.

--- ---
(Signature) (Date)

No contract for the sale of respondents' land shall be valid unless this statement is signed and dated by the purchaser after he has had a reasonable amount of time to read the whole page.

D. Whenever respondents provide prospective purchasers with a contract for the sale of land by any means other than by mailing said contract directly to such purchasers:

1. Furnish each purchaser, at the time the purchaser signs a contract for the sale of land, with two copies of a form, captioned in 12-point type "NOTICE OF RIGHT OF CANCELLATION," which shall contain in 10-point boldface type the following information and statements:

Date of Transaction

Contract Number

NOTICE OF CANCELLATION

You may cancel this transaction, without any penalty or obligation, at any time prior to midnight of the tenth business day after the date shown on the contract.

If you cancel, any payments made by you under the contract and any negotiable instrument executed by you will be returned within ten business days.

2. Before furnishing copies of the above "Notice of Right of Cancellation" to the purchaser, complete both copies by entering the name of the respondent, the address of the respondent's place of business, the date of the transaction, the contract number and the date by which the purchaser may give notice of cancellation, but in no event may such date be earlier than the tenth business day following the date of the transaction.

3. Where a timely notice of cancellation is received and said notice is not properly signed, and respondents do not intend to honor the notice, immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of his error and stating clearly and conspicuously that a notice signed by the purchaser must be mailed by midnight of the seventh business day following the purchaser's receipt of the mailing if the purchaser is to obtain a refund.

4. Where the signature of a prospective purchaser is solicited during the course of a sales presentation, inform each person orally, at the time he signs the contract, of his right to cancel as stated in paragraph II.D. of this order.

5. Include clearly and conspicuously in each contract for the sale of respondents' land the following statement in 12-point boldface type:

Purchaser has the right to cancel the contract, without any penalty or obligation, at any time prior to midnight of the tenth business day after the date of this contract. See the attached "Notice of Right of Cancellation" for an explanation of this right.

6. Within 10 business days after the receipt of a timely notice of cancellation signed by a purchaser, refund all payments made under the contract and cancel and return any negotiable instrument executed by the purchaser in connection with the contract.

E. Whenever respondents provide prospective purchasers with a contract for the sale of land by mailing said contract directly to such purchasers:

1. Include clearly and conspicuously in each contract for the sale of respondents' land the following statement in 12-boldface type:

This offer of land to you will remain open for thirty calendar days from the date of your receipt of the contract, and we will accept any contract mailed to us within said thirty day period.

2. Honor any contract which is signed and mailed to respondents by purchaser within thirty calendar days from the date purchaser received it.

F. Furnish any report required by Federal or State law to be furnished to a purchaser of respondents' land at or before the signing of a contract, and all materials required to be furnished by this order, with the first written materials or during the first contact which the prospective purchaser has with respondents or any of their agents or employees.

G. Inform all prospective purchasers that home financing may not be available, and that a bank located near the subdivision should be consulted prior to the purchase of land if the purchaser intends to build a house on that land.

H. Whenever respondents offer a refund contingent upon the purchaser taking a company-guided inspection tour or making a registered inspection of the property in which the purchaser's lots is located:

1. Provide the purchaser three business days after taking said tour or making said inspection within which to request a refund.

2. Include in any contract, in immediate proximity to the provision setting forth the availability of a refund upon the completion of a company-guided inspection tour or registered inspection of the property, the following statements:

a. You, the purchaser(s), have the right to cancel this transaction if you take the company-guided tour or make a registered inspection of the property and notify the company prior to midnight of the third business day after the date of such tour or inspection.

b. Seller will *not* reimburse the purchaser(s) for any expenses incurred by the purchaser(s) in travelling to the property in order to take the tour or inspection.

3. Furnish each purchaser at the completion of the tour or inspection a completed form in duplicate, captioned "Notice of Cancellation", which shall contain in at least 10-point boldface type the following statements:

NOTICE OF CANCELLATION

(Date of company-guided inspection tour or registered inspection of property)

(Contract number)

You may cancel your contract without any penalty or obligation, at any time prior to midnight of the third business day after the above date.

If you cancel, any payments made by you under the contract will be returned within 10 business days following receipt by the seller of your cancellation notice.

To cancel your contract, mail or deliver a signed copy of this cancellation notice or any other written notice, or send a telegram to: _____ at _____
Name of respondent), (address of _____ not later respondents' place of business) than midnight of _____
(date)

I (We) hereby cancel the contract. (Each purchaser must sign this notice.)

(Date)

(Purchaser's signature)

(Purchaser's signature)

4. Before furnishing the purchaser copies of the "Notice of Cancellation" set forth in paragraph II.H. of this order, complete both copies by entering the name of the respondent and the address of its place of business, the date of the company-guided inspection tour or the registered inspection of the property and the date by which the purchaser may give notice of cancellation, but in no event shall that date be earlier than the third business day following the date of said tour or inspection.

5. Where a timely notice of cancellation is received purportedly in accordance with the requirements of this paragraph of this order, but where said notice is not properly signed, and respondents do not intend to honor the notice, immediately notify the purchaser by certified mail, return receipt requested, enclosing the notice, informing the purchaser of this error and stating clearly and conspicuously that a notice signed by the purchaser must be mailed by midnight of the seventh day following the purchaser's receipt of the mailing if the purchaser is to obtain a refund.

6. Orally inform the purchaser at the time the contract is signed and at the time the tour is taken or the inspection is registered of this cancellation right.

7. Provide an additional notice of cancellation as prescribed in subparagraph 3. above to purchasers not on a tour and purchasers who withdraw from tours, (1) who have completed their registration inspections, (2) who are invited to remain in the area and (3) who meet again with respondents or their agents. Said notice shall be provided to these purchasers on the day of the last such meeting. The notice shall be completed as required by subparagraph 4. above except the date by which the purchaser may give notice of cancellation shall not be

earlier than the third business day following the date of the last such meeting.

For the purpose of determining the date after which the cancellation period shall begin to run, the termination date of the tour shall be controlling for all purchasers on a tour. The termination date of the tour for any purchaser who withdraws from a tour shall be the date he notifies respondents or their agents of his decision. For purchasers not on a tour, the date of the registered inspection shall be controlling.

III

It is further ordered, That in the event that any respondent transfers all or a substantial part of its subdivision land to any other person, partnership or corporation, or transfers all or part of its ownership interest in any or all of its wholly-owned subsidiaries, respondents shall require the transferee to file promptly with the Commission a written agreement to be bound by all the terms of this order including this one; provided that, if respondents wish to present to the Commission any reasons why said order should not apply in its present form to said transferee, they shall submit to the Commission a written statement setting forth said reasons prior to the consummation of said succession or transfer.

IV

It is further ordered, That respondents and respondents' officers, agents, representatives and employees, directly or through any corporation, partnership, subsidiary, division or other device, in connection with any extension (or arrangement for the extension) of consumer credit, or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "advertisement" and "consumer credit" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

A. Failing to:

1. State the number, amount and the due dates or period of payments scheduled to repay the indebtedness, and the sum of such payments, using the term "total of payments," as required by § 226.8(b) (3) of Regulation Z.

2. Use the terms "cash downpayment," "total downpayment" and "unpaid balance of cash price," and to give the corresponding disclosures with those terms, as required by §§ 226.8(c) (1), 226.3(c) (2) and 226.8(c) (3) of Regulation Z.

3. Use the term "deferred payment price," and to give the corresponding disclosure with that term, as required by § 226.8(c) (8) (ii) of Regulation Z.

4. Use the term "finance charge," and to give the corresponding disclosure with that term, as required by § 226.8(c) (8) (i) of Regulation Z.

5. Disclose the identity of the creditor as required by § 226.8(a) of Regulation Z.

6. Make the disclosures in the manner required by § 226.8(a) (1) or § 226.8(a) (2) of Regulation Z.

7. Accurately disclose the "annual percentage rate," to the nearest quarter of one per cent, as required by §§ 226.5(b) and (b) (2) of Regulation Z.

8. Disclose whether a rebate of the unearned finance charges upon prepayment in full is available and, if available, the method of computation as required by § 226.8(b) (7) of Regulation Z.

9. Use the term "annual percentage rate," as required by § 226.8(b) (2) of Regulation Z.

10. Use the term "amount financed," as required by § 226.8(c) (7) of Regulation Z.

11. In any transaction subject to § 226.9 of Regulation Z, provide the customer with the notice of right to rescind, in the form and manner provided in that section prior to consummation of the transaction.

B. Representing in any advertisement the amount of the down-payment or that no downpayment is required, the amount of an installment payment, or the period of repayment, or that there is no charge for cerdit, unless all of the following items are clearly and conspicuously stated, in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d) (2) of Regulation Z:

1. The cash price;

2. The amount of the downpayment required or that no downpayment is required, as applicable;

3. The number, amount and due dates or periods of payments scheduled to repay the indebtedness if the credit is extended;

4. The amount of the finance charge expressed as an annual percentage rate; and

5. The deferred payment price.

C. Stating in any advertisement the rate of a finance charge unless said rate is expressed as an annual percentage rate, using the term "annual percentage rate," as "finance charge" and "annual percentage rate" are defined in § 226.2 and as required by § 226.10(d) (1) of Regulation Z.

V

It is further ordered, That respondents deliver, by certified mail, a copy of this decision and order to each of their present or future salesmen and other employees, independent brokers and all others who sell or promote the sale of lots in respondents subdivisions, and, as to each such person:

1. Provide them with a form, returnable to the respondents and to the Commission, clearly stating the intention to be bound by and to conform business practices to the requirements of this order.

2. Inform them that respondents:

(a) Shall not use any person, or the services of any person, to sell or promote the sale of real estate unless such person agrees to and does file notice with the respondents and the Commission that it will be bound by the provisions contained in this order.

(b) Are obligated by this order to discontinue dealing with those persons who continue on their own the unfair or deceptive acts or practices prohibited by this order or fail to adhere to the affirmative requirements of this order.

3. Institute a program of continuing surveillance adequate to reveal whether their business operations conform to the requirements of this order.

4. Discontinue dealing with, using or using the services of such persons who:

(a) Do not file notice with the respondents and Commission of their intent to comply with, and be bound by, this order.

(b) Are revealed by the aforesaid program of surveillance or by any other means to have continued on their own the unfair or deceptive acts or practices prohibited by this order: *Provided,* That, if remedial action is taken, evidence of such dismissal or termination shall not be admissible in any proceeding brought to recover penalties for alleged violation of any other paragraph of this order.

VI

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate and partnership respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation or partnership, the creation or dissolution of subsidiaries or any other change in the corporations or partnerships which may affect compliance obligations arising out of this order.

VII

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present land sales business or employment and of his affiliation with a new land sales business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

VIII

It is further ordered, That respondents shall within nine (9) months after this order becomes final file with the Commission a written report, itemizing the assets and liabilities of each respondent as of a date no earlier than six (6) months after this Order becomes final, and also itemizing the gross income and expenses of each respondent for a year ending on a date no earlier than six (6) months after this Order becomes final.

IX

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

APPENDIX A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Las Animas Ranch, Inc., subdivided approximately 15,000 acres of Colorado land and designated the subdivision as Las Animas Ranch.

2. Mount Blanca Valley Ranches, Inc., subdivided approximately 8,000 acres of Coloradio land and designated the subdivision as Mount Blanca Valley Ranches.

3. Mount Blanca Estates, Inc., subdivided approximately 5,000 acres of Colorado land and designated the subdivision as Mount Blanca Estates.

4. Trinchera Creek Estates, Ltd., subdivided approximately 10,000 acres of Colorado land and designated the subdivision as Trinchera Creek Estates.

5. Chubasco, Inc., Pine Cone Properties, Inc., and O'Keefe-Baldwin & Associates, Ltd., acted as sales agents for the aforesaid subdivisions.

6. Charles R. Baldwin and Danny W. O'Keefe formulate, direct and control the acts and practices of the above corporations and partnerships.

Hereinafter, the corporations, partnerships and individual identified in Findings 1.-6., supra, are collectively referred to as respondents.

7. The aforesaid subdivisions were divided for the most part into five (5) acre lots.

8. Lots in the aforesaid subdivisions were sold to members of the public located throughout the country.

Hereinafter, findings of present acts and practices include past acts and practices, and findings of representations include oral, written or visual communications, made directly or indirectly.

9. Respondents represent that the lots which respondents offer for sale are good investments and that there is little or no financial risk involved in the purchase of said lots.

10. A significant number of the aforesaid lots are not good investments involving little or no financial risk to purchasers from respondents. Therefore, the acts and practices described in Finding 9, are unfair or deceptive.

11. Respondents offer for sale and sell lots in their subdivisions without disclosing to prospective purchasers that the purchase of said lots is a risky investment in that, inter alia, the future value of said lots is uncertain and the purchaser will probably be unable to resell his or her lot at or above the purchase price. Therefore, respondents have failed to disclose material characteristics of their lots which would be likely to affect the consideration by purchasers of whether or not to purchase a lot from respondents. The failure to disclose such information is an unfair or deceptive act or practice.

12. Respondents represent that the value of the undeveloped land and lots in their subdivisions is growing at a rate which corresponds to the growth rate of the value, at the undeveloped stage, of land and lots in more fully developed and populated areas.

13. The growth rate of the value of the undeveloped land and lots in respondents' subdivisions does not correspond to the growth rate of the value, at the undeveloped stage, of land and lots in more fully developed and populated areas referred to in Finding 12. Therefore, the acts and practices described in Finding 12. are unfair or deceptive.

14. Respondents represent that utilities, such as electricity and telephone, are presently available on the subdivisions, or that such utilities are located nearby, or that such utilities will be extended to prospective purchasers' lots at no additional cost to them, or that prospective purchasers will be able to obtain such utilities at a nominal cost.

15. Most of the lots sold by respondents are located a great distance from existing utility lines; no current plan exists to extend such lines to purchasers' lots; and, in addition to nominal hook-up or installation charges, purchasers must pay substantial expenses for utility line extension, plus sign long-term use contracts with local utility companies. Therefore, the acts and practices described in Finding 14. are unfair or deceptive.

16. Respondents represent that water may be obtained on each lot by drilling a well, or that the State of Colorado guarantees the availability of water or will automatically grant well drilling permits, or that drinkable water may be found at a shallow depth, 30 to 50 feet, and at nominal cost, and that water obtained may be used for any purpose.

17. On most of the lots sold by respondents, sufficient drinkable water is either not available, or available only at excessive depths; the State of Colorado does not guarantee the availability of water, and on some lots, the State will not automatically issue well drilling permits; water permits are limited, in some areas, to domestic (in house) uses only; and drilling for water on many of respondents' lots involves substantial expense. Therefore, the acts and practices described in Finding 16. are unfair or deceptive.

18. Respondents represent that the lots in respondents' subdivisions are useable as homesites.

19. All or most of the aforesaid lots are not useable as homesites because of, inter alia, the lack or unreasonable cost of utilities, the difficulty in obtaining home construction financing, the remote location of the property and the poor quality of the land. Therefore, the acts and practices described in Finding 18. are unfair or deceptive.

20. Respondents offer for sale and sell lots in their subdivisions without disclosing to prospective purchasers the total cost of all utilities, that one or more utility services may not be available and that home construction financing is difficult to obtain. Therefore, respondents have failed to disclose material characteristics of their lots which would be likely to affect the consideration by purchasers of whether or not to purchase a lot from respondents. The failure to disclose such information is an unfair or deceptive act or practice.

21. Respondents represent that the land in their subdivisions will soon be unavailable and that prospective buyers must purchase lots immediately or risk being unable to do so.

22. Respondents' land is not selling at such a rate that prospective buyers cannot wait a substantial period of time and still be able to obtain land in the subdivision being offered. Therefore, the acts and practices described in Finding 21. are unfair or deceptive.

23. Respondents represent that the money paid to respondents by purchasers is fully protected or "Guaranteed" by respondents' refund plan.

24. The money paid to respondents by purchasers is not fully protected or "Guaranteed" by respondents' refund plan because of the conditions required of purchasers to get refunds including, but not limited to, the conditions that purchasers must bear the cost of traveling to the property and that purchasers must request a refund immediately upon completion of a required company guided tour when it may not be possible for purchasers to determine if the property is as represented at that time. Therefore, the acts and practices described in Finding 23. are unfair or deceptive.

25. Respondents represent that their subdivision land and the area in which said land is located is similar or comparable to urban, metropolitan and industrial areas as well as to mountain resort areas and recreation areas.

26. Respondents' land is not similar or comparable either to urban, metropolitan and industrial areas or to mountain resort areas or to recreation areas. Therefore, the acts and practices described in Finding 25. are unfair or deceptive.

27. Respondents represent that the subdivision being sold are currently being developed or that many homes are now being built or will be built in the immediate future and that respondents or others are building or will build motels, resorts, ski areas and restaurants on or near the subdivisions.

28. Few permanent residences have been built on respondents' subdivisions and respondents have no plans to make additional improvements on their subdivisions. Therefore, the acts and practices described in Finding 27. are unfair or deceptive.

29. Respondents represent that certain lots have been repossessed or forfeited, that the interest in such lots may be assumed by making certain back payments, and that purchasers are receiving credit for the equity or amount paid in by the previous purchaser of the lot.

30. Respondents offer no assumptions. The amounts identified by respondents as "assignment of equity" or "discount by credit" are, in fact, artificial or fictitious price reductions, and purchasers, in fact, pay the normal purchase price offered by respondents. Therefore, the acts and practices described in Finding 29. are unfair or deceptive.

31. Respondents represent that no sales commission expenses is involved in the purchase of respondents' lots and that, therefore, the purchase of respondents' lots is more economical when compared to other purchase or investment opportunities.

32. Respondents' salesmen do work on a commission basis. Therefore, the acts and practices described in Finding 31. are unfair or deceptive.

33. Respondents represent that lots in two subdivisions known as Las Animas Ranch may be used for any purpose desired by the purchasers thereof, including principal residence, mobile homes, resort developments or vacation homes.

34. All or most of the lots in the Las Animas Ranch subdivisions are zoned "plains agriculture," requiring ownership of 320 acres before building of any sort is allowed. Therefore, the acts and practices described in Finding 33. are unfair or deceptive.

35. Respondents offer lots in their Las Animas Ranch subdivisions without disclosing to prospective purchasers that the lots being offered are zoned "plains agricultural," requiring ownership of 320 acres before building of any sort is allowed. Respondents, therefore, have failed to disclose material characteristics of their lots which, if known to certain consumers, would be likely to affect their consideration of whether or not to purchase a lot from respondents. The failure to disclose such information is a deceptive or unfair act or practice.

36. Respondents use land sales contracts which contain declarations that the contract contains the entire agreement of the parties and that no representations were made to the lot purchaser to induce such purchaser to enter into the contract other than those representations expressed in the contract.

37. Use by respondents of the contract declarations described in Finding 36. is an unfair or deceptive act or practice because respondents and thier agents make representations which differ in material respects from, or which obscure, the rights and obligations of purchasers and respondents under such contracts.

38. Respondents use land sales contracts which contain a provision that defaulting

purchasers forfeit all payments previously made to respondents under the contract. When purchasers default and forfeit previously made payments, respondents retain and fail to offer refunds of those amounts of the purchasers' total payments which exceed respondents' reasonable damages caused by the defaults.

39. Use by respondents of the contract provision described in Finding 38, and the retaining by respondents of purchasers' payments in excess of reasonable damages are unfair acts or practices.

40. Respondents induce members of the public through the unfair and deceptive acts and practices, described in the enumerated findings above, to pay to them, in advance of the passage of title, substantial sums of money toward the purchase of lots located within respondents' subdivisions. Said lots are of little or no use or value to purchasers as investments or as homesites. Respondents retain said sums of money.

41. Respondents' retaining of the sums of money obtained through the acts and practices described in Finding 40. is an unfair act or practice.

42. The use by respondents of the aforementioned unfair or deceptive statements, representations, and practices has the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief that such statements are true and to cause the purchase of substantial numbers of respondents' lots because of said mistaken and erroneous belief.

43. The aforementioned acts and practices, as herein alleged, are all to the prejudice and injury of the public and respondents' competitors and constitute unfair methods of competition in or affecting commerce and unfair and deceptive acts and practices in or affecting commerce in violation of section 5 of the Federal Trade Commission Act.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-4833 Filed 2-15-77;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on February 9, 1977. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before March 7, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

FCC requests clearance of a revision to Form 442, Application for New Or Modified Radio Station Authorization Under Part 5 Of FCC Rules Experimental Radio Services (Other Than Broadcast). FCC must consider administratively the earth stations applications filed by non-government entities approved for participation in the Applications Technology Satellite (ATS) program developed and administered by the National Aeronautics and Space Administration. It is intended that a number of experiments will be put into effect involving Application Technology Satellite No. 6 and using non-government frequencies. The bulk of the applications will be in the experimental area of health/education communications. Additional information beyond that contained in Form 442 will be required by the Commission to make the determinations necessary in processing an application. The additional information which will be required by the revised Form 442 is set out in the Commission's Memorandum Opinion and Order FCC 77-37, 43817, adopted January 12, 1977, and released January 19, 1977. FCC estimates potential respondents to be 10 and reporting burden to average 6 hours per application.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-4810 Filed 2-15-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

GIFTED AND TALENTED MODEL PROJECTS

Closing Date for Receipt of Applications for Programs for Gifted and Talented—Competitive Continuation Assistance Contracts

Notice is hereby given that pursuant to the authority contained in section 404(g) of Pub. L. 93-380 (20 U.S.C. 1863(g)), applications are being accepted for continuation contracts of assistance from public and private agencies to continue and operate model projects. Applications for continuation awards are competitive with other applications for continuation awards in the same year (45 CFR 160b.4 (c)(2)). Funds are available for contracts to continue the operation of model projects presently in operation pursuant to an approved project period in excess of one year. Continuation applications must be received by the U.S. Office of Education Application Control Center on or before April 27, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13.562c. Applications sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than April 22, 1977 as evidenced by the U.S. Postal Service Postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* The amount of funds which is expected to be available in Fiscal Year 1977 for the continuation of Gifted and Talented programs is $1,686,000, out of which $250,000 is projected for Model Projects. The anticipated number of continuation assistance contracts for gifted and talented Model Projects is six. The funding level of multi-year projects has ranged in the past operation year between $41,461 and $41,709. It is projected that many of these continuation projects may be funded at the same level this fiscal year.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any pattern of distribution, except as required by the applicable provisions of the Gifted and Talented regulations, and appropriation acts.

Further information and application forms may be obtained from the Office for Gifted and Talent, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

D. *Applicable regulations.* Assistance contract awards made pursuant to this notice will be subject to the Regulations published in the FEDERAL REGISTER on May 6, 1976 (41 FR 18660 45 CFR Part 160b, Subpart F) and the Office of Education General Provisions Regulations (45 CFR Part 100a).

(20 U.S.C. 1863(g).)

(Catalog of Federal Domestic Assistance Number 13,562, Gifted and Talented.)

Dated: February 7, 1977.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

[FR Doc.77-4830 Filed 2-15-77;8:45 am]

PROGRAM FOR THE GIFTED AND TALENTED

Closing Date for Receipt of Applications for Programs for Gifted and Talented—Competitive Continuation Awards

Pursuant to the authority contained in section 404 (c), (d), and (e) of Pub. L. 93-380, the Education Amendments of 1974 (20 U.S.C. 1863), the U.S. Commissioner of Education hereby gives notice that applications for the continuation of assistance (1) for Statewide activities under § 160b.22 and Subpart D of the program regulation (45 CFR 160b.22 and Subpart D of Part 160b) for Gifted and Talented are being accepted from State educational agencies, and (2) for graduate training programs for leadership personnel and internships from colleges and universities (45 CFR 160b.42(b) (1) and (3)). Funds are available for grants to continue programs presently in operation pursuant to an approved project period in excess of one year. Applications for continuation awards are competitive with other applications for continuation awards in the same year. (45 CFR 160b.4 (c) (2).)

Applications must be received by the U.S. Office of Education Application Control Center on or before April 27, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.562. An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.562A for State Educational Agencies, and 13.562B for graduate training programs for leadership personnel and internships from colleges and universities. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than April 22, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office, Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* The amount of funds which is expected to be available in Fiscal Year 1977 for the continuation of Gifted and Talented programs is $1,686,000. The anticipated number of continuation awards for gifted and talented programs is twenty-eight. The funding level of programs funded in excess of 12 months has ranged in the past operation year between $20,000 and $200,000. It is projected that many of these continuation projects may be funded at the same level this fiscal year.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any pattern of distribution, except as required by applicable provisions of the Gifted and Talented regulations, and appropriation acts.

Further information and application forms may be obtained from the Office of Gifted and Talented, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

D. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations published in the FEDERAL REGISTER on May 6, 1976 (41 FR 18660 45 CFR Part 160b), and the Office of Education General Provisions Regulations (45 CFR Part 100a).

(20 U.S.C. 1863 (c), (d), and (e).)

(Catalog of Federal Domestic Assistance Number 13.562, Gifted and Talented.)

Dated: February 7, 1977.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

[FR Doc.77-4831 Filed 2-15-77;8:45 am]

PROGRAM FOR THE GIFTED AND TALENTED

Closing Date for Receipt of Applications for Programs for Gifted and Talented—Initial Awards

Pursuant to the authority contained in section 404 (c), (d), and (e) of Pub. L. 93-380, the Education Amendments of 1974 (20 U.S.C. 1863), the U.S. Commissioner of Education hereby gives notice that applications for initial awards will be accepted from: (1) State and local educational agencies for Statewide and locally based programs for gifted and talented children (20 U.S.C. 1863(c); 45 CFR Part 160b, Subpart C); (2) State agencies for State personnel training projects (20 U.S.C. 1863(d); 45 CFR Part 160b, Subpart D); and (3) institutions or agencies for a training institute for leadership personnel (20 U.S.C. 1863(e); 45 CFR 160b.42(b)(2)).

Applications must be received by the U.S. Office of Education Application Control Center on or before April 27, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW, Washington, D.C. 20202, Attention: 13.562A for both State and local educational agency programs for gifted and talented children and State personnel training projects; and 13.562B for institutions or agencies for a training institute for leadership personnel program. Attention: 13.562. An application sent by mail will be considered to be received on time by the application Control Center if:

(1) The application was sent by registered or certified mail not later than April 22, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office, Building Three, 7th and D Streets, SW, Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* The funding level and distribution of project funds vary according to the final appropriation made available during a specific fiscal year. The amount of funds available to the Program for Gifted and Talented during fiscal year 1977 is $2.56 million. The projected allocation for initial awards is $874,000. The allocation for continuations of current projects for which applications are being invited pursuant to separate notices of closing dates is $1,686,000. It is expected that the funding level for specific categories of initial awards generally will not exceed $549,000 for projects under section 404(c), 45 CFR Part 160b, Subpart C; $125,000 for projects under section 404 (d), 45 CFR Part 160b, Subpart D; and $200,000 for a leadership training institute under section 404(e), 45 CFR 160b.42(b)(2). There is no fixed level of funding or number of grants projected. However, approximately forty-five new projects and twenty-eight continuation projects are expected to be funded. The funding level for the past operational year has ranged between $6,000 and $200,000, the largest grant being received by one of the two consortia of State educational agencies. Further information and application forms may be obtained from the Office of Gifted and Talented, Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

D. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations published in the FEDERAL REGISTER on

May 6, 1976 (41 FR 18660, 45 CFR Part 160b) and the Office of Education General Provisions Regulations (45 CFR Part 100a).

(20 U.S.C. 1863 (c), (d), (e).)

(Catalog of Federal Domestic Assistance Number 13.562, Gifted and Talented.)

Dated: February 9, 1977.

WILLIAM F. PIERCE,
Acting Commissioner of Education.

[FR Doc.77-4832 Filed 2-15-77;8:45 am]

Office of Human Development

VOCATIONAL REHABILITATION

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Section 203 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 763), grants may be made to State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, including institutions of higher education, to assist in increasing the numbers of personnel trained in providing vocational rehabilitation services to handicapped individuals and in performing other functions necessary to the development of such services.

Applications for rehabilitation long-term training projects (except for projects for the in-service training of State vocational rehabilitation agency personnel) must be received by April 8, 1977. Applications for projects for the in-service training of State vocational rehabilitation agency personnel must be received by July 15, 1977.

Regulations governing rehabilitation long-term training were published in the FEDERAL REGISTER in Subpart A and Subpart E of Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR, Part 1362), on November 25, 1975.

A. *Purpose.* Long-term training grants in vocational rehabilitation are made for the purpose of paying part of the costs of projects designed to increase the supply of personnel available for employment in public and private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely disabled. Long-term training projects include: training projects in established rehabilitation disciplines; experimental and innovative training projects; rehabilitation continuing education programs; and projects for the in-service training of State vocational rehabilitation agency personnel.

B. *Eligible Applicants.* Applications may be submitted by State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

C. *Available Funds.* The budget request level for FY 1978 beginning October 1, 1977 for the rehabilitation training program is $20 million.

D. *Areas of Training.* Grants are made to provide a balanced program of assistance to meet the medical, vocational and other personnel training needs of both public and private rehabilitation programs and institutions. A balanced program of long-term training assistance is considered to include the following:

1. Long-Term Training in the Established Rehabilitation Disciplines, including training projects in those areas identified in Section 203 of the Rehabilitation Act of 1973, as amended.
2. Experimental and Innovative Training Projects;
3. Rehabilitation Continuing Education Programs; and
4. State Vocational Rehabilitation Agency In-Service Training.

E. *Program Priorities.* In awarding long-term training grants, priority will be given to the support of ongoing training projects which are eligible for continuation grants and which have been determined to be making satisfactory progress toward achieving established objectives. In addition, special priority will be assigned to training in those professional fields which directly support and enhance the vocational rehabilitation service delivery activities of the State vocational rehabilitation agencies. It is unlikely that funds will be available for the initial support of any new rehabilitation long-term training projects during FY 1978.

F. *Application Review and Evaluation.* Applications for the support of new or competing extension long-term training projects in vocational rehabilitation (except for projects for the in-service training of State vocational rehabilitation personnel) receive a scientific and technical review by qualified experts who are not Federal employees. Applications are evaluated in terms of the following factors:

1. The relevance of the purpose of the training project to the administratively established objectives of the public rehabilitation program and the Rehabilitation Act of 1973, as amended;
2. The methodology to be employed in implementing the project and its feasibility for the achievement of the established educational objectives;
3. The existence of a plan for the evaluation of the effectiveness of project activities;
4. The existence of a working relationship with the State vocational rehabilitation agency and other agencies and rehabilitation facilities providing vocational rehabilitation services;
5. The extent to which the training project holds promise of increasing the supply of personnel trained to deliver vocational rehabilitation services to physically or mentally handicapped persons, especially those with the most severe handicaps; or other groups of handicapped persons, such as handicapped persons from minority groups;
6. The extent to which other training programs in the same field are available in the State or Region;
7. Evidence that the training institution is architecturally accessible to the handicapped;
7. Evidence that the training institution is architecturally accessible to the handicapped;
8. The extent to which application instructions have been adequately addressed.
9. The utilization, for clinical, field, or instructional experiences, of a "rehabilitation setting" which means an agency or institution operating an organized program of vocational rehabilitation services designed to help severely physically or mentally handicapped persons function optimally in society within their capacities and limitations.
10. Evidence that the supervised clinical practice will be educationally focused and that standards to assure the competence of those staff persons supervising students have been established and will be maintained by the training institution;
11. The designation of a project director qualified in his field, able to devote sufficient time to the project to ensure its proper direction, and with a demonstrated interest in the rehabilitation of physically and mentally handicapped persons;
12. The financial and other resources of the applicant for accomplishing the objectives of the project, how much the applicant plans to contribute to the total cost of the project, and the reasonableness of the budget in relation to the proposed project;
13. The criteria to be used for the selection of students to whom traineeships are to be awarded;
14. Where appropriate, evidence of current accreditation by the designated accrediting agency; and
15. Information on the employment outlook to graduates of the training program including reports from potential employers, job vacancies in the geographical area served by the educational institution, and records of positions held by students who have completed the training program.

G. *Program Information and Application Forms.* Application materials including program guidelines and grant administration policies are being mailed to grantees who have been conducting long-term training projects during the 1976–1977 academic year. Other eligible applicants may request application materials for the rehabilitation training program from the appropriate Regional Office of the Rehabilitation Services Administration.

H. *Application Submittal.* 1. *Application sent by mail.* (a) Applications for the support of special long-term training projects of national scope should be addressed as follows: Division of Grants and Contract Management, Office of Human Developmet, Room 1427, 330 C Street, S.W., Washington, D.C. 20201. Special long-term training projects of national scope are those projects which are designed to (1) have a direct impact on vocational rehabilitation programs

throughout the country; (2) have objectives which, if achieved, could result in an improved delivery system for vocational rehabilitation services, especially as it relates to those with the most severe handicaps, and which could affect national policies or standards established for the rehabilitation training program; (3) encompass participants from all sections of the country and not necessarily relate to a single rehabilitation field of practice; and (4) be conducted by an institution, agency or organization with the capacity to offer training in more than one geographical location.

(b) Applications for the support of long-term training projects of Regional scope and projects for the in-service training of State vocational rehabilitation personnel should be addressed to the appropriate Director, Office of Rehabilitation Services as follows:

REGION I

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.

REGION II

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Building, 26 Federal Plaza, New York, New York 10007.

REGION III

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101.

REGION IV

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 50 7th Street, N.E., Room 358, Atlanta, Georgia 30323.

REGION V

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606.

REGION VI

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Fidelity Union Life Building, Room 340, 1511 Bryan Street, Dallas, Texas 75201.

REGION VII

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 601 East 12th Street, Kansas City, Missouri 64106.

REGION VIII

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Office Building, Room 7415, 19th and Stout Streets, Denver, Colorado 80202.

REGION IX

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.

REGION X

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Arcade Building, 1321 Second Avenue (MS 622), Seattle, Washington 98101.

An application sent by mail will be considered to be received on time if:

(1) The application was sent by registered or certified mail not later than April 8, 1977 as evidenced by the U.S. Postal Service postmark, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date in either the Department of Health, Education, and Welfare or the Office of Human Development mailrooms in Washington, D.C., or as appropriate, a Regional Office mailroom. (In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the Office of Human Development.)

2. *Hand delivered applications.*—An application to be hand delivered must be taken to the Division of Grants and Contract Management, Office of Human Development, 330 C Street, S.W., Washington, D.C. or to the appropriate Region Office of the Director, Office of Rehabilitation Services. Hand delivered applications will be accepted during normal working hours. Applications will not be accepted after 5:00 p.m., on the closing date.

3. *Late submittals.*—Grant applications received at the designated office after the April 8, 1977 deadline are late applications and will not be considered for review by the non-Federal experts.

(Catalog of Federal Domestic Assistance Number 13.629, Rehabilitation Training)

Dated: February 3, 1977.

JOSEPH A. MOTTOLA,

Acting Commissioner, Rehabilitation Services Administration.

[FR Doc.77-4741 Filed 2-15-77;8:45 am]

VOCATIONAL REHABILITATION

Priorities and Closing Date for Receipt of Applications Regarding Rehabilitation Short-Term Training of National Scope

Notice is hereby given that pursuant to the authority contained in Section 203 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 763), grants may be made to State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, including institutions of higher education, to provide short-term training in vocational rehabilitation in order to assist in increasing the numbers of personnel trained in providing vocational rehabilitation services to handicapped individuals and in performing other functions necessary to the development of such services.

Applications for rehabilitation short-term training of national scope must be received by the Division of Grants and Contract Management, Office of Human Development, Room 1427, 330 C Street, S.W., Washington, D.C. 20201 by April 15, 1977.

Regulations governing rehabilitation short-term training were published in the FEDERAL REGISTER in Subpart A and Subpart E of Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR Part 1362), on November 25, 1975.

A. *Purpose.* Short-term training grants in vocational rehabilitation are made for the purpose of paying part of the costs of projects designed for improving the professional practice skills of vocational rehabilitation workers serving the physically and mentally disabled, especially those who are severely disabled.

B. *Eligible applicants.* Applications may be submitted by State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

C. *Available funds.* An estimated $1 million is available for rehabilitation short-term training in FY 1977.

D. *Purpose of rehabilitation short-term training of national scope and program priorities.* 1. Rehabilitation short-term training of national scope includes proposals for the support of a workshop, institute, seminar or other short-term training course conducted in order:

a. To demonstrate curriculum, or other training modules appropriate for general use in rehabilitation agencies throughout the country and related to (1) the provision of vocational rehabilitation services to specific groups of handicapped individuals or (2) the improved performance of vocational rehabilitation practitioners in carrying out specific functional responsibilities;

b. To provide special training of national significance at a single training setting, or, on a coordinated basis, at a number of different training settings.

There are no geographical restrictions for trainees participating in short-term training courses of national scope.

2. In FY 1977 the following program priorities, not in order of priority, have been identified for short-term training of national scope:

a. Client-counselor cooperative relationships in the development of the individualized written rehabilitation program;

b. Alternative methods for accelerating the delivery of client services;

c. Refining the definition of "severe handicap";

d. The use of self-employment as a vocational goal for the severely handicapped;

e. Group rehabilitation counseling techniques in the vocational rehabilitation of the severely handicapped;

f. The definition of role, function, and training needs of work adjustment specialists with the handicapped;

g. Setting standards for providers of physical and mental restoration services;

h. State vocational rehabilitation agency rehabilitation facility specialist training;

i. The provision of psychological services by State vocational rehabilitation agencies;

j. The evaluation of vocational rehabilitation programs and activities;

k. The vocational rehabilitation of clients with multiple sclerosis, muscular dystrophy, and the chronic degenerative disabilities;

l. Training of trainers of personnel providing physical and mental restoration services;

m. Alternatives to institutionalization of the mentally ill;

n. Improving counselor educator-State vocational rehabilitation agency communication;

o. The use of job forecasting, job development, and job analysis in vocational rehabilitation;

p. The rehabilitation of handicapped migratory agricultural workers;

q. The rehabilitation of the homebound severely disabled;

r. The removal of architectural and transportation barriers;

s. The use of similar benefit resources by State vocational rehabilitation agencies;

t. Competency based rehabilitation education;

u. Forward planning in vocational rehabilitation;

v. The role of self-help organizations in the vocational rehabilitation of the severely handicapped; and

w. New directions in the delivery of vocational rehabilitation services demonstrated under innovation and expansion grants.

E. *Application review and evaluation.* Applications for the support of rehabilitation short-term training of national scope will be evaluated in terms of the following factors:

1. The relevance of the content of the proposed short-term training to the administratively established objectives of the public rehabilitation program, the objectives of the Rehabilitation Act of 1973, as amended, and the FY 1977 priorities for rehabilitation short-term training;

2. The qualifications of the instructional staff;

3. The speed with which the training can be put to use by the persons proposed to be trained;

4. The reasonableness of the budget in relation to the proposed project;

5. The methodology to be employed in implementing the project and its feasibility for the achievement of the established educational objectives;

6. The financial and other resources of the applicant for accomplishing the objectives of the training project and how much the applicant plans to contribute to the total cost of the project;

7. The criteria to be used for the selection of individuals to whom traineeships are to be awarded;

8. Evidence that the training institution is architecturally accessible to the handicapped;

9. Where appropriate, evidence of current accreditation by the designated accrediting agency;

10. The extent to which application instructions are adequately addressed, including both the narrative statement and budget justification;

11. The extent to which the proposal provides for an evaluation methodology, including the manner in which such methodology will be employed to measure the achievement of the objectives of the training program;

12. The evidence of a working relationship with an appropriate State vocational rehabilitation agency and other agencies providing vocational rehabilitation services; and

13. The extent to which the proposal is of a national scope.

F. *Program information and application forms.* Program information, including the general FY 1977 plan for short-term training of national scope, and application forms may be obtained from: Division of Grants and Contract Management, Office of Human Development, Room 1427, 330 C Street, S.W., Washington, D.C. 20201.

G. *Application submittal.* 1. *Applications sent by mail.*—Applications for the support of short-term training of national scope for the training of individuals from throughout the country should be addressed as follows: Division of Grants and Contract Management, Office of Human Development, Room 1427, 330 C Street, S.W., Washington, D.C. 20201. An application sent by mail will be considered to be received on time if:

a. The application was sent by registered or certified mail not later than April 15, 1977 as evidenced by the U.S. Postal Service postmark, or on the original receipt from the U.S. Postal Service; or

b. The application is received on or before the closing date in either the Department of Health, Education, and Welfare or the Office of Human Development mailrooms in Washington, D.C. (In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the Office of Human Development.)

2. *Hand delivered applications.* An application to be hand delivered must be taken to the Division of Grants and Contract Management, Office of Human Development, 330 C Street, S.W., Washington, D.C. 20201. Hand delivered applications will be accepted during normal working hours. Applications will not be accepted after 5:00 p.m., on the closing date.

3. *Late submittals.* Grant applications received after the closing date will not be considered for review.

(29 U.S.C. 763.)

(Catalog of Federal Domestic Assistance Number 13.629, Rehabilitation Training.)

Dated: February 3, 1977.

JOSEPH A. MOTTOLA,
Acting Commissioner, Rehabilitation Services Administration.

[FR Doc.77-4740 Filed 2-15-77;8:45 am]

Social and Rehabilitation Service

GRANTS FOR TRAINING PERSONNEL FOR FIELD OF CHILD WELFARE

Notice of Availability of Training Grants for Child Welfare

Notice is hereby given of the availability of Fiscal Year 1977 funds for training grants in the field of child welfare as authorized under Section 426 of Title IV, Part B of the Social Security Act (42 U.S.C. 626). Applications must be received by May 1, 1977 in order to be considered.

A. *Purpose and Objectives.* Grants may be made for training projects which have one or more of the following objectives: to improve the quality of service delivery to children and families and the management of child and family service programs; to develop and maintain an adequate supply of personnel qualified for professional, technical, or other work in the field of child and family services; to provide educational and training opportunities to personnel currently employed in child and family services to raise their level of competence and broaden their expertise; to strengthen and improve educational programs and resources for preparing personnel for the field of child and family services; and to support experimentation with new methods of education and training. Three types of grants may be awarded:

1. *Teaching grants* to institutions of higher learning for the purpose of developing, expanding, and improving educational programs and resources for preparing personnel for work in the field of child and family welfare. These grants are intended to defray part of the costs of instruction and program development, including salaries of faculty and supporting services. They may be made to initiate new or experimental programs, to expand existing programs in order to prepare larger numbers of students, or to strengthen instructional resources, curriculum offerings, and educational methods.

2. *Traineeship grants* to institutions for the purpose of providing financial support for students preparing for work in the field of child and family services. Trainee support in the form of stipends, tuition and educational fees, and dependency allowances may be provided by institutions to students with career goals in child and family services who are enrolled in appropriate educational programs. Such support may be provided to students in the junior and senior years at the undergraduate level, in master's degree programs, and in doctoral programs. Traineeship funds, which are available for Regionally funded projects, are not available for national projects.

3. *Short-term training grants* to institutions of higher learning for the purpose of increasing the competence of personnel currently employed in the field of child and family services. They are intended to strengthen the capacity of State and local public social service agencies—and of other public and private agencies and facilities that provide services in association with the public agencies under purchase-of-service or other arrangements—to manage social service programs and deliver services effectively. Short-term training may be provided in courses, institutes, workshops, and seminars that are not degree-oriented although educational institutions may grant academic credit for completion of short-term courses. Short-term training can be provided to a wide range of per-

sonnel-administrators, middle management, supervisors, caseworkers, paraprofessionals and aides, specialists, lawyers, law enforcement and court personnel, and others. Foster parents, institutional personnel, homemakers, day care staff, and volunteers also are groups for whom training may be provided.

B. *Eligible Applicants.* Public or other nonprofit accredited institutions of higher learning may apply for teaching grants and short-term training grants. Traineeship grants are available only to public or nonprofit private colleges and universities offering baccalaureate degree programs in social work which are accredited or holding program approval by the Council on Social Work Education, and to graduate schools of social work accredited by the Council or accepted as candidates for accreditation. Grants are not made to individuals even though they may be affiliated with an institution of higher learning.

C. *Available Funds.* Of the total appropriation of $8,150,000 available in Fiscal Year 1977, approximately $1,059,500 is expected to be awarded for training grants for projects of national significance. National significance projects are expected to approach educational and training needs from a national or multi-regional perspective, respond to the diverse range of conditions in social service and educational programs throughout the nation, take an innovative and developmental approach, and promote the dissemination and utilization of training programs, products and materials on a national or multi-regional basis. The balance of available funds will be allocated to the SRS Regional Offices for training projects oriented toward the needs of the geographical area of the respective Regions. Funds will be allocated in direct proportion to the amount of Federal funds expended in each Region in FY 1976 for social services programs under the Social Security Act.

D. *Duration and Amount of Grants.* Grants will be awarded for a period of one year, but may be continued, on a competing basis, for a longer period depending on the availability of funds, the meeting of the project objectives and completion of first year products, and relevance of the project to current program priorities. Grants for projects of national significance generally have amounted to approximately $100,000 each, but applications may be made for lesser or greater amounts than this award. It is anticipated that only one new project of national significance under each priority area will be funded. The number of Regional projects funded under each priority area will depend on needs in the Region and available funds.

E. *Program Priority Areas.* The current priorities of the Social and Rehabilitation Service reflect national and State priorities. They are intended to promote near-term and long-range planning, development, and implementation of social services programs for families and children under Title XX. Applications must be related to these priority areas and should reflect new approaches to advancing and expanding the current "State of the Art" in education and training for the field of child welfare directed to improve the quality of service delivery to children and families. Utilization of the following priorities will vary according to the educational objectives appropriate for different levels of education.

1. *Administration of Child and Family Service Programs.* Administration is defined broadly to include all aspects of planning, administration, and management of a social services program: Comprehensive social services planning, citizen involvement, manpower planning, financial management, contracting methodology and management, research and evaluation activities, and others.

2. *Delivery of Social Services to Families and Children of Ethnic Minority Groups (Hispanic, Indians, Asia American, Blacks).* Training and educational opportunities directed to provide a knowledge base and understanding of ethnicity: Cultural differences and values and their effects on human behavior, needs, parental roles, etc.

3. *Preventive Social Services to Children and Their Families.* Education and training programs related to preventive social services to children and their families include such areas as organization and delivery of service at the community level; principles and techniques to achieve "permanence" for children in foster care; management of foster care systems and deinstitutionalization; development of knowledge base and skills in family dynamics and in intervention techniques; evaluation of effectiveness and costs of services, etc.

4. *Child Care Services.* Education and training programs as related to delivery of social services in settings of in-home care, family day care, group home day care, and day care centers.

5. *Social Services in Support of the Delivery of Health Service.* The planning, management, and delivery of health support services for children and their families; training programs for providers of child care services in health concepts and preventive health care; maintaining necessary linkages with delivery systems for preventive and health care.

F. *Application Review and Evaluation.* Applications will be reviewed by a review panel composed of a minimum of three reviewers (Federal and/or non-Federal) having expertise in child welfare training programs and needs. The following criteria will be applied in evaluation of applications:

1. *Teaching grant and short-term training grant applications* will be evaluated according to (a) significance of the project in relation to current Section 426 priorities and to objectives of the SRS and to regional, State, or local priorities; (b) soundness of training or educational design and, with respect to teaching grant applications, the relationship of the project to the basic program of the institution; (c) qualifications of project leadership and professional staff; (d) capacity and resources of applicant to conduct project; (e) evidence that project has been designed in consultation with State and local public social service agencies and other interested agencies or groups. Evaluation criteria for teaching grants will also include project plans for evaluation and follow up.

2. *Traineeship requests* will be evaluated according to (a) significance of project in relation to current Section 426 priorities and objectives of the SRS and to Regional, State, or local manpower needs and priorities; (b) adequacy of institution's education program and resources to prepare students for the field of child and family services; (c) adequacy of institution's plan for selection of candidates for child and family service traineeships.

G. *Program Information and Application Forms.* Applications must be made on Form SF-424/HEW-608T. Grants will be administered in accordance with DHEW Regulations 45 CFR Part 74 and DHEW and SRS grants administration policies. Application forms, instructions therefor, and program information, including the complete program announcement for FY 1977, may be obtained as follows:

1. For training projects of national significance—from the Division of Project Grants Administration, Social and Rehabilitation Service, Room 4200/C, 330 C Street SW., Washington, D.C. 20201;

2. For Regional training projects—from the appropriate Regional Office of the Social and Rehabilitation Service (see addresses at the end of this Notice).

H. *Application Submittal.* Applications for training projects of national significance should be addressed to the Division of Project Grants Administration, Social and Rehabilitation Service, Room 4200/C, 330 C Street SW., Washington, D.C. 20201. Applications for the support of Regional training projects should be addressed to the appropriate Regional Office of the Social and Rehabilitation Service. All applications must be received by May 1, 1977. An application will be considered to be received on time if:

1. The application was sent by registered or certified mail not later than May 1, 1977 as evidenced by the U.S. Postal Service postmark, or on the original receipt from the U.S. Postal Service; or

2. The application is received on or before the closing date in either the Department of Health, Education, and Welfare or the Social and Rehabilitation Service mailrooms in Washington, D.C., or as appropriate, a Regional Office mailroom. (In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the DHEW or the SRS.)

ADDRESSES—REGIONAL OFFICES OF SOCIAL AND REHABILITATION SERVICE

Region I: Mr. Neil P. Fallon, Regional Commissioner, SRS, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.

Region II: Mr. William Toby, Regional Commissioner, SRS, Federal Building, 26 Federal Plaza, New York, New York 10007.

Region III: Mr. Alwyn Carty, Regional Commissioner, SRS, P.O. Box 7760 (3535 Market Street), Philadelphia, Pennsylvania 19101.

Region IV: Mrs. Virginia M. Smyth, Regional Commissioner, SRS, 50 Seventh Street NE., Room 744, Atlanta, Georgia 30323.

Region V: Mr. Clyde Downing, Regional Commissioner, SRS, 30th Floor, 300 South Wacker Drive, Chicago, Illinois 60606.

Region VI: Mr. Max C. Odom, Acting Regional Commissioner, SRS, 1200 Main Tower Building, Room 2000, Dallas, Texas 75202.

Region VII: Mr. Dwight High, Acting Regional Commissioner, SRS, 601 East 12th Street, Kansas City, Missouri 64106.

Region VIII: Mr. Francis Ishida, Acting Regional Commissioner, SRS, Room 11037, Federal Office Building, 19th and Stout Streets, Denver, Colorado 80202.

Region IX: Mr. Charles W. Goady, Regional Commissioner, SRS, 50 United Nations Plaza, Room 450, San Francisco, California 94102.

Region X: Ms. Jeanne Jewett, Acting Regional Commissioner, SRS, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101.

(Catalog of Federal Domestic Assistance No. 13.768, Training Grants in Field of Child Welfare.) For further information, call Dr. F. Pauline Godwin, Public Services Administration, Social and Rehabilitation Service, (202) 245-0504.

Dated: February 11, 1977.

DON I. WORTMAN,
Acting Administrator,
Social and Rehabilitation Service.

[FR Doc.77-4941 Filed 2-15-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-77-725; OILSR No. 0-0819-09-183; 76-334 IS]

KINGS PARK AND CROWN DEVELOPMENT OF FLORIDA CORP.

Hearing

Pursuant to 15 U.S.C. 1706(d) and 24 C.F.R. 1720.160(b) Notice is hereby given that:

1. Kings Park, Herman Heisler, President and Crown Development of Florida Corporation, authorized agents and officers, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 4, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Kings Park subdivision, located in Marion County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 24, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 C.F.R. 1720.160(d), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. on March 8, 1977 at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before February 14, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 C.F.R. 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 C.F.R. 1720.440.

Dated: January 19, 1977.

JAMES W. MAST,
Chief Administrative Law Judge.

[FR Doc.77-4912 Filed 2-15-77;8:45 am]

[Docket No. N-77-724; OILSR No. 0-1839-05-150; 76363-IS]

WINTER PARK HIGHLANDS UNITS 1-6 ET AL.

Hearing

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Winter Park Highlands Units 1-6, Winter Park Highlands, Inc. and David G. Elmore, President and Director, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 26, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d) 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Winter Park Highlands, Units 1-6, located in Grand County, Colorado, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received January 4, 1977, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 C.F.R. 1720.160(d), *It is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. on March 30, 1977 at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before March 8, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 C.F.R. 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 C.F.R. 1720.440.

Dated: January 21, 1977.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-4913 Filed 2-15-77;8:45 am]

[Docket No. N-77-718]

COMPASS LAKE HILLS

Hearing

In the matter of Compass Lake Hills, William L. Cargill, President and Compass Lake Development Corporation, 76-320-IS OILSR No. 0-1488-09-430 and (A) 0-2232-09-693 and (A).

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) notice is hereby given that:

1. Compass Lake Hills, William L. Cargill, President and Compass Lake Development Corporation, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full

Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued October 26, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706 (d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Compass Lake Hills located in Jackson County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 11, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested at hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on February 24, 1977 at 10:00 a.m.

5. The following time and procedure is applicable to such hearings: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before January 27, 1977.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an ORDER Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: November 23, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.77-4919 Filed 2-15-77;8:45 am]

[Doc. No. N-77-717]

CANYON LAKE HILLS

Hearing

In the matter of Canyon Lake Hills, David Miller, President and Lake Croft Beach Estates, Inc., 76-314-IS, OILSR No. 0-2445-49-177.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) notice is hereby given that:

1. Canyon Lake Hills, David Miller, President and Lake Croft Beach Estates, Inc., authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued October 21, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Canyon Lake Hills, located in Comal County Texas, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 10, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on February 23, 1977 at 10 a.m.

5. The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before Jnauary 28, 1977.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an ORDER Suspending the Statement of Record, herein identified shall be issued pursuant to 24 CFR 1710.45 (b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: November 23, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.77-4920 Filed 2-15-77;8:45 am]

[Docket No. N-77-720]

EVERGREEN MEADOWS

Hearing

In the matter of: Evergreen Meadows Units 1-7 and Evergreen Meadows West Units 1-2, Evergreen Meadows Land Company and Walter J. Burke, President, 76-299-IS, OILSR, No. 0-2265-05-230 (A) (B).

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) notice is hereby given that:

1. Evergreen Meadows Units 1-7 and Evergreen Meadows West Units 1-2, Evergreen Meadows Land Company and Walter J. Burke, President, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448 (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued October 26, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 C.F.R. 1710(b) (1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Evergreen Meadows Units 1-7 and Evergreen Meadows West Unit 1-2, located in Jefferson County, Colorado, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 16, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street SW., Washington, D.C., on March 15, 1977 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before February 22, 1977.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified shall be issued pursuant to 24 CFR 1710.-45(b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: December 6, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.77-4917 Filed 2-15-77;8:45 am]

[Docket No. N-77-719]

LAKE TRASK TIMBER TRAILS ASSOCIATION

Hearing

In the matter of: Lake Trask Timber Trails Association, Raymond J. Kittleson, President and Timber Trails, Inc., 76-335-IS OILSR No. 0-4586-56-154.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) notice is hereby given that:

1. Lake Trask Timber Trails Association, Raymond J. Kittleson, President and Timber Trails, Inc., authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 4, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Lake Trask Timber Trails Association located in Mason County, Washington, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 24, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on February 22, 1977 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before February 1, 1977.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: December 1, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.77-4918 Filed 2-15-77;8:45 am]

[Docket No. N-77-715; OILSR Nos. 76-306-IS, 0-1207-29-39]

LAND OF LAKES AND LAFAYETTE LAND COMPANY, INC.

Hearing

Pursuant to 15 U.S.C. 1706(d) and 24 C.F.R. 1720.160(b) Notice is hereby given that:

1. Land of Lakes, James Higgins, President and Lafayette Land Company, Inc., authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued October 13, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d) 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Land of Lakes subdivision, located in Crystal City, Missouri, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to to make the statements therein not necessary to make the Statements therein not misleading.

2. The Respondent filed an Answer received November 9 and 15, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. on April 11, 1977 at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before March 18, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 21, 1977.

By the Secretary.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-4922 Filed 2-15-77;8:45 am]

[Docket No. N-77-716]

RIDGE MANOR INDUSTRIAL PARK

Hearing

In the matter of: Ridge Manor Industrial Park, Gerald Robins, President, and Roland International Corporation, 76-323-IS OILSR No. 0-0976-09-232(A).

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) notice is hereby given that:

1. Ridge Manor Industrial Park, Gerald Robins, President, and Roland International Corporation, authorized agents, and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued October 26, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Ridge Manor Industrial Park, located in Hernando County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 22, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on February 24, 1977 at 2:00 p.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before February 1, 1977.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: December 6, 1976.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.77-4921 Filed 2-15-77;8:45 am]

[Docket No. N-77-723]

RIDGEWOOD

Notice of Hearing

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) Notice is hereby given that:

1. Ridgewood, Edward K. Warren, Partner and David K. Warren, Partner and David K. Warren, Partner, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law. 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 24, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Ridgewood, located in Teller County, Colorado, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received December 14, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.
quested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. on March 24, 1977 at 10:00 a.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before March 4, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 21, 1977.

JAMES W. MAST,
Chief, Administrative Law Judge.

[FR Doc.77-4914 Filed 2-15-77;8:45 am]

[Docket No. N-77-721]

SEVEN DEVILS MOUNTAIN RESORT

Hearing

In the matter of: Seven Devils Mountain Resort, L. A. Reynolds Industrial District, Inc. and Charles E. Griffin, President, 76-271-IS, OILSR No. 0-1312-38-18.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(b) notice is hereby given that:

1. Seven Devils Mountain Resort, L. A. Reynolds Industrial District, Inc. and Charles E. Griffin, President, authorized agents and officers, hereinafter referred to as "Respondent", being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued September 15, 1976, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Seven Devils Mountain Resort, located in Avery and Wautaga Counties, North Carolina, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 19, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on March 22, 1977 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before February 28, 1977.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: December 1, 1976.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.77-4916 Filed 2-15-77;8:45 am]

[Docket No. N-77-722; OILSR Nos. 76-331-IS, 0-3926-54-204]

SHENANDOAH SHORES AND SHENANDOAH HEIGHTS DEVELOPMENT CORP.

Hearing

Pursuant to 15 U.S.C. 1706(d) and 24 C.F.R. 1720.160(b) notice is hereby given that:

1. Shenandoah Shores, John J. Hall, President and Shenandoah Heights Development Corporation, authorized agents and officers, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1710, et seq.) received a Notice of Proceedings and Opportunity for Hearing issued November 4, 1976, which was sent to the developer pursuant to 15 U.S.C. 7106(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Shenandoah Shores, located in Warren County, Virginia, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received November 30, 1976, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 C.F.R. 1720.160(d), *it is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, #6 in Room 7146, Department of HUD, 451 Seventh Street, S.W., Washington, D.C. on February 25, 1977, at 2:00 p.m.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C., 20410 on or before January 31, 1977. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed at de-

fault and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 C.F.R. 1710.45 (b) (1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 19, 1977.

JAMES W. MAST,
Chief,
Administrative Law Judge.

[FR Doc. 77-4915 Filed 2-15-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

GULF OF MEXICO OUTER CONTINENTAL SHELF (TENTATIVE SALE NO. 51)

Call for Nominations of and Comments on Areas for Oil and Gas Leasing

Pursuant to the authority prescribed in 43 CFR 3301.3 (1975), nominations are hereby requested for areas on the Gulf of Mexico Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343 (1970)). Nominations will be considered for any or all of that part of the following mapped areas seaward of the submerged lands of the adjacent States.

1. Outer Continental Shelf Official Leasing Maps—Texas Nos. 1 through No. 7C. These maps are arranged in two sets (Nos. 1 through 4-7 maps, and Nos. 5 through 7C-8 maps) which will sell for $5 per set.

2. Outer Continental Shelf Official Leasing Maps—Louisiana Nos. 1 through 11A. This is a set of 26 maps which sells for $15.

3. Outer Continental Shelf Official Protraction Diagrams:

NG 14-3	Corpus Christi
NG 14-6	Port Isabel
NG 15-1	East Breaks
NG 15-2	Garden Banks
NH 15-12	Ewing Bank (formerly New Orleans)
NG 15-3	Green Canyon (formerly New Orleans South No. 1)
NH 16-4	Mobile
NH 16-7	Viosca Knoll (formerly Mobile South No. 1)
NH 16-10	Mississippi Canyon (formerly Mobile South No. 2)
NH 16-5	Pensacola (except that area between the west boundary of the E95 range of blocks and the west boundary of the E118 range of blocks)
NH 16-8	Destin Dome (except that area between the west boundary of the E95 range of blocks and the west boundary of the E118 range of blocks); (formerly Pensacola South No. 1)
NH 16-11	De Soto Canyon (except that area between the west boundary of the E95 range of blocks and the west boundary of the E118 range of blocks); (formerly Pensacola South No. 2)
NH 16-9	Apalachicola
NH 16-12	Florida Middle Ground (formerly Apalachicola South)
NG 16-3	The Elbow (formerly Tampa West No. 1)
NG 16-6	NOTE.—Unnamed (Formerly Fort Myers West No. 2)
NH 17-7	Gainesville
NH 17-10	Tarpon Springs
NG 17-1	St. Petersburg (formerly Tampa)
NG 17-4	Charlotte Harbor (formerly Fort Myers West No. 1)

These protraction diagrams may be purchased individually for $2 each.

4. The disputed area between Texas and Louisiana now known as the Sabine Pass Area (Texas Map No. 8—Louisiana Map No. 12). An unpublished copy of this map is available for inspection at the New Orleans Outer Continental Shelf Office at the address cited below. An Official Leasing Map will be available prior to the closing date of the Call for Nominations and Comments, April 15, 1977, for $2 each.

All these maps may be purchased from the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 841, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

All nominations must be described in accordance with the Outer Continental Shelf Official Leasing Maps or Protraction Diagrams prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only whole blocks or properly described subdivisions thereof, not less than one quarter of a block, may be nominated.

In addition to requesting nominations of tracts for possible oil and gas leasing within the specified areas, this notice also requests comments identifying particular tracts recommended to be either specifically excluded from oil and gas leasing or leased only under special conditions because of conflicting values or environmental concerns. Particular geological, environmental, biological, archaeological, socioeconomic or other information which might bear upon potential leasing and development of particular tracts is requested where available. Information on these subjects will be used in the tentative selection of tracts which precedes any final selection by the Director pursuant to 43 CFR 3301.4. This information is requested from Federal, State and local governments, industry, universities, research institutes, environmental organizations, and members of the general public. Comments may be submitted on blocks or subdivisions thereof, as required for nominations, or on all areas or portions thereof as described above. They should be directed to specific factual matters which bear upon the Department's decision whether to make a preliminary selection of particular tracts within these areas for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347 (1970)) and possible leasing. Comments relating to general matters which would be applicable to oil and gas operations in any part of the OCS are not sought at this time.

Nominations and comments must be submitted not later than April 15, 1977, in envelopes labeled "Nominations of Tracts for Leasing in the Outer Continental Shelf-Gulf of Mexico," or "Comments on Leasing in the Outer Continental Shelf-Gulf of Mexico," as appropriate. They must be submitted to the Director, Attention 720, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240. Copies must be sent to the Conservation Manager, Gulf of Mexico OCS Operations, Geological Survey, Suite 336, Imperial Office Building, 3301 North Causeway Boulevard, Metairie, Louisiana 70011 and to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management at his address cited above.

This call for nominations and comments does not in any way commit the Department to leasing in the Gulf of Mexico. It is an information-gathering component of the Department's leasing procedure.

Final selection of tracts for competitive bidding will be made only after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any tracts finally selected for competitive bidding will be published in the FEDERAL REGISTER stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

GEORGE L. TURCOTT,
Associate Director,
Bureau of Land Management.

Approved: February 10, 1977.

HEATHER L. ROSS,
Acting Assistant Secretary of the Interior.

JANUARY 26, 1977.

[FR Doc.77-4794 Filed 2-15-77;8:45 am]

OUTER CONTINENTAL SHELF OFFSHORE THE SOUTH ATLANTIC STATES

Availability of Draft Environmental Impact Statement and Holding of Public Hearings Regarding Proposed Oil and Gas Lease Sale

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental impact statement relating to a proposed oil and gas lease sale of 225 tracts of submerged lands on the Outer Continental Shelf offshore the South Atlantic States (OCS Sale No. 43).

Single copies of the draft environmental statement can be obtained from the Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, Suite 841, 500 Camp Street, New Orleans, Louisiana 70130, and from

the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for review in the following public libraries: Atlanta Public Library, 126 Carnegie Way, Atlanta, Georgia; Savannah Public Library, 2002 Bull Street, Savannah, Georgia; Brunswick Regional Library, 208 Gloucester Street, Brunswick, Georgia; Volusia County Public Library, City Island, Daytona Beach, Florida; Jacksonville Public Library System, 122 North Ocean Street, Jacksonville, Florida; Leon, Jefferson & Wakulla County Public Library, 127 N. Monroe Street, P.O. Box 1329, Tallahassee, Florida; Public Library Association of St. Augustine, 12 Aviles Street, St. Augustine, Florida; Palm Beach County Public Library System Headquarters, 3650 Sumit Boulevard, West Palm Beach, Florida; Melbourne Public Library, 540 Fee Avenue, East, Melbourne, Florida; Charleston County Library, 404 King Street, Charleston, South Carolina; Georgetown County Memorial Library, Highmarket Street, Drawer D, Georgetown, South Carolina; Chapin Memorial Library, 14th Avenue, North, Myrtle Beach, South Carolina; Richland County Library, 1400 Sumter Street, Columbia, South Carolina; Olivia Raney Public Library, 104 Fayetteville Street, Raleigh, North Carolina; New Hanover County Library, 409 Market Street, Wilmington, North Carolina; Southport Brunswick County Public Library, 109 West Moore Street, Southport, North Carolina; and Craven Pamlico Carteret Regional Public Library, 400 Johnson Street, New Bern, North Carolina.

The public hearings will be held on March 28 and 29, 1977, in the Center Ballroom of the DeSoto Hilton, Savannah, Georgia and on March 31 and April 1, 1977, in the auditorium of the Mark Clark Building, The Citadel, Charleston, South Carolina, for the purpose of receiving comments regarding the South Atlantic OCS leasing proposal. The hearings will convene each day at 9 a.m., E.S.T., and are scheduled to adjourn at 9 p.m.

The hearings will provide the Secretary with additional information from both public and private sectors to help evaluate fully the potential effects of leasing oil and gas tracts offshore the South Atlantic States. In addition, the proceedings will give the Secretary the opportunity to receive further comments and views of concerned State and local agencies.

Interested individuals, representatives of organizations, and public officials who wish to testify at the hearings are requested to contact the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, at the above address by 4:15 p.m., March 18, 1977. Written comments from those unable to attend the hearings also should be addressed to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, at the above address. The Department will accept written testimony and comments on the draft environmental statement until April 15, 1977. This should allow ample time for those unable to testify at the hearings to make their views known and for the submission of supplemental materials by those who presented oral testimony. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the hearing officer at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered as part of the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, the hearing officer will give others present an opportunity to be heard.

After testimony and comments have been received and analyzed, a final environmental statement will be prepared.

FEBRUARY 8, 1977.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

Approved: February 10, 1977.

H. L. ROSS,
Acting Assistant Secretary of the Interior.

[FR Doc.77-4797 Filed 2-15-77;8:45 am]

[M 35740]

MONTANA

Coal Lease Offering by Sealed Bid and Oral Auction

FEBRUARY 8, 1977.

U.S. Department of the Interior, Bureau of Land Management, Montana State Office, Granite Tower, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107. Notice is hereby given that the lands hereinafter described in Rosebud County, Montana, will be offered for coal lease by sealed bid, followed by oral auction, starting at the level of the highest sealed bid received, to the qualified bidder of the highest cash amount per acre. The sale will be held at 2 p.m., M.S.T., March 1, 1977 in the Conference Room on the Sixth Floor of the Granite Tower Building. At that time sealed bids will be opened and read. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before the date, time, and place set for opening of such bids. Payment of the bonus shall be on a deferred basis, one-fifth due on the day of the sale, and the balance in equal annual installments on the first four anniversary dates of the lease.

WARNING TO BIDDERS: A lease will be issued to the qualified applicant unless he holds or controls more than 46,080 acres of Federal coal leases in Montana or 100,000 acres of Federal coal leases in the United States. In accordance with the Federal Coal Leasing Amendments Act of 1975, it will be necessary that the high bidder, as a prospective lessee, disclose the nature and extent of his coal holdings to the Department of Justice before issuance of the lease.

WRITTEN COMMENTS: The public is invited to submit written comments on the fair market value of the coal to be leased. Approximately 7 million tons in the average 22-foot thick Rosebud Coal Seam will be mined from the lands to be leased. This coal contains an average of 8,350 Btu per pound, and has an average content of 0.89% sulfur and 8.0% ash, all determined on the as-received basis. Written comments on the fair market value will be received by the Area Mining Supervisor, U.S. Geological Survey, P.O. Box 2550, Billings, Montana 59103, until February 24, 1977.

LANDS OFFERED: The lands are located in Rosebud County near the community of Colstrip, Montana. Colstrip is located 29 miles south of Interstate 94 and 36 miles from Forsyth, Montana. The lands are described as follows: Township 2 North, Range 41 East, Principal Meridian, Montana, Section 32, E½E½, SW¼SE¼, containing 200 acres.

DETAILED STATEMENT: A detailed statement of the terms and conditions of the lease offer, how and where to submit sealed bids and the obligations of the high bidder to pay for publication of this notice may be obtained from Chief, Division of Technical Services, Montana State Office, 222 North 32nd Street, P.O. Box 30157, Billings, Montana 59107.

ROLAND F. LEE,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-4823 Filed 2-15-77;8:45 am]

National Park Service

BIG THICKET NATIONAL PRESERVE, TEXAS

Proposed Plan for Visitor Use and General Development; Availability of Proposal/Assessment

An environmental workbook with alternatives for interpretation, development and use of the National Preserve was distributed during late March and April 1976. The workbook contained response sheets and was used in conjunction with four public workshops in Woodville, Kountze, Beaumont, and Houston, Texas, on April 19, 20, 21 and 22, 1976. A total of 200 persons attended the workshops and 125 written responses were received.

As a result of the workshops and comments received, the National Park Service has prepared a Proposal/Assessment of the plans for visitor use and general development of the Big Thicket National Preserve. The document describes those developments considered necessary and essential for visitors to understand and enjoy the Preserve. It also describes the environmental impacts of the visitor use and development proposals and of the

alternatives which were considered and includes an analysis of the public opinions received.

The Proposal/Assessment will be sent to all who registered at the workshops or submitted comments. Other copies are on file and available upon request at the following locations: Southwest Regional Office, National Park Service, Old Santa Fe Trail, Post Office Box 728, Santa Fe, New Mexico 87501; Big Thicket National Preserve, 6725 Eastex Freeway, Post Office Box 7408, Beaumont, Texas 77706; and National Park Service, Room 10-G-3, Fritz G. Lanham Federal Center, 819 Taylor Street, Fort Worth, Texas 76102. Anyone wishing to express an opinion on the Proposal/Assessment should send written comments to the Superintendent at the Beaumont address on or before March 31, 1977.

At the conclusion of the review period, the National Park Service will evaluate comments and suggestions and decide whether or not to prepare an environmental impact statement on the selected plan for visitor use and general development.

Dated: January 26, 1977.

THEODORE R. THOMPSON,
Acting Regional Director, Southwest Region, National Park Service.

[FR Doc.77-4892 Filed 2-15-77;8:45 am]

GULF ISLANDS NATIONAL SEASHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Gulf Islands National Seashore Advisory Commission will be held at 1 p.m. on March 15, 1977, at the Casino, Pensacola Beach, Florida, to be followed by a tour of Fort Barrancas and the Advanced Redoubt at 9:30 a.m. on March 16, 1977.

The purpose of the Gulf Islands National Seashore Advisory Commission is to consult and advise with the Secretary of the Interior or his designee on matters of planning and development of Gulf Islands National Seashore.

The members of the Advisory Commission are as follows:

James Stevens, Chairman (Mississippi)
Gordon D. Allen (Mississippi)
Earle J. Bowden (Florida)
Gerald L. Brown (Florida)
Barney B. Burks (Florida)
Lloyd J. Caillevet (Mississippi)
Roger Clary (Florida)
Robert D. Cramer (Florida)
Paul A. Daniel (Florida)
Paul J. Delcambre(Mississippi)
William T. Dunn (Mississippi)
Elmer C. Harris (Mississippi)
Carol K. Hurlbert (Mississippi)
Charles S. Liberis, Jr. (Florida)
Charles E. Moes (Florida)
John Duncan Moran (Mississippi)
Dee Parkton (Florida)
Grady Don Pope (Florida)
Robert F. Scholl (Florida)
Erica Woolley (Florida)

The matters to be discussed at this meeting will include: (1) an Operations Report, (2) Status of General Management Plan, and (3) Report of Development Concept Plans for Davis Bayou, Santa Rosa, and Naval Live Oaks Reservation.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 25 persons will be able to attend. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Members of the public may attend the tour of Fort Barrancas and the Advanced Redoubt if they provide their own transportation to the forts.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Franklin D. Pridemore, Superintendent, Gulf Islands National Seashore, P.O. Box 100, Gulf Breeze, Florida 32561, Telephone 904/932-5302. Minutes of the meeting will be available for public inspection approximately 4 weeks after the meeting at park headquarters.

Dated: February 4, 1977.

DAVID G. WRIGHT,
Acting Regional Director, Southeast Region.

[FR Doc.77-4893 Filed 2-15-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

MEETING

[USITC SE-77-12A]

Additional Agenda Item

At its meeting of February 10, 1977, the United States International Trade Commission, acting on the authority of 19 U.S.C. 1335 and in conformity with proposed 19 C.F.R. 201.38, voted to add the following item to its agenda for the meeting of February 15, 1977:

11. Sugar (Inv. TA-201-16)—see memorandum from the General Counsel, dated February 10, 1977, and the court order in *U.S. International Trade Commission* v. *American Maize-Products Company, et al.*, distributed February 9, 1977.

Commissioners Parker, Leonard, Moore, Bedell, and Ablondi voted by unanimous consent, that Commission business requires the change in subject matter by addition of this agenda item, affirmed that no earlier announcement of the addition to this agenda was possible, and directed the issuance of this notice at the earliest practicable time. (Commissioner Minchew was not present for the vote.)

On the authority of 19 U.S.C. 1335 and in conformity with proposed 19 CFR 201.39(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman.

By order of the Commission.

Issued: February 11, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-4954 Filed 2-18-77;8:45 am]

[USITC SE-77-14]

MEETING

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on Tuesday, February 22, 1977, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436. Except as hereinafter specified, the Commission plans to consider the following agenda items in open session:

1. Agenda for future meetings;
2. Minutes;
3. Ratification List;
4. Possible study on TSUS items 806.30 and 807.00 (see memorandum to the Commission, dated January 21, 1977, from the Acting Deputy Director of Operations, subject: Proposals for possible studies of TSUS items 806.30 and/or 807.00 on a reduced scale);
5. Authority to assign 337 attorneys to matters (action jacket OPI-77-13);
6. Petition for an investigation on caps (Docket No. 430);
7. Any items left over from previous agenda;
8. Reorganization (closed session).

If you have any questions concerning the agenda for the February 22, 1977, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Access to documents to be considered by the Commission at the meeting is provided for in Subpart C of the Commission's rules (19 CFR 201.17-201.21).

On the authority of 19 U.S.C. 1335 and in conformity with proposed 19 CFR 201.39(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c) (2) and (6), on the authority of 19 U.S.C. 1335, and in conformity with proposed 19 CFR 201.37(b) (2) and (6), Commissioners Parker, Moore, Bedell, and Ablondi voted to hold the portion of the February 22, 1977, meeting with respect to the selection of personnel under reorganization (agenda item No. 8) in closed session. Commissioners Minchew and Leonard voted against closing this portion to the public.

A majority of the entire membership of the Commission felt that this portion of the meeting should be closed to the public since: (1) the discussion would only concern internal personnel practice and procedures; and (2) the infor-

mation discussed in such portion would be likely to disclose information of a personal nature which could constitute a clearly unwarranted invasion of personal privacy.

Those persons expected to be present at this closed portion, and their corresponding affiliations, are listed as follows:

Daniel Minchew, Chairman
Joseph O. Parker, Vice Chairman
Will E. Leonard, Commissioner
George M. Moore, Commissioner
Catherine Bedell, Commissioner
Italo H. Ablondi, Commissioner
Kenneth R. Mason, Secretary
E. Bernice Morris, Staff Assistant
Charles R. Ramsdale, Director, Personnel
Norma H. Warbis, Personnel Management Specialist (if Mr. Ramsdale is not available)
Bruce N. Hatton, Assistant to Commissioner Leonard

The General Counsel to the Commission certified that it is his opinion that the Commission's action in closing this portion of its meeting of February 22, 1977, was properly taken by a vote of a majority of the entire membership of the Commission pursuant to 5 U.S.C. 552b(d) (1) and in conformity with proposed 19 C.F.R. 201.37(e). The discussion to be held in closed session is within the specific exemptions of 5 U.S.C. 552b(c) (2) and (6) and proposed 19 C.F.R. 201.37(b) (2) and (6).

By order of the Commission.

Issued: February 9, 1977.

RUSSELL N. SHEWMAKER,
General Counsel.
KENNETH R. MASON,
Secretary.

[FR Doc.77-4636 Filed 2-15-77;8:45 am]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

IMMIGRATION AND NATURALIZATION SERVICE, HISPANIC ADVISORY COMMITTEE ON IMMIGRATION AND NATURALIZATION

Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Hispanic Advisory Committee on Immigration and Naturalization to be held from 9:30 a.m. to 5:00 p.m. on Thursday, March 3 and continuing from 9:30 a.m. to 5:00 p.m. on Friday, March 4, 1977, in Conference Room 7061, Immigration and Naturalization Service, 425 "I" Street, NW., Washington, D.C.

The agenda for the meeting will be as follows:

THURSDAY, MARCH 3

I. Call to order by the Chairperson.
II. Welcoming remarks by the Commissioner.
III. Approval of minutes of Advisory Committee meeting of December 17, 1976.
IV. Staff Briefings:
(a) Report by Domestic Council Committee on Illegal Aliens.
(b) Western Hemisphere Bill Update (Pub. L. 94-571).
(c) Alien Smuggling.
(d) Fraudulent Entry Study.
(e) Alien Identification, Documentation and Telecommunications (ADIT) System.
(f) National/State Legislation review.
(g) INS Media/Public Service Announcement Efforts.
V. Subcommittee Meetings.
VI. Recess.

FRIDAY, MARCH 4

VII. Meeting reconvenes.
VIII. Subcommittee reports, Committee action, and formal recommendations to the Commissioner.
IX. Presentations from audience.
X. Old/New business.
XI. Subcommittee meetings.
XII. Adjournment.

Attendance is open to the interested public, but is limited to the space available.

Persons seeking information concerning this meeting should contact: Mr. E. B. Duarte, Special Assistant to the Commissioner of Immigration and Naturalization for Hispanic Liaison, Room 7058, 425 "I" Street, NW., Washington, D.C. 20536, telephone (202) 376-8211.

Dated: February 10, 1977.

L. F. CHAPMAN, Jr.,
Commissioner of Immigration and Naturalization.

[FR Doc.77-4795 Filed 2-15-77;8:45 am]

LEGAL SERVICES CORPORATION

GRANTS AND CONTRACTS

FEBRUARY 10, 1977.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996l. Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, or such grant, contract, or project * * *"

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Legal Aid Bureau of Pulaski County to serve counties of Jefferson, Garland, Lonoke, Faulkner and Saline, Arkansas.
2. Jackson County Legal Services to serve Independence, Lawrence, Pansett & Woodruff Counties, Arkansas.
3. Spartansburg County Legal Aid, Inc. to serve Spartansburg County, South Carolina.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Atlanta Regional Office, 615 Peachtree Street, N.E., Room 503, Atlanta, Georgia 30308.

THOMAS EHRLICH,
President.

[FR Doc.77-4820 Filed 2-15-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

ARCHITECTURE & ENVIRONMENTAL ARTS ADVISORY PANEL

Meeting

Pursuant to Section 10(a) (2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Architecture & Environmental Arts Advisory Panel to the National Council on the Arts will be held on March 7-8, 1977, from 9:00 a.m. to 5:30 p.m., in Room 1130, Columbia Plaza Building, 2401 E Street NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

Dated: February 9, 1977.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-4902 Filed 2-15-77;8:45 am]

MUSIC ADVISORY PANEL

Meeting

Pursuant to Section 10(a) (2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Music Advisory Panel (Composer/Librettist Section) to the National Council on the Arts will be held on March 1-4, 1977, from 9:30 a.m. to 5:30 p.m., in Room 1425, Columbia Plaza Building, 2401 E Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on March 2, from 1:00 p.m. to 5:30 p.m., on a space available basis. Accommodations are limited. The agenda for this session will include a discussion of program guidelines.

The remaining sessions of this meeting on March 1, 3, and 4, from 9:30 a.m. to 5:30 p.m., and March 2, from 9:30 a.m. to 1:00 p.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, in-

cluding discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities

[FR Doc.77-4901 Filed 2-15-77;;8:45 am]

NATIONAL RAILROAD PASSENGER CORPORATION

GOVERNMENT IN THE SUNSHINE ACT

Rules Governing Open Meetings; Proposed Amendment to By-Laws

The Government in the Sunshine Act (5 U.S.C. 552b) (hereinafter "Sunshine Act") requires government agencies to hold open meetings, subject to prescribed exceptions, when agency members take final action on agency business.

While the Sunshine Act refers only to government agencies, as defined therein, the Report of the Conference Committee on the bills adopted by the House and Senate refers to the National Railroad Passenger Corporation (hereinafter the "Corporation") as an example of the type of "agency" intended to be included in language the Conference rewrote to describe the agencies subject to the Sunshine Act.

The Corporation was created by the Rail Passenger Service Act of 1970 (45 U.S.C. 501 et seq.) (hereinafter "RPS Act") as a for-profit corporation. The RPS Act expressly provides that the Corporation "will not be an agency or establishment of the United States Government" (45 U.S.C. 541). The budget submitted by the former administration for fiscal year 1978 describes the Corporation as a "* * * private, for-profit corporation".

The Corporation is subject to the provisions of the RPS Act and pursuant to that Act is incorporated under the District of Columbia Business Corporation Act. The Corporation has issued 9,385,693.8 shares of common stock which are held by four stockholders. The stock was required by the RPS Act to be issued in amounts equal in par value to payments that the RPS Act required railroads to make to the Corporation in consideration of their being relieved of their entire responsibility for the provision of intercity rail passenger service after May 1, 1971 (45 U.S.C. 561).

Eight of the thirteen members of the present Board of Directors are appointed by the President of the United States with the advice and consent of the Senate. Three of the eight members are required to be designated at the time of their appointment as consumer representatives (45 U.S.C. 543).

The Secretary of Transportation and the President of the Corporation, who is elected by the Board of Directors, are members of the Board, ex officio. Three other members of the Board are elected by the common stockholders.

The Board of Directors meets only at stated intervals in the same manner as board of directors of typical business corporations. It is not a full time body, nor are its members, except for the President, full time employees of the Corporation as are the members who comprise the collegial bodies that head the government agencies subject to the Sunshine Act. The bulk of the Corporation's decisions, as in the case of typical business corporations, is made by management. The Board of Directors, its members, and their functions differ substantially from the collegial bodies which head government agencies and in which the law places total responsibility for agency decision.

As a business corporation in the field of transportation, the Corporation is competitive with intercity bus lines such as Greyhound Corporation and Continental Trailways, Inc., some airlines, and in a limited sense with four other privately owned passenger carrying railroads (Auto-Train Corporation, Southern Railway Company, Denver Rio Grande Western and Chicago, Rock Island & Pacific Railroad Company).

The bulk of the Corporation's routes are run over the tracks of eighteen privately owned railroads, since the Corporation owns only the tracks in the so-called Northeast Corridor from Washington to Boston, New Haven to Springfield, and Philadelphia to Harrisburg, and certain small segments of track in the Midwest.

The right to use the tracks of the Nation's railroads is subject to contractual arrangements that are negotiated on an arms-length basis. The negotiations involve cost considerations and factors, and trade and technical information and practices, that vary from railroad to railroad. The Corporation's effectiveness in negotiating such business transactions can be realized only when the Corporation is able to negotiate on the same basis as the operating railroads, who are not required to conduct or discuss their business in meetings open to the public. The Corporation's ability to compete with other transportation companies is also subject to the same practical business considerations.

Open meetings attended by the public permit the attendance of competitors, contractors, suppliers, and others with whom the Corporation does business. The ability of any commercially competitive business organization to maintain its competitive status in such circumstances is questionable. In the case of the Corporation, public attendance will impinge upon the attainment of the goals in the RPS Act and might frustrate actions necessary to generate increased revenues and opportunities to reduce losses (and subsidies) and move toward profitability.

These amendments to the Corporation's by-laws are proposed without prejudice to the Corporation's legal status as a for-profit business corporation for the reasons noted, and for the further reason that the public interest might be jeopardized by the requirement that the Corporation's business activities be conducted in the manner of a government agency. The jeopardy lies in the risk that the Sunshine Act assimilates the Corporation to the form, character, and mold of a government agency engaged in performance of government functions, and in so doing, lends support to the legal argument that a condemnation has occurred with respect to certain rail properties acquired by the Corporation on April 1, 1976.

This risk was sufficiently grave that the then Secretary of Transportation on March 18, 1976, advised the Congress not to appropriate funds previously authorized by law for the purchase of the Northeast Corridor railroad properties from Consolidated Rail Corporation (hereinafter "ConRail"). The Congress acknowledged the warning that the courts might rule that a condemnation occurred, by heeding the Secretary's advice and refusing to appropriate the money at that time. The Congress exercised its discretion in the circumstances, and decided against a step that might conceivably lead to a ruling of condemnation at some later time.

The financial consequences of such a ruling, while impossible to predict, are potentially large; the creditors of the Penn Central Transportation Company informed the Supreme Court of the United States that a study which they had commissioned indicates a cost that could run as high as $13.5 billion on their claims alone. Cost benefit considerations suggest that it might be wiser to invest such large sums in the rehabilitation of the nation's railroads or the construction of a new, solely passenger train track system, rather than risk having to pay them to creditors of bankrupt railroads because the Corporation is now being linked to governmental function, status, and activity by the Sunshine Act.

In heeding the Secretary's warning in March 1976, the Congress refrained from taking a specifically directed federal action because of the risk that might follow. In the Sunshine Act, the Congress, without reference to the concerns to which it responded in March 1976, gave effect to a specifically directed federal action which places the Corporation in the context of agencies performing government functions, thus creating what might equally prove to be a risk of a condemnation ruling.

The action was taken presumably because the Corporation receives money from the federal government to make up for unavoidable operating deficits and to finance equipment purchases. As a sub-

sidy, these monies vary only in amount and manner of availability from substantial benefits, resulting from government financed programs, that are available to the Corporation's competitors among bus and airlines, none of which is subject to the Sunshine law.

By amendment to the Government Corporation Control Act (31 U.S.C. 856), the Corporation is defined as a mixed-ownership government corporation in order to empower the Comptroller General of the United States to audit the manner in which the Corporation uses such monies in order to assure that the public interest is adequately protected. (Indeed, the Comptroller General is empowered to audit ConRail, also a mixed-ownership government corporation under the Government Corporation Control Act (31 U.S.C. 856(6)), because of its receipt of financial aid from the federal government, even though ConRail has not been made subject to the Sunshine Act).

The public interest is protected also by the presence on the Corporation's Board of Directors of three members appointed by the President and confirmed by the Senate as representatives of consumer interests. The Corporation is also subject to supervision and regulation of its activities by a multiplicity of federal regulatory and executive agencies (the regulatory agencies themselves being subject to the Sunshine Act while executive agencies, in general, are not), in many instances by state regulatory bodies, and by several committees of the Congress. The Corporation is subject to the Freedom of Information Act (5 U.S.C. 552b), in addition to the substantial information that it customarily releases to the public in the interest of promoting train travel and selling tickets. In order to meet the goal of making a profit that the law requires, and in order to increase the Corporation's revenues in the hope of reducing subsidies, the Corporation must preserve the normal commercial negotiating and competitive advantages—available to its competitors and the commercial railroads—that are essential to its operation in a safe, efficient and economical manner.

Nothwithstanding the necessity to comply with the goals and the mandate provided by the RPS Act to become more effective as a competitive business enterprise, the Corporation, without prejudice to its status or to the ability of the United States to avoid a potential financial liability of considerable magnitude, will amend its by-laws in order to comply also with the apparent directive of the Sunshine Act. The amendment will add an Appendix A in form and content as set forth below.

Written comments concerning the proposed addition to the Corporation's By-laws are invited from interested persons. Comments may be addressed in writing to the Secretary, National Railroad Passenger Corporation, 955 L'Enfant Plaza North, SW, Washington, D.C. 20024. All written comments received no later than March 18, 1977, will be considered. Such written comments will be made available until that date for public inspection at the office of the Secretary of the Corporation during normal business hours.

The purpose of adding an Appendix A to the Corporation's By-laws to implement subsections (b) through (f) of the Government in the Sunshine Act (5 U.S.C. § 552b(b)–(f) to the extent the Corporation may be subject to these requirements.

APPENDIX A (TO THE CORPORATION'S BY-LAWS)

RULES GOVERNING OPEN MEETINGS OF THE BOARD OF DIRECTORS OF THE CORPORATION PURSUANT TO 5 U.S.C. 552b

Rule

1 The purpose and scope of this appendix.
2 Definitions.
3 Preparation of agenda in advance of meeting.
4 Public announcements of meetings; subsequent changes.
5 Open meetings.
6 Closed meetings.
7 Certification of general counsel; statement of chairman.
8 Record of meeting.
9 Report to Congress.

AUTHORITY. Subsection (g) of the Government in the Sunshine Act (5 U.S.C. 552b(g)); Article III of the Rail Passenger Service Act (45 U.S.C. 541–48); secs. 29–904 and 29–909 of the District of Columbia Business Corporation Act; section 9.01 of Article IX of the Corporation's By-laws.

THE RULES

RULE 1—THE PURPOSE AND SCOPE OF THIS APPENDIX

The Corporation fully endorses the principle that the public is entitled, as may be required by law, to information regarding the decision-making processes of the Board of Directors, and it is the purpose of the rules contained in this appendix to open the meetings of the Board of Directors to the public (except where such meetings may be closed by law and under these rules) while protecting the rights of individuals and the ability of the members of the Board of Directors to carry out their corporate and statutory responsibilities. The rules contained in this appendix are promulgated as may be required pursuant to the provisions of subsection (g) of the Government in the Sunshine Act (5 U.S.C. 552b(g) and specifically implement the spirit and intent of subsections (b) through (f) of that Act (5 U.S.C. 552b(b)–(f). Public access to documents being considered at meetings of the Corporation's Board of Directors shall be obtained in the manner and to the extent as set forth in the Freedom of Information Act (5 U.S.C. 552).

RULE 2—DEFINITIONS

(a) "Act" means the Government in the Sunshine Act (5 U.S.C. 552b).

(b) "Chairman" and "Vice Chairman" means the Chairman or Vice Chairman of the Board of Directors or in their absence a chairman chosen by a majority of the members of the Board of Directors present to act as chairman of a meeting and to preside thereat;

(c) "Corporation" means the National Railroad Passenger Corporation created under Title III of the Rail Passenger Service Act (45 U.S.C. 541–48) and incorporated pursuant to the District of Columbia Business Corporation Act (D.C. Code § 29–901 et seq.);

(d) "Meetings", or any portion thereof, means the deliberations of at least the number of members of the Board of Directors required to take action on behalf of the Corporation where such deliberations determine or result in the disposition of corporate business. The term includes both regular and special meetings of the Board of Directors.

(The term "meeting", or any portion thereof, as used herein shall not include deliberations of a majority of the members of the Board of Directors for the purpose of (A) calling a meeting at a date earlier than the requisite public notice period, (B) determining whether to close a meeting or a series of meetings, or any portion thereof, to the public, or (C) changing the subject matter of a meeting which has already been publicly announced.)

(e) "Member of the Board of Directors" means an individual who has been selected as a member of the Corporation's Board of Directors pursuant to section 303 of the Rail Passenger Service Act (45 U.S.C. 543);

(f) "Vote" means a poll taken at a meeting or by telephone (or by other means of communication), of which an immediate written record is made by the Secretary, indicating how each member of the Board of Directors voted with regard to a particular issue;

(g) "Secretary" and "General Counsel" mean the Secretary and General Counsel of the Corporation and, in the absence or disability of any one or both of them, those duly authorized to act in such capacity, respectively, on behalf of the Corporation.

RULE 3—PREPARATION OF AGENDA IN ADVANCE OF MEETING

(a) In order to assure that the public will receive proper advance notice of meetings and in order to facilitate the issuance by the Corporation of the public announcement of meetings required by law, the Secretary shall undertake to prepare the agenda for a meeting twelve days in advance of the scheduled meeting date.

(b) The agenda for a future scheduled meeting shall be approved by the Chairman or Vice Chairman of the Board of Directors at least nine days prior to the future scheduled meeting date. The first order of business at each meeting shall be to vote on the agenda.

(c) The Secretary shall respond to all inquiries concerning meeting agendas.

RULE 4—PUBLIC ANNOUNCEMENTS OF MEETINGS; SUBSEQUENT CHANGES

(a) In the case of each meeting, the Corporation shall make an announcement to the public, at least one week before the meeting, which (A) states the time, place and date of the meeting, (B) sets forth the subject matter or agenda items to be discussed at the meeting, (C) states whether the meeting, or any portion thereof, is to be open or closed to the public, (D) gives the name and business telephone number of the Secretary.

(b) The one week notice requirement contained in paragraph (a) of this rule shall not apply where a majority of the members of the Board of Directors determines by a recorded vote that the business of the Corporation requires that such meeting be called at an earlier date, in which case the Corporation shall make an announcement to the public at the earliest practical time that contains the information required by paragraph (a) of this rule.

(c) The time or place of a meeting may be changed following the announcement to the public required by this rule only if the Corporation makes a subsequent announcement to the public at the earliest practical time that contains the information required by paragraph (a) of this rule and that reflects the change in time or place.

(d) The subject matter of a meeting, or the determination of the members of the

Board of Directors to open or close a meeting, or any portion thereof, to the public, may be changed following the announcement to the public required by this rule only if (A) a majority of the members of the Board of Directors determines by a recorded vote that the business of the Corporation so requires and that no earlier announcement of the change was possible, and (B) the Corporation makes a subsequent announcement to the public at the earliest practicable time that (i) contains the information required by paragraph (a), (ii) reflects the change of subject matter or the determination to open or close a meeting, or any portion thereof, to the public, and (iii) includes the recorded vote of each member of the Board of Directors upon such change.

(e) Subject to the requirements of paragraph (d) of this rule, the Board of Directors expressly reserves the right during the course of a meeting to discuss and to vote on a matter not previously announced as an agenda item if its relevance to the meeting was not previously known.

(f) The Secretary shall issue each announcement to the public required by this rule by immediately (A) releasing each such announcement to the press, (B) posting each such announcement on a bulletin board located at the Corporation's principal office in Washington, D.C., (C) making and maintaining copies thereof for interested members of the public and the staff, and (D) submitting each such announcement for publication in the FEDERAL REGISTER.

RULE 5—OPEN MEETINGS

(a) All meetings shall be conducted in accordance with the provisions of the rules contained in this Appendix. Except as provided in Rule 6, every portion of every meeting shall be open to attendance by the public. Such attendance does not include participation, orally or otherwise, in discussions of any conduct or activity other than the oportunity to be present and persons who fail to honor this privilege as set forth will be removed from the meeting. No signs, placards, distribution of leaflets or similar conduct, or the use of electronic or other recording devices or cameras by the public will be permitted.

(b) Members of the Board of Directors shall not jointly conduct or dispose of the business of the Corporation other than in accordance with the provisions of these rules.

(c) The Secretary shall be responsible for seeing that adequate space, sufficient seating and adequate acoustics are provided for public attendance of meetings. If the space available for the public proves insufficient to accommodate all persons wishing to attend, the Board of Directors shall limit admission to representatives of those persons seeking admission to the meeting.

RULE 6—CLOSED MEETINGS

(a) Except in a case where the members of the Board of Directors find that the public interest requires otherwise, the second sentence of paragraph (a) of Rule 5 shall not apply to a meeting, or any portion thereof, and the requirements of Rule 4 and paragraphs (b), (c) and (d) of this rule shall not apply to any information pertaining to such meeting, or any portion thereof, otherwise required by the Act or the rules contained in this appendix to be disclosed to the public, where the members of the Board of Directors properly determine that such meeting, or any portion thereof, or the disclosure of such information is likely to—

(1) Disclose matters that are (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive Order;

(2) Relate solely to the internal personnel rules and practices of the Corporation;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552): *Provided*, That such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, confidential information furnished only by the confidental source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed action by the Corporation, except in any instance where the Corporation has already disclosed to the public the content or nature of its proposed action, or where the Corporation is required by law to make such disclosure on its own initiative prior to taking final corporate action on such proposal; or

(10) Specifically concern the Corporation's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration.

(b) Action to close a meeting, a series of meetings, or any portion thereof, shall be taken only when a majority of the members of the Board of Directors votes to take such action. A separate vote of the members of the Board of Directors shall be taken with respect to each meeting a portion or portions of which are proposed to be closed to the public pursuant to paragraph a. of this rule, or with respect to any information which is proposed to be withheld thereunder. A single vote may be taken with respect to a series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each member of the Board of Directors participating in such vote shall be recorded and no proxies shall be allowed.

(c) Whenever any person whose interest may be directly affected by a portion of a meeting requests that the Board of Directors close such portion to the public for any of the reasons referred to in subparagraphs (5), (6), or (7) of paragraph (a) of this rule, the Board of Directors, upon the request of any one of its members, shall vote by recorded vote whether to close such meeting.

(d) Within one day of any vote taken pursuant to paragraphs (b) and (c) of this rule, the Corporation shall make publicly available a written copy of such vote reflecting the vote of each member of the Board of Directors on the question. If a portion of a meeting is to be closed to the public, the Corporation, shall, within one day of the vote taken pursuant to paragraphs (b) and (c) of this rule, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(e) Subject to the requirements of this rule, any meeting in progress may be closed forthwith and members of the public in attendance required to leave if the discussion begins to involve a matter exempted under subparagraphs (1) through (10) of paragraph (a) of this rule and the discussion of the exempted matter was not anticipated in advance of the meeting.

RULE 7—CERTIFICATION OF GENERAL COUNSEL; STATEMENT OF CHAIRMAN

For every meeting closed pursuant to subparagraphs (1) through (10) of paragraph (a) of Rule 6, the General Counsel shall publicly certify that, in his or her opinion the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the Chairman or Vice Chairman setting forth the time and place of the meeting, and the persons present, shall be retained by the Secretary.

RULE 8—RECORD OF MEETING

(a) The Secretary shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or any portion thereof, closed to the public, except that in the case of a meeting, or any portion thereof, closed to the public pursuant to subparagraph (8) or (10) of paragraph (9) of rule 6, the Secretary shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any action taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member of the Board of Directors on the question). All documents considered in connection with any action shall be identified in such minutes.

(b) With respect to any transcript, electronic recording, or minutes made pursuant to the requirements of paragraph (a) of this rule, the Secretary shall make promptly available to the public, in a place easily accessible to the public, any portion thereof, including the discussion of any item on the agenda or the statement of any person attending the meeting, except for such item or items of such discussion or statement as the Secretary determines to contain information which may be withheld under Rule 6.

(c) The Secretary shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or any portion thereof, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any specific item of business of the Corporation with respect to which the meeting, or any portion thereof, was closed, whichever occurs later.

RULE 9—REPORT TO CONGRESS

The Secretary shall annually report to Congress regarding the Corporation's compliance with the requirements of the Act,

including a tabulation of the total number of meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the Corporation pursuant to the Act or these rules, including any costs assessed against the Corporation in such litigation (whether or not paid by the Corporation).

Signed this 11th day of February 1977.

NATIONAL RAILROAD PASSENGER CORPORATION,
ELYSE G. WANDER,
Secretary.

[FR Doc.77-4961 Filed 2-15-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

SCIENCE INFORMATION ACTIVITIES TASK FORCE

Open Meeting

In accordance with the Federal Advisory Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Science Information Activities Task Force.

Date: March 7 and 8, 1977.

Time: 9 a.m. through 4 p.m., both days.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Open.

Contact: Mr. Robert S. Cutler, Executive Officer, Room 1201, National Science Foundation, Washington, D.C. 20550, Telephone: 202-632-5826. Persons planning to attend should notify Mr. Cutler prior to the meeting.

Summary Minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of the Task Force: To provide advice and recommendations concerning the appropriate roles and responsibilities of the National Science Foundation regarding the communication and use of scientific and technical information.

AGENDA: MONDAY, MARCH 7, 1977

9 a.m.	Welcome and introductory remarks, chairman.
9:15 a.m.	Presentation by Arthur D. Little, Inc.
10:15 a.m.	Coffee break.
10:30 a.m.	Presentations from NSF programs, chairman.
Noon	Recess.
1 p.m.	Open public participation.
2 p.m.	Committee meetings: A. Technology Committee, room 540. B. Markets Committee, room 543. C. Legislative and Regulatory, room 540. D. Uses Committee, room 540.
4 p.m.	Adjourn.

TUESDAY, MARCH 8, 1977

9 a.m.	Introductory remarks, chairman.
9:15 a.m.	Report from Technology Committee.
9:45 a.m.	Report from Markets Committee.
10:15 a.m.	Coffee break.
10:30 a.m.	Report from Legislative and Regulatory Committee.
11 a.m.	Report from Uses Committee.
11:30 a.m.	Discussion from task force, chairman.
Noon	Recess.
1 p.m.	Continuation of morning discussions, chairman.
3 p.m.	Tentative agenda for third task force meeting, chairman.
4 p.m.	Adjourn.

FRED K. MURAKAMI,
Committee Management Officer.

FEBRUARY 7, 1977.

[FR Doc.77-4935 Filed 2-15-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT OF 1974

Reports on New Systems

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period January 24, through February 4, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

DEPARTMENT OF JUSTICE

System Names:

(1) Pretrial Diversion Program Files.

(2) DEA Employee Profile Files.

(3) Inmate Commissary Accounts Records.

(4) LEAA Law Enforcement Education System.

(5) LEAA Grants Management Information System.

(6) Financial Management System.

Report Date:

January 19, 1977.

Point of Contact:

Mr. Harry L. Gastley, Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20240.

DEPARTMENT OF DEFENSE

System Names:

(1) Kindergarten Student File.

(2) Advanced Personnel Data System.

(3) Air Traffic Control Personnel Reporting.

Report Date:

January 26, 1977.

Point of Contact:

Mr. William T. Cavaney, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20314.

FEDERAL MARITIME COMMISSION

System Names:

(1) Management and Program Evaluation File.

(2) Payroll Records.

Report Date:

January 27, 1977.

Point of Contact:

Mr. Otto J. Kirse, Assistant Managing Director for Consumer Affairs, Federal Maritime Commission, 1100 L Street, NW, Washington, D.C. 20573.

POSTAL SERVICE

System Names:

(1) Equal Employment Opportunity, EEO Administrative Case Files.

(2) Personnel Records Arbitration Case Files.

(3) Personnel Records Veterans Appeals (Administrative Litigation Case Files).

(4) Personnel Records Garnishment Case Files.

(5) Personnel Records Monetary Claims Involving Present or Former Employees (Case Files).

(6) Labor Law Civil Action, Civil Action Case Files.

Report Date:

January 31, 1977.

Point of Contact:

Mr. John E. Finlay, USPS Records Officer, United States Postal Service, Washington, D.C. 20260.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-4821 Filed 2-15-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release 34-13253; File No. SR-NASD-77-4]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(B)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975) notice is hereby given on February 8, 1977 the abovementioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NASD'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

TEXT OF PROPOSED RULE CHANGE

The following is the full text of the proposed amendments to Schedule C under Article I, Section 2(d) of the By-Laws. These amendments shall be designated Part III of Schedule C and existing

parts III–VI shall be redesignated Parts IV–VII.

III

SUMMARY SUSPENSION

(1) *Summary Action.* The Corporation may summarily:

(a) Suspend a member or person associated with a member who has been and is expelled or suspended[1] from any self-regulatory organization or barred or suspended from being associated with a member of any self-regulatory organization; and

(b) Suspend a member who is in such financial or operating difficulty that the Corporation determines and so notifies the Securities and Exchange Commission that the member cannot be permitted to continue to do business as a member with safety to investors, creditors, other members, or the Coporation.

(2) *Written notification.* Any member or person associated with a member against whom the Corporation takes summary action pursuant to section (1) above shall be promptly notified in writing or otherwise of such action. Such notification shall contain a statement of the specific grounds on which such action is taken and that an opportunity for a hearing is afforded pursuant to the provisions of sections (3) and (4) hereof. Such summary action shall not be conditioned upon notification but shall be effective immediately.

(3) *Request for hearing.* Any member or person associated with a member against whom the Corporation takes summary action may request an opportunity for a hearing within ten (10) days of the date of notification pursuant to section (2) above. Such hearing shall be held within five (5) days of such request. A request for a hearing shall not operate as a stay of the summary action.

(4) *Hearing.* If a hearing is requested pursuant to section (3) above, it shall be held before a person or persons designated by the Board of Governors. Such member or person associated with a member shall be entitled to be heard in person and represented by counsel and to submit any relevant matter which such member or person desire to present. Counsel for the Corporation or other designated Corporation personnel may participate in such hearing and be entitled to submit any relevant matter which counsel or such personnel may desire to present. In any such proceeding, a record shall be kept.

(5) *Decision.* A written decision shall be issued within five (5) days of the date of the hearing, and a copy shall be sent to the member or person associated with a member. A written decision shall contain the reasons supporting the action taken.

(6) *Review by Board.* (a) If the member or person associated with a member does not request an opportunity for a hearing pursuant to section (3) above, the notification of summary action shall be subject to review by the Board of Governors on its own motion within thirty (30) days of the date of the notification.

(b) The written decision issued pursuant to section (5) above shall be subject to review by the Board of Governors upon application of the member or person associated with a member filed within fifteen (15) days after issuance. Any such decision shall also be subject to review by the Board of Governors on its own motion within thirty (30) days after issuance.

(c) The institution of review, whether by application or on the initiative of the Board, shall not operate as a stay of the summary action.

(7) *Findings of Board on Review.* Upon consideration of the record and after further hearings as the Board of Governors shall order, if the Board shall find that the notification or written decision is inconsistent with the grounds for authorization of summary action contained in section (1) above, the Board shall, in writing, modify, amend, or abrogate such notification or decision, or remand the matter for further proceedings consistent with its instruction. The Board shall set forth specific grounds upon which its determination is based.

(8) *Procedures of Summary Suspension.* The Procedures of Sumary Suspension are not intended to foreclose action by the District Business Conduct Committee of the District in which the broker/dealer is located under the Code of Procedure for Handling Trade Practice Complaints where a violation of the Rules of Fair Practice may be involved.

(9) *Application to Commission for Stay of Summary Action.* Any member or person associated with a member aggrieved by sumary action taken by the Corporation may apply to the Securities and Exchange Commission for a stay of such summary action as permitted by Section 15A of the Securities Exchange Act of 1934 as amended.

(10) *Application to Commission for Review.* In any case where a member or person associated with a member feels aggrieved by any action taken or approved by the Board of Governors, such person or member may make application for review to the Securities and Exchange Commission in accordance with section 19 of the Securities Exchange Act of 1934 as amended.

Purpose of Proposed Rule Change. Section 15A(h)(3) of the Securities Exchange Act as amended in 1975 provides that a registered securities association may summarily suspend a member if certain due process protections enumerated in the statute are met. The proposed amendments to Schedule C provide the procedures the Association has devised to insure that a member firm or person associated with a member firm who is summarily suspended is afforded due process protection in the form of notice, a hearing and review by the Board of Governors of the NASD.

Basis Under the Act for Proposed Rule Change. Section 15A(h)(3) of the Securities Exchange Act as amended in 1975 provides that a registered securities association may summarily (A) suspend a member or person associated with a member who has been and is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with a member of any self-regulatory association, (B) suspend a member who is in such financial or operating difficulty that the Association determines and so notifies the Commission that the member cannot be permitted to continue to do business as a member with safety to investors, creditors, other members, or the Association. Any person aggrieved by such summary action shall be promptly afforded an opportunity for a hearing by the Association in accordance with the provisions of paragraph (1) or (2) of this subsection.

Section 15A(h)(1) provides that "In any proceeding by a registered securities association to determine whether a member or person associated with a member shall be disciplined (other than a summary proceeding pursuant to paragraph (3) of this subsection) the Association shall bring specific charges, notify such member or person of, and give him an opportunity to defend against, such charges, and keep a record."

The procedures contained in the proposed amendment enable the Association to discharge its responsibility for insuring due process protections to individuals summarily suspended in accordance with the statutory authorization.

Comments Received from, Members, Participants or Others on Proposed Rule Change. Comments on the proposed rule change were neither solicited nor received.

Burden on Competition. It is believed that no burden on competition arises from the proposal.

On or before March 23, 1977, or within such longer period (i) as the Commission may designate up to ninety (90) days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securites and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-men-

[1] The term "suspended from any self-regulatory organization" in paragraph (1)(a) hereof refers to a suspension that is in effect and not one that has expired.

tioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 18, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

FEBRUARY 10, 1977.

[FR Doc.77-4835 Filed 2-15-77;8:45 am]

[24D-3382]

WESTERN RESOURCE AND DEVELOPMENT, INC.

Order Permanently Suspending Exemption

FEBRUARY 9, 1977.

I. Western Resource and Development, Inc. (the "issuer"), 3353 South Main Street, Salt Lake City, Utah 84121, formerly a Utah corporation with offices located in Salt Lake City, Utah, filed with the Denver Regional Office of the Securities and Exchange Commission on September 25, 1973, a notification, offering circular, and related exhibits relating to an offering of 2,000,000 shares of one cent par value common stock at ten cents per share for an aggregate of $200,000 for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof, and Regulation A, promulgated thereunder. Aaron R. Jenkins, president of the issuer, was to act as underwriter. No amendments to the notification were filed and a commencement date for the offering has not been established.

II. On August 25, 1976, the Commission temporarily suspended the Regulation A exemption of the issuer, stating that it had reasonable cause to believe that:

A. The Offering Circular contained untrue statements of material facts and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, particularly with respect to:

(1) Failure to adequately describe the nature of the business of the issuer.

(2) Failure to adequately disclose the purposes for which the proceeds were to be used.

(3) Failure to disclose that the State of Utah dissolved the issuer's Charter.

(4) Failure to disclose the present address of the issuer.

B. The terms and conditions of Regulation A were not complied with in that:

(1) The business in which the issuer proposed to engage was not adequately described in the offering circular.

(2) The purposes for which the proceeds were to be used were not adequately disclosed.

(3) The loss of the Corporate Charter with the State of Utah and the present address of the issuer were not disclosed.

(4) The accurate addresses of all the officers and directors of the issuer were not disclosed.

C. The issuer and its officers and directors have failed to cooperate.

D. The offering, if made, would be in violation of section 17 of the Securities Act of 1933, as amended.

III. No hearing having been requested by the issuer within thirty days after entry of the order temporarily suspending its exemption under Regulation A, the Commission finds that it is in the public interest and for the protection of investors that the exemption be permanently suspended.

It is ordered, Pursuant to Rule 261 of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and it is hereby, permanently suspended.

For the Commission, by its Secretary, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-4834 Filed 2-15-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice CM-7/27]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea concerned with nuclear ships will hold an open meeting on Thursday, March 10, 1977, at 9:30 a.m. in Room 8236 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of the meeting will be to review the latest Intergovernmental Maritime Consultative Organization (IMCO) activities in the development of a design code for nuclear ships; discuss and make recommendations for the development of Chapters 3—Ship Design; 4—Reactor Design; 5—Main and Auxiliary Machinery; and 6—Electrical Restrictions, for submission to IMOC.

Requests for further information on the meeting should be directed to CDR John Deck, III, United States Coast Guard. He may be reached by telephone on (area code 202) 426-2197.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

FEBRUARY 9, 1977.

[FR Doc.77-4851 Filed 2-15-77;8:45 am]

[Public Notice CM-7/28]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committtee, will hold an open meeting at 8:00 a.m. on Thursday and Friday, March 17 and 18, in Rooms 8236 and 8238 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C.

The purpose of the meeting is to discuss two working documents prepared for consideration by the ad hoc working groups on mobile offshore drilling units (MODUs) and machinery and electrical of the Subcommittee on Ship Design and Equipment of the Intergovernmental Maritime Consultative Organization (IMCO). The first document is a collation paper prepared by the United States on Machinery and Electrical Requirement for MODUs. The second document is the report of the last session of the ad hoc working group on MODUs. This document addresses the requirements for structure, stability, life saving, helicopter facilities, lifting devices, and operating requirements for a Code for MODUs.

Requests for further information on the meeting should be directed to Capt. D. J. Linde, United States Coast Guard. He may be reached by telephone on (area code 202) 426-2167.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

FEBRUARY 9, 1977.

[FR Doc.77-4852 Filed 2-15-77;8:45 am]

Agency for International Development

ADVISORY COMMITEE ON AGRICULTURAL AND RURAL SECTOR PLANNING

Certification

The Advisory Committee on Agricultural and Rural Sector Planning will serve the public interest by establishing a joint system which will enable U.S. professional economists to have an integral role in activity planning in association with their AID colleagues and to collaborate fully with their LDC counterpart professionals. The stated goal of the program "is to improve the performance and contribution of the agricultural and rural sectors of LDCs in achieving their overall economic and social development objectives." The Committee will provide advice for assuring that project activities are consonant with AID objectives and goals, and will develop recommended policies for the project, including criteria for priority setting of activity workload, for professional staff utilization and development, and for review activities.

Accordingly, I hereby certify, pursuant to the provisions of the Federal Advisory Committee Act Pub. L. 92-463 and OMB Circular A-63, that establishment of the Advisory Committee in the public interest.

DANIEL PARKER.

JANUARY 8, 1977.

[FR Doc.77-4853 Filed 2-15-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular, Public Debt Series No. 5-77]

TREASURY NOTES OF FEBRUARY 28, 1979

Series M-1979

FEBRUARY 11, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders for $2,500,000,000, or thereabouts, of securities of the United States, designated Treasury Notes of February 28, 1979, Series M-1979 (CUSIP No. 912827 GM 8). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined as set forth below. Additional amounts of these securities may be issued in exchange for maturing Treasury securities, to Government accounts and Federal Reserve Banks for their own account and, for cash, to Federal Reserve Banks as agents of foreign and international monetary authorities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated February 28, 1977, and will bear interest from that date, payable on a semiannual basis on August 31, 1977, and each 6 months thereafter on February 28 and August 31 until the principal becomes payable. They will mature February 28, 1979, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the International Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000 and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The securities will be subject to the general regulations of the Department of the Treasury governing United States securities, now or hereafter prescribed.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, February 17, 1977. Noncompetitive tenders, as defined below, will be considered timely if postmarked no later than Wednesday, February 16, 1977.

3.2. Each tender must state the face amount of securities bid for, which must be $5,000 or a multiple thereof. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers, provided the names of the customers and the amount for each customer are furnished. Others will not be permitted to submit tenders except for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and political subdivisions or instrumentalities thereof; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, following which public announcement will be made of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be determined at a ⅛ of one percent increment that translates into an average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the average price of accepted competitive tenders.

3.6. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. Those submitting noncompetitive tenders will not be notified except when the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when he deems it to be in the public interest, and the Secretary's action in any such respect shall be final.

5. PAYMENT AND DELIVERY

5.1. Settlement for securities allotted hereunder must be made or completed on or before Monday, February 28, 1977, at the Federal Reserve Bank or Branch or the Bureau of the Public Debt where the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, February 24, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, February 23, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be deemed to have been completed where registered securities are

requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for securities allotted hereunder are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. Specific instructions for the issuance and delivery of the new securities, signed by the owner or his authorized representative, must accompany the securities presented. Otherwise, the presented securities should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered herein) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered herein) to be delivered to (name and address)." Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for the securities offered herein, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-5016 Filed 2-14-77;2:05 pm]

INTERSTATE COMMERCE COMMISSION

[Notice No. 327]

ASSIGNMENT OF HEARINGS

FEBRUARY 11, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

FF-C-63, Western Pacific Transport Company San Francisco, California and Western Pacific Railroad Company San Francisco, California—Investigation of Operations—now assigned March 8, 1977 at Carson City, Nevada, will be held in Room 302 3rd Floor, Federal Building, 705 North Plaza Street.

MC-C-9100, Western Pacific Transport Company San Francisco, California and Western Pacific Railroad Company San Francisco, California—Investigation of Operations—now assigned March 8, 1977 at Carson City, Nevada, will be held in Room 302 3rd Floor, Federal Building, 705 North Plaza Street.

MC 141033 (Sub-16), Continental Contract Carrier Corp., now assigned March 10, 1977 at San Francisco, California, will be held in Room 13450 Federal Building, 450 Golden Gate Avenue.

MC 136273 (Sub-6), Coronado Trucking Company, Inc., now assigned March 14, 1977 at San Francisco, California, will be held in Room 510 5th Floor, 211 Main Street.

MC 136786 (Sub-106), Robco Transportation, Inc., now assigned March 15, 1977 at San Francisco, California, will be held in Room 510 5th Floor, 211 Main Street.

MC 119798 (Sub-302), Caravan Refrigerated Cargo, Inc., now assigned March 17, 1977 at San Francisco, California, will be held in Room 510 Floor, 211 Main Street.

MC 140665 (Sub-2), Prime, Inc., now being assigned March 21, 1977 (1 day) at San Francisco, California, in Room 510 5th Floor, 211 Main Street.

MC 140247 (Sub-1), Allstate Charter Lines, Inc., now being assigned March 22, 1977 (4 days) at San Francisco, California, in Room 510 5th Floor, 211 Main Street.

MC 123407 (Sub-336), Sawyer Transport, Inc., now being assigned March 24, 1977 (1 day) at Denver, Colorado, in Room 158 U.S. Custom House, 721 19th Street.

MC 128988 (Sub-88), Jo/Kel, Inc., now being assigned March 25, 1977 (1 day) at Denver, Colorado, in Room 158 U.S. Custom House, 721 19th Street.

MC 82841 (Sub-177), Hunt Transportation, Inc., now assigned March 28, 1977 at Denver, Colorado, will be held in the Tax Court Room 587, Federal Building and U.S. Courthouse, 19th and Stout Streets.

MC 141663, Robert E. Moore, d/b/a Moore Trucking Company, now assigned February 15, 1977 at Greensboro, North Carolina, is canceled and the application is dismissed.

MC 107295 Sub 838, Pre-Fab Transit Co., a Corp., now being assigned March 22, 1977 (2 days), at Denver, Colo., in a hearing room to be later designated.

MC 140845 (Sub-No. 3), Hoke Bus Lines, Inc., now being assigned for continued hearing on March 23, 1977 (3 days), at Columbus, Ohio, in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 123294 (Sub-No. 39), Warsaw Trucking, Co., Inc., now being assigned March 28, 1977 (1 week), at Columbus, Ohio, Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 112322 (Sub-407), Bray Lines Incorporated, now being assigned March 29, 1977 (1 day) at St. Louis, Missouri, in a hearing room to be later designated.

MC 138627 (Sub-12), Smithway Motor Xpress, Inc., now being assigned March 30, 1977 (3 days) at St. Louis, Missouri, in a hearing room to be later designated.

MC-F-13004, Behnken Truck Service, Inc.—Control—Kreider Truck Service, Inc. and F.D. 28361, Behnken Truck Service, Inc., now being assigned April 4, 1977 (1 week) at St. Louis, Missouri, in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-4949 Filed 2-15-77;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY-ELIMINATION OF GATEWAY LETTER NOTICES

FEBRUARY 11, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before February 28, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 8973 (Sub-No. E61), filed May 16, 1974. Applicant: METROPOLITAN TRUCKING, INC., 2423-95th Street, North Bergen, N.J. 07047. Applicant's representative: Nicholas A. Mangino (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except commodities in bulk), (1) from points in Passaic County, N.J., to points in New Jersey on, east and south of a line beginning at Trenton, N.J. and extending along U.S. Highway 206 to junction New Jersey Highway 524, thence along New Jersey Highway 524 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction Garden State Parkway, thence along the Garden State Parkway to junction New Jersey Highway 524, thence along New Jersey Highway 524 to junction New Jersey Highway 18, thence along New Jersey Highway 18 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to junction New Jersey Highway 71, thence along New Jersey Highway 71 to the Atlantic Ocean at or near Asbury Park and (2) from points in Morris County, N.J., to points in New Jersey on, east, and south of a line beginning at the Delaware River at or near Deepwater, N.J. and extending along Interstate Highway 295 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction unnumbered highway 3 miles east of Woodstown, thence east along unnumbered highway, through Fries Mills and Williamstown to junction New Jersey Highway 561 to junction New Jersey Highway 542, thence along New Jersey Highway 542 to junction unnumbered highway, thence north on unnumbered highway to junction unnumbered highway, thence west on unnumbered highway to junction unnumbered highway.

Thence north on unnumbered highway to junction New Jersey Highway 563, thence along New Jersey Highway 563 to junction unnumbered highway, thence north and east on unnumbered highway to junction New Jersey Highway 539, thence along New Jersey Highway 539 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 547, thence along New Jersey Highway 547 to junction New Jersey Highway 88, thence along New Jersey Highway 88 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New Jersey Highway 547, thence along New Jersey Highway 547 to junction New Jersey Highway 524, thence along New Jersey Highway 524 to junction New Jersey Highway 18, thence along New Jersey Highway 18 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to the Atlantic Ocean at or near Ocean Grove. The purpose of this filing is to eliminate the gateway of those points in Essex, Hudson, Union, Somerset, or Bergen Counties, N.J. which are also within the New York, N.Y. commercial zone as defined in Commercial Zones and Terminal Areas, 53 M.C.C. 451.

No. MC 43963 (Sub-No. E14) (Correction), filed April 22, 1975, published in the FEDERAL REGISTER issue of July 21, 1975, and republished, as corrected, this issue. Applicant: CHIEF TRUCK LINES, INC., 1479 Ripley Street, East Gary, Ind. 46405. Applicant's representative: James C. Hardman, Suite 2108, 33 North LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel—angles, bars, channels, conduits, fencing, flooring, joists, lath, mesh, piling, pipe, parts, rails, rods, roofbolt mats, roofing, strip, structurals, tank parts, tubing and wire in coils* (except articles requiring specialized handling or rigging because of size or weight) (1) from points in Lake, Cook, DuPage, Kane, Kendall, and McHenry Counties, Ill. within 40 miles of Grant Park, Chicago, Ill. and those in Will Counties on and north of U.S. Highway 30 in Will County, Ill. within 40 miles of Grant Park, Chicago, Ill., to points in that part of Indiana on and north of U.S. Highway 40. (2) from points in Will County south of U.S. Highway 30 within 40 miles of Grant Park, Chicago, Ill. to points in that part of Indiana on and north of U.S. Highway 40 (except points in Newton, Benton, Warren, White, Jasper, Tippecanoe and Fountian Counties and those in Vermillion Counties, Ind., north of U.S. Highway 36). The purpose of this filing is to eliminate the gateway of Chicago, Ill.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 47149 (Sub-No. E2), filed May 30, 1974. Applicant: C. D. AMBROSIA TRUCKING CO., R. D. I, Edinburg, Pa. 16116. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone and limestone products, insecticides, herbicides, fungicides, fertilizer, and fertilizer ingredients and materials* (other than such commodities in bulk liquid form), and *iron-bearing agglomerales*, when transported in dump trucks, (1) from points in Ashtabula County, Ohio, to points in West Virginia on and north of U.S. Highway 50 (except points in Hancock County, W. Va.) (2) from points in Columbiana County, Ohio, on and south of a line beginning at the Ohio-Pennsylvania State line extending along Ohio Highway 558 to junnction Ohio Highway 517, thence along Ohio Highway 517 to Lisbon, Ohio, thence along U.S. Highway 30 to the Columbiana-Stark County line, to points in Jefferson, Berkeley and Morgan Counties, W. Va., and (3) from points in Stark County, Ohio, to points in Jefferson, Berkeley and Morgan Counties, W. Va. The purpose of this filing is to eliminate the gateway of Mahoning Township, Lawrence County, Pa.

No. MC 110420 (Sub-No. E56) (Partial Correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of October 2, 1974, and republished, as corrected, this issue. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, 425 Thirteenth Street, N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (4) *Corn syrup blends and mixtures, in bulk*, in tank vehicles, from Chicago, Ill., to points in Oklahoma.

The purpose of this filing is to eliminate the gateway of Kansas City, Mo.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 112070 (Sub-No. E74), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods, as defined by the Commission*, (a) Between those points in Nebraska on and west of U.S. Highway 81 and on and east of U.S. Highway 83, on the one hand, and, on the other, those points in Texas on and east of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 281 to junction Texas Highway 6, thence along Texas Highway 6 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Texas-Louisiana State line; (b) Between points in Nebraska, on the one hand, and, on the other, points in Oklahoma; (c) Between those points in Nebraska on and east of a line beginning at the South Dakota-Nebraska State line, and extending along U.S. Highway 81 to the Kansas-Nebraska State line, on the one hand, and, on the other, to those points in Texas on and east of a line beginning at the International boundary line between United States and Mexico, and extending along U.S. Highway 277, thence along U.S. Highway 277 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 81, thence along U.S. Highway 81 to the International boundary between United States and Mexico; (d) Between points in Nebraska, on the one hand, and, on the other, those points in Oklahoma within 90 miles of Enid, and Enid, Okla. The purpose of this filing is to eliminate the gateways of (a-b-c) Enid, Okla., and points within 90 miles thereof; (d) those points in Kansas within 90 miles of Enid, Okla.

No. MC 112070 (Sub-No. E75), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commis-

sion, between points in South Dakota, on the one hand, and, on the other, those points in Oklahoma, within 90 miles of Enid, and Enid, Okla. The purpose of this filing is to eliminate the gateway of those points in Kansas within 90 miles of Enid, Okla.

No. MC 112070 (Sub-No. E76), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between those points in South Dakota on and east of a line beginning at the North Dakota-South Dakota State line, and extending along U.S. Highway 281, thence along U.S. Highway 281 to the South Dakota-Nebraska State line, on the one hand, and, on the other, those points in Texas on and east of a line beginning at the Oklahoma-Texas State line, and extending along U.S. Highway 277, thence along U.S. Highway 277 to the International boundary between United States and Mexico. The purpose of this filing is to eliminate the gateway of Enid, Okla., and points within 90 miles thereof.

No. MC 112070 (Sub-No. E77), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) between points in Missouri, on the one hand, and, on the other, those points in Texas on and west of a line beginning at the Oklahoma-Texas State line, and extending along U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 63, thence along U.S. Highway 63 to the Texas-Louisiana State line; (b) Between points in Missouri, on the one hand, and, on the other, those points in Texas on and west of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 287, thence along U.S. Highway 287 to the Texas-Louisiana State line; (c) Between points in Missouri, on the one hand, and, on the other, those points in Texas on and west of a line beginning at the Oklahoma-Texas State line, and extending along U.S. Highway 281, thence along U.S. Highway 281 to the Gulf of Mexico; (d) Between points in Missouri, on the one hand, and, on the other, those points in Texas on and west of a line, beginning at the Oklahoma-Texas State line and extending along Texas Highway 240, thence along Texas Highway 240 to junction U.S. Highway 277, thence along U.S. Highway 277 to junction U.S. Highway 83, thence along U.S. Highway 83 to U.S. Highway 57, thence along U.S. Highway 57 to the International Boundary between the United States and Mexico. The purpose of this filing is to eliminate the gateway of Enid, Okla., and points within 90 miles thereof.

No. MC 112070 (Sub-No. E78), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) Between points in Iowa, on the one hand, and, on the other, points in Utah, and those points in New Mexico on and west of a line beginning at the Colorado-New Mexico State line, and extending along Interstate Highway 25 to junction New Mexico Highway 90, thence along New Mexico Highway 90, to the New Mexico-Arizona State line; (b) Between those points in Iowa on and north of a line beginning at the Illinois-Iowa State line, and extending along U.S. Highway 20, to the Iowa-South Dakota State line, on the one hand, and, on the other, points in New Mexico. The purpose of this filing is to eliminate the gateways of points in Colorado-Denver, Colo., and points within 10 miles thereof.

No. MC 112070 (Sub-No. E80), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between those points in Nebraska on and west of a line beginning at the South Dakota-Nebraska State line, and extending along U.S. Highway 83, thence along U.S. Highway 83 to the Nebraska-Kansas State line, on the one hand, and, on the other, those points in Texas on and south of a line beginning at the Texas-Oklahoma State line, and extending along U.S. Highway 287, thence along U.S. Highway 287 to junction Texas Highway 283, thence along Texas Highway 283 to junction Texas Highway 6, thence along Texas Highway 6 to junction U.S. Highway 277, thence along U.S. Highway 277 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 79, thence along U.S. Highway 79 to the Texas-Louisiana State line. The purpose of this filing is to eliminate the gateway of points in Colorado.

No. MC 112070 (Sub-No. E81), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between those points in South Dakota on and west of a line beginning at the South Dakota-North Dakota State line and extending along U.S. Highway 281 to the South Dakota-Nebraska State line, on the one hand, and, on the other, to those points in Texas on and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 277 to the International boundary between United States and Mexico. The purpose of this filing is to eliminate the gateway of points in Colorado.

No. MC 112070 (Sub-No. E82), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Wyoming, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateway of points in Colorado.

No. MC 112070 (Sub-No. E83), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (a) Between points in Cheyenne County, Kans., on the one hand, and, on the other, those points in Texas on and west of a line beginning at the Texas-Oklahoma State line, and extending along Interstate Highway 35 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Alternate U.S. Highway 77, thence along Alternate U.S. Highway 77 to the Gulf of Mexico; (b) Between those points in Kansas on and west of a line beginning at the Kansas-Missouri State line, and extending along Interstate Highway 70, thence along Interstate Highway 70 to junction Interstate Highway 35, thence along Interstate Highway 35 to the Kansas-Oklahoma State line, on the one hand, and, on the other, to those points in Texas on and west of a line beginning at the Texas-New Mexico State line, and extending along U.S. Highway 285, thence along U.S. Highway 285 to junction U.S. Highway 90, thence along U.S. Highway 90 to the International boundary line between United States and Mexico; (c) Between those points in Kansas on and west of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 81, thence along U.S. Highway 81 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 156, thence along U.S. Highway 156 to junction U.S. Highway 56, thence along U.S. Highway 56 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Kansas-Oklahoma State line, on the one hand, and, on the other, those points in Texas on and west of a line beginning at the Texas-Oklahoma State line, and extending along U.S. Highway 83, thence

along U.S. Highway 83 to junction Texas Highway 70, thence along Texas Highway 70 to junction U.S. Highway 277, thence along U.S. Highway 277 to the International boundary between United States and Mexico. The purpose of this filing is to eliminate the gateway of points in Colorado.

No. MC 112070 (Sub-No. E86), filed June 4, 1974. Applicant: GRAY MOVING & STORAGE, INC., 1290 South Pearl, Denver, Colo. 80210. Applicant's representative: D. R. Gray (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, Between points in Tennessee, on the one hand, and, on the other, points in Utah and San Juan County, N. Mex. The purpose of this filing is to eliminate the gateways of Denver, Colo., and points within 10 miles thereof.

No. MC 114632 (Sub-No. E2), filed January 18, 1977. Applicant: APPLE LINES, INC., P.O. Box 507, Madison, S. Dak. 57042. Applicant's representative: Andrew Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, traansporting: *Iron and steel buildings*, knocked down, or in sections, *iron and steel building panels and iron and steel prefabricated structural components*, from Chicago, Ill. and Porter County, Ind., to points in Montana, Colorado, Kansas, and points in Missouri on and west of a line beginning at the Iowa-Missouri State line and extending along Interstate Highway 35 to junction Missouri Highway 291, thence along Missouri Highway 291 to junction U.S. Highway 71, thence along U.S. Highway 71 to junction U.S. Highway 54, thence along U.S. Highway 54 to the Missouri-Kansas State line. The purpose of this filing is to eliminate the gateway of the facilities of American Building Company, Inc. at Atlantic, Iowa.

No. MC 119767 (Sub-No. E64), filed June 4, 1974. Applicant: BEAVER TRANSPORTCO., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Henry Seaton, 915 Pennsylvania Building, 425 Thirteenth Street, N.W., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and prepared foodstuffs*, (except frozen), (1) from points in Illinois on, east and north of a line beginning at the Illinois-Wisconsin State line and extending along Illinois Highway 47 to junction Interstate Highway 74, thence along Interstate Highway 74 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction Illinois Highway 16, thence along Illinois Highway 16 to the Illinois-Indiana State line, to points in North Dakota and South Dakota (except Clay, Union, and Lincoln Counties, S. Dak.) and (2) from points in Illinois, on east, and south of a line beginning at the Illinois-Kentucky State line and extending along Interstate Highway 57 to junction Illinois Highway 16, thence along Illinois Highway 16 to the Illinois-Indiana State line, to points in North Dakota and points in South Dakota on, west, and north of a line beginning at the South Dakota-Nebraska State line and extending along the White and Missouri River to junction South Dakota Highway 34, thence along South Dakota Highway 34 to the South Dakota-Minnesota State line. The purpose of this filing is to eliminate the gateway of Somers, Wis.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-4942 Filed 2-15-77;8:45 am]

[AB 11(Sub-No. 3)]

CHICAGO & EASTERN ILLINOIS RAILROAD CO.

Determination of Environmental Impact

JANUARY 31, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Chicago & Eastern Illinois Railroad Company between Goodwine and Alonzo all in Iroquois County, Ill., a total distance of 3.03 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the environmental impacts of the proposed action are considered insignificant because the amount of traffic diverted to motor carrier is not expected to create any substantial alterations in existing air quality and fuel consumption. No land use or development plans exist in the tributary territory which would be dependent on continuation of service on this line. While the major commodity shipped on this line is grain, abandonment will not preclude its farming or transportation to market. Finally, it has been determined that the right-of-way is not suitable for other public purposes.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before March 14, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-4943 Filed 2-15-77;8:45 am]

[No. 36485]

KANSAS CITY SOUTHERN RAILWAY CO.

Transit Privileges on Canned Goods

It appearing that, pursuant to the order of the United States District Court for the Western District of Missouri, Western Division, entered on August 25, 1976, in Civil No. 75 CV 317-W-4, the Kansas City Southern Railway Company filed a petition on October 28, 1976, requesting a declaratory order concerning certain carloads of canned goods shipped by Pet, Inc. between May 9, 1972 and December 31, 1973.

It further appearing that note 2 of Item 3920 of Southwestern Line's Tariff 174-X makes that item subject to Item 470(c) which states:

(c) No substitution of commodities or freight bills will be permitted at transit station that will impair the integrity of the applicable through rate.

It further appearing that the issue raised by the petition is whether failure to segregate inbound rail tonnage from inbound motor carrier tonnage at a warehouse where the goods had been stored in transit "impairs the integrity of the through rate" and justifies imposition of the applicable combination rate instead of the through rate.

And it further appearing that the petition discloses a controversy or uncertainty which would warrant the entry by the Commission of a declaratory order;

Wherefore, and for good cause: *It is ordered*, That the petition be, and it is hereby, granted to the extent of instituting this proceeding to determine the question presented.

It is further ordered, That any person interested in the matter which is the subject of the petition and who wishes to actively participate in further proceedings herein shall notify this Commission, by filing with the Office of Proceedings, Room 5342, 12th Street and Constitution Avenue, N.W., Washington, D.C., 20423, on or before March 8, 1977, an original and copy of a statement of his intention to participate. Thereafter, this proceeding will be set for handling under the modified procedure. The petition and statements of intention to participate, if any, will be available for public inspection at the offices of the Commission during regular business hours.

A copy of this order will be served upon the petitioner, and notice of the filing of the petition will be given to the general public by depositing a copy of this

order in the Office of the Commission's Secretary at Washington, D.C., and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

Dated at Washington, D.C., this 4th day of February, 1977.

By the Commission, Commissioner Hardin.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-4947 Filed 2-15-77;8:45 am]

[Notice No. 20]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 10, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human-environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 57697 (Sub-No. 5TA) (Correction), filed December 20, 1976, published in the FEDERAL REGISTER issue of January 11, 1977, and republished as corrected this issue. Applicant: LESTER SMITH TRUCKING, INC., P.O. Box 16424, 2645 E. 51st St., Denver, Colo. 80216. Applicant's representative: Michael J. Norton, P.O. Box 2135, 404 Boston Bldg., Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Gypsum and gypsum products*, from points in Albuquerque, N. Mex., and its commercial zone, to points in Colorado and Arizona; and (b) Paper products and gypsum paper, from points in Colorado, to Albuquerque, N. Mex., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 5 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202. The purpose of this republication is to delete part (c) of the application as previously published.

No. MC 61396 (Sub-No. 323TA), filed February 1, 1977. Applicant: HERMAN BROS., INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oil*, in bulk, in tank vehicles, from Ardmore, Okla., to Kansas City, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Norman LeBlond, President, Consolidated Fuel Oil Co., Inc., 4550 W. 109th, Suite 208, Overland Park, Kans. 66211. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 73134 (Sub-No. 3TA), filed February 1, 1977. Applicant: SUPREME EXPRESS AND TRANSFER CO., 3311 Chouteau, St. Louis, Mo. 63103. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages*, in containers, from Warrenton, Mo., to Alton, Belleville, Cairo, Centralia, DuQuoin, Marion, Metropolis, Mattoon and Robonson, Ill., for 180 days. Supporting shipper: Warrenton Products, Inc., P.O. Box 289, Warrenton, Mo. 63383. Send protests to: J. P. Werthmann, District Supervisor, 210 N. 12th St., Room 1465, St. Louis, Mo. 63101.

No. MC 93980 (Sub-No. 68TA), filed February 1, 1977. Applicant: VANCE TRUCKING COMPANY, INCORPORATED, P.O. Box 1119 (Raleigh Road), Henderson, N.C. 27536. Applicant's representative: Henry M. Strause (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island and Vermont, to points in Maryland, North Carolina, Pennsylvania, South Carolina, Virginia and West Virginia, for the account of Lawrence R. McCoy, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lawrence R. McCoy Company, 120 Front St., Worcester, Mass. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 95876 (Sub-No. 197TA), filed February 1, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave., North, P.O. Box 1377, St. Cloud, Minn. 56301. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast stone*, from the plantsite of Stucco Stone Products, Inc., at or near Napa, Calif., to points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, Nevada, New Mexico, North Carolina, Oklahoma, South Carolina, Texas and Utah, for 180 days. Supporting shipper: Stucco Stone Products, Inc., Box 237, Napa, Calif. 94558. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 107496 (Sub-No. 1062TA), filed February 1, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, from Omaha, Nebr., to points in Kansas, Missouri, Iowa, Minnesota, South Dakota, Wyoming and Colorado, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nebraska Ash Company, P.O. Box 80268, Lincoln, Nebr. 68501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 1063TA), filed February 1, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vapona* (dichlorovinyl dimethyl phosphate), in bulk, in tank vehicles, from the plantsite of Shell Oil Company, at or near Denver, Colo., to Dallas, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Shell Oil Company, P.O. Box 2099, Houston, Tex. 77001. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Inter-

state Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 109397 (Sub-No. 353TA), filed January 31, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitro carbo nitrate slurry* (a blasting agent) when moving in collapsible "sealdtank", from Atlas, Mo., to Barre, Vt., with specific authority to return collapsed "sealdtanks" to either Atlas, Mo., or Reynolds (Tamaqua), Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Atlas Powder Company, 12700 Park Central Place, Dallas, Tex. 75251. Send protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 110563 (Sub-No. 195TA), filed January 31, 1977. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, 113 N. Ohio Ave., Ohio Bldg., Sidney, Ohio 45365. Applicant's representative: John L. Maurer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Compressed fireplace logs, and related advertising materials and display racks*, in mixed loads with compressed fireplace logs, from Marion, Ohio, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great Lakes Carbon Corporation, 299 Park Ave., New York, N.Y. 10017. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 113024 (Sub-No. 148TA) (correction), filed January 3, 1977, published in the FR issue of January 21, 1977, and republished as corrected this issue. Applicant: ARLINGTON J. WILLIAMS, INC., 1398 S. Du Pont Highway, Smyrna, Del. 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured fertilizer* (except in bulk), from points in Louisiana, Mo., to Burlington, N.J., under a continuing contract with Hercules Incorporated, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Matthew C. Minker, District Traffic Manager, Hercules Incorporated, 910 Market St., Wilmington, Del. 19899. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 113398 (Sub-No. 15TA), filed January 31, 1977. Applicant: CINEMA SERVICE, INC., P.O. Box 4, Fort Collins, Colo. 80521. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric household appliances and equipment; kitchen and bathroom appliances and equipment; oral hygiene appliances and equipment; hydrotherapy equipment; sink and shower fixtures; smoke alarms; food processing machines; and filters;* (a) from the plantsite and storage facilities of Teledyne Water Pik, located in Larimer County, Colo., to the facilities of Teledyne Water Pik, located in Atlanta, Ga.; and (b) from the plantsites and storage facilities of Teledyne Water Pik, located in Larimer County, Colo., to points in the following named cities and their commercial zones; Wichita, Kans.; Kansas City, Springfield and St. Louis, Mo.; Memphis, Nashville and Chattanooga, Tenn.; and Birmingham, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Teledyne Water Pik, 1730 E. Prospect St., Fort Collins, Colo. 80521. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., Denver, Colo. 80202.

No. MC 113460 (Sub-No. 7TA), filed February 1, 1977. Applicant: BLACK-HAWK TRANSPORTATION, INC., 3909 E. 29th St., Des Moines, Iowa 50310. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, (1) from Milwaukee, Wis., to Chariton and Red Oak, Iowa; and (2) from LaCross, Wis., to Des Moines and Red Oak, Iowa, and return of empty containers, for 180 days. Supporting shippers: Rite Beverage Company, 4601 S.W. 34th St., Des Moines, Iowa 50316. Central Sales Company, Chariton, Iowa 50049. England Distributing Company, Inc., 103 S. Broadway, Red Oak, Iowa 51566. McHenry Distributing Co., 1947 Hull Ave., Des Moines, Iowa 50312. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 114211 (Sub-No. 295TA), filed February 2, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 324 Manhard St., Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, 327 S. LaSalle St., Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Equipment* designed for use in conjunction with self-propelled vehicles; (b) *parts and attachments* for the commodities in (a) above, from Pocahontas, Iowa, to Warren, Mich., and New Carlisle, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E. R. Buske Mfg. Co., Inc., P.O. Box 129, Pocahontas, Iowa 50574. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 116131 (Sub-No. 1TA), filed January 31, 1977. Applicant: BAUER-MEISTER HEGEMAN, INC., 3651 N. Fruitridge Ave., Bldg. 104, Terra Haute, Ind. 47898. Applicant's representative: W. H. Grosbach, 711 E. Jackson St., Brazil, Ind. 47834. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, semitrailers, trailer chassis* (other than designed to be drawn by passenger automobiles), *and parts and accessories therefor*, in initial movements, from the plantsite and storage facilities of Great Dane Trailers Indiana, Inc., located at or near Brazil, Ind., to points in Indiana, Kentucky, Illinois, Ohio, Michigan, Missouri, Wisconsin, Alabama, Tennessee, Arkansas and Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great Dane Trailers Indiana, Inc., Highway 40 East, P.O. Box 350, Brazil, Ind. 47834. Send protests to: Fran Sterling, Transportation Assistant, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 124896 (Sub-No. 22TA), filed January 27, 1977. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485 (Thorne and Ralston Sts.), Wilson, N.C. 27893. Applicant's representative: B. H. Williamson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and packinghouse products, and meat byproducts*, from the plantsite and storage facilities of Wilson Foods Corporation, at or near Cherokee, Iowa, to points in Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wilson Foods Corporation, P.O. Box 26724, Oklahoma City, Okla. 73126. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 125035 (Sub-No. 44TA), filed January 25, 1977. Applicant: RAY E. BROWN TRUCKING, INC., 1266 Stuart St., N.W., P.O. Box 501, Massillon, Ohio 44646. Applicant's representative: Jerry

B. Sellman, 50 W Broad St., Suite 1815, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and composite containers and container ends*, from Massillon, Ohio, to points in Chicago, Ill.; Fort Madison, Iowa; Minneapolis and St. Paul, Minn.; and Clearlake, Euclaire, Germantown and Vesper, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Central States Can Co., Division of Van Dorn, Inc., 700 6th St., S.E., Massillon, Ohio 44646. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg. and U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 126118 (Sub-No. 29TA), filed February 2, 1977. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nuts, and agricultural commodities* exempt from economic regulation under Section 203(b)(6) of the Act when transported in mixed loads with nuts, from points in California, to states east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Louisiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Kyle Shaw, V.P., Market Development, Continental Nut Company, Box 400, Chico, Calif. 95926. K. C. Dunham, Tenneco West, Inc., Manager, Traffic, Box 9380, Bakersfield, Calif. 93309. Willis G. Mapes, Traffic Manager, California Almond Growers, Exch., Box 1768, Sacramento, Calif. 95808. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg. and Courthouse, Lincoln, Nebr. 68508.

No. MC 135616 (Sub-No. 11TA), filed January 31, 1977. Applicant: PERRYSBURG TRUCKING CO., INC., 24982 Thompson Road, Perrysburg, Ohio 43551. Applicant's representative: Herbert Alan Dubin, 1819 H St., N.W., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the facilities of ASG Industries, Inc., at or near Kingsport and Greenland, Tenn., to points in Minnesota (except Bayport), Iowa, Michigan, Wisconsin, Illinois, Missouri, Indiana, Ohio, Kentucky, West Virginia, Pennsylvania, New York, New Jersey and Massachusetts, under a continuing contract with ASG Industries, Inc., for 180 days. Supporting shipper: ASG Industries, Inc., P.O. Box 929, Kingsport, Tenn. 37662. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 136257 (Sub-No. 2TA), filed February 1, 1977. Applicant: RABBIT TRANSIT, 220 Erie St., Pomona, Calif. 91766. Applicant's representative: Edward A. Francom, 6400 Village Parkway, Dubin, Calif. 94566. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *plastic plumbing fixtures and related equipment and supplies*, from the plantsite and storage facilities of American Standard, at Stockton, Calif., to points in Washington, Oregon, Montana, Idaho, Colorado, Wyoming, New Mexico, Arizona, Nevada and Utah, for 180 days. Supporting shipper: American Standard Inc., P.O. Box 20003, New Brunswick, N.J. 08903. Send protests to: Mary A. Francy, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 136605 (Sub-No. 21TA), filed February 1, 1977. Applicant: DAVIS BROS. DIST., INC., 2024 Trade St., P.O. Box 1027, Missoula, Mont. 59801. Applicant's representative: W. E. Seliski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand*, in sacks or bags, from Ottowa and Minneapolis, Minn., to points in Montana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Joe Forzley, Forzley Sales, Inc., Box 2870, Great Falls, Mont. 59403. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 139193 (Sub-No. 57TA), filed January 28, 1977. Applicant: ROBERTS & OAKE, INC., 527 E. 52nd St. North, P.O. Box 1356, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, Suite 300, 2033 K St., N.W., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from Estherville and Sioux City, Iowa, to points in Georgia and Tennessee, under a continuing contract with John Morrell & Co., for 180 days. Supporting shipper: John Morrell & Co., 208 S. LaSalle St., Chicago, Ill. 60604. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369 Federal Bldg., Pierre, S. Dak. 57501.

No. MC 142062 (Sub-No. 5TA), filed January 31, 1977. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box 62, Sellersburg, Ind. 47172. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool and mineral wool products* (except in bulk), from the facilities of Johns-Manville Sales Corporation, at Alexandria, Ind., to points in Utah, Nevada, Arizona, California, New Mexico, Oregon, Washington and Idaho, restricted to the transportation of shipments under a continuing contract with Johns-Manville Sales Corporation, for 180 days. Supporting shipper: Johns-Manville Sales Corporation, P.O. Box 2222, Kensington Court, Oak Brook, Ill. 60521. Send protests to: Fran Sterling, Transportation Assistant, Interstate Commerce Commission, Federal Bldg. and U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 142355 (Sub-No. 4TA), filed January 28, 1977. Applicant: TRANS-WESTERN EXPRESS, LTD., 48 E. 56th Ave., Denver, Colo. 80216. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electric household appliances and equipment; kitchen and bathroom appliances and equipment; oral hygiene appliances and equipment; hydro therapy equipment; sink and shower fixtures; smoke alarms; food processing machines; and filters*, from the plantsites and storage facilities of Teledyne Water Pik, located in Larimer County, Colo., to points in Alabama, Mississippi, Louisiana, Texas, Georgia, Oklahoma, Arkansas, Tennessee and Kentucky; and (2) *Materials, equipment and supplies* used in the manufacture or distribution of the commodities named in (1) above, from Dallas, Houston and Arlington, Tex., and Kingsport and Knoxville, Tenn., to the plantsites and storage facilities of Teledyne Water Pik, located in Larimer County, Colo., under a continuing contract with Teledyne Water Pik, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Teledyne Water Pik, 1730 East Prospect St., Fort Collins, Colo. 80521. Send protests to: Roger L. Cuchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., Denver, Colo. 80202.

No. MC 142785TA (correction), filed January 7, 1977, published in the FR issue of January 27, 1977, and republished as corrected this issue. Applicant: BROTHERLY LOVE EXPRESS, INC., 2451 Montrose St., Philadelphia, Pa. 19145. Applicant's representative: Brian S. Stern, 2425 Wilson Blvd., Suite 327, Arlington, Va. 22201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel*, in coils, sheets and lengths of flat, corrugated steel in sheets, from the plantsite and facilities utilized by Western Steel Company, at Philadelphia, Pa., to points in Connecticut, Delaware, Georgia, Florida, Maryland, Massachusetts, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Tennessee and Virginia; and (2) (a) *Returned shipments* of the commodities described in (1) above, and (b) *Materials, equipment and supplies*

used in the manufacture, sales and distribution of the commodities described in (1) above, from points in Connecticut, Delaware, Georgia, Florida, Maryland, Massachusetts, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Tennessee and Virginia, to the plantsite and facilities utilized by Western Steel Company, at Philadelphia, Pa. in (2) (a) and (b) above, under a continuing contract with Western Steel Company, for 180 days. Supporting shipper: Western Steel Company, 4424 Paul St., Philadelphia, Pa. 19124. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch St., Room 3238, Philadelphia, Pa. 19106. The purpose of this republication is to correct the requested authority in this proceeding.

No. MC 142833 (Sub-No. 1TA), filed February 1, 1977. Applicant: CLEARVIEW MOTOR CO., INC., 3120 Clearview Parkway, Metairie, La. 70002. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Bldg., New Orleans, La. 70130. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled motor vehicles* by use of wrecker equipment, between New Orleans, La., and St. John the Baptist Parrish, La., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Mississippi, Tennessee and Texas, for 130 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are approximately 9 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Ave., 9038 Federal Bldg., New Orleans, La. 70113.

No. MC 142860TA, filed January 27, 1977. Applicant: JOHN P. JUENGER, doing business as RIVERSIDE METALS, Box 46, Route 2, Midway, Ark. 72651. Applicant's representative: John P. Juenger (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated metal and scrap*, between points in the United States, under a continuing contract with Mountain Home Mfg. Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 142863TA, filed February 1, 1977. Applicant: RAYMOND GODDEN, Kellerton, Iowa 50133. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, from Kellerton, Iowa, to points in Missouri on and north of U.S. Highway 36 and on and west of U.S. Highway 63, and Lamoni, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lowenberg Bakery, Inc., 334 W. Second, Ottumwa, Iowa 52501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-4948 Filed 2-15-77;8:45 am]

[AB 36 (Sub-No. 4)]

OREGON SHORT LINE RAILROAD CO.

Determination of Environmental Impact

JANUARY 31, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment by the Oregon Short Line Railroad Company and the Union Pacific Railroad Company of a portion of the Grace branch line, a distance of 1.13 miles, all in Caribou County, Idaho, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that there will be no environmental impacts associated with this abandonment because service will continue to be provided to local shippers since applicant intends to reclassify the trackage as sidetrack and lease it to these shippers. Although resource development is a major industry in the area, the subject line is not considered in any of the development plans. Consequently, there will be no impacts on rural and community development.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before March 14, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-4946 Filed 2-15-77;8:45 am]

[AB 12 (Sub-No. 41)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Determination of Environmental Impact

JANUARY 31, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment of 1.633 miles of a portion of the "R Street Line" in Sacramento County, Calif., by the Southern Pacific Transportation Company, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332 (2) (C) of the NEPA.

It was concluded, among other things, that the diversion of rail traffic to motor carrier would produce only minimal changes in ambient environmental conditions and safety of the subject area. No economic development plans exist which are dependent on the subject rail line remaining in service and, consequently, there will be no adverse effect on community or rural development. No historic or archaeological sites or endangered and threatened species will be affected by the proposed action.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before March 14, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-4944 Filed 2-15-77;8:45 am]

SOUTHERN PACIFIC TRANSPORTATION CO.

Determination of Environmental Impact

JANUARY 31, 1977.

The Interstate Commerce Commission hereby gives notice that its Section of Energy and Environment has concluded that the proposed abandonment of 13.86 miles of the Walnut Grove Branch in Sacramento County, Calif. by the Southern Pacific Transportation Company, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332 (2) (C) of the NEPA.

It was concluded, among other things, that the diversion of rail traffic to motor carrier would produce only minimal changes in ambient environmental conditions and safety of the subject area. No economic development plans exist which are dependent on the subject rail line remaining in service and, consequently, there will be no adverse effect on community or rural development. No historic or archaeological sites or endangered and threatened species will be affected by the proposed action.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before March 14, 1977.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-4945 Filed 2-15-77;8:45 am]

federal register

WEDNESDAY, FEBRUARY 16, 1977

PART II

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

■

NONDISCRIMINATION IN FEDERALLY ASSISTED CRIME CONTROL AND JUVENILE DELINQUENCY PROGRAMS

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 42—NONDISCRIMINATION; EQUAL EMPLOYMENT OPPORTUNITY; POLICIES AND PROCEDURES

Nondiscrimination in Federally-Assisted Crime Control and Juvenile Delinquency Programs

AGENCY: Department of Justice/Law Enforcement Assistance Administration (LEAA).

ACTION: Final rule.

SUMMARY: LEAA is adopting, with amendments, rules proposed on November 23, 1976 (41 FR 51762), to implement the nondiscrimination provisions of the Crime Control Act of 1976 (Pub. L. 94-503, 90 Stat. 2407) and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (Pub. L. 93-415, 88 Stat. 1109, as amended by Pub. L. 94-503, 90 Stat. 2425), and to implement Section 521(d) of the Crime Control Act, requiring LEAA, within 120 days of enactment, to promulgate timetables for civil rights complaint investigations and compliance reviews.

EFFECTIVE DATE: These rules are effective immediately upon signature in order to comply with the 120-day requirement noted, supra.

FOR FURTHER INFORMATION CONTACT: Thomas J. Madden, General Counsel, LEAA (202) 376-3691.

SUPPLEMENTARY INFORMATION:

In the Introduction to the proposed regulations, LEAA specifically invited comment on ten issues. Several related to interpretation of the Crime Control Act, some were proposed revisions of the previous regulations, and others were policy questions concerning the administration of the Act and the regulations.

The comments received were numerous and helpful. The issues drawing the most attention were the definition of "service population" in proposed § 42.206 (b)(1), and the complaint investigation timetables proposed in § 42.205. Comments were sent by a wide variety of observers and participants in the LEAA program: State criminal justice planning agencies, public interest groups, civil rights organizations, State and local units of government, a diverse number of LEAA recipients in the criminal justice community, including many State departments of corrections, and Members of Congress. After a thorough and careful analysis of their comments and further consideration, LEAA has revised the regulations in a number of places.

An analysis of the comments and changes follows. The ten issues highlighted for comment are addressed first, followed by a section-by-section analysis of all other comments and amendments.

COMPLAINT INVESTIGATION AND COMPLIANCE REVIEW TIMETABLES

The great majority of commenters on this issue felt the proposed complaint processing timetable was too long. After an analysis of the comments, LEAA has substantially revised § 42.205 to shorten the complaint processing timetables by 40 days, (from 255 to 215) where on-site investigation is not required, and 45 days (from 285 to 240) where an on-site investigation is required.

The reductions are largely the result of two changes in the proposed method of investigation. The first change, as reflected in the definition of "investigation" in § 42.202(d) and in the timetables, at § 42.205(c)(3)(iii), removes the implication in the proposed regulations that LEAA would engage in voluntary compliance efforts in every case and could result in an additional 30-day reduction in time. The new regulations now limit compliance efforts to a 30-day period, and specify that LEAA will attempt to negotiate compliance during that period only if it is likely to succeed and only when the recipient requests it to do so. In those cases where a determination of non-compliance is made, triggering a letter to the chief executive, voluntary compliance efforts may take place during the statutory 90-day period for securing compliance. See §§ 42.211 and 42.212.

The other change facilitating the reduction of the proposed timetables was placement of the recipient's opportunity to make a documentary submission earlier in the process. The proposed regulations provided the opportunity at the end of the investigation, after the recipient had received LEAA's recommendations for compliance. Upon review, LEAA believed that, besides prolonging the investigatory process, it would also impair the efficiency of the investigation. A recipient could render the investigation preceding the findings letter meaningless by withholding its documentary response until after receipt of the letter. To meet the statutory requirement to provide an opportunity for a documentary submission, therefore, the final regulations offer the recipient the opportunity to submit documents at any time prior to receipt of the findings letter. This change will shorten the investigative process, enhance the quality of the investigation, and provide a recipient full opportunity to rebut, deny, or otherwise respond to the allegations in the complaint.

A new processing mechanism has been established with logging and tracking procedures which will make the investigative process work with increasing efficiency. The regulations as now adopted will require investigation of all complaints to be completed within the time periods specified. In a typical case, the time periods will be used as follows:

Upon the receipt of a complaint, the complaint will be docketed and the complainant sent a letter of acknowledgment. An initial review will be made to verify funding and resolve any jurisdictional problems. Once jurisdiction is determined, the complainant and respondent will be notified. A detailed interview will be held with the complainant. Thereafter, the actual investigation will be initiated, at the maximum, within 21 days. LEAA will then draft and mail interrogatories to the respondent, including notice of allegations and a notice of the right to make a documentary submission. Thereafter, the respondent will have a period of time to reply. Then, additional followup investigations, case analysis and draft of initial findings and recommendations will be accomplished. If on-site review is necessary, this investigation period may take a maximum of 175 days. Field visits may include interviews with complainant, respondent and other witnesses; statements and further documentary submissions may be required as well as a review of records and files to verify data. If an on-site review is not required, the time period will be reduced to 150 days. Upon completion of the investigation, a letter of findings and recommendations will be sent to the respondent. Thirty (30) days have been allotted for a response from the respondent to negotiate voluntary compliance. Fourteen (14) days thereafter, the Administrator of LEAA will make a determination of compliance or non-compliance and the complaint investigation will be at an end.

With the limited resources now available [1] and an inventory of approximately 325 [2] cases, the caseload for the inventory alone will be a minimum of 40.6 cases per investigator during the first seven or eight months following the issuance of these regulations. The investigation of the inventory cases must be completed within 171 days where no on-site investigation is required and 196 days where on-site work is required. This will allow an investigator to spend no more than 4.2 days (no on-site) and 4.8 days (on-site) on each case. Based on current experience, it is also estimated that an additional 160 complaints will be received during this initial eight-month period. LEAA believes that no further reduction in the time period can therefore be made at this time. Because of the many other civil rights-related functions performed by LEAA, no other qualified personnel can be allocated to complaint investigations within the near future. Civil rights-related functions include not only inves-

[1] There are currently 25 permanent positions in the LEAA Office of Civil Rights. Of these, 17 persons are assigned directly to the investigative process: There are two part-time supervisor/investigators, one full-time supervisor, and seven full-time investigators. A total of eight person years for full-time investigative capability is therefore provided. There are also two clericals who provide secretarial support; one administrative aide who dockets complaints and handles initial processing; three attorneys who review complaints to resolve questions of jurisdiction and legal sufficiency and assist the investigators in preparing findings, determinations, and letters to the chief executives of the State and local governments; one clerical who provides the legal staff with secretarial support.

[2] This includes 263 complaints under active investigation, 28 complaints in litigation and 34 complaints which have been referred to other agencies. Pursuant to §§ 42.205(c)(6) and 42.217(a), where these complaints in litigation and referral do not result in timely resolution, the administrative investigation will be resumed.

tigations and reviews to insure compliance with civil rights requirements, but also include affirmative action, such as providing technical assistance to recipients of LEAA funds for the development of methods to assure compliance with civil rights laws, and the monitoring of recipients whose compliance has been secured. In addition, civil rights-related proposals and contracts developed by other offices of LEAA are reviewed to insure that they are in consonance with Federal civil rights policies and practices.

LEAA also conducts preaward compliance reviews, analyzing discretionary and juvenile justice grants in excess of $500,000 to determine the existence of possible civil rights problems. Such reviews may also be conducted on grant applications of lesser amounts where warranted; where appropriate, negotiations will be conducted with prospective grantees to attach special conditions to the grants or contracts in order to resolve the civil rights problems.

LEAA will continuously monitor the new processing procedures with the view to reducing the now-established time periods. As the backlog is erased, a shortening of the time periods set forth in these regulations should occur. Within the next eight months, LEAA will reexamine the time periods and it is expected that the average time period for the complaint investigation will be significantly reduced. At that time, LEAA will have completed the first full eight months of the complaint investigating and review cycle. LEAA will, during that eight-month period, be gathering data on the person hours required to process complaints under the new procedures. This data will assist LEAA in making appropriate amendments to these regulations.

CREED AND RELIGION

No substantive comments were received on the proposal to equate the meaning of the term "religion" under the Crime Control Act with the term "creed" under the Juvenile Justice Act. The proposal to define both terms as provided in § 42.202(i) is, therefore, adopted.

HEIGHT GUIDELINE

Of the few comments received on the proposed revision of the LEAA Minimum Height Guideline, two criticized the implied presumption that all minimum height requirements, in every community, are discriminatory. LEAA is unaware of any jurisdiction where women, Asian-Americans, or Hispanics are of the same average height as white males. Nevertheless, LEAA did not intend to state the proscription in § 42.203(d) as a presumption. To remove this implication, therefore, the comma following the phrase "minimum height requirement" in the first sentence of proposed § 42.203 (d) has been deleted.

Two other commenters believed that the "business necessity" test stated in *Robinson* v. *Lorillard*, 444 F. 2d 791 (4th Cir. 1971), and adopted in the previous guideline should have been retained. As noted in the Introduction to the proposed regulations at 41 FR 51762, the courts examining the minimum height issue have not applied this test. See *Mieth* v. *Dothard*, 418 F. Supp. 1169 (M.D. Ala. 1976); *LULAC* v. *Santa Ana*, 410 F. Supp. 873 (C.D. Cal. 1976); and *Officers for Justice* v. *Civil Service Commission*, 395 F. Supp. 378, 380 (N.D. Cal. 1975). Accordingly, the proposed revision of the minimum height guideline is adopted as final.

In response to several other comments and after further consideration, LEAA has also specified that discriminatory minimum weight, as well as minimum height, requirements violate this subpart, unless they have been validated in accordance with the Department of Justice Guidelines on Employee Selection Procedures.

The first part of the first sentence of § 42.203(d) has, therefore, been amended to read "The use of a minimum height or weight requirement which operates to disproportionately exclude women and persons of certain national origins * * *."

COMPLIANCE WITH PRELIMINARY INJUNCTION

LEAA requested comment on whether suspended payments to a recipient should be resumed upon the recipient's compliance with a preliminary injunction, in light of the statutory requirement that payment could be resumed upon a recipient's compliance with the "final order or judgment" of a court. Several observers evidently believed their comments were requested on whether a preliminary finding of discrimination should trigger the fund termination process. In accord with the direction of the statute, LEAA will initiate that process only upon receipt of notice of those findings made after "notice and opportunity for a hearing." Findings rendered after procedures not meeting that proviso will not result in the initiation of the fund termination process.

Most comments on the issue of whether compliance with a preliminary injunction should be compliance with a "final order" for the purpose of resuming payment of suspended funds felt it should not be. The majority of commenters believed, and LEAA agrees, that the spirit of the Act dictates a policy of suspension or termination until the recipient complies with a full order of affirmative relief designed to resolve the pattern or practice of discrimination at issue.

Accordingly, only where (1) the order addresses all substantial outstanding issues, and (2) the recipient's compliance, as defined in § 42.213(b), brings it into compliance with § 518(c) of the Act, will payment of previously suspended funds resume.

SERVICE POPULATION

In proposed § 42.206(b), LEAA proposed to make the disparity between the percentage of minorities in the recipient's workforce and the percentage in its "service population" a factor in selecting recipients for compliance reviews. LEAA specifically invited comment on the definition of "service population" in this context.

This issue generated the most comment of any section of the regulations. The great majority of the departments of corrections responding to our invitation for comment asked that minority representation on their workforces be measured in the same way as minority representation on the workforces of courts and police departments. A representative of the California Correctional Officers Association and the Peace Officers' Research Association of California noted that the definition of "service population" in Subpart E shifted focus from the principle of equal employment opportunity to "a notion that the race or sex of an employee is job-related to the work the employee is performing for the service population. (This shift in focus) suggests that a particular percentage of minorities or women in the correctional officer workforce is somehow required to do an adequate job in guarding and/or supervising the inmates." No empirical evidence supporting this notion was offered to LEAA.

The director of the Virginia Department of Corrections criticized the rationale behind the previous definition:

> It would appear to be more proper to assert that a staff makeup proportionate to the makeup of the general civilian population is more rational since inmates, of a protected minority or otherwise, must return someday to the general civilian population. To afford inmates the supposed benefit of a staff not representative of the real world seems destined to delude inmates into false expectations about the free world.

For the above reasons, and the reiteration by a number of commenters of the reasons listed in the Introduction to the proposed regulations (41 FR 51762), LEAA has decided to define the relevant population the same for correctional facilities, courts, and law enforcement agencies.

Opinion was divided on which population should be the relevant measure of disparity. Some observers believed the geographical area served by the agency in question should be the relevant population; others favored the population variously defined as the "relevant labor market," "applicant pool," or "recruiting area." LEAA believes that the term "relevant labor market" best describes the population to which the employer's workforce should be compared. Although this market may often be the same as the geographical area served, *LULAC* v. *Santa Ana*, 410 F. Supp. 873 (C.D. Cal. 1976), it is flexible enough to address those situations where recruiting is actually done in jurisdictions other than the one served by the agency in question. *Davis* v. *Washington*, 348 F. Supp. 15 (D.D.C. 1972). LEAA will, accordingly, define the "relevant labor market" of each recipient investigated or reviewed on a case-by-case basis.

Therefore, the term "relevant labor market" is substituted for the term "service population" in § 42.206(b)(1).

In addition, § 42.302(f) and the first sentence of § 42.306(b) in Subpart E of the LEAA Nondiscrimination Regulations, 28 CFR 42.301 et seq., are deleted.

Section 42.302(g) is redesignated § 42.302 (f).

REFERRAL TO ATTORNEY GENERAL

The Administration invited comment on whether, and in what circumstances, a matter could be referred to the Attorney General for litigation. A number of commenters took exception to the term "referral" itself, believing it connoted a relinquishment of jurisdiction. These observers, including Congressman Peter Rodino, Chairman of the House Judiciary Committee, believed that, regardless of whether LEAA requested the Attorney General to sue a recipient, it had to retain administrative jurisdiction over the matter. Chairman Rodino, in a letter dated December 20, 1976, cautioned that "it is not appropriate for LEAA to refer cases to the Civil Rights Division or other Federal or State agencies without monitoring the case for prompt resolution." If the Attorney General responds to our request and initiates suit, however, LEAA's ability to "promptly" resolve the matter administratively is, for very practical reasons, limited. The Civil Rights Division of the Department of Justice has advised us that, in many instances, the initiation of independent administrative proceedings by LEAA may jeopardize the litigation. Forcing a recipient to defend itself in two forums simultaneously would require an unnecessary delay and duplication of effort. It would, moreover, raise a substantial likelihood of a defendant's request for and the court's granting of a stay of the litigation pending the conclusion of the administrative process. Should this occur, LEAA will be forced to forego one very significant method of enforcement and will be denied the substantial equitable and legal powers available through the court that are not available to an administrative law judge.

To implement the policy of the Crime Control Act and to utilize the authority of the court, LEAA has added a new paragraph to proposed § 42.217. Section 42.217(a) reads:

The Administrator may, at any time, request the Attorney General to file suit to enforce compliance with Section 518(c)(1) or Section 262(b). LEAA will monitor the litigation through the court docket and constant liaison with the Civil Rights Division of the Department of Justice. Where the litigation does not result in timely resolution of the matter, and funds have not been suspended pursuant to § 42.217(b) or otherwise, LEAA will institute administrative proceedings pursuant to § 42.210, *et seq.*, unless enjoined from doing so by the court.

By modifying "resolution" with the term "timely" rather than "prompt," and by recognizing our obligation to closely monitor any litigation brought by the Attorney General on our behalf, LEAA intends to inform all interested parties that, where the litigation is protracted or unlikely to resolve the matter within a reasonable time, it will initiate the fund termination process. In order to avail itself of the authority of the Attorney General and the power of the Federal courts to eliminate discrimination in LEAA-funded programs, LEAA realizes that the courts must have a reasonable time to hear and decide. As indicated at 41 FR 51763, LEAA believes that some matters may be better suited to litigation than the administrative process for any of a number of reasons, such as the presence of novel issues, the lack of significant funding, or a prior investigation by the Civil Rights Division in a particular matter. Where such reasons do not exist, and this should be the case in the vast majority of complaints, LEAA will utilize the administrative process. In no circumstances will LEAA relinquish jurisdiction over a case the Attorney General is litigating on its behalf. LEAA believes § 42.217(a), and the Commentary on that section, best fulfills congressional intent, and the needs of a vigorous and effective civil rights compliance programs.

PENDING LITIGATION BY A PRIVATE PARTY

The comments were divided on the question of whether LEAA should initiate an investigation and proceed administratively on a complaint when the same issues involved in the complaint were being litigated by a private party at the same time. Some observers believed deferral was always appropriate, another felt it appropriate unless the litigation became protracted, and others believed LEAA could not defer.

LEAA recognizes its obligation to assure that allegations of discrimination brought to its attention are resolved in a timely fashion. Where action by the Attorney General or a private litigant will do so independent of LEAA activity, LEAA believes it would be unwise to invest its limited resources in the same matter, possibly for no practical purpose. Where, however, the efforts of others are unlikely to conclude the controversy as soon as, or more quickly than LEAA would be able to through the administrative process, LEAA should proceed. Accordingly, LEAA has stated in § 42.205 (c)(5) that:

(5) If the complainant or another party other than the Attorney General has filed suit in Federal or State court alleging the same discrimination alleged in a complaint to LEAA, and, during LEAA's investigation, the trial of that suit would be in progress, LEAA will suspend its investigation and monitor the litigation through the court docket and contact every 30 days with the complainant. Upon receipt of notice that the court has made a finding of discrimination within the meaning of § 42.210, the Administration will institute administrative proceedings pursuant to § 42.210, et seq.

As stated in the Commentary on § 42.205(c)(5), LEAA will initiate an investigation if the litigation becomes protracted or apparently will not resolve the matter within a reasonable time.

CIVIL RIGHTS COMPLIANCE ACTIVITIES BY LEAA STATE PLANNING AGENCIES

Only two SPA's responded to our invitation for an expression of interest in a program under which the SPA's could participate in the civil rights compliance process. Of the two responding, one felt such a program was inappropriate under the new legislation, and the other believed the regulations previously proposed by LEAA at 40 FR 56454 (December 3, 1975) were satisfactory.

An SPA Task Force on Civil Rights felt that the concept had merit, but needed further elaboration. Until it is clear that an agreeable system either will be or cannot be developed, LEAA will continue to reserve §§ 42.208 and 42.209 for an SPA participation program. If developed, the program will be published for comment in the FEDERAL REGISTER.

MASTER PLAN

Two of the three comments received on the Master Plan believed the plan was of questionable utility. In light of these comments and the impact of this subpart, the plan is operative only to the extent that it is not superceded by the regulations. Those portions of the plan still in effect, therefore, are the sections on pre-award desk audits, construction compliance reviews, and management by objectives.

SUBPART E

The comments received generally supported the continued use of Subpart E, without amendment, except for the definition of "service population" discussed supra, and concurred in LEAA's proposal to enforce compliance with Subpart E under Section 509 of the Act rather than Section 518(c)(2). Accordingly, with the exception of the definition of "service population," Subpart E will not be amended at this time, and non-compliance with its provisions will be enforced pursuant to Section 509.

A number of amendments were made in response to other comments as well. A section-by-section analysis follows:

1. *Sections 42.201 (b) and (c).* The proposed regulations did not adequately explain the applicability of the regulations to private, as well as public recipients. The revised regulation states that all private recipients are covered, but that the method of enforcing their compliance differs, depending on whether their assistance was received directly from LEAA or through a unit of State or local government. Section 509 of the Crime Control Act provides an effective fund termination procedure for failure to substantially comply with a regulation or statute.

Proposed § 42.201(b) has therefore been deleted and replaced by §§ 42.201 (b) and 42.201(c). A Commentary on § 42.201(c) has also been added.

2. *Section 42.202(d).* A number of commenters, including Congressman Rodino, believed LEAA was not required to engage in voluntary compliance efforts in every case. As part of the revision of the complaint investigation timetables proposed in § 42.205(c), LEAA has restricted voluntary compliance efforts to a 30-day period following notification to the recipient of the Administration's findings and recommendations, and only when the recipient asks LEAA to engage in such efforts and LEAA believes negotiation is likely to succeed.

To reflect that change, the word "both" has been deleted from the definition of "investigation" in § 42.202(d), and the phrase "pursuant to § 42.205(c)

(3)" inserted after "fact-finding efforts and." The Commentary on § 42.202(d) has also been deleted. See also the discussion of the revised complaint investigation process, supra.

3. *Section 42.202(h)*. A definition of "pattern or practice," reflecting the legislative history of the phrase, has been added. For a further elaboration, see House Report 94-1155 (94th Cong., 2d Sess.), at p. 25.

4. *Proposed §§ 42.202(h) (i) (j) and (k)* have been redesignated §§ 42.202(i) (j) (k) and (l), respectively, to accommodate the definition of "pattern or practice" in § 42.202(h).

In addition, the Commentary on proposed § 42.202(h) has been deleted. The substance of the Commentary now appears in § 42.201(c).

5. *Section 42.202(i)*. The phrase "directly, or" has been added following the phrase "to which Federal financial assistance is extended" to clarify that all private recipients are covered by the prohibitions in this Subpart, regardless of whether they receive assistance directly from LEAA, through another private entity, or through a unit of State or local government.

6. *Section 42.203(b)*. A second paragraph has been added to the Commentary on this section to explain the Administration's position on individual projects which benefit a particular sex, race, or ethnic group. Such projects are not violative of Section 518(c) unless the granting agency or the recipient has engaged in an unjustified pattern of such preferential treatment.

7. *Section 42.203(b) (4)*. The word "any" has been added before "advantage" to be consistent with Subpart C of the Department of Justice Nondiscrimination Regulations, at 28 CFR 42.104(b) (iv).

8. *Section 42.203(b) (9)*. A reference has been added in the Commentary on this section. For those desiring a comprehensive analysis of the Federal Executive Agency Guidelines on Employee Selection Procedures, attention is directed to the Department of Justice Questions and Answers on the Guidelines, published at 42 FR 3820 (January 19, 1977).

9. *Section 42.203(c)*. Numerous commenters questioned the meaning of the term "analogues of" in the description of the relationship between Section 518 (c) (1), Section 262(b), and Title VII of the Civil Rights Act of 1964. In response to their confusion, the phrase "consistently with" has been substituted for "as analogues of." The Commentary on this section has been retained to explain congressional intent on this issue.

In addition, the sentence in the Commentary on § 42.203(c), discussing *Washington* v. *Davis*, _____ U.S. _____, 96 S.Ct. 2040 (1976) has been clarified to read:

Discriminatory purpose on the part of the employer, which must be shown before the burden shifts in a Fourteenth Amendment case such as *Washington* v. *Davis*, _____ U.S. _____, 96 S. Ct. 2040 (1976), need not be shown in an employment discrimination case brought under Section 518(c) (1).

10. *Section 42.203(j)*. A reference has been added in the Commentary on this section to the discussion of goals and timetables in the Equal Employment Opportunity Coordinating Council Policy Statement on Affirmative Action Programs for State and Local Government Agencies, 41 FR 38816 (September 13, 1976).

11. *Section 42.205(a)*. Because a violation of Title VI of the Civil Rights Act of 1964 would also be a violation of Section 518(c) or Section 262(b), the last sentence of proposed § 42.205(a) and the paragraph in the Commentary on that sentence have been deleted as superfluous.

12. *Section 42.205(b)*. A number of comments criticized LEAA for imposing a 180-day "statute of limitations" on complaints without statutory authorization. LEAA has extended the time period to one year, and provided for a waiver of even that lengthy period for "good cause shown." As explained in the Commentary, the purpose of § 42.205(b) is to insure that LEAA will be devoting its resources to the resolution of active issues, and that necessary witnesses and evidence are likely to be available. "Good cause" will also be construed liberally, as explained in the Commentary.

"One year" has been substituted for "180 days" and the phrase "for good cause shown" has been added to the end of § 42.205(b). As noted above, a Commentary on this section has also been added.

13. *Section 42.205(c)*. See the explanation of the revised investigation timetables, supra. Proposed § 42.205(c) (1-7) have been deleted and replaced by § 42.205(c) (1-6). Two paragraphs explaining the timetables and LEAA's expectations have been added to the Commentary on § 42.205(c) (3). A Commentary on § 42.205(c) (5) has also been added to indicate that LEAA will initiate an investigation of a complaint where the same issues are in litigation if the litigation becomes protracted or apparently will not resolve the matter within a reasonable time. See also the discussion under "Pending Litigation by a Private Party," supra.

14. *Section 42.206(b)*. The proposed commentary on § 42.206(b), relating to LEAA's intention to first review those recipients which appear to have the most serious discrimination problems, has been deleted from the commentary and placed in the regulations as the first sentence of § 42.206(b).

As explained in the discussion of "service population" supra, the term "relevant labor market" has been substituted for the phrase "service population" in § 42.206(b) (1).

In addition, the disparity between the percentage of women in the relevant labor market and the percentage of women employed by the recipient has specifically been made an additional factor to be reviewed in the selection of recipients for a compliance review.

Proposed § 42.206(b) (2) has, therefore, been deleted, and the phrase "or women" added to § 42.206(b) (1) after the phrase "percentage of minorities" each place that phrase appears in § 42.206(b) (1).

Section 42.206(b) (3) has been redesignated § 42.206(b) (2) and amended to read "the percentage of women and minorities in the population receiving project benefits."

Proposed § 42.206(b) (4), (5), and (6) have been redesignated § 42.206(b) (3), (4), and (5), respectively.

The phrase "and nature" has been added to § 42.206(b) (3) after "the number." This amendment was made in response to a comment that the number of complaints alone is not a dispositive factor in selecting recipients for review.

In addition, a sentence has been added to the commentary on this section, stating "LEAA will consider data from all sources, including information provided by both internal and external auditors." This is to advise all recipients that the Administration will analyze data received by not only the LEAA Office of Civil Rights Compliance, but the LEAA Office of Audit and Inspection, and the General Accounting Office, among others, as well.

15. *Section 42.206 (d) and (e)*. The phrase "and to the appropriate SPA" has been added to the end of both sections to insure that the appropriate SPA's are adequately informed of the progress of compliance reviews conducted in their jurisdictions.

16. *Section 42.207*. After review, LEAA added the sentence "A refusal to provide requested information shall be enforced pursuant to the provisions of Section 509 of the Crime Control Act" to the end of § 42.207, in order to clearly inform all recipients of the sanctions for withholding requested information. See the discussion of Section 509 under § 42.201(b) and (c), supra.

17. *Sections 42.208 and 42.209*. See the discussion under Civil Rights Compliance Activities by LEAA State Planning Agencies, supra.

18. *Section 42.210(e)*. Several commenters, including the Administrative Conference of the United States, noted the procedural importance of the Administrative Procedures Act (APA) requirement that a hearing be conducted by a person not involved in the investigation or prosecution of the matter at issue. In response to these comments, and after further consideration, LEAA has decided to make this requirement and the opportunity of all parties to be represented by counsel, required procedures of any hearing purporting to be consistent with the APA. LEAA believes these procedures, and the requirements listed in the proposed regulations at § 42.210(e) will insure that an agency hearing was conducted consistent with the due process requirements of the APA, yet not make the procedural prerequisites so burdensome as to thwart the intent of Congress that the findings of administrative agencies should trigger the LEAA enforcement process.

Accordingly, the phrase "by an individual not having participated in the investigation or prosecution of the matter" has been added to the end of § 42.210 (e)(1)(ii), the phrase "to the extent that the parties are unable to determine a controversy by consent" has been deleted as inapposite, and the phrase "be represented by counsel or other qualified representative" has been inserted in § 42.210(e)(2) after "A party is entitled to."

19. *Section 42.211(a)*. A sentence has been added to the Commentary on this section, indicating that a compliance agreement may be an "agreement to comply over a period of time, particularly in complex cases or where compliance would require an extended period of time for implementation." This makes compliance under this section the same as compliance under § 42.213(b), which refers to resumption of suspended funds. LEAA intends to dispel any inference to the contrary that may have been in the proposed regulations.

20. *Section 42.211(b)*. A number of comments urged LEAA to send a copy of any compliance agreement reached pursuant to § 42.211 to the complainant, if any, prior to the effective date of the agreement. Although the Act would require the agreement to be sent either "on or prior to" the date of the agreement, LEAA has amended § 42.211(b) to provide that a copy will be sent to the complainant prior to the effective date. As explained in the Commentary, the agreement would be "more likely to resolve all concerns and discourage litigation if the complainant's views were considered before it took effect." The phrase "On or" has therefore been deleted from § 42.211(b). A paragraph on this change has been added to the commentary.

In addition, the phrase "and to the appropriate SPA" has been added to the end of § 42.211(b) to insure that the SPA is aware of the recipient's obligations under the agreement.

21. *Section 42.211(e)*. This section has been added to clarify that a recipient may come into compliance by means other than a compliance agreement. The methods listed are the same as those that would cause a resumption of suspended funds under § 42.213.

22. *Section 42.215(a)* has been amended to provide that, in the case of noncompliance with Section 262(b) of the Juvenile Justice Act, a recipient has only 30 days in which to request a hearing. This is consistent with § 42.108 of the regulations implementing Title VI of the Civil Rights Act of 1964, which requires at least a 20-day period in which a hearing can be requested. Accordingly, the phrase "or within 30 days after notification of non-compliance with Section 262(b)" has been inserted in the first sentence of § 42.215(a) after "referred to in § 42.212," and the phrase "of noncompliance with Section 518(c)(1)" has been inserted in the same sentence after "At any time after notification."

23. *Section 42.217(a)*. See the discussion under "Referral to Attorney General," supra. A paragraph quoting Congressman Rodino's letter has been added to the commentary.

24. *Proposed §§ 42.217 (a) and (b)* have been redesignated §§ 42.217 (b) and (c), respectively to accommodate the addition of § 42.217(a).

25. *Section 42.217(b)(1)*. LEAA believes that any suit filed by the Attorney General that alleges conduct which, if proven, would be a violation of Section 518(c) should trigger the 45-day suspension provision, whether or not a violation of Section 518(c) is specifically alleged. This position is especially appropriate in light of Congress's intention that Section 518(c) be interpreted consistently with Title VII of the Civil Rights Act of 1964, as amended, the principal statute under which the Department of Justice brings its employment discrimination suits.

Accordingly, the phrase "or would violate" has been inserted after "the conduct allegedly violates" in § 42.217(b)(1).

26. *Section 42.217(b)(2)*. This section has been added to state LEAA's expectation that a recipient seeking to enjoin the suspension of funds under § 42.217 (b)(2) should have the burden of showing that it is likely to prevail on the merits. The hearing should be analogous to a pre-suspension administrative preliminary hearing conducted under § 42.214, where the sole issue is whether the recipient is likely to prevail on the merits.

Accordingly, Subpart D of 28 CFR Part 42 is revised as follows:

Subpart D—Nondiscrimination in Federally-Assisted Programs—Implementation of Section 518(c) of the Crime Control Act of 1976 and Section 262(b) of the Juvenile Justice and Delinquency Prevention Act of 1974

Sec.
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AUTHORITY.—Secs. 501, 518(c), and 521(d) of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3701, et seq., as amended (Pub. L. 90–351, as amended by Pub. L. 93–83, Pub. L. 94–415, and Pub. L. 94–503 (October 15, 1976)) and sec. 262 of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93–415, 88 Stat. 1109).

Subpart D—Nondiscrimination in Federally-Assisted Programs—Implementation of Section 518(c) of the Crime Central Act of 1976 and Section 262(b) of the Juvenile Justice and Delinquency Prevention Act of 1974

§ 42.201 Purpose and application.

(a) The purpose of this subpart is to implement the provisions of section 518(c) of the Crime Control Act of 1976, Pub. L. 94–503, 90 Stat. 2407, and section 262(b) of the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93–415, 88 Stat. 1109, to the end that no person in any State shall on the ground of race, color, national origin, sex, or religion be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity funded in whole or in part with funds made available by LEAA under either Act.

(b) The regulations in this subpart apply to the delivery of services by, and employment practices of recipients administering, participating in, or substantially benefiting from any program or activity receiving Federal financial assistance extended under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, or the Juvenile Justice and Delinquency Prevention Act of 1974.

(c) Where a private recipient which receives such assistance through a unit of government is engaged in prohibited discrimination, the Administration will invoke the enforcement procedures of this subpart (§ 42.210, et seq.) against the appropriate unit of government for failure to enforce the assurances of nondiscrimination given it by the private recipient pursuant to § 42.204(a). Where a private recipient receives assistance either directly from LEAA, or through another private entity which receives funds directly from LEAA, the Administration will enforce compliance pursuant to section 509 of the Crime Control Act.

§ 42.202 Definitions.

(a) "Law enforcement," "State," and "unit of general local government" shall have the meanings set forth in section 601 of the Crime Control Act.

(b) "Crime Control Act" means Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

(c) "Employment practices" means all terms and conditions of employment including but not limited to all practices relating to the screening, recruitment, referral, selection, training, appointment, promotion, demotion, and assignment of personnel, and includes advertising, hiring, assignments, classification, discipline, layoff and termination, upgrading transfer, leave practices, rates of pay, fringe benefits, or other forms of pay or credit for services rendered and use of facilities.

(d) "Investigation" includes fact-finding efforts and, pursuant to § 42.205(c)(3), attempts to secure the voluntary resolution of complaints.

(e) "Juvenile Justice Act" means Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93–415, 88 Stat. 1109.

(f) "Noncompliance" means the failure of a recipient to comply with section 518(c)(1) of the Crime Control Act, section 262(b) of the Juvenile Justice Act, or this subpart.

(g) "Program or activity" means the operations of the agency or organizational unit of government receiving or substantially benefiting from the financial assistance awarded, e.g., a police department or department of corrections.

(h) "Pattern or practice" means any procedure, custom, or act, affecting, or potentially affecting more than a single individual, in a single or isolated instance.

(i) "Recipient" means any State or local unit of government or agency thereof, and any private entity, institution, or organization, to which Federal financial assistance is extended directly, or through such government or agency, but such term does not include any ultimate beneficiary of such assistance.

(j) "Religion" or "creed" includes all aspects of religious observance and practice as well as belief.

(k) "State planning agency" or "SPA" means the criminal justice State planning agency created to implement the Crime Control Act and, where authorized by State law, the Juvenile Justice Act within each State.

(l) "Compliance review" means a review of a recipient's selected employment practices or delivery of services for compliance with the provisions of section 518(c)(1) of the Crime Control Act, section 262(b) of the Juvenile Justice Act, and this subpart.

§ 42.203 Discrimination prohibited.

(a) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any program or activity funded in whole or in part with funds made available under the Crime Control Act or the Juvenile Justice Act.

(b) A recipient may not, directly or through contractual or other arrangements, on the grounds set forth in paragraph (a) of this section:

(1) Deny an individual any disposition, service, financial aid, or benefit provided under the program;

(2) Provide any disposition, service, financial aid, or benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(3) Subject an individual to segregation or separate treatment in any matter related to his receipt of any disposition, service, financial aid, or benefit under the program;

(4) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, or financial aid or benefit under the program;

(5) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any disposition, service, financial aid, function, or benefit provided under the program;

(6) Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program;

(7) Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program;

(8) Subject any individual to discrimination in its employment practices in connection with any specific program or activity funded in whole or in part with funds made available under the Crime Control Act or the Juvenile Justice Act;

(9) Use any selection device in a manner which is inconsistent with the Department of Justice Guidelines on Employee Selection Procedures, 28 CFR Part 50.

(c) In matters involving employment discrimination, section 518(c)(1) of the Crime Control Act and section 262(b) of the Juvenile Justice Act shall be interpreted by the Administration consistently with Title VII of the Civil Rights Act of 1964, Pub. L. 88–352, 79 Stat. 253, as amended by the Equal Employment Opportunity Act of 1972, Pub. L. 92–261, 87 Stat. 103.

(d) The use of a minimum height or weight requirement which operates to disproportionately exclude women and persons of certain national origins, such as persons of Hispanic or Asian descent, is a violation of this subpart, unless the recipient is able to demonstrate convincingly, through use of supportive factual data, that the requirement has been

validated as set forth in the Department of Justice Guidelines on Employee Selection Guidelines, 28 CFR Part 50.

(e) A recipient, in determining the type of disposition, services, financial aid, benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such will be provided under any such program, may not directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination under section 518(c)(1) of the Crime Control Act or section 262(b) of the Juvenile Justice Act, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, sex, national origin, or religion.

(f) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, subjecting them to discrimination under, or denying them employment in connection with any program to which this subpart applies; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Crime Control Act, the Juvenile Justice Act, or this subpart.

(g) For the purposes of this section the disposition, services, financial aid, or benefits provided under a program receiving Federal financial assistance shall be deemed to include any portion of any program or function or activity conducted by any recipient of Federal financial assistance which program, function, or activity is directly or indirectly improved, enhanced, enlarged, or benefited by such Federal financial assistance or which makes use of any facility, equipment, or property provided with the aid of Federal financial assistance.

(h) The enumeration of specific forms of prohibited discrimination in paragraphs (b) through (g) of this section does not limit the generality of the prohibition in paragraph (a) of this section.

(i)(1) In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, religion, national origin, or sex, the recipient must take affirmative action to overcome the effects of prior discrimination.

(2) Even in the absence of such prior discrimination, a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, religion, national origin, or sex.

(j) Nothing contained in this subpart shall be construed as requiring any recipient to adopt a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance. The use of goals and timetables is not use of a quota prohibited by this section.

§ 42.204 Assurances required.

(a) Every application for Federal financial assistance to which this subpart applies shall, as a condition of approval of such application and the extension of any Federal financial assistance pursuant to such application, contain or be accompanied by an assurance that the applicant will comply with all applicable nondiscrimination requirements and will obtain such assurances from its subgrantees, contractors, or subcontractors to which this subpart applies, as a condition of the extension of Federal financial assistance to them.

(b) Every application for Federal financial assistance from a State or local unit of government or agency thereof shall contain an assurance that in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination on the ground of race, color, religion, national origin, or sex against the recipient State or local government unit or agency thereof, the recipient will forward a copy of the finding to the cognizant State planning agency and to LEAA.

§ 42.205 Complaint investigation.

(a) The Administration shall investigate complaints that allege a violation of:

(1) Section 518(c)(1) of the Crime Control Act;

(2) Section 262(b) of the Juvenile Justice Act; or

(3) This subpart.

(b) No complaint will be investigated if it is received more than one year after the date of the alleged discrimination, unless the time for filing is extended by the Administrator for good cause shown.

(c) The Administration shall conduct investigations of conplaints as follows:

(1) Within 21 days of receipt of a complaint, the Administration shall:

(i) Ascertain whether it has jurisdiction under paragraphs (a) and (b) of this section;

(ii) If jurisdiction is found, notify the recipient alleged to be discriminating of its receipt of the complaint; and

(iii) Initiate the investigation.

(2) The investigation will ordinarily be initiatel by a letter requesting data pertinent to the complaint and advising the recipient of:

(i) The nature of the complaint, and, with the written consent of the complainant, the identity of the complainant;

(ii) The programs or activities affected by the complaint;

(iii) The opportunity to make, at any time prior to receipt of the Administration's findings, a documentary submission, responding to, rebutting, or denying the allegations made in the complaint; and

(iv) The schedule under which the complaint will be investigated and a determination of compliance or noncompliance made.

Copies of this letter will also be sent to the chief executive of the appropriate unit(s) of government, and to the appropriate SPA.

(3) Within 150 days or, where an on-site investigation is required, within 175 days after the initiation of the investigation, the Administration shall advise the complainant, the recipient, the chief executive(s) of the appropriate unit (s) of government, and the appropriate SPA, of:

(i) Its preliminary findings;

(ii) Where appropriate, its recommendations for compliance, and

(iii) If it is likely that satisfactory resolution of the complaint can be obtained, the opportunity to request the Administration to engage in voluntary compliance negotiations prior to the Administrator's determination of compliance or non-compliance.

(4) If, within 30 days, the Administration's recommendations for compliance are not met, or voluntary compliance is not secured, the matter will be forwarded to the Administrator for a determination of compliance or non-compliance. The determination shall be made no later than 14 days after the conclusion of the 30-day period. If the Administrator makes a determination of non-compliance with section 518(c) of the Crime Control Act, or section 262(b) of the Juvenile Justice Act, the Administration shall institute administrative proceedings pursuant to § 42.210, et seq.

(5) If the complainant or another party, other than the Attorney General, has filed suit in Federal or State court alleging the same discrimination alleged in a complaint to LEAA, and, during LEAA's investigation, the trial of that suit would be in progress, LEAA will suspend its investigation and monitor the litigation through the court docket and contacts with the complainant. Upon receipt of notice that the court has made a finding of discrimination within the meaning of § 42.210, the Administration will institute administrative proceedings pursuant to § 42.210, et seq.

(6) The time limits listed in paragraphs (c)(1) through (c)(5) of this section shall be appropriately adjusted where LEAA requests another Federal agency or another branch of the Department of Justice to act on the complaint. LEAA will monitor the progress of the matter through liaison with the other agency. Where the request to act does not result in timely resolution of the matter, LEAA will institute appropriate proceedings pursuant to this section.

§ 42.206 Compliance reviews.

(a) The Administration shall periodically conduct compliance reviews of selected recipients of LEAA assistance.

(b) The Administration shall seek to review those recipients which appear to have the most serious equal employment opportunity problems, or the greatest disparity in the delivery of services to the white and non-white, or male and female communities they serve. Selection for review shall be made on the basis of:

(1) The relative disparity between the percentage of minorities, or women, in the relevant labor market, and the percentage of minorities, or women, employed by the recipient;

(2) The percentage of women and minorities in the population receiving project benefits;

(3) The number and nature of discrimination complaints filed against a recipient with LEAA or other Federal agencies;

(4) The scope of the problems revealed by an investigation commenced on the basis of a complaint filed with the Administration against a recipient; and

(5) The amount of assistance provided to the recipient.

(c) Within 15 days after selection of a recipient for review, the Administration shall inform the recipient that it has been selected and will initiate the review. The review will ordinarily be initiated by a letter requesting data pertinent to the review and advising the recipient of:

(1) The practices to be reviewed;

(2) The programs or activities affected by the review;

(3) The opportunity to make, at any time prior to receipt of the Administration's findings, a documentary submission responding to the Administration, explaining, validating, or otherwise addressing the practices under review; and

(4) The schedule under which the review will be conducted and a determination of compliance or non-compliance made.

Copies of this letter will also be sent to the chief executive of the appropriate unit(s) of government, and to the appropriate SPA.

(d) Within 150 days or, where an on-site investigation is required, within 175 days after the initiation of the review, the Administration shall advise the recipient, the chief executive(s) of the appropriate unit(s) of government, and the appropriate SPA, of:

(1) Its preliminary findings;

(2) Where appropriate, its recommendations for compliance; and

(3) The opportunity to request the Administration to engage in voluntary compliance negotiations prior to the Administrator's determination of compliance or non-compliance.

(e) If, within 30 days, the Administration's recommendations for compliance are not met, or voluntary compliance is not secured, the matter will be forwarded to the Administrator for a determination of compliance or non-compliance. The determination shall be made no later than 14 days after the conclusion of the 30-day negotiation period. If the Administrator makes a determination of non-compliance with section 518(c) of the Crime Control Act, or section 262(b) of the Juvenile Justice Act, the Administration shall institute administrative proceedings pursuant to § 42.210, et seq.

§ 42.207 Compliance information.

(a) The provisions of § 42.106, addressing the maintenance, availability, and submission of compliance information are hereby incorporated in this subpart. A refusal to provide requested information shall be enforced pursuant to the provisions of section 509 of the Crime Control Act.

(b) Each recipient receiving a grant or subgrant of $250,000 or more shall provide the Administration with a copy of its current Equal Employment Opportunity Program and any subsequent revisions or supplements. The Administration shall maintain a file of these plans, which shall be available for inspection.

§§ 42.208–42.209 [Reserved]

§ 42.210 Notice of noncompliance.

Whenever the Administration has:

(1) Received notice of a finding, after notice and opportunity for a hearing by:

(i) A Federal court (other than in an action brought by the Attorney General under Section 518(c)(3) of the Crime Control Act);

(ii) A State court; or

(iii) A Federal or State administrative agency (other than the Administration under paragraph (a)(2) of this section); to the effect that there has been a pattern or practice of discrimination in violation of section 518(c)(1) of the Crime Control Act; or

(2) Made a determination after an investigation by the Administration pursuant to § 42.205 or § 42.206 that a State government or unit of general local government is not in compliance with this subpart, section 518(c)(1) of the Crime Control Act, or section 262(b) of the Juvenile Justice Act;

the Administration shall, within 10 days after such occurrence, notify the chief executive of the affected State and, if the action involves a unit of general local government, the chief executive of such unit of general local government, that such program or activity has been so found or determined not to be in compliance with this subpart or section 518(c)(1) of the Crime Control Act or section 262(b) of the Juvenile Justice Act and shall request each chief executive notified under this section with respect to such violation to secure compliance.

(b) For the purposes of this section, notice means:

(1) Publication in:

(i) Employment Practices Decisions, Commerce Clearinghouse, Inc.;

(ii) Fair Employment Practices, Bureau of National Affairs, Inc.;

(iii) The United States Law Week, Bureau of National Affairs, Inc.;

(iv) Federal Supplement, Federal Reporter, or Supreme Court Reporter, West Publishing Company; or

(v) National Reporter System, West Publishing Company; or

(2) Receipt by the Administration of a reliable copy of a finding from any source.

(c) When the Administration receives a finding which has been made more than 120 days prior to receipt, the Administration will not be considered to be in receipt of notice of such finding until it is determined that the finding is currently applicable.

(1) In determining the current applicability of the finding, the Administration will contact the clerk of the court and the office of the deciding judge (or the appropriate agency official) to determine whether any subsequent orders have been entered.

(2) If the information is unavailable through the clerk or the office of the judge (or the appropriate agency official), the Administration will contact the attorneys of record for both the plaintiff and defendant to determine whether any subsequent orders have been entered, or if the recipient is in compliance.

(3) If, within 10 days of receipt of notice, it is not determined through the procedures set forth in paragraphs (c)(1) and (2) of this section, that the recipient is in full compliance with a final order of the court (or agency) within the meaning of § 42.213(b), the Administration will notify the governor of the recipient's noncompliance as provided in § 42.210(a).

(d) For purposes of paragraph (a)(1)(iii) of this section a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of Chapter 5, Title 5, United States Code (the Administrative Procedures Act).

(e) The procedures of a Federal or State administrative agency shall be deemed to be consistent with the Administrative Procedure Act (APA) if:

(1) The agency gives all interested parties opportunity for:

(i) The submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment when time, the nature of the proceeding, and the public interest permit; and

(ii) Hearing and decision on notice by an individual not having participated in the investigation or prosecution of the matter.

(2) A party is entitled to be represented by counsel or other qualified representative, to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination, as may be required for a full and true disclosure of the facts; and

(3) The record shows the ruling on each finding, conclusion, or exception presented. All decisions, including initial recommended, and tentative decisions, shall be a part of the record and shall include a statement of:

(i) Findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and

(ii) The appropriate rule, order, sanction, relief, or definal thereof.

(f) If within 10 days of receipt of notice the Administration cannot determine whether the finding was rendered pursuant to procedures consistent with the APA, it shall presume the APA procedures were applied, and send notification under § 42.210(a) to the appropriate chief executive(s).

(g) Each notification under § 42.210 (a) shall advise the appropriate chief executive of:

(1) The program or activity determined to be in noncompliance;

(2) The general legal and factual basis for its determination;

(3) The Administration's request to secure compliance;

(4) The action to be taken and the provisions of law under which the proposed action is to be taken should the chief executive fail to secure compliance; and

(5) The right of the recipient to request a preliminary hearing, pursuant to § 42.214, if the determination is of noncompliance with section 518(c)(1), and a full hearing, pursuant to § 42.215.

§ 42.211 Compliance secured.

(a) In the event a chief executive secures compliance after notice pursuant to § 42.210, the terms and conditions with which the affected State government or unit of general local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of general local government), and by the Administrator.

(b) Prior to the effective date of the agreement, the Administration shall send a copy of the agreement to each complainant, if any, with respect to such violation, and to the appropriate SPA.

(c) The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of general local government) shall file semi-annual reports with the Administration detailing the steps taken to comply with the agreement.

(d) Within 15 days of receipt of such reports, the Administration shall send a copy to each complainant, if any.

(e) The Administrator shall also determine a recipient to be in compliance if it complies fully with the final order or judgment of a Federal or State court, pursuant to § 42.213(a)(2) and § 42.213(b), or is found by such court to be in compliance with section 518(c)(1).

§ 42.212 Compliance not secured.

(a) If, at the conclusion of 90 days after notification of noncompliance with section 518(c)(1):

(1) Compliance has not been secured by the chief executive of that State or the chief executive of that unit of general local government; and

(2) An administrative law judge has not made a determination under § 42.214 that it is likely the State government or unit of local government will prevail on the merits;

the Administration shall notify the Attorney General that compliance has not been secured and suspend further payment of any funds under the Crime Control Act to the specific program or activity in which the noncompliance has been found.

(b) If a hearing is requested pursuant to § 42.215, suspension of funds made available under the Crime Control Act shall be effective for a period of not more than 30 days after the conclusion of the hearing, or in the absence of a hearing under § 42.215, funds shall be suspended for not more than 120 days, unless there has been an express finding by the Administrator after notice and opportunity for such a hearing, that the recipient is not in compliance with this subpart or section 518(c)(1) of the Crime Control Act.

(c) Paragraphs (a) and (b) of this section do not apply to funds made available under the Juvenile Justice Act. If compliance is not secured within 90 days after notification of noncompliance with section 262(b), the Administrator may suspend approval of new applications for assistance to the program or activity determined to be in noncompliance for a period of up to 90 days pending a hearing under § 42.215.

§ 42.213 Resumption of suspended funds.

(a) Payment of suspended funds made available under the Crime Control Act shall resume only if:

(1) Such State government or unit of general local government enters into a compliance agreement signed by the Administrator in accordance with § 42.211;

(2) Such State government or unit of general local government:

(i) Complies fully with the final order or judgment of a Federal or State court, if that order or judgment covers all matters raised by the Administrator in the notice pursuant to § 42.210, or

(ii) Is found to be in compliance with section 518(c)(1) of the Crime Control Act by such court;

(3) After a hearing, the Administrator pursuant to § 42.215 finds that noncompliance has not been demonstrated; or

(4) An administrative law judge has determined, under § 42.214, that it is likely that the State government or unit of local government will prevail on the merits.

(b) Full compliance with a court order, for the purposes of paragraph (a)(2) of this section, includes the securing of an agreement to comply over a period of time, particularly in complex cases or where compliance would require an extended period of time for implementation.

§ 42.214 Preliminary hearing.

(a) Prior to the suspension of funds under § 42.212(a), but within the 90-day period after notification under § 42.210, the State government or unit of local government may request an expedited preliminary hearing by an administrative law judge (ALJ) in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under § 42.215, prevail on the merits on the issue of the alleged noncompliance.

(b) The preliminary hearing shall be initiated within 30 days of request. The ALJ shall make his finding within 15 days after the conclusion of the preliminary hearing.

§ 42.215 Full hearing.

(a) At any time after notification of non-compliance with section 518(c)(1) under § 42.210, but before the conclusion of the 120-day suspension period referred to in § 42.212, or within 30 days after notification of non-compliance with section 262(b), a State government or unit of general local government may request a full hearing to consider the findings or determination of non-compliance made under § 42.210. The Administration shall initiate the hearing within 60 days of request.

(b) Within 30 days after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the 120-day period referred to in § 42.212, the Administrator shall make a finding of compliance or non-compliance.

(1) If the Administrator makes a finding of non-compliance, the Administrator shall:

(i) Notify the Attorney General in order that the Attorney General may institute a civil action under section 518(c)(3) of the Crime Control Act;

(ii) Terminate the payment of funds under the Crime Control Act and/or the Juvenile Justice Act; and

(iii) If appropriate, seek repayment of funds.

(2) No order of the Administrator terminating, or refusing to grant or continue, assistance to a recipient for noncompliance with section 262(b) of the Juvenile Justice Act shall be effective until the expiration of 30 days after the Administration has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action.

(3) If the Administrator makes a finding of compliance, payment of the suspended funds and reconsideration of applications shall resume.

§ 42.216 Judicial review.

Any State government or unit of general local government aggrieved by a final determination of the Administration under § 42.215 may appeal such determination as provided in section 511 of the Crime Control Act, in the case of funds made available under that Act, or in accordance with the procedures set forth in section 603 of the Civil Rights Act of 1964, as amended, in the case of funds made available under the Juvenile Justice Act.

§ 42.217 Other actions authorized under the Crime Control Act.

(a) The Administrator may, at any time, request the Attorney General to file suit to enforce compliance with section 518(c)(1) or section 262(b). LEAA will monitor the litigation through the court docket and liaison with the Civil Rights Division of the Department of Justice. Where the litigation does not result in timely resolution of the matter, and funds have not been suspended pursuant to § 42.217(b), LEAA will institute

administrative proceedings unless enjoined from doing so by the court.

(b) (1) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under the Crime Control Act and the conduct allegedly violates or would violate the provisions of this subpart or section 518(c) (1) of the Crime Control Act and neither party within 45 days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may otherwise be available by law, the Administrator shall suspend further payment of any funds under the Crime Control Act to that specific program or activity alleged by the Attorney General to be in violation of the provisions of section 518(c) (1) of the Crime Control Act until such time as the court orders resumption of payment.

(2) The Administration expects that preliminary relief authorized by this subsection will not be granted unless the party making application for such relief meets the standards for a preliminary injunction.

(c) (1) Whenever a State government or unit of local government or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act or practice prohibited by section 518(c) (1) of the Crime Control Act, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction.

(2) Administrative remedies shall be deemed to be exhausted upon the expiration of 60 days after the date the administrative complaint was filed with the Administration, or any other administrative enforcement agency, unless within such period there has been a determination by the Administration or the agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

(3) The Attorney General, or a specifically designated assistant for or in the name of the United States may intervene upon timely application in any civil action brought to enforce compliance with section 518(c) (1) if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

COMMENTARY

Section 42.201(c). The compliance enforcement mechanism of section 518(c) (2) applies by its terms to State and local governments. The prohibitions in section 518(c) (1), however, apply to all recipients of LEAA assistance. Accordingly, where a private entity which has received LEAA assistance through a State or local unit of government is determined by LEAA to be in non-compliance, LEAA will invoke the section 518(c) (2) mechanism against the appropriate unit of government for its failure to enforce the assurances of compliance given it by the private recipient, unless the unit has initiated its own compliance action against the private recipient. The fund termination procedures of section 509 will be invoked against non-complying private recipients which receive assistance directly from LEAA or through another private entity.

Section 42.202(g). Section 518(c) of the Crime Control Act limits suspension and termination of assistance in the event of noncompliance to the "specific program or activity" in which the noncompliance is found.

House Report No. 94-1155 (94th Congress, 2d Session), at p. 26, explained this provision as follows:

> Suspension may be limited to the specific program or activity found to have discriminated, rather than all of the recipients' LEAA funds.
>
> For exemple, if discriminatory employment practices in a city's police department were cited in the notification, LEAA may only suspend that part of the city's payments which fund the police department. LEAA may not suspend the city's LEAA funds which are used in the city courts, prisons, or juvenile justice agencies.

This passage makes it clear that LEAA need not demonstrate a nexus between the particular project funded and the discriminatory activity. See *Lau v. Nichols*, 414 U.S. 563, 566 (1974).

Sections 42.203(b) and 42.203(e-i). These provisions are derived from 28 CFR 42.104(b) of Subpart C of the Department of Justice Nondiscrimination Regulations. Where appropriate, "sex" and "religion" have been added as prohibited grounds of discrimination, and "denial of employment" as another activity within the scope of sections 518(c) (1) and 262(b).

Individual projects benefitting a particular sex, race, or ethnic group are not violative of section 518(c), unless the granting agency or the recipient has engaged in a pattern of granting preferential treatment to one such group, and cannot justify the preference on the basis of a compelling governmental interest, in the case of racial or ethnic discrimination, or a substantial relationship to an important governmental function, in the case of sex discrimination.

Section 42.203(b) (9). On November 17, 1976, the Department of Justice adopted as official policy the selection guidelines proposed by the Equal Employment Opportunity Coordinating Council (EEOCC) in 41 FR 29016 (July 14, 1976), with modification. Since LEAA is a component of the Department, these guidelines are now applicable to the selection procedures of LEAA recipients. See the Department of Justice Questions and Answers on the Federal Executive Agency Guidelines on Employee Selection Procedures in 42 FR 3820 (January 19, 1977) for a detailed commentary on the Guidelines.

Section 42.203(c). In the Conference Report on the Crime Control Act, the managers stated that "In the area of employment cases brought under this section (518(c) (1), it is intended by the conferees that the standards of Title VII of the Civil Rights Act of 1964 apply." H. Rept. No. 94-1723 (94th Cong., 2d Sess.) at p. 32.

This section makes the LEAA standards of employment discrimination consistent with those used by the Civil Rights Division of the Department of Justice. It further clarifies that the burden shifts to the employer to validate its selection procedures once LEAA has demonstrated that those procedures disproportionately exclude an affected class. Discriminatory purpose on the part of the employer, which must be shown before the burden shifts in a Fourteenth Amendment case such as *Washington v. Davis*, ____U.S. ____, 96 S. Ct. 2040 (1976), need not be shown in an employment discrimination case brought under section 518(c) (1).

LEAA will give substantial weight to the Equal Employment Opportunity Commission Guidelines on Discrimination Because of Sex, 29 CFR 1604.1, et seq., Discrimination Because of Religion, 29 CFR 1605.1, and Discrimination Because of National Origin, 29 CFR 1606.1.

Section 42.203(j). Section 518(b) of the Crime Control Act reads:

> Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program.

In commenting on the Crime Control Act of 1976, Senator Roman Hruska of Nebraska explained the difference between quotas and goals and timetables as follows:

> Section 518(b) of the act prohibits the setting of quotas. This provision was unchanged, and this provision will still bind the Administration.
>
> LEAA does have an affirmative obligation under this law to seek to eliminate discriminatory practices, voluntarily, if possible, prior to resorting to fund termination. LEAA can request that a recipient eliminate the effect of past discrimination by requiring the recipient to commit itself to goals and timetables. The formulation of goals is not a quota prohibited by section 518(b) of the act. A goal is a numerical objective fixed realistically in terms of the number of vacancies expected and the number of qualified applicants available. Factors such as a lower attrition rate than expected, bona fide fiscal restraints, or a lack of qualified applicants would be acceptable reasons for not meeting a goal that has been established and no sanctions would accrue under the program. Cong. Rec. S. 17320 (September 30, 1976, daily ed.).

See also the Equal Employment Opportunity Coordinating Council Policy Statement on Affirmative Action Programs for State and Local Government Agencies, 41 FR 38816 (September 13, 1976).

Section 42.204. All grantees and subgrantees must make the assurances found in paragraph (a). Only State and local units of government and agencies thereof must make the assurance found in paragraph (b), since, as explained in the commentary on § 42.202(h), the enforcement provisions of section 518(c)(2) apply only to governmental recipients.

Section 42.205(a). Where information available to the Administration clearly and convincingly demonstrates that the complaint is frivolous or otherwise without merit, the complaint will not be investigated, and the complainant will be so advised.

Section 42.205(b). A one-year statute of limitations is imposed to ensure that LEAA will be devoting its resources to the resolution of active issues, and to maximize the possibility that necessary witnesses and evidence are still available.

Examples of good cause which would clearly warrant an extension of the filing period are a statement from the complainant stating that he or she was unaware of the discrimination until after a year had passed, or that he or she was not aware that a remedy was available through LEAA.

Section 42.205(c)(1). Jurisdiction exists if the complaint alleges discrimination on a ground prohibited by section 518(c)(1) or section 262(b), and the respondent named in the complaint is a current recipient of LEAA assistance.

Section 42.205(c)(3). The timetables set forth in § 42.205(c)(3) are intended to apply not only to future complaints received by LEAA, but a backlog of approximately 300 complaints as well. Every complaint in the backlog will be treated as received on the date these regulations are published as final. LEAA anticipates that, once the backlog is fully disposed of the timetables will be significantly reduced further.

Prior to a determination of non-compliance, LEAA will attempt to negotiate voluntary compliance only during the 30-day period following receipt of the Administration's preliminary findings, and only at the request of the recipient, as provided in § 42.205(c)(3). If a determination of non-compliance is made, LEAA will participate in voluntary compliance efforts during the 90-day period following the letter sent to the chief executive(s) under § 42.210.

Sections 42.205(c)(3) and (4) and 42.206(e). LEAA proposes to notify the appropriate chief executive(s) of its recommendations during the voluntary resolution phase of both the complaint investigation and compliance review process. LEAA expects that the early involvement of the chief executive will often expedite the resolution of issues.

Section 42.205(c)(5). LEAA will initiate an investigation if the litigation discussed in this subparagraph becomes protracted or apparently will not resolve the matter within a reasonable time.

Section 42.205(c)(6). In order to effectively utilize the resources of other agencies, and to avoid duplication of effort, LEAA may request another agency to act on a particular complaint. LEAA expects this practice to be limited, and will attempt to ensure that any cooperative agreement reached with another agency is consistent with the timetables set forth in § 42.205(c).

Section 42.206(a). LEAA recognizes the practical impossibility of reviewing the compliance of each of its more than 39,000 recipients. The regulations seek to expedite the review process by reducing its length and narrowing its focus. Compliance reviews may, in some instances, be limited to specific employment practices, or other functions of a recipient, that appear to have the greatest adverse impact on an affected class.

LEAA will also continue its practice of making pre-award desk audits of all discretionary grants awarded by LEAA which amount to $500,000 or more. If the audit reveals a significant potential for discrimination in employment or services, the recipient will be scheduled for a compliance review.

Section 42.206(b). The factors listed will be considered cumulatively by LEAA in selecting recipients for reviews. LEAA will consider data from all sources, including information provided by both internal and external auditors.

Section 42.207. Section 42.106 of Subpart C requires, among other things, that a recipient must keep such records, and submit such reports as the granting agency may determine to be necessary in order to evaluate the recipient's compliance. Each recipient must also permit access by responsible officials during normal business hours to such records as may be pertinent to an evaluation of compliance.

Section 42.210(a)(2). Section 262(b) of the Juvenile Justice Act requires the non-discrimination provision of the Act to be enforced "in accordance with Section 603 (sic: 602)" of Title VI of the Civil Rights Act of 1964. That section provides a different enforcement procedure than section 518(c)(2) of the Crime Control Act. Where possible, the regulations have made the two procedures consistent. Where they cannot be harmonized, the regulations explain the separate requirements. See, e.g., § 42.212(c) and § 42.215(b)(2).

The enforcement procedure for non-compliance with section 262(b) will be initiated by a determination of non-compliance by the Administration (after an investigation) and a letter to the appropriate chief executive(s). See § 42.210(a)(2). A finding by a Federal or State court or Federal or State administrative agency will not trigger the notification letter. The contents of the notification letter are set forth in § 42.210(f).

Compliance will be secured in the same manner as compliance with section 518(c)(1). See § 42.211.

Pending a full hearing on the issue of non-compliance, LEAA cannot suspend active funding to a recipient of Juvenile Justice Act funds. LEAA may only suspend approval of new applications for assistance to the program or activity determined to be in non-compliance, for up to 90 days pending the hearing. See § 42.212(c). Because active funding is not suspended, the opportunity to request a preliminary hearing is not provided to Juvenile Justice Act recipients.

After a full hearing, if requested within 30 days after notification of non-compliance, the Administrator will make a final determination of compliance or non-compliance. If a determination of non-compliance is made, no funding can be terminated until the expiration of 30 days after the Administration files a full written report of the circumstances and grounds for the determination with the appropriate Congressional committees. This provision is mandated by section 602 of Title VI of the Civil Rights Act of 1964. See § 42.215(b)(2).

The final determination may be appealed, as provided in section 603 of Title VI (see § 42.216).

Section 42.210(b). Upon receipt of the publications listed, LEAA will review the case reports for findings that may be violations of section 518(c)(1). In the case of the West Publishing Company reporters, LEAA will consult the topic "Civil Rights" in the Key Number Digests contained in the advance sheets.

Section 42.210(c). This subsection sets forth the minimum procedural safeguards that LEAA would require of an administrative hearing to assure that the process was consistent with the Administrative Procedure Act. The sufficiency of other procedures that may vary in form but insure due process and the same opportunity for a fair hearing of both parties' evidence will be determined by LEAA on a case-by-case basis.

The Administration will compile a list of State agencies whose procedures have been found consistent with the Administrative Procedure Act, and a list of State agencies whose procedures have been found inconsistent. When a finding of an agency not on either list is received, the Administration will attempt to reliably determine the procedures used to render the findings.

Section 24.211(a). Although the signature of the appropriate chief executives are ultimately required on the compliance agreement, these regulations do not preclude them from delegating the responsibility for securing compliance during the 90-day period following notification, to State or local administrative or human rights agencies under their respective authority. A compliance agreement may be an agreement to comply over a period of time, particularly in complex cases or where compliance would require an extended period of time for implementation.

Section 42.211(b). The regulations require that a copy of the proposed compliance agreement be sent to the complainant, if any, before the effective date of the agreement. Although the Act would permit a copy to be sent as late as the effective date, LEAA believes the compliance agreement would be more likely to resolve all concerns and discourage litigation if the complainant's views were considered before it took effect.

Section 42.213(b). An example of a case where compliance would require an extended period of time for implementation would be a court order setting a goal of five years for an employer to raise the percentage of minorities in its workforce to parity with the percentage of minorities in the relevant geographical labor force.

Section 42.215. The full hearing will be conducted in accordance with the LEAA Administrative Review Procedures, 28 CFR 18.1, et seq.

Section 42.217(a). Congressman Peter Rodino, Chairman of the House Judiciary Committee, indicated in his comments on the proposed regulations in a letter to the LEAA Administrator dated December 20, 1976, that "the Committee intentionally omitted the word 'refer' from the law to ensure that LEAA would always retain administrative jurisdiction over a complaint filed with them. It is not appropriate for LEAA to refer cases to the Civil Rights Division or other Federal or State agencies without monitoring the case for prompt resolution."

Section 42.217(c)(2). The exhaustion of administrative remedies at the end of 60 days (unless the Administration has made a determination) does not limit LEAA's authority to investigate a complaint after the expiration of that period. LEAA will continue to investigate the complaint after the end of the 60-day period, if necessary, in accordance with the provisions of Section 42.205.

The provision for attorney's fees in section 518(c)(4)(B) of the Crime Control Act is not recited in the regulations because it does not affect the authority or actions of the Administration.

RICHARD W. VELDE,
Administrator.

[FR Doc.77-4951 Filed 2-11-77;4:32 pm]

Federal Register

WEDNESDAY, FEBRUARY 16, 1977

PART III

THE NATIONAL ARCHIVES OF THE UNITED STATES
LITERA SCRIPTA MANET
1934

FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

FEDERAL ELECTION COMMISSION

[Notice 1977-9, AOR 1977-4 and AOR 1977-5]

ADVISORY OPINION REQUESTS

Pursuant to 2 U.S.C. § 437f(c) and the procedures reflected in Part 112 of the Commission's Proposed Regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Requests 1977-4 and 1977-5 have been made public at the Commission. Copies of AOR 1977-4 and AOR 1977-5 were made available on February 8, 1977. These copies of advisory opinion requests were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street, N.W., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of the General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A descriptive listing of each of the requests recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-4: May a corporation donate medals to a member of Congress for presentation to his constituents in recognition of their outstanding achievements? Requested by Representative Richard T. Schulze, U.S. House of Representatives, Washington, D.C.

ARO 1977-5: Do the exemptions for legal and accounting services to ensure compliance with the Act permit a principal campaign committee or other political group to accept donations to defray such legal and accounting fees without regard to the contribution limits in the Act? Requested by Senators Bennett Johnston and Bob Packwood on behalf of the Democratic and Republican Senatorial Campaign Committees, Washington, D.C.

Dated: February 10, 1977.

VERNON W. THOMSON,
Chairman for the Federal Election Commission.

[FR Doc.77-4953 Filed 2-15-77;8:45 am]

Federal Register

WEDNESDAY, FEBRUARY 16, 1977

PART IV

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Final and Proposed Flood Elevation Determinations for Various Communities

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI2683]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at § 1912.5, 24 CFR Part 1912).

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) or the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.6 List of eligible communities.

State ***	County ***	Location ***	Effective date of authorization of sale of flood Insurance for area ***	Hazard area Identified ***	Community Number ***
Kansas.	Butler.	Andover, City of.	February 7, 1977. Emerg.	8-6-76	200383
Pennsylvania.	Greene.	Franklin, Township of.	Do. Emerg.	1-3-75	422595

State ***	County ***	Location ***	Effective date of authorization of sale of flood Insurance for area ***	Hazard area Identified ***	Community Number ***
Ohio.	Columbiana.	Lisbon, Village of.	February 8, 1977. Emerg.	4-12-74	390055A
Oklahoma.	Le Flore.	Cameron, Town of.	Do. Emerg.	8-13-76	400271
Do.	Haskell.	McCurtin, City of.	Do. Emerg.	8-13-76	400397
Pennsylvania.	Butler.	Center, Township of.	Do. Emerg.	9-13-74 & 4-30-76	421417A
Do.	Cumberland.	Southampton, Township of.	February 1, 1977. Emerg.	12-27-74	421587
Texas.	Bell & Williamson.	Bartlett, City of.	February 8, 1977. Emerg.	9-12-75	480707

State ***	County ***	Location ***	Effective date of authorization of sale of flood Insurance for area ***	Hazard area Identified ***	Community Number ***
South Dakota.	Hiranchaha.	Brandon, City of.	February 9, 1977. Emerg.	11-19-76	460296
Utah.	Carbon.	Wellington, City of.	Do. Emerg.	7-26-74 & 4-9-76	490037A

State ***	County ***	Location ***	Effective date of authorization of sale of flood Insurance for area ***	Hazard area Identified ***	Community Number ***
Indiana.	Fulton.	Rochester, City of.	February 10, 1977. Emerg.	2-15-74 & 4-9-76	180071A
Michigan.	Alcona.	Harrisville, City of.	Do. Emerg.	9-26-75	260543
New York.	Montgomery.	Glen, Town of.	Do. Emerg.	1-17-75	361295
Ohio.	Jefferson.	Unincorporated Areas.	February 2, 1977. Emerg.		390294
Pennsylvania.	Butler.	Connoquenessing, Borough of.	February 10, 1977. Emerg.	11-15-74	421413
Do.	Venango.	Utica, Borough of.	Do. Emerg.	8-16-74 & 5-28-76	420841A

State	County	Location	Effective date of authorization of sale of flood Insurance for area		Hazard area Identified	Community Number
***	***	***	***		***	***
Michigan.	Ingham.	Meridian, Charter Township of.	December 30, 1971. February 2, 1977.	Emerg. Reg.	6-28-74	260093A
Pennsylvania.	Centre.	Bellefonte, Borough of.	March 30, 1973. February 2, 1977.	Emerg. Reg.	6-7-74 & 1-16-76	420257B
Do.	Northumberland.	Northumberland, Borough of.	June 6, 1974. February 2, 1977.	Emerg. Reg.	6-28-74 & 5-7-76	420739B
Do.	Luzerne.	Shickshinny, Borough of.	December 15, 1972. December 31, 1976.	Emerg. Reg.	3-30-73 & 5-14-76	420626B
Do.	Cumberland.	West Fairview, Borough of.	September 29, 1972. February 16, 1977.	Emerg. Reg.	8-24-73 & 4-30-76	420373B
Do.	Do.	Wormleysburg, Borough of.	August 18, 1972. February 16, 1977.	Emerg. Reg.	8-31-73 & 6-4-76	420374B

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969, as amended 39 FR 2787, Jan. 24, 1974.)

Issued: February 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-4593 Filed 2-15-77;8:45 am]

[Docket No. FI-2358]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of Earl, Berks County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448); 42 U.S.C. 4001-4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the Township of Earl, Berks County, Pennsylvania.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Earlville Post Office, Route 562, Boyertown, and at the Earl Township Firehouse, Ironstone Drive, Boyertown, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Manatawny Creek	West corporate limits	270	340	1,700
	South Park Rd. (extended)	260	160	70
	Saw Mill Rd. (extended)	249	110	270
	South corporate limits	248	340	150

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: January 26, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-4564 Filed 2-15-77;8:45 am]

[Docket No. FI-1048]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Town of Twisp, Okanogan County, Washington

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the Town of Twisp, Okanogan County, Washington.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community

or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Clerk's office, City Hall, Twisp.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Methow River	Corporate limits	1,556	740	(1)
	Methow Valley Highway	1,568	120	(1)
	Corporate limits (next)	1,578	100	140
	Corporate limits (last)	1,591	1,300	(1)
Twisp River	Confluence with Methow River	1,584	(1)	340
	Division St	1,593	40	30
	Corporate limits	1,616	450	920

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: January 27, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-4565 Filed 2-15-77;8:45 am]

[Docket No. FI-2339]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Youngstown, Mahoning and Trumbull Counties, Ohio

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Youngstown, Mahoning and Trumbull Counties, Ohio under Section 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, Boardman and South Streets, Youngstown.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Mahoning River	Corporate limits (North)	852	250	90
	State Highway 711	850	110	60
	West Ave	845	440	580
	Market St	842	800	30
	Cedar St	839	70	80
	Center St	835	280	780
	Corporate limits (southeast)	830	(1)	50
Crab Creek	Corporate limits (north)	870	30	130
	McGuffey Rd	850	120	190
	Valley St	847	220	610
	Oak St	846	420	230

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: December 17, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-4566 Filed 2-15-77;8:45 am]

[Docket No. FI-2406]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Village of Babylon, Suffolk County, New York

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the Village of Babylon, Suffolk County, New York.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Bulletin Board of the Village Hall, 153 West Main Street, Babylon.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from shoreline to 100-yr flood boundary
Great South Bay	East Neck Rd. (extended)	5	3,560
	Wilson Dr. (extended)	5	330
	Ross Rd. (extended)	5	170
	Peninsula Dr. (extended)	5	420
	Reid Ave. (extended)	5	160
	Robbins Ave. (extended)	5	480
	Sumpwams Ave. (extended west)	5	420
	White Birch Dr. (extended)	5	120
	Raeburn Ct. (extended west)	5	20
	Christopher Ct. (extended west)	5	40
	Lucinpa Dr. (extended east)	5	160
	Raeburn Ct. (extended east)	5	160
	Bay View Ave. (extended)	5	1,600
	Midway St. (extended)	5	1,460
	Lighthouse Rd. (extended)	5	1,100
	Annuskemunnica Rd. (extended)	5	1,600
	North Rd. (extended)	5	960
	Fire Island Ave. (extended)	5	1,320
	Conn. Ct. (extended)	5	700
	Robbins Ave. (extended east)	5	40
	Prospect St. (extended)	5	40

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: January 26, 1977.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.77-4567 Filed 2-15-77;8:45 am]

[Docket No. FI-2303]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the City of Myrtle Beach, Horry County, South Carolina

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the City of Myrtle Beach, Horry County, South Carolina.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall on the bulletin board, 10 Avenue and Broadway, Myrtle Beach, South Carolina.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level
Atlantic Ocean	29th Ave. South	13
	25th Ave. South	13
	26th Ave. South	13
	18th Ave. South	13
	13th Ave. South	13
	9th Ave. South	13
	5th Ave. South	13
	4th Ave. South	13
	1st Ave. South	13
	3d Ave. North	13
	7th Ave. North	13
	11th Ave. North	13
	14th Ave. North	13
	19th Ave. North	13
	23d Ave. North	13
	24th Ave. North	13
	25th Ave. North	13
	30th Ave. North	13
	37th Ave. North	13
	42d Ave. North	13
	45th Ave. North	13
	50th Ave. North	13
	53d Ave. North	13
	Hampton Circle	13
	Beach Pl	13
	Sunset Trail	13
	60th Ave. North	13
	68th Ave. North	13
	69th Ave. North	13
	74th Ave. North	13
	76th Ave. North	13
	78th Ave. North	13
	80th Ave. North	13
	82d Ave. North	13
	Bear Branch	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: January 27, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-4568 Filed 2-15-77;8:45 am]

[Docket No. FI-2380]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Township of Franklin, Carbon County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the Township of Franklin, Carbon County, Pennsylvania.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the township building, R. D. 4, Lehighton, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Lehigh River	Downstream corporate limits	449	300	
	Downstream corporate limits within Weissport.	455	60	
	Upstream corporate limits within Weissport.	472	40	
	Long Run confluence	486	140	
	Upstream corporate limits	491	90	
Pohopoco Creek	Downstream corporate limits	450		60
	U.S. 209	473	10	50
	Harrity Rd	477	30	20
	Northeast extension, Penn. Turnpike	478	40	10
	Bull Run confluence	481	70	30
	Sawmill Run confluence	497	40	50

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: January 27, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-4569 Filed 2-15-77;8:45 am]

[Docket No. FI-2424]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Yardley, Bucks County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the Borough of Yardley, Bucks County, Pennsylvania.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Bulletin Board in the Police Department, 56 South Main Street, Yardley, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from shoreline to 100-yr flood boundary	
			Left	Right
Buck Creek	Confluence within Brock Creek	55	23	95
	Coldspring Rd. (extended)	55	20	50
	West corporate limits	[illegible]	150	55
	Main St	41	175	200
	Footbridge	54	25	35
	West Afton Ave	56	45	125
	Corporate limits	62	75	75
Silver Creek	Main St	41	10	10
	Harper Ave. (extended)	45	55	10
	Pond Ave. (extended)	54	15	15
	Van Horn Ave. (extended)	58	50	90
	Reading Ave	62	15	15
	Corporate limits and Oxford Valley Rd.	68	10	10
Delaware River	Corporate limits	39	(1)	1,800
	Letchworth Ave	39	(1)	1,350
	College Ave	40	(1)	1,400
	Maple Ave	41	(1)	1,000
	Corporate limits	42	(1)	650

[1] Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: January 27, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-4570 Filed 2-15-77;8:45 am]

[Docket No. FI-2346]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of West Newton, Westmoreland County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the Borough of West Newton, Westmoreland County, Pennsylvania.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Food Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Council Room, Borough Building, 112 South Water Street, West Newton, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level
Youghiogheny River	Short St. (extended)	771
	Route 136	771
	Northern corporate limits	779
Vernon Drive Run	Southern corporate limits	800
	Buddtown Rd	824
	Private road	861
	Vernon Dr	829
	do	798
	Cemetery roadway	777
	do	771
Scholls Run	8th St	778

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: January 31, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-4571 Filed 2-15-77;8:45 am]

[Docket No. FI-2394]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of White Haven, Luzerne County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the Borough of White Haven, Luzerne County, Pennsylvania.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Borough Building, Buffalo Street, White Haven, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Lehigh River	Upstream corporate limits	1,099	(1)	35
	Berwick St	1,096	(1)	20
	I-80	1,086	(1)	150
	ConRail bridge	1,078	(1)	100

[1] Corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: January 27, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-4572 Filed 2-15-77;8:45 am]

[Docket No. FI-2383]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Trainer, Delaware County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the Borough of Trainer, Delaware County, Pennsylvania.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the

detailed outlines of the flood-prone areas and the final elevations are available for review at the Trainer Municipal Building, 9th and Main Streets, Trainer, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from shoreline to 100-yr flood boundary
Delaware River	BP tank farm:		
	Downstream side of dock	9.6	170
	Upstream side of dock	9.6	20
Stoney Creek	ConRail	34.0	850
Marcus Hook Creek	Ridge Ave	27.0	50
	ConRail	23.0	65
	Post Rd	13.0	375

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: January 27, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–4573 Filed 2–15–77;8:45 am]

[Docket No. FI–2422]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Sutersville, Westmoreland County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the Borough of Sutersville, Westmoreland County, Pennsylvania.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Post Office on Main Street, Sutersville.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Youghiogheny River	Sutersville Highway	766		510
	Plumer St. (extended)	766		440
	Locust St. (extended)	767		290
	Upstream corporate limit	767		65
Youghiogheny River tributary.	3d Ave	766	60	40
	1st private drive upstream of 3d Ave	767	20	10
	2d private drive upstream of 3d Ave	771	50	30
	3d private drive upstream of 3d Ave	785	50	35
	1st St. (west)	832	40	20
	1st St. (east)	840	50	40
	8th Ave	852	10	45
	Upstream corporate limits	864		15

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: January 27, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77–4574 Filed 2–15–77;8:45 am]

[Docket No. FI-2385]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for the Borough of Shillington, Berks County, Pennsylvania

The Federal Insurance Administrator, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917), hereby gives notice of his final determinations of flood elevations for the Borough of Shillington, Berks County, Pennsylvania.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National flood Insurance Program, the community must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review in the Borough office of the Town Hall, Shillington, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurence) flood elevations, for the selected locations set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Wyomissing Creek	Upstream corporate limits	319	(1)	80
	West Elm St. (extended)	295	35	65
	Maple Ave. (extended)	289	(2)	165
	State St. (extended)	280	(2)	150
	Upstream corporate limits	275	(3)	170

[1] 60 ft. to corporate limits.
[2] Corporate limits.
[3] Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2630, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: January 27, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-4575 Filed 2-15-77;8:45 am]

federal register

WEDNESDAY, FEBRUARY 16, 1977

PART V

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

EASTERN BERING SEA

King and Tanner Crab Fisheries

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

KING AND TANNER CRAB FISHERIES OF THE EASTERN BERING SEA

On the 4th of February, 1977, the Secretary of Commerce, through an appropriate delegation of authority to the Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration and the Director of the National Marine Fisheries Service, published a Notice of Determination, Preparation, Issuance, and Implementation of Preliminary Fishery Management Plans at 42 FR 6873. In order that each Plan may have the widest possible circulation, the Secretary has decided that each should be published in the FEDERAL REGISTER.

Dated the 9th day of February 1977, at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Services.

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1.0 Introduction
~~2.0 Preliminary Fishery Management Plan~~

This preliminary management plan for the foreign king and snow (Tanner) crab fisheries in the eastern Bering Sea is in direct response to the Fishery Conservation and Management Act of 1976 (P.L. 94-265). The Act extends U.S. fisheries jurisdiction, establishes an exclusive management authority, and mandates preparation of preliminary management plans for each individual fishery unit in which foreign participation may occur under provisions of the Act. The crab fishery of the eastern Bering Sea is one such fishery unit.

The Japanese fishery for king crab in the eastern Bering Sea began in 1930 and, except for 1931, continued through 1940. The United States conducted experimental fishing and processing studies in 1940-41. After World War II the United States began a commercial fishery in the eastern Bering Sea that continued from 1947 through 1957. In the late 1950's the U.S. effort continued to grow but shifted temporarily to stocks in the Gulf of Alaska. Japan reentered the Bering Sea fishery in 1953, and catches continued near 1 million crabs per year until 1959 when the U.S.S.R. entered the fishery. Catches of these two foreign nations grew rapidly to 8.8 million crabs in 1964 after which they declined in response to quotas established in separate bilateral agreements. The U.S. fishery returned to the eastern Bering Sea in the early 1960's and rapidly increased its harvest until it reached about 9 million crabs in 1974. As the U.S. fishery developed its capacity to fully utilize the king crab resource, the remaining foreign efforts have been phased out through bilateral agreements.

The foreign fishery for snow crab was minor and incidental to the king crab fishery until 1967 when both the U.S.S.R. and Japan increased their

efforts on this resource. The foreign fishery grew explosively and peaked at 24 million crabs in 1969 and 1970. Since that time catch quotas have been reduced progressively through bilateral agreements. The U.S. snow crab fishery in the eastern Bering Sea began in 1968 but has been sporadic and incidental to the king crab fishery until 1975. It now appears that U.S. fishery is firmly established and growing rapidly in this area.

2.0 ~~2.1~~ Preliminary Description of the Fishery

A. ~~2.1.1~~ Areas and Stocks Involved

The commercial fishery for king crab in the eastern Bering Sea targets on the red king crab, Paralithodes camtschatica, and the blue king crab, P. platypus. Also present but not utilized to a significant extent is the brown king crab, Lithodes aequispina. The Alaska Department of Fish and Game (ADF&G) has divided the eastern Bering Sea into areas--Bering Sea, Unalaska, Adak, and Western Aleutians (Figure 1)--for purposes of regulating the domestic fishery. All but the Bering Sea stocks are considered as inshore populations and will not be considered further in this report. For the Bering Sea, two stocks are differentiated: red king crab found along the Alaska Peninsula (Figure 2) and blue king crab found exclusively in the Pribilof Island region.

Two species of snow (Tanner) crab, Chionoecetes bairdi, and C. opilio, are also harvested in the eastern Bering Sea. The distribution of C. bairdi extends from Bristol Bay to the Pribilof Islands (Figure 2). The commercial fishery occurs north of Unimak Island and near the Pribilof Islands. Stocks of C. opilio are found more to the north and west of C. bairdi. Presently the Alaska Department of Fish and Game manages all

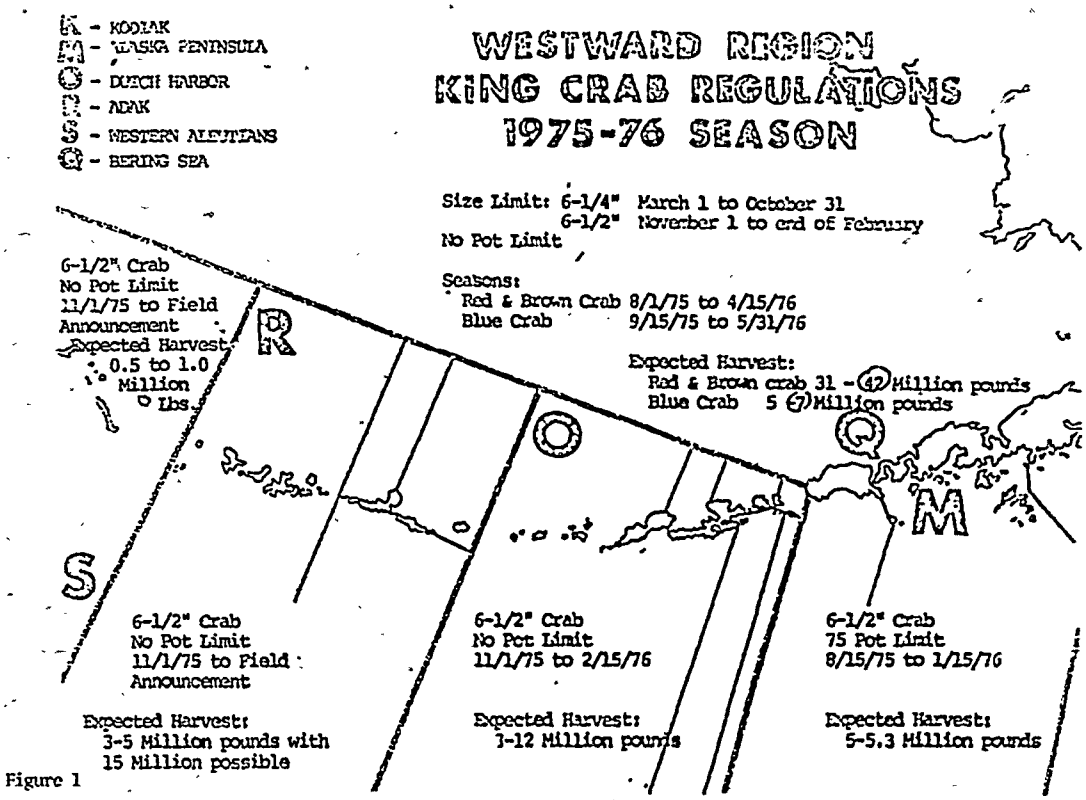


Figure 1

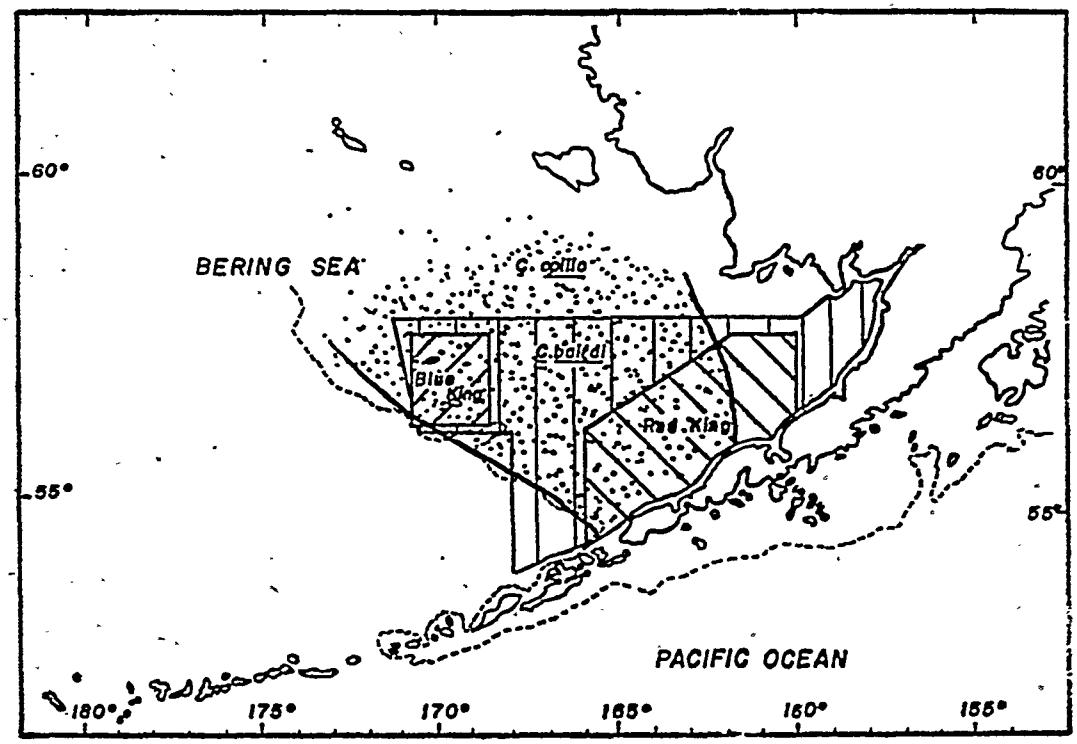


Figure 2. General Distribution of the four species of commercially harvested crab in the eastern Bering Sea.

Bering Sea snow crab as if they were one stock.

8. ~~[illegible]~~ History of the Fishery

~~[illegible]~~ (1) King Crab

The commercial harvest of king crab in the eastern Bering Sea was initiated by Japanese fishermen in 1930. During that year, approximately 1 million crabs were caught by a fleet of 12 small vessels fishing with tangle nets and processed by a factory-mothership. Catches reached 2 million crabs in 1933 but declined in succeeding years. The fishery was abandoned in 1940 prior to World War II. Japan's crab fleet was destroyed during the war and was not replaced until 1953 when she reentered the fishery.

The United States conducted exploratory fishing and processing studies on this resource in 1940 and 1941, but commercial development was interrupted by World War II. The U.S. fishery began in 1947 when trawlers began harvesting about a half million crabs annually. The Japanese crab fleet returned to the Bering Sea in 1953, and the United States fishery temporarily shifted its efforts to exploit stocks south of the Alaska Peninsula. Between 1957 and 1963 there was no significant U.S. crab effort in the eastern Bering Sea (Table 1).

Japan's catches remained near 1.25 million crabs through 1959. At that time Japan increased her effort and extended the fishing season. The U.S.S.R. increased its fleet from one coal-burning mothership in 1959 and 1960 to three large new vessels in 1963. The combined catch of these two countries peaked at about 9 million king crab in 1964. U.S. fishermen increased their effort for king crab in the Bering Sea in the late 1960's

Table 1—Eastern Bering Sea king crab catch (1,000's of crabs).

Year	Japan	U.S.A.	U.S.S.R.	Total
1953	1,276	361	-	1,637
1954	1,061	328	-	1,389
1955	1,129	313	-	1,442
1956	1,079	294	-	1,373
1957	1,171	107	-	1,278
1958	1,130	1	-	1,131
1959	1,292	-	620	1,912
1960	1,949	88	1,995	4,032
1961	3,031	62	3,441	6,534
1962	4,951	10	3,019	7,980
1963	5,476	101	3,019	8,596
1964	5,895	123	2,800	8,818
1965	4,216	223	2,226	6,665
1966	4,206	140	2,560	6,906
1967	3,764	397	1,592	5,753
1968	3,853	1,278	549	5,680
1969	2,073	1,749	369	4,191
1970	2,080	1,683	320	4,083
1971	886	2,405	265	3,556
1972	874	3,994	0	4,868
1973	228	5,000	0	5,228
1974	476	8,618	0	9,094
1975	0	9,060 1/	0	9,060

1/ Includes 8,745,294 red king crab and 314,931 blue king crab.

as stocks in the Gulf of Alaska became more heavily exploited. In the late 1960's and early 1970's, total catch declined to less than half of the peak years of 1962-64, principally as a result of bilateral arrangements which reduced the foreign catch. After 1971, the U.S.S.R. no longer participated in the fishery. Japan, after 4 years of very low catches, did not fish for king crab after 1974. In 1973, king crab stocks began to increase in abundance and the U.S. fishery expanded rapidly. In 1974 and 1975, all-time record catches were recorded, and the 1975 harvest was taken entirely by the U.S. crab fleet.

(2) Snow (Tanner) Crab

Snow (Tanner) crab harvested in the eastern Bering Sea prior to 1964 were caught incidentally in the king crab fisheries. However, in 1964 when the combined Soviet and Japanese king crab fisheries were at their peak, bilateral agreements between the United States-Japan and United States-U.S.S.R. resulted in immediate reductions in the foreign production of king crab. Foreign emphasis then shifted to snow crab and the combined Japanese-Soviet snow crab catch increased rapidly to about 24 million in 1969 and 1970 (Table 2). Since 1970, quotas for snow crab have sharply reduced foreign landings. As was the case for king crab, the Soviet snow crab fishery ended after 1971.1/

Prior to 1974 the U.S. snow crab catch from the Bering Sea was incidental to the king crab harvest but has since grown to a purposeful fishery with an estimated catch of 8,931,000 crabs in 1976--about half of the directed catch (Table 2).

1/ Snow (Tanner) crab are also taken incidental to the foreign trawl fisheries.

TABLE 2 -- Catches of snow (Tanner) crab, C. bairdi and C. opilio, in the eastern Bering Sea, 1965-75 (millions of crabs).

Year	Japan (Tangle nets)	Japan (Pots)	U.S.S.R. (Tangle nets)	United States (Pots)	Total
1965	1.030	-	0.665[a]	-	1.695
1966	1.490	-	0.665[a]	-	2.155
1967	8.320	0.290	3.390[a]	-	12.000
1968	10.100	1.880	3.490[a]	0.006	15.476
1969	9.736	7.855	6.243	0.353	24.187
1970	7.679	10.511	5.724	0.482	24.396
1971	0.851	14.888	4.204	0.061	20.004
1972	0.386	15.207	-	0.043	15.635
1973[b]	-	13.943	-	0.133	14.076
1974[c]	-	13.986	-	2.532	16.518
1975[d]	-	9.228	-	2.760	11.938
1976	-	9.228	-	8.931	18.159

[a]Estimated by applying number of crabs per case in 1969 to case pack figure in indicated year.
[b]Japanese catch in 1973 was 5.992 million crabs in Area A and 7.951 million crabs in Area B.
[c]Japanese catch in 1974 was 5.999 million crabs in Area A and 7.987 million crabs in Area B.
[d]Japanese catch in 1975 and 1976 was about 2.401 million crabs in Area A' and 6.827 million crabs in Area B'.

DATA SOURCES: Statistics for the Japanese and United States fisheries are from INPFC Documents. Statistics for the U.S.S.R. fishery provided to the United States by the U.S.S.R.

~~2.1.3~~ C. Vessels and Gear Types Employed

There has been no Soviet crab fishery in the eastern Bering Sea since 1971. The two factoryships utilized by Japan to process crabs in recent years are the Keiko Maru (7,519 GT) and the Koyo Maru (7,500 GT). Since 1975, each factoryship has been supplied by six catcher boats which are about 100 GT. Japanese crab fishermen now deploy conical, "top-loading" pots which are fished on a groundline. About 130 pots are fished per line, generally with a 3-4 day soak. Each vessel has about 2,000 pots distributed among 15-18 strings of this gear. The gear is hauled using a longline puller; the crabs are removed, stored dry in sacks in the fishhold, and delivered daily to the factoryship where processing takes place.

In 1975, 104 U.S. crab vessels averaging 131 NT fished in the Bering Sea. All vessels are equipped with circulating seawater tanks so crabs can be held live for several days before the vessels return to port. Typical U.S. crab vessels are shown in Figures 3-4. All crabs are taken in large, rectangular pots weighing over 600 pounds which are fished singly on a buoyline. A single vessel may fish as many as 300 pots. Relative sizes of United States and Japanese crab fishing vessels are shown in Figure 5.

~~2.1.4~~ D. Regulatory History and Violations

~~2.1.4~~ (1) Fishery Restrictions

~~2.1.4.1.1~~ a. Domestic

Regulations on harvest of king crab were introduced early in the fishery. A minimum size limit of 5½ inches in shell width was introduced in lower Cook Inlet in 1939. This size limit was extended to all of Alaska

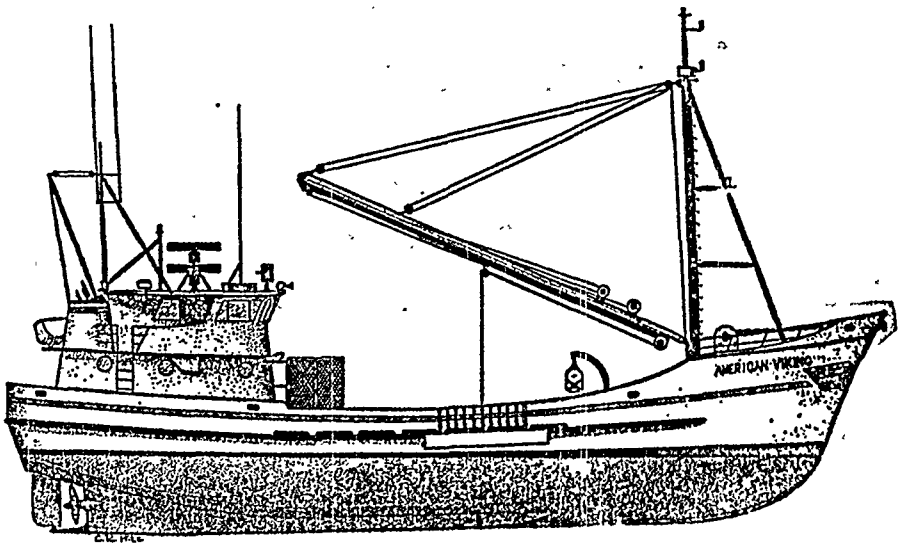


Figure 3. -- American Viking, 102' x 27' x 12', built 1973 by Harold Hansen Boat Co., Marysville, Wash. ©Ricwalt Publishing Co. 1975

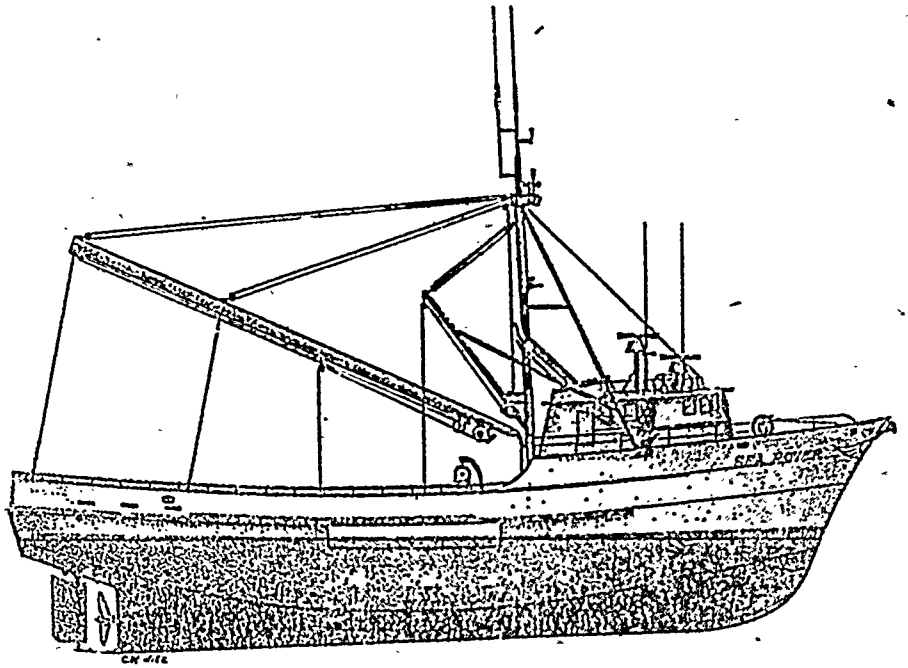


Figure 4. -- Sea Rover, 103' x 29' x 14', built 1973 by Marine Construction & Design Co., Seattle, Wash. ©Ricwalt Publishing Co. 1975

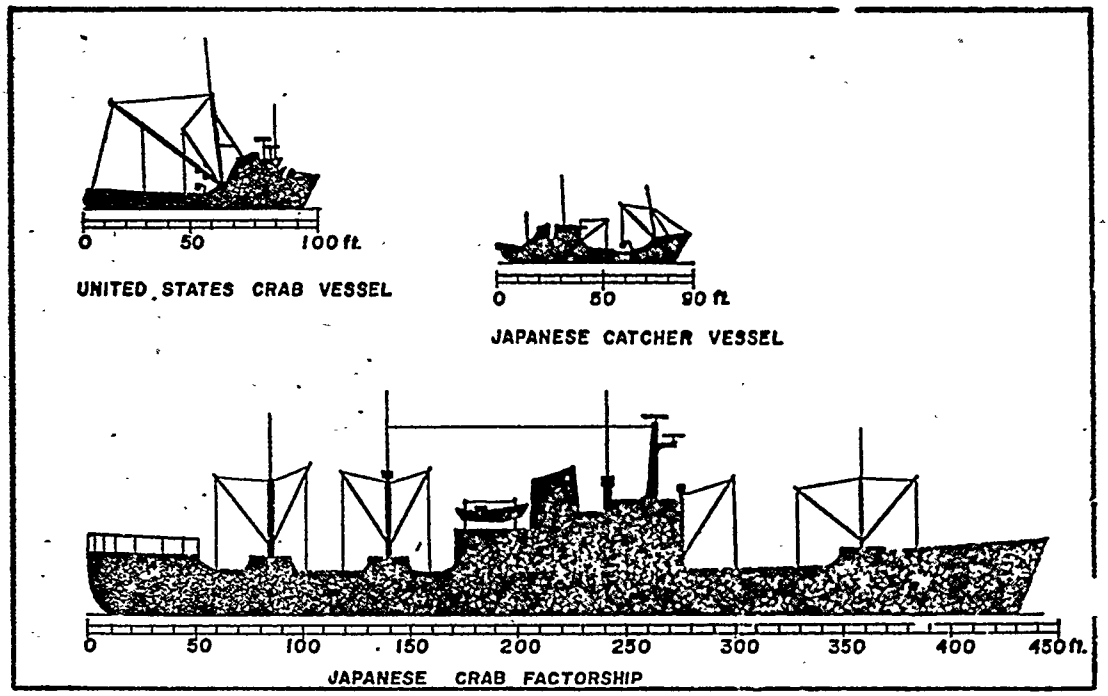


Figure 5. Relative sizes of United States and Japanese crab vessels in the ea- t-. Bering Sea.

in 1942 and remained in effect until 1951, when the limit was increased to 165 mm (6½ inches). This new size limit remained in effect until growth studies at Kodiak provided a basis to increase the limit to 7 inches for stocks at Kodiak and areas eastward in the Gulf of Alaska. In the eastern Bering Sea, bilateral fisheries agreements set size limits for foreign fleets first at 146 mm (5-3/4 inches) and later at 159 mm (6¼ inches) in shell width. These limits were imposed on the domestic fishery during periods of foreign competition. The 1976 size limit is 6¼ inches for all areas west of Kodiak. Regulations also prohibit the retention of female crabs and of soft-shelled males.

Legal fishing gear has included trawls, tangle nets, ring nets, and pots or traps. Trawls were the most common gear used to capture crabs in the early years of the fishery but soon came under criticism. Trawls were non-selective and their use contributed to mortality of female and crab of sublegal size, especially during the spring when molting was in progress. The use of trawls to catch king crab was made illegal in 1961. Tangle nets found little application in Alaskan fisheries because they required too much labor to remove the crabs. They were made illegal in 1955.

Pots rapidly came into use by the fishermen in the 1950's. In 1955 the number of pots per vessel was restricted to 15 in the Cook Inlet fishery. In 1960 the pot limit was increased to 30 and extended to other areas. As production increased and as larger boats became common in the fishery, the pot limits have been increased. In 1975 the limit was 75 pots per vessel in most fishing areas, but there was no pot limit in the eastern Bering Sea. Ring nets remain legal but have found little application in commercial fisheries; they are commonly used by subsistence fishermen.

Area and season closures were uncommon in the early fishery, but after the catch reached its peak then began to decline in 1966 and 1967, a new regulatory scheme came into being. Guideline harvest levels were established for specific areas, along with shorter seasons. In general, only the opening date of the season is significant since closure is made by emergency order when the harvest level is reached. Seasons have become progressively shorter and, in 1973, they ranged from about 10 to about 50 days in the various regulatory areas.

Another form of regulation has also been introduced which requires fishing vessels to choose one area in which they will fish. The eastern Bering Sea has been excepted from this regulation because an international fishery occurs there and it has been considered desirable to allow U.S. fishermen free access to compete for the resource.

The domestic snow crab fishery has grown very rapidly and conservation regulations have been imposed recently. In the Prince William Sound and Cook Inlet areas exclusive area registration regulations apply. Guideline harvest levels have been established for the Kodiak, Cook Inlet, Prince William Sound, and Southeastern Districts. A minimum size limit has been set at 5½ inches in carapace width. Season opening dates and pot limits have been applied to most districts.

~~2.3.4.1.1~~ b Foreign

Prior to 1964 there were no U.S. regulations for the foreign crab fisheries of the eastern Bering Sea. In 1964, the United States ratified the 1958 Continental Shelf Convention and declared king and snow (Tanner) crabs (among other species) as "Creatures of the Continental Shelf." In

that same year, bilateral arrangements were concluded with both Japan and the U.S.S.R. in which quotas and a minimum size limit were applied to their king crab catches. In addition, only hard shell male crabs could be retained. Catch quotas were first applied to the foreign snow crab fisheries in 1969 and use of tangle net gear was restricted in later bilaterals. These bilateral agreements have been modified every 2 years, resulting in progressively lower foreign quotas for both king and snow crabs (Table 3). Since 1973, separate snow crab quotas have applied to each of two sub-areas of the Bering Sea in an indirect attempt to reduce foreign exploitation of C. bairdi, the species of snow crab preferred by the U.S. crab industry (Figures 6 and 7). The sub-areas were further defined in the 1975-76 bilateral to eliminate the foreign fishery east of 164°W longitude and south of 54°30'N latitude—the principal area fished by the United States.

The United States initiated an observer program in 1971 aboard the two Japanese crab factory ships to make biological observations and to ascertain Japanese compliance to quota restrictions established in the bilateral agreement. Although observers spent a total of 191 vessel days at sea during the 1971-73 period, it was not possible to determine Japanese adherence to catch quotas because of a lack of authority to control the unloading operations of the catcher boats and the processing operation.

The observer program was strengthened during bilateral negotiations, and in 1975 and 1976 the U.S. observers positively verified Japanese crab catch statistics. The salient features of this successful program are as follows:

(1) All crabs harvested by the catcher boats will be processed (butchered, cooked, and/or frozen) on the two factoryships.

Table 3. - Quotas established under bilateral crab agreements with Japan and the U.S.S.R.

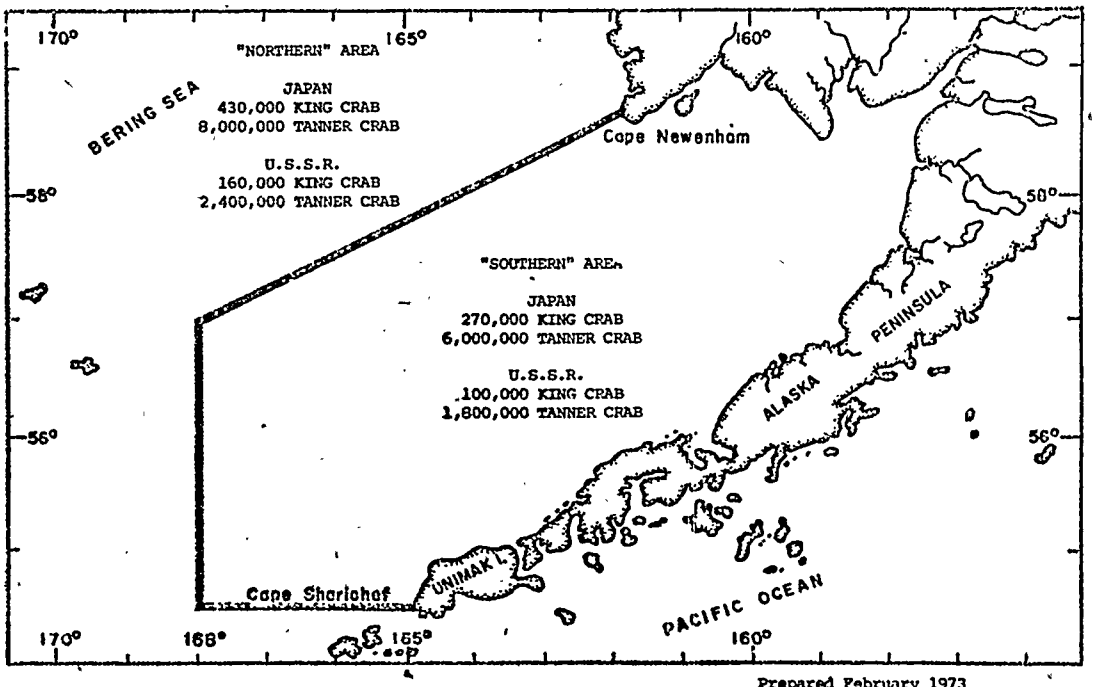
Years	Japan King crab	Japan Tanner crab	U.S.S.R. King crab	U.S.S.R. Tanner crab
	(Cases)1/	(Number)	(Cases)	(Cases)
1965-66	185,000		185,000	
1967-68	163,000		100,000	
1969-70	85,000	16,000,000 2/	53,000	40,000
1971-72	37,500	15,000,000 3/	23,000	35,000
	(Number)	(Number)	(Number)	(Number)
1973-74 (Area A)	270,000	6,000,000	100,000	1,800,000
1973-74 (Area B)	430,000	8,000,000	160,000	2,400,000
	(Metric tons)	(Metric tons)	(Metric tons)	(Metric tons)
1975-76 (Area A)	0	2,500	0	750
1975-76 (Area B)	953	7,700	256	2,310

1/ One case is equal to 48 ½-pound cans. In producing frozen meat Japan considers 29.3 pounds of crab meat equivalent to one case.

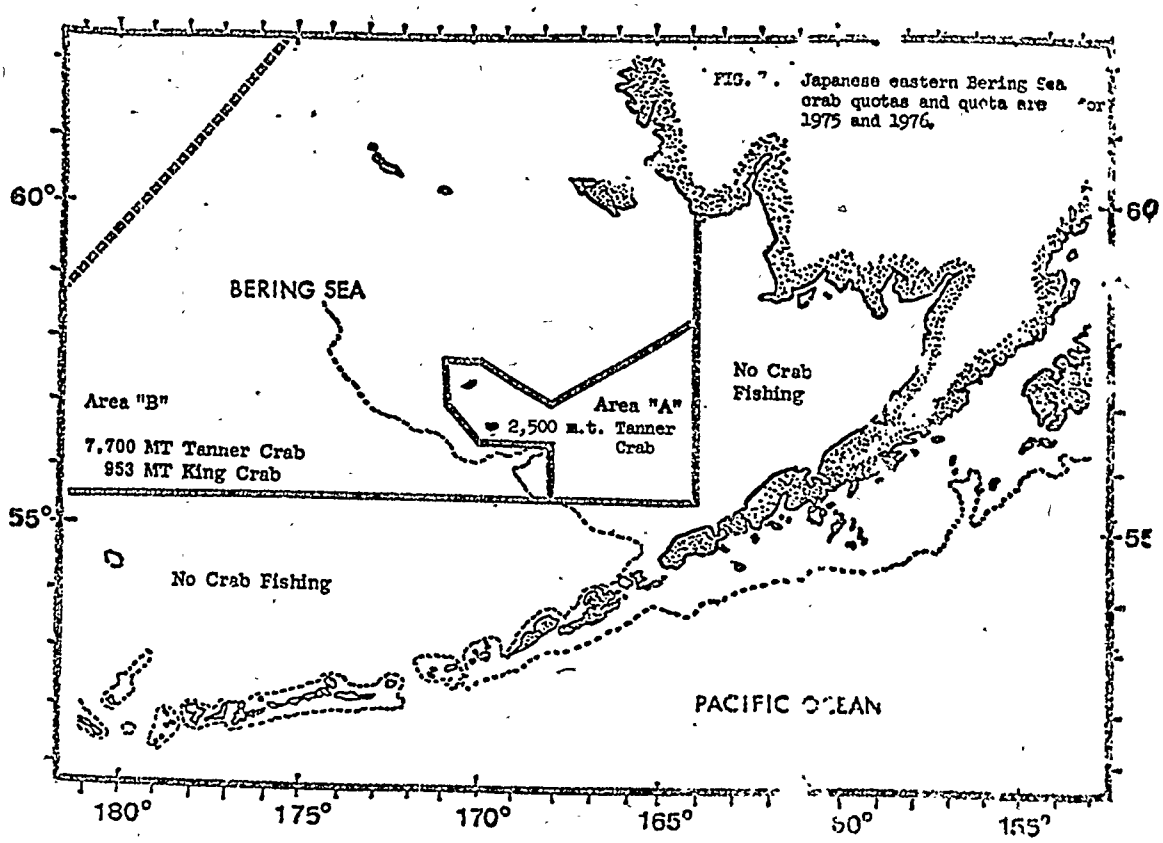
2/ Plus an allowance of 15 percent.

3/ Plus an allowance of 10 percent.

Figure 6. EASTERN BERING SEA CRAB QUOTAS FOR 1973 AND 1974 ESTABLISHED BY U.S.-JAPAN CRAB AGREEMENT DECEMBER 1972 AND U.S.-U.S.S.R. CRAB AGREEMENT FEBRUARY 1973



Prepared February 1973
National Marine Fisheries Service
Juneau, Alaska



(2) No deliveries of crabs by the catcher boats will be made to a mothership unless at least one U.S. observer is present on the mothership, except in the cases where circumstances on the U.S. side prevent the presence of U.S. observers on the mothership.

(3) Observers will be notified of each and every delivery. Where possible, Japanese enforcement officials will schedule all crab deliveries during the same 12-hour period each day, during which time United States observers will be allowed to be present on deck at the time of verification of the weight of each crab landing to ascertain said weight for their records. Observers will be allowed to check the accuracy of the scales at any time, particularly after a period of absence.

(4) Observers will be allowed to notify the United States by wire or radio daily of the mothership position and catch of crabs and other matters relating to the observer program.

(5) To the extent possible, 6 weeks before the beginning of the crab season, Japan will notify the United States of the departure date of the crab fleet and the names and distinguishing markings of all vessels involved.

(6) Information can be supplied to the Japanese government by United States officials regarding the progress of the Japanese fleet, as observed by the U.S. observers, when the quota is being approached. The Japanese officials will take due account of this information at the time of making the decision concerning when the quota has been reached.

(7) Observers will be allowed to sample each day's catch for the purpose of gathering biological data. In addition, observers will be allowed freedom to move on the deck of the factoryship to observe the conduct of law enforcement.

(8) At the conclusion of each year, the parties will conduct a joint review of the adequacy of the observer program and related matters and, based on this review, will make appropriate changes.

In both 1975 and 1976 a team of two United States observers were aboard the two Japanese crab factoryships during the entire fishing season. Japanese officials cooperated with every aspect of the observer program. As a result, for the first time, the United States was able to verify Japanese crab landings.

~~2.1.4~~ (2) Violations and Gear Losses

Violations of international agreements concerning crab fishing by foreign fishing vessels are summarized in Table 4. All violations but one occurred in the Bering Sea and Aleutian Islands. All Soviet violations pertain to the bilateral crab agreement; Japanese fishing vessels were cited for crab agreement, contiguous fishery zone, and Continental Shelf Fishery Resource violations.

No losses of U.S. gear are attributable to foreign crab fisheries. There have, however, been many losses to foreign trawlers (Table 5).

~~2.1.5~~ E. Impact on Domestic Fishery

The Japanese snow (Tanner) crab fishery in the eastern Bering Sea (the only foreign crab fishery now operating) has little impact on king crab stocks or the U.S. king crab fishery. Not only is the fishery limited by bilateral agreement to areas of relatively low king crab abundance, but U.S. observers report that incidental king crab catches are small and those which are caught are returned quickly to the sea. The Japanese trawl

Table 4. -- Number of documented violations of U.S.S.R.-U.S. and Japan-U.S. crab agreements[1].

Year	U.S.S.R. Number of violations	U.S.S.R. Number of vessels involved	Japan Number of violations	Japan Number of vessels involved
1965	2[2]	2 factoryships	--	--
1970	3	2 factoryships	1	1 factoryship
		18 trawlers		3 crab catcher boats
1971	5	17 trawlers	--	--
1973	--	--	1[3]	Unknown number of crab catcher boats
1976	--	--	1[4]	1 trawler

1/ A complete listing of violations is available from the Northwest Fisheries Center, NMFS, Seattle, Washington.

2/ One of these violations was in the Gulf of Alaska.

3/ Violation of Contiguous Fishery Zone.

4/ Violation of Continental Shelf Fishery Resources.

Table 5.--Number of U.S. crab pots reported lost to foreign vessels, 1965 - Apr., 1976[1]

Nation causing loss	Gulf of Alaska	Bering Sea and Aleutain Islands	Total
U.S.S.R.	157	107	264
Japan	43	29	72
South Korea	7	23	30
Unknown	156[2]	149[3]	305

1/ A complete listing of gear losses is available from the Northwest Fisheries Center, NMFS, Seattle, Washington.

2/ Including 143 believed lost to Soviet vessels.

3/ Including 45 believed lost to Soviet vessels, 19 to Japanese vessels, and 2 to Japanese or South Korean vessels.

fishery, however, caught an estimated 900,300 and 328,000 king crab in 1973 and 1974.

In the snow crab fishery, Japanese catcher boats preempt certain grounds that could otherwise be used by United States fishermen. This occurs particularly in the southeast corner of Area A (Figure 7) where Japanese effort is concentrated.

Another impact on the snow crab fishery is caused by losses from the incidental catch of snow crab in the foreign trawl fisheries. Japanese trawlers, according to both United States and Japanese estimates, take more than 100,000,000 snow crab annually. Although these crabs must be returned to the ocean, mortality is estimated to be about 60-70 percent. Taking into consideration the size of capture and the rate of natural mortality, it is estimated that the total loss of snow crab to the fishable male population amounts to about 25-30 million pounds (11,000-14,000 metric tons) annually. The incidental catch of snow crab by the foreign trawl fisheries approaches the magnitude of the directed crab catch. It is probable that this level of removal, if it continues, will to some degree inhibit expansion of the domestic snow crab fishery.

F. ~~2.1.6~~ History of Cooperative Research and Statistical Exchange

King crab investigations by the United States Bureau of Commercial Fisheries began in 1953 and, in 1954, were included as a part of the U.S. research program under auspices of the International North Pacific Fisheries Commission (INPFC), of which Canada, Japan, and the United States are parties. In 1953 biological data were collected aboard a Japanese factoryship and, in 1954, from a United States factory trawler for use by INPFC's Crab Subcommittee. In the following years, short visits by United States scientists were made to the Japanese factoryships; but since 1956, research efforts of Japan and the U.S. have been essentially unilateral.

Statistics covering various aspects of crab research have been exchanged between Japanese and United States scientists in recent years. Data collected aboard research and commercial fishing vessels, as well as fishery catch statistics, have been exchanged annually.

The U.S.S.R. did not release information concerning their catches, production figures, or tag returns through 1964, despite repeated United States requests for these data. The Soviets have conducted an annual, standardized trawl survey in the eastern Bering Sea since 1965. In recent years a complete report of data collected during this survey has been presented to United States scientists, and Soviet scientists have published their analysis of stock conditions.

3.0 ~~2.2~~ Status of Stocks

A. ~~2.2.1~~ Abundance of Exploited Stocks

The abundance of crabs in the eastern Bering Sea has been estimated from NMFS trawl surveys during 1954-61 and 1966-present, using the area-swept method of analysis (Hoopes and Greenough, 1970).

Estimates of P. camtschatica abundance are shown for 1976 and compared with previous years in Table 6. The survey results indicate a rapid increase in the number of male crabs greater than 13[illegible] mm carapace length after 1973, increasing to a high of 32.7 millions in 1976. This increase may be partly an artifact caused by the less efficient trawl fishery prior to 1973; i.e., the earlier estimates may be underestimates of the true

Table 6. -- Annual abundance estimates (millions of crabs) for P. camtschatica from NOAA research vessel Oregon surveys in the eastern Bering Sea.

x	Size group*	1968	1969	1970	***	1972	1973**	1974	1975	95% Confidence limits for 1975 Lower	Upper	± X
les	<110	16.4	41.0	9.5		14.1	50.0	59.0	84.9	63.6	104.2	23
	110-134	11.9	20.3	8.4		8.0	25.9	31.2	31.7	25.6	37.8	19
	120-134	6.5	9.6	5.2		4.7	14.2	20.0	18.6	14.1	23.1	24
	>134	11.9	9.8	5.3		5.4	10.8	20.9	21.0	17.9	24.1	15
tal males		40.2	71.1	23.2		27.5	86.7	111.1	137.6	117.1	158.1	15
males	<90	5.1	18.3	4.9		7.0	24.8	37.7	70.8	51.5	90.1	27
	>89	53.1	26.5	13.0		12.1	76.8	72.0	58.9	45.6	72.2	23
tal females		58.2	46.8	17.9		19.1	101.6	109.7	129.7	106.3	153.1	18
tal population		98.4	117.9	41.1		46.6	188.3	220.8	267.3	236.2	298.4	12

mm, carapace length.
* Weight added to trawl footrope beginning in 1973.
** Survey data in 1971 inadequate to provide abundance estimates.

population size. The total population increase in 1975 can be attributed to significant increases in the abundance of the smallest size groups. This suggests the occurrences of several strong year classes which will be entering the exploitable population in the future.

The abundance of P. platypus in 1976 is compared to abundances in earlier years in Table 7. Owing to the high variability in these estimates and the short data series, no trend is apparent.

Estimates of abundance for snow crabs in recent years are given and compared in Table 8. Survey coverage for C. bairdi, which extends to approximately 58°N latitude, is comparable for each year and indicates the 1976 estimates are lower for mature males. The relatively higher abundance of males greater than 129 mm in carapace length in 1976 is probably the result of one or several strong year classes moving through the exploitable population. OCS-related survey results of the eastern Bering Sea north to 62°N during 1975 (Figure 8) indicate that coverage of large males by the NMFS surveys has been adequate.

Survey coverage for C. opilio has expanded during the 1973-75 period accounting for at least some of the increase in apparent abundance; but it is obvious from the OCS survey results that the NMFS survey still does not encompass the entire range of the species. The problem of incomplete survey coverage also applies to estimates of abundance for C. bairdi x C. opilio hybrids, given in Table 8.

Estimated Maximum Sustained Yield

(1) Red King Crab, Paralithodes camtschatica

The stock of red king crab has been studied most thoroughly of all

Table 7.—Annual abundance estimates (millions of crabs) for P. platypus from NOAA RV Oregon surveys in the eastern Bering Sea.

Sex	Size group*	1974	1975	1976	95% Confidence Limits for 1976 Lower	Upper	±%
Males	<120	5.9	6.9	11.3	0.5	22.1	96
	>119	3.5	12.7	5.0	3.5	6.5	30
	<110	4.4	4.1	10.3	0.0	20.9	103
	110-134	3.1	8.0	2.1	0.3	3.9	86
	>134	1.9	7.5	3.9	2.8	5.0	28
Total males		9.4	19.6	16.3	5.4	27.2	67
Females	<90	0.6	0.003	0.4	0.0	0.9	125
	>89	10.9	8.8	17.7	0.0	35.6	101
Total Females		11.5	8.8	18.1	0.2	36.0	99
Total Population		20.9	28.4	34.4	13.4	55.4	61

*mm, carapace length

Table 8. — Annual abundance estimates (millions of crabs) for Tanner crabs from NOAA RV Oregon surveys in the eastern Bering Sea.

Sex	Size group*	1973	1974	1975	1976	95% Confidence limits for 1976 Lower	Upper	±%
C. bairdi								
Males	<85	62.8	200.7	116.3	135.8	113.3	160.3	17
	85-129	140.5	255.0	207.5	131.7	120.2	143.2	9
	>129	66.9	130.5	209.6	157.8	140.5	175.1	11
Total males		270.2	586.2	533.4	426.3	374.9	457.7	7
Females	<85	47.9	210.5	120.8	174.7	143.3	206.1	15
	>84	90.3	175.7	102.2	220.4	187.0	253.8	15
Total females		138.2	385.2	223.0	395.1	349.2	295.1	12
Total population		408.4	972.4	756.4	821.4	765.8	877.0	7
C. opilio								
Males	<110	115.2	1,480.3	1,916.7	2,221.1	1,737.1	2,705.1	22
	>109	84.7	246.7	274.8	181.6	110.4	252.8	39
Total males		199.9	1,727.0	2,191.5	2,402.7	1,913.5	2,891.9	20
Females	<65	26.4	1,415.3	3,213.1	4,857.1	3,240.0	6,494.2	33
	>64	26.8	195.9	194.3	697.3	535.5	858.1	23
Total females		53.2	1,611.4	3,407.4	5,554.4	3,929.3	7,159.5	29
Total population		253.1	3,338.4	5,598.9	7,957.1	6,250.4	9,673.8	21
C. hybrid								
Males	<110			47.5	27.8	11.8	43.8	37
	>109			33.8	16.5	11.5	21.7	32
Total males				81.3	44.3	27.4	61.2	38
Females	<65			190.8	1.1	.5	1.7	55
	>64			28.9	13.9	10.8	17.0	22
Total females				219.7	15.0	11.9	18.1	21
Total population				331.0	59.3	42.2	76.4	29

* mm, carapace width.

crab stocks in the eastern Bering Sea. The first estimate of MSY (Greenough, 1972) was based on the yield-per-recruit method. Essentially, this method involves examination of growth and mortality rates of a given stock to determine the maximum biological yield per unit of recruitment to the fishery. The size limit and amount of fishing effort that are selected then will give the maximum yield per unit of recruitment. If it is possible to determine the actual size of the yearly recruitment, then an equilibrium yield for current recruitment levels can be obtained by multiplying the yield per recruit by recruitment. As an example, for a given set of growth and mortality rates, one crab recruited to the fishery might yield 3.2 pounds on the average to the fishery. Thus, if 1 million crab are recruited to the exploitable population then that group would be expected to yield 3.2 million pounds during its collective life in the fishery.

Greenough estimated equilibrium yield for the 1966-70 period to be around 26 million pounds (legal-sized male crabs). Using more recent information on fishing and natural mortality rates, growth rates, and recruitment levels, Balsiger (1976) updated Greenough's work to reflect 1972 conditions in the fishery and stock. His estimate of equilibrium yield was also 26 million pounds.

There was little change in the abundance of pre-recruit crabs (those that would have entered the fishery after the next molt) during the time span between Greenough's and Balsiger's work. However, since 1972 the level of pre-recruits, thus recruitment to the exploited population, has increased substantially (Table 9). As mentioned earlier, survey gear changes may have introduced an artifact to the data. The gear, however,

Table 9. — Estimated recruitment, all-nation standard effort and United States CPUE for king crabs (P. camtschatica).

Year	Estimated recruitment (Millions of male crabs 117-130 mm)	Total standardized effort (U.S. Pot-lifts)	U.S. CPUE (Crabs/Pot-lifts)
1968	5.8	207,299	26.9
1969	7.5	210,603	17.8
1970	8.7	207,259	17.4
1971	5.3	241,756	10.3
1972	5.7	235,619	19.5
1973*	15.1	231,599	24.9
1974*	18.6	280,083	33.3
1975*	18.9	221,521	40.9

* 115-130 mm size class used

has remained relatively constant since 1973. Furthermore, U.S. catch statistics indicate an increasing catch/pot-lift in the United States fishery (Table 9). These factors taken together indicate that recruitment has increased.

Since fishing effort has remained relatively constant over the past 7 years (Table 9), and assuming that growth and mortality rates have not changed, the yield-per-recruit multiplier given by Balsiger (4.3) provides an equilibrium yield estimate for legal-sized males of about 75 million pounds. It should be noted that 1975 survey estimates of pre-recruit abundance is used for this calculation, since information from the fishery needed to confirm the 1976 abundance estimate is not yet available.

The model described above for the estimate is complex and a confidence interval on the estimate can only be approximated. Assuming no error in the yield-per-recruit multiplier, the 95% confidence interval is ± 14% (65-86 million pounds). Assuming a 5% error in the multiplier gives a 95% confidence interval of ± 25% (56-94 million pounds). The error in the multiplier is probably greater than 5%.

(2) Blue King Crab, P. platypus

Data needed for an MSY analysis similar to that presented for red king crab are not available for blue king crab stocks of the eastern Bering Sea. Thus, an approximation technique has been applied, in which the average exploitation rate derived for legal, male red king crab — 0.40 (Reeves, 1975; Lechner, In Press) -- is applied to current estimates of the abundance of legal male blue king crab. The rationale for this application is that the red king crab stock has held up well at this rate of exploitation and blue king crab, being closely related to red king crab, are probably quite simila with respect to key population parameters.

Estimates of the abundance of blue king crab are shown in Table 7. Applying the 0.40 rate to the estimated numbers of legal (>150 mm) male P. platypus in 1976 (2.4 million crabs) yields an estimate of MSY of 1.0 million crabs or, using a 7-lb. average weight per crab, 7 million pounds.

(3) Snow (Tanner) Crab, Chionoecetes spp.

Data similar to that used for the MSY analyses of red king crab are not available for the Tanner crab stocks of the eastern Bering Sea. Thus, the same approximation technique used for blue king crab has been applied to these stocks -- that is, multiplying abundances by the exploitation rates based on historic experience with the red king crab fishery.

Estimates of abundance of Tanner crabs are available for both species, C. bairdi and C. opilio, in the eastern Bering Sea. However, the distribution of abundance is different between species (Figure 8). Almost all the stock of C. bairdi occurs south of 58°N. latitude. C. opilio extends farther north, with half of the total stock surveyed during the 1975 OCS-related work located north of 58°N latitude.

Estimates of MSY for C. bairdi and C. opilio are given in Table 10. For C. bairdi, the 1976 NMFS survey abundance estimates are used, since coverage of this species is adequate. MSY calculation is based on the estimated abundance of legal-sized male crabs (269 million pounds) since a domestic size limit of 140 mm is in effect for this species. At exploitation rate of 0.40, the average rate for the eastern Bering Sea red king crab

Table 10.--Estimates of maximum sustainable yield of male snow (Tanner) crab in the Eastern Bering Sea.

Species	Size Group	Millions of Crabs	Average Weight (Pounds)	Millions of Pounds	Exploitation Rate	MSY (Millions of Pounds)
C. bairdi	>140	109	2.47	269	0.40	108
C. opilio	> 75	2,252	0.99	2,220	0.15	333*

*167 million pounds available north of 58°N latitude.

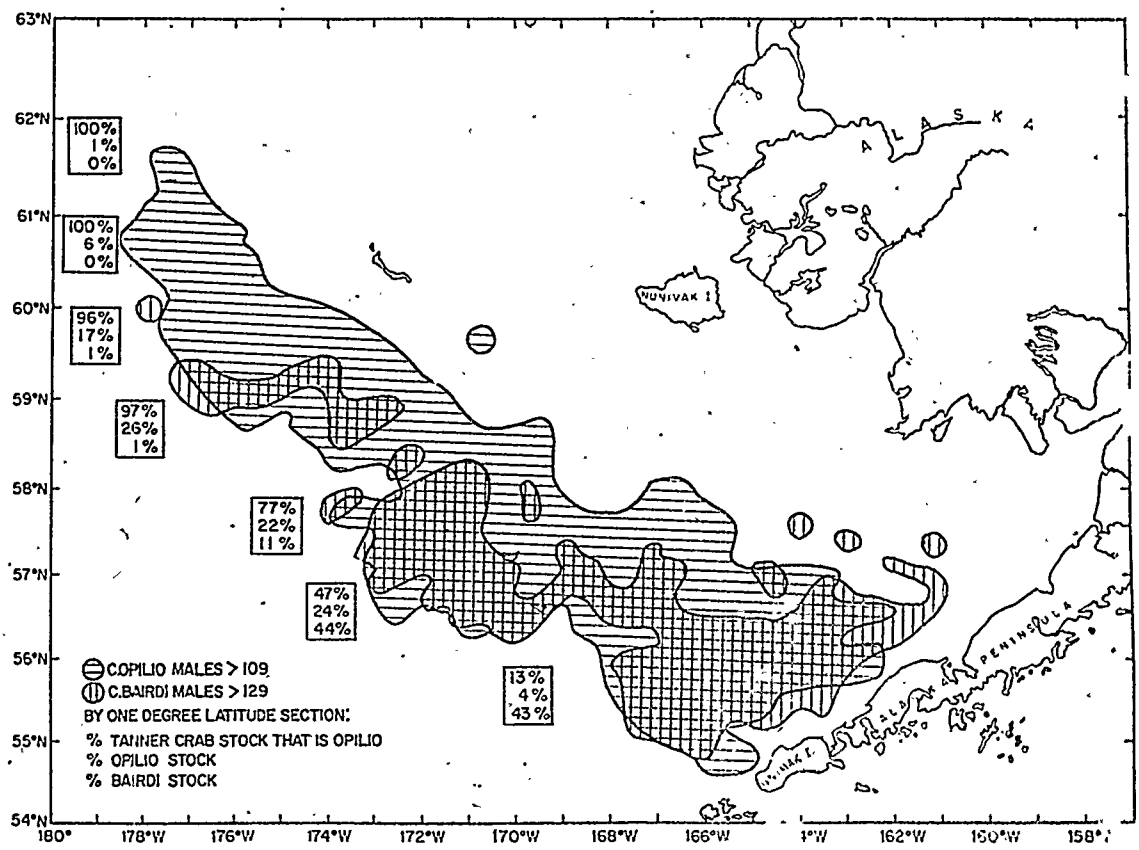


Fig. 8 Distribution of Tanner crab stocks and species composition of lar ile Tanner crabs by Latitude

fishery, applied to the estimated abundance of legal-sized males gives an MSY of 108 million pounds.

The estimated MSY for C. opilio is calculated from the estimated abundance of mature males (2,220 million pounds), determined from the 1975 OCS survey. The mature component of the population is used since no size limit exists for this species.

The exploitation rate applied is 0.15, the average rate for mature male red king crabs, and results in an MSY of 333 million pounds. Half of this estimate, 167 million pounds, is available from the area north of 58°N latitude, where large C. bairdi occur only rarely (Figure 8).

~~2.3~~ 4.0 Total Allowable Level of Foreign Fishing

The Fishery Conservation and Management Act directs that a total allowable level of foreign fishing (TALFF) for each fishery be determined. This TALFF is based on the difference between the preliminary determination of optimum yield and the capacity and extent to which the U.S. fishing fleet will harvest the optimum yield. The TALFF is determined in this section for both king crabs (P. camtschatica and P. platypus and snow (Tanner) crabs (C. bairdi and C. opilio).

~~2.3.1~~ A. Optimum Yield

The optimum yield for king and snow (Tanner) crabs is heavily weighted by social and economic factors. These are described in detail in the following sections.

~~2.3.2~~ (1) King Crab

The king crab stocks in the eastern Bering Sea are considered to be in a healthy condition, and the prognosis for the future is good. Accordingly, the optimum yields for king crab can be set at a level equal to the present estimate of MSY for 1977:

Red king crab, Paralithodes camtschatica Legal sized males > 136mm carapace length	34,000 mt (75,000,000 lbs.)
Blue king crab, Paralithodes platypus Legal sized males > 150mm carapace length	3,200 mt (7,000,000 lbs.)

~~2.3.1~~ (2) Snow (Tanner) Crab

Optimum yields for C. bairdi and C. opilio have been determined taking into consideration the following:

(a) United States policy, through a series of bilateral agreements over the past several years, has been directed at improving the optimality of conditions for developing the Alaska snow (Tanner) crab industry. As a result of these agreements, foreign nations have been prevented from snow (Tanner) crab fishing in the Gulf of Alaska and have either reduced their take of snow (Tanner) crabs in the eastern Bering Sea or withdrawn from the fishery altogether. The policy has accomodated a favorable investment climate for a growing U.S. catching, processing, and marketing capacity.

(b) The U.S. markets for snow (Tanner) crab are in an early stage of development with exports accounting for a substantial portion of U.S. production. Industry representatives have repeatedly drawn attention to

the volatility of markets for shellfish and repeatedly stated that increases in foreign allocations of snow (Tanner) crab will weaken U.S. domestic and export markets.

(c) The domestic market for snow (Tanner) crabs has discouraged the delivery of crabs less than 5 inches in carapace width. In 1976, a minimum carapace size limit of 5½ inches was imposed on the domestic snow (Tanner) crab fishery in the eastern Bering Sea. Since less than one percent of the population of male C. opilio exceed 5½ inches carapace width, this species does not at this time meet domestic size requirements. The U.S. fishery for snow (Tanner) crabs is therefore primarily for C. bairdi.

(d) The snow (Tanner) crab fishery is conducted by heavily capitalized vessels originally constructed for the offshore king crab fishery. Public testimony revealed that the catch per unit effort (CPUE) must be maintained in the range of 50-70 crabs per pot to enable U.S. fishermen to engage in the fishery. The U.S. CPUE in the eastern Bering Sea in 1976 was 63 crabs per pot. This criterion would suggest that populations must be maintained at near present abundance to produce an economically acceptable catch per unit effort for U.S. fishermen.

(e) Rational management concerns other than MSY must be taken into consideration in specifying optimum yield. MSY estimates are based on the entire eastern Bering Sea snow (Tanner) crab biomass; however, large portions of the area are occupied by non-commercial densities of both C. bairdi and C. opilio making MSY unobtainable in real terms. Stability of the fishery should be ensured by maintaining a stock base of various age-classes of marketable crab, rather than creating an industry dependency on a single year class resource. By maintaining a fishery on a broad age group, the variations associated with strong and weak year classes would be reduced.

(f) The ecological importance of snow (Tanner) crab stocks is not well understood. The rich eastern Bering Sea is inhabited by the largest concentration of sea birds and marine mammals in the world. Millions of seals, important populations of whales, sea otters and other marine mammals, as well as hundreds of millions of sea birds and other forms of marine life are currently being impacted by the annual removal of more than 5 billion pounds from the eastern Bering Sea biomass. Optimum yield considerations indicate a cautious approach to additional removals.

Optimum yields for snow (Tanner) crabs for 1977 are prescribed as follows:

C. bairdi	30,000 metric tons	(66,300,000 lbs.)
C. opilio	7,400 metric tons	(16,300,000 lbs.)

B. ~~C.~~ U.S. Capacity

The number, size, and efficiency of U.S. crab vessels fishing in the Bering Sea leaves little doubt that the domestic production potential is far in excess of present catches. In 1975, 104 vessels of an average 132 net tons harvested 49,686,776 pounds of red king

crab in about 2½ months. There has been no foreign catch of king crab allowed since 1974, and the U.S. fishing fleet has demonstrated both the desire and capacity to take the entire optimum yield.

These vessels have a large capacity to harvest snow (Tanner) crab in the eastern Bering Sea. Assuming each vessel makes a full trip every two weeks during a 6-month season, the total domestic harvest would be 187 million pounds, compared with a current catch of about 22 million pounds.

The processing capacity of the U.S. seafood industry in the Bering Sea/eastern Aleutian Islands is also impressive. Existing processing plants are shown in the following list:

	Capacity — (Thousands pounds crab per day)	
Dutch Harbor Area		
Shorebased –		
Pan Alaska	200	
Wakefield	100	300
Vessels –		
ROYAL ALASKA	50	
THERESA LEE	50	
SEA ALASKA	50	
WHITNEY	120	
MOKUHINIA	60	
UNISEA	150	
GALAX SEA	100	
SEA POINT	50	
VICEROY	50	
ALEUTIAN FJORD	50	
ALL ALASKA	50	
VITA	200	1,080
Dutch Harbor Area		
Vessels (continued)		
Akutan –		
Vessels		
SEA PRODUCER	40	
AKUTAN	50	
ALASKA SHELL	40	130
Catcher/Processors –		
BILLIKIN	40	40
		1,550

A daily potential processing of 1,550,000 pounds of king crab is indicated.

Considering the recent growth of the U.S. Bering Sea snow (Tanner) crab fishery, and recognizing the large potential processing and harvesting capacity, it is estimated that the U.S. harvest in 1977 will increase to 50-55,000,000 pounds, or 22,700 to 25,000 metric tons (see Table 11). This estimate is based on a continuation of the 1975-76 trend of twice the previous year's effort of catching crabs at the 1976 rate over a period of four months, i.e. 81,000 pounds of crabs per landing every two weeks per vessel.

C. Total Allowable Level of Foreign Fishing in 1977

The portion of the optimum yield not harvested by the U.S. in 197, can be made available for foreign fishing. Consequently, the total allowable level of foreign fishing in 1977 for king crab is set at zero and for snow (Tanner) crab is set at 12,500 metric tons (27.6[illegible] [illegible]00 lbs.). Species composition of the foreign catch will be 5,100 metric tons of *C. bairdi* and 7,400 metric tons of *C. opilio* based on catch composition in 1975 and 1976.

Table 11—U.S. Bering Sea snow (Tanner) crab fishery 1972-76 and projections for 1977.

Year	Catch Metric tons	Catch Pounds	Average Price/lb.	No. of vessels fishing during peak month Tanner crab	No. of vessels fishing during peak month King crab 1/
1972	50.8	111,700	.11	N/A	64
1973	137.2	301,800	.16	8	63
1974	2,292.8	5,044,200	.20	18	82
1975	3,177.1	6,989,651	.14	21	94
1976	10,136.4	22,300,000 3/	.21	43	112
1977	22,686-24,955	50-55,000,000	.30 2/	86	130 1/

1/ King crab fleet provides vessels and gear for tanner crab fishery.

2/ Confirmed price, Kodiak and Alaska Peninsula (So. Side), January 1977.

3/ Catch restricted by season closure at onset of molting.

In addition to the directed catch by the foreign pot fishery at least 10,000,000 crabs of both sexes and all sizes will be killed by the foreign trawl fisheries. The calculated loss resulting from this trawl mortality is equivalent to 11-14,000 metric tons of harvestable-size males. Thus, the total mortality of harvestable-size males resulting from all foreign fishing in 1977 will be equivalent to 24,000 to 27,000 metric tons (53-60 million pounds).

The plan allows a moderate increase in allowable level of foreign fishing for C. opilio over the 1976 foreign harvest. The effects of this increase in foreign catch or the U.S. markets for snow (Tanner) crab will be carefully monitored during 1977.

Appropriate adjustments in future foreign surpluses will be made in response to this monitoring effort to prevent weakening U.S. domestic and export markets.

Areal restrictions have been imposed to assist the U.S. domestic industry in expanding its C. bairdi fishery and to reduce the possibility of gear conflicts between U.S. and foreign fishermen.

5.0 Conservation and Management Measures Applicable to Foreign Fisheries.

A. Regulations

(1) Region-wide Restrictions

a. There will be no directed fishery for, or retention of, any species of king crab.

b. Crab fishing will be conducted using pot gear only.

c. Processing of crabs will be permitted only on designated factoryships.

d. Only male snow (Tanner) crab may be retained and processed; females must be discarded immediately after the pots are taken aboard in a manner that will minimize handling mortality.

e. Crabs may be taken aboard factoryships only in the presence of a U.S. observer, and only in a manner in which the observer can verify the total weight of crabs taken aboard.

f. No foreign crab fishing within 12 miles of the baselines used to measure the U.S. Territorial Sea.

g. Foreign fishing vessels engaged or wishing to engage in the fishery must obtain a permit from the Secretary of Commerce.

(2) Time-area Closures

a. East of 164°W -- closed year round.

b. South of 56°00'N -- closed year round.

(3) Area Quotas

a. No more than 12,500 mt of crab may be taken by foreign fishermen from that portion of the Bering Sea area over which the United States exercises fishing jurisdiction.

b. No more than 12,500 metric tons of snow (Tanner) crab may be taken by foreign fishing vessels from that portion of the Bering Sea area over which the United States exercises fishing jurisdiction north of 56°00'N lat. and west of 164°W long. Of this 12,500 metric ton quota:

No more than 2,500 metric tons of the snow (Tanner) crab quota designated in b, may be taken by foreign fishing vessels from the area bounded by straight lines connecting the following coordinates in the order listed:

58°09' N. lat.-164°00' W. long.; 57°00' N. lat.-168°00' W. long; 57°40' N. lat.-169°50' W. long.; 57°40' N. lat.-170°50' W. long; 57°00' N. lat.-170°50' W. long; 56°20' N. lat.-169°55' W. long; 56°20' N. lat.-168°00' W. long.; 56°00' N. lat.-168°00' W. long; 56°00' N. lat.-164°00' W. long.; 58°09' N. lat.-164°00' W. long; and

At least 4,400 metric tons must be taken from the area located to the north and west of straight lines drawn between the following coordinates:

56°00' N. lat.-173°00' E. long; 56°00' N. lat.-173°00' W. long; 58°09' N. lat.-173°00' W. long; 58°09' N. lat.-164°00' W. long; north along 164°00' W. long. to a distance of 12 nautical miles from the baseline used to measure the U.S. Territorial Sea.

B. ~~2.4.2~~ Statistical Reports

(1.) ~~2.4.2.1~~ Annual

Each nation whose fishermen operate in the Region shall report to the Director, Alaska Region, National Marine Fisheries Service, Juneau, by May 30 of the following year annual catch and effort statistics, as follows: Effort in pots hauled, catch in metric tons and number of crabs. Each to be supplied by vessel class, by 10-day period, by $\frac{1}{2}^{\circ}$ (Lat.) x 1° (Long.) statistical area, by the following species:

Snow (Tanner) crab, C. bairdi

Snow (Tanner) crab, C. opilio

Any other crab species.

(2) ~~2.4.2.2~~ 10-day Periods

In addition to the annual statistical report in 2.4.2.1, above, each nation will report within 3 days following each 10-day fishing period, provisional 10-day fishery information as follows: Effort in total pot lifts; and Catch in metric tons and number of crabs of C. opilio and C. bairdi for each of the 2 sub-areas in Figure 7.

C. ~~2.4.3~~ Fleet Disposition Reports

The appropriate fleet commander or individual vessel master will report to the Director, Alaska Region, National Marine Fisheries Service, Juneau, by radio prior to the commencement of fishing and the arrival in the Region of each fishing and processing vessel, giving the vessel's name and other identifying marks (such as U.S. Permit No., size, intended target species, and intended fishing area). A similar report will be made at the time of departure of each vessel from the area or Region. These reports, augmented with U.S. surveillance observations, observer reports, and monthly catch and effort reports, will be used to monitor adherence to catch limitations.

D. ~~2.4.4~~ Observers

Each nation operating in the Region will have available at no cost to the United States, accommodation for 2 U.S. observers on factoryships and 1 U.S. observer on fishing vessels. Observers will be assigned to individual vessels and for periods at the discretion of the U.S. to monitor catches; estimate species, size, and age composition; and collect other biological data as appropriate.

The observer will be accorded the rank of a ship's officer and will be assisted in transmitting messages to the United States Government whenever requested.

All observer programs pertaining to foreign crab fisheries will be administered by the Northwest and Alaska Fisheries Center, National Marine Fisheries Service. Observer coverage and activity will be scheduled in consultation with the North Pacific Management Council, the NMFS Alaska Regional Office, and the Commander, Seventeenth Coast Guard District.

Research

Bona fide fishery or fishery-related research (but not exploratory fishing where commercial quantities of fish are retained) by foreign government will be encouraged. Valid results of such research will be considered by the management entity in determining total allowable catches and other management measures. Cooperative U.S.-foreign research ventures will be planned and executed when they are found to be in the best regional interest of the United States.

Relation to National Standards

The prescriptive measures contained in this Preliminary Fishery Management Plan (total allowable catches, allocations to foreign fishermen, and regulations pertaining to foreign fishermen) have been designed to be consistent with the seven national standards listed in P.L. 94-265.

TAC's are entirely for the purpose of preventing overfishing (Standard #1), are based upon the best scientific evidence available (Standard #2), and apply to the extent possible to individual stocks or stock complexes throughout their range (Standard #3).

Inasmuch as this document deals solely with foreign fisheries, that provision of the legislation concerning nondiscrimination among residents of States (Standard #4) does not apply.

Those area restrictions which isolate the foreign crab fisheries from fisheries for other species will promote efficiency in resource utilization (Standard #5) by reducing the potential for gear conflict and incidental catch of non-target species.

Ten-day catch reports, check-in/check-out procedures, and observers monitoring fishery performance will permit the timely detection of anomolies in the catch or the fishery (Standard #6) and will minimize that surveillance and enforcement activity required to assure foreign compliance to this Plan (Standard #7).

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Footnotes

1/ Total allowable catch estimates given here relate to the equilibrium yield which can be reasonably taken from the crab stocks without impairing their biological productivity. In arriving at these estimates we did not take into account other legitimate management objectives such as the maintenance of multiple year classes in the fishery or insuring that removals come from all stock units. Therefore, in succeeding drafts of this plan annual catch quotas might well be lower than those given here.

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Appendix

Summary

General Provisions

Crabs

Conditions and Restriction

Part VI - Western Pacific Ocean and Bering Sea

Subpart A General Provisions

1.0 Purpose

(a) The purpose of this subpart is to describe the conditions and restrictions applicable to all foreign fishing vessels fishing in the Western Pacific Ocean and Bering Sea.

Subpart B Crabs

1.0 Definitions

(a) Unless otherwise defined herein, the terms used in this Subpart will have the meanings ascribed to them.

(b) Conditions and restrictions in this Subpart will apply to: Red king crab (Paralithodes camtschatica), Blue king crab (Paralithodes platypus), brown king crab (Lithodes aequispina), snow (Tanner) crabs (Chionoecetes bairdi and C. opilio).

(c) A pot is a portable structure designed and constructed to capture and retain crabs alive in the water.

2.0 Area Quotas

(a) No more than 12,500 metric tons of snow (Tanner) crab may be taken by foreign fishing vessels from that portion of the Bering Sea area over which the United States exercises fishing jurisdiction.

b. No more than 12,500 metric tons of snow (Tanner) crab may be taken by foreign fishing vessels from that portion of the Bering Sea area over which the United States exercises fishing jurisdiction north of 56°00'N lat. and west of 164°W long. Of this 12,500 metric ton quota:

No more than 2,500 metric tons of the snow (Tanner) crab quota designated in b, may be taken by foreign fishing vessels from the area bounded by straight lines connecting the following coordinates in the order listed:

58°09' N. lat.-164°00' W. long.; 57°00' N. lat.-168°00' W. long; 57°40' N. lat.-169°50' W. long.; 57°40' N. lat.-170°50' W. long; 57°00' N. lat.-170°50' W. long; 56°20' N. lat.-169°55' W. long; 56°20' N. lat.-168°00' W. long.; 56°00' N. lat.-168°00' W. long; 56°00' N. lat.-164°00' W. long.; 58°09' N. lat.-164°00' W. long; and

At least 4,400 metric tons must be taken from the area located to the north and west of straight lines drawn between the following coordinates:

56°00' N. lat.-173°00' E. long; 56°00' N. lat.-173°00' W. long; 58°09' N. lat.-173°00' W. long; 58°09' N. lat.-164°00' W. long; north along 164°00' W. long. to a distance of 12 nautical miles from the baseline used to measure the U.S. Territorial Sea.

(c) No more than 8,100 metric tons of snow (Tanner) Crab may be Taken by foreign fishermen from the area east of 173° West longtitude and south of 58°North latitude.

30 ~~(c)~~ Open season - The open season for crab fishing by foreign vessels in the Bering Sea area over which the United States exercises fishery management authority shall begin at 0801 GMT on March 1, 1977, and terminate at a time and date to be determined and announced under paragraph (d).

40 ~~(d)~~ (a) Closed season and areas - ~~(1)~~ The National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for species under this section. Upon determination by the Director that foreign fishing vessels of a country have taken their assigned allocation of crab, notification of such determination shall be given to the appropriate agent or a government official of the country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for crab as of the specified closure date.

(b) ~~(2)~~ It shall be unlawful for any foreign fishing vessel to fish for crabs at any time East of 164°W Longitude and South of 56°00'N Latitude in the Bering Sea, throughout the Northeastern Pacific Ocean, and within 12 miles of the baselines from which the U.S. Territorial Sea is measured.

50 ~~(3)~~ Gear restrictions - It shall be unlawful for any foreign fishing vessels fishing in the authorized area for crabs to use gear other than pots. A pot is a portable structure designed and constructed to capture and retain crabs alive in the water.

60 ~~(4)~~ Statistical reporting - The owner or operator of any foreign fishing vessel shall maintain catch and effort statistics and shall report the information, through its government, to the Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska, U.S.A. 99801.

(a) ~~(5)~~ Annual - Each nation whose fishermen operate in the

area shall report by May 30 of the following year, annual catch and effort statistics as follows: Effort in pots hauled and hours pots soaked Catch in metric tons and number of crabs. Each to be supplied by vessel class, by 10-day period, by 1/2° (lat.) by 1° (long.) statistical area, by the following species: Snow (Tanner) crab (Chionoecetes bairdi and C. opilio), and any other crab species.

(2) 10-day Periods--Each country will report within 3 days following each 10-day fishing period, provisional 10-day fishery information as follows: Effort in total pot lifts; and Catch in metric tons and number of crabs of C. opilio and C. bairdi separated by the area described in (b)(1) and by the area outside that described in (b)(2).

(c) Restrictions - No master or any other person in charge of any foreign vessel engaged in fishing for crabs under this subpart shall:

(1) Conduct a directed fishery for, or retain any species of crab other than snow (tanner) crab.

(2) Process crabs except on designated factory ships.

(3) Retain and process female or soft shell crabs; any crabs not retained must be discarded immediately after the pots are taken aboard in a manner that will minimize mortality.

(4) Take aboard crabs in a manner in which the observer can not verify the total weight of crabs taken aboard.

(d) Loading zones - Loading and other support operations are permitted by foreign vessels during 1977, seaward of three nautical miles from the baseline from which the United States territorial sea is measured:

(1) Near Forrester Island, Alaska, in the waters bounded on the north by 54°54' North Latitude, on the east by 133°16' West Longitude, and on the south 54°44'N lat., from March 1, 1977, to December 1, 1977, inclusive.

(2) On the east side of Kayak Island, Alaska, in the waters between 58°48' North Latitude and 59°56' North Latitude west of 143°53' West Longitude and on the west side of Kayak Island in the waters between 59°52' North Latitude and 60°07' North Latitude east of 145°W.long., from March 1, 1977, to December 1, 1977, inclusive.

(3) North of Tonki Cape on Afognak Island, Alaska, in the waters bounded on the north by 58°35' North Latitude, on the south by 58°25' North Latitude, on the west by 152°02' West Longitude and on the east by 151°52'W long., from March 1, 1977, to December 1, 1977, inclusive.

(4) North and west of Sanak Island, Alaska, in the waters bounded on the north by 54°36' North Latitude, on the south by 54°26' North Latitude, on the west by 163°05' West Longitude and on the east by 162°40'W long., from March 1, 1977, to December 1, 1977, inclusive.

(5) On the south side of Unalaska Island, Alaska, in the waters between 167°18' West Longitude and 167°40' West Longitude, from March 1, 1977 to October 14, 1977 inclusive.

(6) On the north side of Unalaska Island, Alaska, in the waters between 167°15' West Longitude and 167°35' West Longitude, from March 1, 1977 to October 14, 1977 inclusive.

(g) On the south side of Umnak Island, Alaska, in the waters between 168°15' West Longitude and 168°30' West Longitude, from October 15, 1977 to December 31, 1977 inclusive.

(h) On the north side of Umnak Island, Alaska, in the waters between 168°25' West Longitude and 168°40' West Longitude and between 168°50 West Longitude and 169° West Longitude, from October 15, 1977 to December 31, 1977 inclusive.

(i) Off St. George Island of the Pribilof Islands, Alaska, from March 1, 1977 to April 30, 1977 and November 1, 1977 to December 31, 1977 inclusive.

(j) On the north side of St. Matthew Islands, Alaska, in the waters between 172°29'West Longitude, and 172°46'W. longitude, and on the south side of St. Matthew Island, Alaska, in the waters between 172°17' West Longitude, and 172°35' West Longitude, and in the waters between 172°54' West Longitude, and 173°04' West Longitude.

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federal register

WEDNESDAY, FEBRUARY 16, 1977

PART VI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

MACKEREL FISHERY OF NORTHWESTERN ATLANTIC

DEPARTMENT OF COMMERCE

National Oceanic and Atmosperic Administration

MACKEREL FISHERY OF NORTHWESTERN ATLANTIC

On the 4th of February, 1977, the Secretary of Commerce, through an appropriate delegation of authority to the Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration and the Director of the National Marine Fisheries Service, published a Notice of Determination, Preparation, Issuance, and Implementation of Preliminary Fishery Management Plans at 42 FR 6873. In order that each Plan may have the widest possible circulation, the Secretary has decided that each should be published in the FEDERAL REGISTER.

Dated the 8th day of February 1977 at Washington, D.C.

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

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I. INTRODUCTION

The harvesting of Atlantic mackerel off the Northeastern United States was regulated until 1/1/77 under terms of the International Commission for the Northwest Atlantic Fisheries (ICNAF) and subsequent agreements between the 18 signatory nations. The Fishery Conservation and Management Act of 1976 (P.L. 94-265), enacted and signed into law on April 13, 1976, provided for an extended jurisdiction fishing zone and exclusive US regulation of this zone under the concept of optimal yield. In the future, management plans for offshore New England waters will be formulated by the New England Council, a regulatory body formed by P.L. 94-265. However, the Secretary of Commerce, in order to comply with other aspects of P.L. 94-265 must have Preliminary Management Plans (PMP) in place by March 1, 1977, to permit foreign nations to fish in the fisheries conservation zone, provided that no fishery management plan will be prepared by the New England Fishery Management Council prior to March 1, 1977.

II. PRELIMINARY DESCRIPTION OF THE FISHERY

a. Areas and Stocks Involved

The Atlantic mackerel is a pelagic, schooling species, ranging from Labrador to North Carolina. Sette (1950) hypothesized the existence of two contingents, northern and southern, each migrating northward in spring and summer and southward in autumn to overwinter in deep waters along the edge of the continental shelf. Until recently, the northern contingent had been thought to overwinter from Hudson Canyon to Cape Sable and the southern contingent from Long Island to Chesapeake Bay, but recent tagging experiments (Beckett et al. 1974; Parsons and Moores 1974; Moores et al. 1975; Stobo 1976) have confirmed that at least some "northern contingent" mackerel overwinter as far south as Delaware Bay. Both contingents, therefore, probably intermingle to a considerable extent on the wintering grounds as well as during spring and autumn migrations and together support the intensive international fishery conducted from December to April in SA 5 and 6 (Figure 1).

On the basis of observed growth rate similarities, length-at-age, and age composition data from sampling in SA 3 and 4 in summer and in SA 5 and 6 in winter, Moores et al. (1975) suggested that the northern contingent has been the dominant of the two groups in recent years and has supported the bulk of the SA 5 and 6 catch. However, precise estimates of the relative contributions of the two contingents

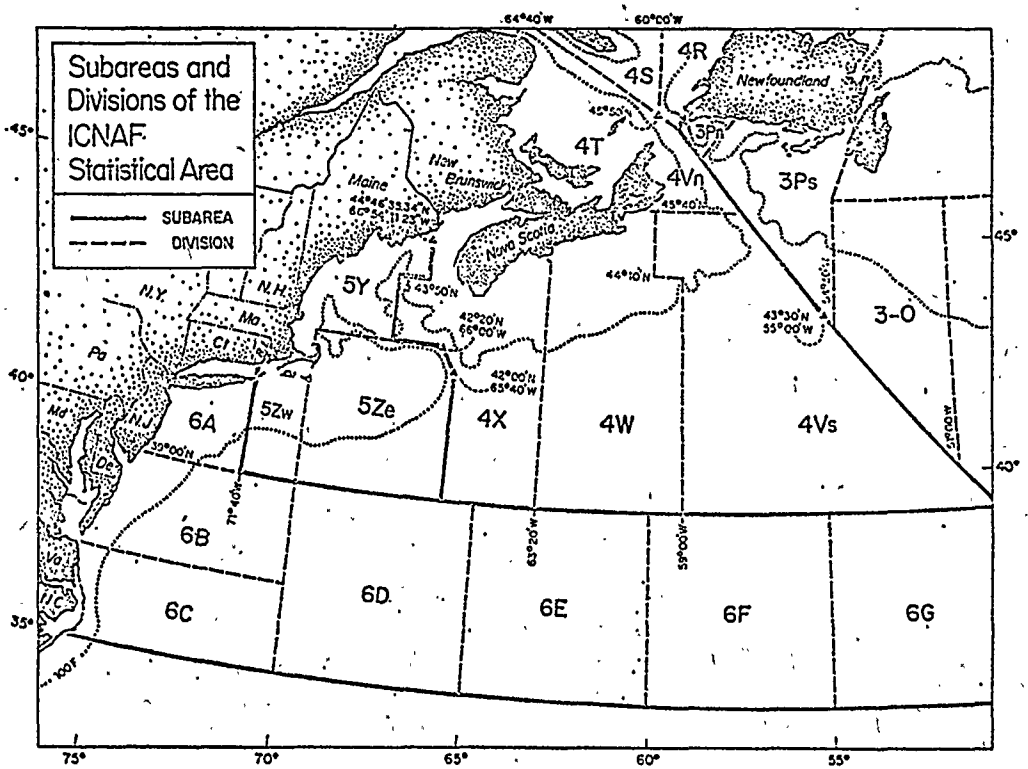

Figure 1. Northwest Atlantic from Cape Hatteras to Newfoundland, showing ICNAF Areas referred to in the Management Plan.

cannot be made at present (ICNAF 1975). This problem, coupled with an unknown degree of intermingling between contingents, suggests the advisability of managing the resource on a combined basis. Consequently, mackerel in SA 3-6 have been assessed within ICNAF as a unit since 1975, although separate TACs have been established for SA 5 and 6 and for areas to the north since 1973.

b. Statistical History of Exploitation

Mackerel have been harvested commercially off the USA coast since the 17th century, although detailed catch statistics are not available for periods prior to 1804. In the early years (1804-1818), the fishery was restricted to coastal waters and catches were low, averaging 3,100 tons[1/] annually (Table 5). From 1819 to 1885, American vessels ranged farther offshore to satisfy a large market for salted mackerel, and catches rose to an annual average of 41,700 tons during this period.

Mackerel abundance has appeared to fluctuate widely historically. Landings ranged from 10,500 tons in 1840 to 81,300 tons in 1884, but dropped during 1886-1924 to an average of 9,300 tons annually. During the latter period, however, a shift from sail to motor power occurred and a market for fresh mackerel developed. As a result, catches again rose substantially averaging 20,300 tons annually during 1930-1949, and reaching a peak of 36,600 tons in 1944 (Table 5). In more recent years (1950-1964), USA commercial landings declined to an average of 1,500 tons, followed by a modest increase to 4,364 tons

1/ Tons in this plan refers to metric tons (2205 pounds)

Table 1. Historical commercial landings data (metric tons) for Atlantic mackerel for the USA and Canada, 1804-1975.

Canada[a]				United States					
Year	Catch	Year	Catch	Year	Catch	Year	Catch	Year	Catch
1876	14,226	1926	5,239	1804	1,632	1861	40,330	1918	9,148
1877	22,479	1927	7,203	1805	1,760	1862	54,151	1919	7,360
1878	25,134	1928	20,358	1806	1,707	1863	63,715	1920	8,738
1879	25,999	1929	6,929	1807	1,931	1864	57,590	1921	4,552
1880	31,902	1930	8,095	1808	1,584	1865	55,211	1922	5,783
1881	14,702	1931	8,932	1809	1,832	1866	49,031	1923	15,377
1882	15,555	1932	8,034	1810	2,605	1867	43,408	1924	12,294
1883	17,523	1933	11,944	1811	3,612	1868	37,056	1925	22,320
1884	24,737	1934	8,656	1812	1,221	1869	48,196	1926	30,980
1885	20,205	1935	7,280	1813	780	1870	66,477	1927	27,370
1886	20,709	1936	10,326	1814	278	1871	55,040	1928	20,368
1887	16,410	1937	10,848	1815	3,334	1872	36,566	1929	29,084
1888	8,597	1938	12,953	1816	6,429	1873	37,334	1930	23,528
1889	8,647	1939	23,617	1817	7,756	1874	54,605	1931	21,497
1890	13,354	1940	16,209	1818	9,621	1875	25,370	1932	27,603
1891	18,397	1941	15,927	1819	20,781	1876	45,035	1933	18,841
1892	12,774	1942	13,748	1820	24,005	1877	22,701	1934	23,750[b]
1893	10,222	1943	16,022	1821	23,044	1878	33,419	1935	29,523
1894	7,860	1944	15,546	1822	33,273	1879	37,524	1936	23,012[b]
1895	5,776	1945	10,235	1823	30,100	1880	59,600	1937	12,066
1896	6,340	1946	13,339	1824	39,702	1881	66,621	1938	19,636
1897	3,784	1947	11,913	1825	52,605	1882	64,465	1939	14,705
1898	4,604	1948	11,737	1826	32,951	1883	38,559	1940	18,430
1899	4,703	1949	15,206	1827	39,503	1884	81,321	1941	21,028[b]
1900	11,435	1950	12,352	1828	49,263	1885	56,123	1942	23,167
1901	10,503	1951	11,223	1829	45,903	1886	13,603	1943	26,988[b]
1902	8,931	1952	9,975	1830	64,031	1887	15,018	1944	33,650[b]
1903	11,355	1953	8,373	1831	79,617	1888	8,940	1945	26,614
1904	5,006	1954	11,572	1832	46,176	1889	4,632	1946	23,624[b]
1905	6,829	1955	11,277	1833	46,276	1890	49,645	1947	26,673
1906	9,311	1956	9,586	1834	52,493	1891	8,783	1948	23,160
1907	7,003	1957	8,831	1835	40,437	1892	9,942	1949	19,633
1908	10,318	1958	7,300	1836	38,204	1893	11,416	1950	10,022
1909	7,448	1959	4,237	1837	28,678	1894	10,225	1951	7,143
1910	3,166	1960	5,958	1838	22,903	1895	5,432	1952	8,250
1911	4,003	1961	5,603	1839	15,416	1896	16,012	1953	3,876
1912	4,813	1962	6,729	1840	10,481	1897	4,039	1954	1,822
1913	9,773	1963	7,801	1841	11,528	1898	4,537	1955	1,756
1914	6,519	1964	10,644	1842	15,481	1899	4,709	1956	1,830
1915	8,709	1965	11,274	1843	13,379	1900	20,789	1957	1,097
1916	7,079	1966	11,003	1844	17,931	1901	15,771	1958	2,078
1917	7,578	1967	11,000	1845	41,994	1902	10,504	1959	1,836
1918	8,926	1968	11,000	1846	37,263	1903	11,554	1960	1,356
1919	10,427	1969	13,000	1847	52,789	1904	8,873	1961	1,351
1920	6,437	1970	15,000	1848	62,331	1905	10,113	1962	933
1921	8,602	1971	13,000	1849	43,373	1906	6,329	1963	1,320
1922	11,995	1972	14,000	1850	50,353	1907	11,111	1964	1,644
1923	6,430	1973	19,000	1851	68,344	1908	9,451	1965	1,958
1924	9,779	1974	15,000	1852	41,125	1909	7,693	1966	2,724
1925	8,512	1975	13,663	1853	27,637	1910	2,570	1967	3,671
				1854	28,096	1911	5,471	1968	3,979
				1855	43,923	1912	4,629	1969	4,364
				1856	44,487	1913	6,131	1970	4,019
				1857	35,070	1914	9,518	1971	2,456
				1858	27,318	1915	10,512	1972	2,006
				1859	20,699	1916	13,452	1973	1,336
				1860	48,923	1917	16,765	1974	1,042
								1975	1,124

[a]Not available prior to 1876.
[b]Partly estimated.

in 1969 and a subsequent decline to 1,042 tons in 1974. In recent years (1965-1974), the bulk of the USA catch has been taken in inshore waters off Rhode Island, New Hampshire, and Maine.

Like the USA, Canada has fished extensively for mackerel over the years although complete statistics are not available for periods prior to 1876. Since that year, landings tended to parallel those of the USA until the 1950s with both sets of data showing a pronounced decline from the 1880s to the early 1920s and subsequently increasing. Average landings throughout the 1940s by the USA exceeded those by Canada (14,900 tons for Canada and 24,200 tons for the USA), but in succeeding years Canadian landings have remained at roughly the same level while USA landings have declined precipitously (Table 1). USA landings in 1975 were approximately 1,100 tons.

Prior to 1962, only the USA and Canada fished for mackerel in the Northwest Atlantic. However, Poland entered this fishery in 1962 with a modest catch of 111 tons in SA 5. Shortly thereafter, the USSR and other nations also began fishing in the Northwest Atlantic, and total landings increased dramatically from about 1,049 tons in SA 5 and 6 in 1962 to an apparent all-time high of 387,400 tons in 1972. Since 1973, the stock has been under quota management and landings have consequently declined (381,200 tons, 294,900 tons, and 241,600 tons in 1973, 1974, and 1975, respectively). The

increase in landings observed during the period 1962-1972 has been attributed both to increases in stock size and to subsequent diversions in effort from declining herring stocks (Anderson 1973). Intensive fisheries were initiated by the USSR in 1967, Poland in 1968, and by the GDR and Bulgaria in 1971. USSR, Polish and GDR vessels averaged 90% of the total landings from 1967 to 1975 and USSR landings exceeded those of any other country since 1965 with the exception of 1972. Total landings by nation for the 1961-1975 period are given in Table 6. Estimated total commercial landings for 1976 are 235,000 tons.

A substantial USA recreational fishery for mackerel has existed from Maine to North Carolina. Angler surveys were conducted in 1960, 1965, 1970, 1974, and 1976, with estimated catches in those years of 5,000, 8,600, 32,100, and 7,600 and 4,900 tons, respectively (Clark 1962; Deuel and Clark 1968; Deuel 1973; Deuel personal communications; and Christensen et al. 1976).

Even though Atlantic mackerel occur both offshore and inshore, even entering large estuaries, most of the angling for them occurs along the ocean shore between the 13 and 60 m contours. They are caught throughout the year, depending on the particular stretch of coast fished. Off Virginia, Maryland and Delaware they are caught during late fall, winter and early spring; off New Jersey, New York and southern New England during spring, early summer and fall; off northern New England during summer and early fall. Atlantic mackerel are caught during daylight hours by jigging, chumming and trolling from boat, and by casting, jigging and living lining from shore. The great majority of the angler catch consists of specimens weighing 0.24-0.70 kg (25-40 cm fork length).

The New York-Maine area accounted for about 95% of the catch in 1960 and 1965, 60% in 1970, and 30% in 1974. The New Jersey-North Carolina area accounted for a increasingly greater share of the catch in 1970 and 1974.

In order to account for the recreational catches in the assessment of the stock, it was necessary to estimate the catches in the years with no surveys. In the years of the surveys, the estimated recreational catches were closely proportioned to stock biomass estimates determined from commercial data. This relationship was assumed to apply in the years with no surveys (see footnote under Table ~~6c~~ 2). The recreational catch has been significantly higher than the USA commercial catch in recent years (Table ~~6c~~ 2).

Table 2. US recreational and commercial mackerel landings (metric tons) from SA5-6 during 1961-76.

YEAR	RECREATIONAL 1/	COMMERCIAL	TOTAL
1961	6,828	1,361	8,189
1962	8,698	938	9,636
1963	8,348	1,320	9,668
1964	8,486	1,644	10,130
1965	8,583	1,998	10,581
1966	10,172	2,724	12,896
1967	13,527	3,891	17,418
1968	29,130	3,929	33,059
1969	33,303	4,364	37,667
1970	32,078	4,049	36,127
1971	30,642	2,406	33,048
1972	21,882	2,006	23,888
1973	9,944	1,336	11,280
1974	7,640	1,042	8,682
1975	6,503	1,124	7,627
1976	4,947	2,450 2/	7,397

1/ Recreational surveys were conducted in 1960, 1965, 1970, 1974, and 1976. The catches in the intervening years were estimated by assuming that the ratio between catch and stock biomass in the years of the surveys was the same in the two years preceding and succeeding each survey.

2/ Provisional

c. Significance of Historic Domestic Fishery

Historical records indicate that mackerel have been an important source of revenue to New England and Middle Atlantic fishermen since the early nineteenth century. Trends in the total dollar values* reflect trends in landings; for Boston (the leading port) landings values averaged $341,928 during 1893-1930 and ranged from a low of $46,133 in 1895 to a high of $973,105 in 1926. During the next two decades, Boston landings values steadily increased to an all-time high of $1,500,000 in 1945. This was followed by a precipitous decline to $81,071 in 1949. Landings values have since declined to insignificant levels in Boston.

The total ex-vessel value of mackerel landed for human consumption in all the New England states was $2,302,596 in 1929, but since 1950 this figure has been less than $1,000,000, and in 1975 the total reported figure was $137,494. The total value in the Middle Atlantic region reached $852,814 in 1947, declined to $24,000 in 1959, and increased to $151,000 in 1972. In 1975, the total reported figure was less than $50,000. During the 1966-1972 period, total dollar value of the USA mackerel catch peaked at $522,000 in 1969.

USA mackerel (food fishery) landings and ex-vessel values and prices during 1966-1972 are given in Table 3. During this period, conditions for the fishery as a whole were rather stable; price

*Ex-vessel prices.

Table 3. Landings, values, and ex-vessel prices for the USA commercial mackerel (food) fishery by region, 1966-1972.

Year	New England Weight (1,000 lb)		New England Value ($1,000)	Mid-Atlantic Weight (1,000 lb)		Mid-Atlantic Value ($1,000)	Chesapeake Weight (1,000 lb)		Chesapeake Value ($1,000)	Total Weight (1,000 lb)		Total Value ($1,000)	Ex-vessel prices[a] (¢/lb)
1966	4,207	(1,908)[b]	287	975	(442)[b]	89	816	(370)[b]	91	6,010	(2,726)[b]	468	6.8
1967	7,039	(3,193)	281	792	(359)	70	688	(312)	79	8,520	(3,865)	430	4.0
1968	5,644	(2,560)	319	1,481	(672)	85	489	(222)	28	7,614	(3,454)	432	5.6
1969	7,842	(3,557)	403	783	(357)	55	276	(126)	20	8,906	(4,040)	484	5.1
1970	6,057	(2,747)	310	1,681	(763)	92	276	(126)	14	8,014	(3,635)	416	5.1
1971	3,535	(1,603)	179	1,481	(672)	79	134	(60)	7	5,150	(2,335)	265	5.0
1972	3,411	(1,547)	270	2,055	(932)	151	62	(28)	6	75,525	(2,507)	427	7.9

[a]Values for 1973-1975 were 13.2, 17.6, and 10.0, respectively

[b]Values in parenthases refer to metric tons.

increases in the 1973-1975 period appear to have been offset by declining catches, and total catch values have, if anything, declined somewhat. The value of the 1975 catch was under $200,000.

Table 4 contains data on the value of the mackerel catch as a percentage of the total regional fish catch for the 1966-1972 period. The value of the regional mackerel catch during the 1966-1972 period constituted, in general, less than 1% of the total regional fish catch. Clearly, the mackerel fishery has not been of great economic importance during this period.

The aggregate impact of the New England mackerel fishery on the rest of the New England region was estimated and the results are presented in Table 5. The value of the total New England regional catch in 1972 was $270,000. The total estimated output impact of this production was $797,472, which includes $270,000 of mackerel output plus $527,472 of indirect and induced output by supporting industries. It is estimated that the mackerel output stimulated a total of $307,582 in household income in 1972 in the New England region.

Given that the estimated recreational catch has been much greater than the USA commercial catch in recent years and that there were an estimated 605,000 mackerel anglers in 1970 (see next section), the economic importance of the mackerel recreational fishery is clearly significant. Its importance can be measured in terms

Table 4. Value of the USA regional mackerel commercial catches, total regional fish catches, and computed percentage values of the total represented by mackerel, 1966-1972.

Year	New England			Mid-Atlantic			Chesapeake		
	Total	Mackerel	Percent	Total	Mackerel	Percent	Total	Mackerel	Percent
1966	43,000	287	a	6,000	89	1	10,000	91	a
1967	36,000	281	a	6,000	70	1	8,000	79	a
1968	35,000	319	a	6,000	85	2	9,000	28	a
1969	36,000	403	a	5,000	55	1	8,000	20	a
1970	40,000	310	a	6,000	92	2	13,000	14	a
1971	39,000	179	a	7,000	79	1	11,000	7	a
1972	45,000	270	a	9,000	161	2	14,000	6	a

[a]Less than 1%.

Table 5. Aggregate impact of the 1972 commercial mackerel catch on the New England Region.

Sector	Impact per Dollar of output	Aggregate impact
Fish catching	1.00	270,000
Fish processing	0.00039	105
Fish frozen processing	0.00002	5
Fish whsl & jobbing	0.00117	316
Ship and boat bldg	0.00187	505
Marinas & yards	0.05713	15,425
Marine whsl and retail	0.03010	8,127
Marine manufacturing	0.01862	5,027
Construction, towing, & agent	0.10111	27,299
Research & education	0.00083	22
Marine military	0.00094	254
Charter fishing	0.00001	3
Other marine	0.00218	589
Other economic activities	0.45690	12,336
Households	1.17623	307,582
State & local Government	0.10696	28,879
Total	2.9536	797,472

of the value as a food source; expenditures for fishing equipment, boats, fuel, etc.; and psychological and aesthetic benefits for the angler. Regrettably, there are no published studies on the evaluation of the recreational fishery. However, with regard to the impact of expenditures by recreational fishermen, it is believed that the recreational fishery for mackerel is presently very important in the New Jersey area. In addition to being used as human food, mackerel caught in the recreational fishery are also used as bait for more desired species.

d. Types and Numbers of Vessels

(1) Domestic - Table 6 gives the number of commercial vessels in 1965, 1970, and 1975 which landed some mackerel and the number whose catch for the year consisted of 50% or more mackerel (by weight). There was an increase in the number of vessels which landed some mackerel from 1965 to 1970, but this number declined from 1970 to 1975. Also the number of vessels whose total catch for the year was 50% or more of mackerel declined during the period.

Table 6. Number of vessels in the commercial mackerel fishery, 1965, 1970, and 1975

Year	Vessels landing some mackerel	Vessels whose total catch was 50% or more of mackerel
1965	80	9
1970	167	6
1975	104	3

Table 7 contains data on the number of trips (of all gears), days fished, and catch per day fished for those New England trips where 50% or more of the trip catch consisted of mackerel for the years 1965, 1970, and 1975. There was a general decrease in number of trips, days fished, and catch per day fished (except in 1970).

Table 7. Performance data on vessel trips where commercial landings consisted of 50% or more mackerel.

Year	Trips	Days fished	Catch/day fished (1,000 lb)
1965	89	410.6	4.62
1970	78	303.8	10.77
1975	24	158.3	1.66

It is estimated that in 1975 there were approximately 15 fishermen employed on those vessels whose catch was characterized by 50% or more of mackerel. This is not to imply that these fishermen were solely supported by the value of the mackerel catch, for other species were landed in addition to mackerel during the period. Nor does it imply that the fishermen on board those vessels which landed mackerel, but are not included in the directed mackerel vessel category, were not supported somewhat by the value of the mackerel catch. There are no published financial studies for these vessels.

It is estimated that approximately ten plants in the Northeast process mackerel, although this species constitutes only a small percentage of the total volume. Similarly, a limited number of firms process mackerel in the mid-Atlantic area. Processing for domestic consumption primarily involves filleting and canning. A substantial portion of the catch is also sold for bait. In 1963, 1965, and 1975, the value of processed mackerel from New England was $5,000, $21,000, and $75,000, respectively.

Recent NMFS statistics indicate that there are approximately 10.8 million people participating in marine recreational finfisheries and shellfisheries from the states of Maine through Virginia, West Virginia, Vermont, and Washington, DC.

Marine angler surveys estimated the number of mackerel anglers between Maine and North Carolina to be 235,000 in 1960, 220,000 in 1965, and 605,000 in 1970. About 80% of these anglers were from the New York-Maine area. Although surveys were conducted in 1974 and 1976, the number of anglers fishing for a particular species was not determined. For 1975, the number of anglers catching mackerel is estimated to be over 700,000 and this number is expected to increase in future years.

(2) Foreign vessels - In 1961, Soviet fleets made their appearance on Georges Bank, 150 mi east of Boston. The number of vessels observed on the grounds at any one time was about 50. However, for the year the Soviet expedition totaled 100 individual vessels. In subsequent years, 300-400 different Soviet vessels fished

seasonally on Georges Bank, primarily for herring. By 1965, during peak fishing seasons (summer and fall), 200-250 Soviet vessels were fishing for herring, red and silver hake, haddock, and cod on Georges Bank and in southern New England. During that year more than 450 individual vessels were sighted. Beginning in 1966 and continuing into the early 1970s, Soviet fleets were joined each year by increased numbers of vessels from Poland and Romania, followed closely by the GDR and FRG, and Japan. Other nations followed to include Bulgaria, Spain, France, Greece and Italy. Recently, nations such as Cuba, South Korea and Ireland have been represented. During this period, 900-1,000 foreign vessels annually fished in international waters off the USA East Coast from the southern tip of Nova Scotia to Cape Hatteras. Depending on the season, fleets of 250-300 vessels could be found at one time, whether it be off North Carolina and Virginia in winter or on Georges Bank during the summer.

In recent years, the annual number of foreign vessels sighted has declined from 956 in 1971 to just under 800 in 1975 (Table 8). It can reasonably be assumed that foreign fleets have dwindled even more during 1976 in response to greatly reduced fish stocks and increasingly more stringent catch restrictions, such as tight quotas, closed areas, etc.

Despite these restrictions at peak seasons (winter and spring), in 1975-1976 there were 200-250 vessels observed at one time on the

Table 8. Numbers of foreign fishing vessels sighted in SA 5 and 6 by type, 1971-1975[a].

Year	Type vessel	Country								
		USSR	Poland	GDR	FRG	Japan	Spain	Bulgaria	Romania	Italy
1971	Stern	186	40	28	26	17	4	11	8	1
	Side	359	57	24		18	34			1
	Support	105	20	8	7			2		
	Total	650	117	60	33	35	38	13	8	2
1972	Stern	211	50	33	18	19	7	11	7	4
	Side	379	59	26		24	47			1
	Support	90	14	9	4	1		2	1	
	Total	680	123	68	22	44	54	13	8	5
1973	Stern	207	50	32	19	18	36	11	7	14
	Side	234	19	29		22	25/52			2
	Support	67	18	7		1		2	1	
	Total	508	87	68	19	41	113	13	8	16
1974	Stern	218	46	23	17	21	57	13	4	11
	Side	144	14	29		30	28/58			
	Support	81	16	7	4	2		4	2	
	Total	443	76	59	21	53	143	17	6	11
1975	Stern	252	37	22	18	15	38	16	2	8
	Side	145	12	20		6	12/70			
	Support	81	16	5	5	5	-	3		
	Total	478	65	47	23	26	120	19	2	8

[a]In addition, small numbers (<10) of stern trawlers belonging to France, Cuba, South Korea, Ireland, and Greece have been observed in SA 5 and 6 in recent years.

fishing grounds. However, during other times of the year activity has been the lowest in many years. It is obviously difficult to make an accurate evaluation as to numbers and types of vessels involved in this fishery by nation. However, it is apparent that a substantial amount of effort has been directed toward mackerel in recent years, primarily during the early months of the year off southern New England and the Mid-Atlantic states. Here large numbers (>100) of factory stern trawlers (primarily USSR) have fished for mackerel and other species during winter. The directed USSR fishery ends in spring following the taking of most of the mackerel quota. This pattern of movement and activity is duplicated to some extent by the two other nations most heavily engaged in this fishery (i.e. Poland and the GDR), although in 1974 and 1975 these countries were unable to reach their quotas in spring and therefore fished for mackerel in fall as well. Relative amounts of directed effort by country in SA 5 and 6 during 1974 (days fished) are given in Table ~~13~~ 9.

e. Types and Numbers of Fishing Gear Employed

Gear used to harvest mackerel in the USA commercial fishery includes purse seines, beach seines, pound nets, hand lines, floating traps, gill nets, and otter trawls. Distant-water fleets conduct this fishery primarily with pelagic midwater trawls, although bottom trawls are also used to some extent (Table ~~14~~ 10). The USA mackerel recreational fishery employs hook and line gear fished by anglers both from shore and from small boats. In 1970, over 90% of the mackerel catch was from private, party, or charter boats.

Table 9. 1974 days fished as reported to ICNAF.

Country	Cod	Haddock	Redfish	Silver hake	Red hake	Pollock	Flounder	Ground-fish	Herring	Mackerel	Pelagic	Other fish	Squid	Total
Bulgaria				55						712				767
Canada	310	91	13			553		148	0				9	1,124
Denmark														
France	3								65					68
FRG									616					616
Iceland														
Italy[a]													0	
Japan								3	147		362		1,902	2,649
Norway														
Poland	6								1,241	3,500		5	423	5,175
Portugal														
Romania									178	345				523
Spain	419												2,378	2,797
USSR				6,804	2,412		18	304	3,012	4,045		1,317	435	18,347
UK		11												11
USA	5,898	77	770	924	106	1,145	13,365	7,051	222	541	574	1,276	1,805	33,754
GDR	2								936	1,392	8	458		2,797
Other														

[a]No reporting of effort units.

Table 10. Gear types by fishery as reported to ICNAF, 1974[a]

Country	Cod	Haddock	Redfish	Silver hake	Red hake	Pollock	Flounder	Ground-fish	Herring	Mackerel	Pelagic	Other flounder	Squid
Bulgaria				MT						MT			
Canada	BT/LL	BT	BT			BT		LL	MT/PS				BT
Denmark													
France	BT								BT				
FRG									MT				
Iceland													
Italy													
Japan								BT	BT		BT		BT
Norway													
Poland	BT								BT	BT		BT	BT
Portugal													
Romania									MT	MT			
Spain	PT												BT
USSR				BT/MT	BT/MT		BT	BT/MT	BT/MT/PS	BT/MT		BT/MT	BT
UK		BT											
USA	BT/SS/GN LL/HL/MSC	BT/LL	BT/GN	BT	BT	BT/GN/LL MSC	BT/SS/GN POT	BT/MPT/BS/MS/ SN/LL/TP/MSC	BT/MT/PTM PS/TP	BT/BS/PS EN/HL/TP	BT/BS/PS/GN/ HL/TP/MSC	MT/EG/GN/LL HL/TP/MSC	BT/TP
GDR	BT								BT/MT	BT/MT	BT	BT	BT
Other													

[a]BT = bottom trawl, PT = pair trawl, PS = purse seine, SS = scottish seine, LL = long line, TP = trap, MSC = miscellaneous, MT = midwater trawl, MPT = midwater pair trawl, BS = beach seine, GN = gill net, HL = hand line, POT = pot.

f. Historical Impacts of Foreign Fishing on Domestic Fishery

(1) Competition for Available Stocks - USA and foreign landings data for all mackerel stocks are given in Table 11. The USA percentage in terms of total catch has steadily declined since 1961 coincidentally with the introduction of the foreign fishing fleets. The USA portion of the total landings since 1971 has been less than 10%. It has already been noted in earlier sections that the major portion of the catch is taken by USSR, Poland, GDR, and Bulgaria. The reduction of stock size as a result of the foreign catch may have had an effect on the availability of mackerel to USA fishermen.

Table 11. USA (commercial and recreational), foreign, and total landings (metric tons) expressed as relative percentages of the total for the SA3-6 mackerel stock, 1961-1976.

YEAR	USA	PERCENT	FOREIGN	PERCENT	TOTAL
1961	8,189	60	5,470	40	13,659
1962	9,636	58	6,976	42	16,612
1963	9,668	56	7,662	44	17,330
1964	10,130	49	10,587	51	20,717
1965	10,581	43	14,130	57	24,711
1966	12,896	40	19,528	60	32,424
1967	17,418	37	30,229	63	47,647
1968	33,059	30	76,882	70	109,941
1969	37,667	23	127,466	77	165,133
1970	36,127	14	226,559	86	262,686
1971	33,048	8	370,627	92	403,675
1972	23,888	6	407,718	94	431,606
1973	11,280	3	417,970	97	429,250
1974	8,682	3	338,538	97	347,220
1975	7,627	3	277,180	97	284,807
1976 1/	7,397	3	232,550	97	239,947

1/ Provisional

(2) Gear Conflicts - Previous to 1961, USA fishermen shared the fisheries on Georges Bank with Canada. The USSR arrived with a large fleet of herring drifters in 1961, that caused considerable complaints from USA fishermen alleging that they were being driven from this historical fishing area on the Bank. The number of herring drifters increased to approximately 300 individual vessels in 1962, which were joined by a fleet of factory stern trawlers and some medium side trawlers from the USSR. During this period, a number of USA trawlers were fouled either by running into set gillnets or by hauling their trawls through discarded netting, consequently fouling their propellers and necessitating being towed back into port. A USSR drifter rammed a USA scalloper on the northern edge of Georges Bank and left the scene in heavy fog without identifying itself and ascertaining damage or injury to personnel.

In 1971, a USA trawler was rammed and sunk on the western side of Georges Bank in the Great South Channel by a Polish trawler. The crew of six was saved, but the boat was lost.

In 1972, a USA trawler was rammed and sunk by a GDR trawler. Also in 1972, another USA trawler and its crew of three were lost, apparently as the result of a collision with an FRG trawler.

In 1968, the USA offshore lobster pot fishery began to expand. Along with the increase in fixed gear came complaints of gear loss attributed to foreign fishing activity. Reported gear conflicts by year and country from 1968-1975 are summarized as follows:

Country	Year							
	1968	1969	1970	1971	1972	1973	1974	1975
USSR	2	20	22	18	20	3	3	23
Japan	-	1	3	3	4	3	3	
GDR	-	-	-	1	3	1	1	-
Poland	-	-	1	1	7	2	3	-
Italy	-	-	-	0	-	1	1	-
Spain	1	-	-	0	3	4	2	2
Bulgaria	-	-	-	0	2	-	-	-
Unknown	3	8	14	10	9	22	34	2

There were 17 losses of sink gillnet gear reported in 1974 by USA fishermen. These losses were blamed primarily on FRG trawlers and an Irish trawler.

There were two cases of lost longline gear attributed to Japanese activity in 1975.

(3) Non-Target Species Mortalities - Fisheries (main species sought category) in which mackerel were caught in SA 5 and SA 6 in 1974 are shown by country in Table ~~26~~ 12. A total mackerel catch of 294,925 tons was taken, of which 36,554 tons (12%) occurred as by-catch in fisheries directed toward other species. In the absence of information to the contrary, it was assumed that if the largest catch for a given catch record consisted of a given species, then the

Table 12. By-catches and by-catch ratios of mackerel (metric tons) taken in 1974 in SA 5 and 6 in a designated fishery (main species sought category) by country.

Country	Main species sought							
	Silver hake	Red hake	Other groundfish	Herring	Other pelagics	Other fish	Invertebrates	Miscellaneous
Bulgaria								
Catch	59							
Ratio	0.039							
FRG								
Catch				483				
Ratio				0.018				
GDR								
Catch				48		93		4
Ratio				0.400		0.051		0.500
Italy								
Catch							420	
Ratio							0.099	
Japan								
Catch			0		8		62	
Ratio			0.000		0.002		0.004	
Poland								
Catch				4,730		0	1,746	7
Ratio				0.145		0.000	0.816	0.072
Romania								
Catch				411				
Ratio				0.387				
USSR								
Catch	25,886	484	0	766	0	711	15	
Ratio	0.262	0.032	0.000	0.022	0.000	0.035	0.010	
USA								
Catch	85	1	282	1	113	18	102	19
Ratio	0.009	0.001	0.019	0.000	0.002	0.001	0.160	0.001
Total catch	26,030	485	282	6,439	121	822	2,345	30

fishery was directed toward that species. This procedure is necessary since much of the catch data reported to ICNAF are not submitted in terms of species sought. Ninety-five percent of the by-catch occurred in directed fisheries for three species categories: silver hake (71%), herring (18%), and invertebrates (6%); and 94% was taken by two countries, the USSR (76%) and Poland (18%), with only minor quantities reported by other countries. Mackerel caught as by-catch accounted for approximately 12% of the total TAC allocation of 304,000 tons in SA 5 and SA 6 for 1974.

The mackerel fishery is difficult to identify under the present catch reporting scheme because it occurs in a mixed fishery situation. A procedure was adopted of assigning a catch record* to the mackerel fishery if the largest catch was of mackerel (Table 13). The international mackerel fishery thus defined had a by-catch of other species of 18% of its directed mackerel catch of 258,283 tons. The species constituting most of this by-catch were silver hake (23%), herring (28%), and other fish (35%). These by-catches accounted for 8% (10,828 tons) of the silver hake catch in 1974, 7% (13,287 tons) of the herring catch in 1974, and 12% (16,437 tons) of the other fish catch in 1974. Table 13 lists the 1974 by-catches and by-catch ratios in the mackerel fishery for all countries combined and for individual countries.

*A catch record lists catches in a month by species, for a gear-tonnage class category in an ICNAF Division.

Table 19. By-catch ratios and catches (metric tons) in the mackerel fishery for 1974 by countries.

Country	Cod	Haddock	Redfish	Silver hake	Red hake	Pollock	American plaice	Witch flounder	Yellowtail flounder	Other flounder	Herring	Mackerel	Squid	Other fish	Total
All countries combined															
Ratio	0.001	0	0	0.042	0.005	0	0	0	0	0	0.051	1.000	0.020	0.053	1.182
Catch	286	0	0	10,828	1,310	8	3	51	14	10	13,287	258,283	5,283	16,437	305,805
Bulgaria															
Ratio	0	0	0	0.050	0.016	0	0	0	0	0	0.065	1.000	0.026	0.159	1.316
Catch	0	0	0	1,034	336	0	0	0	0	0	1,353	20,664	535	3,292	27,215
GDR															
Ratio	0	0	0	0.001	0	0	0	0	0	0	0.040	1.000	0	0.013	1.054
Catch	20	0	0	38	0	0	0	0	0	0	2,357	59,832	0	754	63,011
Poland															
Ratio	0.003	0	0	0.002	0	0	0	0	0	0	0.072	1.000	0.044	0.031	1.202
Catch	248	0	0	136	0	0	0	0	0	0	6,491	89,620	3,904	7,267	107,656
Romania															
Ratio	0	0	0	0.027	0.012	0	0	0	0	0	0.146	1.000	0.001	0.054	1.240
Catch	2	0	0	174	78	0	0	0	0	0	956	6,555	7	355	8,127
USSR															
Ratio	0	0	0	0.116	0.011	0	0	0.001	0	0	0.026	1.000	0.010	0.057	1.221
Catch	13	0	0	9,438	896	4	3	51	14	10	2,106	81,279	824	4,693	99,331
USA															
Ratio	0.009	0	0	0.024	0	0.012	0	00	0	0	0.072	1.000	0.051	0.228	1.396
Catch	3	0	0	8	0	4	0	00	0	0	24	333	17	76	465

By-catch ratios should be regarded as very tentative since statistics reported to ICNAF lump several directed fisheries together under a mixed fishery classification. This procedure gives higher ratios than actually occur, since some "directed" catch would be considered as by-catch when the target species was recorded as mixed. Analyses of US inspections under ICNAF indicate by-catch ratios in the recent directed mackerel fishery are usually below 3%.

(4) Economic Interations - A number of economic interactions are possible which could influence the USA industry. First, declines in stock abundance resulting from increased exploitation would result in declining catch per unit of effort, thus increasing commercial operational costs and adversely affecting profitability (a pronounced decline in catch per unit of effort has in fact occurred for the USA since 1970). The decline in stock abundance could similarly produce a declining catch per unit of effort in the recreational fishery, and adversely affect profitability of party and charter boat operators due to a reduced demand for recreational fishing. Foreign imports could have an impact on ex-vessel prices, further affecting profitability. Industry spokesman have noted that Japan exports some canned mackerel to the USA.

g. History of Regulation of Foreign Fisheries - Regulation of foreign fisheries along the USA coast of the Northwest Atlantic Ocean began in 1949 when the USA convened a conference of 11 countries at Washington, DC. This conference resulted in the formation of ICNAF. The USA Northwest Atlantic Fisheries Act of 1950 authorized

USA involvement in the activities of the commission The designated areas were the waters north of 39°00' north latitude and east of 71°40' west longitude. Commission regulations in the early 1950s evolved around the establishment of mesh regulations for certain directed groundfish fisheries, e.g. cod, haddock, with groundfish by-catch provisions for other small-mesh directed fisheries, e.g. silver hake, herring.

During the period from 1950 to 1957 little, if any, enforcement activity was available by US vessels. An enforcement program was organized in 1957 composed of a two-man team effort to organize and activate a viable enforcement program to board and inspect, both dockside and at sea, in conjunction with USA Coast Guard patrol vessels. The primary purpose was to coordinate a registration program of all USA commercial groundfish trawlers engaged in a directed fishery for haddock and cod. The minimum legal mesh size in effect was 4½ inches for all trawl gear on USA trawlers which were engaged in directed fishing for haddock and cod. Several USA masters were cited for alleged violations, prosecuted in USA Federal Court, and fined for violation of the rules and regulations under authority of the Northwest Atlantic Fisheries Act of 1950.

With the arrival of the distant-water fleets off the USA coast in the early 1960s much discussion was given to the possible extension of territorial waters. Failure to resolve this question through the International Law of the Sea Conferences led to the establishment of a contiguous fishing zone in late 1966 which bounded the entire USA coastline encompassing the waters lying between 3 and 12 nautical miles offshore. Only Canada was authorized to fish within this zone under a reciprocal fishing agreement for the USA fishing industry in similar waters off Canada. However, many USA fishermen continued to complain about fishing conduct by foreign nationals on the high seas. These complaints ranged from infringements by foreign trawlers into the USA 12-mile contiguous fishery zone to harrassment on the high seas pertaining to rules of the road and fishing conduct. Many investigations were activated both dockside and at sea, but USA fishery agents had no authority to board foreign nationals on the high seas.

Prior to the adoption of the ICNAF scheme of joint enforcement, each member nation was responsible for the conduct and monitoring of its vessel inspections on the high seas. There were a number of alleged violations reported by USA fishermen during 1966 and 1967; however, a lapse of 2-3 days after observations prevented any enforcement action. These allegations were for intrusions into the 12-mile Contiguous Fishery Zone (CFZ). Investigations were made by fisheries agents, with negative results.

As the activity of the distant-water fleets increased, their operations began to expand to waters south of the convention area. Because of the overlap in fish stocks and the known migrations of commercially important species between the convention area and the

waters to the south, ICNAF in 1967 adopted the responsibility for collecting statistics for the catches from these non-convention waters as far south as Cape Hatteras, which were designated Statistical Area 6. Management of the fisheries within these waters, however, had to be accomplished through a series of bilateral negotiations, beginning in 1968 with the USSR. Figures 2-4 indicate the current status of major agreements.

Fishery management zones were instituted by ICNAF in 1969 due to the haddock crisis generated by the extremely large catch of haddock by the USSR in 1965. The poor recruitment anticipated in the haddock fishery as indicated by groundfish surveys conducted by scientific personnel from Woods Hole and joint surveys with foreign research vessels was instrumental in the adoption of seasonal closures by ICNAF. Area and seasonal zones have periodically been modified and supplemented to protect other species in addition to haddock. These are shown in Figures 2 to 9.

The haddock management zones were augmented in 1970 with the establishment of TACs for certain haddock stocks considered to have been overfished, and this began the present-day concept of management under an allowable quota system. There are presently 20 species stocks under a nationally allocated framework of total allowable catches. Table 14 gives the allocations for calendar year 1976.

US - USSR FISHERIES AGREEMENT
EFFECTIVE MARCH 1, 1976

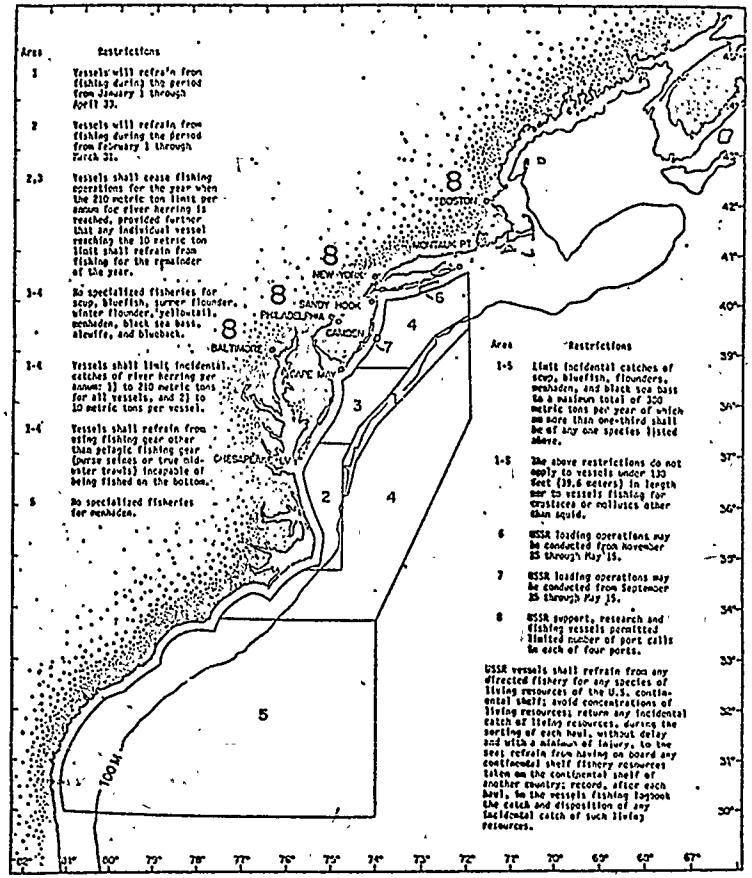

Figure 2. USA-USSR Fisheries Agreement, 1976.

US - POLISH FISHERIES AGREEMENT
EFFECTIVE MAY 29, 1975

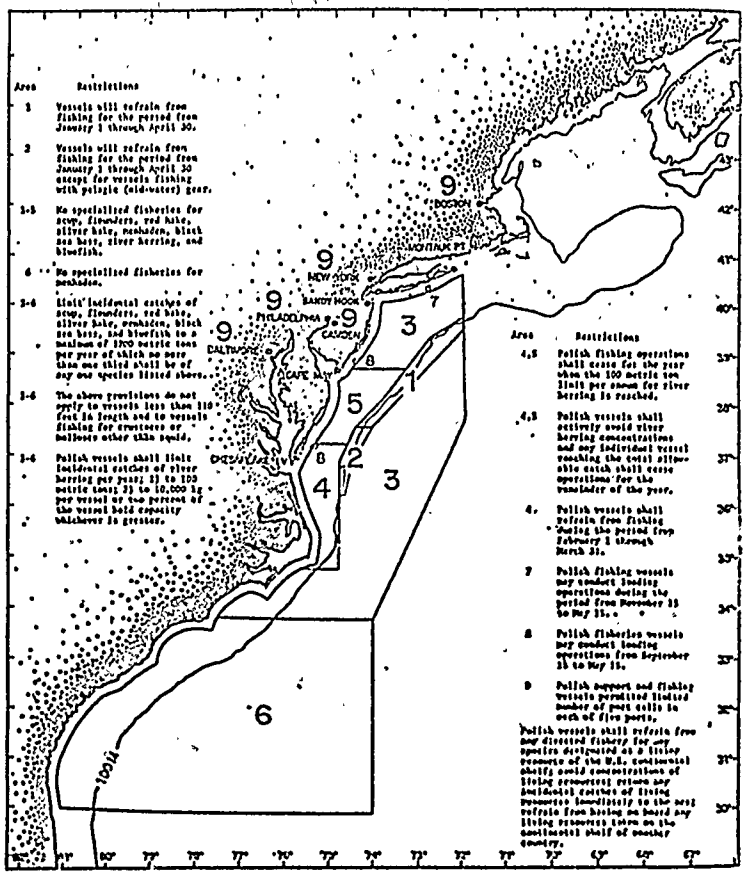

Figure 3. USA-Polish Fisheries Agreement.

US - ROMANIA FISHERIES AGREEMENT
EFFECTIVE NOVEMBER 21, 1975

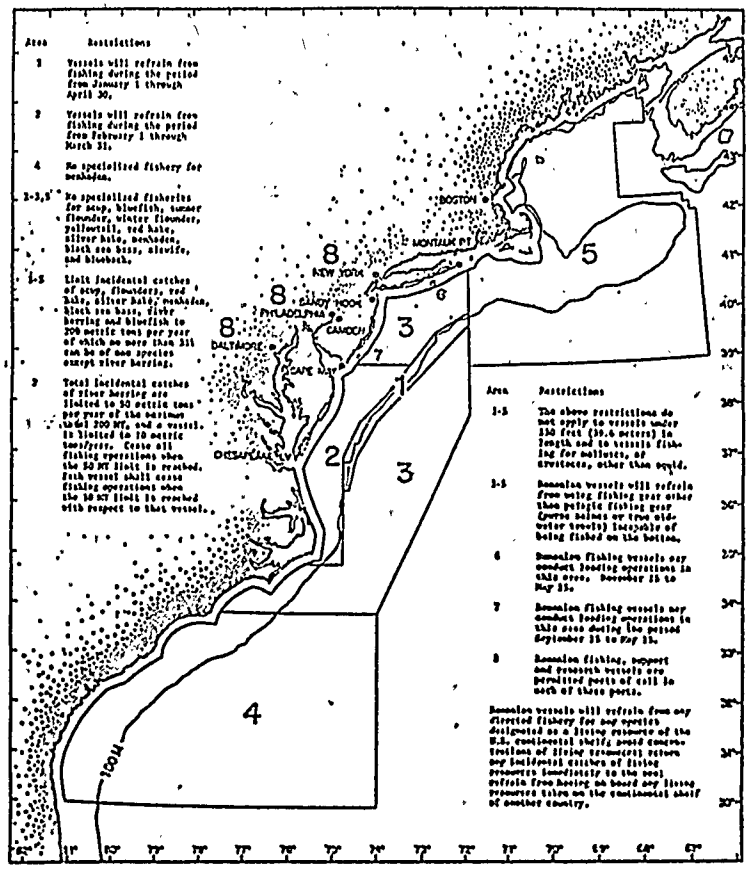

Figure 4. USA-Romania Fisheries Agreement.

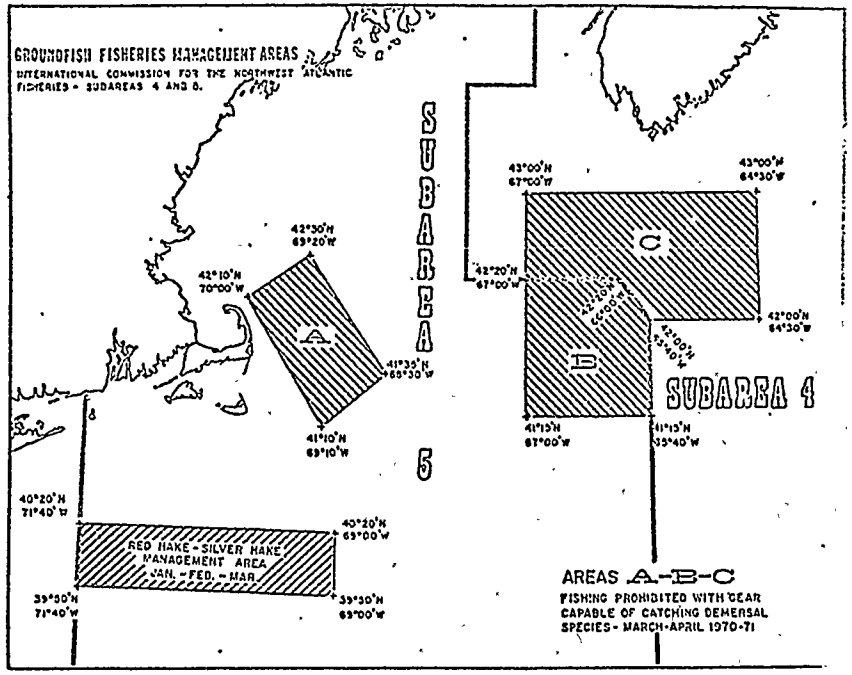

Figure 5. ICNAF Conservation Areas, 1970-1971.

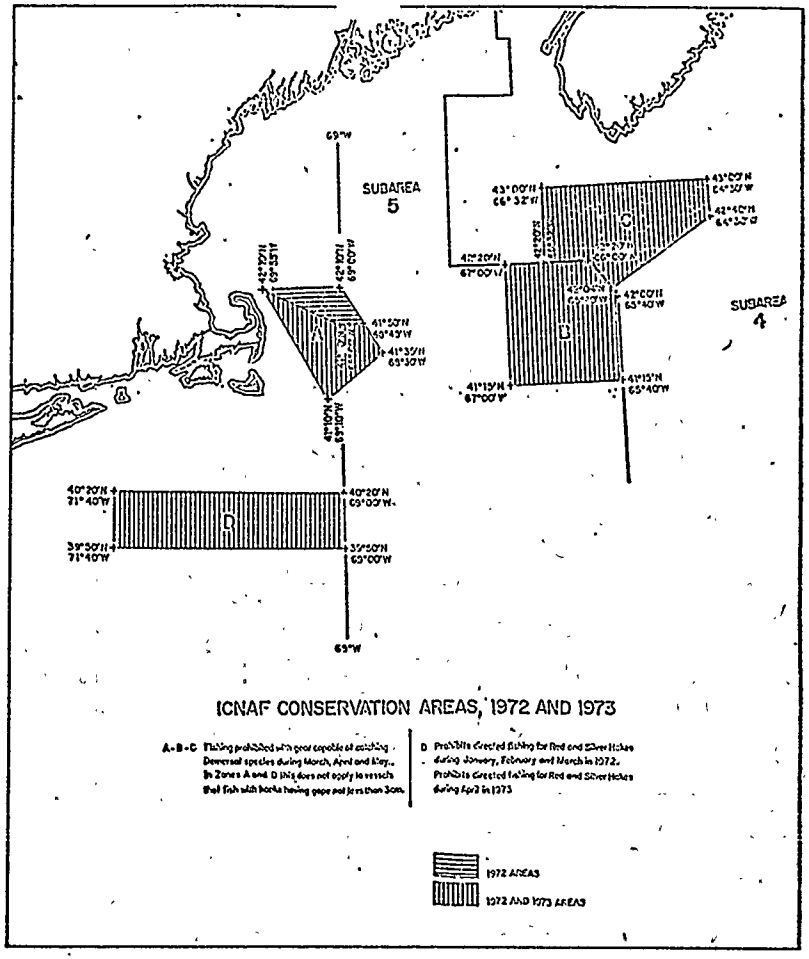

Figure 6. ICNAF Conservation Areas, 1972 & 1973.

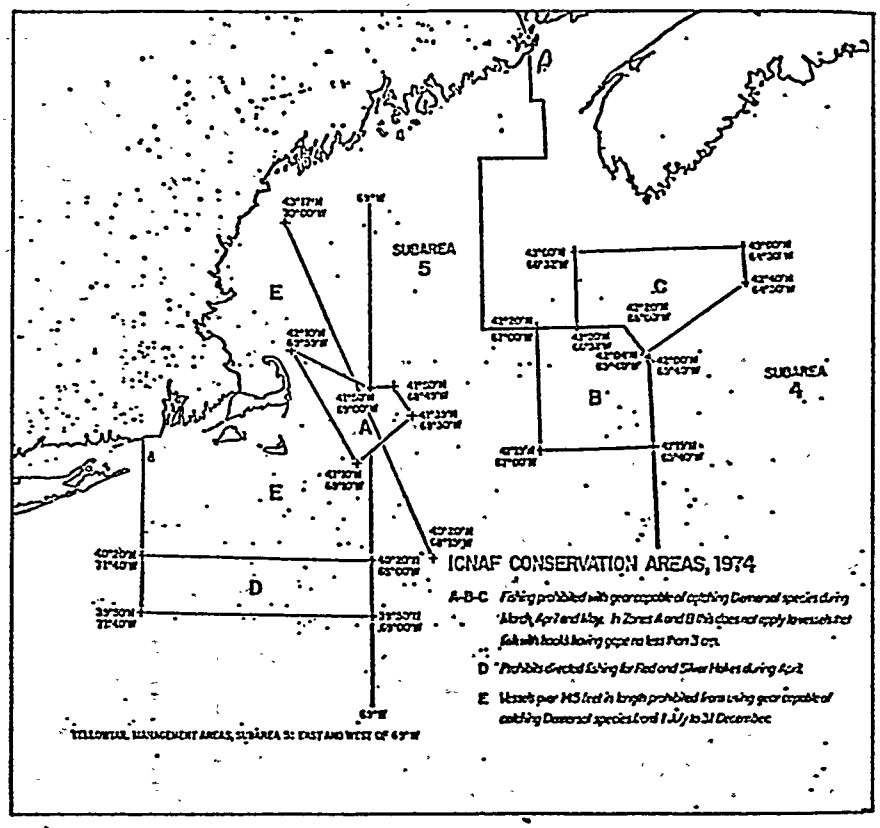

Figure 7. ICNAF Conservation Areas, 1974.

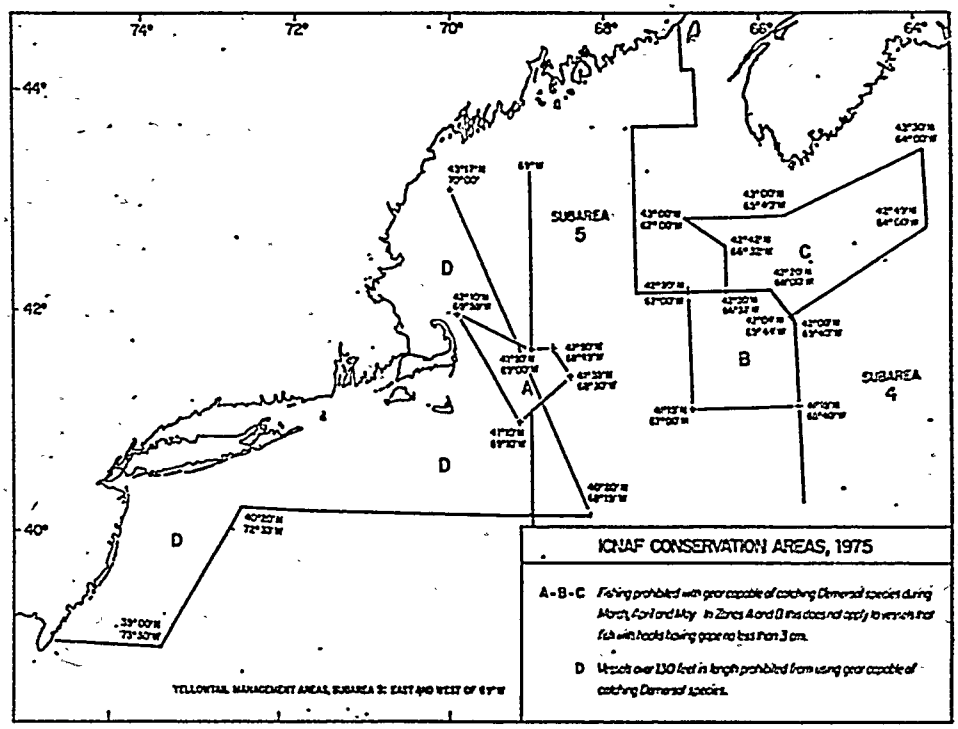

Figure 8. ICNAF Conservation Areas, 1975.

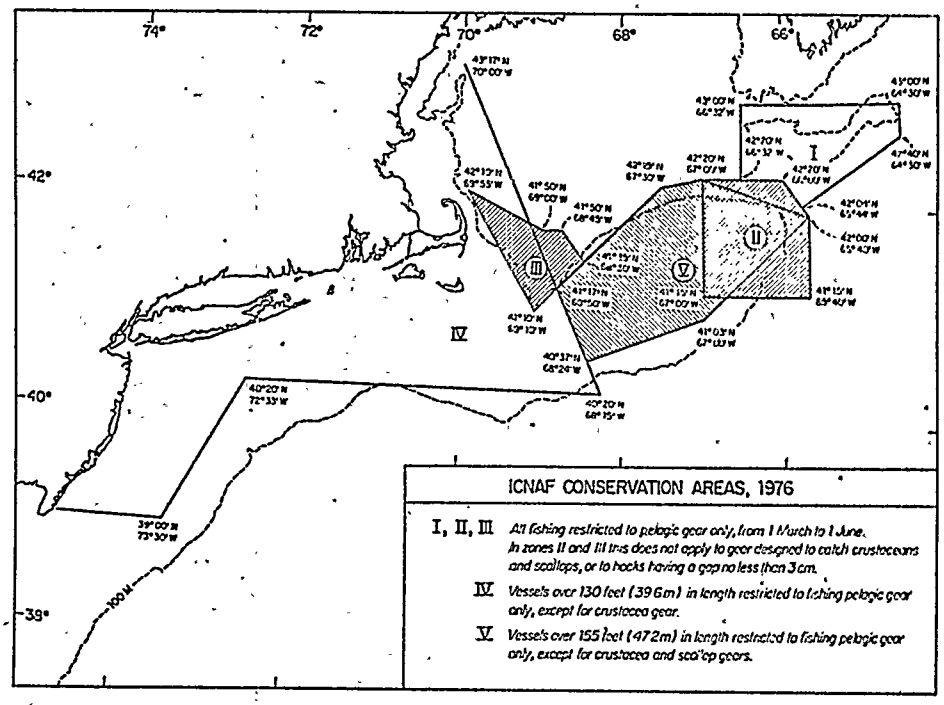

Figure 9. ICNAF Conservation Areas, 1976.

Table 14. Total Allowable Catches (metric tons) for 1976.

Stock	COD	HADDOCK	YELLOWTAIL FISH	SILVER HAKE		RED HAKE		POLLOCK		YELLOWTAIL FLOUNDER	OTHER FLOUNDERS	Squid (illex)	Squid (loligo)	HERRING		MACKEREL	OTHER FINFISH	Scallop Meat	TOTAL TAC
	5Y	5Z	5	5Y	5Z+6	5Y	5Z+6	4V+5	5(6559)	5(4559)	5+6	5+6	5+6	5Y	5Z+6	5+6	5+6		
BULGARIA					600										900	16300	4000		16400
CANADA	175	4519*	1200					33500						950	1000	4400			18000
CUBA		400			250		1400	900	1200				1000		1000	2000	3000		21000
FRANCE															1100				2500
FRG								1600					1000		9200	3200			14900
GDR								3500							9300	42900	3700		47350
ITALY												1000	3700						6700
JAPAN													15700		1100				16800
POLAND		457										5000	1700		11000	28100	10000		26500
PORTUGAL																			
ROMANIA				343											800	3200			3350
SPAIN		6645	300					1200				5000	6700						15000
USSR		2314		1438		35400	30000	19000	9000	2100		7500	2000		12193	87000	57000		177253
USA	2000	20000	4159	13219	5500	8500	9000	1000	6000	11500	15950	3920	19500	7500	6500	6000	12400	4700	69000	237000
OTHER	25	655	50	2219	500	4250	4000	4600	100	400	700	10	500	4000	2000	50	10	2000	12000	1600
TAC	2000	35000	6000	17000	10000	50000	43000	26000	16000	55000	16000	4000	20000	30000	44000	7000	60000	254000	150000	650000

*By-catch only with no directed fishery.

Unquestionably, problems encountered within the above management framwork were instrumental in formulating an International Inspection Scheme, but progress has been slow. On August 11, 1971, the President signed an amendment (P.L. 92-87) to the Northwest Atlantic Fisheries Act of 1950. The Amendment authorized national and international measures of control and allowed the US to adopt an International Inspection Scheme on the high seas under ICNAF. During the latter part of August 1971, an inspection boarding team from the USA attempted to board USSR vessels; however, they were refused. After a series of diplomatic notes, the USSR advised the USA that they were ready to accept inspection schemes, but the inspection would be limited to the main fishing deck only. Following implementation of the ICNAF inspection scheme, 57 boardings were made on foreign vessels between August 30, 1971 and November 1, 1972 (49 USSR, 3 Polish, 2 FRG, 2 Japanese, and 1 Spanish). Five violations were recorded for refusal to accept boarding inspection teams. The reservation concerning below-deck inspection was lifted by the USSR in November 1973, thus enabling the international inspection scheme to gain a better insight regarding production capabilities and species composition. The large catches of demersal species taken as by-catch by foreign nationals were finally documented and were instrumental in leading to additional controls such as prohibiting vessels in excess of 130-ft to use demersal gear except in restricted zones. Most recently, the ICNAF 155-ft rule was implemented in the Georges Bank area to alleviate the by-catch of groundfish by large foreign trawlers. Only true pelagic gear was allowed.

The past two years show evidence of remarkable progress and improvement by all foreign nationals in adhering to the ICNAF regulations (Table 15). The additional increase in manpower and funding for NMFS working in conjunction with the USA Coast Guard has created an atmosphere of cooperation by exerting increased pressure on foreign nations to obey ICNAF regulations.

Table 15. Summary of alleged violations by foreign nationals, 1971-1976

1971	1972	1973	1974	1975	1976
5	8	27	98[a]	24	36[a]

[a]Mostly logbook discrepancies.

h. History of Cooperative Research, Conservation, Management, and Data Exchange

Prior to 1973 the mackerel fishery in ICNAF SA3-6 was not regulated.

The first TAC (450,000 tons) was set for 1973 in SA 5 and SA 6 in an attempt to limit the rapidly developing distant-water fisheries until an adequate assessment could be completed.

The 1974 (304,000), 1975 (285,000), and 1976 (254,000) TACS in SA 5 and SA 6 were established to stabilize fishing mortality at the 1973 level, which was near the point of F_{max}. F_{max} is defined as the (instantaneous) fishing mortality rate at which yield per individual entering the fishery (recruit) is maximized. The first

TAC in SA 3 and SA 4 was set (1974) only for Divs. 4VWX (55,000 tons) to permit a reasonable but limited expansion of that fishery. The 1975 TAC for SA 3 and SA 4 (70,000 tons) was established to stabilize the fishery at the 1974 expected level of catch. The 1976 TAC was set at 56,000 tons.

Although some progress has been made in tracing migratory pathways in recent years, seasonal distributions of the northern and southern contingents are still uncertain. It is known, for example, that both contingents contribute to the winter fishery off New England, although their relative contributions have never been determined.

Consequently, the ICNAF Assessments Subcommittee agreed in 1975 to assess all mackerel in SA 3-6 as a unit stock. The 1976 TAC of 310,000 tons for SA 3-6 was, therefore, apportioned on the basis of historical catches to determine the SA 5 and SA 6 and SA 3 and SA 4 allocations.

Cooperative research on the stock has involved research vessel surveys (Table 16) and assessment studies and relative work by Bulgarian, Canadian, GDR, Polish, USSR, and USA scientists. In addition, Bulgaria, France, FRG, GDR, Japan, Poland, Romania, USA, and USSR have reported length-frequency and age sampling data to ICNAF in recent years (Table 17).

Table 16. Summary of cruises by nation and year providing data of potential value for mackerel assessment work in SA 5 and SA 6 (1963-1974)

Nation	Year	Vessel	General objective
USSR	1967	ALBATROS	Groundfish survey, gear comparisons
	1968	BLESK	Groundfish survey, gear comparisons
	1969	PROGNOZ	Plankton sampling (2)
		EKLIPTIKA	Groundfish survey
	1970	KVANT	Groundfish survey, gear comparison
	1971	BLESK	Groundfish survey, gear comparison(2)
	1972	BLESK	Groundfish survey, gear comparison
	1973	BELOGORSK	Groundfish survey, juvenile fish survey, gear comparison
	1974	BELOGORSK	Groundfish survey, gear comparison, mackerel sur
	1975	BELOGORSK	Groundfish survey, gear comparison
FRG	1973	W. HERWIG	Fish survey
	1975	W. HERWIG	Mackerel survey
GDR	1975	ERNST HAECKEL	Fish survey, mackerel survey
Poland	1973	WIECZNO	Fish survey
	1974	WIECZNO	Mackerel survey
			Hydroacoustical Studies
	1975	WIECZNO	Mackerel survey
USA	1963	ALBATROSS IV	Groundfish survey (2)
	1964	ALBATROSS IV	Groundfish survey (3)
	1965	ALBATROSS IV	Groundfish survey (5)
	1966	ALBATROSS IV	Groundfish survey (2), plankton
	1966	ALBATROSS IV	Groundfish survey, gear comparison
	1968	ALBATROSS IV	Groundfish survey(3), gear comparison (3)

Table 17. Total number of mackerel length-frequency and age samples reported to ICNAF by nations and year for SA 5 and 6, 1971-1974.

Year	USA		USSR		FR GERMANY		FRANCE		GERMAN DR		JAPAN		POLAND		ROMANIA		BULGARIA	
	L[a]	A	L	A	L	A	L	A	L	A	L	A	L	A	L	A	L	A
1971											1							
1972			33								2						8	8
1973	3		439	38	5		(8)[b]				1		16(12)[b]				13	13
1974	3		249						55				64	52	36	11	10	10

[a]L = length frequency, A - age.
[b]Research vessel samples in parentheses.

A minimum size limit of 25 cm total length (TL) was instituted by ICNAF in 1976 in an attempt to curtail the capture of age I fish. Several states in the USA also have minimum size limits (SL) for the sale or possession of mackerel: Massachusetts, 6 inches (15 cm); Connecticut, 7 inches (18 cm); New York, 7 inches (18 cm); and New Jersey, 7 inches (18 cm).

III. STATUS OF THE FISHERY STOCKS

a. Distribution of Exploited Stocks

Mackerel in SA3-6 overwinter in deep offshore areas, primarily from Georges Bank to Cape Hatteras. Dense concentrations occur offshore from southern New England to New Jersey in January and February. In spring, the southern contingent moves inshore to spawn in the New York Bight area and then continues into the Gulf of Maine, where it apparently disperses along the coast in summer. While inshore, this contingent frequents territorial waters and forms the basis for an intensive recreational fishery. Most of the USA commercial catch is taken at this time.

The northern contingent moves onto the shelf and then to the northeast in spring, continuing as far north as the Gulf of St. Lawrence for spawning and feeding purposes. Small amounts of mackerel caught in summer on Georges Bank by distant-water fleets may represent stragglers from this contingent, or part of the southern contingent. USA bottom trawl surveys indicate concentrations extending from the Mid-Atlantic Bight into Georges Bank in March and April.

Both contingents return to the offshore wintering grounds in late autumn and concentrations again begin to form in deep waters in the New York Bight area in December (Sette 1950; Anderson 1975; Berrien 1976).

It is evident that primary concentrations occur in the New York Bight area in winter and it is here that a given fishery should realize its maximum potential.

b.&c. Abundance and Current Status

Analyses conducted to estimate optimum yield in 1977 in the following sections includes both commercial and recreational catches (see Section II. b. for explanation of method of estimating recreational catch data). In analyses requiring age composition data of the catch, it was assumed that the age composition of the recreational catch was the same as that reported by the commercial fishery because sampling data from the recreational fishery were insufficient to determine this information.

Anderson (1973) and Walter (1975) have estimated maximum sustainable yield (MSY) from Schaefer models as 310,000 tons and 313,000 tons, respectively, for Atlantic mackerel, corresponding to a stock biomass of 1,250,000 tons (Walter 1975). These estimates were calculated using only commercial catch data. However, historical commercial landings data suggest wide fluctuations in biomass, and it is probable that the above MSY figures are overestimates because of the effect of one very strong year-class and several above-average year-classes on the catch and effort data used in the estimation procedures. The most recent estimate of MSY, which includes recreational catches in the calcuations, (E.D. Anderson, personal communication) is 210,000-230,000 tons, which is based on the exploitation of an average year-class (1961-73 year-classes) at fishing mortality ranging from $F_{0.1}$ (0.35) to F_{max} (0.70) with average patterns of fishing and mortality at age (see definition of $F_{0.1}$ and F_{max} on next page). In view of the magnitude of past

catches, the 210-230,000 level appears more realistic than the 310,000 level.

Yield per individual entering the fishery (i.e. yield per recruit, see Ricker, 1975) is maximized at instantaneous rates of fishing mortality (F) of 0.5, 1.0, and greater than 2.0 at a mean age of first capture of 1, 2, and 3 years, respectively. These F values are commonly referred to as F_{max} values. At a lower level of F (i.e. $F_{0.1}$ where the instantaneous fishing mortality rate at which the additional yield per recruit gained from an additional mortality unit is 10% of the gain per unit of mortality in a lightly exploited stock), the corresponding values are 0.28, 0.35, and 0.43. These values are judged to be more appropriate from a management standpoint as discussed under Optimality. The level of fishing mortality previously considered to be optimal ($F_{0.1}$) applied only to the commercial fishery. With recreational fishing included, it is possible that a different, probably higher, level of optimal fishing mortality may be defined. Since this new level has not yet been defined, it was tentatively felt that optimal level of fishing mortality used for the commercial fishery should be increased in proportion to the expected recreational catch when applied to the combined fisheries.

Three separate assessments were made in 1976 within STACRES of ICNAF based exclusively on catches. In April, the recommendation for 1977 by US scientists was a zero TAC. At that time there was no information available concerning the 1976 catch, and it was assumed that the full 1976 TAC of 310,000 tons would be taken as a basis for estimating fishing mortality in 1976 and stock size in 1977. Research vessel survey data from 1976 were also not available. The methods used and the data available suggested that fishing mortality in 1975 and 1976 was very high and that the spawning stock size in 1977 would be reduced to drastically low levels. Fishing at the level of $F_{0.1}$= 0.35 in 1977 given the estimated stock size would have resulted in a TAC of about 35,000 tons. However, concern about the possible impairment to spawning and success and recruitment as a result of the low stock size led to the recommendation of a zero TAC.

In June, US scientists recommended a TAC of 55,000 tons for 1977. At that time, there were first quarter catch statistics available which indicated that the April estimates of fishing mortality were too high and stock size estimates for 1976-77 were too low. In addition, US spring 1976 survey data suggested higher abundance than previously assumed. The results of the assessment indicated that the estimated stock size for 1977 was greater than that calculated in April, resulting in a higher recommended TAC at the same level of fishing mortality ($F_{0.1}$=0.35). The question of a stock-recruitment relationship and a minimum stock size constraint could not be resolved with the available information.

In December, US scientists advised a 1977 TAC of 105,000 tons. Between the June and December assessments, the entire data base was reanalyzed and significant new information concerning the 1976 catch and from both the 1976 spring and autumn surveys was obtained. The 1976 catch was estimated as 235,000 tons compared to 310,000 tons as assumed in the previous two assessments. Based on more complete up-to-date data than available earlier, the level of fishing mortality in 1976 was determined to be less than estimated earlier. The resulting analyses indicated that the available stock in 1977 was greater than previously estimated. Therefore, with fishing mortality at the $F_{0.1}$

level, a 1977 catch of 105,000 tons could be taken.

Following the inclusion of the estimated US recreational catches as mentioned earlier (II[redacted]b.), an additional assessment was conducted following the same procedures used at the December ICNAF assessment, but adjusting parameters where necessary to account for the added catch. Estimates of population size, based on virtual population analysis, indicate an incrase in stock size to 2,375,000 tons in 1969, followed by a steady decline to 653,000 tons in 1976. Virtual population analysis is a method of estimating stock size and fishing mortality rate of a population, based on the age composition of observed catches and an estimate of the natual mortality rate (see Ricker 1975). USA research vessel spring survey catch per tow indices indicated a 92% decline in abundance from 1968 to 1976. The autumn survey indices indicated an increase from 1963 to the 1967-1969 period and an 86% decline in abundance to 1976 (Anderson et al., 1976). USA commercial standardized catch per day indices increased steadily until 1968 and then declined 94% in 1974. Distant-water fleet indices increased during 1968-1970, declinedin 1971 and 1972, and then increased again in 1973-1974. However, it appears that the pattern observed for distant-water fleets was due primarily to improvements in vessel efficiency (Anderson 1976). In summary, almost all available evidence suggests a massive decline in the mackerel stock abundance in recent years.

The fishing mortality rate in 1976 was estimated to be 0.77, higher than previously recorded in the fishery. Assuming this level of fishing mortality and a combined commercial and recreational catch of 240,000 tons in 1976 (SA3-6) and given estimates of the sizes of the 1974-1976 year-classes, the fishable stock (age I and older) in 1977 was calculated to be 592,000 tons. The year-class estimates, based largely on US survey catches, indicated that the 1974 year-class was the largest since 1969, and the 1976 year-class was about the median strength of the 1968-1973 year-classes. With fishing mortality in 1977 reduced to the level of 0.39 ($F_{0.1}$=0.35 plus 0.04 to reflect recreational fishing), a catch for SA3-6 of 118,000 tons would result. Of this amount, 88,000 tons could be taken in SA5 and SA6. This level of catch would allow a slight increase (2%) in spawning stock biomass in 1978, to a level about 22% of that present in 1970-1972 and about 20% less than that observed in the early and mid 1960s prior to the entry of the 1967 year-class into the population and foreign nationals into the fishery.

Historical fluctuations in stock abundance and year-class strength, and possible effects of interspecies competition have led to considerable interest in stock-recruitment relationships for this species. Taylor et al. (1957) showed that fluctuations in mackerel catches during 1820-1890, which they assumed reflected variations in abundance, were correlated with temperature but that such a relationship was not evident in later years. MacKay (1967) related a strong 1959 year-class of mackerel to above-average water temperature in July-September in the Gulf of St. Lawrence and a poor 1962 year-class to below normal temperature. Lett et al. (1975a, 1975b, 1975c, 1976) in simulations of cod, herring, and mackerel stocks and fisheries in the Gulf of St. Lawrence have shown temperature to be the key environmental factor influencing year-class success.

An inverse correlation between herring and mackerel stock sizes in recent years has led to speculation that these species are competitors (they have similar feeding habitats). However, the influence of herring abundance on mackerel year-class strength has not yet been described quantitatively.

Egg and larval drift induced by wind and currents is critical to year-class formation. Sette (1943) attributed the failure of the 1932 year-class of mackerel to extremely high mortality during the larvae to post-larvae transitional stage. The high mortality was caused in large part by the prevalence of northeasterly winds which drifted the planktonic larvae farther than usual from their nursery grounds. Colton and Temple (1961) concluded that under average conditions most fish eggs and larvae are carried away from Georges Bank by the easterly-flowing slope-water current, and only under exceptional hydrographic conditions are appreciable numbers of eggs and larvae retained on the Bank or in nearby coastal areas. They felt that egg production for all species is always sufficient to produce a strong year-class, but that only a small percentage survive because of mortality at the egg and larval stages induced by drift and other factors.

Lett et al. (1975a) derived a stock-recrutiment relationship for mackerel in SA 3-6 which suggested a strong density dependence between spawning stock biomass and egg production which was modulated by environmental effects as measured by temperature. The relationship between egg production and larval abundance was shown to be strongly density dependent through competition for food and predation. These relationships demonstrated that maximum recruitment is producted by a spawning stock biomass of 650,000 tons with symmetrically declining recruitment from smaller and larger biomasses. Results of the current assessment indicate that the 1976 spawning stock biomass (476,000 tons) was approximately at the same level which produced the moderate 1966 year-class and the large 1967 year-class. It has not been possible to evaluate the precise effects of various factors, including spawning stock size, on recruitment success and spawning, but the present level and condition of the spawning stock is reason for concern. The reduction in OY from 310,000 tons in 1976 to ~~119,000~~ 88,000 tons in 1977 certainly reflects this concern.

IV. OPTIMALITY

According to the Fisheries Conservation and Management Act of 1976, the optimum yield of a fishery means the amount of fish -

(a) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

(b) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, and ecological factors.

The specific criteria to be used to calculate optimum yield in the future will be determined by the Regional Councils. In the interim, ICNAF's determination of optimum yield (TAC) for 1977 is proposed in this document. The primary objective of ICNAF has been to maximize sustained yield. The US commercial capacity to harvest and market each fishery was determined in order to benefit the US, based on relevant economic, social, and ecological factors as expressed by advisors of the US delegation to ICNAF. The US recreational capacity indicated in this PMP is based on estimates of recent recreational catches as well as anticipated increases which may result from the increased number of anglers. Some approaches to the management to fisheries, which have been the basis of the advise of the Standing Committee on Research and Statistics (STACRES) considered by ICNAF commissioners in the establishment of TACs, are discussed below.

As a consequence of differences in the nature of the dynamic models used for assessment of fish populations, two measures of fishing mortality (F_{max} and F_{MSY}) have been identified as reference points on which to base regulations for optimizing yield. F_{max} refers to the fishing mortality rate at which the average catch per recruit to a fishery is at a maximum. It is a function of the growth and natural mortality processes within the fish stock and of the size (age) at which the fish enter (i.e., "recruit to") the fishery, and it is therefore independent of changes in recruitment. F_{MSY}, on the other hand, refers to the fishing mortality rate at which the average long-term catch from the fish stock as a whole is highest and is therefore a function of the total production processes within the fish stock, including recruitment. Where the average level of recruitment does not change directly in response to changes in stock size, F_{max} and F_{MSY} will correspond. In the absence of detailed knowledge of the relationship between stock size and recruitment for particular stocks, this correspondence was assumed by ICNAF in the presentation of scientific advice on management action for mackerel prior to 1976.

STACRES examined the principal features of the F_{max} reference point and identified the following as being of particular importance with regard to its adequacy as a basis for management actions:

(a) The form of the relationship between catch per recruit and fishing mortality (F) differs markedly for the various fish stocks according to their growth and natural mortality

characteristics. For some stocks, F_{max} occurs at a relatively high level of fishing mortality and it may not be clearly defined. Furthermore, its value for each stock is dependent upon the age and pattern of recruitment to the fishery.

(b) Although F_{max} defines the fishing mortality rate at which the greatest catch will be obtained from each recruit entering the fishery by taking no account of the relationship between the size of the spawning stock and recruitment, it does not necessarily correspond with that giving the highest average catch (MSY) for the fish stock as a whole (although, as indicated above, it does so if average recruitment does not change with changes in stock size).

(c) Because F_{max} takes no account of the stock and recruitment relationship, management measures based on this reference point do not guarantee the maintenance of spawning stocks at a level that would ensure the maintenance of an optimum average level of recruitment.

(d) The F_{max} level of fishing takes no account of possible economic objectives and factors.

This indicates that the F_{max} reference point has potential limitations which have to be recongized and evaluated in the provision of scientific advice on management action. They are obviously greatest with respect to fish stocks for which the relationship between yield per recruit and fishing mortality has no clearly defined maximum or, if present, it occurs at a relatively high value of fishing mortality rate. In these situations the setting of catch quotas at the F_{max} level may lead to a severe reduction in the stock size, reduction in the number of age groups in the exploited stock, large short-term changes in catch (and hence in the magnitude of the short-term quota changes), and possible recruitment failures due to the generation of too low a spawning stock size.

The principal element of the biological system governing the adequacy of F_{max} as a basis for management action is the recruitment process, both its variability due to environmental factors and especially the relationship between recruitment levels and spawning stock size. At present, little is known about the latter relationship, so that the evaluation has usually been made on a generally qualitative basis using all available information on the size and composition of the stock and the observed variability in recruitment to it together with its relation to other components of the exploited ecosystem. However, the relationship is taken into account empirically in some assessment models.

In view of the possible substantial adverse consequences of setting the fishing mortality rate too high in cases where there is doubt about its adequacy, a more restrictive management system than that based on the F_{max} level would be justified. In addition to appropriate

measures for controlling the size (age) of recruitment to the fishery (e.g. through mesh regulation), the management system might comprise either, or a combination, of the following elements: (i) fixing the fishing mortality rate at a level somewhat lower than F_{max}, and (ii) setting a target spawning stock size.

For fish stocks (such as mackerel) in which the relationship between catch per recruit and fishing mortality is a relatively flat-topped curve, a fishing mortality rate lower than F_{max} can be set which would result in only a small loss in average catch but would achieve a substantially higher average stock biomass, greater stock stability due to the presence of a larger number of age groups in the exploited phase, higher average catch per unit of effort, and increased economic efficiency. The $F_{0.1}$ level, defined as the level at which the change in yield per recruit with respect to change in mortality rate is one-tenth of that of the fishery beginning on the virgin stock, has been specificed as another possible reference point below F_{max}. It results in an increased catch per unit of effort, but it does not have the unique merit in necessarily achieving the desired stability of stock size and recruitment. This level of F was used as a basis for the proposed OY for mackerel in 1977.

The establishment of a minimum spawning stock size constraint, as an element of the management objective, serves to minimize the risks of stock depletion and recruitment failure and hence should be as much as possible, an integral part of the scientific evaluation leading to specific management measures. At present, however, owing to the lack of knowledge on stock and recruitment relationships for this species, the precise value of the limiting stock size cannot be defined for mackerel. However, results of a theoretical study suggest that, at least for some stocks, an equilibrium spawning stock biomass constraint at a biomass level about two-thirds of that of the virgin stock would provide an adequate biomass buffer for maintaining stock stability and resilience against depletion in the presence of large fluctuations in recruitment.

The risks inherent in a management system based on the exploitation of individual fish stocks at their F_{max} (F_{MSY}) levels are particularly large in fisheries on multi-species resources, in which the exploitation of each stock separately is not possible due to the presence of biological interations. In such situations, the objective of fishing each stock at the F_{max} level may lead to its depletion and a possible decrease in the long-term catch of the principal components of the commercial fisheries (although the total fish biomass available for exploitation may not decrease). The adoption of management measures, which maintain an adequate spawning biomass of the desired species, is particularly important in such cases. The second-tier quota system adopted under ICNAF for SA 5 and SA 6, establishing a total catch of all finfish and squid (except menhaden, billfishes, tuna, and large sharks) was designed to provide such a safeguard.

a. Relevant Socioeconomic Factors

For purposes of this plan, the primary economic considerations are the capacity of the US commercial industry to harvest and market mackerel, and maintenance of a suitable stock size for recreational harvest and for bait purposes. Determination of US industrial capacity is extremely difficult due to the large number of variables that must be considered. The approach that is used here is an examination of previous species landings modified by any relevant consideration; i.e., new markets and/or products, unavailability of other traditional species, etc.

Mackerel is an important species for recreational fishermen in the northeastern United States. By weight mackerel ranked 12th in 1960 for all species caught by recreational anglers in this area (Table 18). Mackerel ranked 7th in 1965, 3rd in 1970 and 7th in 1974. Thus, the mackerel fishery is a significant part of the total recreational fisheries in the northeast.

b. Optimum Yield

Given the decline in this stock referred to in previous sections, an OY of 88,000 tons (SA5 and SA6) for 1977 would be the level which would prevent further decline and begin immediate recovery towards the optimum stock size.

c. + d. Estimated Domestic Production Potential and Allowable Foreign Surplus

The estimated OY is 88,000 tons with the US commercial fleet capacity estimated as 6,000 tons and the US recreational fishery capacity estimated as 13,000 tons. This leaves an estimated surplus of approximately 69,000 tons.

Table 18. Species ranking by total weight of catch of recreational anglers fishing along the northeastern United States coast.

	1960	1965	1970	1974
1	striped bass	bluefish	bluefish	bluefish
2	bluefish	striped bass	striped bass	striped bass
3	Atlantic cod	Atlantic cod	Atlantic mackerel	summer flounder
4	flounder1/	summer flounder	winter flounder	Atlantic cod
5	flounder1/	winter flounder	Atlantic cod	weakfish
6	sharks	puffers	puffers	winter flounder
7	pollock	Atlantic mackerel	spot	Atlantic mackerel
8	tautog	perches	summer flounder	tautog
9	scup	scup	tautog	perches
10	black sea bass	tautog	weakfish	scup
11	red drum	black sea bass	perches	spot
12	Atlantic mackerel	spot	sea robins	black sea bass

1/ Winter and summer flounder were combined as "flatfish" in the 1960 survey

During the 1961 to 1974 period the peak landing of mackerel in the US commercial fishery was 4,400 metric tons. However, with reduced availability of other species, the industry has indicated that 6,000 metric tons could be harvested and marketed. Further, potential markets may be available in addition to established ones in southwestern and southeastern United States, the West Indies, and Western Europe, if proper marketing efforts were generated. Time does not permit a feasibility study of these markets to be conducted.

During the same period the peak catch of mackerel in the recreational fishery was estimated to be 33,000 metric tons in 1969. This occurred at a time when the stock biomass was at its maximum level, but in later years as stock biomass decreased, recreational catches decreased proportionately. Based on present levels of biomass, as well as anticipated increases in recreational effort, an estimated capacity of (potential harvest) for the recreational fishery could be as high as 13,000 tons.

The data below summarize the estimated MSY, OY, the needs of the US commercial and recreational sectors, and the total allowable level of foreign fishing.

Area	MSY	OY	Est. US Commercial Needs	Est. US Recreational Needs	Total Allowable Level of Foreign Fishing
SA5-6	210,000-230,000	88,000MT	6,000MT	13,000MT	69,000MT

V. CONSERVATION AND MANAGEMENT MEASURES APPLICABLE TO FOREIGN FISHERIES

a. Data to be Reported by Foreign Fishery.

(In addition to the requirements below see V. d.)

The reporting procedure described below is designed to contribute to continuing needs for assessment of the status of stocks. However, specific needs may develop from time to time which require a change in standard procedures, or additional data for species studies. Also, fisheries patterns will change. These aspects require that the procedures for reporting must be flexible enough to accommodate necessary changes. It also implies that some form of archiving of the basic data be developed so that retrieval at a later date in a different format is possible.

All data described below shall be reported to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts:

1. Statistical Information Requirements for all Fisheries Catch and Effort:

Within 90 days after the close of each calendar quarter, catch-effort statistics for biweekly time periods for 30-minute square areas will

be reported, by vessel, for the previous quarter. These will be reported using 30-minute Statlant 21 B Forms or magnetic tape, computer cards, or printouts for all species and gear types.

Vessel logbook data is to be available for selected, specific joint assessment studies. The collection of samples, specific in 2. below, should also be annotated in the logbook.

2. Procedures for Scientific Samples

a. Length-age species composition samples

(1) Samples should be taken separately for each gear type (e.g. bottom trawl, pelagic trawl, purse seine) and water layer (e.g. on the bottom, midwater level) combination every month for which fishing is pursued by 30-minute square areas throughout the agreement region. One sample should be taken for every 1,000 tons or fraction thereof within the above categories:

(2) Data to be recorded for each sample:

(a) Vessel classification

(b) Method of fishing, e.g. pelagic

(c) Specific type of trawl, including reference to its construction or actual scale drawing

(d) Mesh sizes

(e) Tonnage of the species sampled in the trawl haul

(f) Total weight of the fish sampled

(g) Time of day of haul

(h) Date

(i) Latitude and longitude of haul

(3) Sampling procedures (for all species caught)

(a) Species for which the catch is sorted

(i)-From a single net haul take four random aliquots of approximately 50 fish each. (For species with less than 200 fish in a single trawl haul accumulate samples over trawl hauls until approximately 200 fish are taken.)

(ii)-Measure fork length for each fish to nearest cm, except for herring, for which measurement will be the total length to the nearest cm below. Where other measurement systems are used appropriate conversion information must be supplied.

(iii)-Take a subsample of one fish from each cm interval and remove scales, otoliths, and/or statoliths as appropriate. Record the sex of mature individuals.

(b) Species for which catch is not sorted

(i)-From a single trawl take two random aliquots of approximately 30 kilos each.

(ii)-Sort to individual species (for "river herring" this means sorting to alewife, *Alosa pseudoharengus*, and blueback, *A. aestivalis*; for squid, sort to Loligo and Illex).

(iii)-Measure fork length for each fish to nearest cm, except for herring for which the measurement will be the total length to the nearest cm below. Where other measurement systems are used, appropriate conversion information must be supplied.

(iv) - Take a subsample of one fish from each cm interval and remove scales, otoliths, and/or statoliths as appropriate. Record the sex of mature individuals.

b. Length-weight samples

Individuals of one sample of each principal species of fish (e.g., expected yearly catch in area of agreement of 500 or more tons), per International Commission for the Northwest Atlantic Fisheries (ICNAF) Division per month, should be weighed in grams and measured in millimeters. Each sample will contain 10 fish per centimeter interval. The length range of fish may be accumulated if necessary from small samples taken over several catches and days. With small fish, where weighing at sea of individuals is not accurate, appropriate numbers of fish of the same length class shall be weighed in aggregate. Sex shall be recorded for mature individuals.

b&c. Zones and/or Periods of Limited Foreign Fishing and Catch Limitations

The recent international mackerel fishery has been conducted primarily during December-April in SA 5 and SA 6 when the fish are overwintering and heavily concentrated along the edge of the continental shelf. During these months, heavy fishing has occurred from Georges Bank to Chesapeake Bay. Since the late 1960s, the overwintering concentrations have undergone a gradual northeasterly shift due primarily to increased water temperatures. Because of this tendency of the schools to shift in part at least in response to temperature changes, it is difficult to specify within narrow limits the probable area of maximum concentration in 1977.

This plan is based upon an estimated 1977 surplus of 69,000 tons for foreign harvest. If foreign nationals will be allowed access to the surplus, the plan proposes the following management measures as a means of reducing potential conflicts with US fishermen, provide for a minimum by-catch, and still allow the surplus to be harvested: (1) only pelagic gear be used, (2) fishing take place only during the months of October, November, and December, and (3) fishing activities be restricted to an area (window) bounded by straight lines connecting the following coordinates, and depicted in Figure 10:

40°30'N, 71°20'W
39°30'N, 71°20'W
40°20'N, 67°00'W
40°50'N, 67°00'W
40°30'N, 69°00'W

Table 19 shows the proposed seasons for foreign nationals to harvest the estimated surplus of mackerel as well as Atlantic herring, silver and red hake, and squid (*Illex* and *Loligo*).

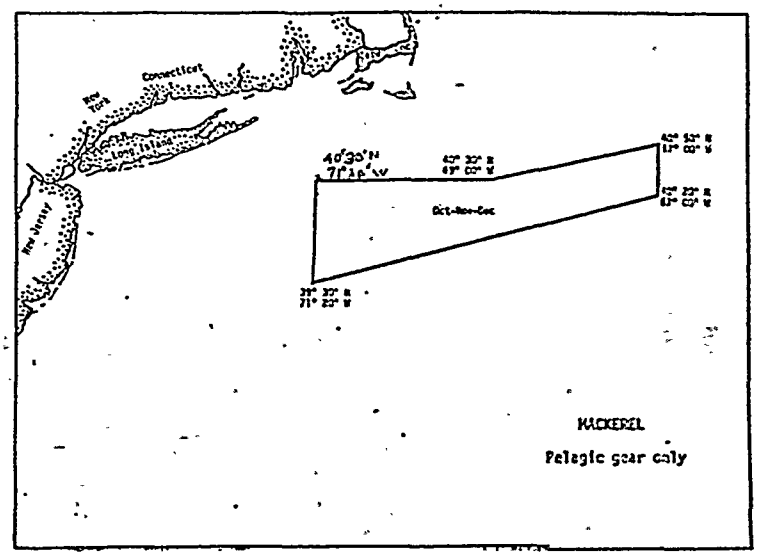

Figure 10. Open fishing area for mackerel exploitation by foreign nationals.

SPECIES	Window area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Herring		Foreign fishing will reflect ICNAF quotas and designated areas (windows) during January and February, 1977.											
Mackerel													
HAKES (red & silver)	A												
	B												
Squids (Illex & Loligo)	1												
	2												
	3												
	4												
	5												

Table 19. Proposed dates during which foreign fishing is recommended for each species and window for 1977 only.

d. Other Limitations, Conditions, or Requirements

1. Each foreign vessel engaged in or wishing to engage in harvesting the available surplus must obtain a permit from the Secretary of Commerce.

2. Closed Season and Areas - National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for Atlantic mackerel under this section. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of Atlantic mackerel, such determination shall be made to the appropriate agent or a government official of the country. Such notification shall be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for Atlantic mackerel in the authorized area, and may continue to take and possess only those amounts of Atlantic mackerel in accordance with the incidental catch provisions of paragraph 5.

3. Gear Restrictions - It shall be unlawful for any foreign vessel fishing for Atlantic mackerel, under this section to use any other gear than pelagic gear (purse seines or true midwater trawls, using midwater trawl doors incapable of being fished on the bottom).

b. It shall be unlawful for any foreign fishing vessel fishing for Atlantic mackerel to attach any protective device to pelagic gear or to employ any means that would, in effect, make it possible to fish for demersal species in the authorized area.

4. Statistical Reporting - The owner or operator of any foreign fishing vessel shall maintain catch and effort information and shall report such information through its government to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts, USA 02543.

a. Operators of all fishing vessels permitted under a Governing International Fisheries Agreement to fish in the Fishery Conservation Zone (FCZ) of the United States in the Atlantic Ocean, North of Cape Hatteras shall record their catches during the permit period on a daily basis according to position, amount, date, type of gear, amount of effort, i.e., number of sets (or hooks) x time gear is on the bottom (otter trawl) or fishing (midwater trawl, lines, other gear), discards, catch composition, and disposition of catch. Such vessels shall also record on a daily basis the estimated cumulative catch, including discards, by individual species, of all fish taken in the FCZ. The record shall include the disposition of the catch, while not subtracting any fish offloaded while the vessel is operating in the Fishery Conservation Zone and shall be retained aboard the vessel for the duration of the permit period.

b. The operator of each foreign fishing vessel operating under permit in the FCZ shall submit reports of fishing effort and yield through the vessel's designated agent in the United States to the Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930.

(1) A report will be submitted within 24 hours of the vessel's arrival in the FCZ.

e. Coastal State Fishery Conservation and Management Measures Recommended for Incorporation into this Plan

N/A

f. Other Measures

N/A

(2) A report will be submitted weekly to indicate effort and yield Sunday through Saturday. This report should arrive at the Regional Director's office no later than Thursday of the week following the week of the report.

(3) A report will be submitted within 24 hours of any change in directed fishery by the vessel.

(4) A report will be submitted within 24 hours after the vessel transfers fishing operations from one window to another.

(5) A report will be submitted within 24 hours after the vessel has ceased fishing operations with intent to depart the FCZ.

These reports will include vessel identification, reporting circumstances, effort (if applicable), yield (if applicable), and amount and composition of fishmeal (if applicable).

c. The Secretary may require from time to time additional information concerning fishing operations of fishing vessels of a foreign country. Such information shall be provided in accordance with the procedures provided to the vessels or country.

5. Incidental Catch -

a. The taking of other allocated species is permitted as an incidental catch in the directed Atlantic mackerel fishing. The quantity of any allocated species shall not exceed the allocation provided to the foreign country. When the allocation of any of the other species has been reached prior to reaching the allocation of Atlantic mackerel, fishing for Atlantic mackerel shall cease. Upon determination that a foreign country has caught its assigned quota of Atlantic mackerel, the directed fishing by that country will be closed. Subsequently, incidental catch of that species shall be limited to no more than 5

of the total weight of the catch on board any vessel for which the fishery has been closed.

b. Foreign vessels fishing for Atlantic mackerel are limted with respect to the amount of the following species that they may have on board: river herring (alewives or blueback), bluefish, stripped bass, scup, sea bass, squeteague, croaker, spot and American shad. The foreign by-catch of each of the above species is limited individually to 1% of all other fish on board the vessel or 2,500 kg, whichever is greater; and that the catch of all these species is limited to 7½% of all other fish on board or 12,000 kg, whichever is greater.

6. Prohibitions

a. Except as expressly provided for by a permit, no foreign fishing vessel shall:

(1) conduct a directed fishery for any Continental Shelf fishery resource, as such term is defined in the Fishery Conservation and Management Act of 1976 Section 3(4), appertaining to the United States;

(2) retain any such Continental Shelf fishery resource appertaining to the United States taken incidentally from the Continental Shelf; or

(3) fail to return promptly to the sea with a minimum of injury any such Continental Shelf fishery resource.

b. No operator of any foreign fishing vessel shall conduct any fishing within 12 nautical miles of the baseline used to measure the Territorial Sea of the United States unless expressly authorized by a permit.

7. Fixed Gear Avoidance

All foreign fishing vessels are prohibited from fishing between the 100-200 fathom depths on the Continental Shelf in the Atlantic north of Cape Hatteras within authorized fishing zones.

Fishing is prohibited in areas of reported fixed gear outside of the 100-200 fathom lines. The operator of each foreign vessel operating in an authorized fishing zone shall exercise caution when fishing within 2 nautical miles of such reported gear areas.

Locations of fixed gear in geographic coordinates (latitude and longitude) are broadest on the first day of each month by Coast Guard Communications Station Boston (NMF) on 472 KHZ at 1350 GMT in radiotelegraphy. These summary lists are updated each day at 1350 GMT, with a broadcast on the same frequency listing changes in fixed fishing gear locations reported by fishermen. Additionally, voice broadcasts in English are made each day by NMF on 2670 KHZ at 1405 GMT and by Coast Guard Communications Station Portsmouth (NMN) on 2670 KHZ at 1350 GMT and by the Boston Marine Operator Radio Green Habor, and Norfolk Marine Operator after their scheduled Marine Information broadcasts. The voice broadcasts list the locations of the fixed gear in LORAN A Coordinates. Both the radiotelegraphy and voice broadcasts are number sequentially by month, day, and year. A printed monthly summary of fixed gear information is available by contacting: COMMANDER(Aol), US Coast Guard, Atlantic Area, Governors Island, New York, NY 10004; Telephone (212) 264-0644 or (212) 264-0645. All operators of

foreign fishing vessels shall copy such daily fixed gear broadcasts and shall maintain of the bridge of such vessel a chart showing the current location of fixed gear in areas where it will be fishing.

8. Sanctions

If any foreign fishing vessel, for which a permit has been issued, fails to pay any civil or criminal monetary penalty imposed pursuant to the Act, the Secretary shall:

a. revoke such permit, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

b. suspend such permit for the period of time deemed appropriate; or

c. impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under such application.

Provided however that any permit which is suspended pursuant to this paragraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

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Federal Register

WEDNESDAY, FEBRUARY 16, 1977

PART VII

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

■

SQUID FISHERIES OF THE NORTHWESTERN ATLANTIC

Preliminary Fishery Management Plans

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

SQUID FISHERIES OF THE NORTHWESTERN ATLANTIC

Preliminary Fishery Management Plans

On the 4th of February 1977, the Secretary of Commerce, through an appropriate delegation of authority to the Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration and the Director of the National Marine Fisheries Service, published a Notice of Determination, Preparation, Issuance, and Implementation of Preliminary Fishery Management Plans at 42 FR 6873. In order that each Plan may have the widest possible circulation, the Secretary has decided that each should be published in the FEDERAL REGISTER.

Dated the 8th day of February 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Services.

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VI. References to Relevant Background Documents. The advance notice of proposed regulations will be appended.

I Introduction

Harvesting of short-finned squid (illex) and long-finned squid (loligo) off the Northeastern United States was, until January 1, 1977, regulated under terms of the International Convention for the Northwest Atlantic Fisheries (ICNAF) and subsequent agreements between the 18 signatory nations. The Fishery Conservation and Management Act of 1976 (P.L. 94-265), enacted and signed into law on April 13, 1976, established an extended jurisdiction fishing zone and exclusive US regulation of this zone under the concept of optimum yield. In the future, management plans for offshore New England waters will be formulated by the New England Fisheries Council, a regulatory body formed by P.L. 94-265. However, the Secretary of Commerce, in order to comply with other areas of P.L. 94-265 must have Preliminary Management Plans (PMP) in place by March 1, 1977 to permit foreign nationals to fish in the fisheries conservation zone, provided that no fishery management plan will be prepared by the New England Regional Fishery Management Council prior to March 1, 1977.

II Preliminary Description of Fishery

a. Areas and Stocks Involved.

The Commercial fishery for squid in ICNAF SA 5 and 6 is based on two species, the short-finned or summer squid (Illex illecebrosus), and the long-finned or winter squid (Loligo pealei). The former is found between Greenland and Florida, is most abundant in the Newfoundland region, and is moderately abundant between Newfoundland and New Jersey (Mercer 1965). There is a northerly migrating component which is found in SA 3 and 4 during the warm months which moves south to overwinter, possibly as far south as SA 5 and 6 (ICNAF 1975). It is found in SA 5 and 6 throughout the year, but more predominantly in the warm months (Tibbetts 1975), suggesting that part of the overall stock(s) is residual to SA 5 and 6. Illex migrates to inshore waters in the spring and summer, but moves offshore in late autumn to overwinter (Tibbetts 1975).

Little is known concerning stock structure or relationships among possible stocks throughout the range. Consequently, the approach chosen by ICNAF in 1975 was to assess Illex as a single stock complex in SA 3-6, although separate OY's are imposed for SA 3 and 4 and for SA 5 and 6 to reduce the possibility of over-exploitation until stock boundaries can be determined with greater accuracy.

Long-finned squid are found primarily from Cape Hatteras to Corsair Canyon on Georges Bank (Tibbetts 1975) They migrate inshore and are found in harbors and estuaries (particularly in New England), in spring and summer and move offshore again in autumn, where they overwinter at the edge of the continental shelf. This species is considered to constitute a unit stock in SA 5 and 6. There does not appear to be any commercially significant occurrence of this species north or south of the region.

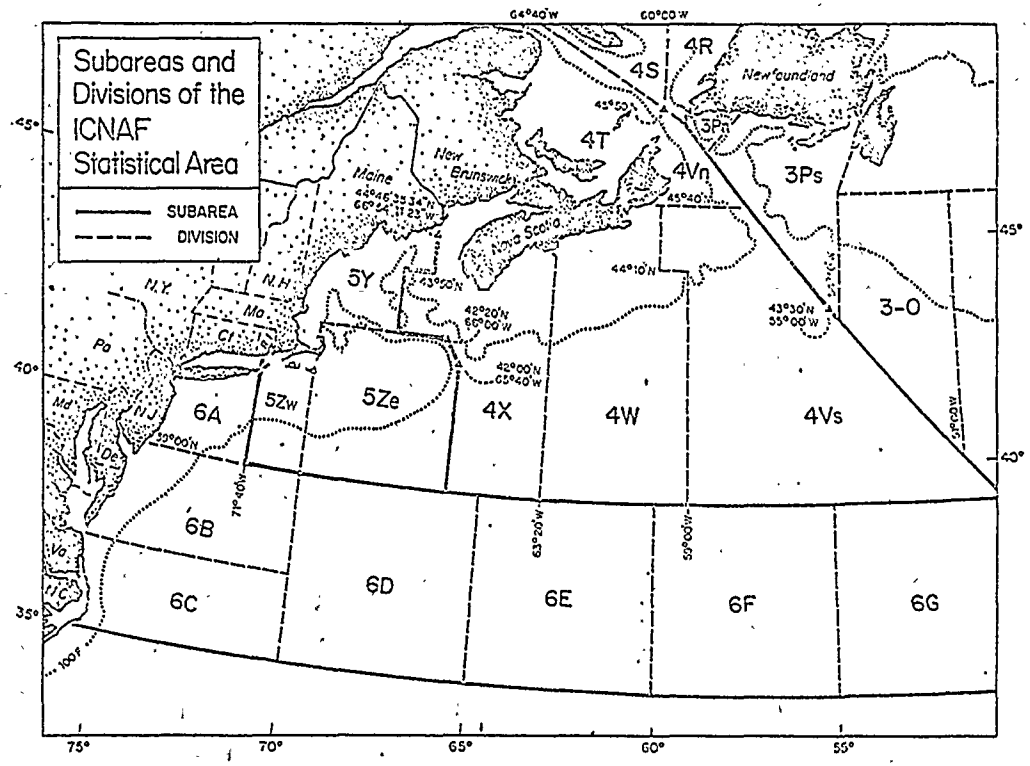

Figure 1. Northwest Atlantic from Cape Hatteras to Newfoundland, showing ICNAF Areas referred to in the Management Plan.

b. Statistical History of Exploitation

United States fishermen have landed squid at least since the late 1800's (Lyles 1968). Since 1928, landings have remained fairly constant at an annual average of about 1800 metric tons (Table 1), indicating stable market conditions. The relative proportions of the total landings contributed by Loligo and Illex are unknown as until recently no distinction was made between the two; however, species distributions indicate that Loligo has contributed the major portion of the USA catch, especially south of Cape Cod.

The distant-water fishing for squid in SA 5 and 6 was initiated in 1964 with a small incidental catch by the Union of Soviet Socialist Republics (USSR). Distant-water fleet catches remained low until 1967 and have since risen dramatically as a result of increased fishing effort and increased abundance while the USA catch has remained constant. Landings by all nations peaked at 56,800 tons[1] in 1973 and have since declined (Table 2). Estimated landings of Loligo rose from 1,700 tons in 1967 to 42,900 tons in 1973. Japan, Spain, and the USSR have taken the bulk of the catch in recent years (averaging 13,400, 7,000 and 3,600 tons, respectively, since 1970) (Table 11). Bulgaria, France, the Federal Republic of Germany (FRG), Italy, Poland, Romania, the German Democratic Republic (GDR), Cuba, and the USA have landed smaller amounts. Estimated Illex landings rose from 1,000 tons in 1967 to 20,500 tons in 1974. Japan, Spain, Poland, and the USSR appear to have accounted for most of the landings in recent years (averaging 2,300, 4,000, 3,700, and 3,600 tons, respectively, since 1972)(Table 3). Smaller amounts have also been landed by Canada, Bulgaria, the FRG, Italy, Romania, USA, GDR, and Cuba.

[1]Tons in this Plan refers to metric tons.

Table 1. United States historical squid landings[a] for the New England and mid-Atlantic areas in metric tons, 1928-1963.

Year	Area: New England	Area: Middle Atlantic	Total
1928	3,596	(b)	3,596
1929	2,561	409	2,970
1930	2,497	805	3,302
1931	1,275	995	2,270
1932	1,411	998	2,409
1933	488	359	847
1934	(b)	(b)	(b)
1935	1,607	1,099	2,706
1936	(b)	(b)	(b)
1937	1,495	1,067	2,562
1938	977	928	1,906
1939	1,089	1,497	2,586
1940	795	1,188	1,983
1941	(b)	(b)	(b)
1942	494	327	821
1943	473	494	967
1944	434	407	841
1945	749	563	1,312
1946	476	(b)	476
1947	748	333	1,032
1948	1,168	832	2,000
1949	2,102	950	3,053
1950	636	421	1,057
1951	1,824	676	2,500
1952	369	527	896
1953	2,041	438	2,479
1954	1,194	404	1,598
1955	1,182	629	1,811
1956	865	464	1,329
1957	2,017	641	2,658
1958	1,165	735	1,900
1959	1,069	495	1,564
1960	948	549	1,497
1961	554	801	1,355
1962	1,124	907	2,032
1963	1,217	757	2,105

a - Source: Lyles 1968.
b - Landings not reported.

Table 2. Annual squid landings in metric tons, by country for SA 5 and 6, 1963-1975.

Areas	Year	Canada	Bulgaria	France	Federal Republic of Germany	Japan	Italy	Spain	Poland	Romania	USSR	USA	German Democratic Republic	Total
5 and 6	1963											2,105		2,105
	1964										4	929		933
	1965										176	1,154		1,330
	1966										389	1,173		1,562
	1967					6					833	1,829		2,662
	1968					1,731					3,176	1,762	10	6,679
	1969					7,122					1,343	1,451	1	9,924
	1970					13,639		4,510			655	1,061	20	19,885
	1971	1	90			10,602		4,187			6,133	1,182		22,210
	1972		499	295	463	18,691	3,200	11,859	5,428	67	6,976	1,214	14	43,707
	1973		410	820	1,641	15,526	3,165	14,932	9,159	150	8,977	1,635	313	56,763
	1974	27	592			16,820	4,260	16,144	6,709	9	8,455	2,422		55,528
	1975[a]		198		22	14,327	4,231	8,504	6,815	8	8,001	1,700	853	44,725
5	1963											1,210		1,210
	1964										4	189		193
	1965										176	387		563
	1966										341	193		534
	1967										330	913		1,243
	1968					112					2,415	903	10	3,440
	1969					3,724					1,182	739	1	5,645
	1970					5,363					655	433	20	6,501
	1971	1	80			4,661		255			5,659	711		11,358
	1972		480	6	63	7,852		5,797	5,042	23	6,331	459	14	26,133
	1973		395	403	136	5,811		10,147	9,157	18	8,631	873	313	35,161
	1974	3	196			7,267	1,010	7,448	6,229	2	5,612	1,117		28,884
6	1963											895		895
	1964											740		740
	1965											767		767
	1966										43	985		1,028
	1967					6					503	916		1,425
	1968					1,619					761	859		3,239
	1969					3,393					153	722		4,273
	1970					8,276					-	578		8,854
	1971		10			5,941		3,941			479	471		10,842
	1972		19	290	400	10,829	3,200	6,053	835	39	595	743		22,569
	1973		14	417	1,505	9,715	3,165	4,765	42	132	345	762		20,492
	1974	24	396			9,553	3,250	8,696	480	7	2,833	1,305		26,594

[a]Preliminary figures.

Table 3. Estimated[a] species breakdown of squid landings in ICNAF SA 5 and 6, 1963-1975.

Year	Canada	Bulgaria	France	FRG	Japan	Italy	Spain	Poland	Romania	USSR	USA	GDR	Cuba	Total
							Loligo							
1963											1,294			1,294
1964											572			576
1965										99	709			803
1966										226	722			948
1967					5[b]					548	1,125			1,678
1968					177[b]					2,184	1,083	5		3,449
1969					7,125[b]					1,080	893			9,103
1970					13,557		4,483			482	652	10		36,184
1971		50			10,528		1,881			3,561	727			16,747
1972		254	296	463	17,102	2,928	8,165	2,754	33	4,045	742		7	36,789
1973		410[b]	820	1,639	14,396[b]	2,994	11,145[b]	5,134	139[b]	5,000	1,100	163		42,940
1974		300	27		13,493[b]	3,280[b]	9,375[b]	1,653	-	4,485	2,141	-		34,754
1975	-	74			10,746	3,390	8,090	3,785[b]	-	4,295	1,593[b]	620[b]		32,593
							Illex							
1963											810			810
1964											358			358
1965										78	444			522
1966										118	452			570
1967					2[b]					286	704			992
1968					1,655[b]					1,052	678	5		3,390
1969					586[b]					260	562	1		1,409
1970					82		27			174	408	10		701
1971	1	40			48		2,317			2,578	455			5,439
1972		245			1,589	272	3,694	2,674	33	2,927	472		7	11,913
1973		-			1,009[b]	171	3,784[b]	4,070	-	3,976	530	156		13,696
1974		293			3,327[b]	980[b]	6,769[b]	5,052	9	3,945	148			20,523
1975		120	66		3,237[b]	844[b]	1,998	3,051[b]	48	3,706	107[b]	278[b]		13,255

Source:
a - Tibbetts 1976. If not reported by species; the estimate is 60% of the April through September catches of Illex in the offshore fishery of Japan, Spain, Italy, and 50% of the April through September catches of Illex in the shelf fishery of the remaining countries.
b - As reported to ICNAF.

c. Significance of Historic Domestic Fishery

The USA squid fishery has traditionally been incidental in nature, the catch being taken primarily in otter trawling directed towards groundfish species. However, squid have also been taken for some time in traps in Massachusetts waters. In 1974 and 1975, some 35-40 small and medium otter trawlers from Massachusetts ports conducted a short-term directed fishery for Loligo on spring spawning concentrations near Nantucket. Catches were processed for export. Loligo has comprised 86% of the USA squid catch in recent years.

Most recent developments in this fishery are best illustrated by landings in Massachusetts and Rhode Island, which account for 95% of the total squid landings in New England (Table 4). In general, prices were substantially higher in Rhode Island and compared somewhat favorably with groundfish prices from 1971-1974, although historical prices for squid have been substantially less than for finfish. Squid have been utilized both for food and for bait in recent years. It is likely that some of the squid used for bait does not enter the recorded statistics. The total value of the New England squid catch by year is given in Table 5.

Table 4. Landings, value, and ex-vessel price data for the USA (Massachusetts and Rhode Island) squid fishery, 1971-1974.

	Massachusetts			Rhode Island		
Year	Quantity (1,000 lbs)	Value ($1,000)	Ex-vessel price/lb (¢)	Quantity (1,000 lbs)	Value ($1,000)	Ex-vessel price/lb (¢)
1971	979(444)[a]	76	7.8	703(319)	128	18.2
1972	688(312)	85	12.3	750(340)	134	17.9
1973	921(418)	142	15.5	1,621(735)	361	22.3
1974[b]	1,224(555)	221	18.0	784(356)	179	22.8

[a]Volumes in parentheses are in terms of metric tons.
[b]January through August only.

Table 5. Value of New England squid landings.

Year	Value ($1,000)
1964	58
1965	81
1966	54
1967	101
1968	120
1969	202
1970	159
1971	220
1972	220
1973	508
1974	532
1975	354

As indicated by the table, squid have not historically been of great economic significance, but it is clear that the value of the catch has increased considerably in recent years.

There are no published studies on the relationship of the ex-vessel squid price to landings, income, prices of other products, etc. However, a recent unpublished NMFS study estimated that the price of squid is inelastic. Current markets for squid are rather small; consequently, when landings are low, the price is high and when landings increase, the market is saturated.

Table 6 contains data on the value of the squid catch in Massachusetts and Rhode Island as a percentage of the value of the total states' catches. It can be seen from the table that the squid catch in Massachusetts constitutes less than one percent of the total value of the state catch, while in Rhode Island it has constituted from 1-2% of the total.

Table 6. Values of squid catches in comparison to total landed values in Massachusetts and Rhode Island, 1971-1975.

	Massachusetts			Rhode Island		
Year	Total fish and shellfish ($1000)	Squid	%	Total fish and shellfish ($1000)	Squid	%
1971	48,348	76	(1)	12,552	128	1
1972	56,757	85	(1)	12,592	134	1
1973	56,226	143	(1)	14,953	361	2
1974	50,712	241	(1)	15,866	285	2
1975	65,738	19	(1)	18,796	333	2

(1) = less than one percent

The aggregate impact of the 1975 New England catch of squid on the New England region is presented in Table 7. These results indicate that the total New England 1975 squid catch of $354,000 had an aggregate impact on the region of over $1 million. Of this amount, approximately $416,000 constitutes payments to the household sector.

A number of firms in the New England region process at least some squid. Processes of evisceration and skinning are usually done manually.

A very small domestic food market exists, concentrated among a few ethnic groups. However, squid is very popular abroad; the European market for example is estimated to approximate 113,000,000 lbs. The principle product is whole squid (eyes removed). Other potential squid products include breaded rings, chunks, minces and squid fillets and blocks.

Squid are also extensively used as bait in northeastern USA recreational fisheries. However, it appears that although Loligo and Illex are purchased in quantity in a few localities for this purpose, the primary source of bait squid used in the northeast has been the west coast. Consequently, the potential for a much larger bait fishery is obviously on the east coast.

Table 7. Aggregate impact of the 1975 squid catch on the New England region.

Sector	Impact per dollar of output	Aggregate impact
Fish catching	1.00713	$ 356,624
Fish processing	.00039	138
Fish forzen processing	.00002	7
Fish wholesale & jobbing	.00117	414
Ship and boat buidling	.00187	662
Marinas & yards	.05713	20,224
Marine wholesale & retail	.03010	10,655
Marine manufacturing	.01862	6,591
Construction, towing, agent	.10111	35,792
Research and education	.00003	28
Marine military	.00094	333
Charter fishing	.00001	4
Other marine	.00218	772
Other economic activities	.45690	161,742
Households	1.17623	416,385
State and local government	.10696	37,864
TOTAL	2.96031	$ 1,048,134

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Types and Numbers of Vessels Employed

(1) Domestic - Table 8 contains data on the number of USA vessels which recorded some squid landings in 1965, 1970, and 1975, and those vessels whose squid catch was 50% or more of their total catch. It can be seen that the small number of "directed" squid vessels reflect the generally undeveloped state of the fishery. On the other hand, there is a large and growing number of vessels which recorded some squid landings.

Table 8. Number of vessels in the squid fishery.

Year	Number of vessels landing some squid	Number of vessels whose total catch was 50% or more squid
1965	122	3
1970	152	7
1975	208	3

(2) Foreign Vessels - In 1961, Soviet fleets made their appearance on Georges Bank, 150 mi east of Boston. The number of vessels observed on the grounds at any one time was about 50. However, for the year the Soviet expedition totaled 100 individual vessels. In subsequent years, 300-400 different Soviet vessels fished seasonally on Georges Bank, primarily for herring. By 1965 during peak fishing seasons (summer and fall) 200-250 Soviet vessels were fishing for herring, red and silver hake, haddock, and cod on Georges Bank and in southern New England. During that year more than 450 individual vessels were sighted. Beginning in 1966 and continuing into the early 1970s, Soviet fleets were joined each year by increased numbers of vessels from Poland and Romania, followed closely by East and West Germany and Japan. Other nations

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followed to include Bulgaria, Spain, France, Greece, and Italy. Most recently nations such as Cuba, South Korea, and Ireland have been represented. During this period 900-1000 foreign vessels annually fished in international waters off the USA East Coast from the southern tip of Nova Scotia to Cape Hatteras. Depending on the season, fleets of 250 to 300 vessels could be found at one time, whether it be off North Carolina-Virginia in winter or on Georges Bank during the summer.

In most recent years the annual number of foreign vessels has declined from 950 in 1971 to under 800 in 1975 (Table ~~17~~ 9). It can reasonably be assumed that foreign fleets have dwindled even more during 1976 in response to greatly reduced fish stocks and increasingly more stringent catch restrictions, such as low quotas, closed areas, etc. Despite these restrictions, at peak seasons (winter and spring), 1975-1976, 200-250 vessels were observed at one time on the fishing grounds. However, during other times of the year activity has been at its lowest level in many years.

It is difficult to make an accurate evaluation of actual numbers and types of vessels involved in the squid fishery, as such evaluations must be based on surveillance data collected for approximate numbers of vessels fishing a variety of species. However, Spain and Japan have fished squid extensively off New England and the mid-Atlantic states in recent years using both stern and side trawlers.

Fishing operations have been conducted chiefly in deeper water along the edge of the continental shelf during cooler months. "Days fished" data as reported to ICNAF for 1974 (Table ~~18~~ 10) indicate the relative amount of fishing pressure exerted by foreign nationals (note that these data do not take fishing power into account).

Table 9. Numbers of foreign fishing vessels sighted in SA 5 and 6 by type, 1971-1975[a].

Year	Type vessel	Country								
		USSR	Poland	GDR	FRG	Japan	Spain	Bulgaria	Romania	Italy
1971	Stern	186	40	28	26	17	4	11	8	1
	Side	359	57	24		18	34			1
	Support	105	20	8	7			2		
	Total	650	117	60	33	35	38	13	8	2
1972	Stern	211	50	33	18	19	7	11	7	4
	Side	379	59	26		24	47			1
	Support	90	14	9	4	1		2	1	
	Total	680	123	68	22	44	54	13	8	5
1973	Stern	207	50	32	19	18	36	11	7	14
	Side	234	19	29		22	25/52			2
	Support	67	18	7		1		2	1	
	Total	508	87	68	19	41	113	13	8	16
1974	Stern	218	46	23	17	21	57	13	4	11
	Side	144	14	29		30	28/58			
	Support	81	16	7	4	2		4	2	
	Total	443	76	59	21	53	143	17	6	11
1975	Stern	252	37	22	18	15	38	16	2	8
	Side	145	12	20		6	12/70			
	Support	81	16	5	5	5	-	3		
	Total	478	65	47	23	26	120	19	2	8

[a]In addition, small numbers (<10) of stern trawlers belong to France, Cuba, South Korea, Ireland, and Greece have been observed in SA 5 and 6 in recent years.

Table 10. 1974 days fished as reported to ICNAF.

Country	Cod	Haddock	Redfish	Silver hake	Red hake	Pollock	Flounder	Ground-fish	Herring	Mackerel	Pelagic	Other fish	Squid	Total
Bulgaria				55						712				767
Canada	310	91	13			553		148	0				9	1,124
Denmark														
France	3								65					68
FRG									616					616
Iceland														
Italy[a]													0	
Japan								3	147		362		1,902	2,649
Norway														
Poland	6								1,241	3,500		5	423	5,175
Portugal														
Romania									178	345				523
Spain	419												2,378	2,797
USSR				6,804	2,412		18	304	3,012	4,045		1,317	435	18,347
UK		11												11
USA	5,898	77	770	924	106	1,145	13,365	7,051	222	541	574	1,276	1,805	33,754
GDR	2								936	1,392	8	458		2,797
Other														

[a]No reporting of effort units.

e. Types and Numbers of Fishing Gear Employed

In the USA fishery, gear used to harvest squid includes trap nets and otter trawls. Foreign nationals harvest squid with demersal trawling gear (Table 11).

f. Historical Impacts of Foreign Fishing on Domestic Fishery

(1). Competition for Available Stocks

United States and foreign landings data for Loligo and Illex in SA 5 and 6 are given in Tables 12 and 13, respectively. While total USA landings show no trend, USA landings, in terms of percentage of the total, for both species have declined from 100% in 1963, prior to the introduction of the foreign fishery, to 5% and 1% for Loligo and Illex, respectively, in 1975. The foreign fishery on these species has increased rapidly in recent years, primarily as a result of catches by Japan, Spain, the USSR, and Poland.

The problems of by-catch in those fisheries for other species of interest to USA fishermen (e.g., butterfish), present another level of competition for available resources (see II.C.1.f.(3)).

(2) Gear Conflicts

Previous to 1961; USA fishermen shared the fisheries on Georges Bank only with Canada. In 1961, the USSR arrived with a large fleet of herring drifters that caused numerous complaints from USA fishermen alleging that they were being driven from this historical fishing area on the bank. In 1962, the number of USSR herring drifters increased to approximately 300 individual vessels; these were augmented by a fleet of factory stern trawlers and some medium trawlers, also from the Soviet Union. During this period a number of USA trawlers were fouled by running into set gill net or hauling their trawls through discarded netting, consequently fouling their propellers

Table 11. Gear types by fishery as reported to ICNAF, 1974[a]

Country	Cod	Haddock	Redfish	Silver hake	Red hake	Pollock	Flounder	Ground-fish	Herring	Mackerel	Pelagic	Other flounder	Squid
Bulgaria				MT						MT			
Canada	BT/LL	BT	BT			BT		LL	MT/PS				BT
Denmark													
France	BT								BT				
FRG									MT				
Iceland													
Italy													
Japan								BT	BT		BT		BT
Norway													
Poland	BT								BT	BT		BT	BT
Portugal													
Romania									MT	MT			
Spain	PT												BT
USSR				BT/MT	BT/MT		BT	BT/MT	BT/MT/PS	BT/MT		BT/MT	BT
UK		BT											
USA	BT/SS/GN LL/HL/MSC	BT/LL	BT/GN	BT	BT	BT/GN/LL MSC	BT/SS/GN FOT	BT/MPT/BS/MS/ SN/LL/TP/MSC	BT/MT/PTM PS/TP	BT/BS/PS GN/HL/TP	BT/BS/PS/GN/ HL/TP/MSC	MT/EG/GN/LL HL/TP/MSC	BT/TP
GDR	BT								BT/MT	BT/MT	BT	BT	BT
Other													

[a]BT = bottom trawl, PT = pair trawl, PS = purse seine, SS = scottish seine, LL = long line, TP = trap, MSC = miscellaneous, MT = midwater trawl, MPT = midwater pair trawl, BS = beach seine, GN = gill net, HL = hand line, FOT = pot.

Table 12. USA and foreign landings of Loligo for SA 5 and 6, expressed as relative percentages of the total quantity landed, 1963-1975.

Year	USA landings (metric tons)	Percent of total USA landings	Foreign landings (metric tons)	Percent of total foreign landings	Total landings (metric tons)
1963	1,249	100	0	0	1,249
1964	572	100	4	0	576
1965	709	88	99	12	803
1966	722	76	226	24	948
1967	1,125	67	553	33	1,678
1968	1,083	31	2,366	69	3,449
1969	898	10	8,205	90	9,103
1970	652	2	35,532	98	36,184
1971	727	4	16,020	96	16,747
1972	742	2	36,047	98	36,789
1973	1,100	3	41,840	97	42,940
1974	2,141	6	32,613	94	34,754
1975	1,593	5	31,001	95	32,594

Table 13. USA and foreign landings of Illex squid for SA 5 and 6 expressed as relative percentages of the total quantity landed, 1963-1975.

Year	USA landings (metric tons)	Percent of total USA landings	Foreign Landings (metric tons)	Percent of total foreign landings	Total landings (metric tons)
1963	810	100	0	0	810
1964	358	100	0	0	358
1965	444	85	78	15	522
1966	452	79	118	21	570
1967	704	71	288	29	992
1968	678	20	2,712	80	3,390
1969	562	40	847	60	1,409
1970	408	58	293	42	701
1971	455	8	4,984	92	5,439
1972	472	4	11,441	96	11,913
1973	530	4	13,166	96	13,696
1974	148	1	20,375	99	20,523
1975	107	1	13,148	99	13,255

and necessitating towing back into port. A USA scalloper was run into on the "Northern Edge" of Georges Bank by a Soviet drifter that left the scene in heavy fog without identifying itself and ascertaining damage or injury to personnel.

In 1971, a USA trawler was rammed and sunk on the western side of Georges Bank in the "Great South Channel" by a trawler from Poland. The crew of six was saved, however, all else was lost.

In 1972, a USA trawler was rammed and sunk by a trawler from the GDR. That same year a small USA trawler was lost with its crew of three, allegedly to fishing activity by the FRG in the Gulf of Maine.

In 1968, the offshore lobster pot fishery began to expand. Along with the increase in fixed gear came complaints of gear losses attributed to foreign fishing activity. Table 14 displays by year and country the number of known gear conflicts.

Table 14. Gear conflicts reported by USA fishermen, by year and country.

Country	Year 1968	1969	1970	1971	1972	1973	1974	1975
USSR	2	20	22	18	20	3	3	23
Japan		1	3	3	4	3	3	
GDR				1	3	1	1	
Poland			1	1	7	2	3	
Italy						1	1	
Spain	1				3	4	2	2
Bulgaria					2			
Unknown	3	8	14	10	9	22	34	2

In the year 1974 a total of 17 losses of bottom gill net gear was reported. This loss was blamed primarily on trawlers from the FRG and a trawler from Ireland.

There were two cases of lost longline gear attributed to Japanese activity in 1975.

(3). Nontarget Species Mortalities

Fisheries (main species sought category) in which squid were caught in SA 5 and 6 are presented in Table 15 by country. A total squid catch (Illex and Loligo) of 55,277 tons was taken in 1974, of which 12,853 tons (approximately 23%) occurred as by-catch. A total of 88% of this by-catch occurred in a directed fishery for four other species categories: mackerel (41%), silver hake (25%), red hake (10%), and herring (12%); and 91% was taken by two countries: the USSR (55%) and Poland (36%). In fact, since catch by vessel class is summed by month in ICNAF statistics, some catch of squid that appears to be by-catch may have resulted from a directed fishery. Furthermore, the above figures must be regarded as tentative because squid are reported with other invertebrates in catch by gear tables, and for the USA in particular, invertebrates other than squid are taken as well; consequently, USA figures are not included. It is believed, however, that USA by-catch of squid is relatively minor since its total catch is only about 2,000 tons.

The squid fishery was difficult to identify under the ICNAF catch reporting scheme, since it occurs in a mixed fishery situation. A procedure was adopted of assigning a catch record to the squid fishery if the largest catch was of squid. A catch record lists the catches in a month by species, for a gear-tonnage class category in an ICNAF Division. The international

Table 15. By-catches (metric tons) (and by-catch ratios) of squid taken in 1974 in SA 5 and 6 in designated fisheries (main species sought category) by country[a]

Country	Main Species Sought						
	Silver hake	Red hake	Other groundfish	Herring	Mackerel	Other pelagic fish	Other finfish
Bulgaria	56 (0.034)				536 (.026)		
Canada			0 (0.00)	0 (0.00)			
France				0 (0.00)			
FRG				0 (0.00)			
GDR				0 (0.00)	0 (0.00)	0 (0.00)	0 (0.00)
Japan			1 (0.091)	11 (0.005)		623 (0.183)	
Poland				664 (0.020)	3904 (0.044)		0 (0.00)
Romania				2 (0.002)	7 (0.001)		
USSR	3162 (0.032)	1349 (0.090)	22 (0.040)	896 (0.025)	824 (0.010)	0 (0.00)	795 (0.039)
Total	3,218	1,349	23	1,573	5,271	623	796

[a]USA figures are not available as squid catches are combined with other invertebrates in distribution of catch by gear tables.

squid fishery thus defined had a reported by-catch of 15% of its directed catch in 1974. The predominant by-catches were of other finfish and mackerel representing 49% and 33% of the total by-catch, respectively. This by-catch accounted for 3% (3,421 tons) of the other finfish catch in 1974, and 1% (2,345 tons) of the mackerel catch in 1974. Table 16 lists the 1974 by-catches and by-catch ratios in the squid fishery for all countries combined and for individual countries. For certain fleets (e.g. Poland and the USSR) the by-catch rates are likely to be overestimated since the mixed fishery classification may result in several directed fisheries being lumped together. Conversely, in other fisheries (e.g. Spain and Italy) where catches other than squid are discarded, the ratio is underestimated. The overall effect of these errors cannot be determined.

(4) Economic Interactions - It is not known to what extent, if any, foreign fishing activities have impacted the domestic squid fishery, since the domestic fishery and the USA market are so small. The impact has probably been minimal. The foreign squid market represents a distinct opportunity for expanding the USA industry.

Table 16. By-catch ratios and catches (metric tons) in squid fishery for 1974 by countries.

Country	Main Species Sought														
	Cod	Haddock	Redfish	Silver hake	Red hake	Pollock	American plaice	Witch flounder	Yellowtail flounder	Other flounder	Herring	Mackerel	Squid	Other fish	Total
Total															
Ratio	0	0	0	0.011	0.007	0	0	0	0	0.004	0.009	0.057	1.000	0.084	1.172
Catch	15	5	0	436	296	0	0	0	4	151	351	2,345	40,842	3,421	47,861
Canada															
Ratio	0	0	0	0	0	0	0	0	0	0	0	0	1.000	0	1.000
Catch	0	0	0	0	0	0	0	0	0	0	0	0	27	0	27
Italy															
Ratio	0	0	0	0	0	0	0	0	0	0	0	0.099	1.000	0	4.680
Catch	0	0	0	0	0	0	0	0	0	0	0	420	4,260	0	1,099
Japan															
Ratio	0	0	0	0.005	0	0	0	0	0	0.004	0	0.004	1.000	0.179	1.193
Catch	0	0	0	104	0	0	0	0	0	72	0	62	16,185	2,835	19,309
Spain															
Ratio	0	0	0	0	0	0	0	0	0	0.002	0	0	1.000	0.003	1.010
Catch	0	0	0	0	0	0	0	0	0	37	0	0	16,144	127	16,308
USA															
Ratio	0.003		0	0.009	0	0	0	0	0.002	0.063	0	0.160	1.000	0.269	1.505
Catch	2		0	6	0	0	0	0	1	40	0	102	639	172	952
USSR															
Ratio	0.009	0.003	0	0.225	0.205	0	0	0	0.002	0.001	0.066	0.010	1.000	0.161	1.632
Catch	13	5	0	326	296	0	0	0	3	2	95	15	1,446	233	2,434
Poland															
Ratio	0	0	0	0	0	0	0	0	0	0	0.120	0.816	1.000	0.001	1.937
Catch	0	0	0	0	0	0	0	0	0	0	255	1,746	2,141	3	4,146

g. History of Regulation of Foreign Fisheries

Regulation of foreign fisheries along the USA coast of the Northwest Atlantic Ocean began in 1949 when the USA convened a conference of 11 countries at Washington, D.C. This conference resulted in the formation of ICNAF, and the USA Northwest Atlantic Fisheries Act of 1950 authorized USA involvement in the activities of the convention. The designated areas were the waters north of 39°00' north latitude and east of 71°40' west longitude. Commission regulations in the early 1950s evolved around the establishment of mesh regulations for certain directed groundfish fisheries, e.g. cod, haddock, with groundfish by-catch provisions for other small-mesh directed fisheries, e.g. silver hake, herring.

During the period from 1950 to 1957 little, if any, enforcement activity was deployed on United States vessels. An enforcement program was organized in 1957 composed of a two-man team effort to organize and activate a viable enforcement program to board and inspect, both dockside and at sea, in conjunction with the USA Coast Guard patrol vessels. The primary purpose was to coordinate a registration program of all USA commercial groundfish trawlers engaged in a directed fishery for haddock and cod. The minimum legal mesh size in effect was 4½ inches for all trawl gear on USA trawlers which were engaged in directed fishing for haddock and cod. Several USA masters were cited for alleged violations, prosecuted in USA Federal Court, and fined for violation of the rules and regulations under authority of the Northwest Atlantic Fisheries Act of 1950.

With the arrival of the distant-water fleets off the USA coast in the early 1960s much discussion was given to the possible extension of territorial waters. Failure to resolve this question through the International Law of the Sea Conferences led to the establishment of a contiguous fishing zone in late 1966 which bounded the entire USA coastline encompassing the waters lying between 3 and 12 miles offshore. Only Canada was authorized to fish within this zone under a reciprocal fishing agreement for the USA fishing industry in similar waters off Canada. However, many USA fishermen continued to complain about fishing conduct by foreign nationals on the high seas. These complaints ranged from infringements by foreign trawlers into the USA 12-mile contiguous fishery zone to harrassment on the high seas pertaining to rules of the road and fishing conduct. Many investigations were activated both dockside and at sea, but USA fishery agents had no authority to board foreign vessels on the high seas.

Prior to adoption of the ICNAF scheme of joint enforcement, each member nation was responsible for the conduct and minotiring of its vessel inspections on the high seas. There were a number of alleged violations reported by USA fishermen during 1966 and 1967; however, a lapse of 2-3 days after observations prevented any meaningful enforcement action. These allegations were for intrusions of the Contiguous Fishery Zone (CFZ) or within the 12-mile zone. Investigations were made by fisheries agents, often with negative results.

As the activity of the distant-water fleets increased, their operations began to expand to waters south of the convention area. Because of the overlap in fish stocks and the known migrations of commercially important species between the convention area and the waters to the south, ICNAF in 1967 adopted the responsibility for collecting statistics for the catches from these waters as far south as Cape Hatteras which was designated Statistical Area 6. Management of the fisheries within these waters, however, had to be accomplished

through a series of bilateral negotiations. These began in 1968 with the USSR and Figures 2-4 indicate the current status of the major country agreements.

Fishery management zones were instituted by ICNAF in 1969 due to the haddock crisis generated by the extremely large catch of haddock by the USSR in 1965. The poor recruitment anticipated in the haddock fishery as indicated by groundfish surveys conducted by scientific personnel from Woods Hole and joint surveys with foreign research vessels was instrumental in adopting seasonal closures. Areal and seasonal zones have periodically been modified and supplemented to protect other species in addition to haddock. These are shown in Figures 5-9.

The haddock management zones were augmented in 1970 with the establishment of TACs for certain haddock stocks considered to have been overfished, and this began the present-day concept of management under an allowable quota system. There are presently 20 species-stocks under a nationally allocated framework of total allowable catches. Table 17 gives the allocations for calendar year 1976.

Unquestionably, problems encountered within the above management framework were instrumental in formulating an International Inspection Scheme approach to these problems, but progress has been slow. On August 11, 1971, the President signed an amendment (P.L. 92-87) to the Northwest Atlantic Fisheries Act of 1950, which authorized national and international measures of control on the high seas adopted under the Convention and supposedly made possible the adoption of the International Inspection Scheme on the high seas under ICNAF. During the latter part of August 1971, an inspection boarding team from the USA attempted to board USSR vessels. The USSR masters refused to permit inspectors to board After a series of diplomatic notes, the USSR advised the

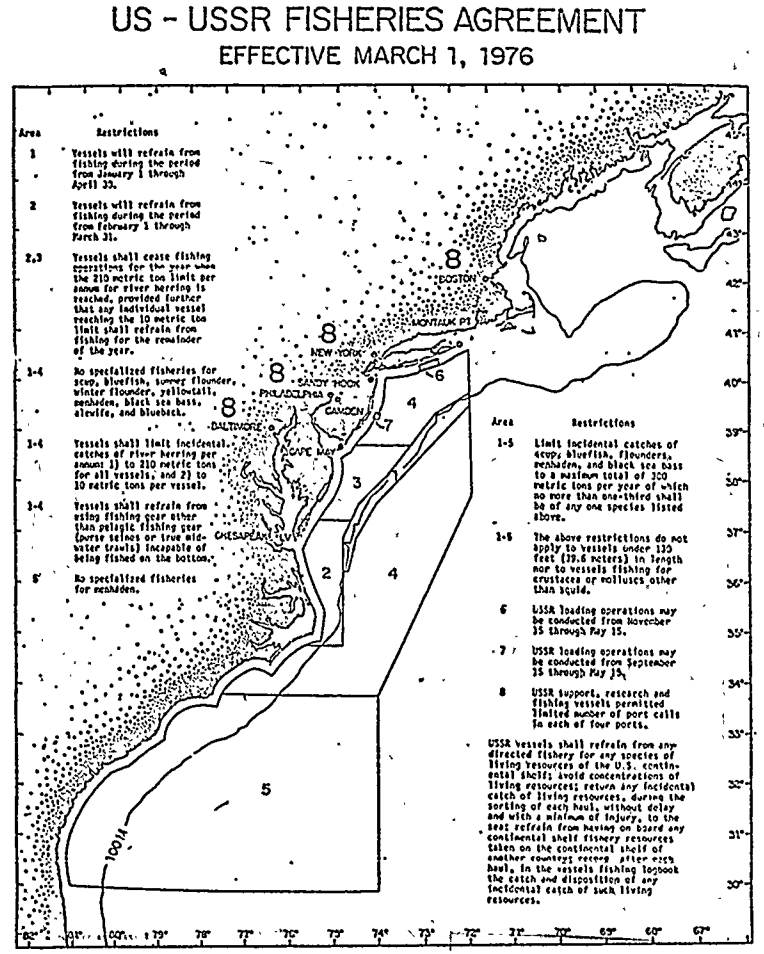


Figure 2. USA-USSR Fisheries Agreement, 1976.

US - POLISH FISHERIES AGREEMENT
EFFECTIVE MAY 29, 1975

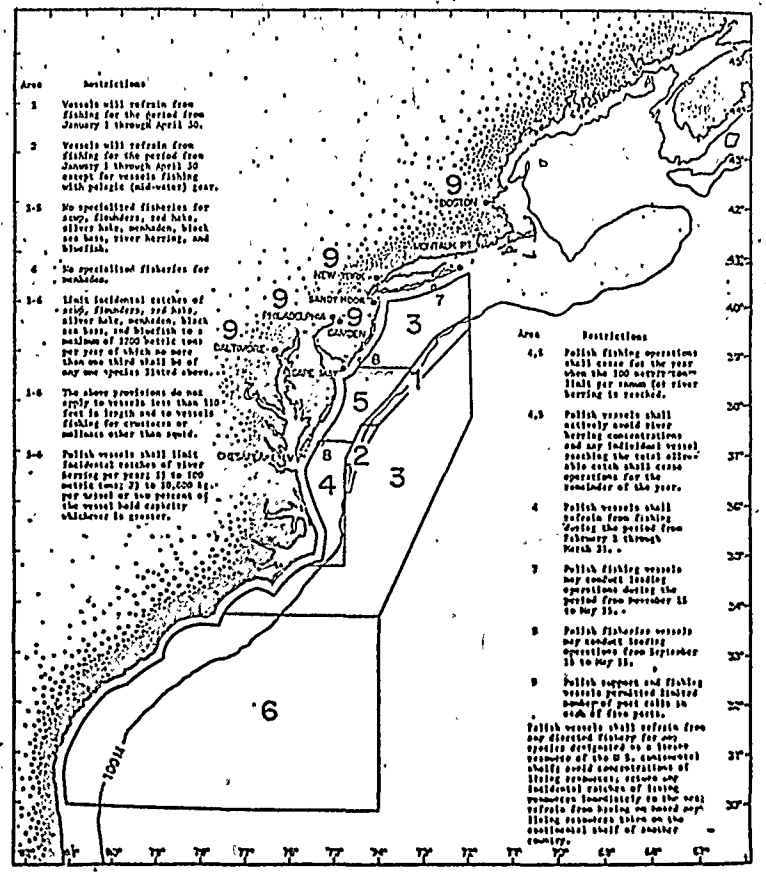


Figure 3. USA-Polish Fisheries Agreement.

US - ROMANIA FISHERIES AGREEMENT
EFFECTIVE NOVEMBER 21, 1975

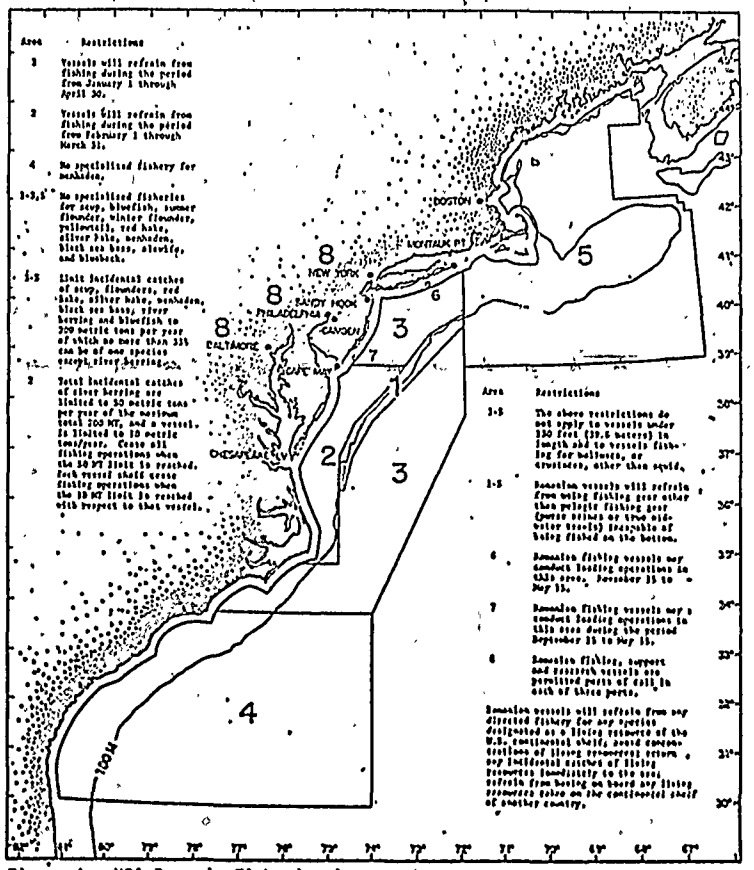


Figure 4. USA-Romania Fisheries Agreement.

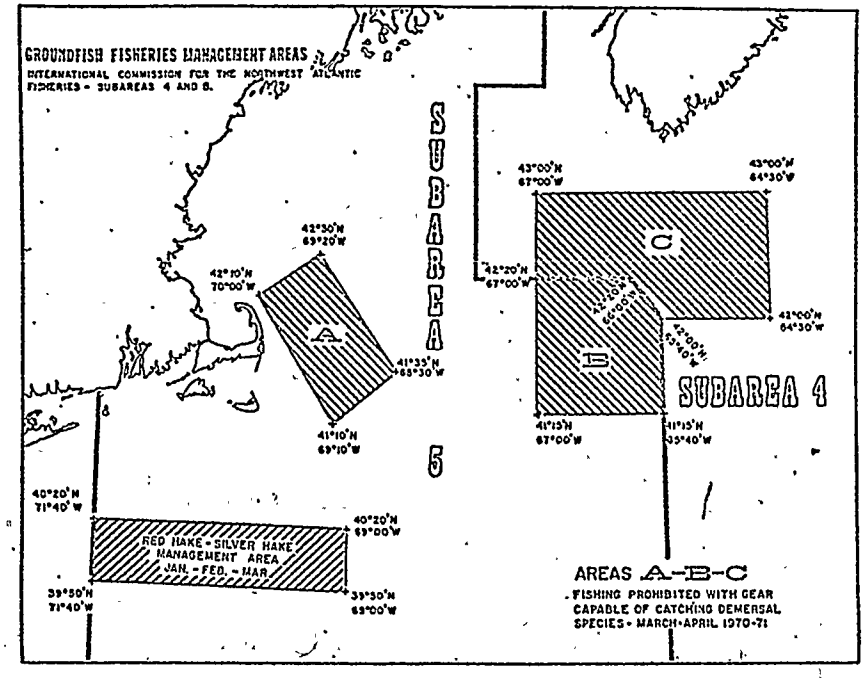


Figure 5. ICNAF Conservation Areas, 1970-1971.

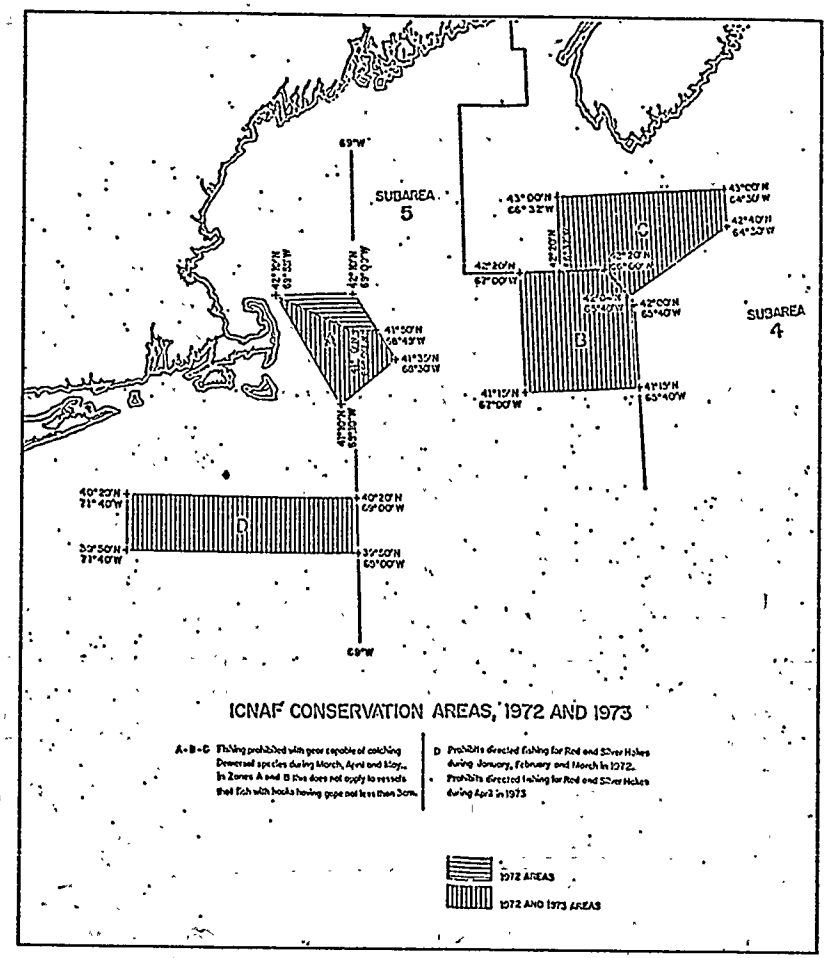


Figure 6. ICNAF Conservation Areas, 1972 & 1973.

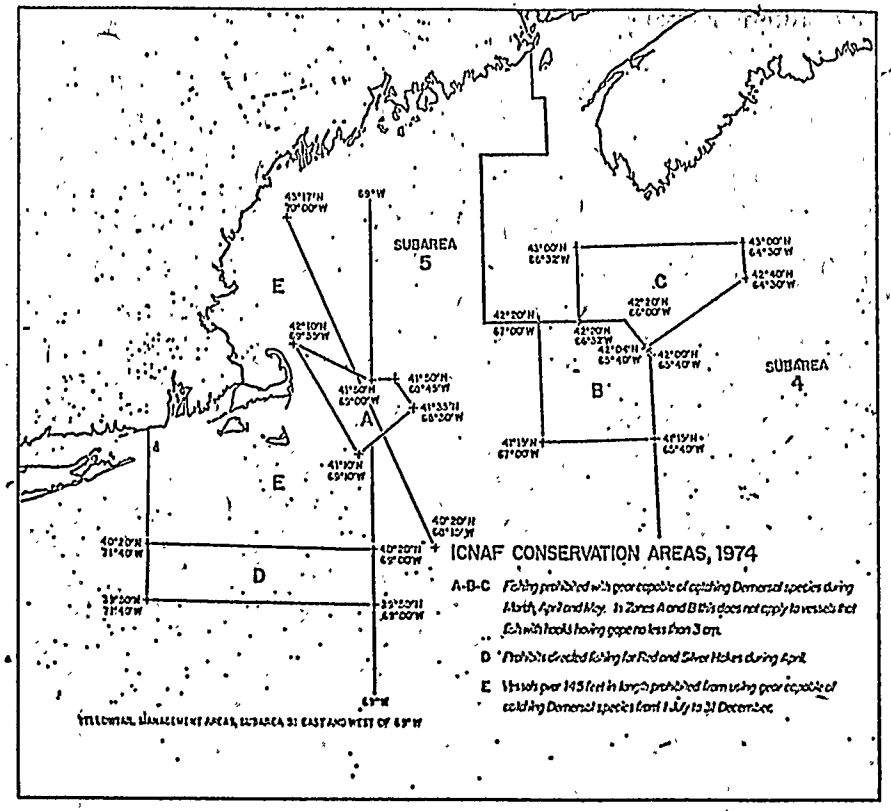


Figure 7. ICNAF Conservation Areas, 1974.

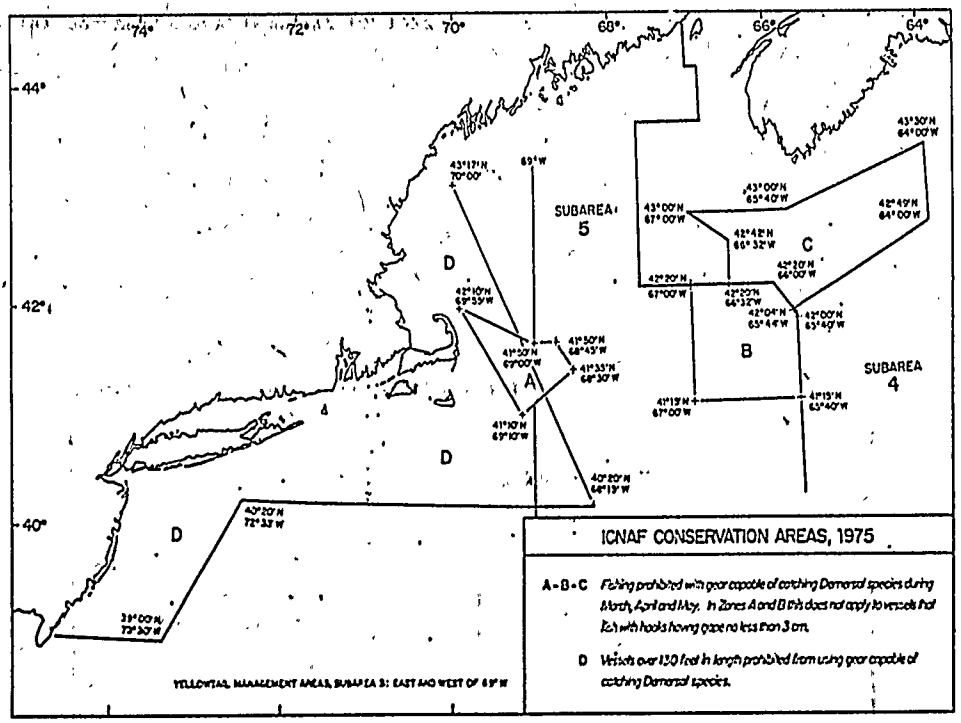


Figure 8. ICNAF Conservation Areas, 1975.

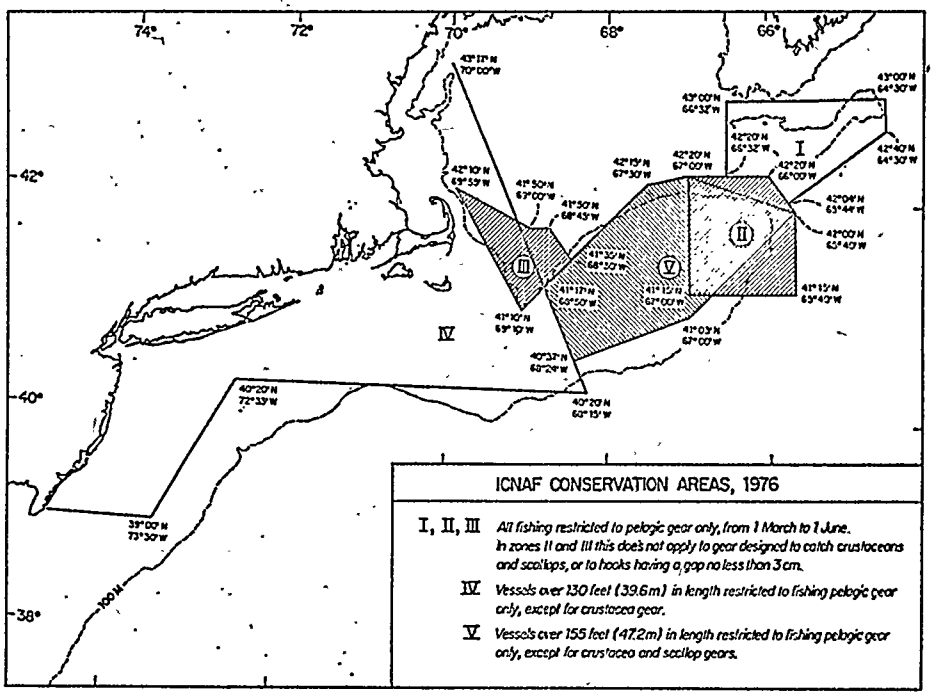


Figure 9. ICNAF Conservation Areas, 1976.

Table IV Total Allowable Catches (metric tons) for 1976.

Stock	COD 5Y	COD 5Z	HADDOCK 5	RED-FISH 5	SILVER HAKE 5Y	SILVER HAKE 5Z+6	SILVER HAKE 5Z+6	RED HAKE 5Z+6	RED HAKE 5Z+6	POLLOCK 4VWX+5	YELLOWTAIL FLOUNDER 5(169°)	YELLOWTAIL FLOUNDER 5(169°)	OTHER FLOUNDERS 5+6	Squid (Illex) 5+6	Squid (Loligo) 5+6	HERRING 5Y	HERRING 5Z+6	MACKEREL 5+6	OTHER FINFISH 5+6	Second Tier	TOTAL TAC
BULGARIA						100											900	15300	4000		14400
CANADA	175	4519	1200							33500						950	1000	4400			18000
CUBA		400				250		1400	900	1200					1000		1000	7000	3000		21000
FRANCE																	1100				2150
FRG										1600					1000		9200	1200			14100
GDR										385							9300	49900	3000		49750
ITALY														1000	3300						6900
JAPAN															15700		1100				18000
POLAND		457												5000	1700		11000	78300	10000		76500
PORTUGAL																					
ROMANIA				343													800	3200			3950
SPAIN		6645	300							1200				5000	8800						16000
USSR		2314		1438		36400	30000	19000	9000	2100				7500	2000		12190	88000	50000		177250
USA	7850	20000	4450	13000	9500	8500	9000	1000	6000	11500	15900	3990	19500	7500	8500	6000	12400	4700	69000		217000
OTHER	25	665	50	2219	500	4250	4000	4600	100	400	100	10	500	4000	2000	50	10	2000	12000		1600
TAC	8000	35000	6000	17000	10000	50000	43000	26000	16000	55000	16000	4000	20000	30000	44000	7000	60000	254000	150000		650000

*By-catch only with no directed fishery.

USA that they were ready to accept inspection schemes, but the inspection would be limited to the main fishing deck only. Since implementation of the ICNAF inspection scheme, 57 boardings were made on foreign vessels between August 30, 1971 and November 1, 1972. Five violations were recorded for refusal to accept boarding inspection teams. The reservation concerning below-deck inspection was lifted by the USSR in November 1973, thus enabling the international inspection scheme to gain a better insight regarding fish species composition below deck. The large catches of demersal species taken as by-catch by foreign nationals was finally documented and was instrumental in leading to ICNAF adoption of additional controls such as prohibiting vessels in excess of 130 ft to use demersal gear except in restricted zones. Most recently, the ICNAF 155-ft rule was impelmented in the Georges Bank area to reduce the by-catch of groundfish by large foreign trawlers. Only true pelagic gear was allowed for vessels exceeding 155 feet in length.

The past two years have shown remarkable progress and improvement by all foreign nationals in adhering to the ICNAF regulations (Table 18). The additional increase in manpower and funding for NMFS has created an atmosphere of cooperation by exerting increased pressure on the other nations in our accelerated high seas boarding programs in cooperation with the USA Coast Guard.

Table 18. Summary of alleged violations by foreign nationals, 1971-1976

1971	1972	1973	1974	1975	1976
5	8	27	98[a]	24	36[a]

[a]Mostly logbook discrepancies.

h. History of Cooperative Research, Conservation, Management, and Data Exchange

Management of squid in ICNAF SA 5 and 6 began in 1974, when the ICNAF Standing Committee on Research and Statistics (STACRES) recommended a preemptive Total Allowable Catch (TAC), of between 50,000 and 80,000 tons for this stock. This was based on a 1973 assessment of the Loligo stock by Japanese scientists. The TAC set for both species (Loligo and Illex) was 71,000 tons for both 1974 and 1975.

Based on updated assessments for Loligo by Japanese scientists and estimates of stock biomass from USA research vessel surveys, separate TACs were set by species (30,000 tons for Illex and 44,000 tons for Loligo) for 1976. Cooperative research on these stocks has involved research vessel surveys (Table 19) and assessment studies and related work by USA, Canadian, French, Japanese, Spanish, and USSR scientists. In addition, Japan, Poland, the USA, and the USSR have reported length-frequency and age sampling data to ICNAF in recent years (Tables 20 and 21).

Table 19. Summary of cruises by nation and year providing data of potential value for squid in SA 5 and 6, 1969-1974.

Nation	Year	Vessel	General Objective(s)
USSR	1969	Ekliptika	Groundfish survey
	1970	Kvant	Groundfish survey, gear comparison
	1971	Blesk	Groundfish survey, gear comparison
	1972	Blesk	Groundfish survey, gear comparison
	1973	Belogorsk	Groundfish survey, gear comparison
	1974	Belogorsk	Groundfish survey, gear comparison
	1975	Belogorsk	Groundfish survey, gear comparison
France	1973	Cryos	Squid survey
	1974	Cryos	Squid survey
	1975	Cryos	Squid survey
FRG	1973	W. Herwig	Fish survey
GDR	1975	Ernst Haeckel	Fish survey
Poland	1973	Wieczno	Fish survey
USA	1969	Albatross IV	Groundfish survey (3)
	1970	Albatross IV	Groundfish survey (4), plankton
	1970	Delaware II	Groundfish survey, gear comparison
	1971	Albatross IV	Groundfish survey (2), gear comparison
	1972	Albatross IV	Groundfish survey (3), gear comparison
	1973	Albatross IV	Groundfish survey (2), gear comparison
	1974	Albatross IV	Groundfish survey (4), gear comparison
	1975	Albatross IV	Groundfish survey (4), gear comparison
	1975	Albatross IV	Groundfish survey, plankton

Table 20. Total number of Loligo length-frequency samples reported to ICNAF by nation and year for SA 5 and 6 during the period 1972-1974.

Year	USSR	USA	Japan
1972			15
1973	42		10
1974	28	8	110

Table 21. Total number of Illex length-frequency samples reported to ICNAF by nation and year for SA 5 and 6 during the period 1972-1974.

Year	USSR	USA	Japan	Poland
1973	68	4		23
1974			68	

III STATUS OF FISHERY STOCK

a. Distribution of Exploited Stocks

In the absence of evidence to the contrary, it has been assumed that the fishing for long-finned squid (Loligo), off the northeastern USA exploits a single stock distributed from Cape Hatteras to the northern edge of Georges Bank. Fishing activities north and south of the region are probably of minor consequence.

The short-finned squid (Illex) has a more northerly distribution, extending from at least Newfoundland to the mid-Atlantic Coast of the USA. Again, there is no evidence to support the designations of separate stocks within the range of the population exploited in the Northwest Atlantic, and consequently Illex squid in this region have been considered as a unit stock. In recent years, ICNAF has established separate quotas for SA 3 and 4 and for SA 5 and 6 based on a single assessment of the stock throughout its range followed by apportionment between the two regions.

b. Abundance of Exploited Stocks

Stock size estimates of Loligo and Illex populations in SA 5 and 6 were reviewed in a recent ICNAF Research Document (Sissenwine 1976). All of these estimates are subject to considerable error. Of the estimates available, the most useful are minimum stock size estimates for Loligo based from the autumn US bottom trawl survey (Table 22). These estimates in Table 23 indicate a recent increase in abundance of Loligo for SA 5 and 6.

Table 22. Loligo minimum stock size estimates

Year	Biomass (tons)	Number ($X10^6$)
1968	72,700	1,800
1969	57,400	1,400
1970	35,400	1,000
1971	22,100	1,200
1972	29,500	1,200
1973	77,500	2,700
1974	72,300	2,400
1975	97,300	5,600

Efanov and Puzhakov (1975) estimated the size of the stock of Illex from southern Nova Scotia to Georges Bank during June 1971 as 110,000 tons (about 1.25 billion individuals). No description of details of the method used was given, therefore, it is difficult to judge the accuracy of this estimate. Unfortunately, no more reliable information on Illex stock size is available.

(1). Equilibrium Yield Curves

Because of the brief history of the fishery for squid in SA 5 and 6, and the lack of fishing effort data, the equilibrium yield curve of the fishery can only be estimated in relation to an assumed stock-recruitment functions (see next section).

(2). Yield per Recruit

Models designed to simulate the effect of fishing on squid (Loligo and Illex) were developed by Sissenwine and Tibbetts (1976). Instantaneous growth and fishing and natural mortality rates varied on a monthly basis in a realistic manner (most fishing mortality for Loligo ocurred during winter, while for Illex most occurred during summer). Recruitment was described by the Beverton and Holt (1957) stock recruitment function.

Based on these models, the maximum yield per recruit (Y_{msy}) of Loligo and Illex is about 38 g and 45 g at an exploitation rate (over the lifespan of the species; E_{msy}) of 75% and 63%, respectively. If recruitment is moderately dependent on spawning stock size (see II.C.2.b.(4)), then the maximum sustainable yield per recruit to the unexploited fishery is 21 g and 25 g for Loligo and Illex, respectively, with E_{msy} equal to 40% and 37%, respectively. For a strong relationship between stock and recruitment (see II.C.2.b.(4)), the corresponding values are 8 g and 15% for Loligo, and 9 g and 15% for Illex. These results, along with the average weight of individuals of the catch at E_{msy} (W_{msy}) according to the above simulations, are summarized in Table 31.

Table 23. Squid stock-recruitment characteristics

Species	Stock-recruitment	Y_{msy}	E_{msy}	W_{msy}
Loligo	None	38 g	75%	52 g
Loligo	Moderate	21 g	40%	72 g
Loligo	Strong	8 g	15%	85 g
Illex	None	45 g	63%	72 g
Illex	Moderate	25 g	37%	90 g
Illex	Strong	9 g	15%	100 g

[redacted] (3). Cohort Analysis

Without a reliable method to determine the age of squid landed and the age composition of the catch, only a crude approach to cohort analysis is possible. Ikeda and Sato (1976) approximated the age composition of the Japanese catch of Loligo for the 1972-1973 and 1973-1974 fishing seasons based on length composition and a hypothetical growth function. Cohorts were defined as monthly brood groups, and the estimated brood composition of the catch was used to calculate the number and exploitation rate of Loligo in the April, May, and June broods at the beginning of the fishing season. Sissenwine (1976) was critical of these results because of possible errors in the assignment of individuals to broods, inadequate data on natural mortality, and the small portion of the total catch resulting from the broods that was considered in the analysis.

[redacted] (4). Stock-Recruitment Relationships

The degree of dependence between spawning-stock size and recruitment is unknown. The simulation models ([redacted] b.(1)) considered three hypothetical relations in order to estimate the maximum sustainable yield per recruit to the unexploited population for a range of stock-recruitment circumstances. The three relationships considered are shown in Figure 10.

[redacted] c. Current Fishing Status

Of the two species of squid available in New England waters, the long-finned or winter squid (Loligo pealei) is the species most heavily fished by the USA. It is available inshore from April to September and is trawled by boats from such ports as Point Judith, New Bedford, and Newport. Distant-water fleets catch Loligo offshore during the winter months. The demand for Loligo has mostly been for the export market with only a small amount going toward domestic ethnic sales.

The short-finned or summer squid (Illex illecebrosus) is fished by the USA only in small quantities from April to September. Illex is used mostly for bait in sport fisheries. Except for the Illex trap fisheries from Provincetown and Chatham, the squid is trawled. Foreign boats trawl for Illex during the same months, but on the edge of the continental shelf, whereas the USA fishes on the shelf. There is no significant recreational fishery for either species of squid at present, although it is believed to play an important role as a prey species for gamefish.

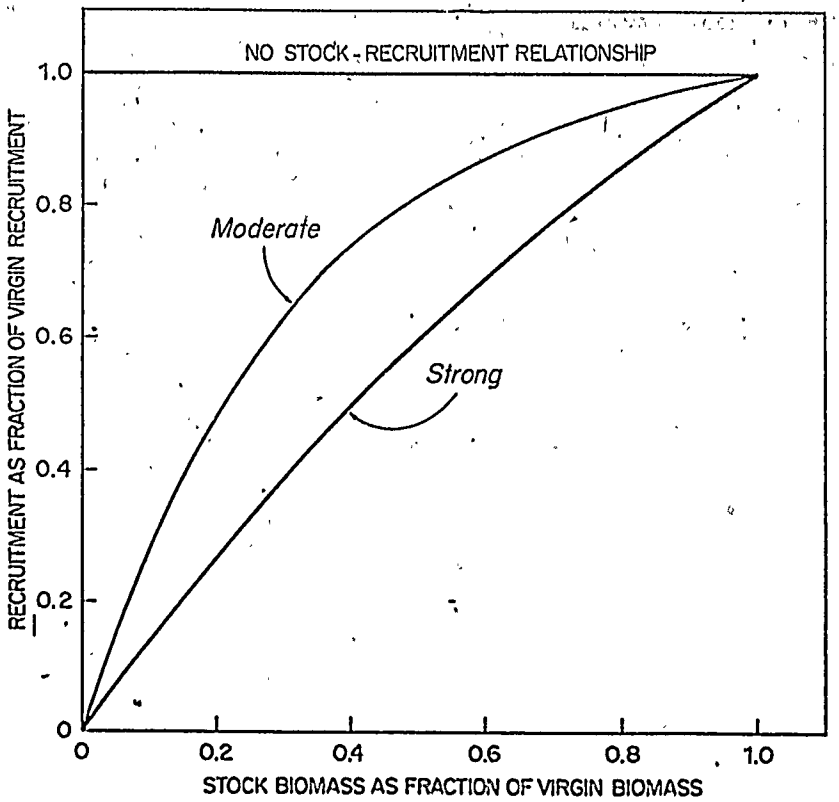


Figure 10. Squid stock-recruitment relationships.

Because much of the catch of squid is not reported by species, only estimates of the catch of Loligo and Illex by month are available for some countries. Monthly catches by country of Loligo and Illex for 1974-1975 are given in Tables 24 and 25. Those catches which have not been reported by species are reported as estimated by Sissenwine and Tibbetts (1976). By-catch of the squid fishery is considered in section II.C.1.f.(3).

IV. OPTIMALITY

According to the Fisheries Conservation and Management Act of 1976, the optimum yield of a fishery means the amount of fish -

(a) which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and

(b) which is prescribed as such on the basis of the maximum sustainable yield from such fishery, as modified by any relevant economic, social, and ecological factors.

The specific criteria to be used to calculate optimum yield in the future will be determined by Regional Councils. In the interim, ICNAF's determination of optimum yield (OY) for 1977 is proposed in this document, with the constraint that US harvesting capacity must be met prior to any allocation of surplus to foreign nationals. The primary objective of ICNAF has been to maximize long-term catch. The proportion of the TAC of each fishery allocated to foreign nations was determined in order to benefit the US based on relevant economic, social, and ecological factors as expressed by advisors to the USA delegation to ICNAF. Some approaches to the management of fisheries, which have been the basis of the advice of the Standing Committee on Research and Statistics (STACRES) considered by ICNAF commissioners in the establishment of TACs is discussed below.

Table 24. Estimated catches of Loligo and Illex as reported by Sissenwine and Tibbetts (1976).

	1974												
	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Total
Loligo													
Bulgaria		56	74	126	23	8	1					12	300
Canada	27												27
Italy	700	800	1,000								450	330	3,280
Japan	2,393	701	2,083	546	200	46	56	168	246	455	2,810	3,789	13,493
Poland			10		197					126	521	800	1,653
Spain	3,657	2,250	1,410	588	424	433	329	160	99	21			9,371
USSR	146		908	1,027	105	115	96	72	712	673	479	267	4,485
USA	137	67	58	328	533	278	139	95	105	141	128	130	2,141
Total	7,060	3,874	5,543	2,615	1,482	880	621	495	1,162	1,416	4,388	5,328	34,750
Illex													
Bulgaria		12	8	164	60	13	35					1	293
Italy	250	200	250								180	100	980
Japan	1		111	368	390	160	320	258	924	250	105	430	3,314
Poland			79	2,544	1,596	628	87			68	22	28	5,052
Romania		1		1	2	4	1						9
Spain	229	398	972	1,397	938	1,243	937	581	64	10			6,769
USSR	8		48	54	942	1,032	862	653	126	119	84	17	3,945
USA						32	14	15	29	36	21	1	148
Total	488	607	1,468	4,528	3,928	3,112	2,256	1,507	1,143	483	412	577	20,510

Table 25. Estimated catches of Loligo and Illex as reported by Sissenwine and Tibbetts (1976).

	1975												
	Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Total
Loligo													
Bulgaria				29	20	25							74
FRG											1		1
GDR				14	9	370	60	162			4	1	620
Italy	540	580	500	162		390			105	205	505	403	3,390
Japan	3,085	853	878	1,031	44			4	8	41	1,443	3,348	10,746
Poland	940	756	179	122	23		3	147	9	3	417	1,191	3,785
Spain	914	2,502	1,887	973		595			22		582	615	8,090
USSR	255	160	593	2,983	258				24	14	396	430	5,103
USA	86	113	134	109	314	136	75	11	62	125	238	190	1,593
Total	5,820	4,974	4,171	5,423	668	1,516	138	324	230	388	3,586	6,168	33,406
Illex													
Bulgaria		15	6	4	48	47							120
FRG								45		20	1		66
GDR								278					278
Italy	140	130	120	40			160		89	107	87	70	943
Japan	306	40	39	114	157	210	449	667	309	261	429	255	3,236
Poland				40	1,032	1,524	416	37	2				3,051
Romania								48					48
Spain	45	120	84	108			852	305	105		123	54	1,798
USSR	80	51	6	124	774	300	1,418	832	118	2	83	37	3,825
USA						20	7	69	5	3	3		107
Total	571	356	255	430	2,011	2,101	3,302	2,282	629	393	726	416	13,472

As a consequence of differences in the nature of the dynamic models used for assessment, two measures of the instantaneous fishing mortality rate (F_{max} and F_{MSY}) have been identified as reference points on which to base regulations for optimum yield. F_{max} refers to the instantaneous fishing mortality rate at which average yield per recruit is at a maximum. It is a function of the growth and natural mortality processes within the stock and of the size (age) at which individuals enter (i.e. recruit to) the fishery, and is therefore independent of changes in recruitment. F_{MSY}, on the other hand, refers to the fishing mortality rate at which the average long-term catch from the stock as a whole is highest and is therefore a function of the total production processes within the stock, including recruitment. Where the average level of recruitment does not change directly in response to changes in stock size, F_{max} and F_{MSY} will correspond. In the absence of detailed knowledge of the relationship between stock and recruitment for particular stocks, this correspondence was assumed by ICNAF in the presentation of scientific advice on management action prior to 1976.

STACRES examined the principal features of the F_{max} reference-point and identified the following as being of particular importance with regard to its adequacy as a basis for management actions:

(a) The form of the relationship between catch per recruit and fishing mortality (F) differs markedly for various stocks according to their growth and natural mortality characteristics. For some stocks, F_{max} occurs at a relatively high level of fishing mortality and it may not be clearly defined. Furthermore, its value for each stock is dependent upon the age and pattern of recruitment to the fishery.

(b) Although F_{max} defines the fishing mortality rate at which the greatest catch will be obtained from each recruit entering the fishery by taking no account of the relationship between the size of the spawning stock and recruitment, it does not necessarily correspond with that giving the highest average catch (MSY) for the stock as a whole (although, as indicated above, it does so if average recruitment does not change with changes in stock size).

(c) Because F_{max} takes no account of the stock and recruitment relationship, management measures based on this reference point do not guarantee the maintenance of spawning stock at a level that would ensure the maintenance of an optimum average level of recruitment.

(d) The F_{max} level of fishing takes no account of possible economic objectives and factors.

This indicates that the F_{max} reference point has potential limitations which have to be recognized and evaluated in the provision of scientific advice on management action. They are obviously greatest with respect to stocks for which the relationship between catch per recruit and fishing mortality has no clearly defined maximum or, if present, it occurs at a relatively high value of fishing mortality rate. In these situations the setting of TACs for catch quota regulation at the F_{max} level may lead to severe reduction in the stock size, reduction in the number of age groups in the exploited stock, large short-term changes in catch (and hence in the magnitude of the short-term changes which must be made in the OY's), and possible recruitment failures due to the generation of too low spawning stock sizes.

The principal element of the biological system governing the adequacy of F_{max} as a basis for management action is the recruitment process, both its variability due to environmental factors and especially the relationship between recruitment levels and spawning stock size. At present, little is known about the latter relationship, so that the evaluation has usually to be made on a generally qualitative basis using all available information on the size and composition of the stock and the observed variability in recruitment to it together with its relation to other components of the exploited ecosystem. However, the relationship is taken into account empirically in some assessment models.

In view of the possible large adverse consequences of setting the fishing mortality rate too high in cases where there is doubt about its adequacy, a more restrictive management system than that based on the F_{max} level of fishing mortality rate would be justified. In addition to appropriate measures for controlling the size (age) of recruitment to the fishery (e.g. through mesh regulation), the management system might comprise either, or a combination, of the following elements: (i) fixing the fishing mortality rate in the exploited phase at a level somewhat lower than F_{max}, and (ii) setting a target spawning stock size.

For stocks in which the relationship between catch per recruit and fishing mortality is a relatively flat-topped curve, a lower fishing mortality rate than F_{max} can be set which would result in only a small loss in average catch but would achieve a substantially higher average stock biomass, greater stock stability due to the presence of a larger number of age groups in the exploited phase, higher average catch per unit of effort, and increased economic efficiency. The $F_{0.1}$ level, defined as the level at which the change in yield per recruit with respect to change in mortality rate is one-tenth of that of the fishery beginning on the virgin stock, has been specified as another possible reference point below F_{max}. It results in an increased catch per unit of effort, but it does not have the unique merit in necessarily achieving the desired stability of stock size and recruitment. This level of F was used as a basis for the 1977 TACs established for several stocks.

The establishment of a minimum spawning stock size constraint, as an element of the management objective, serves to minimize the risks of stock depletion and recruitment failure and hence should be, as far as possible an integral part of the scientific evaluation leading to the advice on specific management measures. At present, however, owing to the lack of knowledge on stock and recruitment relationships for squid the precise value of the limiting stock size cannot be defined. Results of a theoretical study suggest that, at least for some stocks, an equilibrium spawning stock biomass constraint at a biomass level about two-thirds of that of the virgin stock would provide an adequate biomass buffer for maintaining stock stability and resilience against depletion in the presence of large fluctuations in recruitment.

The risks inherent in a management system based on the exploitation of individual fish stocks at their F_{max} (F_{MSY}) levels are particularly large in fisheries on multi-species resources, in which the exploitation of each stock separately is not possible due to the presence of biological interactions.

In such situations, the objective of fishing each stock at the F_{max} level may lead to its depletion and a possible decrease in the long-term catch of the

principal components of the commercial fisheries (although the total biomass available for exploitation may not decrease). The adoption of management measures, which maintain an adequate spawning biomass of the desired species, is particularly important in such cases. The second-tier quota system adopted for SA 5 and 6, establishing a TAC on total catch of all finfish and squid (except menhaden, billfishes, tuna, and large sharks) was designed to provide such a safeguard.

a. Relevant Socioeconomic Factors

For purposes of this plan, a primary economic consideration is the estimated capacity of the USA industry to harvest and market squid. The determination of this capacity is extremely difficult due to the large number of variables that must be considered. The approach taken here involves consideration of previous species landings modified by relevant considerations (e.g. new markets and/or products, unavailability of traditional finfish species). Additionally, recreational interests should also be considered due to the importance of squid as a bait and prey species.

b. Optimum Yield

The optimum yield from fisheries for Loligo and Illex in SA 5 and 6 was determined by ICNAF commissioners based on scientific, social, and economic considerations. The optimum yield (ICNAF TAC) of Loligo and Illex in SA 5 and 6 for 1977 is 44,000 and 35,000 tons, respectively.

If recruitment of Loligo is moderately dependent on spawning stock size, then E_{msy} is estimated as 0.40 and the average weight of individuals in the catch is estimated as 72.4 g (see section III.b.(2)). Therefore, if 1.5 billion Loligo are recruited annually, a catch of 44,000 tons would be approximately the maximum sustainable yield under the assumptions of the Recent minimum stock size estimates indicate from 1.0 billion to 5.6 billion Loligo in SA 5 and 6 during the fall of the year, most of which are new recruits (see section III.b.). Therefore, recruitment of at least 1.5 billion individuals for 1977 seems likely. The assumption is that a moderate stock recruitment relationship at this point in time appears responsible in terms of maintaining stock size based on examination of recent catch levels and estimated stock sizes. For this species the optimum yield for 1977 is approximately equal to the estimated maximum sustainable yield of the fishery.

In the absence of reliable estimates of stock size and uncertainty as to catch statistics of recent years, the 1977 optimum yield of Illex can only be considered as a preemptive quota instituted to regulate the orderly development of the fishery. The maximum sustainable yield of Illex has been estimated as 40,000 tons but this is only a preliminary estimate and therefore it is prudent to restrict catch below this level.

c. Estimated Domestic Production Potential and Allowable Foreign Surplus

The capacity of the US to exploit squid in 1977 was estimated as 36,500 tons by representatives of the US fishing industry acting as advisors to ICNAF. This would leave 42,500 tons of squid of both species in SA 5 and 6 as a foreign surplus. Specific figures by stock are shown in Table 34.

Table 26. Squid optimum yield and allocations

Species	Maximum Sustainable Yield (metric tons)	Optimum yield (metric tons)	US Capacity (metric tons)	Foreign surplus (metric tons)
Illex	40,000	35,000	11,500	23,500
Loligo	44,000	44,000	25,000	19,000

As was stated previously, the squid fishery and squid markets in the USA are extremely small. On the other hand, foreign fisheries and markets have been quite significant, and this fishery could be quite promising in terms of the European export potential. Before these potential markets can

be exploited to any significant extent, however, major obstacles will have to be resolved by the US fishing industry in terms of harvesting, storage, processing, and marketing. It obviously would be advisable to conduct an economic feasibility study addressing each of these issues vis-a-vis the 36,500 ~~37,500~~ MT estimated US capacity; however, available time does not permit this. Nevertheless, some industry spokesmen feel these problems can be addressed and have requested the larger allocation to assist development efforts The US will reconsider its capacity in June, 1977, based on the catches of squid up to that date.

V. CONSERVATION AND MANAGEMENT MEASURES APPLICABLE TO FOREIGN FISHERIES

a. Data to be Reported by Foreign Fishery,

Sampling and reporting procedures described below are designed to contribute to continuing needs for assessment of the status of stocks; further, they conform to requirements agreed to under Governing International Fisheries Agreements (GIFAS). However, specific needs may develop from time to time which require a change in standard procedures, or additional data for special studies. Also, the pattern of fisheries will change. These aspects require that the procedures for reporting must be flexible enough to accommodate necessary changes and also imply that some form of archiving of the basic data be developed so that retrieval at a later date in a different format is possible.

All data described below will be reported to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts:

1. Statistical Information Requirements for all Fisheries Catch and Effort:

Three months after the close of each quarter, catch-effort statistics for biweekly time periods for 0° 30' square areas will be reported by vessel for the previous quarter. These will be reported using 0°30' square Statlant 21B Forms or magnetic tape, computer cards, or printouts for all species and gear types.

Vessel logbook data are to be available for selected, specific joint assessment studies. The collection of samples, specified in 2. below, should also be annotated in the logbook.

2. Procedures for Scientific Samples

a. Length-age species composition samples

(1) Samples should be taken separately for each gear type (e.g. bottom trawl, pelagic trawl, purse seine) and water layer (e.g. on the bottom, midwater level) combination every month for which fishing is pursued by 30-minute square areas throughout the agreement region. One sample should be taken for every 1,000 tons or fraction thereof within the above categories.

(2) Data to be recorded for each sample:

(a) Vessel classification

(b) Method of fishing, e.g. pelagic

(c) Specific type of trawl, including reference to its construction or actual scale drawing

(d) Mesh sizes

(e) Tonnage of the species sampled in the trawl haul

(f) Total weight of the fish sampled

(g) Time of day of haul

(h) Date

(i) Latitude and longitude of haul

(3) Sampling procedures (for all species caught)

(a) Species for which the catch is sorted

(1) From a single net haul take four random aliquots of approximately 50 fish each. (For species with less than 200 fish in a single trawl haul accumulate samples over trawl hauls until approximately 200 fish are taken.)

(2) Measure fork length for each fish to nearest centimeter, except for herring where the measurement will be the total length to the nearest centimeter below.

(3) Where other measurement systems are used, appropriate conversion information must be supplied. Take a subsample of one fish from each centimeter interval and remove scales, otoliths, and/or statoliths, as appropriate. Record the sex of mature individuals.

(b) Species for which catch is not sorted.

(1) From a single trawl take two random aliquots of approximately 30 kilos each.

(2) Sort to individual species (for "river herring" this means sorting to alewife, Alosa pseudoharengus, and blueback, A. aestivalis; for squid, sort to Loligo and Illex).

(3) Measure fork length for each fish to nearest centimeter, except for herring where the measurement will be the total length to the nearest centimeter below. Where other measurement systems are used, appropriate conversion information must be supplied.

(4) Take a subsample of one fish from each centimeter interval and remove scales, otoliths, and/or statoliths as appropriate. Record the sex of mature individuals.

b. Length-weight samples

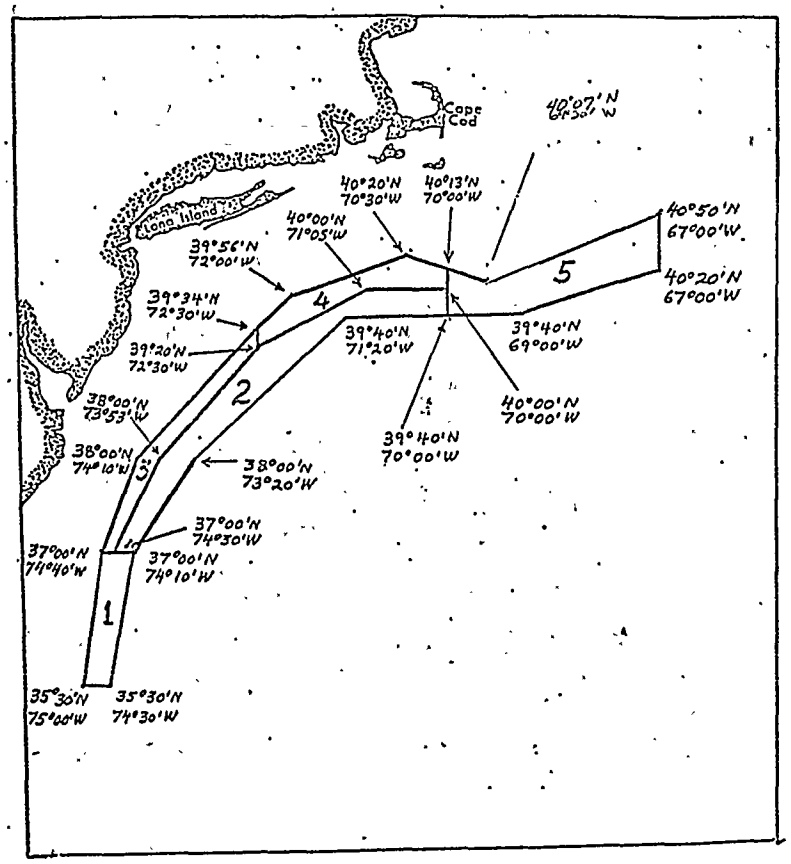
Individuals of one sample of each principal species of fish (i.e., expected yearly catch in area of agreement of 500 or more tons), per Division per month, should be weighed in grams and measured in millimeters. Each sample will contain 10 fish per centimeter interval. The length range of fish may be accumulated if necessary from small samples taken over several catches and days. With small fish, where weighing at sea of individuals is not accurate, appropriate numbers of fish of the same length class shall be weighed in aggregate. Sex shall be recorded for mature individuals.

b. Zones and/or Periods of Limited Foreign Fishing and Catch Limitations

Loligo and Illex are abundant along the outer edge of the continental shelf throughout SA-5 and 6 during winter and summer, respectively. During the 1970's, distant-water fleets fished Loligo at the edge of the shelf from November through May, while Illex has been fished and taken as by-catch in the same area during June through October. Butterfish are the major by-catch of the squid fishery, but the data available are inadequate to identify specific areas where by-catch is less pronounced. The edge of the continental shelf, particularly to the southwest of Veatch Canyon, is also the site of the offshore lobster pot fishery during April through June. After June, lobster pots are gradually moved to shallower water (less than 150 m (80 fathoms)) from July through September and less than 100 m (about 55 fathoms) from October through December). There are few offshore lobster pot fishermen during the first 3 months of the year.

Five specific areas (windows) are proposed in which the estimated squid surplus could be harvested by foreign nationals (Figure 10). Each window is seasonal-specific and will be fished only within the dates specified (Table 35A). The areas and dates are designed to accomplish several goals: (1) minimize fishing conflicts between US and foreign vessels, (2) minimize gear conflicts (i.e. fixed lobster gear and mobile bottom trawls), (3) reduce by-catch to the extent possible, and (4) allow foreign nationals to harvest their particular allocations, if any.

FIGURE 11. Proposed squid fishing areas in which foreign nationals would be allowed to harvest surplus to US needs.



SPECIES	Window area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Herring		Foreign fishing will reflect ICNAF quotas and designated areas (windows) during January and February, 1977.								■			
Mackerel											■	■	■
HAKES (red & silver)	A			■									
	B			■	■	■	■						
Squids (Illex & Loligo)	1											■	■
	2			■			■	■	■	■		■	■
	3			■								■	■
	4			■									
	5							■	■				

Table 27 Proposed dates during which foreign fishing is recommended for each species and window for 1977 only.

d. Other Limitations, Conditions or Requirements (303(b)(2))

1. Permits

Each foreign vessel engaged in or wishing to engage in harvesting the available surplus must obtain a permit from the Secretary of Commerce.

2. Closed season and areas

National Marine Fisheries Service shall maintain records of vessel days and catch of foreign vessels fishing for squid. Upon determination by the Director that foreign fishing vessels of a country have taken its assigned allocation of short-finned squid and long-finned squid, such determination shall be made to the appropriate agent or a government official of the country. Such notification shall be given to the foreign country not less than 48 hours prior to the closure of such fishery. Upon notification, foreign fishing vessels shall cease the directed fishing for short-finned or long-finned squid in the authorized area, and may continue to take and possess only those amounts of short-finned or long-finned squid in accordance with the incidental catch provision of Section 5.

3. Gear restrictions

It shall be unlawful for any foreign vessel fishing for short- and/or long-finned squid, under this section, to use any trawl nets having, in any part of the net, meshes of dimensions less than 60 mm (2 3/8 inches) as measured by the gauge specified below. Provided, however that solely for calendar year 1977, vessels fishing for squid that have traditionally used nets with a mesh size of less than 60 mm (2 3/8 inches) may continue to use such nets. Provided further that prior to use of such nets, the Regional Director, Northeast Region is notified of the intent to use such nets and he be allowed to inspect such nets. These mesh sizes relate to manila twine netting when measured wet after use or the equivalent thereof when measured dry before use. The Secretary may, on the basis of scientific advice as to selectivity equivalents, determine the appropriate mesh sizes when trawl nets made of materials other than manila are used or when seine nets are used.

Mesh sizes are measured by a flat wedge-shaped gauge having a taper of 2 centimeters in 8 centimeters and a thickness of 2.3 millimeters, inserted into meshes under a pressure or pull of 5 kilograms. The mesh size of a net shall be taken to be the average of the measurements of any series of twenty consecutive meshes, at least ten meshes from the lacings, and when measured in the codend of the net beginning at the after end and running parallel to the long axis.

4. Other statistical reporting requirements

(1) Operators of all fishing vessels permitted under a Governing International Fisheries Agreement to fish in the Fishery Conservation Zone (FCZ) of the United States in the Atlantic Ocean, North of Cape Hatteras shall record their catches during the permit period on a daily basis according to position, amount, date, type of gear, amount of effort, i.e., number of sets (or hooks) x time gear on the bottom (otter trawl) or fishing (midwater trawl, lines, other gear), discards, catch composition, and disposition of catch. Such vessels shall also record on a daily basis the estimated cumulative catch, including discards, by individual species, of all fish taken in the FCZ. The record shall include the disposition of the catch, while not subtracting any fish offloaded while the vessel is operating in the Fishery Conservation Zone and shall be retained aboard the vessel for the duration of the permit period.

(2) The operator of each foreign fishing vessel operating under permit in the Fishery Conservation Zone shall submit reports of fishing effort and yield through the vessel's designated agent in the United States to the Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts, 01930.

(i) A report will be submitted within 24 hours of the vessel's arrival in the Fishery Conservation Zone.

(ii) A report will be submitted weekly to indicate effort and yield Sunday through Saturday. This report should arrive at the Regional Director's office no later than Thursday of the week following the week of the report.

(iii) A report will be submitted within 24 hours of any change in directed fishery by the vessel.

(iv) A report will be submitted within 24 hours after the vessel transfers fishing operations from one window to another.

(v) A report will be submitted within 24 hours after the vessel has ceased fishing operations with intent to depart the Fishery Conservation Zone.

These reports will include vessel identification, reporting circumstances, effort (if applicable), yield (if applicable), and amount and composition of fishmeal (if applicable).

(3) The Secretary may require from time to time additional information concerning fishing operations of fishing vessels of a foreign country. Such information shall be provided in accordance with the procedures provided to the vessels or country.

5. Incidental catch

(1) The taking of herring, mackerel or butterfish is permitted as an incidental catch in the directed short-finned squid or long-finned squid fishery. The quantity of herring, mackerel, or butterfish shall not exceed the incidental catch allocation provided to the foreign country. When the allocation of herring, mackerel, or butterfish has been reached prior to reaching the allocation of short-finned or long-finned squid, fishing for short-finned or long-finned squid shall cease. Upon determination that a foreign country has caught its assigned quota of short-finned or long-finned squid, the directed fishing by that country will be closed. Subsequently incidental catch of that species shall be limited to no more than 1 percent of the total weight of the catch on board any vessel for which the fishery has been closed.

(2) Foreign vessels fishing for short-finned or long-finned squid are limited with respect to the amount of the following species that they may have onboard: river herring (alewives or blueback), bluefish, striped bass, scup, sea bass, squeteague, croaker, spot, and American shad. The foreign by-catch of each of the above species is limited individually to 1 percent of all other fish onboard the vessel or 2,500 kg, whichever is greater; and that the catch of all these species is limited to 7½ percent of all other fish onboard or 12,000 kg, whichever is greater.

6. Restriction

(1) Except as expressly provided for by a permit, no foreign fishing vessel shall

(i) conduct a directed fishery for any Continental Shelf Fishery resource, as such term is defined in the Fishery Conservation and Management Act of 1976 section 3(4), appertaining to the United States;

(ii) retain any such Continental Shelf fishery resource appertaining to the United States taken incidentally from the Continental Shelf; or

(iii) fail to return promptly to the sea with a minimum of injury any such Continental Shelf fishery resource.

(2) No operator of any foreign fishing vessel shall conduct any fishing within 12 nautical miles of the baseline used to measure the Territorial Sea of the United States unless expressly authorized by a permit.

7. Fixed gear avoidance

All foreign fishing vessels are prohibited from fishing between the 100-200 fathom depths on the Continental Shelf in the Atlantic north of Cape Hatteras within authorized fishing zones.

Fishing is prohibited in areas of reported fixed gear outside of the 100-200 fathom lines. The operator of each foreign vessel operating

in an authorized fishing zone shall exercise caution when fishing within 2 nautical miles of such reported gear areas.

Locations of fixed gear in geographic coordinated (latitude and longitude) are broadest on the first day of each month by Coast Guard Communications Station Boston (NMF) on 472 KHZ at 1350 GMT in radiotelgraphy. These summary lists are updated each day at 1350 GMT, with a broadcast on the same frequency listing changes in fixed fishing gear locations reported by fishermen. Additionally, voice broadcasts in English are made each day by NMF on 2670 KHZ at 1405 GMT and by Coast Guard Communications Station Portsmouth (NMN) on 2670 KHZ at 1350 GMT and by the Boston Marine Operator Radio Green Harbor, and Norfolk Marine Operator after their scheduled Marine Information broadcasts. The voice broadcasts list the locations of the fixed gear in LORAN A coordinates. Both the radiotelegraphy and voice broadcasts are numbered sequentially by month, day, and year. A printed monthly summary of fixed gear information is available by contacting: COMMANDER (Aol), U.S. Coast Guard, Atlantic Area, Governors Island, New York, NY, 10004; Telephone: (212) 264-0644 or (212) 264-0645. All operators of foreign fishing vessels shall copy such daily fixed gear broadcasts and shall maintain on the bridge of such vessel a chart showing the current location of fixed gear in areas where it will be fishing.

8. Sanctions

If any foreign fishing vessel, for which a permit has been issued, fails to pay any civil or criminal monetary penalty imposed pursuant to the Act, the Secretary shall:

(a) revoke such permit, with or without prejudice to the right of the foreign nation involved to obtain a permit for such vessel in any subsequent year;

(b) suspend such permit for the period of time deemed appropriate; or

(c) impose additional conditions and restrictions on the approved application of the foreign nation involved and on any permit issued under such application.

Provided however that any permit which is suspended pursuant to this paragraph for nonpayment of a civil penalty shall be reinstated by the Secretary upon the payment of such civil penalty together with interest thereon at the prevailing rate.

e. Coastal State Fishery Conservation and Management Measures Recommended for Incorporation into this Plan

N/A

f. Other Measures

N/A

g. Relationship of Conservation and Management Measures to Conservation Needs

The proposed management plan contains catch restrictions deemed necessary to meet the conservation requirements of Illex and Loligo in SA 5 and 6. A total allowable surplus catch limitation, based on the best scientific evidence presently available, has been incorporated to prevent the possible overexploitation of squid and promote the orderly development of the fishery, recognizing that review and readjustments of the OY's may be necessary when additional data are available for analysis. An additional important consideration of the plan is the inclusion of data collection

requirements, which will provide vital data (presently a limiting factor) to update and refine assessment models required to establish more precise OY limitations. Another essential requirement also limits foreign fishing activity spatially and temporally to minimize conflicts between the offshore lobster pot fishery and the foreign squid fishery in SA 5 and 6.

h. Relationship of Conservation and Management Measures to National Standards (20(g)(4)(b)

The proposed conservation and management measures for squid subscribe to the national standards of the Fishery and Conservation Management Act of 1976. Since the best scientific information available indicates that neither Loligo nor Illex can be separated into any distinguishable stocks, both species were treated as a single stock. Also, since the total availability minus US capacity is designed to insure optimum sustainable yield, no long-term overfishing of the species is expected.

Opening the fishing seasons during winter and summer accounts for the for the variation in the seasonality of the fisheries for the two species. The area regulations that accompany the seasonal regulations are designed to minimize losses of gear in the lobster pot fisheries.

No quotas have been recommended for the individual states within the USA, thus no state-based discriminatory policies are being incorporated into the plan. The efficient utilization of the resource is being fostered, by opening the seasons at those times when the catch per unit of effort is best. In addition, the OY of Illex is high enough that it might encourage a shirting of vessels from other less productive fisheries or from those fisheries in which the TAC has been reached, to the Illex fishery.

i. Approximate Costs of Conservation and Management Measures (201(g)(2))

N/A

VI. References to Relevant Background Document

A. Environmental setting

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WEDNESDAY, FEBRUARY 16, 1977

PART VIII

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

■

GENERALIZED SYSTEM OF PREFERENCES

Results of Review of Proposals of Changes in Product Coverage

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

GENERALIZED SYSTEM OF PREFERENCES

Results of Review of Proposals for Changes in Product Coverage of the Generalized System of Preferences

1. This publication describes the results of the second semi-annual review of proposed changes in the list of imported articles eligible for duty-free treatment under the Generalized System of Preferences (GSP, provided for in Title V of the Trade Act of 1974, 19 U.S.C. 2461–2465, 88 Stat. 2966–2071).

The review was conducted pursuant to regulations that are codified at 15 C.F.R. Ch. XX, Part 2007. As a result of this review 26 articles, which are listed in part 4 of this notice, were designated as eligible for GSP benefits by Executive Order No. 11960, of January 19, 1977, (42 FR 4317, January 24, 1977).

This review included (1) consideration by the interagency Trade Policy Staff Committee (TPSC) of actions requested in petitions to the TPSC from interested parties; and (2) consideration of articles that were proposed for GSP eligibility by the TPSC on its own motion.

2. *Petitions.* Petitions from interested parties, which were accepted for consideration by the TPSC in connection with this review, were listed in the FEDERAL REGISTER issues of November 19 and November 29, 1976, and were included in the public hearings held from December 14, to 21, 1976. The TPSC recommended action (which was taken by Executive Order No. 11960) on some of these petitions, denied other petitions, and deferred action on still others. In addition, Executive Order No. 11960 took action with respect to one petition (covering artificial flowers) that was held over from the first semi-annual review, and the TPSC terminated its review of another petition (covering electric motors) that had been held over from that first review, by denying the petition.

Petitions on which final decisions were made are listed in Annex I(A) to this notice, and petitions that remain pending are listed in Annex II(A). Annex I(A) also lists certain petitions that were withdrawn by the petitioners, the withdrawal of which had not previously been announced in a public notice.

3. *TPSC Proposals.* Some of the articles proposed for eligibility by the TPSC on its own motion were listed in the FEDERAL REGISTER issue of May 14, 1976, and others were listed in the FEDERAL REGISTER issue of November 19, 1976. The articles listed in the FEDERAL REGISTER issue of May 14 were included in public hearings held by the TPSC June 1–4, 1976, and were the subject of advice from the U.S. International Trade Commission (USITC) as to the probable economic effects of designating them for GSP benefits. Several of these articles were designated by Executive Order No. 11960 as eligible for GSP benefits.

The articles listed in the FEDERAL REGISTER issue of November 19 as being proposed for GSP eligibility by the TPSC on its own motion were included in public hearings held December 14–21, 1976. Some of these articles were not considered further at this time, however, because they had not been the subject of USITC advice as to the probable economic effects of designating them for GSP benefits, as is required by sections 503(a) and 131 of the Trade Act of 1974. Annex I(B) lists articles proposed by the TPSC on its own motion that either (i) were designated for GSP benefits by Executive Order No. 11960, or (ii) were not recommended for such designation by the TPSC. Annex II(B) lists articles proposed by the TPSC on its own motion that remain pending.

The USITC was in the process of preparing advice on the articles described in the preceding paragraph, and on certain articles that were the subjects of petitions, while the review reported herein was being conducted. This advice was received on January 22, 1977, after the conclusion of this review. The articles covered by this advice will be considered by the TPSC in the future.

4. *Disposition of petitions and other proposals.* The 26 articles designated by Executive Order No. 11960 as eligible for GSP benefits are listed below. Executive Order No. 11960 took no other action with respect to the GSP. All petitions or TPSC proposals with respect to other articles, not listed below, either were denied or continue to be pending. A complete listing showing the disposition of each petition and proposal is set forth in the Annexes to this notice.

ARTICLES DESIGNATED BY E.O. 11960 AS ELIGIBLE FOR THE GSP

Tariff No.	*Article*
100.73	Horses valued not over $150 per head
111.10	Dried cod, cusk, haddock, hake and pollock
111.60	Fish, salted or pickled n.s.p.f. in airtight containers and weighing not over 15 pounds
121.35	Calf and kip lining leather
121.55	Buffalo leather
125.01	Tulip bulgs
125.10	Lily bulbs
125.15	Narcissus bulbs
125.20	Crocus corms
125.50	Fruit trees, grafted or budded; fruit plant cuttings and seedlings
131.80	Milled grain products, n.s.p.f., not fit for human consumption
135.41	Carrots, fresh, chilled or frozen, under 4 inches long
135.60	Celery, fresh, chilled or frozen, imported from April 15–July 31
136.10	Endive, including Whitloof chicory, fresh, chilled or frozen
136.40	Horseradish, fresh, chilled or frozen
136.50	Lentils fresh, chilled or frozen
137.71	Brussels sprouts, fresh, chilled or frozen
140.21	Chickpeas, or garbanzos, dried, desiccated or dehydrated, not split
176.49	Seame oil, unfit for use as food
177.40	Marine animal oils n.e.s.
389.61	Artificial flowers of man-made fibers
403.58	Ethoxyquin
403.81	Maleic anhydride
642.09	Wire strand of copper
792.70	Natural sponge articles
799.90	Articles not specifically provided for in the Tariff Schedules

All designations listed above become effective with respect to articles that are both (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse for consumption, on or after March 1, 1977. As used in the preceding sentence, "imported" means physically arrived at the port, and "entered, or withdrawn from warehouse for consumption", means cleared through customs procedures.

WILLIAM B. KELLY, Jr.,
Chairman, Trade Policy Staff Committee.

ANNEX I – Case Reviews Completed
(A) Petitions

Case No.	TSUS or TSUSA[1/] Item No.	Article	Petitioner	Action Requested	Action Taken
76-B-2	646.49 (part)	Various Screws	GKN International, Inc. New York, NY	Designate for GSP benefits	Petition denied
	646.58	do	do	do	do
	646.60	do	do	do	do
	646.63 (Part)	do	do	do	do
76-B-3	135.40 (part)	Small Carrots	Hanover Brands Hanover, PA	Designate for GSP benefits	New TSUS (135.41) designated by E.O. 11960
	137.85 (part)	Brussels Sprouts	do	Designate for GSP benefits	New TSUS (137.71) designated by E.O. 11960
76-B-4	204.40	Various Handicrafts	India Nepal, Inc. New York, NY	Designate for GSP benefits	Petition denied
	204.50	do	do	do	do
	206.67 (part)	do	do	do	do
	206.96	do	do	do	do
	386.04 (part)	do	do	do	do
	652.60	do	do	do	do
	706.55 (part)	do	do	do	do
	727.10	do	do	do	do

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Case No.	TSUS or TSUSA[1/] Item No.	Article	Petitioner	Action Requested	Action Taken
76-B-5	403.80 (part)	Maleic Anhydride	Toyomenka (America) Inc., New York, NY	Designate for GSP benefits	New TSUS (403.81) designated by E.O. 11960
76-B-6	520.32	Diamonds	Stuckey & Speer, Inc. Houston, TX		Petition Withdrawn
	520.33	do	do		do
76-B-7	649.57 (part)	Meat Choppers	Union Manufacturing Company, Meriden, CT	Withdraw GSP benefits	Petition denied
76-B-9	386.50 (part)	Salesmen's bags	Economy Cover Corporation, Jamaica, NY	Designate for GSP benefits	Petition denied
76-B-10	657.20 (part)	Bicycle horns	Yoder Manufacturing Company Little Rock, AR	Withdraw GSP benefits	Petition denied
	685.70 (part)	do	do	do	do
	774.60 (part)	do	do	do	do
76-B-11	355.04	Sisal pad	Blocksom & Comp., Michigan City, IN	Withdraw GSP benefits	Petition denied
76-B-12	642.10 (part)	Wire strand	Transmark Corp Newport Beach, CA	Designate for GSP benefits	Petition denied
76-B-17	546.52 (part)	Various glassware articles valued at not over $1	Arnart Imports, Inc. New York, NY	Designate for GSP benefits	Petition denied
	546.54 (part)	do	do	do	do

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Case No.	TSUS or TSUSA[1/] Item No.	Article	Petitioner	Action Requested	Action Taken
76-B-20	546.52 (part)	Glassware doorknobs	William G. Morschauser Los Angeles, CA	Designate for GSP benefits	Petition denied
76-B-21	403.60 (part)	Ethoxyquin	Hyde Petrochemical Comp. Tuscaloosa, AL	Designate for GSP benefits	New TSUS (403.58) designated by E.O. 11960
76-B-22 (part)	608.25	Pipe Fittings	American Pipe Fittings Assoc. Stamford, CT	Withdraw GSP benefits	This part of petition denied
	608.27	do	do	do	do
	610.63	do	do	do	do
	610.65	do	do	do	do
	610.66	do	do	do	do
	610.71	do	do	do	do
	610.80	do	do	do	do
76-B-25 (part)	170.80	Tobacco, manufactured or nor manufactured, not specifically provided for	Cigar Association of America Washington, D.C.	Withdraw GSP benefits	This part of petition withdrawn
76-B-26	740.34	Watch bracelets	Brite Industries Inc. Providence, RI	Designate for GSP benefits	Petition denied
	740.35	do			
76-B-27	618.15	Aluminum rods	The Aluminum Association New York, NY	Withdraw GSP benefits	Petition denied

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Case No.	TSUS or TSUSA 1/ Item No.	Article	Petitioner	Action Requested	Action Taken
76-B-30 (part)	706.04	Luggage and handbags of reptile leather	United Furniture Workers of America	Withdraw GSP benefits	This part of petition denied
	725.06	Stringed musical instruments	do	do	do
	725.22	Wind musical instruments	do	do	do
	727.30	Chairs, other than folding	do	do	do
	727.55	Other furniture	do	do	do
76-B-31	686.10 (part)	Resistors	Vishay Intertechnology Malvern, PA	Designate for GSP benefits	Petition denied
76-B-32	121.25	Upholstery leather	Tanners' Council of America, Inc. New York, NY	Withdraw GSP benefits	Petition denied
76-B-33	642.10 (part)	Uninsulated copper electrical conductors	Eastern International Bellamawr, NJ	Designate for GSP benefits	New TSUS (642.09) designated by E.O. 11960
76-B-34	771.42 (part)	Acrylic sheets	E.I. duPont de Nemours and Company Wilmington, DE	Withdraw GSP benefits	Petition denied
	771.45	do	do	do	do
	774.60 (part)	do	do	do	do
76-B-35	121.35	Calf and kip lining leather	Florsheim Shoe Company Chicago, IL	Designate for GSP benefits	Article designated by E.O. 11960
	121.57 (part)	Water buffalo leather	do	do	New TSUS (121.55) designated by E.O. 11960

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Case No.	TSUS or TSUSA 1/ Item No.	Article	Petitioner	Action Requested	Action Taken
76-B-36	771.42 (part)	Acrylic sheets	CY/RO Industries Wayne, NJ	Withdraw GSP benefits	Petition denied
	771.45	do	do	do	do
	774.60 (part)	do	do	do	do
76-B-37	532.24	Glazed Ceramic Tiles	Mariwasa Manufacturing, Inc. Manila, Philippines	Designate for GSP benefits	Petition denied
76-B-39	687.37	TV Tubes 16.4" or smaller	International Brotherhood of Electrical Workers, Washington, D.C.	Withdraw GSP benefits	Petition denied
76-B-40	737.95	Various toys	Kilgore Corp. Toone, TN	Subdivide in order to permit designation of toy cap pistols from Hong Kong for GSP benefits	Petition denied
76-B-41	683.10 (part)	Lead-acid type storage batteries for motorcycles	WISCO Division of ESB, Inc. Racine, WI	Withdraw GSP benefits	Petition denied
76-B-42	687.30	Electric luminescent lamps	Monsanto Company St. Louis, MO	Subdivide in order to permit designation of electric luminescent lamps from Malaysia for GSP benefits	Petition denied
	687.60 (part)	Parts of semi-conductors	do	Designate for GSP benefits	do

1/ Tariff Schedules of the United States (19 U.S.C. 1202)

Case No.	TSUS or TSUSA 1/ Item No.	Article	Petitioner	Action Requested	Action Taken
76-B-43	771.42 (part)	Acrylic sheets	Rohm and Haas Company Philadelphia, PA	Withdraw GSP benefits	Petition denied
	771.45	do	do	do	do
	774.60 (part)	do	do	do	do
76-B-44	204.40 (part)	Tool boxes	American Toy and Furniture Company, Inc. Chicago, IL	Designate for GSP benefits	Petition denied
76-B-45	737.20 (part)	Doll clothing	Ideal Toy Corporation Hollis, NY	Designate for GSP benefits	Petition denied
76-B-46	305.20	Various jute articles	Ludlow Corp., Needham Heights, MA	Withdraw GSP benefits	Petition denied
	305.22				
	305.28				
	305.30				
	307.30				
76-B-48	685.90 (part)	Electric switches	Volkswagen deMexico, S.A.	Subdivide in order to permit designation of electric switches from Mexico for GSP benefits	Petition denied
	692.27	Cast iron motor vehicle parts, advanced	do	do	do

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Case No.	TSUS or TSUSA 1/ Item No.	Article	Petitioner	Action Requested	Action Taken
76-33	389.60 (part)	Artificial flowers	Selo, Inc. New York, NY	Designate for GSP benefits	New TSUS (389.61) designated by E.O. 11960
76-34	682.25 (part)	Permanent magnet direct-current motors	International Components Corporation, Chicago, IL	Withdraw GSP benefits	Petition denied
	682.30 (part)	do	do	do	do

1/ Tariff Schedules of the United States (19 U.S.C 1202).

Annex I: Case Reviews Completed

(B) Articles Considered by the TPSC on its own Motion

TSUS item 1/	Article	Action taken
	(The bracketed language in this list is included only to clarify the scope of the numbered items.)	
	Live animals other than birds:	
	Horses and mules:	
	[Imported for immediate slaughter]	
	Other:	
	Horses:	
100.73	Valued not over $150 per head	Designated as eligible article
	Fish, dried, whether or not whole, but not otherwise prepared or preserved, and not in airtight containers:	
111.10	Cod, cusk, haddock, hake, and pollock	Do.
	Fish, salted or pickled, whether or not whole, but not otherwise prepared or preserved, and not in airtight containers:	
	[Cod, cusk, haddock, hake, and pollock]	
	[Herring]	
	Mackerel:	
	[In bulk or in immediate containers weighing with their contents over 15 pounds each]	
111.44	Other	Not designated
	[Salmon]	
	Other:	
111.60	In immediate containers weighing with their contents not over 15 pounds each	Designated as eligible article
	Bulbs, roots, rootstocks, clumps, corms, tubers and herbaceous perennials:	
125.01	Tulip bulbs	Do.
125.10	Lily bulbs	Do.
125.15	Narcissus bulbs	Do.
125.20	Crocus corms	Do.
125.50	Grafted or budded fruit trees, cuttings and seedlings of grape, currant, gooseberry, or other fruit plants (except trees)	Do.
	Milled grain products:	
	Not fit for human consumption:	
	[Barley]	
	[Buckwheat]	
	[Corn]	
	[Oats]	
	[Rice]	
	[Rye]	
	[Wheat]	
131.80	Other	Do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

2

TSUS item 1/	Action	Action taken
	Vegetables, fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved):	
	Celery:	
135.60	If imported and entered during the period from April 15 to July 31, inclusive, in any year	Designated as eligible article
136.10	Endive, including Witloof chicory	Do.
136.40	Horseradish	Do.
136.50	Lentils	Do.
	Vegetables, dried, desiccated, or dehydrated, whether or not reduced in size or reduced to flour (but not otherwise prepared or preserved):	
	Dried, desiccated, or dehydrated:	
	Chickpeas or garbanzos:	
	/Split/	
140.21	Other	Do.
	Grapes, fresh, or prepared or preserved:	
	Fresh (in bulk, or in crates, barrels or other packages):	
	Other than hothouse:	
	/If entered during the period from February 15 to March 31, inclusive in any year/	
	/If entered during the period from April 1 to June 30, inclusive, in any year/	
147.64	If entered at any other time	Not designated
	/Dried/	
147.77	Otherwise prepared or preserved	Do.
	Plums, prunes, and prunelles, fresh, or prepared or preserved:	
	/Fresh/	
	/In brine/	
	/Dried/	
149.28	Otherwise prepared or preserved	Do.
	Sesame oil:	
176.49	Rendered unfit for use as food	Designated as eligible article
	Marine-animal oils:	
	Other marine-animal oils:	
	/Seal/	
	/Sperm/	
	/Whale (except sperm)/	
177.40	Other	Do.
	Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure, not provided for in subpart A or C of part 1 of schedule 4 of the Tariff Schedules of the United States:	
	/Chemical products provided for in items 403.02, 403.04, 403.06, 403.08, 403.10, 403.40, 403.42, 403.44, 403.46, 403.48, and 403.50/	
	Other:	
403.60 (pt.)	Tetrabromobisphenol A (TBBA), parabromophenols, dibromophenols, tribromophenols, tetrabromoxylenes, and bromobenzene	Not designated

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

3

TSUS item 1/	Action	Action taken
	Products suitable for medicinal use, and drugs:	
	Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of part 1 of schedule 4 of the Tariff Schedules of the United States:	
	Drugs:	
	/Drugs provided for in items 407.20, 407.25, 407.30, 407.32, 407.35, 407.40, 407.45, 407.50, 407.55, 407.60, 407.70, 407.72, 407.75, and 407.80/	
	Other:	
407.85 (pt.)	Amitriptyline, sulfamethoxazole, and dicloxacillin	Not designated
	Waxes, animal (including marine animal), vegetable, and mineral, and artificial mixtures thereof:	
	/Animal waxes/	
	/Vegetable waxes/	
	/Mineral waxes/	
494.30	Artificial mixtures of two or more of the foregoing waxes	Do.
	Articles not specially provided for:	
792.70	Of natural sponge	Designated as eligible article
	Any article, not provided for elsewhere in these schedules:	
	/Which is similar in the use to which it may be applied to any article or articles enumerated in any of the foregoing provisions of these schedules as chargeable with duty/	
799.00	Other	Do.

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

Annex II: Case Reviews Pending

(A) Petitions

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action requested	Status
		(The bracketed language in this list is included only to clarify the scope of the numbered items.)			
76-B-3		Onions:	Hanover Brands, Inc. Hanover, Pa.	Designate the article as eligible for GSP benefits	Pending TPSC analysis of USITC report 2/
		[Onion sets]			
	136.91 or 136.91 (part)	Other or Pearl onions 10/16 inch or less in diameter			
76-B-14		Clasps, handbag and similar frames incorporating clasps, and snap fasteners; all the foregoing and parts thereof:	Newy Brothers, Inc. New York, N.Y.	Designate the article as eligible for GSP benefits	Pending further TPSC analysis
		Valued not over 20 cents per dozen pieces or parts:			
	745.63 (part)	Sew-on fasteners, and parts thereof (except fasteners of plastic, in clips suitable for use in a mechanical attaching device)			
76-B-15		Sugars, sirups, and molasses, derived from sugar cane or sugar beets:	American Farm Bureau Federation, Park Ridge, Ill.	Withdraw GSP benefits	Pending completion of USITC investigation on import relief request
	155.20	Principally of crystalline structure or in dry amorphous form			
		Not principally of crystalline structure and not in dry amorphous form:			
	155.30	Containing soluble non-sugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6% or less by weight of the total soluble solids			
	155.35	Other			
	155.75	Sugars, sirups, and molasses, described in this subpart, flavored; and sirups, flavored or unflavored, consisting of blends of any of the products described in this subpart			
76-B-16		Fruit pastes and fruit pulps:	Pascual Foods, Inc. San Antonio, Texas	Designate the article as eligible for GSP benefits	Pending TPSC analysis of USITC report 2/
		[Apricot; cashew apple, mamey colorado, sapodilla, soursop, and sweetsop; fig; guava; mango; tamarind; orange; papaya; banana and plantain]			
	152.76 or 152.7620	Other or Strawberry			
76-B-19		Ferroalloys:	Samincorp, Inc. New York, N.Y.	Designate the article as eligible for GSP benefits	Pending TPSC analysis of USITC report 2/
	607.65	Ferrotungsten and ferrosilicon tungsten			
76-B-22 (part)		Pipe and tube fittings of iron or steel:	American Pipe Fittings Assoc. Stamford, Conn.	Withdraw GSP benefits	Pending further TPSC analysis
		Cast-iron fittings, not malleable:			
		For cast-iron pipe:			
	610.62	Cast iron, other than alloy cast iron			
		Cast-iron fittings, malleable:			
		Not advanced in condition by operations or processes subsequent to the casting process:			
	610.70	Cast iron, other than alloy cast iron			
	610.74	Advanced in condition by operations or processes subsequent to the casting process			

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ Advice to the President by the U.S. International Trade Commission as to the probable economic effect of designating this article for the Generalized System of Preferences, submitted on January 22, 1977.

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Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner	Action requested	Status
76-B-25 (part)		Filler tobacco (whether or not mixed or packed with wrapper tobacco): When mixed or packed with over 35% of wrapper tobacco:	Cigar Association of America, Inc. Washington, D.C.	Designate the article as eligible for GSP benefits	Pending TPSC analysis of USITC report 2/
	170.20	Not stemmed			
	170.25	Stemmed			
		When not mixed and not packed with wrapper tobacco, or when mixed or packed with 35% or less of wrapper tobacco:			
		/Cigarette leaf/			
		Other, including cigar leaf:			
	170.40	Not stemmed			
	170.45	Stemmed			
	170.60	Scrap tobacco			
76-B-30 (part)		Furniture, and parts thereof, not specially provided for: Of wood:	United Furniture Workers of America New York, N.Y.	Withdraw GSP benefits	Pending TPSC analysis of USITC report 2/
		/Bent-wood furniture, and parts thereof/			
		Other:			
	727.30 (part)	Folding chairs			
76-B-38	206.30	Wood doors with or without their hardware	United Brotherhood of Carpenters and Joiners of America Washington, D.C.	Withdraw GSP benefits	Pending further TPSC analysis
76-B-47		Articles not specially provided for of a type used for household, table, or kitchen use; toilet and sanitary wares; all the foregoing and parts thereof, of metal: Articles, wares, and parts, of base metal, not coated or plated with precious metal: Of iron or steel: Not enameled or glazed with vitreous glasses: Other: Other:	Atlanta Stove Works, Inc. Atlanta, Ga.	Withdraw GSP benefits	Pending TPSC analysis of USITC report 2/
		/Stainless steel/			
		/Chrome-plated ware/			
		Other:			
	653.9560 or 653.9560 (part)	Cooking ware or Cast-iron cooking ware			
76-25 3/		Stoves, central-heating furnaces and burners, ranges, cookers, grates, space heaters and similar heating or cooking apparatus, all the foregoing, of base metal, not electrically operated, of types used in the household, hotels, restaurants, or offices; and parts thereof, of base metal:	Washington Stove Works Everett, Washington	Withdraw GSP benefits	Pending further TPSC analysis
		/Portable types designed to be operated by propane or other gas, or by compressed air and kerosene or gasoline/			
	653.50 or 653.50 (part)	Other or Cast-iron household stoves, cast-iron parts of household stoves, and cast-iron fireplace grates			

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).
2/ Advice to the President by the U.S. International Trade Commission as to the probable economic effect of designating this article for the Generalized System of Preferences, submitted on January 22, 1977.
3/ Pending from first biannual review, June 1976.

Annex II: Case Reviews Pending

(B) Articles Considered by the TPSC on its own Motion

(Note.--Further consideration of articles listed below is pending analysis of advice by the U.S. International Trade Commission on the probable economic effect on U.S. producers and on consumers of granting duty-free treatment under the Generalized System of Preferences.)

TSUS item 1/	Article
	(The bracketed language in this list is included only to clarify the scope of the numbered items, and such language is not itself intended to describe articles which are being considered for designation.)
	Birds (dead), fresh, chilled, or frozen, if whole, or if plucked, beheaded, eviscerated, or cut into pieces (including edible offal), but not otherwise prepared or preserved:
	Birds, whole, or which have been plucked only:
	[Chickens, ducks, geese, and guineas]
	[Turkeys]
105.30	Other
	Birds which have been plucked, beheaded, and eviscerated (including birds with any edible offal retained in or returned to the abdominal cavity), whether or not the feet have been removed, but not cut into pieces:
	[Chickens]
	[Turkeys]
105.60	Other
	Garden and field seeds:
126.71	Pepper
	Vegetables, dried, desiccated, or dehydrated, whether or not reduced in size or reduced to flour (but not otherwise prepared or preserved):
	Dried, desiccated, or dehydrated:
	Chickpeas or garbanzos:
140.20	Split
	Cowpeas:
140.25	Black-eye
140.35	Lentils
140.38	Lupines
140.50	Potatoes

1/ Tariff Schedules of the United States (19 U.S.C. 1202).

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TSUS item 1/	Article
	Vegetables (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved (except vegetables in subpart B of part 8 of schedule 1 of the Tariff Schedules of the United States):
	[Beans, cabbage, chickpeas or garbanzos, black-eye cowpeas, onions, peas, pimientos, tomatoes, waterchestnuts]
	Other:
141.75	Packed in salt, in brine, or pickled
	Berries, fresh, or prepared or preserved:
	[Fresh or in brine]
	[Dried]
	Otherwise prepared or preserved:
146.73	Black currants, gooseberries, lingon or partridge berries, and loganberries
	Fruit flours:
	[Banana and plantain]
152.05	Other
166.20	Ginger ale, ginger beer, lemonade, and soda water
	Marine-animal oils:
	[Fish-liver oils]
	Fish oils other than liver oils:
177.12	Anchovy
	[Cod]
177.16	Shark
	[Eulachon]
177.22	Herring
177.24	Menhaden
177.26	Other
193.10	Tonka beans
	Inorganic acids:
416.40	Tungstic 2/
	Ammonium compounds:
417.40	Tungstate 2/

1/ Tariff Schedules of the United States (19 U.S.C. 1202).
2/ Pending advice on tungsten ore (item 601.54).

TSUS item 1/	Article
	Calcium compounds:
418.30	Tungstate 2/
	Potassium compounds:
420.32	Tungstate 2/
	Sodium compounds:
421.56	Tungstate 2/
	Tungsten compounds:
422.40	Carbide 2/
422.42	Other 2/
	Mixtures of two or more inorganic compounds:
423.92	In chief value of tungsten 2/
	Metal-bearing ores and the dross or residuum from burnt pyrites:
601.54	Tungsten ore
	Gold (including platinum- or silver-plated gold but not rolled gold), unwrought (except bullion, dore, and precipitates) or semimanufactured:
605.27	Platinum- or silver-plated
	Brads, nails, spikes, staples, and tacks, all the foregoing, not described in the foregoing provisions of subpart D of part 3 of schedule 6 of the Tariff Schedules of the United States, of base metal:
	Of iron or steel (except articles with heads of nonferrous metals):
	Of one piece construction:
	Made of round wire:
646.25	Under 1 inch in length and under 0.065 inch in diameter
646.26	1 inch or more in length and 0.065 inch or more in diameter

1/ Tariff Schedules of the United States (19 U.S.C. 1202).
2/ Pending advice on tungsten ore (item 601.54).

[FR Doc.77-4819 Filed 2-15-77;8:45 am]

federal register

WEDNESDAY, FEBRUARY 16, 1977

PART IX

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

■

TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS

Transit Bus Requirements

Title 49—Transportation

CHAPTER VI—URBAN MASS TRANSPORTATION, ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[OST Docket No. 51; Notice 77-7]

PART 609—TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS

Amendments to Transit Bus Requirements

AGENCY: Urban Mass Transportation Administration, Department of Transportation.

ACTION: 1. Final Rule; 2. Notice of Public Hearing; 3. Adoption of Policy; 4. Request for Comments.

SUMMARY: One purpose of this document is to amend recently adopted regulations establishing bus design standards for transportation of elderly and handicapped persons. (See 41 FR 45842.) Those regulations require, among other things, that after February 15, 1977 all new, standard, full-size urban transit buses for which a recipient of Urban Mass Transportation Administration ("UMTA") funds issues a bid solicitation must have a 24-inch effective floor height and 8-inch high front door steps. The purpose of this amendment is to postpone the effective date of only these requirements until May 27, 1977.

A second purpose of this document is to notify the public that the Department of Transportation (DOT) will hold a public hearing on March 15, 1977 in Washington, D.C. to obtain advice with respect to advanced design bus development and the Transbus program. The specific issues to be addressed at the March 15, 1977 public hearing are set out below under the heading "Supplementary Information."

The third purpose of this document is to announce the adoption of specific policies to enable recipients of UMTA funds to issue bid solicitations for current and advanced design transit buses under appropriate procurement policies until such time as a final decision is reached and that decision is implemented. The fourth purpose is to solicit advice on such procurement procedures.

DATES: 1. The policies for the procurement of advanced design buses set forth in this document will become effective on February 14, 1977; 2. The Public Hearing on Transbus will be held in Washington, D.C. on March 15, 1977. Written submissions will be accepted until April 1, 1977. A final decision on Transbus and the related questions of provisions for the elderly and handicapped will be announced not later than May 27, 1977; 3. Comments and advice on bus procurement procedures may be submitted on or before February 24, 1977.

ADDRESSES: Comments on the issues may be submitted to the following address:

Docket Clerk,
Office of the General Counsel,
TGC-10, ATTN: Docket No. 51,
Department of Transportation,
400 7th Street, S.W.,
Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

David A. Jewell, Director of Public Affairs, Office of the Secretary of Transportation, 400 7th Street, S.W., Washington, D.C. 20590. (202) 426-4570.

SUPPLEMENTARY INFORMATION:

1. *Introduction.* UMTA funds 80 percent of the cost of transit buses and reviews specifications for such buses. On August 2, 1976 an UMTA policy statement requiring improvements in transit bus design to facilitate transportation of the elderly and handicapped and allowing purchase of advanced design buses was issued. The Secretary is concerned about whether this policy is adequate to meet the needs of the elderly and handicapped, encourages development of new technology and promotes a viable and competitive bus manufacturing industry.

Central to these issues is the federally-funded Transbus program which began in 1971 with the objectives of developing a new generation of better and more attractive transit buses, providing elderly and handicapped passengers better access to mass transportation and encouraging competition in the bus manufacturing industry. In 1976 a decision was made not to proceed further with the Transbus program.

This decision, as well as the corporate decisions of each of the three transit bus manufacturers, placed the manufacturers in different competitive positions. One manufacturer has stated that it relied on a federally mandated and financed Transbus. Two other manufacturers have made commitments to produce an advanced design bus short of Transbus.

We believe it is urgent to maintain a viable and competitive bus manufacturing industry, to establish a predictable Federal policy which will permit transit operators and manufacturers to make informed business decisions and to provide better and more attractive mass transportation for elderly, handicapped and all other persons.

2. *Amendment to regulations on transportation for elderly and handicapped persons.* This amendment (set forth at the end of this document) delays the February 15 effective date for the requirements on floor and step heights and tread depth, but does not delay the wheelchair accessibility option requirement.

3. *Public hearing on transbus and related issues.* With regard to the Transbus program and related issues, the views of transit bus manufacturers, transit operators, elderly and handicapped persons and other members of the public are desired to assist the Secretary in resolving the following issues:

A. Should the Secretary (i) require or (ii) encourage the use of a Transbus performance specification for all new transit buses purchased after a certain date?

B. If Transbus is required: (i) what should be the effective date of that requirement (ii) what should be its floor height? (iii) what equipment at what location should be specified or optional to assist non-ambulatory and semi-ambulatory passengers? (iv) what further research and development efforts, if any, are necessary? (v) what should be the Federal role (including financing) in bringing Transbus into production and accomplishing these objectives?

C. If the Secretary determines only to encourage (rather than require) Transbus, what should be the Federal role in accomplishing that goal?

To assist in the resolution of these issues, a public hearing will be held on March 15, 1977 from 9:30 a.m. to 12:00 noon and 2:00 p.m. to 5:00 p.m. at the DOT Headquarters, 400 7th Street, S.W., Washington, D.C., in Room 2230. We will seek to assure a fair opportunity for all interested parties to present their views.

Requests to testify will be accepted from public officials, representatives of recognized organizations and manufacturers. Time allotments will be governed by the number of requests received. Prospective witnesses with similar views may be asked to combine their presentations. In the event that accommodation cannot be made, assignment will be by lot.

Any public official or representative of an organization desiring to participate at the hearing should write directly to the General Counsel (marking "Transbus hearing" on the envelope) at the above address before March 1, 1977 giving the following information:

1. Name and address.
2. Telephone number during normal working hours.
3. Capacity in which presentation will be made.
4. Principal issue to be addressed.
5. Time desired.

Written comments should be received on or before April 1, 1977. The Secretary will make a decision on these issues no later than May 27, 1977.

4. *Policies and procedures.* Until such time as a final decision is reached and implemented, a recipient of UMTA funds may proceed, at its choice, with the procurement of either a current or advanced design bus, which offers the wheelchair option and which receives UMTA project approval. In either case, UMTA will continue to provide 80 per-

cent of the cost of the buses. Comments are requested as to the procurement procedures which should be adopted to implement these policies. All interested persons are invited to submit such comments by February 24, 1977. Comments should identify the regulatory docket number (see above), and be marked "Procurement Policy" on the envelope. Four copies (if possible) should be submitted to the Docket Clerk, Office of the General Counsel, TGC-10, ATTN: Docket No. 51, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590. Comments will be available for inspection and copying in the Office of the Assistant General Counsel for Operations and Legal Counsel (TGC-10), Room 10100, 400 7th Street, S.W., Washington, D.C. from 9:00 a.m. to 5:30 p.m. local time, Monday through Friday except holidays.

Accordingly, 49 CFR Part 609 is amended by revising § 609.15(a) to read as set forth below.

Effective date: This revision is effective on February 14, 1977.

Issued in Washington, D.C. on February 14, 1977.

BROCK ADAMS,
Secretary of Transportation.

49 CFR 609.15(a) is revised to read as follows:

§ 609.15 Buses.

(a) Paragraph (b) of this section applies to new, standard, full-size urban transit buses (of current or advanced design) for which a recipient of UMTA funds issues a procurement solicitation containing UMTA-approved vehicle specifications after February 14, 1977. Paragraph (c) of this section applies to new, standard full-size urban transit buses (of current or advanced design) for which an UMTA grantee issues a procurement solicitation containing UMTA-approved vehicle specifications after May 27, 1977. The remaining paragraphs of this section apply to these and all other transit buses exceeding 22 feet in length for which an UMTA grantee issues, on or after May 27, 1977, a procurement solicitation containing UMTA-approved vehicle specifications. For any transit bus exceeding 22 feet in length, but not otherwise described above, requirements concerning wheelchair accessibility, floor height, or step height will be handled on a case-by-case basis as part of the project approval process.

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